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THE KOREAN QUESTION
REPORTS OF THE NEUTRAL NATIONS
REPATRIATION COMMISSION

Covering the period 9 September 1953 to 21 February 1954

GENERAL ASSEMBLY
OFFICIAL RECORDS : EIGHTH SESSION
SUPPLEMENT No. 18 (A/2641)

NEW YORK, 1954

180 p.

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NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

NOTE BY THE SECRETARY-GENERAL

The Secretary-General has received from the India Delegation to the United Nations, and from the United States Mission to the United Nations on behalf of the United States Government acting as the Unified Command in Korea, the text of the Interim and Final Reports of the Neutral Nations Repatriation Commission established under the Armistice Agreement of 27 July 1953. These reports cover the period 9 September 1953 to 21 February 1954.

The Secretary-General has pleasure in circulating these reports to the Members of the General Assembly.

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**INTERIM REPORT
OF
THE NEUTRAL NATIONS REPATRIATION COMMISSION**

INTERIM REPORT OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

Letter of transmittal

from the Chairman of the Neutral Nations Repatriation Commission to the Commander-in-Chief, United Nations Command, and to the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers

28 December 1953

1. I have the honour to forward to you an interim report of the Neutral Nations Repatriation Commission which it adopted by three votes to nil, with the Swedish and Swiss members abstaining from the vote. A separate report* of the abstaining members is attached to the Commission's report. I am also attaching to this letter, as appendix 1,** a letter by the Chairman of the Committee set up for drafting the report which was circulated to the Commission on 19 December 1953, as well as a letter from the heads of the Swedish and Swiss delegations forwarding their report to me. These letters set out the circumstances necessitating a separate report by the Swedish and Swiss members of the Commission.

2. I, as Chairman and Executive Agent of the Commission, desire to express a hope, shared by all other members of the Commission, that your Command will give earnest consideration to the problem of disposition of the prisoners of war in a manner consistent with the fundamental objectives embodied in the Terms of Reference. The Commission will, therefore, await with interest, your comments on the report.

(Signed) K. S. THIMAYYA
Lieutenant-General

Chairman
Neutral Nations Repatriation Commission

* See page 22.
** See page 17.

INTERIM REPORT

Part I. Transference of custody of prisoners

Chapter I

1. The Neutral Nations Repatriation Commission began assuming custody of the non-repatriated prisoners of war on 10 September 1953, in accordance with the provisions of article I, paragraph 1, and article II, paragraphs 4 and 5, of the Terms of Reference.¹

2. The delivery of 22,604 prisoners of war from the custody of the United Nations Command was completed on 23 September 1953. The Command of the Korean People's Army and Chinese People's Volunteers similarly completed the delivery of 359 prisoners of war on 24 September 1953 in one day.

3. The prisoners of war arriving in the Southern Camp displayed an uneven temper which often assumed a violent character. The Custodial Force, India, however, received them unarmed and had no occasion to resort to force.

4. The United Nations Command made allegations that the violent behaviour of the prisoners of war was induced by the presence of the representatives of the Korean People's Army and Chinese People's Volunteers. These representatives, five in number, were present every day along with the representatives of the United Nations Command to observe the operations of the Commission as provided for in article I, paragraph 1, of the Terms of Reference.

5. The United Nations Command alleged that the presence of these observers was contrary to the Terms of Reference. Lieutenant-General W. K. Harrison, in his letter dated 12 September 1953 to the Chairman of the Commission, stated as follows:

"The obvious cause of the very unfortunate disturbances in the camp in the Demilitarized Zone was the presence of communist personnel recognizable as such by the prisoners. Had these communist representa-

¹ See document A/2431 Annex, Terms of Reference for the Neutral Nations Repatriation Commission.

tives not insisted on being present, there is little probability that there would have been any trouble. When we drew up the Terms of Reference the prisoners in our hands were located in camps deep in South Korea. The matter of delivery was considered strictly a unilateral operation by which we would hand over the prisoners to the Indian Forces in camps already established and functioning. At no time in our negotiations was any consideration given to observation of this operation by personnel of the other side. The presence of representatives and observers of the opposing sides in the camps was to be authorized only during the ninety-day period of explanations. Therefore, in the light of the armistice negotiations, there would appear to be no necessity for the presence of observers from either side during the actual delivery period. Our explanations of the Armistice Agreement and the Terms of Reference to the anti-communist prisoners of war, in which we attempted to allay their fears and win their co-operation in a peaceful move to the Demilitarized Zone, were predicated upon this assumption and the new development has naturally caused them to question the good faith of the United Nations Command and the operations of the Neutral Nations Repatriation Commission. It will be difficult, if not impossible, to convince them, at this late stage, of the need for communist observers and other communist personnel in what has previously been described to them as a strictly unilateral operation. Furthermore, from a strictly military point of view, it would be of decided advantage to the Indian Forces if these observers were not present while they were receiving the prisoners" (annexure I, 2).

6. The Commission's unanimous view was that the interpretation given by the United Nations Command about the presence of observers was incorrect, and that, under paragraph 1 of the Terms of Reference, the taking into custody of the prisoners of war was "an operation of the Commission" and that representatives of the two Commands were entitled to be present to observe such operations. The Chairman of the Commission, in his reply to General W. K. Harrison's letter, stated the position as follows:

"Regarding the presence of the observers of the Korean People's Army and Chinese People's Volunteers, I would like to point out that whatever might have been your intentions at the time you drew up the "Terms of Reference", we are bound only by those terms which were agreed to by both sides. This matter was carefully considered by the Commission and their legal experts, and the Commission has come to the conclusion that they cannot refuse observers being present at the time of the transfer. I would refer to article I, which appears to be quite clear on the point and does not lend itself to any other interpretation which might have facilitated the task of the Custodial Force, India. It states clearly that "*A Neutral Nations Repatriation Commission . . . shall be established to take custody in Korea of these prisoners of war etc.*," and the last sentence of this article states that "Representatives of both sides shall be permitted

to observe the operations of the Repatriation Commission and its subordinate bodies to *include* explanations and interviews". You have taken the view that the only operations which the negotiators of the Armistice Agreement had in view and at which observers from both sides were expected to be present were "only during the ninety-day period of explanation". The last sentence of article I quoted above envisages the presence of observers on occasions other than merely "during explanations and interviews". In the opinion of the Commission, taking over the custody of prisoners of war, as also their repatriation when the time comes, are as much operations of the Commission as explanations. You have also stated that when you drew up the Terms of Reference the prisoners in your hands were located in camps deep in South Korea and, therefore, it was never envisaged that you would hand over these prisoners to any but the CFI on a unilateral basis. Article II, paragraph 4, however, clearly states that the prisoners of war shall be released from the military control and from the custody of the detaining side as soon as practicable to the "Neutral Nations Repatriation Commission". Paragraph 5 of the same article also speaks of the Neutral Nations Repatriation Commission assuming control of the prisoner-of-war installations. Both these paragraphs make it clear that the custody is the custody of the Neutral Nations Repatriation Commission through their agent, the CFI. The Commission, after due consideration, therefore, came to the conclusion that, in accordance with the Terms of Reference, it was not possible for them to deny the right to both sides to send observer teams to the taking over operations" (annexure I, 3).

7. The Commission requested the two Commands to consider waiving their right to send the observers. The United Nations Command agreed to the proposal by the Commission, but the Command of the Korean People's Army and Chinese People's Volunteers refused to give up their right. Lieutenant-General Lee Sang Cho, in his letter dated 14 September 1953 to the Chairman of the Commission, stated as follows:

"I consider it imperative to make clear that, during the past few days, the difficulties confronted by the Custodial Force, India, in taking over the prisoners of war from the custody of the United Nations Command were caused wholly by riots created through premeditated arrangements by the special agents who are mingled with the prisoners of war not for direct repatriation and not at all by the presence of the observing representatives and the interpreters of our side. Should we stop sending observing representatives at the present time, then it would not only be a deviation from the Agreement, but also be taken as a victory scored by the special agents and their supporters, and thus would make it all the more difficult in the future for the Custodial Force, India, to maintain order in prisoner-of-war camps. To this our side cannot agree at all. Our side will continue to send observing representatives to carry on observations in accordance with the Agreement" (annexure I, 6).

Chapter II

8. As the Commission began to assume the custody of the prisoners of war, it became evident that they lacked proper understanding of the Terms of Reference and appeared to be inadequately informed about their

rights and obligations thereunder. In order to remedy the situation, the Commission decided to act under article IX, paragraph 22, of the Terms of Reference. With this end in view, the Commission unanimously

agreed to distribute a leaflet (annexure II, 1) to the prisoners of war and also to broadcast its contents to them.

9. The United Nations Command, in their letter dated 28 September 1953, showed their disapproval of the statements contained in the leaflet (annexure II, 2). They alleged that while it did not "deviate materially from the literal wording of the Armistice Agreement and the Terms of Reference, yet it definitely disregards the clear spirit thereof. The wording, method of presentation, and strong implications have been slanted towards unduly influencing prisoners of war of both sides to repatriation rather than to making a free and independent choice". The Commission could not uphold these objections as it felt that the statements contained in the leaflet were fully in accord with the Terms of Reference (annexure II, 4).

10. The Commission is not in a position to state categorically what effect the distribution and broadcast of the leaflet had upon the general body of prisoners of war. Leaflets were often found torn and the broadcast rendered ineffective in certain number of the compounds, either by deliberately organized noises or by disconnecting the wires of the loud-speakers installed within the prisoner-of-war compound. On one question, however, the prisoners, or at any rate their "representatives"² continued to have misapprehensions, namely, that they were under no obligation to attend explanations conducted by the side to which they legally belonged. This matter is dealt with in another part of the report dealing with the conduct of explanations.

11. Apart from lack of understanding and misapprehensions betrayed by the prisoners, the Commission also became aware of the fact that the prisoners delivered by the United Nations Command into the custody of the Commission were well organized; the main object of such organization was to resist repatriation and prevent such prisoners as desired repatriation from exercising that right. In pursuance of this objective, force was being resorted to by one set of prisoners against another, with the result that any prisoner who desired repatriation had to do so clandestinely, and in fear of his life. The Commission is unable to state how and under what circumstances the prisoners came to be organized, under a definite leadership. This much, however, is clear—that they came into the hands of the Commission in an organized manner as stated above.

12. On 20 September 1953, the Czechoslovak member of the Commission moved a resolution (annexure III) which, *inter alia*, demanded that immediate steps should be taken to break up the existing organizations in the prisoner-of-war camps, to isolate the "agents and ring leaders" and segregate them.³

² It should be clearly understood that the Commission had neither the time nor the resources for ascertaining the representative character of the prisoner-of-war compound leaders. The organization of the camps and its leadership remained as they were prior to the transference of custody to the Commission. Consequently, these "representatives" cannot be deemed to be representatives in the sense contemplated by articles 79-81 of the Geneva Convention.

³ The Czechoslovak and Polish members of the Commission had, on 10 September 1953, stated that organizations of the prisoners of war set up while they were in custody of the former Detaining Power, be reshuffled by segregation of the representatives and other trouble-makers and by regrouping of the prisoner-of-war camps. They asserted that, unless these changes be carried out, the future work of the Commission would be endangered, if not rendered completely impossible. They suggested that the reorganization of camps and regrouping of the prisoners should be undertaken simultaneously with the assumption of their custody.

13. The resolution referred to in the immediately preceding paragraph was debated at great length and was voted upon by the Commission at its tenth meeting held on 21 September 1953, and was defeated. The points of view of the various members of the Commission on the questions posed in the Czechoslovak member's resolution are stated in paragraphs 14-16 below.

14. The Polish and Czechoslovak members argued that the organization and leadership within the prisoner-of-war camps was essentially of a terroristic nature; that its whole object was to coerce the prisoners forcibly into not exercising their right of repatriation; that these organizations and their leadership could not be recognized by the Commission as they were created prior to the transference of custody of the prisoners of war into the hands of the Commission; that unless the organizations were dissolved and the leadership eliminated it would not be possible to ensure the fulfilment of article I, paragraph 3, of the Terms of Reference in regard to those prisoners who desired repatriation; that the only organization and leadership which the Commission could recognize, consistent with the Geneva Convention, would be one based on the dissolution of the existing organizations, the creation of normal conditions within the camps thus enabling the prisoners of war freely to elect their own leaders.

15. The point of view of the Swedish member was, and the Swiss member concurred with it, that it was a fact that the prisoners of war had arrived in an organized manner; that in accordance with the general spirit of the Geneva Convention the prisoners of war should be permitted to remain in organized bodies; that, however, with regard to the punishing of wrong-doers, the Commander, Custodial Force, should make every possible effort to prevent and repress acts of violence and to punish those who could be identified as having done those acts; that at that time the primary duty of the Commission was to take prisoners of war into custody, and that during the explanatory period the prisoners of war would be given an opportunity to express their views freely.

16. The point of view of the Indian delegation was that, while it would be desirable or even necessary to segregate and remove "agents", "trouble-makers" and "ring-leaders" in the prisoners-of-war camps, it was felt that there were practical difficulties in achieving this very desirable result. Thus, while the Indian delegation sympathized with the views expressed by the Czechoslovak and Polish members, it felt that the resources at the command of the CFI were not sufficient to secure both the custody of the prisoners of war as well as to cope with the resistance which might be offered by the prisoners or their leaders to any reorganization of the camps. Further, the prisoners appeared to be organized in such a manner that the operative unit was so small a cell that it would filter through any reshuffling process; consequently, even if the CFI could find the resources to undertake the reorganization, the amount of diversion of effort would not be commensurate with the results achieved and the risk involved. There was also the further difficulty of identifying the "special or secret agents". The Indian delegation felt that, once custody of the prisoners of war assumed, and the strength of the Custodial Force augmented, every effort would be made, during the second phase of the Commission's work, to ensure that every prisoner of war was reasonably freed from the threat of any organization that existed; and that every prisoner was enabled to think and decide for himself.

17. The Command of the Korean People's Army and Chinese People's Volunteers had, from the very inception of the Commission's work, taken the view that unless the alleged special or secret agents among the prisoners of war were segregated and their influence eliminated, the Commission would not be able to discharge its obligation to ensure to every prisoner of war his freedom to elect repatriation without fear or threat of violence. On 17 September 1953, Lieutenant General Lee Sang Cho, the representative of the Korean People's Army and Chinese People's Volunteers, set out these views in an *aide-mémoire* (annexure IV, 1).

18. The practical difficulties involved in an endeavour to break the prisoner-of-war organization and in segregating the alleged agents would have been considerable. On 20 September 1953, when the Czechoslovak member of the Commission proposed his resolution on the subject, the total strength of the Custodial Force, India, was 1,524 effective riflemen. On 24 September, when the Commission had completed taking into custody 22,604 prisoners from the United Nations Command, the CFI's strength remained as on the 20th. It was, however, supplemented, as an emergency measure, by drawing upon 798 men from administrative personnel. The maximum strength of the CFI never exceeded 2,818 riflemen. In order to carry out the ordinary duties of guarding the prisoner-of-war camps, e.g., towerguards and foot patrols, both inside the enclosures and around the enclosure perimeter, 1,347 men were required per night.

On the basis that the men might have every alternative night off, 2,694 riflemen were required, leaving a reserve of only 124 men. This reserve was meant to cover any casualties or any extraordinary duty. Thus, during the explanations, or when a major operation had to be mounted, the CFI had to draw upon its entire personnel, including even those who were entitled to take a day off on account of their duty on the previous day. It may also be stated that the Southern Camp of the prisoners of war consisted of fifty-five compounds grouped in six enclosures and covering an area of 3.18 square miles. The strength of the Custodial Forces was thus predicated upon the assumption that they would be required to carry out duties of guarding the prisoners, and thus securing their custody; and that there would be no large scale disturbances in the camp. Any attempt to break up the prisoner-of-war organizations or to segregate their "representatives" would have led to considerable disturbances. In such a situation, there would also have been the additional difficulty arising out of the layout of the camp. The prisoners of war were concentrated in large numbers in each compound. Compounds and the enclosures were so adjacent to each other that they were in close visual and aural range to each other. In these circumstances, even a simple operation in one compound had the effect of causing commotion in other compounds. The layout of the compounds would have been a serious impediment to conduct of operations by the CFI in the event of any large-scale disturbances.

Part II. Explanations

Chapter I

PROCEDURE

19. Even while the Commission was engaged in the difficult task of assuming custody of prisoners of war, it appointed a committee for elaborating additional provisions governing explanations in accordance with article III, paragraph 8 (*d*), of the Terms of Reference. The Committee, in submitting its interim report, recommended that it should invite the United Nations Command and the Korean People's Army and Chinese People's Volunteers Command to submit their respective views about conduct of explanations. The Commission acted upon this recommendation. The United Nations Command conveyed its views in letters dated 21 and 23 September respectively (see annexure V,); the Command of KPA and CPV conveyed its views in its letter dated 22 September 1953 (annexure V, 3).

20. The conceptions of the two Commands about the conduct of explanations were so divergent that no common basis could be found for the Commission's guidance. The Commission had, therefore, to exercise its own independent judgment in elaborating such rules of procedure as would ensure strict fulfilment of the Terms of Reference, having regard to the state of affairs prevailing within the prisoner-of-war camps and the lack of understanding displayed by the prisoners about the entire explanation work (annexure V, 4).

21. The Rules of Procedure governing Explanations were finally adopted by the Commission at its meeting

on 26 September, and were forwarded to the two Commands on 29 September 1953.

22. The United Nations Command lodged a formal protest with the Commission regarding the Rules of Procedure adopted by it. The protest was conveyed in their letter of 2 October 1953. The Commission's reply was conveyed in its Chairman's letter dated 7 October 1953 to Brigadier-General A. L. Hamblen (annexure VI, 1 and 2).

23. The Command of the KPA and CPV, while agreeing generally with the Rules of Procedure governing Explanations adopted by the Commission, made a number of critical observations concerning some of the provisions thereof. These were set out in the letter of Lieutenant-General Lee Sang Cho dated 12 October 1953 (annexure VI, 3).

24. The approach of the United Nations Command to the whole question of explanations was summed up by General Mark W. Clark in his letter of 5 October 1953, to the Chairman of the Commission. The following is a relevant extract from it:

"In summary, it appears that the decisions and activities of the Commission to date have been predicated upon the assumption that the prisoners in your custody actually desire repatriation. This is especially difficult to understand in view of the strong opposi-

tion Korean and Chinese anti-communist prisoners have demonstrated, individually and collectively, even to the physical presence of communist representatives. It would seem that the Commission has not taken full cognizance of the fact that the Korean and Chinese prisoners made their choice many months ago and that, in the absence of force or coercion, the vast majority will adhere to their decision. If there exists any real doubt as to the attitude of the prisoners, I strongly recommend that advantage be taken of the provisions of paragraph 9 of the Terms of Reference and that prisoners be encouraged to state their views directly to the Neutral Nations Repatriation Commission and its subordinate bodies on the situation as they see it. This should provide conclusive evidence of their personal feelings and desires" (annexure VI, 4).

25. The Chairman replied to General Mark W. Clark on 7 October 1953, in a letter unanimously approved by the Commission. The following are relevant extracts from it:

"Your letter brings into relief the difference in approach to the problem by the United Nations Command and the Neutral Nations Repatriation Commission which appears to be somewhat fundamental. You have stated that 'it appears that the decisions and activities of the Commission to date have been predicated upon the assumption that the prisoners in your custody actually desire repatriation'. The Commission has made no such assumption. On the other hand, the Commission is not prepared to accept as an established fact 'that the Korean and Chinese prisoners made their choice many months ago and that, in the absence of force or coercion, the vast majority will adhere to their decision'. That certainly has been the stand taken by the United Nations Command. The contention of the Command of Korean People's Army and Chinese People's Volunteers on the other hand has been that these prisoners have had no opportunity to express their free will because of the existence of well-organized groups in the camps who are alleged to have terrorized the prisoners of war who wished to be repatriated. The Commission is not prepared to work on either of these assumptions. The Commission has kept an open mind and is most anxious to secure for the prisoners of war complete freedom of choice without duress and coercion. Assuming that the 'vast majority will adhere to their decisions', how can the Commission discover the small minority who may change their decisions? It is precisely with this object in view that both the Commands agreed to provide for 'explanation' in the terms of the Agreement. This is a mandatory provision and the Commission must, under the Terms of Reference, provide necessary freedom and facilities to the explainers. While the Commission is bound to protect prisoners of war from all force or threats of force, it is equally its obligation to see that they perform the legitimate functions which the Terms of Reference enjoin.

"It may be that many prisoners of war will not want to be repatriated. However, so far some 110 prisoners of war have asked for repatriation, which proves that at least some of the prisoners of war do wish to be repatriated. What is even more significant is the fact that not one of the prisoners of war dared

openly in their camps to ask for repatriation. They had to do so surreptitiously or at the risk of death or injury from fellow prisoners or at the risk of being shot on the fence by armed guards. The abnormal manner in which the repatriate prisoners have had to express their wish naturally raises the suspicion that all prisoners of war are not free agents. Under these conditions, you will, I hope, appreciate why the Commission cannot take 'full cognizance of the fact that the Korean and Chinese prisoners made their choice many months ago and that, in the absence of force or coercion, the vast majority will adhere to their decision'. The Commission will certainly ensure that there would be no force or coercion at the time of explanations but it is unable to satisfy itself that prisoners of war are not being subjected to force or threats of force by some fellow prisoners.

"You have suggested that the prisoners of war should be encouraged to state their views directly to the Neutral Nations Repatriation Commission or their subordinate bodies so that all doubts as to the real attitude of the prisoners could be set at rest. In the course of my talks with the leaders of the prisoners of war, I did inquire if they would agree to appear before the Neutral Nations Repatriation Commission and express their views. Even to this they were not prepared to agree. Obviously the leaders either do not trust the Neutral Nations Repatriation Commission or they are afraid that once a prisoner of war is permitted to be left alone, he might change his mind and decide for repatriation. This means of finding out the attitude of the prisoners of war, as suggested by you, is not, therefore, open to us" (annexure VI, 5).

26. The Commission could not avoid taking note of the fact that General Mark W. Clark made no reference in his letter to the obligations created by article III, paragraph 8, of the Terms of Reference. The procedures suggested by him under paragraph 9 could not be deemed to be, in substitution for the provisions of paragraph 8.

27. The Commission also noted that the United Nations Command's views coincided with those held by the "representatives" of the prisoners of war, who continued to display hostility to the conduct of explanations. In such a situation, it was deemed expedient by the majority of the Commission to seek the assistance of the United Nations Command in informing the prisoners of war of what was, in the Commission's view, the correct position in regard to the obligations of the prisoners of war to attend explanation.⁴ An opportunity was provided by the United Nations Command which offered to issue a statement to the prisoners of war formerly detained by it (annexure VII, 1). With the above end in view, the Commission suggested to the United Nations Command a text of a statement to be issued in the name of the United Nations Command to the prisoners but under the authority of the Commission. The statement is set out in annexure VII. The United Nations Command, however, did not accede to the Commission's request.

⁴ Against the opinion of the majority, the Czechoslovak and Polish members of the Commission maintained that it was contrary to the Terms of Reference for the former detaining side to apply in any way to prisoners of war who had been turned from their custody into the custody of the Neutral Nations Repatriation Commission.

28. Facilities for the conduct of explanations were constructed by the two Commands, on sites chosen by them, without the concurrence of the Commission, though with the prior knowledge and approval of the Custodial Force, India. The plan for the explanation area in the Southern Camp, where alone large-scale construction was necessary on account of the number of prisoners involved, was approved by the Custodial Force, India on 1 September 1953. The Commission felt that before it approved these facilities it should give the two sides an opportunity of inspecting and expressing their criticism, if any, to the Commission.

29. Representatives of the two Commands were escorted to the respective explanation sites on 26 September 1953. Both the Commands expressed their disapproval of the location, design and lay-out of these facilities. The two Commands also submitted to the Commission their own design and suggested alternative sites.

30. The Commission came to the conclusion that the criticisms expressed by the two Commands were justified, and also that the sites where the explanation facilities were erected were not satisfactory in either camp from the point of view of implementing the Terms of Reference in regard to explanations. On 28 September, the Commission forwarded to the two Commands the request of each Command regarding design and site and requested that these should be constructed in the shortest possible time. The Command of KPA and CPV agreed to carry out the necessary alterations in the explanation facilities in the Northern Camp, but the United Nations Command expressed its inability to do so within a comparatively short time as the site suggested was, according to it, mined and otherwise unsuitable for building. The United Nations Command also pleaded non-availability of engineering personnel, material and labour.

31. On the strength of the United Nations Command's statement regarding the existence of mines and its estimate of the time necessary to clear the area, the Commission felt that it could not take upon itself the responsibility for the delay in the commencing of explanatory work and suggested to the Command of KPA and CPV that the latter conduct explanations within the existing facilities in the Southern Camp, subject to those facilities being suitably modified and extended in general conformity with the design submitted by that Command. The Commission adopted a resolution to this effect. The Czechoslovak and the Polish members opposed the resolution on the ground that the Commission was adopting a hasty course of action without a due consideration of the attitude of the Command of KPA and CPV, and that the adoption of the resolution was contrary to the Terms of Reference which had cast an obligation upon the Commission to provide freedom and facilities to the two sides.

32. The Command of KPA and CPV asserted that the United Nations Command's statement regarding the existence of mines was not true and was contrary to a statement made by Major-General Bryan in the Military Armistice Commission on 16 September, in which he had given assurances that the Demilitarized Zone under the control of the United Nations Command was free from mines and other hazards. When this fact was brought to the notice of the Commission, it felt that its

earlier decision to adhere to the facilities already constructed by the United Nations Command could not be justified.

33. On 1 October 1953, the Commission pointed out to the United Nations Command the site on which the new explanation area was to be built and, on 2 October, the Chairman requested the United Nations Command for an estimate of the time necessary to complete the facilities on the new site according to the design submitted by the Command of KPA and CPV. The United Nations Command, without committing itself to its willingness to construct the proposed construction replied, on 3 October, that it estimated that it would require one week to complete one temporary area (of twenty tents), twenty days to complete the first permanent area, and thirty days to complete the second permanent area. The United Nations Command also wanted a firm demand before they would start the construction work. This was formally made in the Chairman's letter of 5 October, in which he stated that the Commission was confident that the United Nations Command would be able to complete the constructions in much less time than estimated. The United Nations Command replied, on 7 October, that the estimates remained unchanged.

34. The Commission could not agree with the estimates of time given by the United Nations Command; the Command of KPA and CPV had given specific assurance that it would be prepared to construct facilities according to the design submitted by them within a period of four days. The United Nations Command ultimately succeeded in cutting down the period for construction by more than half, and completed the constructions on 14 October 1953. Relevant correspondence between the Commission and the two Commands on the subject of construction of explanation facilities and other related matters, e.g., construction of certain roads, is set out in annexure VIII.

35. In retrospect and in the light of the Commission's experience of the conduct of explanatory work in the Southern Camp, the Commission is bound to record its views that the explanation facilities, as originally constructed by the United Nations Command, would have been entirely unsuitable. They were too constricted in space. Explanations could not have been conducted in those facilities without the most serious disturbances from the noisy and violent behaviour of the prisoners of war.

36. Due to the delay in construction of explanation facilities and the consequent postponement of the commencement of explanations, the Commission requested the United Nations Command and the Command of the Korean People's Army and Chinese People's Volunteers to agree to a postponement and to consequent extension of time for explanations by five days. The Command of KPA and CPV agreed to both the suggestions made by the Commission. The United Nations Command, while agreeing to the postponement, expressed its willingness to agree to any extension of time.

37. In view of the further delay in the commencement of explanations, the Commission addressed another communication to the United Nations Command on the 28 September 1953, asking the Command if it would agree to reconsider its decision in regard to extension of time. The relevant correspondence on the subject is set out in annexure IX.

Chapter I

EXPLANATIONS IN THE SOUTHERN CAMP

38. The Commission notified to the United Nations Command, on 13 October 1953, its readiness to commence explanations in the Northern Camp with effect from 15 October 1953. A similar communication was addressed to the Command of the Korean People's Army and Chinese People's Volunteers. The United Nations Command, in its reply dated 14 October 1953, stated that it did not wish to commence its explanations on 15 October 1953, and that it would notify the Secretariat of the Commission about its desires in the matter. The Command of KPA and CPV conveyed to the secretariat of the Commission its plans in accordance with paragraph 23 of the Rules of Procedure governing Explanations.⁵ It requested that 1,000 captured personnel of the Chinese People's Volunteers from compounds 28 and 31 be produced for explanations. It also requested facilities for broadcasting certain messages to the prisoners of war in all the compounds.

39. The Commander of the Custodial Force was requested to make arrangements in accordance with the plan submitted by the Command of KPA and CPV. The Commander, however, reported that the "representatives" of these compounds had indicated that the prisoners were not prepared to come out for explanations unless they had an opportunity of discussing certain matters with the Commission in the presence of the press of the United Nations. As the Commission was anxious that the prisoners should be brought for explanations as peacefully as possible, they agreed to meet these "representatives", although the Polish and Czechoslovak members of the Commission expressed doubts both about their representative capacity and their good faith.

40. The Commission met the "representatives" of the Chinese prisoners of war from various compounds on the morning of 15 October 1953. They were assured that they would not be subjected to any coercion in exercise of their free choice about repatriation. Assurances were given that those who desired not to seek repatriation would be brought back to the same compound from whence they were taken out. Despite these assurances, the "representatives" concerned expressed unwillingness to proceed immediately to explanation area and, generally, showed lack of good faith. The Custodial Force was accordingly ordered to surround the compounds and demand the prisoners of war to come out of their compounds. The prisoners agreed finally to come out for explanations.

⁵ Before the commencement of explanations, the representatives of the Command of KPA and CPV had requested that explanations should be conducted to the Korean and Chinese prisoners of war simultaneously every day. They stated that as the Chinese and Koreans had fought together they attached very great importance to conducting explanations in the manner requested by them. They also requested that the prisoners of war of these two nationalities should be brought out in small groups from a number of compounds. When practical difficulties of bringing out prisoners from several compounds were pointed out, the Command of KPA and CPV agreed to conduct explanations to prisoners belonging to a single compound. They also waived their claim for explaining to Korean and Chinese prisoners on the same day.

41. On 16 October, the Command of the Korean People's Army and Chinese People's Volunteers asked for Korean prisoners of war from compounds 34 and 48 in their plans for explanations. The "representatives" of the Korean prisoners, however, categorically refused to come out for explanations. The situation arising from this refusal was considered at great length by the Commission, which was present to observe the operations.

42. The situation described in paragraph 41 was reported by the Commander of the CFI to the Commission. He stated that he proposed sending his men into the compound to clear it tent by tent and that he should have the Commission's authority to open fire if in the process his men were attacked by the prisoners in the tent itself or by those in other tents. The Commission was unanimously of the view that, while it was not for it to advise the CFI Commander, the latter was free to act as he deemed fit within the limits of the directive given by the Chairman, namely, that no arms should be used for getting the prisoners out of the compound except (a) in self-defence, i.e., in the event of prisoners attacking the Custodial Force, and (b) in the event of an attempted mass breakout.⁶

43. Subsequent to the giving of this directive, the Commander of the CFI reported to the Chairman that the situation within the Korean compound, as well as in the surrounding compounds, had become so tense and threatening that the Commander felt that a new situation had arisen in which his attempt to force out the prisoners from the compounds might result in large-scale casualties. He referred the matter to the Commission, stating that his estimate was that the use of force would probably result in about 300 or 400 casualties. In these circumstances, the Commander of the Custodial Force sought a clear directive of the Commission whether he should proceed with the operation despite the casualties.

44. The Polish and the Czechoslovak members of the Commission stated that the Commander of the Custodial Force had already been given clear directives; that the Commission should not discuss steps of a purely military character; and that the Custodial Force, while acting in terms of the Commission's directives, must as-

⁶ The question of use of force in bringing the prisoners out for explanations was posed for the first time by the Chairman at the 31st meeting of the Commission held on 14 October 1953. While assuring that he did not like using force in principle, he stated that some sort of force was inevitable if the prisoners attacked the Custodial Force or tried to break out. The Swedish member stated that he was opposed to use of force in principle except in the event of a mass break-out or in self-defence. He was not quite certain about the idea of using tear gas. He stated that, if any force was to be used, it should be used in the last resort. The Swiss member said that article III of the Terms of Reference prohibited the use of force, and that accordingly no force should be used except in self-defence and that the idea of using tear gas could be considered. The Czechoslovak and Polish members stated that, if methods of persuasion failed, there was no other alternative left but to use force in order to enable the explaining representatives "to contact all prisoners of war"; that the use of force was obligatory under the Terms of Reference in order to produce prisoners before the explainers; and that it was entirely up to the CFI to decide what degree of force should be used and at which moment.

sume the military responsibilities. They further stated that the Commander of the Custodial Force should act in terms of the Commission's unanimous directives given to him earlier.

45. The Swedish and the Swiss members of the Commission felt that, while a decision had been taken earlier that the prisoners of war be reproduced for explanations, a new situation had been presented to the Commission and that the Commander of the Custodial Force, India, was entitled to a new decision on what was essentially a major issue. They stated that they would want to refer the matter to their Governments before giving their final decision, as they were not prepared to agree

to any decision which involved heavy casualties among the prisoners of war.

46. The Chairman of the Commission, as Executive Agent, felt that in a matter of such importance and magnitude the Commander of the Custodial Force was entitled to receive unanimous support of the Commission; and that the Commission as a whole, as principals, must be prepared to support its Executive Agent in all the consequences flowing from use of force. As no unanimous decision could be reached by the Commission, the Commander of the Custodial Force, India, suspended the operations and gave up attempts to bring the Korean prisoners out of their compounds by use of force.

Chapter II

47. The events of 16 October 1953 posed a problem of fundamental importance to the Commission, viz., the use of force in compelling the prisoners of war to attend explanations. The dilemma presented by this problem could never be resolved. Since the work of the Commission was, in many ways, impeded by lack of unanimity on this question, it is important that different points of view on this matter should be set out in detail.

48. The case presented by the Swedish and Swiss members of the Commission was that the letter and the spirit of the Terms of Reference and of the Geneva Convention forbade the use of force against the prisoners of war. They would, therefore, oppose any action by the Commission involving the use of force against the prisoners of war except for purely disciplinary measures.

49. The Czechoslovak and the Polish members of the Commission argued that, in accordance with paragraph 1 of the Terms of Reference, the *raison d'être* of the Commission was "to ensure that all prisoners of war have the opportunity to exercise their right to be repatriated"; the Terms of Reference made specific provisions in paragraphs 8 and 10 enabling the prisoners to exercise their right, subject to the provisions of paragraph 3; a duty was cast upon the Commission to provide "freedom and facilities" to the nations to which these prisoners belonged to explain to all the prisoners of war about "their rights, etc". There was enough evidence before the Commission to support the conclusion that there were prisoners of war who were held in terror and were being forcibly prevented from exercising their right of repatriation. In these circumstances, it was one of the most important functions and responsibilities of the Commission to ensure that conditions within the camps were improved so that prisoners were freed from any fear. If, in discharging these responsibilities, it was found necessary, force could be used, and was authorized to be used by paragraph 7 of the Terms of Reference.

50. The Indian delegation was of the view that it could not accept the assertion that prisoners of war had already made up their minds. This was contrary to facts. Its acceptance would have frustrated the very basis of the Commission, which was charged with the responsibility of helping to ascertain, in accordance with the Terms of Reference, the true decision of the prisoners on the question of repatriation. Conduct of explanations was one of the fundamental and essential functions of the Commission, and constituted its most important responsibility. Opposition by the prisoners to the dis-

charging of these functions and responsibilities of the Commission was unlawful, both under the Terms of Reference and the Rules of Procedure. Consequently, force could be used to overcome that opposition.

51. The Indian delegation felt that the Terms of Reference were no impediment to the use of force; that paragraph 7 clearly provided such force could be used in discharging the functions and responsibilities of the Commission; and that the granting of freedom and facilities to the explaining representatives so that they could explain to all the prisoners of war was the most essential function and responsibility of the Commission. But where the use of force was likely to result in heavy casualties among the prisoners of war, the Indian delegation felt that the Commission should give to the Executive Agent its unanimous authorization and support; that the responsibility for any heavy casualties should be shared by the members of the Commission, who must be prepared for the consequences flowing from such use of force. It was evident that such a support was lacking.⁷ In the meantime, the Swiss member of the Commission stated that his Government might have to consider its very participation in the work of the Commission if force were used for compelling the prisoners to attend explanations.

52. In the circumstances set out in paragraph 51, the Commission had to adjure use of force in bringing the prisoners of war out of their compounds for explanations. The only method left to the Executive Agent of the Commission was one of persuasion. The Polish and Czechoslovak members of the Commission objected to meeting these "representatives" with a view to persuading them. They stated that these "representatives" were "agents" specially sent to disrupt the explanatory work; that these "representatives" did not represent the prisoners, and that their main efforts were aimed at preventing the prisoners from exercising their right of repatriation, even by force, threat of force and by acts of violence.

53. The question of segregating the alleged "agents" was considered by the Commission on more than one occasion. The Command of KPA and CPV had furnished the Commission with a list of persons who, they alleged, were "agents". In so far as the term "agent"

⁷ The Czechoslovak and Polish members of the Commission maintained that under article XI, paragraph 24, of the Terms of Reference, the Commission was required to act in accordance with majority decision; consequently, it was not necessary to have a unanimous decision on the use of force. To seek such unanimity was contrary to the Terms of Reference.

meant to convey "non-captured personnel", the majority of the members of the Commission assumed that the prisoners of war transferred into its custody did not belong to this category and were *bona fide* prisoners; that they could not assume that, simply because a number of names appeared on the list supplied by the Command of KPA and CPV, the prisoners of war so named must be segregated; and that only such prisoners of war could be segregated as were actually caught committing acts of indiscipline or other punishable offences.⁸ A few were thus segregated but their number was small. In any case, such a segregation was far removed from breaking up and reorganizing the existing camps. As it was not possible to reorganize the camps and segregate the alleged "agents", the Commission felt that, perhaps,

the next best way to ensure to the prisoners of war a free and unfettered choice was to bring them individually for explanations when they would have the opportunity to make up their minds.

⁸ The Czechoslovak and Polish members of the Commission requested that these agents be segregated and suggested that their segregation could be done, if not as a disciplinary measure, at least as an administrative one within the framework of custody. They also put forward proposals that disciplinary measures should be used in accordance with paragraphs 1, 2, 3 and 5 of the Rules of Procedure governing Explanations and Interviews against the agents impeding the explanatory work. They maintained that the policy of yielding to violence and terror of the agents made the implementation of the Commission's task impossible.

Chapter III

54. In accordance with paragraph 23 of the Rules of Procedure governing Explanations and Interviews, the Command of KPA and CPV had transmitted, on 16 October at 10 a.m., its plan for the conduct of explanations on 17 October. It requested that 1,000 Chinese prisoners of war from certain named compounds be brought out for individual explanations. In view of the fact that its plan for 16 October was not carried out (see paragraphs 38 to 46) the Command of KPA and CPV requested that endeavours be made to bring out the Korean prisoners of war once again and that its plan for 17 October be modified accordingly.

55. The Chairman of the Commission made representations to the Command of KPA and CPV and requested it to adhere to its plan for 17 October, already submitted. The Command of KPA and CPV ultimately agreed to do so. Since these negotiations took some time, no explanations could be held in the morning of 17 October; consequently, only one compound of approximately 500 Chinese prisoners could go through explanations on that day.

56. On 18 October 1953, the secretariat of the Neutral Nations Repatriation Commission received the plan from the Command of KPA and CPV for conduct of explanations on 19 October 1953. A request was made for 1,000 Korean prisoners from compounds 48 and 34. As the Custodial Force, India, was still unable to produce Korean prisoners of war, but was able to bring out the Chinese prisoners for explanations, it was suggested to the Command of KPA and CPV that it might, having regard to the difficulties of the Commission, consider conducting explanations to the Chinese prisoners until the Korean prisoners could be persuaded to attend explanations.

57. The Command of KPA and CPV felt unable to accept this suggestion, and reiterated its demand for the Korean prisoners. It expressed its attitude in the letter of 18 October 1953 stating, *inter alia*:

"It has been proved by facts that obstacles to the arrangements for the prisoners of war to listen to the explanations were created by the special agents of Chiang and Rhee under the instigation of the original detaining side. To overcome these difficulties some practicable and effective measures should be taken. Submission to these difficulties not only would violate the Terms of Reference and the Rules of Procedure, but would encourage these special agents to sabotage the explanation work, and thus make it impossible for the Custodial Force, India, of the Neutral Nations

Repatriation Commission to carry out its mission" (annexure XI, 3).

This situation was considered by the Commission.

58. The majority view, held by the Indian, Swedish and Swiss members, was that the Commission was the final authority to approve the plans submitted by the Command of KPA and CPV. Paragraph 23 of the Rules of Procedure merely gave them a right to submit a plan, acceptance of which must rest with the Commission. In considering any plan submitted to it, the Commission must take into account its feasibility. Paragraph 23 did not in any way create an obligation whereby the Commission was obliged to implement, without modification, the plans submitted by the explaining representatives. The Commission had the right to reject or modify the plans on grounds of convenience or feasibility. As regards paragraph 7, it merely created the right to explain to individual or groups of prisoners of war. It did not create a right to nominate the individuals or groups.

59. The minority view in the Commission, held by the Czechoslovak and the Polish members, was that paragraph 8 of the Terms of Reference conferred upon the explaining side the right to explain to all the prisoners; paragraphs 7 and 23 of the Rules of Procedure governing Explanations confirmed this right; since the explaining representatives had a right to explain to all the prisoners, it was not for the Commission to dictate to them that they should explain to a particular category of prisoners; that the Terms of Reference gave no authority to the Commission to control or modify the procedure for explanations so long as such procedure did not contravene any specific Terms of Reference; that the argument based on the question of "feasibility" could not be availed of by the Commission as it was perfectly "feasible" for the Korean prisoners of war to be produced; that, to the extent it was not feasible, it was entirely the fault of the Commission as it had abdicated its authority by refusing to break up prisoner-of-war organization and to segregate the "agents" and "ring-leaders"; and that, finally, the Commission could not plead "non-feasibility" which was the result of its own acts of omission and commission. Consequently, the Commission could not curtail the rights of the explaining side; any such curtailment, being contrary to the Terms of Reference, was illegal.

60. The Polish and the Czechoslovak members indicated that they could not participate in the meeting of the Commission if it insisted upon acting upon the majority view which, in their opinion, constituted a serious

violation of the Terms of Reference. And when a draft letter (annexure X) was put to a vote, these members walked out of the meeting. The Commission was thus prevented from formally notifying the Command of KPA and CPV that it could not arrange for the Korean prisoners to be brought out for explanation and requesting that Command again to consider continuing the explanations with Chinese prisoners. The Command of KPA and CPV, for their part, continued to insist upon explaining to the Korean prisoners.⁹ The CFI could not succeed in persuading the "representatives" of the Korean prisoners to attend explanations. In these circumstances, no explanation could be conducted between 18 and 30 October 1953. Explanations were, however, resumed on 31 October, when the "representatives" of the Korean prisoners of war were at last persuaded to leave their compounds.¹⁰

61. On the following day, i.e., 1 November 1953, no explanations could be conducted. The Command of KPA and CPV had, in its plan for that day, requested facilities for broadcasting to prisoners in their compounds and in the 250 holding compounds of the explaining area simultaneously with the carrying out of individual explanations. The Commander of the Custodial Force felt that such broadcasts would inevitably cause excitement among the prisoners and might lead to disturbances, with which the Custodial Force would not be able to cope, all its reserves being utilized for the conduct of individual explanations. In view of this advice, the Chairman of the Commission informed the Command of KPA and CPV that, unless it agreed to give up broadcasting to the prisoners, individual explanations could not be conducted. The Command of KPA and CPV did not agree with this suggestion. Explanations on 1 November had, therefore, to be suspended.

62. In order to obviate the difficulty referred to in the previous paragraph, the Chairman of the Commission suggested to the Command of KPA and CPV that it should limit its broadcasts to the holding compounds only and should commence individual explanations only on completion of broadcasts. This suggestion was accepted by the Command. Accordingly, explanations were resumed on 3 November and were conducted on 3, 4 and 5 November.

63. On 4 November, the Commission was confronted with a fresh problem. As requested by the Command of KPA and CPV, 403 Chinese prisoners were brought

⁹ The insistence of the Command of KPA and CPV on explaining to the Korean prisoners of war was based on their stand that they had a right to explain to all the prisoners of war and that the Commission could not restrict that right by requiring them to explain to only one group of prisoners, viz., the Chinese. The Command was, however, prepared to make some concession in regard to the number of prisoners to be explained. It stated that it was prepared to agree to have 500 Korean prisoners instead of 1,000 and from either of the two compounds (see annexure XI).

¹⁰ It would appear that the refusal of the Korean prisoners to attend explanations was connected with certain interested parties outside the prisoners of war camps whose attitude at that time was hostile to explanations. See paragraph 98 of this report and annexure XVII.

out on 4 November for explanation. Two hundred and five of these were explained to, leaving an unexplained remainder in the holding compound. As no extra compound was available for segregating the "unexplained" and "explained" prisoners, they were returned mixed to the compound from which they were brought out.

64. On 5 November, only 136 Chinese prisoners out of 408 were explained to from compound C.22. Again, the "explained" and "unexplained" prisoners of war could not be segregated.

65. The Command of KPA and CPV protested against non-segregation of prisoners on 4 and 5 November respectively. It stated that paragraph 20 of the Rules of Procedure governing Explanations had created a definite obligation to segregate the prisoners in the manner prescribed therein. It also informed the Commission that it was unlikely that the explanations to all the prisoners produced on 5 November would be completed and requested that the CFI should arrange to segregate those left unexplained. This could not be implemented for the reasons given in paragraph 63. The Command of KPA and CPV, while protesting against the violation of rule 20, asked for the unexplained residue on 6 November. The representatives of the prisoners could not be persuaded to come out. The Command of KPA and CPV continued to ask for the residue until 15 November. No explanations could be carried out from 6 November to 16 November.

66. On 14 November, the Command of KPA and CPV, while reserving its right to ask for the prisoners of compound C.22 again, agreed to explain to another compound. Explanations were thus resumed on 16 November, when 407 Korean prisoners from compound G.53 were brought for explanations, but only 227 were explained to. The problem of segregation again arose. The Command of KPA and CPV desired the unexplained residue to be segregated and produced on 17 November. The CFI was unable to do this. The Command of KPA and CPV continued to insist on segregation and discontinued sending its plans for the conduct of explanations. Explanation work in the Southern Camp accordingly remained suspended. It was, however, resumed on 21 December 1953.¹¹

67. The stoppage of explanatory work in the Southern Camp occasioned an exchange of correspondence between the Commission and the Command of KPA and CPV (see annexure XII). The latter expressed dissatisfaction with the conditions under which their representatives had to conduct explanations. These conditions were by no means perfect and contrasted strikingly with those prevailing in the Northern Camp, where explanations were singularly free from all disturbances and manifestations of violence.¹² The Commission could not ensure perfect orderliness on the part of the prisoners of war in the Southern Camp. The majority view in the Commission on the question of behaviour of prisoners of war and other matters was set out in the Chairman's letter of 18 November 1953 (annexure XII, 11).

¹¹ See paragraphs 78-81.

¹² See paragraphs 82-85.

Chapter IV

68. During the few days that explanations were conducted, the Commission observed a pattern of uniformity in the behaviour of the prisoners in the explanation tents. The prisoners were quiet and normal when being brought to the explanation tents; within

the tents the majority of them became violent and used the same language and shouted the same slogans. The custodial force had to use three unarmed men within each explanation tent to ensure order and discipline. The CFI could not, however, prevent the prisoners from

shouting. The only exception to this pattern of behaviour were those who sought repatriation or those among the non-repatriates who, instead of shouting, resorted to entering into political debate with the explaining representatives. Both these categories represented only a minority.

69. As regards those who sought repatriation, all of them, with the exception of two, did so the moment they entered individually into the explanation tents. This brought fresh confirmation to the Commission's view that those prisoners who desired repatriation were coerced into forcible detention within the camps and could not have exercised their right of repatriation within their camps.

70. There were a few instances when the prisoners of war concerned took some considerable time to make up their minds. In one instance the prisoner appeared to display a state of fear and extreme indecision. Consequently, the explaining representatives continued their explanations. Ultimately, the Chairman of the Commission intervened and removed the prisoner of war and

Chapter V

72. In adopting paragraph 20 of the Rules of Procedure governing Explanations, the Commission had, with unanimity, recognized the necessity of keeping into separate custody the three categories of prisoners of war referred to in that paragraph. But certain practical difficulties were anticipated in giving effect to this provision.

73. As there were no vacant compounds available to the Commission, two courses were open to it: either to ensure the building of an extra set of duplicate compounds; or to conduct explanations compound by compound or in multiples of a compound. The latter alternative was simpler, as it obviated the necessity for large-scale construction which would have taken considerable time for completion. As the commencement of explanations had already been delayed and difficulties were being experienced about the construction of explanation facilities, the Chairman of the Commission, mindful of the responsibilities devolving on him as its Executive Agent, made specific reservations regarding the mode of implementation of paragraph 20 of the Rules of Procedure governing Explanations. In accordance with this reservation, explanations were to be conducted to entire compounds or multiples thereof until such time as compounds began to fall vacant by reason of repatriation of prisoners. It was felt that the rate of repatriation might be such that, by the time some 5,000 prisoners were explained to, compounds would become available so that smaller groups of prisoners could be explained to and kept separate. An important factor in making such a reservation was the need to avoid the imposition of extra burdens upon the Custodial Force, India, resulting from extension of the number of compounds.

74. Paragraph 20 was thus predicated upon certain assumptions which were implicit in the reservations made by the Chairman of the Neutral Nations Repatriation Commission. These reservations related equally to paragraph 23 of the Rules of Procedure, which was intimately related to paragraph 20.

75. On 4 and 5 November, the factors governing the reservations made by the Chairman of the Commission were still operative. In order, however, to find a way out of the situation the Chairman made the following proposal to the Command of KPA and CPV in his letter dated 6 November 1953:

segregated him in order that he might have time to consider his decision calmly. The prisoner concerned, when left to himself, decided to elect repatriation. He was examined by the Commission, where he testified to having such fears inculcated in his mind that, while anxious to go home, he could not rid himself of those fears; as soon as he was segregated he felt more assured. The case of this prisoner of war became the subject-matter of protest by the United Nations Command. The relevant correspondence on the matter is set out in annexure XIII. The other prisoner of war who sought repatriation after considerable amount of explanation appeared equally to display signs of fear.

71. It is difficult for the Commission to assess the number of prisoners of war who were prevented from exercising their right of repatriation by fear of consequences which they were told would result. It is equally impossible to say that all those prisoners who did not seek repatriation were doing so freely and voluntarily and not because of certain fears inculcated in their minds over a period of time.

"Now that it appears that you have considerably slowed down the process of individual explanations, the Custodial Force, India, has been presented with a problem of finding spare accommodation for the segregation of those prisoners who have been explained to from those who have not been explained to. There is no spare compound available for the purpose, nor is it possible with the forces at the disposal of the General Officer Commanding, Custodial Force, India, to man any more compounds and ensure guarding the prisoners of war in such additional compounds. We are, however, always anxious to meet with your wishes within the limits of our resources. I am therefore prepared, in spite of the difficulties of manpower, to put up one extra compound to meet such contingencies. You will, I hope, appreciate that it is impossible to make any more compounds and guard them adequately. The extra compound will enable the Custodial Force, India, to separate the prisoners of war explained to and those not explained to, provided you agree not to ask for a new compound until you have completed explanation to all prisoners of war of one compound. If you agree to this procedure, we will go ahead with the construction of an additional compound as soon as practicable" (annexure XII, 4).

76. The Command of KPA and CPV conveyed their concurrence in the following terms to the Chairman's suggestion in their letter dated 7 November 1953:

"In order to promptly settle the question of keeping prisoners of war in separate custody it is absolutely necessary to construct additional compounds for their segregation. Taking into consideration the practical difficulties of the Indian Custodial Force of the Neutral Nations Repatriation Commission, we agree not to give explanations to the prisoners of war of another compound until we have completed, no matter for how many consecutive days, the explanations to all the prisoners of war in one compound, although we do not consider there is any such necessity to do so under the Terms of Reference and the Rules of Procedure" (annexure XII, 6).

77. The promise made to the Command of KPA and CPV by the Chairman of the Commission could not be redeemed on account of the attitude adopted by the

"representatives" of the prisoners of war. They stated that the prisoners would not come out of their compounds if they were to be segregated. This attitude of the "representatives" of the prisoners of war had no justification as segregation of prisoners of war was in accordance with the Rules of Procedure. The reason for their refusal, however, lay in their expressly stated fears that the breaking up of camps might lead to a loosening of the camp organizations and to the consequent weakening of the influence which these "representatives" exercised over the main body of the prisoners of war.

78. The Command of KPA and CPV continued to persist in their demand that the Commission should make arrangements for segregating the prisoners of war. With the commencement of explanations in the Northern Camp, where the prisoners concerned had agreed to be segregated, the Command of KPA and CPV reinforced their demand for arrangements for segregation on the ground that the non-existence of such facilities in the Southern Camp amounted to an "unfair situation" for that Command. The Chairman of the Commission, in his letter dated 6 December 1953, stated the position as follows:

"It is not due to any lack of desire on the part of the Commission that the prisoners have not been segregated; nor, indeed, had the Commission any desire to depart from the principle of strict equality between the two sides. The inability to segregate, in the situation obtaining at present, is entirely due to the refusal by the representatives of the prisoners of war to come out of the compounds if they were to be segregated" (annexure XII, 13).

79. Lieutenant General Lee Sang Cho, in his letter to the Chairman of the Commission dated 8 December 1953, again demanded the construction of segregation facilities. The following is a relevant extract from the letter:

"To segregate the prisoners of war who have been explained to from those who have not is an explicit provision in the Rules of Procedure governing Explanations and Interviews. In your letter of 6 November, you clearly promised to construct a segregation compound in the Tongjang-ni prisoner-of-war camp. The Rules of Procedure must be implemented, and promises must be kept. The Neutral Nations Repatriation Commission and the Custodial Force, India, have no reason for not carrying out in the Tongjang-ni prisoner of war camp the stipulations of the Rules of Procedure, and your definite promise.

"In your letters dated 18 November and 6 December respectively, you stated that the inability to segregate the prisoners of war is entirely due to the refusal of the representatives of the prisoners of war to come out from the compound, if they were to be segregated. To this we utterly cannot agree. Solid facts have proved that the so-called representatives of the prisoners of war at present in the Tongjang-ni

prisoner-of-war camp are the very secret agents designated by the United Nations Command side, who are the persecutors and murderers of our captured personnel, and disrupters of the explanation work; they absolutely cannot represent the prisoners of war. The Neutral Nations Repatriation Commission and the Custodial Force, India, have failed to clear out the secret agents and break their organizations, but, on the contrary, recognized the secret agents as the representatives of the prisoners of war and, taking the will of the secret agents as the will of the prisoners of war, refused to proceed with segregation arrangements. This cannot but make us feel gravely indignant. The Neutral Nations Repatriation Commission has never seriously made any segregation arrangements, how could the Commission know that these arrangements cannot be made? The situation of complying with the utterings of the secret agents and thus making the explanation work of our side to bog down into suspension cannot be tolerated.

"I resolutely ask the Neutral Nations Repatriation Commission and the Custodial Force, India, to construct segregation compounds, proceed with all necessary segregation arrangements and, in accordance with the stipulations of the Terms of Reference and the Rules of Procedure, take resolute measures to carry them out so that the explanation work of our side may proceed" (annexure XII, 14).

80. Arrangements for segregation were ultimately made by adjusting the accommodation of the Custodial Forces and the Command of KPA and CPV was informed of these arrangements on 10 December 1953.

81. On 11th December 1953, the Command of KPA and CPV submitted its plans for explanations to be conducted on 12 December 1953 to 250 Korean prisoners from compound 53. The "representatives" of the prisoners of war concerned refused to come out from the compound and to attend explanations. Accordingly, no explanations were conducted. The Command of KPA and CPV continued to send its plans for explanations to 250 Korean prisoners from compound 53. The "representatives" of the prisoners of war maintained their attitude. Subsequently, on 18 December 1953, the Command of KPA and CPV asked for 250 Korean prisoners from compound 38. Again, the "representatives" of the compound concerned refused to come out for explanations. On 20 December, however, the Command of KPA and CPV while reserving the right to give explanations to the compounds which it had earlier asked, demanded that 250 Chinese prisoners of war from compound B.3 be brought out for explanations. The "representatives" of this particular compound agreed to come out for explanation and to be segregated. Accordingly, explanations were resumed in the Southern Camp on 21 December. The balance of the prisoners of war from the compound was explained to on 22 December. On 23 December, 234 Chinese prisoners of war from compound B.4 were explained to (see annexure XX).

Chapter VI

EXPLANATIONS IN THE NORTHERN CAMP

82. On 1 December 1953, the United Nations Command informed the Commission that the Republic of Korea desired to commence explanations with effect from 2 December 1953 to the prisoners of war belonging to it. The explanations thus began in the Northern

Camp. The United Nations Command asked for thirty Korean prisoners of war each day. Explanations continued smoothly without any interruptions until 11 December; on that day, the Korean prisoners concerned insisted on questioning the explaining representatives at

great length, demanding that their questions be answered. The explaining representatives, however, indicated that they did not desire to proceed with explanations to those remonstrating prisoners any further. Accordingly, the Chairman of the subordinate body asked the prisoners to leave the explanation tents. The prisoners did not obey the orders given to them. After some time they had to be removed with a certain amount of physical force. In these circumstances, on 11 December, only five out of thirty Korean prisoners were explained to.

83. On 11 December, the Korean prisoners in the Northern Camp presented a long memorandum to the Commission setting out their grievances. Their petition was supported by a similar petition by the American prisoners and the British prisoner, who stated that they were not prepared to come out for explanations until the Commission had considered the petition made by their Korean friends.

84. As the petition presented by the Korean prison-

ers of war was in the Korean language and ran into several pages, its translation took considerable time. It could not, therefore, be considered immediately. Accordingly it was considered by the Commission on 22 December. A formal reply was sent to the American petition, which is set out in annexure XIV. The Chairman of the Commission informed the American and the Korean prisoners of the position in the evening of 22 December, but the prisoners refused to come out for explanations. The United Nations Command, however, made a broadcast to these people in the morning of 23 December.

85. In these circumstances no further explanations could be conducted in the Northern Camp. The refusal by the prisoners of war to come out for explanations on the grounds stated by them was, in the opinion of the majority of the Commission, by no means tenable. Relevant correspondence on the subject of explanations in the Northern Camp is set out in annexures XIV and XV.

Part IV. Prisoner-of-war organizations in the Southern Camp

Chapter I

86. Reference has already been made in paragraph 11 of the present report to the organizations existing within the prisoner-of-war camps. It is proposed to deal with this question in somewhat greater detail. Without a fuller understanding of the nature, objectives and ramifications of the prisoner-of-war organizations, it will not be possible to present a complete picture of the situation in which the Commission found itself and the difficulties it encountered in its efforts to implement the Terms of Reference.

87. At a very early stage of its work, the Commission came to recognize the existence of the prisoner-of-war organizations. In a press *communiqué* issued on 2 October 1953, all the members of the Commission recognized that these organizations presented a problem. The following is a relevant extract from the *communiqué*:

"There is no doubt that the prisoners at the time of taking over were well organized in groups and that this pattern of organization still persists in the camps. The leadership which existed amongst prisoners before they were taken over by Custodial Force, India, continues to exert its influence on the prisoners who are subjected to a considerable degree of pressure involving, in some cases, acts of violence. This is the problem that the Commission is facing today" (annexure XVI).

88. With the passage of time considerable amount of information became available to the Commission. It then became even more evident that the prisoner-of-war organizations were of a very complex and integrated character.

89. Annexure XVII to the present report contains a number of letters intercepted by the Custodial Force during their transmission from the compounds or into the compounds. These letters point to the existence of the General Headquarters of the prisoner-of-war organizations and to its location in Seoul under the control of the Provost Marshal of the Republic of Korea. The GHQ was linked with four branch organizations controlling the six prisoner-of-war enclosures; the branch organizations, in their turn, controlled the com-

pound organization in all the fifty-five compounds. An effective communication system functioned between the three sets of organizations. The 64th US Field Hospital constituted the most significant link in the communication system.

90. It may be stated in this connexion that by far the most interesting and significant intercepted letter was recovered from a Korean prisoner of war who was apprehended when trying to enter enclosure E, compound 40, on 8 November 1953. The circumstances of his escape and his attempt to re-enter are still being investigated by the Commission. The fact, however, remains that the letter was found on his person. It is equally established that he had escaped from the compound and was trying to re-enter some days later when he was arrested.

91. The objectives which the organizations had were manifold. The Commission recognized that human beings reduced to live under conditions of prisoner-of-war camps must have some sort of organizations voluntarily created for recreational and intellectual purposes. But the Commission entertained the most serious doubts whether the organizations it had to deal with were of such a voluntary character. The close and continuous intervention of outside influences lent confirmation to the doubts of the Commission. Indeed, the Commission itself was subjected to a régime of threats and intimidations by the Republic of Korea, adding further to its difficulties (see annexure XVIII).

92. The methods employed by those who held position of authority and influence within the prisoner-of-war organization were coercive. Acts of violence were committed against those who desired to exercise their right of repatriation. On 1 November 1953, in the very presence of the Commission's subordinate body, two prisoners of war were severely beaten because they expressed a desire for repatriation. It was with the greatest difficulty that the Custodial Force was able to extricate these two Chinese prisoners from compound D.28 alive.

93. A number of murders were committed (see annexure XIX). Attempts to investigate them met with

resistance from the "representatives" of the prisoners. For each such investigation, the Custodial Force had to undertake a major operation. On 1 October, the prisoners of war in hospital staged a violent demonstration frustrating the Commission's efforts to inspect the hospital. On 21 November again, a violent demonstration was staged by the hospital patients against at-

tempts by the Commission to investigate a reported murder in the hospital.

94. The Commission could not deal with the situation without resort to force, which it was most reluctant to do. The state of affairs in the camps was certainly not conducive to the implementation of paragraph 3 of the Terms of Reference.

Part V. Conclusions

95. In accordance with article I, paragraph 1, of the Terms of Reference, the Neutral Nations Repatriation Commission was set up "in order to ensure that all prisoners of war have the opportunity to exercise their right to be repatriated." Paragraph 3 of the same article provided that "no force or threat of force shall be used against the prisoners of war . . . to prevent or effect their repatriation and no violence to their persons or affront to their dignity or self-respect shall be permitted in any manner for any purposes whatsoever. . . ."

96. As no prisoner of war, while still in the compound, enjoyed freedom to seek repatriation but was subjected to force or threat of force, the Commission became convinced that explanations could not be conducted in the particular manner prescribed in paragraph 8, namely, at "the locations where such prisoners" were held in custody. The organized shouting and violent demonstrations would have frustrated such a procedure. The Commission had to elaborate additional provisions governing explanations in order to give effect to the Terms of Reference and, in particular, paragraphs 3 and 8 thereof. The power to prescribe such additional provisions was derived from article III, paragraph 8 (d), of the Terms of Reference. The most important provisions thus adopted related to explanations to individual prisoners of war. Paragraphs 1 to 7 of the Rules of Procedure governing Explanations were all intended to create conditions for the carrying out of the Terms of Reference.

97. Despite all the care the Commission took in endeavouring to create a proper atmosphere for the conduct of explanation work, it cannot record a finding that even those prisoners of war in its custody in the Southern Camp who went through the process of individual explanations were completely freed from force or threat of force arising from and intimately connected with the camp organization and its leadership. It must, however, be stated that the Commission could not, in the opinion of the majority, in the circumstances and within the time and resources at its disposal, do anything more than provide facilities for individual explanations. The Czechoslovak and Polish members of the Commission stated that this was not enough; and that it was necessary at the same time to reorganize the prisoner-of-war camps and to segregate the ring leaders and the alleged "agents."

98. The Commission cannot record a finding that prisoners of war in its custody in the Southern Camp were completely freed from the influence of the former detaining side and, in particular, of the authorities of the Republic of Korea, whose incursions made it impossible for the Commission to come to any other conclusion.

99. These activities, coupled with the activities of the prisoner-of-war organization and its "representatives," were not conducive to the creation of conditions

whereby the prisoners could be enabled to exercise the right of repatriation in an unfettered manner. These activities derogated from the custody and control of the Commission and made its task of establishing freedom of choice at all times by the prisoners of war of unusual difficulty.

100. As for the Northern Camp, the Commission had no evidence of any activities of the former detaining side in respect of the prisoners in that camp. While these prisoners appeared to be well disciplined, the Commission again had no evidence which might have thrown any light on the existence of any organization, its character and objectives. It may, however, be stated that the few prisoners from the Northern Camp who opted for repatriation did so by escaping from the compound, which was a comparatively easy task.

101. The Commission may also state that, in its view, the two Commands were entitled to conduct explanations for a period of ninety days. The United Nations Command voluntarily decided not to conduct explanations for the entire period and began their explanatory work on 2 December. The Command of KPA and CPV, however, throughout insisted upon the full ninety-day period. This they could not get. There were various interruptions. The causes contributing to these interruptions have already been described in paragraphs 28-81 of the present report.

102. The initial delay in the commencement of explanations was due to the inability of the Commission to secure the construction of the necessary facilities. There were also interruptions in the continuity of explanations due to the attitude adopted by the "representatives" of the Korean prisoners. The Command of KPA and CPV continued to request that these prisoners be explained to. Such was the position from 18 to 30 October. Thereafter, there were interruptions between 6 and 15 November, and again between 16 November and 20 December. These were caused by the refusal of the "representatives" of the prisoners of war to submit to segregation. The explanations recommenced the moment the "representatives" of the Chinese prisoners of compounds B.3 and B.4 indicated their readiness to come out for explanations.

103. The Commission must invite the attention of the United Nations Command and the Command of the Korean People's Army and Chinese People's Volunteers to the existence of the state of affairs leading to an impossibility of complete performance of the tasks of the Commission in accordance with the Terms of Reference. In annexure XX is set out a detailed account of the number of prisoners of war in the custody of the Commission on 23 December 1953, the number of those repatriated through explanations, and those repatriated without such explanations.

104. Under paragraph 11 of the Terms of Reference, an obligation is cast on the Commission that "at

the expiration of ninety days¹³. . . the question of disposition of the prisoners of war who have not exercised their right to be repatriated shall be submitted to the Political Conference recommended to be convened in paragraph 60, Draft Armistice Agreement. . .” Such a Political Conference has not materialized. Consequently, the Commission cannot submit the question of their disposition to the Political Conference and is, therefore, obliged to refer the entire matter for consideration by the two Commands in the light of the report of the Commission. It is also for consideration

¹³ The Czechoslovak and Polish members maintained that both sides were entitled to have freedom and facilities to conduct explanations to the prisoners of war belonging to them respectively for the whole period of ninety days provided for in the Terms of Reference; that, in view of the fact that the Command of KPA and CPV could conduct explanations only for a small portion of the ninety days' period, the Commission should arrange for continuation of their explanation work and for compensation of time so as to make up for the whole period of ninety days.

in what manner paragraph 11 of the Terms of Reference is to be implemented, particularly in regard to the declaring “the relief from the prisoner-of-war status to civilian status of any prisoners of war who have not exercised their right to be repatriated and for whom no other disposition has been agreed to by the Political Conference within one hundred and twenty days after the Neutral Nations Repatriation Commission has assumed their custody.”¹⁴

¹⁴ In connexion with paragraph 104 of this Interim Report the Czechoslovak and Polish members made the following statement:

“Under the provisions of the Terms of Reference, especially under article XI, paragraph 24, it is the duty of the NNRC to interpret the provisions of article IV, paragraph 11, of the Terms of Reference. Pointing to our position taken with regard to the question of the ninety-day period provided for by the Terms of Reference for conducting explanations, the Czechoslovak and Polish delegations reserve themselves to request the Commission to take appropriate measures, based on interpretation of the Terms of Reference, as to further procedure concerning the implementation of article IV, paragraph 11, of the Terms of Reference.”

APPENDIX 1

Enclosures to the letter of transmittal from the Chairman of the Neutral Nations Repatriation Commission (memoranda re drafting of the report)

To the Chairman of the Neutral Nations Repatriation Commission

19 December 1953

Sir,

1. I have the honour to submit the following report on the work of the Committee appointed to prepare a report on the activities of the Commission.

2. It will be recalled that the Commission, at its 36th meeting held on 23 October 1953, directed the secretariat of the Commission that “a draft letter to both the Commands should be prepared and circulated in the course of the day. . .” This letter was intended to convey to the two Commands the situation arising out of the cessation of explanation work. The secretariat, accordingly, circulated a draft memorandum attached hereto as annexure A to all the delegations comprising the Commission. The Swedish and the Swiss delegations submitted amendments to the draft which are set out in annexure B. The Commission considered the draft memorandum and amendments thereto at its 38th meeting held on 26 October 1953.

3. The Polish member of the Commission stated that he considered that “the communication to which his delegation agreed was one which would report the situation as it developed from the beginning of the Commission's work, whereas the draft memorandum started only with the events of 15 October and afterwards.” The Commission ultimately agreed to appoint a Committee of the Commission to prepare a new draft.

4. I forwarded to the members of the Committee a draft interim report for their consideration, stating that it was “solely for the purpose of enabling the members of the Commission to discuss the matter and is by no means conclusive at this stage.” (see annexure C) The draft circulated dealt with the entire course of events beginning with 10 September to 4 November 1953.

5. The Czechoslovak, Polish, Swedish and Swiss delegations proposed amendments to this report which

were discussed at the meeting of the Committee held on 24 November 1953.

6. An amended and revised draft of the report was circulated to the members of the Committee on 8 December 1953. The draft thus circulated brought the report up to date in regard to the explanations in the Southern Camp. My letter under cover of which this draft was circulated is set out in annexure D.

7. On 13 December 1953, the Swedish and Swiss delegations notified to me their “intention to suggest some amendments and alterations to the revised draft of the report of the Commission.” They, however, stated that they were not prepared to send suggestions until they had seen the concluding portions of the report as they felt that the report should be considered as a whole. A copy of their letter is attached as annexure E.

8. The concluding portion of the report was circulated to the members of the Committee under cover of my letter (annexure F) of 15 December 1953. The Committee met to consider the report on 18 December 1953. At this meeting, statements were made by the Czechoslovak, Polish, Swedish and Swiss members which are set out in annexure G.

9. In view of the attitude taken by the Swedish and Swiss members of the Committee, I was left with no other alternative than to report to the Commission the sequence of events set out herein with a recommendation that the Commission deal with this matter as it may deem fit and proper.

10. I stated clearly that it was the Commission's inescapable responsibility to submit a report to the two Commands; that such a report must inevitably deal with the entire field of activities of the Commission; that the duty to report was inherent in every international commission which must, in doing so, give its appreciation of the extent to which it has been able to implement its Terms of Reference. I also stated that the mandate given to the Committee was to prepare a comprehensive report of the activities of the Commission. In view of

this understanding of the mandate, I said that it would not be possible for me to discuss a shorter draft submitted by the Swedish delegation attempting to revive the earlier memorandum which the Commission had decided to give up in favour of a more comprehensive report. This draft memorandum has already been circulated to the members of the Commission. I am therefore not attaching a copy of it.

11. I also signified my readiness to discuss any suggestions, alterations and amendments to the draft circulated. The Swedish and Swiss members of the Committee were not prepared to do this.

Yours faithfully,
(Signed) P. N. HAKSAR
Chairman, Committee

ENCLOSURES TO APPENDIX

ANNEXURE A

23 October 1953

DRAFT MEMORANDUM

1. In accordance with paragraph 23 of the Rules of Procedure governing Explanations, the Command of KPA and CPV submitted a plan on 15 October 1953 at 1000 hours that 1,000 captured persons of the Korean People's Army be produced for explanation on 16 October 1953 from prisoner-of-war compounds 34 and 48.

2. Accordingly, the prisoners of war concerned were asked to come out of their compounds and proceed to the explanation area. The prisoners refused to comply with the orders despite assurances given to them that they had nothing to fear and that they would be guaranteed absolute freedom of choice after they had listened to explanations. All such assurances were of no avail. The prisoners in question, as well as those in the surrounding compounds, began to assume a threatening and violent attitude. To meet such a situation, and to ensure the presence of the prisoners before the explainers, it would have been necessary to resort to force. It was, however, felt that the use of force might lead to large number of casualties among the prisoners of war. Faced with such a situation, efforts to bring out the Korean prisoners of war for explanation were given up.

3. The Command of KPA and CPV submitted a plan on 16 October 1953 at 1000 hours requesting that Korean prisoners of war from compounds 27 and 33 be produced. As it was felt that, in attempting to bring out these prisoners, the Commission as well as the Custodial Force, India, would be faced with a situation similar to that on 16 October, the Commission felt that it could not accept the plan on the grounds of feasibility. It was, therefore, suggested to the Command that explanations be given to the Chinese prisoners who were prepared to come out for explanations. The Command of KPA and CPV, while still demanding the production of Korean prisoners of war, agreed to have Chinese prisoners of war for explanation on the 17th.

4. Certain members of the Commission felt that the Command of KPA and CPV had the right under article 3, paragraph 8, of the Terms of Reference to carry on the work of explanations in accordance with their own plans. The Commission was, therefore, under an

obligation to produce the prisoners of war, as demanded, for explanations.

5. It was argued, on the other hand, by certain other members of the Commission that it was not obligatory on the Commission to produce any particular set of prisoners; that, while the Commission was bound to consider the plan submitted by either Command, they had every right to accept, modify or even to reject the plans on grounds of feasibility; it was consequently proposed that the Command of KPA and CPV be advised to conduct explanations to the Chinese prisoners of war until such time as Korean prisoners of war could be induced to attend explanations.

6. When the point of view set out in paragraph 5 was pressed to a vote on 19 October 1953, certain members of the Commission felt that it constituted such a violation of the Terms of Reference and the Rules of Procedure that they deemed it necessary to withdraw from the meeting of the Commission. This brought about a deadlock in the work of the Commission relating to conduct of explanations.

7. On 22 October, when the Commission met again, it was argued by certain members of the Commission that the withdrawal of the members from the meeting of the Commission on 19 October constituted a violation of the Terms of Reference and was, therefore, illegal. The members concerned, however, argued that their withdrawal was a legitimate exercise of a right of every representative of a sovereign State to have the possibility of opposing any matter in the Commission in a manner which he deemed fit and consistent with international law and practice.

8. Apart from the question whether the Commission has or has not the right to accept, modify or reject the plans submitted for explanations by either Command, it was further argued by certain members that the inability to produce the Korean prisoners was a reflection of a state of affairs in the prisoner-of-war camps continuance of which amounted to a violation of the Terms of Reference and the Rules of Procedure.

9. It was thus stated by certain members of the Commission that there existed in the camps a number of prisoners of war who were terrorizing other prisoners, and using force to prevent a free exercise of their right to repatriation; that such a state of affairs in all the camps—both Korean and Chinese—violated the fundamental provisions of the Terms of Reference that no force shall be used to effect or to prevent repatriation of prisoners of war. The Commission was, therefore, called upon to take immediate steps to remedy the situation within the prisoner-of-war camps.

10. There can be little doubt that the conditions prevailing within the prisoner-of-war camps are not conducive to a free and unfettered exercise of a prisoner's right to be repatriated or not. While these conditions are not of the Commission's making, they do in effect, materially frustrate the work of the Commission in ensuring to the prisoners of war an atmosphere free from all threats of violence or coercion.

11. It was, however, felt by certain members of the Commission that, having regarded to the nature of the organization within the camps, it was not practicable to break it up with an assurance of success; and that there were difficulties in identifying the so-called agents and ring leaders.

12. In any case, any such break-up of camps and their reorganization would require the use of a certain amount of force.

13. One member took the position that he was not prepared to recommend use of any force against the prisoners of war, this being contrary to the Geneva Convention; some other members, while accepting use of some force, were not prepared to do so if it appeared that use of such force might lead to heavy casualties. Certain other members argued that all necessary force could be justified if it was used in lawful discharge of the functions of the Commission, namely, removing from within the camps those prisoners described as agents, who were coercing or threatening other prisoners from expressing their free choice.

14. The Commission could reach no decision on the question concerning use of force, particularly in regard to its extent and purpose.

15. In the meantime, the period prescribed for the conduct of explanations is running out. There is no agreement on the question of the extension of the time between the two Commands. In view of this situation, the Commission felt that the two Commands should be acquainted with the facts set out herein so that they may consider the matter in the light of the facts stated above with a view to ensuring the fulfilment of the Terms of Reference in regard to explanations.

ANNEXURE B

25 October 1953

I

To the Secretary of the Neutral Nations Repatriation Commission

Sir,

I have the honour to propose herewith the following amendments to the draft of a memorandum circulated on 23 October.

1. Paragraph 2, second line: "of their compounds and proceed to the explanation area. The prisoners" should be amended to read: "of their compounds to be taken to the explanation area. The prisoners".

2. A new paragraph 3a should be inserted after paragraph 3, with the following wording:

"The Command of KPA and CPV again proposed plans for explanation of Korean prisoners of war on 19 October. At a meeting of the Commission on 18 October, a majority of the Commission decided to inform the Command of KPA and CPV that it would not be possible, under the prevailing circumstances, to produce Korean prisoners for explanations, and to request that explanations be continued, for the time being, with the Chinese prisoners. This, however, was not accepted by the Command of KPA and CPV."

3. A new paragraph 10a should be inserted after paragraph 10, with the following wording:

"Some members, however, were of the opinion that explanations could continue, for the time being, with the Chinese prisoners of war, with sufficient guarantee for the prisoners freely to express their desire to be repatriated or not; it also appeared likely that in such case the Korean prisoners would in due time accept to attend explanations."

4. Paragraph 13, first sentence, should be amended to read:

"Two members took the position that they were not prepared to recommend use of any force against the prisoners of war, *except for purely disciplinary measures*, this being contrary to the Geneva Convention and the Terms of Reference; one other member,

while accepting use of some force, *was* not prepared to do so if it appeared that use of such force might lead to heavy casualties."

I have the honour, etc.,

(Signed) Jan STENSTRÖM

Swedish member of the Neutral Nations
Repatriation Commission

II

Proposal of the Swiss member of the Neutral Nations
Repatriation Commission

The Swiss member proposes an amendment to the draft memorandum to be discussed at the Commission's meeting of Monday, 26 October. At the end of paragraph 11 the following sentence should be added:

"Some members objected that it would be contrary to international law to segregate prisoners solely on the grounds of denunciation."

ANNEXURE C

No. NNRC/REP
NNRC Secretariat
17 November 1953

Dear colleague,

I am forwarding to you a copy of a draft interim report of the Neutral Nations Repatriation Commission. It should be clearly understood that the draft has been produced solely for the purpose of enabling the members of the Commission to discuss the matter and is by no means conclusive at this stage. I shall be grateful if amendments, alterations or modifications to this report are presented to me in writing. Since my principal task as the editor is to express the various points of view, written amendments and alterations would be of very great assistance.

Yours sincerely,

(Signed) P. N. HAKSAR

Counsellor

Secretariat, Neutral Nations Repatriation Commission

ANNEXURE D

8 December 1953

My dear colleague,

I am sending two copies of a revised draft of the report of the Commission. I have carefully gone through the various amendments suggested by your delegation; some of these I have incorporated. The draft as it stands is acceptable to the Indian delegation. I shall be grateful if you will kindly point out which parts of the draft are not acceptable to you. You may then suggest your own specific point of view which will be incorporated in the report either as a majority or minority point of view. In this way, I hope, we shall be able to produce a more definitive draft of the report of the Commission.

Yours sincerely,

(Signed) P. N. HAKSAR

Counsellor

Secretariat, Neutral Nations Repatriation Commission

ANNEXURE E

13 December 1953

Dear Mr. Haksar,

We have the honour to inform you of our intention to suggest some amendments and alterations to the revised draft of the report of the Commission. We are,

however, not prepared to send you our suggestions yet, not having received the two remaining parts announced by you; this owing to our view that the report should be considered as a whole. After we have received the remaining parts we will send you our suggestions as speedily as possible.

Yours sincerely,

(Signed)

A. DAENIKER

*Swiss member of the
Neutral Nations
Repatriation Commission*

Jan STENSTRÖM

*Swedish member of the
Neutral Nations
Repatriation Commission*

ANNEXURE F

15 December 1953

My dear colleague,

I am enclosing two copies of the concluding two chapters of the draft interim report. I need hardly say that these, being the first draft, are for purposes of discussion only.

Yours sincerely,

(Signed) P. N. HAKSAR

*Counsellor
Secretariat, Neutral Nations
Repatriation Commission*

ANNEXURE G

18 December 1953

I

*Statement by the Swiss member of the Neutral Nations
Repatriation Commission*

As far as the first part of the interim report is concerned, we should like to state that our amendments have only partially been taken into consideration, though they constitute—as to our opinion—a minimum to make the report objective and impartial.

As to recently submitted last two chapters and conclusions, they are completely unacceptable even as a mere basis of discussions, for they give an inadequate picture of the development leading to the stalemate in the explanatory work. Without revealing the real reasons for the deadlock, the present draft report deals with the question of responsibility which should not be its purpose.

Considering the improbability of an agreement within the subordinate body and in view of the fact that, for the time being, there is no necessity of reporting the full history of the Commission's work to both Commands, the Swiss delegation in the sub-committee is of the opinion that any discussion about the submitted draft report should be suspended.

On the other hand we consider it necessary to inform the two Commands of the results in the explanatory work at the end of the ninety-days' period. We are fully prepared to consent to a report dealing exclusively with facts concerning the explanations held to the prisoners of war in both camps.

II

*Statement by the Swedish member of the
Neutral Nations Repatriation Commission*

I fully agree with the view of the Swiss member and only want to add some remarks.

In my opinion it is impossible to make a report in the way outlined in this draft. It is impossible just to pick out some certain facts and opinions saying that these have caused the failure of the explanatory work.

It is impossible to make an impartial choice between the existing facts, and it is impossible through such a report to avoid blaming one side or the other. I can't find any reason why the Commission should blame any one side for the failure.

As I see the problem, the only way to proceed is to make a short report, concerning the explanation period only. The purpose of the report should be to tell both Commands about the explanations, and there is no reason to bring up other points than those directly concerning the several standstills of the explanations. In my opinion, the report should only deal with the standstills and their direct causes. This was the method used in your draft, made in October, and I think we ought to stick to it. The Swedish delegation has made a new draft along these lines and is prepared to put this draft before the Committee.

III

*Statement by the Czechoslovak member of the
Neutral Nations Repatriation Commission*

I have made a detailed study of the draft report on the Neutral Nations Repatriation Commission prepared by the Chairman of our Committee and I should like to take this opportunity to express my appreciation for his work, that certainly was not easy.

I am aware that in preparing the draft report our Chairman was led by the desire to prepare a draft that would be acceptable to all members of the Commission and that could be approved of unanimously. I should like to assure the Committee that the Czechoslovak delegation is led by the same desire in its attitude to the draft report.

According to the opinion of the Czechoslovak delegation, the draft report gives a true picture of the real situation in many respects also describing the essential activities of the NNRC, however, it also shows at the same time some considerable shortcomings. The draft report, in our opinion, in describing the reasons of the situation that has occurred, which certainly is undesirable, is not consequent enough and does not show clearly enough that the unfortunate situation existing in the prisoner-of-war camps in the Southern part of the Demilitarized Zone is a result of the deliberate activities of the former detaining side, planned in advance, namely the United Nations Command. So, for instance, the report does not show clearly enough that the United Nations Command deliberately took all measures that prisoners of war be taken into custody of the NNRC in such a way as not to disrupt the organizations ruled by special agents, but that it even took special measures before and during the activities of the NNRC so that these organizations could effectively implement their main task: to prevent by force, threat of force and acts of violence the prisoners of war from exercising their right to repatriation. The draft report does not even show clearly enough that the repeated suspension and finally the cessation of the explanatory work in the Southern Camps is a direct result of the obstructions and various illegal activities directed by the United Nations Command itself and carried out according to strict instructions and orders always adopted to the given situation. I don't want to go into details, but should like to restrict myself to the main and substantial shortcomings of the draft report as mentioned. I take it that these shortcomings originate just from the desire to submit to the Commission a report that could be unanimously accepted and from being aware that a report that would give such a very clear and consistent

picture might be unacceptable to some members of the Commission. The Czechoslovak delegation, taking these realities into consideration, wants to facilitate the work of the Commission and, although having the above-mentioned serious reservations, expresses its general approval of the submitted draft even if reserving itself the right to propose certain minor changes in formulation with regard to the expression of the Czechoslovak attitude.

As to the conclusion of the draft report summarized especially in paragraph 92 I should like to express the Czechoslovak attitude briefly as follows:

1. According to article XI, paragraph 24, of the Terms of Reference "The interpretation of this agreement shall rest with the Neutral Nations Repatriation Commission," which means that it is not only the right but also the duty of the Commission to find its own interpretation even of the provision of article IV, paragraph 11, of the Terms of Reference. The draft report, however, is satisfied with stating that the Political Conference to which the Commission could submit the problem has not materialized and that, therefore, it is submitting the matter to both sides.

2. The draft report does not contain the interpretation by the Commission with regard to the provision of article IV, paragraph 11, of the Terms of Reference as to declaring the relief of prisoners of war, either a provision subject to a number of conditions mentioned in the Terms of Reference.

3. Having the strict provisions of the Terms of Reference in mind, the Czechoslovak delegation therefore thinks that the NNRC is obliged to take its own stand on the provisions of article IV, paragraph 11, of the Terms of Reference and that this stand must be based on the interpretation of the Terms of Reference which rests exclusively with the Commission.

4. The Czechoslovak delegation does not object to have the draft report submitted to both sides after being approved of by the Commission but—on the basis of the reasons just mentioned—it reserves itself the right to submit to the NNRC a proposal that the Commission take a stand, based on the interpretation of the Terms of Reference, on the provisions of article IV, paragraph

11, bearing in mind the situation as it is or as it might further develop.

IV

Statement by the Polish member of the Neutral Nations Repatriation Commission

I associate myself, on behalf of the Polish delegation, with the stand taken by the Czechoslovak delegate on the Commission's draft report to both sides and wish to state the following:

The Polish delegation does not consider the submitted draft report perfect and fully reflecting the real state of affairs in the Commission's work. In our view, such matters as, for instance, the role of the agents in the camps have been presented in a number of cases in a rather weak and sometimes vague manner. It has also not been clearly pointed out what, in our view, is the main reason for the failure of the Commission's work, namely, the sanguinary dictatorship of the agents in the camps. The problem of the use of force has also not been sufficiently strongly and clearly presented, while, in our view, the improper approach of certain delegations to the problem of the use of force against the agents caused the deadlock in the work of the Commission. Nevertheless, in order to enable the Commission to send the report to both sides, the Polish delegation agrees to accept the submitted draft report and to present it for discussion and approval in the Commission.

We must, however, raise one more question.

In our view, the draft report deals in an inexact way with the question of the release of the prisoners to civilian status and with all the questions connected with the various dates marking the Commission's functions towards the prisoners. It is wrong, in our view, to say that the Commission must wait in this respect for the decision of both sides and can do nothing itself. Surely, under the Terms of Reference the right of interpretation of the Terms belongs to the Commission itself. I do not wish to dwell upon it now, I would like, however, to reserve the right of the Polish delegation to come back to this question in the Commission.

SEPARATE INTERIM REPORT BY THE SWEDISH AND SWISS MEMBERS OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

Letter of transmittal

from the Swedish and Swiss members of the Neutral Nations Repatriation Commission to the Chairman of the Commission

27 December 1953

To the Chairman of the Neutral Nations Repatriation Commission.

Sir,

On 24 December 1953, the Commission by majority vote adopted an interim report to the United Nations Command and the Command of the Korean People's Army and the Chinese People's Volunteers, the Swedish and Swiss members abstaining from voting. Since a proposal by us for a different report was rejected, we hereby have the honour to forward to you our separate report with the request to have it attached to the report of the Commission as a minority report.

We disagree with the statement made by Mr. Haksar, Chairman of the Committee set up for drafting the report, in paragraph 10 of his letter to you of 19 December. We have always considered it the duty of

the Commission to prepare a full report on the work of the Commission, but we cannot find any reason to make such a report before the conclusion of the Commission's work. As, however, the majority of the Commission have now adopted a comprehensive interim report, and as we are not in agreement with its contents, we have deemed it necessary to present our standpoints also in a corresponding manner.

We remain, Sir, yours faithfully,

(Signed)

Jan STENSTRÖM

*Swedish member of the
Neutral Nations Repatriation
Commission*

A. DAENIKER

*Swiss member of the
Neutral Nations Repatriation
Commission*

SEPARATE INTERIM REPORT

Part I. Transference of custody of prisoners of war

1. The Neutral Nations Repatriation Commission began to assume custody of the non-repatriated prisoners of war on 10 September 1953 in accordance with the provisions of article I, paragraph 1, and article II, paragraphs 4 and 5, of the Terms of Reference. The delivery of 22,602 prisoners of war from the custody of the United Nations Command was completed on 23 September. The Command of the Korean People's Army and the Chinese People's Volunteers similarly turned over 359 prisoners of war on 24 September.

2. The prisoners of war arriving at the camps behaved in general calmly and the Custodial Force, India, received them unarmed. When, however, at the entrance of the Southern Camp, they saw the representatives and interpreters of the Command of the Korean People's Army and the Chinese People's Volunteers, journalists of the Northern side and some members of the Commission, they often became agitated and even violent. However, no major incident took place.

3. The United Nations Command alleged that the presence of these observers was contrary to the Terms of Reference, the delivery of the prisoners of war being a unilateral operation of the United Nations Command. The Commission's view was, however that, in accordance with paragraph 1 of the Terms of Reference, the taking into custody of the prisoners of war was "an operation of the Commission" and that, therefore, representatives of the two Commands were entitled to be present and to observe such operations.

4. Nevertheless, the Commission, out of practical reasons, requested both Commands to consider waiving their right to send any observers. The United Nations Command agreed, whereas the Command of the Korean People's Army and the Chinese People's Volunteers refused to give up their right, stating that to stop sending observers would not only be a deviation from the Armistice Agreement but also constitute a victory for the "special agents" among the prisoners of war.

Part II. Organizations of the prisoners of war

5. From the very beginning of the custody, the Commission became aware of the fact that the prisoners of war from both sides were well organized, apparently for political purposes.

6. As one of the consequences of the political activity within these organizations, the prisoners seemed to have insufficient understanding of the Terms of Reference, especially with regard to their rights and

obligations. The Commission, therefore, decided to distribute a leaflet to the prisoners of war and to broadcast its contents to them. The United Nations Command showed its disapproval of the statements made therein and alleged, that, though they did not "deviate materially from the literal wording of the Armistice Agreement and the Terms of Reference, they nevertheless disregarded the clear spirit thereof. The wording, method of presentation and strong implications had been slanted towards unduly influencing the prisoners of both sides to repatriation rather than to making a free choice." This protest was, however, based upon an incorrect retranslation of the Chinese version of the leaflet into English. The Commission could not uphold the objections as they were convinced that the statements in the leaflet were in full accordance with the Terms of Reference. The Commission is not in a position to state what effect the distribution and the broadcasting of the leaflet had upon the prisoners.

7. The Commission also became aware that these organizations exercised a strong control over those prisoners who desired repatriation. The latter, therefore, often had to apply for repatriation clandestinely and in fear for their lives.

8. As a matter of fact, several murders have been committed in the Southern Camp. Appropriate measures have been taken by the Commission and the Custodial Force, India, in order to find the authors and prosecute them.

9. Several letters intercepted in the Southern Camp while being transmitted from one compound to another or even between the camps and the outside have given further indications of the existence of strong organizations within the camps.

10. The Czechoslovak and Polish members of the Commission had already from the beginning of the work of the Commission suggested that the organizations of the prisoners of war set up while they were in the custody of the former Detaining Power, be reshuffled by segregation of the representatives and other trouble-makers and by regrouping the prisoners-of-war camps. The above-mentioned members asserted that, unless these changes be carried out, the future work of the Commission would be endangered, if not rendered completely impossible. They suggested that the reorganization of the camps and regrouping of the prisoners should be undertaken simultaneously with the assumption of their custody.

11. On 20 September the Czechoslovak member of the Commission moved a resolution, which, *inter alia*, demanded that immediate steps should be taken to break up the existing organizations in the prisoner-of-war camps, to isolate the "agents and ring leaders" and segregate them. This resolution was discussed and voted upon by the Commission on 21 September and was defeated. A counter-resolution, proposed by the Swedish member, that possible measure should be taken to prevent or repress acts of violence committed by the prisoners of war and to punish those found guilty of such acts, had been unanimously carried on 20 September. The points of view of the various members of the Commission on the questions posed in the Czechoslovak member's resolution are stated in paragraphs 12 to 14 below.

12. The Polish and Czechoslovak members argued that the organization and leadership within the prisoners-of-war camps was essentially of a terroristic nature: that its whole object was to coerce the prisoners forcibly

into not exercising their right to repatriation; that these organizations and their leadership could not be recognized by the Commission as they were created prior to the transference of the custody of the prisoners of war into the hands of the Commission; that unless the organizations were dissolved and the leadership eliminated it would not be possible to ensure the fulfilment of article I, paragraph 3, of the Terms of Reference in regard to those prisoners who desired repatriation; that the only organization and leadership, which the Commission could recognise, consistent with the Geneva Convention, would be one based upon the dissolution of the existing organizations, the creation of normal conditions within the camps thus enabling the prisoners of war to freely elect their own leaders.

13. The Swedish and Swiss members held the viewpoint that it was a fact that the prisoners of war had arrived in an organized manner; that in accordance with the general spirit of the Geneva Convention the prisoners of war should be permitted to remain in organized bodies; that, however, with regard to the punishing of wrongdoers, the Commander of the Custodial Force, India, should make every possible effort to prevent and repress acts of violence and to punish those who could be identified as having committed such acts; that at that time the primary duty of the Commission was to take prisoners of war into custody, and that during the explanatory period the prisoners of war would be given opportunity to express their views freely.

14. The point of view of the Indian delegation was that while it would be desirable to segregate and remove "agents", "trouble-makers" and "ring-leaders" in the prisoners-of-war camps, it was felt that there were practical difficulties in achieving this desirable result. The resources of the Command of the Custodial Force were not sufficient both to secure the custody of the prisoners of war and to cope with the resistance which might be offered by the prisoners or their leaders to any reorganization of the camps. Further, the prisoners appeared to be organized in such a manner that the operative unit was so small a cell that it would filter through any reshuffling process; consequently, even if the Custodial Force could find the resources to undertake the reorganization, the amount of diversion of effort would not be commensurate with the results achieved and the risk involved. There was also the further difficulty of identifying the "special" or "secret agents." The Indian delegation felt that once custody of the prisoners of war was assumed, and the strength of the Custodial Force augmented, every effort would be made, during the second phase of the Commission's work, to ensure that every prisoner of war was reasonably freed from threat of any organization that existed; and that every prisoner was enabled to think and decide for himself.

15. The Command of the Korean People's Army and the Chinese People's Volunteers had, from the very inception of the Commission's work, taken the view that unless the alleged special or secret agents among the prisoners of war were segregated and their influence eliminated, the Commission would not be able to discharge its obligation to ensure to every prisoner of war his freedom to elect repatriation without fear or threat of violence. On 17 September, the Command of the Korean People's Army and Chinese People's Volunteers set out these views in an *aide-mémoire*.

16. In their relations with the Commission and the Custodial Force, India, the prisoners of war were always represented by spokesmen, who had acted as such since the beginning of the Commission's custody. The Commission had no information whether these spokesmen had been elected by the prisoners according to article 79-81 of the Geneva Convention. A suggestion by the Swiss member to proceed to new elections was not taken into consideration by the Commission, as some members felt that, under the prevailing circumstances in the camps, such elections would not be really free and would therefore not alter the actual situation.

17. The Czechoslovak and Polish members of the Commission therefore never considered these spokesmen representatives of the prisoners of war. In accordance with the views of the majority of the Commission, the Chairman nevertheless repeatedly dealt with them as "*de facto* representatives," this being the only way to contact the prisoners.

18. The Polish and Czechoslovak members not only contested the representing capacity of the spokesmen

but alleged that they were "agents" smuggled into the camps before the prisoners had been handed over to the Commission, and that their task consisted in terrorizing the prisoners and in preventing them from applying for repatriation.

19. The other members of the Commission contested the above assertions. It was therefore not possible for the Commission to consider a demand of the Command of the Korean People's Army and the Chinese People's Volunteers to segregate some 400 alleged "agents," whose names it submitted. There was no evidence that there were other persons in the camps than *bona fide* prisoners of war. The segregation of the prisoners on political grounds would, in the opinion of the Swedish and Swiss members of the Commission, have been against the provisions of the Geneva Convention. The Commission also felt that any attempts to break up the organizations would have met with the most energetic resistance of the prisoners and entailed the use of a considerable amount of force.

Part III. Explanations

A. Rules of Procedures governing Explanations and Interviews

20. While the Commission was engaged in the task of assuming custody of the prisoners of war, it appointed a committee for elaborating additional provisions for the explanations in accordance with article III, paragraph 8 (d), of the Terms of Reference. The Committee, in submitting an interim report, recommended that the United Nations Command and the Command of the Korean People's Army and Chinese People's Volunteers should be invited to submit their respective views about the conduct of explanations, the Commission acted upon this recommendation. The United Nations Command conveyed its views in letters dated 21 September and 23 September respectively; the Command of KPA and CPV conveyed its views in a letter dated 22 September 1953.

21. The conceptions of the two Commands about the conduct of explanations were divergent. The Commission, exercising its own independent judgment, elaborated such rules of procedure as would ensure strict fulfilment of the Terms of Reference, having regard to the state of affairs prevailing within the camps of the prisoners of war.

22. The Rules of Procedure governing Explanations and Interviews were finally adopted by the Commission at its meetings on 25 and 26 September. During the discussion it was emphasized by the majority of the Commission that it was necessary to reserve the Commission's full right to rule the explanation sessions. Paragraph 23 was accepted in consideration of the Chairman's reservation that explanations had to be given to 500 prisoners of war daily in the early stages of the explanations in order to avoid the necessity of segregation in accordance with paragraph 20 of the rules as long as no empty compound became available through repatriation of a large number of prisoners.

23. Copies of the Rules were forwarded to the two Commands on 29 September. In a letter of 2 October, the United Nations Command lodged a formal protest with the Commission regarding the Rules. The Commission rejected the protest in a letter of 7 October.

24. The Command of KPA and CPV made a number of critical observations concerning some of the provisions of the Rules.

25. In order to exert a restraining influence upon the prisoners of war, the United Nations Command, in a letter dated 9 October, offered to issue an announcement to the prisoners of war formerly detained by it. The Commission, being anxious to take advantage of this opportunity to inform the prisoners of war of what was, in the view held by the Commission, the correct position in regard to the obligations of the prisoners of war to attend explanations, was in principle in favour of the idea of having a leaflet spread among the prisoners of war. On the other hand, the Commission was not in a position to accept the text of the announcement and therefore suggested a new text to be distributed in the name of the United Nations Command to the prisoners, but under the authority of the Commission. The United Nations Command, however, did not accept the new formulation suggested by the Commission.

26. Considering the fact that the elaboration of the Rules of Procedure governing Explanations and Interviews had been delayed beyond 24 September, the Commission asked the two Commands to agree to a postponement of the commencement of the explanations and to a consequent extension of the explanatory period. The Command of KPA and CPV agreed to this suggestion, while the United Nations Command expressed its unwillingness to agree to any extension of the time limit.

B. Explanation facilities

27. Facilities for the conduct of explanations were constructed by the two Commands, on sites chosen by them, without the concurrence of the Commission, though with the prior knowledge and approval of the Custodial Force, India. The plan for the explanation area in the Southern Camp, where alone large-scale constructions were necessary on account of the number of prisoners of war involved, was approved by the Custodial Force, India, on 14 September. The Commission felt that before it approved these facilities it should give the two sides an opportunity to inspect

them and to express their criticism, if any, to the Commission.

28. Representatives of the two Commands were escorted to the respective explanation sites on 26 September. Both Commands expressed their disapproval of the location, designs and lay-out of these facilities. The two Commands also submitted to the Commission their own designs and suggested alternative sites.

29. The Commission came to the conclusion that the criticism expressed by the two Commands were to some extent justified. On 28 September, the Commission forwarded to the two Commands the request of each Command regarding design and site, and requested that the facilities should be constructed in shortest possible time. The Command of KPA and CPV agreed to carry out the necessary alterations in the explanation facilities in the Northern Camp, but the United Nations Command expressed its doubts as to whether it would be able to do so within a comparatively short time as, according to it, the site suggested might be mined and was otherwise unsuitable for building. The United Nations Command also made reservations as to the availability of engineering personnel and material.

30. On the strength of the United Nations Command's statement the Commission felt that they could not take upon themselves the responsibility for the delay in the commencing of the explanatory work and suggested to the Command of KPA and CPV that it conduct explanations within the already existing facilities in the Southern Camp, subject to those facilities being suitably modified and extended in general conformity with the design submitted by it. On 29 September, the Commission adopted by a majority vote a resolution to this effect. The Czechoslovak and Polish members of the Commission did not participate in the voting on this subject on the ground that the Commission was adopting a hasty course of action without due consideration of the attitude of the Command of KPA and CPV.

31. After the Command of KPA and CPV had insisted on the constructions to be erected on a completely new site and had stressed that the area was not mined to their knowledge and, in order to regain the co-operation of all the members, the Commission felt that a new appraisal of the situation should be made. The area first designated by the Command of KPA and CPV proved to be unsuitable for different technical reasons, and a new area was chosen on the suggestion made by the Command of KPA and CPV. On 1 October, the Commission pointed out to the United Nations Command the site on which the new explanation facilities were finally to be built. The Chairman asked the United Nations Command on the following day for an estimate of the time necessary to complete the facilities on the new site according to the design submitted by the Command of KPA and CPV. The United Nations Command replied, on 3 October, that it estimated that it would require one week to complete a temporary area (of twenty tents), twenty days to complete the first permanent area, and thirty days to complete the second permanent area. The United Nations Command also asked for a firm demand before it started the construction work. The request was formally made in a letter of 5 October, in which the Commission expressed a sincere hope that the United Nations Command would be able to complete the constructions in much less time than estimated. The United Nations Command ultimately completed the constructions on 13 October.

32. In retrospect and in the light of the Commission's experience in the conduct of the explanatory work in the Southern Camp, the Commission is aware that the explanation facilities, as originally constructed, would not have been satisfactory, being too constricted in space. Explanations might, nevertheless, have been conducted on a limited scale in these facilities during the completion of the new site.

C. The explanatory work

33. The Commission informed the two Commands of its readiness to commence explanations as from 15 October. The United Nations Command stated that it did not yet wish to commence its explanations. The Command of KPA and CPV requested, in its plans for 15 October, that 1,000 Chinese prisoners of war from two compounds be produced for explanations. The prisoners originally refused to come out. After a meeting between the representatives of the prisoners of war and the Commission, and after the Custodial Force, India, had surrounded one of the compounds and summoned the prisoners to come out, they finally agreed to attend explanations. Due to the time thus lost, explanations could not be conducted with more than about 500 prisoners.

34. For 16 October, the Command of KPA and CPV requested that 1,000 Korean prisoners of war from two compounds be produced for explanations. The prisoners of war, however, categorically refused to come out for explanations.

35. The situation was reported by the Commander of the Custodial Force, India, to the Commission. The Commission expressed its view that, while it was not for it to advise the Commander on tactical moves, the latter was free to act as he deemed fit within the limits of the directive given by the Chairman, namely, that no arms should be used for getting the prisoners out of their compounds except (a) in self-defence, i.e., in the event of prisoners attacking the Custodial Force, India, and (b) in the event of an attempted mass breakout.

36. The Commander of the Custodial Force, India, some time later reported to the Commission that the situation within the compound, as well as in the surrounding compounds, had become so tense and threatening that the Commander thought that an attempt to bring the prisoners out by force might result in large-scale casualties, probably 300 or 400. He sought a clear directive from the Commission whether he should proceed with the operation despite the expected casualties. After consideration of the situation, the Commission gave up the efforts to bring the prisoners out.

37. The events of 16 October posed a problem of fundamental importance to the Commission, viz., the use of force in compelling the prisoners to attend explanations. This question was of the greatest importance for the work of the Commission in the future, and it is therefore important that the different points of view on this matter should be set out in detail.

38. The viewpoint held by the Swedish and Swiss members of the Commission was that the letter and spirit of the Terms of Reference and of the Geneva Convention forbade the use of force against the prisoners of war. They would, therefore, oppose any action by the Commission involving the use of force against the prisoners except for purely disciplinary measures, including the repression of crimes.

39. The Czechoslovak and Polish members argued that, in accordance with paragraph 1 of the Terms of Reference, the *raison d'être* of the Commission was "to ensure that all prisoners of war have the opportunity to exercise their right to be repatriated"; the Terms of Reference made specific provisions in paragraphs 8 and 10 enabling the prisoners to exercise their right, subject to the provisions of paragraph 3; a duty was cast upon the Commission to provide "freedom and facilities" to the nations to which the prisoners belonged to explain to all the prisoners about "their rights, etc." There was enough evidence before the Commission to support the conclusion that there were prisoners of war who were being held in terror and forcibly prevented from exercising their right to repatriation. Under these circumstances, it was one of the most important functions and responsibilities of the Commission to ensure that conditions within the camps were improved so that prisoners were freed from fear. If, in discharging these responsibilities, it was found necessary, force could be used, and was authorized to be used according to paragraph 7 of the Terms of Reference.

40. The Indian member was of the opinion that the Terms of Reference were no impediment to the use of force; that paragraph 7 clearly provided that such force could be used in discharging the functions and responsibilities of the Commission; and that the granting of freedom and facilities to the explaining representatives so that they could explain to all the prisoners of war was the most essential function and responsibility of the Commission. He was prepared to use some force in order to carry out this function. But where the use of force was likely to result in considerable casualties among the prisoners of war, the Indian delegation felt that the Commission should give to the Executive Agent its unanimous authorization and support. If the use of force was likely to lead to large-scale killings, he was not prepared to accept the use of force at all.

41. In accordance with the views thus expressed by the majority of the Commission, force could not be used in the future in order to bring the prisoners of war out for explanations. If the prisoners refused to come, the only method left was that of persuasion.

42. For 17 October, the Command of KPA and CPV had requested 1,000 Chinese prisoners of war for explanations. Having thereafter modified its plans and asked for Korean prisoners instead of Chinese, the Command ultimately agreed to a suggestion by the Commission to maintain its original plan. The Chinese prisoners consented to come out for explanations. Since the negotiations between the Commission and the Command took some time, only one compound of approximately 500 Chinese prisoners could be explained to on that day.

43. For 19 October, the Command of the Korean People's Army and the Chinese People's Volunteers requested Korean prisoners of war to be explained to. As the Korean prisoners still refused to come out, but the Chinese prisoners were willing to go through explanations, the Commission suggested to the Command that, with regard to the difficulties of the Commission it should conduct explanations to Chinese prisoners until the Korean prisoners could be persuaded to attend explanations. The Command refused, however, to accept this suggestion. When a draft letter, notifying the Commission's request that the Command should continue the explanations with Chinese prisoners was put to a vote, the Polish and Czechoslovak members walked out of the meeting, thus preventing the Commission

from taking such an action. The Command continued to insist on explaining to Korean prisoners. Consequently, and as force could not be used for this purpose, explanations could not be conducted between 18 and 30 October.

44. As mentioned in paragraph 41 above, the only method to get the Korean prisoners of war out for explanations was by persuasion. This method had proved successful in the past, provided whole compounds were explained to each day and prisoners who did not want repatriation were brought back to their original compound at the conclusion of the explanations. The Polish and Czechoslovak members were, however, not willing to agree to this method of persuasion, arguing that the persuasion could only be directed towards the compound leaders, who were not the true representatives of the prisoners. They stated that they would not take part in any negotiations with the "representatives."

45. The Korean prisoners of war were, however, finally persuaded by the Commander of the Custodian Force, India, to attend explanations. Consequently the explanations were resumed on 31 October. That day 457 prisoners were explained to.

46. In their plan for 2 November, the Command of the Korean People's Army and the Chinese People's Volunteers requested facilities for broadcasting to the prisoners of war in their compounds and in the holding compounds of the explanation area simultaneously with individual explanations being conducted. This request was not approved, due to the difficulties of the Custodial Force, India, to provide adequate safety measures. The Command, therefore, was informed that individual explanations could not be conducted unless the Command agreed to give up broadcasting. As the Command did not agree, explanations on 1 November were cancelled.

47. In order to obviate the difficulty referred to in the previous paragraph, a suggestion was made to the Command of KPA and CPV that it should limit its broadcasts to the holding compounds and commence individual explanations after the completion of the broadcasts. The Command agreed to the suggestion and explanations could be resumed on 3 November and were also conducted on 4 and 5 November.

48. For 3 November, one compound was requested for explanations. All the 483 prisoners in the compound were explained to and at the end of the day all of them except those who applied for repatriation were brought back to the compound.

49. On 4 and 5 November, however, all prisoners of war requested by the Command of KPA and CPV were not given explanations. During the previous explanation days, explanations had been conducted in thirty-two tents with—approximately, per hour—15 October, 182 prisoners; 17 October, 143 prisoners; 31 October, 61 prisoners; and 3 November, 92 prisoners. On 4 and 5 November, only 205 out of 403 requested prisoners and 136 out of 408 respectively were explained to, making approximately 34 and 23 per hour respectively.

50. As thus the plans of the Command of KPA and CPV were only partly carried through and as no extra compound was available for segregating the "unexplained" from the "explained" prisoners, the "unexplained" balance from 4 and 5 November had to be returned mixed with the "explained" prisoners to their original compounds.

51. Paragraph 20 of the Rules of Procedure governing Explanations and Interviews provides that the prisoners of war who have been given explanation but have

not submitted their applications for repatriation and those who have not been given explanation, shall be kept separated in custody. When the Commission adopted this rule, they were well aware of the difficulties which might possibly arise, given the fact that supplementary compounds were not available. This was one of the reasons for adopting paragraph 23 of the rules enjoining on both Commands the duty to submit their plans for explanations on the following day to the Commission, so that the Commission retained its right to appraise the technical and other possibilities for their implementation. By accepting the Chairman's reservation on paragraph 23, the Commission made it clear in advance that, in the beginning of the explanatory work, no plan of the Command of KPA involving explanations for less than whole compounds could be acceptable.

52. The Command of KPA and CPV protested against prisoners of war not being segregated, alleging that paragraph 20 of the Rules of Procedure governing Explanations and Interviews had created a definite obligation to segregate the prisoners in the manner prescribed herein and asked for the unexplained remainder for explanations. The Chairman, when persuading the prisoners of war to come out of the compounds for explanations, had explained to them that all non-repatriated prisoners of war would return to their original compound the same day. When, therefore, the Command of KPA and CPV requested only part of a compound, *i.e.*, the residue of the non-explained prisoners of war of the previous day, the prisoners refused to attend. Under these circumstances, the only means to produce the prisoners for explanations would have been the use of force, which had already previously been rejected by the majority of the Commission.

53. The Command of KPA and CPV continued to ask for the "unexplained" residue from 6 November. As is said above, it was not possible to produce these prisoners of war. When the Command, in its plans for 16 November, changed its attitude and requested that prisoners from another compound be produced, the explanations could again be resumed on 16 November. As, however, only 227 prisoners out of 407 were explained to, the problem of segregation again arose. The Command requested the unexplained residue to be segregated and produced for explanation on 17 November. As the Commission was unable to do this, the explanations could not continue.

54. In a letter of 18 November, the Chairman pointed out to the Command of KPA and CPV that the utmost that could be done was to bring the prisoners of war out for explanations by complete compounds each day. This letter was written with the subsequent endorsement of the Swedish and Swiss members. The Command did, however, not agree to the suggestion of explaining to prisoners by complete compounds each day.

55. As a result of this disagreement, explanations could not be conducted for the following time. Even when segregation facilities had been arranged by the Custodial Force by evacuating a number of tents in its own camp, and thus the technical possibility for segregation

existed, the refusal of the prisoners to come out if they were to be segregated, and the refusal of the Command to conduct explanations to complete compounds prevented the continuation of the explanations. Consequently, the explanations were suspended for the following time.

56. On 21 December, the Chinese prisoners of war requested in the plans made by the Command of KPA and CPV finally agreed to come out for explanations and to submit to segregation of the "unexplained" from the "explained" prisoners. The explanations subsequently could be conducted for the period 21 to 23 December. During these last three days of the explanation period, 781 prisoners were explained to.

57. As mentioned above, the United Nations Command did not request prisoners of war for explanations until 1 December. On that day, the Command forwarded a plan for explanation to thirty Korean prisoners on 2 December. The necessity of segregation was evident in the Northern Camp, as all the 359 prisoners of war could not be explained to within one day by the five explaining representatives of the United Nations Command. The technical facilities were available and the prisoners agreed to segregation. The explanations went on smoothly without interruption and were continued in the same manner until 10 December at the rate of thirty (one day forty) Korean prisoners a day.

58. The prisoners expressed all the time their desire to make statements and to explain to the explainers, who, however, would not allow it, and terminated the explanations when the prisoners insisted. On 10 December, the prisoners became more persistent in this respect and refused to leave the explanation tents if they were not allowed to voice their opinions. In many cases the sentries of the Custodial Force had to push or carry them out after the explanations were finished. The explanation work was, however, completed with the number of prisoners requested for that day. The following day explanations started as usual in five explanation tents. After the first five prisoners had been denied to express their opinions and refused to leave the tents, the rest of the prisoners who were to be explained to that day refused to come out for explanations.

59. On 12 December, the prisoners of war refused to come out for explanations. According to its earlier decision concerning the use of force and not succeeding in persuading the prisoners, the Commission had no possibility to bring them out. After that the situation remained the same. The prisoners refused to attend explanations if they were not given a guarantee that they could express their opinions, and as such guarantees could not be given, the explanatory work has not been resumed, except for broadcasting on 23 December.

60. The prisoners of war in the Northern Camp have during the explanations behaved in a uniform manner, which could hardly have been the case if they had acted out of their free will and without instructions. Their behaviour indicates that they are under the influence of an organization as strong and resolute as that in the Southern Camp.

Part IV. Conclusions

61. The main task of the Commission up to the present time has been the conduct of the explanatory work. This work has been carried through only in part

within the period allotted to the same according to the Terms of Reference. The reasons therefor are several and different.

62. A short delay in the commencement of the explanations was caused by the Rules of Procedure governing Explanations and Interviews not having been adopted by the Commission until after the beginning of the explanation period.

63. A further delay ensued as the prepared physical facilities for explanations in the Southern Camp were not accepted by the explaining side, and as the discussion on and the construction of new facilities took some time.

64. The subsequent interruptions in the explanatory work were largely due to the conduct of explanations by the explaining side, and to the attitude of the prisoners of war in respect of explanations.

65. The recurrent changes in the method of conducting the explanatory work by the explaining side made it impossible, on some occasions, for the Commission to accede, on short notice, to requests for new and different forms of explanations, or made it difficult for the Custodial Force to persuade the prisoners of war to come out for explanations, or caused the prisoners of war to refuse to attend explanations in the future. Of special importance in this respect was the slowing down of explanations in the Southern Camp, practised by the explaining side from 4 November. By this method, individual explanations were prolonged up to five hours, which was considered by the prisoners as undue pressure upon them, and explanations could not be carried through with all the prisoners requested to attend explanations on each day. There is little doubt that if, in the Southern Camp, the explaining side had accepted to conduct explanations according to the suggestions made by the Commission, based on the feasibility on each occasion, e.g., explaining to Chinese prisoners who were willing to attend when the Korean prisoners were not, continuing explanations with one compound—or multiples thereof—each day, explanations could have been carried out every day after 15 October. Even before that date explanations could have been conducted on a limited scale in the then existing facilities.

66. The attitude of the prisoners of war in respect of explanations has apparently to a large extent been influenced and co-ordinated by organizations of a political nature which are to be found among the prisoners of war in both the Southern and the Northern Camps. The Commission is aware of the existence of such organizations. These organizations undoubtedly exert a certain control over the prisoners, and in the Southern Camp acts of violence and even murders have been committed. The question of breaking up these organizations has been exhaustively discussed by the

Commission. Already at an early stage (see paragraph 11 above) the majority of the Commission decided, with different motives, not to undertake such action. Later on, when the question was raised anew, the decision on the use of force against the prisoners made an operation of this kind impossible.

67. A fundamental issue in the whole work of the Commission has been the question of the use of force against the prisoners of war. The opinion declared by the majority of the Commission not to use force against the prisoners, either at all except for purely disciplinary and judicial measures, or when such force was likely to lead to large-scale killings (see paragraphs 37 to 41 above), had important repercussions on almost every aspect of the Commission's activity. With regard to the question of breaking up the existing organizations of the prisoners, of bringing the prisoners out for explanations against their will, or of segregating them in connexion with explanations, the Chairman, as Executive Agent of the Commission, has repeatedly declared that, according to his judgment and to that of the Commander of the Custodial Force, India, such operations could only be undertaken with the use of considerable force and that they would be likely to entail heavy casualties among the prisoners. Therefore these actions could not be taken, as the use of force with such possible consequences was not acceptable to the majority of the Commission.

68. From the foregoing, it is clear that the co-operation of the prisoners became a decisive factor in the conduct of explanations. In the Southern Camp the prisoners asked for shorter explanations, in the Northern Camp they requested prolonged explanations; when in both cases their demands were rejected by the explaining side, they refused to come out for further explanations. As, according to the view of the majority of the Commission, force could not be used, persuasive methods were incessantly tried by the Chairman in his capacity as head of the Indian delegation—a minority of the Commission refusing to participate in such persuasions—and by the Custodial Force, India. If persuasion failed, a cessation of the explanation work had to be accepted.

69. The period for conducting explanations having expired, according to the Terms of Reference, on 23 December 1954, and the Political Conference recommended in the Armistice Agreement not having convened, the Commission deems it appropriate to notify the United Nations Command and the Command of the Korean People's Army and the Chinese People's Volunteers of the situation for their consideration.

ANNEXURES TO THE INTERIM REPORT OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

ANNEXURE I

Presence of observers

1. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE COMMANDING OFFICER, CUSTODIAL FORCE, INDIA

9 September 1953

In accordance with article I, paragraph 1, of the Terms of Reference for the Neutral Nations Repatriation Commission, "representatives of both sides shall be permitted to observe the operations of the Repatriation Commission and its subordinate bodies to include explanations and interviews." The Indian Custodial Force now is going to start, as from 10 September, the operation of taking over the prisoners of war not for direct repatriation under the custody of the United Nations Command on behalf of the Neutral Nations Repatriation Commission in accordance with the provisions of the relevant paragraphs of article II of the Terms of Reference. We intend to send five representatives to observe this operation. With regard to this matter, we have also notified the United Nations Command side at the same time, in order that both sides can dispatch the same number of observing representatives and that the United Nations Command shall ensure the security of our representatives along the communication lines in the area of the other side. As for the security of our representatives within the actual limits of the locations where the prisoners of war are in custody, the Neutral Nations Repatriation Commission shall be responsible, in accordance with article VIII, paragraph 20, of the Terms of Reference.

(Signed) LEE Sang Cho
Lieutenant-General

2. LETTER FROM THE CHIEF OF STAFF, UNITED NATIONS COMMAND, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

12 September 1953

I have just received information from General Lawton that indicates he is having some difficulty in connexion with the attitude of the anti-communist prisoners of war. As you know, these prisoners have been in custody for many months and fought repatriation over a long period of time, clearly demonstrating their violent opposition to return to communist control. At considerable effort we have been able to induce them to accept the idea of being transported to the Demilitarized Zone and being given into custody of the Indian forces. We indicated to you during our conferences in Tokyo the possibility that the reaction of these prisoners to communist explainers and other communist personnel while in custody of the Indian troops might be violent, greatly increasing the difficulties of your forces in carrying out their mission. The incident of 10 September in which communist personnel were stoned during the delivery of prisoners of war bears out our fears.

We appreciate full well the problems which General Thorat faces. It is our desire to give such assistance as we can. It is inevitable that news of these recent incidents will reach prisoners who are still in our camps, causing unrest and apprehension. I consider that there is a strong possibility that if the fears of these personnel are not allayed, we will have to use some degree of force in transporting them to the camps in the Demilitarized Zone. Since we are obligated to deliver them to the custody of the Indian forces, we must use such force as may be required, although the publicity resulting from the use of such force would be unfortunate for all concerned. However, we will deliver the prisoners.

The use of force in moving the prisoners will obviously increase their fears, making them sullen and rebellious, and will very likely increase the difficulties of the Indian forces to the point where the success of your mission will be considerably compromised. Hence it behoves us to take every possible precaution to secure their trust and co-operation.

We can, of course, delay movement of the prisoners if General Thorat feels he is not in a position to accept them under the present schedule. However, failure to meet the schedule will inevitably prevent us from carrying out the terms of the Armistice Agreement which require completed delivery by 25 September. We are prepared to carry out the schedule, but will endeavour to meet General Thorat's desires and give him such assistance as he requires. Such assistance might be to extend the time of delivery into the period when the explaining is taking place with those prisoners already in NNRC custody. However, we could not agree to any change of the Terms of Reference which would extend the ninety-day explaining period beyond 24 December, the date set for the termination of the explaining period.

The obvious cause of the very unfortunate disturbances in the camp in the Demilitarized Zone was the presence of communist personnel recognizable as such by the prisoners. Had these communist representatives not insisted on being present, there is little probability that there would have been any trouble. When we drew up the Terms of Reference the prisoners in our hands were located in camps deep in South Korea. The matter of delivery was considered strictly a unilateral operation by which we would hand over the prisoners to the Indian forces in camps already established and functioning. At no time in our negotiations was any consideration given to observation of this operation by personnel of the other side. The presence of representatives and observers of the opposing sides in the camps was to be authorized only during the ninety-day period of explanations. Therefore, in the light of the armistice negotiations there would appear to be no necessity for the presence of observers from either side during the actual delivery period. Our explanations of the Armistice Agreement and the Terms

of Reference to the anti-communist prisoners of war, in which we attempted to allay their fears and win their co-operation in a peaceful move to the Demilitarized Zone, were predicated upon this assumption, and the new development has naturally caused them to question the good faith of the United Nations Command and the operations of the NNRC. It will be difficult, if not impossible, to convince them, at this late date, of the need for communist observers and other communist personnel in what has previously been described to them as a strictly unilateral operation. Furthermore, from a strictly military point of view, it would be of decided advantage to the Indian forces if these observers were not present while they were receiving the prisoners.

(Signed) W. K. HARRISON
*Lieutenant-General, General Staff
Chief of Staff*

3. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE CHIEF OF STAFF, UNITED NATIONS COMMAND

17 September 1953

Thank you for your letter dated 12 September which I received on the evening of 13 September. I am fully aware of the inconvenience caused to General Lawton and his Command as a result of the change in General Thorat's plans in taking over the prisoners of war. The change was, however, occasioned by circumstances entirely beyond his control. We promised to take over the prisoners of war when we had no idea whatever as to the conditions under which our men would have to work and the highly organized fanaticism of the men we were taking over. The incident of 10 September made us feel that we were too optimistic about the rate at which we consented to take over the prisoners and also about the strengths of our guards, which we have since had to increase. Added to our difficulties was the delay of the last ship "bringing in" the fourth battalion, which will now not arrive at Inchon before 26 September. The taking over of the prisoners on 11, 12 and 13 had, however, gone smoothly, the behaviour of the prisoners in the camps has been exemplary and a cheerful comradeship has been established between our men working within the camps and the prisoners. If things had continued so, General Thorat would have had no difficulty in taking over all the prisoners by the scheduled date, 25 September. On the morning of the 14th, however, the prisoners refused to enter the compounds. After a good deal of trouble, 2,000 prisoners were taken in. Our troops had to go without food and had to work overtime in order to take the prisoners in; in addition, unarmed, they had to prevent physically a mass attack by the prisoners on the observers of the Korean People's Army and the Chinese People's Volunteers. If this sort of trouble continues, transfer is bound to be slowed down and it may not be possible to complete the taking over of the prisoners by 25 September and I would have to address the two Commands to agree to allow us to extend the period of taking over beyond 25 September. I have noted that you cannot agree to the ninety-day explaining period being extended beyond 24 December.

Regarding the presence of the observers of the Korean People's Army and the Chinese People's Volunteers, I would like to point out that whatever might have been your intentions at the time you drew up the "Terms of Reference," we are bound only by those terms which were agreed to by both sides. This matter

was carefully considered by the Commission and their legal experts, and the Commission has come to the conclusion that they cannot refuse observers being present at the time of the transfer. I would refer to article I, which appears to be quite clear on the point and does not lend itself to any other interpretation which might have facilitated the task of the CFI. It states clearly that "*a Neutral Nations Repatriation Commission* which shall be established to take custody in Korea of those prisoners of war, etc." and the last sentence of this Article states that "Representatives of both sides shall be permitted to observe the operations of the Repatriation Commission and its subordinate bodies to include explanations and interviews." You have taken the view that the only operations which the negotiators of the Armistice Agreement had in view and at which observers from both sides were expected to be present were "only during the ninety-day period of explanation." The last sentence of article I quoted above envisages the presence of observers on occasions other than merely "during explanations and interviews." In the opinion of the Commission, taking over the custody of prisoners of war, as also their repatriation when the time comes, are as much operations of the Commission as explanations. You have also stated that when you drew up the Terms of Reference the prisoners in your hands were located in camps deep in South Korea and therefore it was never envisaged that you would hand over these prisoners to any but to the CFI on a unilateral basis. Article II, paragraph 4, however, clearly states that the prisoners of war shall be released from the military control and from the custody of the detaining side as soon as practicable to the "Neutral Nations Repatriation Commission." Paragraph 5 of the same article also speaks of the NNRC assuming control of the prisoner-of-war installations. Both these paragraphs make it clear that the custody is the custody of the NNRC through their agent, the CFI. The Commission, after due consideration, therefore, came to the conclusion that, in accordance with the Terms of Reference, it was not possible for them to deny the right to both sides to send observer teams to the taking-over operations.

At the second meeting of the Commission held on 10 September, I explained the practical difficulties experienced by the CFI on account of the presence of observers of the Korean People's Army and the Chinese People's Volunteers resulting in a slowing down of the taking-over operation creating a tense atmosphere in camps which might endanger the entire task of the NNRC. The Commission, though appreciating the difficulties of the CFI, did not find it possible to deny the rights which the Terms of Reference clearly gave to both sides and to request them voluntarily to agree to give up their right with a view to ease the task of the CFI. Accordingly I approached both sides but regret that, while the United Nations Command was prepared to give up their right, the Command of KPA and CPV were not prepared to do so.

I agree with you that, from the military point of view, it would have been of decided advantage if no observers were present at this operation. If the difficulties of the CFI continue to increase, I may have to appeal to both sides to extend the period of "taking over the prisoners."

I deeply appreciate your offer of assistance to the CFI. The most important assistance which you can render both to the Commission and the Custodian Force

would be to explain to the prisoners of war, even at this late stage, the correct position, namely, that the presence of the observers from both sides is provided for under the Terms of Reference, to which both sides had agreed. The prisoners may also be informed that the Commission is determined to be absolutely fair and impartial to them, that it has no intention of using compulsion or force against them and that they will be treated with the utmost solicitude and consideration while in the custody of the NNRC. Once the prisoners of war are convinced of the good faith of the NNRC we sincerely hope that there would be no need for using force in moving the prisoners and delivering them to the custody of the NNRC.

(Signed) K. S. THIMAYYA
Chairman

4. *Note verbale* FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE UNITED NATIONS COMMAND

12 September 1953

The Chairman of the Neutral Nations Repatriation Commission presents his compliments to the Commander of the United Nations Forces in Korea and has the honour to inform him that the Neutral Nations Repatriation Commission at its meeting on 11 September 1953, very carefully reviewed the operations of 10 and 11 September 1953, whereby 1,000 North Korean and 984 Chinese prisoners of war were transferred into the custody of the armed forces of India. The Commission observed that a number of prisoners of war, for whatever reasons or motives, systematically staged demonstrations of a violent character against the members of the observation team and interpreters belonging to the North Korean side. This led to considerable excitement, requiring extra efforts to calm them down, and thereby the process of transference of custody of the prisoners of war had to be slowed down to an extent threatening to upset the entire schedule. In the circumstances, and in the interest of an expeditious transference of custody of the prisoners of war, the Commission authorized the Chairman to approach the Commander of the United Nations Forces to acquaint him with the facts set out above and to inform him of the following decision of the Commission:

"The Commission decides to place before both the Commands the situation after two days' experience of the turnover of prisoners and the difficulties of the Custodial Force in maintaining order because of the presence of observers. The Commission requests the two Commands to consider whether they can agree not to send observers while the prisoners are being taken into custody by the Custodial Force, India."

The Chairman has, accordingly, addressed a request to the Command of KPA and CPV requesting it not to send its observation team when the North Korean and Chinese prisoners of war are transferred into the custody of the armed forces of India, as well as during the transference of the custody of prisoners belonging to the United Nations, on a reciprocal basis. The Chairman would, therefore, request the United Nations Commander not to send any observation team to the prisoner-of-war camp during the transference of the custody of the prisoners of war from the two Commands respectively.

The Chairman desires to assure the Commander of the United Nations Forces that the only consideration in making this request is the need for an expeditious

and smooth transference of the custody of the prisoners of war, so that the Commission could proceed to the next stage of its more important and urgent task. The Chairman earnestly hopes that this appeal would receive a sympathetic consideration in the spirit in which it has been made.

5. *Note verbale* FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

12 September 1953

The Chairman of the Neutral Nations Repatriation Commission presents his compliments to the Representative of the Korean People's Army and Chinese People's Volunteers and has the honour to inform him that the Neutral Nations Repatriation Commission, at its meeting on 11 September 1953, very carefully reviewed the operations of 10 and 11 September 1953, whereby 1,000 North Korean and 984 prisoners of war were transferred into the custody of the armed forces of India. The Commission observed that a number of prisoners of war, for whatever reasons or motives, staged demonstrations of a violent character against the members of the observation team and interpreters belonging to the North Korean side. This led to considerable excitement, requiring extra efforts to calm them down and thereby the process of transference of custody of the prisoners of war had to be slowed down to an extent threatening to upset the entire schedule. In the circumstances, and in the interests of an expeditious transference of custody of the prisoners of war, the Commission authorized the Chairman to approach the Representative of the Korean People's Army and Chinese People's Volunteers and to acquaint him with the facts set out above and to inform him of the following decision of the Commission:

"The Commission decides to, place before both the Commands the situation after two days experience of the turnover of prisoners and the difficulties of the Custodial Force in maintaining order because of the presence of observers. The Commission requests the two Commands to consider whether they can agree not to send observers while the prisoners are being taken into custody by the Custodial Force, India."

The Chairman accordingly requests the Representative of the Korean People's Army and Chinese People's Volunteers not to send its observation team when the North Korean and Chinese prisoners of war are transferred to the custody of India, as well as during the transference of the custody of the prisoners of war belonging to the United Nations, on a reciprocal basis. The Chairman has addressed a similar request to the United Nations Command not to send any observation team to the prisoners-of-war camps during the transference of the custody of the prisoners of war from two Commands respectively.

The Chairman desires to assure the Representative of the Korean People's Army and Chinese People's Volunteers that the only consideration in making this request is the need for an expeditious and smooth transference of the custody of prisoners of war, so that the Commission could proceed to the next stage of its more important and urgent task. The Chairman earnestly hopes that this appeal would receive a sympathetic consideration in the spirit in which it has been made.

6. *Aide-mémoire* FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

14 September 1953

I have the honour to be informed of the decision of the Neutral Nations Repatriation Commission conveyed by you. This decision mentions "the difficulties of the Custodial Force in maintaining order because of the presence of observers" and therefore requests both Commands to consider whether they can agree not to send observers while the Custodial Force, India is taking over the prisoners of war.

I consider it imperative to make clear that during the past few days the difficulties confronted by the Custodial Force, India, in taking over the prisoners of war from the custody of the United Nations Command were caused wholly by riots created through premeditated arrangements by the special agents who are mingled with the prisoners of war not for direct repatriation and not at all by the presence of the observing representatives and the interpreters of our side. Should we stop sending observing representatives at the present time, then it would not only be a deviation from the Agreement, but also be taken as a victory scored by the special agents and their supporters, and thus would make it all the more difficult in the future for the Custodial Force, India, to maintain order in prisoner-of-war camps. To this our side can not agree at all. Our side will continue to send observing representatives to carry on observations in accordance with the Agreement.

(Signed) LEE Sang Cho
Lieutenant-General

7. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

16 September 1953

Based on the terms of the last sentence of paragraph 1 of the Terms of Reference, it is respectfully requested that I be informed of the place and time of future meetings of the Neutral Nations Repatriation Commission in order that I may discharge my obligations to observe these operations of the Neutral Nations Repatriation Commission.

(Signed) A. L. HAMBLÉN
Brigadier-General, USA
Commanding

8. LETTER FROM THE COUNSELLOR, NEUTRAL NATIONS REPATRIATION COMMISSION SECRETARIAT, TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

20 September 1953

I am directed by the Chairman of the Neutral Nations Repatriation Commission to acknowledge the receipt of your letter No. AG 383.6/3 RGCG dated 16 September 1953. I am to say that your request for observing the proceedings of the Commission was considered by it on 18 September. I regret, however, to inform you that the Commission cannot accept your request as it considers that its meetings are not "operations of the Commission" within the meaning of article 1, paragraph 1 of the Terms of Reference, and are, in fact, according to the Rules of Procedure adopted by it, open only to the duly accredited members of the Commission.

(Signed) P. N. HAKSAR
Counsellor

9. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

28 September 1953

May I be informed of the time and place of all future validation proceedings in order that I may have observing representatives present to witness this important operation of the Neutral Nations Repatriation Commission?

(Signed) A. L. HAMBLÉN
Brigadier-General, USA
Commanding

10. LETTER FROM THE COUNSELLOR, NEUTRAL NATIONS REPATRIATION COMMISSION SECRETARIAT, TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

2 October 1953

With reference to your letter No. AG 383.6 RGCG dated 28 September 1953, I am directed by the Chairman of the Neutral Nations Repatriation Commission, to inform you that the Commission considered the request contained in your letter under reference on 1 October 1953. I am to state that your request that an observing representative of the United Nations Command be allowed to be present to observe the validation proceedings of the Commission or its subordinate body was initially made on 11 September, when the Commission first engaged itself with the question of validation of the application of nine North Korean prisoners of war who were subsequently repatriated. The Commission at that time informed you that it was not in a position to accede to your request as it felt that the procedure relating to validation under paragraph 10 of the Terms of Reference is, in fact and in law, meetings of the Commission and, as such, the Commission cannot admit into attendance anyone except the members of the Commission. The only exception made was in favour of the interpreters on account of the circumstance that India could not provide them and that consequently a special agreement had to be made whereby interpreters were to be made available to the Commission by the two sides.

I, therefore, regret to inform you that, having regard to the decision made on 10 September and the fact that the Commission considers the procedure for validation of applications for repatriation as meetings of the Commission, where voting has to take place, it is unable to accede to the request contained in your letter under reference.

(Signed) P. N. HAKSAR
Counsellor

11. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

1 October 1953

On 28 September 1953, I wrote to you requesting information on the time and place of future validation proceedings of the Neutral Nations Repatriation Commission in order that observing representatives from the United Nations Command could be present as provided for in paragraph 1 of the Terms of Reference. In addition to this requirement, I should like to have, for the present, two observing representatives with interpreters at the Southern Camp of the Custodial

Force, India, to observe operations there. This number of observing representatives could be varied later on, if necessary, based on experience. The purpose of these representatives is to observe the over-all operations of the camp; to note such matters as the food, clothing, recreation, medical care, religious services, disciplinary control and amenities so far as these matters affect the prisoners of war.

(Signed) A. L. HAMBLEN
Brigadier-General, USA
Commanding

12. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

5 October 1953

I have received your letter No. AG 383.6/2 RGGO dated 1 October 1953. Your request that observers from your Command be permitted to observe the validation procedure prescribed under paragraph 10 of the Terms of Reference was considered by the Commission and its decision was conveyed to you on 2 October 1953.

You further request that observers be allowed "to observe" as you describe it, "the over-all operations of the camp, to note such matters as the food, clothing, recreation, medical care, religious services, disciplinary control and amenities so far as these matters affect the prisoners of war."

Your request could only be acceded to if the United Nations Command could be deemed to be a Protecting Power within the meaning of the Geneva Convention relative to the treatment of prisoners of war. But I am sure you will agree that the United Nations Command could hardly be deemed to be a Protecting Power in respect of the prisoners of war depending upon the other side, i.e., the Command of KPA and CPV.

The Commission would have been only too glad to let observers of your Command and the Command of KPA and CPV have all the facilities you desire. That would probably have prevented wild and malicious stories being circulated in certain sections of the press. But the Commission can only do what it is authorized to do. And it is not authorized to nominate the United Nations Command as a protecting power for the prisoners of war depending upon the Command of KPA and CPV.

The Commission is of the opinion that matters relating to food, clothing, recreation and medical care for the prisoners, as well as other matters to which you refer, cannot be legitimately described as "operations of the Commission." These relate to the details of administration of the Camps, for which the Executive Agency is answerable only to the Commission and not to any one else. It is, therefore, regretted that the Commission cannot agree to the presence of observers as requested by you in your letter under reference.

(Signed) K. S. THIMAYYA

13. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

16 October 1953

I have at hand your letter number 148/NNRC, Headquarters NNRC, dated 5 October 1953, replying to my request that United Nations Command observers be permitted to observe operations at the Southern Camp

of the CFI, to note particularly such matters as the food, clothing, recreation, medical care, religious services, disciplinary control, and amenities so far as these matters affect the prisoners of war.

Your reply leads me to believe that the language of my request has been unfortunately misconstrued and its import misunderstood. So fully am I persuaded this has been the case that I am impelled to request the NNRC to reconsider its decision.

You have declared: "Your request could be acceded to if the United Nations Command could be deemed to be a Protecting Power within the meaning of the Geneva Convention relative to the treatment of prisoners of war, but I am sure you will agree that the United Nations Command could hardly be deemed to be a Protecting Power in respect of the prisoners of war depending upon the other side," and you have remarked that the NNRC is not authorized "to nominate the United Nations Command as a Protecting Power for the prisoners of war depending upon the KPA and CPV."

I do indeed agree that the United Nations Command is not a Protecting Power within the meaning of the Geneva Convention, and also that the NNRC is without authority to nominate the United Nations Command as a Protecting Power for prisoners of war depending upon the other side. My request to place United Nations Command observers at the Southern Camp, for the purposes stated, was not founded upon any concept either that the United Nations Command is a Protecting Power, or that the NNRC is clothed with authority to nominate the United Nations Command as such.

On the contrary, my request was, and is, founded upon the continuing responsibility of the United Nations Command as the Detaining Power, for the treatment accorded to the prisoners of war depending upon the other side, which it has transferred to the custody of the NNRC. This responsibility of the Detaining Power, as expressed in article 12 of the Geneva Convention relative to treatment of prisoners of war, lies in a duty to assure itself that the transferee of the prisoners does not fail to carry out the provisions of the Convention in my important respect. This is most patently the duty of the Detaining Power in its capacity as such, since the only reference to a Protecting Power which appears in article 12 of the Convention is the provision that the latter may notify the Detaining Power of a failure, if it occurs, on the part of the transferee whereupon "the Power by whom the prisoners of war were transferred shall take effective measures to correct the situation." I am sure you will agree, in view of the acknowledged absence of a Protecting Power in the existing situation, that the method by which the United Nations Command as the Detaining Power, can best assure itself of the discharge of the responsibility imposed upon it by the Convention, is by observation. I feel certain, also, that your high sense of honor will recognize that this request, under the circumstances which I have indicated, is not an implication of distrust but merely a proper exercise of the right of the Detaining Power to protect itself.

I cannot agree that the matters relating to food, clothing, medical care, discipline, and similar matters pertaining to the exercise of custody and control of the transferred prisoners are not "operations of the Commission" but merely administrative details performed by the CFI as executive agency. The final sentence of paragraph 3 of the Terms of Reference specifically declares: "This Commission shall ensure that prisoners

of war shall at all times be treated humanely in accordance with the specific provisions of the Geneva Convention, and with the general spirit of that Convention." Any latitude which may be deduced permissively from paragraph 7 of the Terms of Reference, in relation to paragraph 3, respecting *control* of the prisoners of war cannot, by any interpretation, be extended to their *care*. While it is understood that the CFI is the executive agency of the Commission, I need hardly remind you that paragraph 1 of the Terms of Reference permits representatives of both sides to observe the operations not only of the Repatriation Commission, but also of its subordinate bodies.

In light of the foregoing, I respectfully submit that the United Nations Command is desirous of sanction for entry to the NNRC camp which houses anti-communist Korean and Chinese prisoners of war of sufficient numbers of its representatives to observe overall operations of the NNRC, in order to enable this Command properly to discharge its responsibilities toward such prisoners of war.

(Signed) A. L. HAMBLEN
Brigadier-General, USA
Commanding

14. LETTER FROM THE COUNSELLOR, NEUTRAL NATIONS REPATRIATION COMMISSION SECRETARIAT, TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

23 October 1953

I am directed by the Chairman to acknowledge with thanks the receipt of your letter No. AG 383.6 RGCG dated 16 October 1953.

I am to say that the Commission has noted that the United Nations Command agrees that it cannot be deemed to be "a Protecting Power within the meaning of the Geneva Convention" and "that the NNRC is without authority to nominate the UNC as a Protecting Power for the prisoners of war depending upon the other side."

The Commission has carefully considered the argument advanced in the fifth paragraph of your letter under reference whereby the United Nations Command purports to derive its authority to supervise "the over-all operations of the camp, and any such matters as food, clothing etc." from article 12 of the Geneva Convention relative to prisoners of war. The Commission, however, feels unable to accept this argument for the reasons stated hereinafter.

The responsibilities and obligations devolving on the Commission are the result of an agreement reached between the United Nations Command and the Com-

mand of KPA and CPV. There is no indication in the aforesaid agreement that the High Contracting Parties were purporting to act under article 12 of the Geneva Convention. Consequently, the NNRC cannot be deemed to be a Transferee Power, in the sense contemplated by the said article.

I am further to invite your attention to the fact that the agreement between your Command and the Command of KPA and CPV does not contemplate the vesting at any stage of any residuary or reversionary rights in respect of the prisoners of war in the former Detaining Powers. The agreement contemplates that, after a certain period of time, there would be no prisoners left but only civilians in respect of whom neither of the two Commands can be deemed to have any functions which are exercisable by a Detaining Power.

This being the position, article 12 has no application, as under that article it is contemplated that where the Transferee Power fails to carry out the provisions of the Convention, the Transferring Power has the right to request the return of prisoners. Such a right does not exist in the agreement creating the NNRC. If, no such right exists, it is difficult to spell out any corresponding duties of the former Detaining Power. This position is further confirmed by paragraph 4 of the Terms of Reference, in which it is stated that the prisoners of war "shall be released from the military control and the custody of the detaining side." In paragraph 18, it is provided that the former detaining side "shall not under any name and in any form interfere or exercise any influence."

The only power which the former detaining side possesses is to send representatives "to observe the operations of the Repatriation Commission and its subordinate bodies to include explanations and interviews." In this respect, it is still the Commission's view that the detailed day-to-day administration of the camps cannot be deemed to be an operation of the Commission.

Finally, I am to assure the United Nations Command of the very sincere appreciation by the Commission of the fact that the United Nations Command, in requesting the Commission that observers be allowed did not make "any implications of distrust" of the Commission. The Commission would like to assure the United Nations Command that it will discharge its obligations, both under the Geneva Convention and under the Terms of Reference, with a high sense of duty. In this connexion, I am to draw your attention to the fact that essential Red Cross services are being provided, under the Terms of Reference, by India.

(Signed) P. N. HAKSAR
Counsellor

ANNEXURE II

Address to the prisoners of war

1. TEXT OF THE ADDRESS TO PRISONERS OF WAR

1. This is the Neutral Nations Repatriation Commission speaking. The Neutral Nations Repatriation Commission is an independent body, composed of five neutral nations; India, Czechoslovakia, Poland, Sweden and Switzerland. The representative of India is the Chairman of this Commission. We belong to neither side which took part in the war of Korea. It is our mission to ensure for you all such rights as belong to you in accordance with the armistice and other inter-

national agreements. We are here to enable you freely to exercise your right to be repatriated.

2. No one is entitled to prevent you from expressing your will. No one can prevent you from returning to your homes, nor is any one allowed to compel or force you to return to your homes.

3. It is our task to prevent anyone from imposing any pressure on you. If anyone puts or attempts to put such pressure on you, you should at once bring his name to the notice of a representative of the Custodial Force,

India, which will render you all protection. If you have any complaints or want to convey any wishes to the Neutral Nations Repatriation Commission, you may do so through any representative either of the Custodial Force, India, or of the Neutral Nations Repatriation Commission. Do not be misguided by any one who may compel you to do something against your wishes. Disciplinary action will be taken against those who attempt to prevent any of you from going home or force you to go home.

4. If your conduct is good in these camps, you will be treated kindly by the Custodial Force. If you indulge in acts of violence or disobey any orders, you will be punished by the same Custodial Force.

5. Within ninety days from the . . . representatives of nations to which you belong will explain to you details of your rights and inform you of any matters relating to your return to your homeland, particularly of your full freedom to lead a peaceful life. Such explanations are stipulated in the Armistice Agreement and you will all have to attend them.

6. Do not be afraid. Make your decision freely. Those of you who wish to be repatriated will be sent home without any delay. Some of you who expressed a desire to go home have already been released from our custody for repatriation.

7. You will not automatically go anywhere you want at the end of ninety days. Those of you who have not exercised their right of repatriation by the end of ninety days will remain in these camps in the custody of the Custodial Force, India, for another thirty days. During these thirty days, an International Political Conference will endeavour to decide your future. In the absence of other decision by the Conference, you will become civilians and will be free to go to a neutral country. You will still be able to return to your fatherland if you so desire. For this you will receive the assistance of the local authorities where you may be.

8. We, who are addressing you are neutrals, are completely independent and under no-one's influence. We are here to save you from any coercion. Have implicit faith in us. We will ensure that you are able to exercise your rights we have just explained to you.

2. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

28 September 1953

Enclosed is a photostatic copy with English translation of a document which has received distribution among Chinese anti-communist prisoners of war. The United Nations Command and the Press were not informed of this statement or of its delivery to the prisoners of war, but it is assumed from the nature of its introductory sentence that it is authentic and was issued by the Neutral Nations Repatriation Commission. Failure to permit United Nations Command representatives to observe this procedure, in which the Neutral Nations Repatriation Commission presented to the Chinese prisoners of war this statement relating to conduct of explanations and requirements placed on the prisoners of war, is considered a violation of the Terms of Reference.

While we are not aware of the language in which it was originally prepared, a careful analysis of the Chinese version has been made; and it appears that the over-all influence is unmistakably one of emphasis on

the desirability of repatriation and on the assumption that the prisoners of war actually favour such repatriation rather than on the principle of free choice on which the entire spirit of the Terms of Reference is based.

Since the interpreters furnished you by the United Nations Command were returned to us without explanation prior to 26 September, the date on which we understand this statement was distributed, we do not know who prepared the Chinese translation, but only that our interpreters did not assist in such translation. While the statement does not deviate materially from the literal wording of the Armistice Agreement and Terms of Reference, yet it definitely disregards the clear spirit thereof. The wording, method of presentation, and strong implications have been slanted toward unduly influencing prisoners of war of both sides to repatriation rather than to making a free and independent choice.

If it meets with your approval the United Nations Command would appreciate it if, in future communications of this nature, the translation be prepared, or at least checked, by the representatives of both sides. This would permit each side not only being kept informed, but it would give each side opportunity to protest anything which it considers to be a violation of the Terms of Reference before it has had its effect upon the prisoners of war. Furthermore, it would provide a convenient method of keeping the press informed of developments.

(Signed) A. L. HAMBLEN
Brigadier-General, USA
Commanding

ENCLOSURE TO THE ABOVE LETTER

Address to the prisoners of war

This is the Neutral Nations Repatriation Commission speaking to you:

1. The Neutral Nations Repatriation Commission is an independent organization. It is made up of India, Czechoslovakia, Poland, Sweden and Switzerland. The representative from India is the chairman of the Commission. (We are not participants of the Korean War on either side.) Our function is to guarantee, on your behalf, all your rights as embodied in the terms of the armistice and other international agreements. The reason we came here is to assure you of your freedom to exercise your right to be repatriated.

2. No one will have the right to prevent you from expressing your desire. No one can prevent you from returning to your home. Nor will anyone be allowed to force you to return to your home.

3. Our duty is to prevent any individual from using any form of pressure upon you. If any individual uses pressure or attempts to use pressure on you, you must report his name to the representative of the Custodial Force, India, immediately. The Indian representative will give you all protection. If you want to air your grievances or make representations to the Neutral Nations Repatriation Commission, you can present them to the Custodial Force, India, or to any representative of the Neutral Nations Commission. If any one forces you to do any thing contrary to your desires, do not be fooled.

4. If you behave and conduct yourself well in this prisoner-of-war camp, the Custodial Force will treat you generously. If you misbehave or employ activities of violence or refuse to obey orders, you will be penalized by the Custodial Force.

5. Beginning on . . . September, for a period of ninety days, representatives from the country to which you belong are going to explain to you your rights and privileges in detail. Furthermore, they will inform you of all that concerns your returning home. In particular, they will inform you of your peaceful life and complete freedom upon your returning home. This explanatory work was decided in the terms of armistice. You are all absolutely, by necessity, required to attend.

6. Do not be afraid. Make your decision freely. Those of you who desire to be repatriated will receive unquestioned and immediate repatriation to your homes. Many among you after they expressed their desire to be repatriated to their homes, were immediately released from our custody and have already been repatriated.

7. After this period of ninety days of explanation, you will not be permitted to go to the place of your choice. Those among you who have not yet exercised their rights to be repatriated after the end of this ninety-day period, are going to remain in the prisoner-of-war camp of the Custodial Force, India, for another thirty days. During this thirty days, an International Political Conference is going to work on plans and decide your future. If the Political Conference fails to make any decision, you will then be restored to the status of civilian. You can freely go to a neutral nation. If you desire to return to your fatherland, you can still go. In this respect, you will receive assistance from the authorities of the place to which you choose to go.

8. This is the people of the neutral nations addressing you. We are completely independent. We are not influenced by any one side. We came here to save you, to protect you from any form of coercion. Please believe us with your heart. We guarantee you that we can bring to you the rights as we mentioned above.

3. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

2 October 1953

I have received your letter No. AG.383.6/2 RGCG dated 28 September. Before I proceed to reply to the various points raised by your letter, I feel that you should be acquainted with certain facts in the light of which you may yourself come to conclusions different from those reached by you in your letter under reference.

As you are no doubt aware, article 22 of the Terms of Reference requires that its provisions shall be made known to all non-repatriated prisoners of war. Assurance had been given by the United Nations Command that this had been done. It, however, soon became clear that in doing so, the United Nations Command had given an interpretation to the Terms of Reference which was not acceptable to the Commission. Lieutenant-General W. K. Harrison, in his letter to me dated 12 September, had stated that the prisoners were informed by the United Nations Command that when the Custodial Force, India, would take them into custody, no observers from the Command of KPA and CPV would be present. As you are aware, this interpretation given to the prisoners of war of paragraph 1 of the Terms of Reference was contrary to the unanimous view of the Commission that the taking over of the custody of prisoners of war was an "operation of the Commission" and that observers of the two sides had a right to be present. The Commission could not be guided by any interpretation other than its own. The Terms of Reference provide, in paragraph 24, that its interpretation rests with the Commission. Consequently, the unfortunate divergence of view between the Commission and the United Nations Command had to be rectified.

As the prisoners of war began to be delivered to the Commission, it became even more evident that the prisoners had insufficient understanding of the Terms of Reference. They also appeared to be misinformed by some interested party about a number of matters. The prisoners brought with them a large number of leaflets, pamphlets and other printed matter. I would give you only one example; there was found in the possession of

the prisoners a leaflet; on the one side of it, there was printed a flag of India. On the reverse of it, there was printed a short essay on India's foreign and domestic policies. Howsoever flattering an account it may have been of India's policies and purpose, it cannot be said that it represented an effort to explain either the Terms of Reference or India's functions and responsibilities prescribed under it.

The prisoners were also under the impression that they would be released after ninety days whereas as you know, the Terms of Reference prescribed a period of 120 days. They were also told that they would go to Taiwan at the end of that detention, whereas under the Terms of Reference, they have a right to go to any neutral country.

All this created misapprehension in the minds of the prisoners of war and added to the difficulties of the Commission. The Commission, therefore, felt it its inescapable duty to explain the Terms of Reference again to the prisoners. Accordingly, a committee was set up to draft and address the prisoners of war. The Committee's draft was discussed by the Commission and the final draft was unanimously approved by it.

The original draft being in English, the translation into Chinese was done by the Czechoslovak, Polish, Swedish, Swiss and Indian members of the Commission, and the Korean translation was done by the Czechoslovak, Polish, Swedish and Swiss members of the Commission. The two translations were adopted unanimously.

I am enclosing a copy of the original text in English. In the Commission's view, it was a perfectly correct interpretation of the Terms of Reference. Furthermore, the Chinese and Korean texts were as faithful to the English text as any translation can be deemed to be faithful.

I do not understand your reference to interpreters. The Commission was not engaged in the work of interpretation. It was merely reading out the texts adopted by it. And since members with knowledge of the languages concerned were available, the need for interpreters never arose.

The Commission has considered the suggestion contained in the last paragraph of your letter. It would certainly bear it in mind on any future occasion if it considered it necessary or desirable.

There is one other matter to which I think I should, on behalf of the Commission, invite your attention. It appears that you released your letter to me to the Press even before it reached my hands. There are several such instances which have come to my notice. Apparently, you consider it a correct procedure. In the Commission's view, and I am sure you will not mind my saying so, this procedure is not conducive to a calm consideration of any problem. I would even say that it hinders and impedes the work of the Commission. The Commission has the greatest regard for the Press. But it feels that the Press is entitled to have something more than a one-sided *exposé* of any views.

I feel confident that you are anxious to co-operate with the Commission and assist it in discharging its functions and heavy responsibilities. However, since you chose to release your letter to the Press, I shall be releasing this letter after you have received it.

(Signed) K. S. THIMAYYA
Chairman

(See also annexure VI.)

ANNEXURE III

Organization in the prisoner-of-war camps

RESOLUTION PROPOSED BY THE CZECHOSLOVAK DELEGATION TO THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE NINTH MEETING OF THE COMMISSION ON 20 SEPTEMBER 1953

(a) The Commission deems it necessary to state that no organization of the prisoners of war in the custody of the Neutral Nations Repatriation Commission set up before their intake by the Commission can be recognized or considered as existing.

(b) The Commission deems it necessary to find out, segregate and punish immediately every person who disturbed or disturbs the order in the POW installation or committed or commits any acts violating the Terms of Reference and especially the provision of article I, paragraph 3, and article II, paragraph 7. The Commission requests its Chairman, as the Executive Agent of the Commission, to instruct the Custodial Force Commander to take immediately appropriate measures to find out, segregate and punish all those persons. The Commission requests its Chairman to re-

port to the Commission on measures taken for the implementation of this decision of the Commission.

In order to implement the Terms of Reference and especially to ensure the effective implementation of the provision of article I, paragraph 3, and article II, paragraph 7, the Commission has the full right and authority to readjust the POW installation under its control and installation of the prisoners of war in its custody not recognized by it.

(c) The Commission shall by exercising its right and authority put into effect the readjustment of the POW installation and dissolution of the POW organizations as soon as possible. To start with this work, the Commission taking over the prisoners of war shall divide them so as their organizations be dissolved. The Chairman of the Commission, as its Executive Agent, shall make every effort to fulfil this important task of the Commission and shall report the measures taken for the implementation of this decision of the Commission and their results.

ANNEXURE IV

Organization in the prisoner-of-war camps

1. *Aide-mémoire* FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

17 September 1953

The Korean People's Army and the Chinese People's Volunteers have many times provided the Indian delegation and General K. S. Thimayya with information on the activities of the special agents of Chiang Kai-shek and Syngman Rhee in the prisoner-of-war camps. The United States side has for a long time connived at and instigated the activities of special agents of Chiang and Rhee in the prisoner-of-war camps. Even when the Custodial Force, India was about to take over the custody, the special agents of Chiang and Rhee were actively hatching plots and making arrangements. Wang Tung-yuan, Fan Chih, Chen Chien-chung, Ni Wen-ya, Chang Sok Yun and other special agent chiefs of Chiang Kai-shek and Syngman Rhee personally went to the prisoner-of-war camps to distribute the flags of Chiang and Rhee, the photographs and messages of bandit Chiang and clothes printed with the insignia of Chiang and Rhee. They once again perpetrated forcible tattooing and planted a batch of new special agents in the prisoner-of-war camps to pass off as prisoners of war and to function as group leaders. They usurped the name of prisoners of war in openly demanding that while in the custody of the Neutral Nations Repatriation Commission "their present organizations recognized by the United Nations Command be maintained," that "they be permitted to carry flags of Free China (that is of bandit Chiang) on their way to and after their arrival at the new camps," and that "the Red Cross Society of Free China and the representatives of the Free Republic of China (that is the representatives of bandit Chiang) be allowed to come

to their quarters and comfort them." This information demonstrates that the special agents of Chiang and Rhee have been attempting in a pre-designed and well-organized manner to continue, even in the custody of the NNRC, their reign in the prisoner-of-war camps and to keep in contact with special agents of Chiang and Rhee outside the camps so that prisoners of war may be coerced into disrupting the custody of the CFI and obstructing the implementation of the Terms of Reference for the NNRC.

The operation of taking over the prisoners of war in the past few days and the situation in the prisoner-of-war camps following the operation have fully verified the above-mentioned information. The special agents of Chiang Kai-shek and Syngman Rhee have forced the prisoners of war to bring in a great number of flags of the Chiang Kai-shek brigands and the Syngman Rhee clique, which are openly hoisted in front of the tents under the control of the CFI of the NNRC. They have forced the prisoners of war to wear on themselves, when entering into the prisoner-of-war camps, the insignia of Chiang and Rhee in the form of cap badges, arm-bands, breast badges, printed shirts and so on. Among the prisoners of war there have even appeared men openly wearing the arm-band of so-called "camp guards." The special agents who are mingled with the prisoners of war have given command to the prisoners of war with their whistles and coerced the prisoners of war into taking disruptive action. They have forcibly obstructed the prisoners of war from applying for repatriation, and brutally beaten the prisoners of war who applied for repatriation. Everyday at three o'clock in the morning, they assemble the prisoners of war by blowing the bugle. By doing all this, they are thoroughly maintaining their reign with special agents. Under the present circumstances, the camps under the control of the CFI of the NNRC are in reality still

a living hell under the control of the special agents of Chiang and Rhee.

If such a state of affairs is not corrected in time, consequences of an extremely grave nature will ensue. There can be no doubt about the sincerity of the NNRC and the CFI to carry out the Terms of Reference for the NNRC. However, should special agents be permitted to establish under various names their *de facto* rule in the camps under the control of the CFI during the period when the prisoners of war are being turned over, then not only would it be impossible to carry out the various provisions of the Terms of Reference for the NNRC, but also there would be ample possibility for the special agents to coerce the prisoners of war and engineer such serious sabotage as mass escapes whenever they feel it is to their advantage. In the event that such serious incidents did take place, then the NNRC and the CFI would not be able to avoid their grave responsibility. The very purpose of the Terms of Reference for the NNRC is to completely remove the control of the detaining side over the prisoners of war, so that the prisoners of war can have the opportunity to exercise their right to be repatriated under the custody of the CFI of the NNRC. Under the Terms of Reference the NNRC and the CFI have the full authority and responsibility to control the prisoners of war in their custody. The Korean People's Army and the Chinese People's Volunteers firmly request the CFI to adopt a determined attitude and resolute measures to prevent the Agreement on prisoners of war from being violated again.

In view of the foregoing, on behalf of the Korean People's Army and the Chinese People's Volunteers, I have the honour to present the following proposals to the NNRC and the CFI in conformity with the letter and spirit of the Terms of Reference for the NNRC:

1. The organization of the prisoners of war must immediately be readjusted at the time when they are being taken over. Elements who evidently are special agents and riot-makers should be immediately segregated. We firmly hold that, in order to implement the Terms of Reference for the NNRC, the readjustment of organization and the segregation of riot-makers must begin at once.

2. Strict rules of discipline must be promulgated in the prisoner-of-war camps. Special agents should not be permitted to use violence against prisoners of war to prevent them from applying for repatriation or coerce them into any activities unauthorized by the Indian custodian authorities. Strict sanctions should be brought against the violators of such rules of discipline. All weapons, including flag poles, wooden boards, iron nails and all other things which could be used to inflict injury on other persons should be strictly searched for and confiscated at the time when prisoners of war are being taken over.

3. We consider that the flags or banners of Chiang Kai-shek and Syngman Rhee should not be permitted to be hoisted in the camps under the control of the CFI of the NNRC.

4. In order to distinguish special agents disguised as and mingled with the prisoners of war, the Korean and Chinese side should be furnished by the NNRC with a copy of the rosters of prisoners of war handed over by the United Nations Command to the CFI. Since the NNRC has already undertaken the full re-

sponsibility of holding prisoners of war in custody, it has the obligation to furnish the Korean and Chinese side with the rosters of prisoners of war in its custody.

5. In order to ensure the safety of the prisoners of war who have applied for repatriation, once a prisoner of war applies to any person of the NNRC or of the CFI, he should immediately be segregated and then proceed with the formal procedure of applying to a body consisting of a representative of each member nation of the NNRC. All who obstruct the application must be constrained and punished.

6. The facilities provided for the prisoner-of-war camps by the United States side are in many respects dissatisfactory. The high density of the prisoner-of-war compounds and the sparseness of the barbed wire are obviously of help to the special agents in controlling the prisoner-of-war camps and in coercing the prisoners of war into disrupting the custody. We consider that measures should immediately be taken to reinforce the barbed wire, and that the custodial locations of the prisoners of war should immediately be dispersed as much as possible. The facilities constructed for the explanation work are also utterly unsuitable. The NNRC has the responsibility of ensuring full freedom and facilities of the explaining representatives in making explanations to and interviewing all the prisoners of war. Therefore, the NNRC should provide necessary facilities for making explanations to and holding interviews with groups of and individual prisoners of war at places where disturbances will not be caused by the concentration of prisoners of war. In the process of explanations, no wire fence or other barriers should be put between the explaining representatives and the prisoners of war. Other measures which are appropriate should be adopted to ensure against any disruption of the explanation work by the special agents. In the camps provided by our side for holding captured personnel of the United Nations Command, adequate facilities have been furnished. If the United States side refuses to provide the same facilities in the camps where the captured personnel of our side are held, we would be willing to provide the NNRC with all necessary facilities.

7. According to the Agreement, the presence of the observing representatives and the use of interpreters shall strictly follow the principle of equality for both sides. However, as shown by the situation in the past few days, this principle has not been respected. This is absolutely unsatisfactory. We request that the CFI take immediate measures to improve such a situation.

(Signed) LEE Sang Cho
Lieutenant-General

2. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

23 September 1953

The Neutral Nations Repatriation Commission desires me to acknowledge with thanks the receipt of your *aide-mémoire* dated 17 September. The various points of criticism and suggestions made by you have been duly noted and have received and are receiving consideration by the Commission.

(Signed) K. S. THIMAYYA
Chairman

3. *Aide-mémoire* FROM THE REPRESENTATIVE OF THE
KOREAN PEOPLE'S ARMY AND THE CHINESE
PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE
NEUTRAL NATIONS REPATRIATION COMMISSION
26 September 1953

I have the honour to acknowledge the receipt of your letter of 23 September 1953, in which you acknowledged the receipt of my *aide-mémoire* of 17 September.

We believe that the Neutral Nations Repatriation Commission and the Custodial Force, India, fully realize that the captured personnel of our side in the custody of the CFI, who have not been directly repatriated, are still under the control of the special agents of Chiang Kai-shek and Syngman Rhee planted among prisoners of war beforehand, and that the desire for repatriation of these prisoners of war is still threatened and suppressed by these special agents with force. Up to now this serious situation has not yet been improved. Elements who obviously are special agents and riot-makers have not been isolated; the organization of prisoners of war set up after a long period of machination and controlled by special agents has not been readjusted; weapons carried by special agents which can be used to inflict serious injuries on prisoners of war have not been completely searched for and confiscated; the flags of Chiang Kai-shek and Syngman Rhee, particularly those of Chiang Kai-shek brigands who have never been a party to the Korean war, are still being openly hoisted in the camps controlled by the CFI of the NNRC; while the highly-concentrated prisoner-of-war camps furnished by the United States side, which are helpful to the special agents in controlling these camps and coercing prisoners of war into jeopardizing the custody, have not been dispersed. We understand that the CFI is indeed confronted with certain difficulties in the custodial work because the special agents of Chiang Kai-shek and Syngman Rhee, at the direct instigation of the United States side, had actively hatched plots and made arrangements in the prisoner-of-war camps even before the CFI commenced the take-over operation. But we still think that the CFI should take a determined attitude and resolute measures to effectively and thoroughly carry out the provisions of the Terms of Reference for the NNRC, and prevent the increasingly serious violation of the agreement on prisoners of war.

The United States side completely violates the Terms of Reference for the NNRC by directing the special agents of Chiang and Rhee to sneak into the prisoner-of-war camps under the control of the CFI. In order to conduct explanations to prisoners of war and to identify the special agents who are mingled with the prisoners of war, we have repeatedly stated that the NNRC should forward to the Korean and Chinese side a copy of the rosters of the prisoners of war which the United Nations Command handed to the CFI. Press reports have revealed that the United States side is

doing its utmost to oppose the submitting of these rosters to the Korean and Chinese side by the NNRC. This suffices to indicate that the United States side is afraid that the special agents planted in advance among the prisoners of war would be exposed by the Korean and Chinese side. But, since the NNRC has already assumed the full responsibility of the custody of the prisoners of war, it has the obligation to submit to the Korean and Chinese side the rosters of the Korean and Chinese captured personnel under its custody. Together with this *aide-mémoire*, we submit the rosters of all the captured personnel of the United Nations Command who have not been directly repatriated and request the NNRC to forward them to the United Nations Command side.

We also submit the list of a part of the special agents of Chiang and Rhee known to have mingled with the Korean and Chinese captured personnel according to reliable information. We request that the CFI immediately isolate these special agents. After receiving from the NNRC the rosters of the Korean and Chinese captured personnel under its custody and after checking the rosters, we will continue to supply lists of the special agents so that the NNRC and the CFI can carry out their functions in accordance with the provisions of the Terms of Reference for the NNRC.

The representatives of the nations to which the prisoners of war belong will soon begin to make explanations to all the prisoners of war, and yet the control of the special agents over the prisoners of war has not yet been removed. We consider it all the more essential for the NNRC and the CFI to ensure that every prisoner of war will attend individual explanations so that every prisoner of war will be able to listen to explanations and apply for repatriation in a situation definitely free of any obstruction. Press reports have disclosed that the United States side openly maintains that the prisoners of war under the control of the special agents may refuse to attend explanations and should not attend the explanations individually. Such an obvious attempt to enable the special agents to obstruct unscrupulously the repatriation of the prisoners of war with force or threat of force is utterly in violation of the Terms of Reference for the NNRC. If everything were arranged according to the wish of the United States side so as to maintain the rule of the special agents in the prisoner-of-war camps and to enable the special agents to undermine the explanation work and obstruct with threats the prisoners of war from listening to explanations and applying for repatriation, it would be absolutely impossible to implement the Terms of Reference for the NNRC and the neutrality and impartial stand of the NNRC and the CFI would be radically endangered. We cannot but call upon the NNRC and the CFI to pay close attention to this.

(Signed) LEE Sang Cho
Lieutenant-General

ANNEXURE V

Formulation of the rules of procedure governing explanations and interviews

1. LETTER FROM THE CHAIRMAN OF THE NEUTRAL
NATIONS REPATRIATION COMMISSION TO THE
UNITED NATIONS COMMAND AND TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND
THE CHINESE PEOPLE'S VOLUNTEERS

18 September 1953

The Neutral Nations Repatriation Commission would be grateful to have such information as you may be in a position to give to enable the Commission to formulate the necessary provisions and technical details regarding the work of explanation and interviews in accordance with article 8 of the Terms of Reference.

The Commission of course is the final authority for formulating such rules consistent with the Terms of Reference.

(Signed) K. S. THIMAYYA
Chairman

2. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

21 September 1953

Your letter of 18 September 1953 concerning procedure during explanations has been received. In presenting the views of the United Nations Command, I should preface my remarks by stating that the Command's position is based on the interest of the prisoners of war who, above all national interests and conflicting ideologies, are the real and final proof of the principle of non-forced repatriation for which the Korean conflict was prolonged for so many months. This applies to the prisoners of war formerly held by both sides.

The governing principle to be considered in formulation of all rules of procedure for conduct of explanations is unequivocally stated in paragraph 3 of the Terms of Reference, to wit: "No force or threat of force shall be used against the prisoners of war specified in paragraph 1 above to prevent or effect their repatriation, and no violence to their persons or affront to their dignity or self-respect shall be permitted in any manner for any purpose whatsoever . . ."

The following procedural points are presented for your consideration:

(a) Each explanation shall be conducted in the presence of a representative of the detaining side, as provided for in paragraph 8 (c) of the Terms of Reference, and a representative of each side to observe, as provided in paragraph 1 of the Terms of Reference.

(b) Explanations might best be conducted with groups of prisoners of war of each nationality involved, but several explanations should not be conducted simultaneously in the presence of only one NNRC body.

(c) During explanations, the rights of the prisoners of war shall be respected without reservation, including their right to answer, question, or remain silent. The explanation must be limited to expositions and must exclude inquisitions. Interrogation, including requests for names, homes or social status of prisoners are entirely without the province of the explainers.

(d) Representatives from the former detaining side, present at the explanations, shall have the right to intercede on the behalf of the prisoners in order to protect their rights and ensure that no intimidation, coercion, or indignities, in whatever guise, are perpetrated.

(e) Explanations may take place in a specific explanation area or within the compounds or areas in which the prisoners of war are housed.

(f) Prisoners of war, individually or collectively, may refuse to submit themselves to explanations, without reprisal.

In view of the intransigent attitude displayed toward the communist observers, press and interpreters by the Chinese and Korean prisoners of war who have stated that they would forcibly resist return to communist control, it is not improbable that they will maintain the

same attitude toward the communist explainers, nor is it improbable that the prisoners of war of the other side, when they are placed in custody of the CFI, will adopt the same attitude toward the non-communist observers, press, interpreters and explainers. In such an atmosphere, it is probable that some or all of the prisoners of war of both sides may refuse to leave their compounds or other places of detention to hear the explanations. If such a situation eventuates, it will be necessary to conduct explanations to the prisoners of war who are willing to listen to explanations in their compounds or other places of detention.

Press stories attributed to members of the NNRC and the CFI have indicated that some consideration is being given by the NNRC to a plan which would require prisoners of war, on leaving the explanation area, to make their exit, one way or the other, in a manner that would indicate that they have made a decision regarding repatriation and that such a decision was made as a result of the explanation.

It is our considered opinion that such a procedure is unfair to the prisoner of war, since he has already, after months of deliberation, made his choice as between return to his original side and remaining with the other side. If, under the impact of the explanation, and in the bewilderment of the moment, the prisoner of war is forced to reaffirm his decision through the physical act of passing through a certain exit, then such a requirement is contrary to the letter and spirit of the agreement.

The Terms of Reference do not require a prisoner of war to indicate a choice unless he desires to exercise his right of repatriation. Paragraph 9 states that prisoners of war "shall have freedom and facilities to make representations and communications . . ." to the Neutral Nations Repatriation Commission and its subordinate bodies. Paragraph 10 states that any prisoner ". . . who, while in the custody of the Neutral Nations Repatriation Commission, decides to exercise the right of repatriation shall make an application requesting repatriation to a body consisting of a representative of each member nation of the Neutral Nations Repatriation Commission."

Thus, a prisoner of war, while in the custody of the NNRC, may, at any time, of his own free will and without influence, apply to the NNRC or its subordinate bodies on any matter concerning his status or welfare, including the right of repatriation. A prisoner of war who does not desire to exercise his right of repatriation is under no compulsion to indicate his decision to the NNRC or any of its subordinate bodies, either through oral or written statements or through his own actions.

If a prisoner of war does not apply, of his own volition, for return to the control of the other side during the ninety-day period of explanations, he, as an individual, is never a subject of consideration by either the NNRC or its subordinate bodies as regards repatriation. His case is one which becomes a matter of consideration as outlined in paragraph 11 of the Terms of Reference.

Any attempt to force a prisoner of war to indicate his choice either for or against repatriation constitutes a violation of paragraph 3 of the Terms of Reference.

(Signed) A. L. HAMBLEN
Brigadier-General, USA
Commanding

3. LETTER FROM THE REPRESENTATIVE OF THE
KOREAN PEOPLE'S ARMY AND THE CHINESE
PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE
NEUTRAL NATIONS REPATRIATION COMMISSION

22 September 1953

I have the honour to acknowledge the receipt of your letter of 18 September 1953, concerning the work of explanation and interview.

Sub-paragraph 8 (d) of the Terms of Reference for the Neutral Nations Repatriation Commission stipulates that the NNRC shall employ the principles enumerated in paragraphs 3 and 8 to prescribe additional provisions governing the explanation work. With regard to the question of employing the principle of paragraph 3 to prescribe necessary provisions, I have already put forward concrete proposals in the *aide-mémoire* dated 17 September (see annexure IV, 1).

According to the principle set forth in paragraph 8 of the Terms of Reference for the NNRC, the representatives of the nations to which the prisoners of war belong shall have freedom and facilities to make explanations to and interview all the prisoners of war depending upon these nations. In order to safeguard this principle, I advance the following concrete proposals:

1. The NNRC should make arrangements to ensure that explaining representatives will be able to conduct repeatedly collective and individual explanations to or interviews with all the prisoners of war in accordance with the provisions of the Terms of Reference for the NNRC. No less than eight hours should be guaranteed each day for the explanation work.

2. The NNRC should establish a sufficient number of subordinate bodies composed of one representative from each member nation on the NNRC Commission to observe all the work of explanation and interview and determine by majority vote the validity of applications for repatriation.

I propose that the NNRC set up forty-four (44) such subordinate bodies in the area where Korean and Chinese captured personnel not directly repatriated are kept in custody.

3. The NNRC should provide sufficient places which are free from any outside interference as well as the necessary equipment for conducting collective and individual explanations.

In the area where the Korean and Chinese captured personnel are held in custody, at least forty-four (44) places for individual explanations should be provided. Each one of these places for individual explanations should consist of two tents or two rooms. One of the tents or rooms should have two exits to be used separately by the prisoners of war who apply for repatriation and those who do not yet apply for repatriation after individual explanations. If the NNRC has difficulties in providing necessary facilities for collective and individual explanations, our side is willing to furnish them ourselves.

4. The NNRC should ensure that the explanation work will be free from any interferences or disruptions.

In the process of explanations and interviews, the interpreting work for the neutral nations representatives present should, under the condition of not obstructing the explanation work, be carried on concurrently, and should not interrupt the conversation between the explaining representatives and the prisoners of war.

If the neutral nations representatives present have any comment on the process of the explanation work, it may be made to the explaining representatives through the chairman after its adoption by a majority vote in the subordinate body of the NNRC.

In the process of explanations and interviews, the one representative present from each of the two opposing sides has only the right to observe, and should not interfere with the process of explanation work with any acts of his.

5. The NNRC should ensure that every prisoner of war will have an opportunity to apply for repatriation without any interference and at the same time ensure the safety of those prisoners of war who have applied for repatriation.

Once a prisoner of war has made an application for repatriation to any person of the NNRC or of the CFI, he must be segregated immediately and taken to one of the subordinate bodies of the NNRC to proceed with the formal procedure of application. The NNRC or one of its subordinate bodies should give an immediate consideration to the application so as to determine forthwith its validity by a majority vote. Three separate custodial compounds should be set up in the prisoner-of-war camps, so that those prisoners of war who have applied for repatriation, those who have been given individual explanations but have not yet submitted their application for repatriation, and those who have not been given individual explanations nor have they applied for repatriation may separately be kept in custody.

6. The explaining representatives of the nations to which the prisoners of war belong should put forward plans one day in advance from day to day regarding the method and procedure of the explanation work and the number and roster of the prisoners of war who will be given explanations daily, so that the NNRC and its subordinate bodies may make necessary arrangements in accordance with these plans.

(Signed) LEE Sang Cho
Lieutenant General

4. RULES OF PROCEDURE GOVERNING EXPLANATIONS
AND INTERVIEWS ADOPTED BY THE NEUTRAL
NATIONS REPATRIATION COMMISSION

I. General provisions

1. Any act of force or threat of force to prevent or to effect repatriation of prisoners of war is prohibited.

2. No prisoner of war shall commit an act of violence against another prisoner of war.

3. Any action infringing upon the rights of prisoners of war under the Terms of Reference of the Commission is prohibited.

4. Any acts of prisoners of war which have the effect of derogating from or obstructing the authority of the Commission to exercise its legitimate functions and responsibilities are prohibited.

5. Any act on the part of prisoners of war impeding the work of explanations and interviews is prohibited.

6. As soon as the custody of prisoners of war has been assumed by the NNRC, through the CFI, the Commission shall ensure that the prisoners of war are acquainted with the provisions contained in the preceding paragraphs 1 to 5.

7. Explanations and interviews can be given to groups of or individual prisoners of war as requested by

the explaining representatives of the nation to which the prisoners of war belong. Every one of the prisoners of war shall attend the explanations and interviews.

8. Several explanations and interviews to the same group of prisoners of war or the same individual prisoner are permissible within the time prescribed in article VIII of the Terms of Reference of the Commission.

9. Prisoners may apply for repatriation at any time and at any place. The NNRC shall ensure that every prisoner of war has an opportunity to do so without interference.

10. At the time of the explanation, there shall be present the NNRC or its subordinate body, along with one representative each of the two sides to observe the operation and one representative of the detaining side.

11. A sufficient number of subordinate bodies not exceeding thirty-five, composed of one representative from each member nation on the NNRC shall be established to attend all the work of explanations and interviews and to determine the validity of applications for repatriation.

12. The explaining representative shall have the right to distribute to the prisoners of war written explanations in accordance with the provision of article VIII of the Terms of Reference having duly been examined by the Commission or its subordinate body.

13. At no time during the explanations and interviews shall the observers of either side be permitted to interfere with the work of explanation, their sole function being to observe.

14. The representative of the detaining side shall not participate in the work of explanation or interfere with it in anyway. He may, however, bring to the notice of the Chairman of the NNRC or its subordinate body, at the end of each explanatory session, any matter which may be construed as violating the Terms of Reference.

15. In the process of explanations and interviews, interpretation to NNRC representatives present shall, without obstructing the work of explanations and interviews, be concurrent and shall not interrupt the explanation and interview work.

16. The explaining representatives may ask the prisoner of war any relevant questions provided the latter is

warned of his right that he need not answer the questions if he thinks or the NNRC or its subordinate body thinks that the answer to the questions may be used to threaten or coerce him directly or indirectly.

17. If, in the opinion of a member of a subordinate body, in charge of the supervision of explanations, an explainer infringes upon the Terms of Reference or the present rules, or also in any case of disturbance or any major incident, the session shall be immediately suspended; the subordinate body will then without delay examine the situation brought about by such an incident and state the conditions under which the session shall be resumed and/or report the case to the Commission.

II. Arrangements and facilities

18. The sites for explanations and interviews, whether to individuals or to groups, shall be so constructed as to ensure that the work of explanations and interviews be free from any interference or obstruction.

19. Facilities shall also be provided for the conduct of the work of explanations and interviews to sick, wounded and injured prisoners of war.

20. Prisoners who have applied for repatriation, those who have been given explanation in accordance with paragraph 7 above but have not submitted their applications for repatriation and those who have neither been given explanation nor applied for repatriation shall be kept separated in custody.

21. Each enclosure for the conduct of individual or group explanations shall have two exits to be used separately by the prisoners of war; one for those who apply for repatriation and the other for those who do not.

22. The work of explanation shall be carried out each day of the week, except Sundays, from 0730 hours to 1630 hours with a lunch interval of one hour.

23. The explaining representatives of the nations to which the prisoners of war belong shall forward to the secretariat of the NNRC plans one day in advance from day to day regarding the method of explaining work. They should reach the secretariat not later than 1000 hours on the day previous to the date on which the plan is to be put into operation.

ANNEXURE VI

Rules of Procedure governing Explanations and Interviews

1. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

2 October 1953

I have been instructed to inform you that the United Nations Command hereby lodges a formal protest with the Neutral Nations Repatriation Commission regarding the rules and procedures announced by the Commission for explanations and interviews of prisoners of war in your custody. The United Nations Command further desires it to be fully understood, that while we will participate in such explanations and interviews, we reserve the right to make protests on separate and collective phases of the procedures when in our opinion such action is justified.

A careful review of the Rules of Procedure as announced by the Commission leads only to the conviction

that the intent thereof can be interpreted in no other way except as specific encouragement for the prisoners of war to seek repatriation rather than to permit them, fully and voluntarily, to exercise that free choice of disposition which is the very foundation of the Terms of Reference.

The United Nations Command is fully aware that the NNRC, using paragraph 24 of the Terms of Reference, bases its power of decision on the latitude allowed it by that document. We are also aware that the Rules of Procedure which you have announced include almost all of the proposals submitted by the communists to the NNRC as announced in their press and radio. On the other hand, practically none of the recommendations made by the United Nations Command, which were developed in strict accord with not only the letter but, more important, the spirit of the Terms of Reference, have been adopted by the Commission.

The United Nations Command again invites your attention to paragraph 3 of the Terms of Reference which states unequivocally "no force or threat of force shall be used against the prisoners of war . . . to prevent or effect their repatriation, and no violence to their persons or affront to their dignity or self-respect shall be permitted in any manner for any purpose whatsoever . . .". Paragraph 8(d) of the Terms of Reference is likewise specific on this point when it states "additional provisions governing the explanation work shall be prescribed by the Neutral Nations Repatriation Commission and will be designed to employ the principles enumerated in paragraph 3 above . . ."

The Rules of Procedure governing Explanations and Interviews which you have announced are clearly in contravention of the specific paragraphs quoted above, since they depend upon forcing the prisoners of war, regardless of his desires or rights under the Terms of Reference, to submit to procedures involving coercion if not force.

The United Nations Command considers that the Rules of Procedure as publicly announced by your Commission should be made available in their entirety to those persons most vitally affected by them—the prisoners of war under your control. Failure to keep the prisoners of war fully informed as to the rules under which their whole future will be determined cannot be reconciled with democratic procedures and inevitably will lead to increased fears and apprehensions on the part of the prisoners.

We feel that the sincerity of the United Nations Command in its desire to assist the NNRC in the honest fulfillment of its mission has been amply demonstrated. We reiterate the sincerity of our desire to follow any reasonable course which is in keeping with the spirit of the agreement signed by both sides. However, we cannot condone any action which contravenes the basic principle of freedom of choice which is the very foundation upon which this agreement is built.

(Signed) A. L. HAMBLÉN
Brigadier-General, USA
Commanding

2. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

7 October 1953

The NNRC has taken cognisance of the formal protest contained in your letter No. AG 383.6 RGCG dated 2 October 1953, regarding the Rules of Procedure governing Explanations and Interviews adopted by the Commission. It has also been noted that you desire to reserve "the right to make protests on separate and collective phases of procedures".

The Commission desires me to assure the United Nations Command that it has a very lively appreciation and understanding both of the Terms of Reference and the spirit animating them. In all its work, the Commission has been guided by only one consideration, namely, to give effect to the Terms of Reference with the utmost impartiality and with meticulous concern for legality. The Commission, therefore, is unable to understand the precise significance of your assertion that "it bases its power of decision on the latitude allowed" by the Terms of Reference. The Commission is not aware of any instance where it has based its decision on anything except the strict interpretation of the Terms of Reference.

The Commission feels that it would have been in a better position to reply to your protests and criticisms against the Rules of Procedures if these had been related to the specific provisions of the Terms of Reference. Instead, the Commission has been called upon to deal with bare assertions that it, in framing these rules, merely included "almost all the proposals submitted by the communists". The Commission feels that this assertion is quite unfair. It considered the suggestions made by both Commands and thereafter came to its own independent decision bearing in mind the obligation imposed on it by the Terms of Reference. The Commission is determined to carry out all its obligations without fear or favour and in the light of its own interpretation of the Terms of Reference.

You allege that the Rules of Procedure have contravened the specific provisions contained in paragraphs 3 and 8(d) of the Terms of Reference. This is indeed most surprising, for paragraphs 1 to 6 and 16 of the Rules of Procedure are designed specifically to give effect to paragraph 3 read with paragraphs 7 and 8(d) of the Terms of Reference. The Commission would be glad to know which paragraph or paragraphs in the Rules of Procedure contravene the Terms of Reference.

With reference to that last but one paragraph of your letter under reference, I might inform you that the Commission had taken a decision to publish to the prisoners of war the Rules of Procedure even before your letter was received. The Commission, however, is unable to understand your reference to increasing "fears and apprehensions on the part of prisoners".

(Signed) K. S. THIMAYYA
Chairman

3. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

12 October 1953

The Korean People's Army and the Chinese People's Volunteers consider that the "Rules of Procedure governing Explanations and Interviews" adopted by the Neutral Nations Repatriation Commission are in the main in conformity with the provisions of the Terms of Reference for the NNRC. However, in the "Rules of Procedure governing Explanations and Interviews" there are some terms which should have been but have not been carried out before the commencement of the explanations and interviews, there are other terms which, in their concrete implementation, may easily constitute an obstacle to the explanations and interviews and there are some individual terms which are not completely in conformity with the Terms of Reference for the NNRC. On behalf of the Korean People's Army and the Chinese People's Volunteers, I have the honour to direct the attention of the NNRC to this fact.

1. In view of the fact that the United States side has connived at and instigated the infiltration into the prisoner of war custodial location large numbers of special agents of Chiang Kai-shek and Syngman Rhee in the disguise of prisoners of war to carry out premeditated sabotage against the explanations and interviews and continue to obstruct the repatriation of prisoners of war, paragraphs 1 to 9 of the "Rules of Procedure governing Explanations and Interviews" laid down by the NNRC not only are in conformity with the provisions of paragraphs 3, 7 and 8 of the Terms of Reference for the NNRC, but also are for the most part prerequisite for the smooth operation of the explanations and interviews.

However, up to now, these terms have not yet been carried out. As the NNRC is fully aware, at the present time at the custodial location where captured personnel of our side are in the custody of the NNRC, the setup and organization of the captured personnel which prevailed before the NNRC took over the custody are still being maintained, dominated and controlled by Chiang Kai-shek and Syngman Rhee agents. These agents are actively making arrangements to sabotage the operation of explanations and interviews, and incessantly suppressing and baffling the desire for repatriation of the captured personnel of our side with frenzied acts of violence. We deem it absolutely necessary to request the NNRC to adopt effective measures to ensure that paragraphs 1 to 9 of the "Rules of Procedure governing Explanations and Interviews" shall be carried out, that each and every one of the prisoners of war shall be present at explanations and interviews and that each and every one of the prisoners of war shall be able to apply for repatriation without being hindered by force or threat of force.

2. Paragraph 17 of the "Rules of Procedure governing Explanations and Interviews" provides: "If, in the opinion of a member of a subordinate body in charge of the supervision of explanations, an explainer infringes upon the Terms of Reference or the present rules, or also in any case of disturbance or any major incident, the session shall be immediately suspended; the subordinate body will then without delay examine the situation brought about by such an incident and state the conditions under which the session shall be resumed and/or report the case to the Commission". If close vigilance is not kept in carrying out this provision, the provision in paragraph 24 of the Terms of Reference for the NNRC, that the NNRC and its subordinate bodies shall operate on the basis of majority vote, will be seriously violated. Meanwhile, the United States side and the special agents of Chiang and Rhee have long been planning to create riots and other sabotage acts at the time when the Korean and Chinese representatives are conducting the work of explanations and interviews. If such riots and sabotage are not put down in time and order speedily restored, we will be tricked by the scheme of the United States side and its special agents to disrupt the work of explanations and interviews. We hold that this provision in the "Rules of Procedure governing Explanations and Interviews" should not be employed for the purpose of wilfully interrupting the explanations and interviews but should be used to ensure that explanations and interviews will be carried out smoothly according to the provisions of the Terms of Reference. In the process of explanations and interviews, the chairman of each subordinate body has the responsibility to restrain resolutely, with the consent of half of the other members, any disturbance, obstruction, or any act calculated to interrupt unreasonably the work of explanations and interviews, and the views of any one of the members concerning the work of explanations and interviews should first be given to the chairman who, after consulting the other members, will pass them on to the explaining representatives.

3. That the representatives of the nations to which the prisoners of war belong may ask the prisoners of war questions so as to make clear to them their rights is an unquestionable right of the explaining representatives under the Terms of Reference for the NNRC. This is provided in paragraph 16 of the "Rules of Procedure governing Explanations and Interviews"; but in the same paragraph it is also provided that the prisoner

of war shall be warned of his right that he need not answer those questions of the explaining representatives, the answers to which may allegedly, in his opinion, be used to threaten him directly or indirectly. We consider this entirely inappropriate. The actual situation at present is that the Chiang Kai-shek and Syngman Rhee agents are incessantly threatening the captured personnel of our side with violence to prevent them from answering any questions of the explaining representatives of the Korean and Chinese side. The assertion that answering the questions of the explaining representatives will constitute a threat of coercion to the prisoners of war is nothing but an absurd myth, not even worth refuting, created by the United States side in the fear that the Chiang Kai-shek and Syngman Rhee agents mingled with the prisoners of war would be recognized by the explaining representatives of the Korean and Chinese side. This provision in paragraph 16 of the "Rules of Procedure governing Explanations and Interviews" can have no other effect than encouraging the Chiang Kai-shek and Syngman Rhee agents to coerce the prisoners of war and subject the explanation work to obstructions and disruptions.

4. Paragraph 10 of the "Rules of Procedure governing Explanations and Interviews" formulated at the request of the United States side provides that the detaining side may have two representatives to attend the explanations and interviews. This is obviously a violation of the provision in sub-paragraph 8(c) of the Terms of Reference for the NNRC. The Korean and Chinese side will not be a party to such flagrant violation of the Terms of Reference. Therefore, the Korean and Chinese side will send only one representative to attend the explanations to and interviews with the prisoners of war previously in the custody of the Korean and Chinese side. At the same time, I am authorized to declare that representatives dispatched by our side in accordance with the provision of article I, paragraph 1, of the Terms of Reference to the custodial locations designated by either side, have the right to invite the attention of the NNRC or its subordinate bodies at the end of every explanation to matters which can be regarded as violations of the Terms of Reference.

(Signed) LEE Sang Cho
Lieutenant-General

4. LETTER FROM THE COMMANDER-IN-CHIEF, UNITED NATIONS COMMAND, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

5 October 1953

In view of the differences that have arisen as to the meaning and application of the Terms of Reference for the Neutral Nations Repatriation Commission, and in view of their vital importance to the entire world, I consider it desirable to set forth briefly the background of that document.

After April 1952, there remained one unresolved issue in the armistice negotiations which was not resolved until June 1953, when agreement was reached on the Terms of Reference. The issue, simply stated, was: "Would the United Nations Command agree to use physical force to return to communist control those captured personnel who clearly demonstrated they would physically resist repatriation?" The communists insisted that all captured personnel must be returned regardless of their individual desires. During most of the time that this issue was in dispute, the United Nations Command had in its custody about 83,000 North Korean and Chinese prisoners of war who, of their own free will,

indicated that they would not physically resist return to communist control. These prisoners we did return in good faith as soon as it became possible to do so. The remaining prisoners refused to be returned to communist control. Because of its regard for their human rights, the United Nations Command insisted that they, as individuals, be allowed to express their own will without coercion of any kind. They were free, at any time while in our custody, to change their decision regarding repatriation. A few of them did, in fact, subsequently ask for repatriation, and they were included with those who were returned.

Although these anti-communist prisoners had very clearly manifested their violent opposition to repatriation, the United Nations Command, in the interests of achieving an honorable armistice and bringing to a halt the bloodshed in Korea, agreed to a proposal by which each side would be permitted to conduct explanations without force or coercion to prisoners of the other side who had signified they did not wish to exercise their right of repatriation. It was in connection with this agreement that the NNRC was established.

As I review the progress of about three weeks of activity of the NNRC, I do not fail to appreciate the administrative difficulties encountered in the organization of any such body. However, I am impelled, as Commander-in-Chief of the United Nations Command, to present our views on certain aspects of proceedings to date.

Certainly, the United Nations Command has, from the outset, sought in every way to fulfill its obligations to the Commission and to the Custodial Force, India. It will continue to meet its present and future commitments. On the other hand, the United Nations Command is deeply and directly concerned that the NNRC will also fulfill the obligations imposed upon it by the Armistice Agreement and the Terms of Reference, and will adhere scrupulously to the humanitarian intent of those documents. Having continued, at heavy cost, the conflict in Korea for more than a year while our negotiators at Panmunjom were striving to achieve an honorable armistice which would uphold the principle of freedom of choice as their future by the prisoners of war of both sides, the United Nations Command cannot now condone any abrogation or compromise of this principle. Nor can it condone the use of force or coercion, either overt or implied, in connexion with this principle, while these prisoners are under the control of the NNRC.

Your position that prisoners were misinformed by the United Nations Command of the provisions of the Terms of Reference is completely at variance with the facts. As you and the Commander, CFI, have previously been informed, the provisions of this document were given in their entirety to all the prisoners in United Nations Command custody. In our opinion, the plain words of the Terms of Reference need little interpretation. Where an interpretation had to be made, or when such was requested by the prisoners, it was based on the fundamental principle of freedom of choice without duress or coercion. Allegations of misinterpretation by the United Nations Command are unwarranted and undeserved.

Any assertion that the United Nations Command has led anti-communist prisoners of war to believe they would be released at the end of ninety days' custody is in error. As a matter of fact, the prisoners were shown graphically, in chart form, a chronology of events per-

taining to them, while in NNRC custody, which unmistakably provided for a maximum period of 120 days as prisoners of war, after which they would revert immediately to civilian status and, thirty days thence, the NNRC would be dissolved.

I understand you have objected to an informational leaflet on India previously distributed by the United Nations Command to the prisoners of war solely because it did not discuss exact duties of the NNRC under the Terms of Reference. You will recall that, at the express request of the head of the Indian Red Cross, the United Nations Command agreed to send to the NNRC camps, for the use of the prisoners, all informational and educational materials on hand at its United Nations Command prisoner-of-war camps. These included not only informational leaflets, but text books, materials and athletic and recreational equipment. At no time was it indicated that the material requested should be related to the mission and functions of the NNRC. You are aware that, because of the deep distrust of the NNRC and the CFI on the part of the prisoners, we found it necessary to undertake positive measures to encourage them to share our faith and trust in the integrity and impartiality of India. Only through such a program were we able to secure the co-operation of the prisoners in the move to the Demilitarized Zone and in placing themselves in your custody without violence and bloodshed.

Also in error is the statement that prisoners were told by the United Nations Command they would go to Formosa. All prisoners were informed that, under the Terms of Reference, those who refused repatriation would be free to make application to go to a neutral country or to a country of their choice. Certainly you are aware that the anti-communist Chinese have indicated a strong and natural desire to go to Formosa. It is public knowledge that the President of the Republic of China has invited to Formosa those Chinese anti-communists who desire to come. Similarly, the President of the Republic of Korea has extended his welcome to those anti-communist Koreans who wish to live in his nation.

Furthermore, I am sure you agree that there is nothing in the Terms of Reference which prevents those prisoners who refuse repatriation from going to Formosa or the Republic of Korea after termination of the period of custody by the NNRC. Paragraph 11 of that document states in part that 120 days after the Neutral Nations Repatriation Commission takes custody of the prisoners, they shall revert from prisoner-of-war status to civilian status. Therefore, at that time they are no longer prisoners, nor are they subject to the custody or to the control of the NNRC. They are free to go where they choose. This same paragraph also states that those who choose to go to neutral nations shall be assisted by the NNRC and the Red Cross of India. This assistance by the NNRC and the Red Cross of India is available only for a period of thirty days, or 150 days from the date upon which the NNRC assumed custody. Thereafter, the NNRC is dissolved. Obviously, these free men, formerly prisoners, who do not request assistance from the NNRC and Red Cross of India will not remain in the Demilitarized Zone. Having rejected repatriation, they must make their way to a country of their choice. The obvious and natural choice of these men is Formosa for the Chinese and Republic of Korea for the Koreans.

It is important to note here that paragraph 11 was proposed by the communists. When, on 4 June 1953, armistice negotiators were discussing this paragraph,

the United Nations Command asked this question: "Does your proposal indicate that all such prisoners would have to go to some neutral State or would Koreans, for example, be allowed to remain in Korea?" The record indicates that the communists interposed no objection to this interpretation.

It is difficult to accept the assertion that a statement recently distributed to the prisoners in your custody is a "perfectly correct interpretation" of the Terms of Reference. Our objections to both its tone and intent have already been made known to you. While you now assert that the original text represented the Commission's unanimous views, there appears to be considerable confusion as to the translation given to the prisoners. Specifically, a press statement attributed to you, personally, indicates that the statement distributed to Chinese anti-communist prisoners was an earlier version of a draft not approved by the Commission.

I desire to reiterate that the explanation period, which apparently has been a matter of considerable discussion by the Commission, in no way can extend beyond 23 December, or ninety days from 24 September, the date on which the NNRC assumed full custody. This is not subject to interpretation by the Commission, is clearly stipulated in the Terms of Reference, and has been covered so thoroughly in previous correspondence with you that I feel the subject needs no further discussion.

Your refusal to permit observers of the United Nations Command to witness the validation of requests of prisoners for repatriation is both surprising and disappointing. It is difficult to reconcile such a position with the provisions of the Terms of Reference, which very clearly permit our representatives to observe the operations of the Commission, to include, but certainly not restricted to, explanations and interviews. The NNRC ruled that the transfer of prisoners from the United Nations Command to the custody of the Custodial Force, India, was an operation of the Commission and, accordingly, communist representatives had the right to observe such operation. Certainly, the final act of determining a prisoner's destiny by the validation of his application for repatriation is a most important operation of the Commission and its subordinate bodies. The same principle must apply; therefore, validations properly should be witnessed by the representatives of the United Nations Command; it would be most desirable that the press also be present. Paragraph 1 of the Terms of Reference can have no other interpretation and constitutes full authority for such observation.

In summary, it appears that the decisions and activities of the Commission to date have been predicated upon the assumption that the prisoners in your custody actually desire repatriation. This is especially difficult to understand in view of the strong opposition which Korean and Chinese anti-communist prisoners have demonstrated, individually and collectively, even to the physical presence of communist representatives. It would seem that the Commission has not taken full cognizance of the fact that the Korean and Chinese prisoners made their choice many months ago and that, in the absence of force or coercion, the vast majority will adhere to their decision. If there exists any real doubt as to the attitude of the prisoners, I strongly recommend that advantage be taken of the provisions of paragraph 9 of the Terms of Reference and that prisoners be encouraged to state their views directly to the Neutral Nations Repatriation Commission and its subordinate bodies on the situation as they see it. This should pro-

vide conclusive evidence of their personal feelings and desires.

While, under the Armistice Agreement and the Terms of Reference, the United Nations Command will continue to fulfil its commitments to the NNRC, this Command is confident that the NNRC will, under your direction, fulfil its solemn obligations with strict integrity and complete impartiality, the governing consideration being the welfare of the prisoners of war and their freedom of choice as to ultimate disposition.

(Signed) MARK W. CLARK
General, USA
Commander-in-Chief

5. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDER-IN-CHIEF, UNITED NATIONS COMMAND

7 October 1953

1. I am desired by the Commission to acknowledge receipt of your letter dated 5 October, in which you have been good enough to present your views on certain aspects of the activities of the Neutral Nations Repatriation Commission. Although the Commission is not unaware of the chequered course of negotiations leading to the drawing up of the terms of reference for the NNRC, the Commission is grateful to you for recapitulating the background.

2. Your letter brings into relief the difference in approach to the problem by the United Nations Command and the NNRC which appears to be somewhat fundamental. You have stated that "it appears that the decisions and activities of the Commission to date have been predicated upon the assumption that the prisoners in your custody actually desire repatriation". The Commission has made no such assumption. On the other hand, the Commission is not prepared to accept as an established fact "that the Korean and Chinese Prisoners made their choice many months ago and that, in the absence of force or coercion, the vast majority will adhere to their decision". That certainly has been the stand taken by the United Nations Command. The contention of the Command of Korean People's Army and Chinese People's Volunteers, on the other hand, has been that these prisoners have had no opportunity to express their free will because of the existence of well-organized groups in the camps who are allowed to have terrorized the prisoners of war who wished to be repatriated. The Commission is not prepared to work on either of these assumptions. The Commission has kept an open mind and is most anxious to secure for the prisoners of war complete freedom of choice without duress and coercion. Assuming that the "vast majority will adhere to their decisions", how can the Commission discover the small minority who may change their decisions? It is precisely with this object in view that both the Commands agreed to provide for "explanation" in the terms of the agreement. This is a mandatory provision and the Commission must, under the Terms of Reference, provide necessary freedom and facilities to the explainers. While the Commission is bound to protect prisoners of war from all force or threats of force, it is equally its obligation to see that they perform the legitimate functions which the Terms of Reference enjoin.

3. It may be that many prisoners of war will not want to be repatriated. However, so far some 110 prisoners of war have asked for repatriation which proves that at last some of the prisoners of war do wish to be repatriated. What is even more significant is the fact

that not one of the prisoners of war dared openly in their camps to ask for repatriation. They had to do so surreptitiously or at the risk of death or injury from fellow prisoners or at the risk of being shot on the fence by armed guards. The abnormal manner in which the repatriate prisoners have had to express their wish naturally raises the suspicion that all prisoners of war are not free agents. Under these conditions, you will, I hope, appreciate why the Commission cannot take "full cognizance of the fact that the Korean and Chinese prisoners made their choice many months ago and that, in the absence of force or coercion, the vast majority will adhere to their decision". The Commission will certainly ensure that there would be no force or coercion at the time of explanations, but it is unable to satisfy itself that prisoners of war are not being subjected to force or threats of force by some fellow prisoners.

4. You have suggested that the prisoners of war should be encouraged to state their views directly to the NNRC or their subordinate bodies so that all doubts as to the real attitude of the prisoners could be set at rest. In the course of my talks with the leaders of the prisoners of war I did inquire if they would agree to appear before the NNRC and express their views. Even this they were not prepared to agree to. Obviously the leaders either do not trust the NNRC or they are afraid that once a prisoner of war is permitted to be left alone, he might change his mind and decide for repatriation. This means of finding out the attitude of the prisoners of war, as suggested by you, is not, therefore, open to us.

5. You are certainly entitled to expect that the NNRC will fulfil the obligations imposed upon it by the Armistice Agreement and the terms of reference and will adhere scrupulously to the humanitarian intent of those documents. The Commission maintains that it has done so and that consistent with its responsibilities under the Terms of Reference, it has so far done nothing which may be deemed to have condoned or compromised the principle of freedom of choice by the prisoners of war as to their future.

6. The Commission notes the measures taken by the United Nations Command to inform the prisoners of war of the provisions of the Terms of Reference. It appears, however, that the prisoners of war had not understood these provisions properly. This would be clear from the following examples. Lieutenant-General W. K. Harrison, in his letter to me dated 12 September, had stated that the prisoners of war had been informed by the United Nations Command that no observers should be present when the Custodial Force, India, took them into custody. It was the unanimous view of the Commission that this interpretation was not correct. The prisoners of war also said that, in accordance with the Terms of Reference, they need not attend the explanations and that they would automatically be released at the end of ninety days, although the correct position is that they will have to remain in custody till the Political

Conference settles the question of their disposition. In these circumstances, the Commission thought it necessary to remove such misapprehensions by distributing a leaflet explaining the provisions of the terms of reference. I admit that when I received General Hamblen's letter I thought that the original draft which had been later amended by the Commission might, through inadvertence, have been translated into Chinese and I said so in a casual conversation with a press representative. I also told him that I had given this statement again to the translators of the Commission for scrutiny and a report for which I was still awaiting. The press correspondent, however, did not choose to report the entire conversation. On receipt of the translator's report, I was satisfied that there was no such mistake and that the Chinese version was a faithful translation of the English text as finally adopted by the Commission.

7. I confess I did not understand the purpose of issuing the informational leaflet on India. From what you have said in your letter, I now fully appreciate the object and the need for issuing such a leaflet.

8. The Commission notes that the United Nations Command are unable to agree to extend the period beyond that laid down in the Terms of Reference. The Commission nowhere suggested that this is a matter for interpretation by the Commission. It is fully aware that any such extension is only possible if the two Commands agree, but having regard to the delay in providing facilities for explanation, the Commission felt that it should ask the two Commands to agree to such an extension.

9. The question of permitting observers to witness the validation was carefully considered by the Commission. Although it is possible that the questioning of the prisoners of war might be considered as an operation of the NNRC, the validation was definitely not an operation. For practical reasons it was obviously not possible to separate the two functions. The Commission could not, therefore, agree to permit observers being present at validation. I would, however, like to point out that, just as observers were allowed at the time of taking over custody of the prisoners of war by the Custodial Force, India, the Commission has also permitted observers being present when prisoners of war are finally handed over for repatriation.

10. The Commission has full confidence that the United Nations Command will continue to fulfil its commitments and it can assure the United Nations Command that it is fully conscious of the responsibilities it has undertaken and that it will continue to discharge its obligations with complete integrity and strict impartiality and with a full understanding of what is involved, bearing in mind the history of the prisoners of war issue.

(Signed) K. S. THIMAYYA
Chairman

ANNEXURE VII

Proposed announcement to prisoners of war from the United Nations Command

1. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

9 October 1953

With respect to your letter, file No. 118/NNRC, HQ NNRC, 7 October 1953, in which you discuss the

responsibilities of the United Nations Command with reference to the security of the Neutral Nations Repatriation Commission, I have been instructed to present our assurances that the United Nations Command, with full cognizance of the provisions of paragraph 6, Terms of Reference, has taken necessary precautions to ensure that the NNRC, its personnel and its installa-

tions are given adequate protection from intrusion and disturbances by external forces.

In this connexion, however, we have noted, with some concern, public statements attributed to you which indicate that the troops of the Custodial Force, India, will not try to check attempts by anti-communist prisoners in your custody to stage a general breakout or escape. While this command shares with you fully your deep feeling and understandable sentiment against needless casualties, it is incumbent upon me to point out that, when transfer of custody of prisoners to the NNRC was accomplished, the NNRC by acceptance assumed performance of a trust in the discharge of which retention in custody is an essential element.

We appreciate the gravity with which you view a possibility of a mass breakout and we sincerely share your concern in the event one should occur. In the light of our experience with the prisoners of war and with a desire to supplement your responsibility and actions to avoid violent occurrences and confusion, the Commander-in-Chief, United Nations Command, has authorized for use, if you desire, an announcement to the prisoners of war, in the hope that it may act as a restraining influence upon them. The text of the announcement as approved by the Commander-in-Chief, United Nations Command, is attached hereto in English, with exact Chinese and Korean translations.

(Signed) A. L. HAMBLLEN
Brigadier-General, USA
Commanding

ENCLOSURE TO THE ABOVE LETTER

Statement from the United Nations Command to the Korean and Chinese anti-communist prisoners of war

With the passing of about three weeks since you were placed in custody of the Neutral Nations Repatriation Commission, the United Nations Command has asked General Thimayya, the Chairman of the Commission, for the opportunity to send you its greetings. By now you have all had opportunity to study the Rules of Procedure announced for the conduct of explanations and you have seen that the Neutral Nations Repatriation Commission, and the Custodial Forces, India, have clearly guaranteed that no force or threat of force to prevent or effect your repatriation will be used against you and that you retain full freedom of choice as to your eventual disposition.

While there may have been some understandable anxiety on your part at the time you were moved to the Neutral Nations Repatriation Commission Camp, you have had some time now to become oriented in your surroundings. You know, too, that in accord with paragraph 11, Terms of Reference for the Neutral Nations Repatriation Commission, on 23 December 1953 all explanations will cease. From then until 22 January, your situation will be discussed by the Political Conference, but in any case on that date you will all become civilians, free to go to a location of your choice. Thus, you can look forward to 22 January as the end of your custody as prisoners of war; and we are sure that, for those of you who have not individually and freely elected to return to communist control by that time, your freedom of choice to go elsewhere is definitely assured.

Because of this short time and because of the positive guarantees given you on your freedom of choice it would be most unfortunate if you were to do anything now which would endanger your persons or confuse your status. Any large-scale disorders, or attempts to escape or break out of your compounds would certainly mean that some of you would be injured or might even lose your lives. Even if you did succeed in escaping from your present camp, you might find yourselves in a serious situation without a proper agency to care for you and guard your welfare.

The United Nations Command has taken every step to protect your interests. We have been assured by General Thimayya and General Thorat of their sincere desire to protect your interests and guarantee your rights and privileges. We have full confidence in their assurances. The United Nations Command could not condone any attempt at concerted violence on your part under these conditions.

Our best wishes and sincere hope for a happy, peaceful and prosperous future.

(Signed) A. L. HAMBLLEN
Brigadier-General, USA
Commanding

2. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

14 October 1953

I have received your letter No. AG.383.6 RGCG dated 9 October along with its enclosure.

The Neutral Nations Repatriation Commission has noted with satisfaction the assurances contained in paragraph 1 of your letter under reference. The Commission desires me to convey its appreciation of the fact that the United Nations Command, mindful of its obligations contained in paragraph 6 of the Terms of Reference, has taken the necessary precautions to ensure that the NNRC, its personnel and its installations are given adequate protection from any intrusion and disturbance by external forces.

With reference to paragraph 2 of your letter, I think I should state clearly that the public statements attributed to me do not adequately represent the views I had endeavoured to express in the press conference. I would like to assure the United Nations Command that it need have no apprehensions that the Custodial Force, India, might fail to discharge its obligations. On the contrary, the NNRC and the CFI, in securing the fulfilment of these obligations, would use all the resources at their command.

With reference to the last paragraph of your letter, I think I should let you know that, in the Commission's view, there is no justification whatever for any fears or apprehensions in the minds of prisoners. They have remained in the custody of the CFI for more than a month, during which they have been assured on every possible occasion of being accorded fair, just and humane treatment so long as they do not indulge in acts of violence and lawlessness. If, therefore, the prisoners endeavour to effect mass break-outs, the Commission, while considering the question of responsibility, would do everything in its power to prevent that attempt being made. The Commission is glad to note that the United Nations Command shares in this view of the Commission's obligations in this respect.

I would like to express the Commission's sincere appreciation of the concern expressed by the United Nations Command and of the offer of assistance given by it in the shape of the proposed announcement to the prisoners of war. The Commission, however, suggests a few editorial and other changes with a view to making that announcement more effective and, generally, in accord with your sincere desire to assist the Commission. I am, therefore enclosing an amended draft of the statement for your approval. In view of the fact that the explanatory work is due to commence tomorrow, I shall be glad to be informed of your decision as soon as

possible. Should you find yourself in agreement with the text proposed, I shall be grateful if you will kindly have the text rendered into Korean and Chinese and duplicated as you have done with the text sent by you.

I think I should explain to you the reason why paragraph 2 of your proposed announcement has been omitted. It appeared to the Commission to be superfluous because the United Nations Command has, as repeatedly stated by it, already fully explained the Terms of Reference, even to the extent of making a pictorial representation. And, since the prisoners have come into the custody of the NNRC, the Commission has again explained the situation to them. It is, therefore, unnecessary to go into this question, particularly when the essential reason of issuing such a statement is to restrain them from such acts of folly as attempting mass breakouts.

(Signed) K. S. THIMAYYA
Chairman

ENCLOSURE TO THE ABOVE LETTER :

Statement from The United Nations Command to the Korean and Chinese anti-communist prisoners of war

By now, you have all had opportunity to study the Rules of Procedure distributed to you for conduct of explanations. You have seen that these rules guarantee to you that you will not be forcibly repatriated nor will any one be allowed to prevent your repatriation by force. The Neutral Nations Repatriation Commission and the Custodial Force guarantee to you your rights. It is now your obligation to co-operate with the NNRC and the Custodial Force in discharging their functions and responsibilities under the Terms of Reference and in particular to co-operate by attending explanations.

Because of the positive guarantees given on your freedom of choice to exercise your right to be repatriated or not, it would be most unfortunate if you were to do anything now which would endanger your persons or confuse your status. Any large-scale disorders, or attempts to escape or break out of your compounds would certainly mean that some of you would be injured or might even lose your lives. Even if you did succeed in escaping from your present camp, you might find yourselves in a serious situation without a proper agency to care for you and guard your welfare.

The NNRC has taken every step to protect your interests. The NNRC has given assurance of its sincere desire to protect your interests and guarantee your rights under the Terms of Reference. We have full confidence in its assurances. The United Nations Command would not condone any attempt at concerted or individual violence on your part under these conditions.

(Signed) A. L. HAMBLEN
Brigadier-General, USA
Commanding

United Nations Command Repatriation Group

Issued by the authority of Lieutenant-General K. S. Thimayya, Chairman, Neutral Nations Repatriation Commission

3. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION.

16 October 1953

Careful consideration has been given your letter, file number 118/UNC/NNRC, dated 14 October 1953, in which you propose a revised statement to the Korean and Chinese anti-communist prisoners of war.

I should like to take this opportunity to assure you that the United Nations Command is sincerely interested in assisting you in every feasible way in the accomplishment of your task. The revised statement which you propose, however, is not exactly what the United Nations Command had in mind at the time we volunteered our assistance. In view of the time which has elapsed since our announcement was offered to the Neutral Nations Repatriation Commission and since explanations have already begun, the most effective time for its use may now be past. However, we believe that you might still find our proposed statement useful as originally written and accordingly you still have authority to distribute it if and when you deem appropriate.

(Signed) A. L. HAMBLEN
Brigadier-General, USA
Commanding

4. LETTER FROM THE COUNSELLOR, NEUTRAL NATIONS REPATRIATION COMMISSION, SECRETARIAT TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

16 October 1953

I am directed by the Chairman of the Neutral Nations Repatriation Commission, to acknowledge the receipt of your letter No. AG 383.6 RGCG dated 16 October 1953.

I am to express the Chairman's disappointment that the United Nations Command, for reasons not made known to the Commission, found the proposed text of the announcement unacceptable to it.

The United Nations Command's acceptance of the revised text would have enabled the prisoners of war to have a proper appreciation of the situation, particularly in regard to their obligation to attend explanations. The prisoners still appear to be strongly under the impression that they need not attend explanations and thus frustrate the work of the Commission. As you are aware, the explanations have only just commenced and a clarification on this point would still be desirable and of assistance to the Commission.

(Signed) P. N. HAKSAR
Counsellor

ANNEXURE VIII

Construction of explanation facilities

1. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP.

27 September 1953

Explanations and interviews

Reference conversation Lieutenant-General Thimayya/Brigadier-General Osborne on 26 September 1953 and our letter No. 124/NNRC dated 24 September 1953.

1. It has been decided by the Neutral Nations Repatriation Commission that sixteen more enclosures be made available for explanations and interviews in the Custodial Force, India, area near the set of sixteen enclosures already constructed. I shall be grateful if this can be done by 1 October 1953, the date on which the explanations are due to commence.

2. I appreciate that inadequate notice is being given to you for this task and had conveyed my regret to Brigadier-General Osborne when he discussed this subject with me yesterday. It was quite impossible, however,

to give you this information earlier as the NNRC decided this question only two days ago.

3. If you are not able to provide the manpower, we will be content with your placing at our disposal the requisite building material, e.g. barbed wire, etc., in the same quantity as used in the existing explaining compounds. Our men will then be able to undertake the actual construction.

4. As the Commission is committed to arranging for the extra enclosures, it will have to devise alternative means of construction should you find yourself unable to complete the task in the required time or provide the required material.

5. I have no doubt that the United Nations Command is anxious to render every possible assistance to facilitate the work of the Commission of which arrangements for explanation constitute the most important part. In view of the urgency, I will be grateful if your reply to this request could reach this HQ by 1300 hours on 28 September 1953.

(Signed) K. S. THIMAYYA
Chairman

2. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

27 September 1953

According to the report of our representatives who visited the explanation compound in the prisoner of war custodial area at Tongjang-ni on 26 September, the location and the design of the explanation compound furnished by the United Nations Command side in that area are entirely unsuitable.

In view of the fact that the explanation work will start soon, I now designate Colonel Wang Chien and Major Kim Sun Ho to meet your designated personnel at 1000 hours on 28 September and present our requirements regarding the location and the design of the explanation compound in order to settle this matter speedily.

(Signed) LEE Sang Cho
Lieutenant-General

3. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

27 September 1953

At the invitation of Brigadier Kaul, representatives from my Command visited the explaining facilities in the communist-constructed prisoner-of-war camp. During the course of the visit, Mr. Bahadur Singh requested that my representatives comment on their observations. I have received their report.

The explaining facilities existing in the Northern Camp are considered entirely unsatisfactory as to design, location and layout.

The United Nations Command expects that the Neutral Nations Repatriation Commission will provide explaining facilities affording the same conveniences in the Northern Camp as those facilities designed by your representative, Lieutenant-Colonel G. K. Karandikar, and constructed by the United Nations Command in the Southern Camp.

(Signed) A. L. HAMBLÉN
Brigadier-General, USA
Commanding

4. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

28 September 1953

I have received your letter No 122/NNRC dated 27 September 1953 containing a requirement for additional construction in the explaining area at the Southern Camp.

General Osborne's representative will report to your office today to finalize your requirements for additional construction. Your construction request has been approved and the additional facilities will be provided as expeditiously as possible.

(Signed) A. L. HAMBLÉN
Brigadier-General, USA
Commanding

5. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP.

28 September 1953

Thank you for your letter No. AG.383.6 RGCG dated 28 September 1953.

As you know, the Neutral Nations Repatriation Commission had decided that opportunity should be given to the United Nations Command and the Command of the Korean People's Army and Chinese People's Volunteers to inspect the existing facilities for the conduct of explanation work. Accordingly, representatives of the two sides were escorted to the explanation sites on 26 September in the morning. On the basis of the reports apparently submitted to you by your representatives, you wrote to me on 27 September a letter No. AG.383.6 RGCG in which you informed me that the "explaining facilities existing in the Northern Camp are considered entirely unsatisfactory as to design, location and layout". Subsequently, your representatives explained your requirements to my Chief of Staff, Brigadier B. M. Kaul. Your requirements and specifications have been today conveyed to the Command of KPA and CPV, with a request that, by 30 September, they should construct the explaining facilities in accordance with your specifications. I have been assured that this would be done within the stated time.

I have also received representations from the KPA and CPV side, in which they express dissatisfaction with the facilities built in the Southern Camp. Their requirements were conveyed to my Chief of Staff by the representatives of the KPA and CPV side. Accordingly, a plan was submitted to the NNRC at its meeting on 28 September and it was decided that explaining facilities in the Southern Camp should conform to the specifications set out in the plan.

The exact location and further details will be furnished to you tomorrow morning. In the meantime, I have directed my Chief of Staff to explain to General Osborne's representative the main elements of the plan.

I hope that it will be possible for you, despite the shortness of notice given to you, to carry out the construction within the shortest possible time.

(Signed) K. S. THIMAYYA
Chairman

6. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

28 September 1953

I had arranged for some of your officers to examine the design and construction of the facilities for explanation. A similar arrangement was made for the representatives of the United Nations Command to do the same in regard to the facilities provided by you. As a result of this inspection, I have received reports both from you and from the United Nations Command expressing dissatisfaction with the existing facilities. I am enclosing for your information copy of a letter received from General Hamblen of the United Nations Command Repatriation Group. I shall be grateful if you will kindly arrange that the explaining facilities existing in the camp constructed by you are so modified as to meet the requirements of the United Nations Command. This would mean:

(a) That explaining facilities must be sufficiently removed, both as to distance and observation, from the billeting area so that explanations cannot be influenced by the proximity of other prisoners (a minimum of 500 yards);

(b) That explaining facilities must be so constructed as to allow for either individual or group explanations and of such size as to permit the accommodation of the press. (Structure to accommodate at least ten prisoners of war with other necessary personnel and of the size and arrangement of those in the Southern Camp);

(c) That provision shall have to be made for holding the prisoners of war who have been explained to separate from those who have not been explained to.

I am enclosing a sketch of the plan, which gives some of the details set out above.

I am sure you will be able to do this by 30 September, so that we could commence the work of explanation on 1 October. As you know, we are also arranging for modification of the facilities in the CFI area in accordance with your requirements. In the meantime, I shall be glad to know if you would be agreeable to start the explanatory work in the existing facilities in case the new constructions, which are very elaborate and entirely new, take a longer time and are not completed by 1 October.

(Signed) K. S. THIMAYYA
Chairman

7. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

29 September 1953

I am writing to you in continuation of my letter No. 122/NNRC dated 28 September 1953. The Commission, at its meeting on 29 September, resolved that your Command and the Command of KPA and CPV should construct explanation facilities in general conformity with the design and specifications submitted by the two sides at the locations indicated by the Commission.

I would, therefore, request you to construct sixteen additional enclosures at the site I had indicated to General Osborne in the course of conversation today. These enclosures should be in general conformity with the design and specifications sent to you along with letter under reference. I would also request you to carry out

modification of the existing sixteen enclosures so that they may conform to the same pattern as the new enclosures. I shall be glad to be informed of the date by which you can complete these tasks.

I have requested the Command of KPA and CPV similarly to construct explanation enclosures in general conformity with your design and specifications and at the site chosen by the NNRC.

(Signed) K. S. THIMAYYA
Chairman

8. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

29 September 1953

I am writing to you in continuation of my letter No. 122/NNRC dated 28 September 1953. This morning the members of the Commission inspected the site for explanation enclosures, in the CFI area, suggested by your representatives. The Commission then considered the question of choice of site and of design and layout of the enclosures submitted by your representatives.

The Commission today adopted a resolution setting out the general principles governing the construction of explanation enclosures by both sides.

It is sincerely regretted that, while the Commission could not accept the site suggested by you, it agreed that the design and specifications of the enclosures should be in general conformity with those submitted by you. I have accordingly requested the United Nations Command to undertake the construction of sixteen additional enclosures in accordance with the resolution of the Commission and also to carry out the necessary modifications of the already existing sixteen enclosures.

I would request you to construct the explanation enclosures in the Northern Camp in general conformity with the design and specifications submitted by the United Nations and convey to you in my letter to which I have referred in paragraph one above on the site agreed upon between your representatives and the representative of the NNRC, Mr. I. J. Bahadur Singh.

While these new constructions are being undertaken, it is the Commission's hope that you would agree to commence explanatory work in the existing facilities as from 1 October 1953.

(Signed) K. S. THIMAYYA
Chairman

9. LETTER FROM THE COMMANDING GENERAL, MUNSAN-NI PROVISIONAL COMMAND, UNITED NATIONS COMMAND, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

29 September 1953

Based upon your letter to General Hamblen of 27 September 1953, approval was secured from the Commander-in-Chief, United Nations Command, for the construction of sixteen additional compounds for explanations and interviews in the CFI area. It was the understanding at that time, based upon your letter, that the additional enclosure would be identical to and located near that already constructed.

Every available engineer has been utilized on this project since approved. However, all plans and requests for materials were based upon utilizing the layout designed and approved by the CFI.

If changes are made in the existing CFI layout, for which materials have been ordered, it would be totally impracticable to complete this task before the date on which explanations are to be initiated. Furthermore, any change requiring materials or labor in excess of that planned will require a detailed analysis of the new plans and thereafter approval must be secured from the Commander-in-Chief, United Nations Command.

It is my strong recommendation that the additional enclosure now being built near the existing enclosure be completed according to the CFI plan. Thereafter, if this arrangement is found to be unsatisfactory for the explanations, the minimum required number of alterations be performed by the CFI, since our construction troops should be removed from the area once explanations begin.

(Signed) Ralph M. OSBORNE
Brigadier-General, USA
Commanding

10. LETTER FROM THE COMMANDING GENERAL,
UNITED NATIONS COMMAND REPATRIATION
GROUP, TO THE CHAIRMAN OF THE NEUTRAL
NATIONS REPATRIATION COMMISSION

30 September 1953

I have your letter No. 122/NNRC, HQ NNRC, dated 28 September 1953.

As you are aware, the explaining area in the prisoner camp in the south portion of the Demilitarized Zone was constructed according to the views of the CFI. Although the United Nations Command did not concur in all the elements of the construction, the facility did provide two fundamental requirements. It lent itself to individual or multiple explaining and it was sufficiently removed from sight and hearing to permit privacy and prevent interference from outside sources.

The United Nations Command was not permitted to view the prisoner camp in the north portion of the Demilitarized Zone until 26 September 1953. In view of the guidance given by the CFI in the Southern Camp, it was presumed that a similar facility would be available in the Northern Camp. My representatives were surprised to find: no flexibility as to the number which could be interviewed at one time; and that the explaining area was an integral part of the compound, thus being insufficiently removed from sight and hearing to prevent outside interference and permit privacy.

On learning that the NNRC were dissatisfied with the United Nations Command constructed facilities, although these facilities were in accord with CFI instructions, the Command, on 27 September, started additional construction under the direction of the CFI. Information was received late on 28 September that this new construction was not in accord with NNRC desires and a sketch showing a vast new construction project was received by the Command. As of 1700 hours, 29 September 1953, no decision as to the exact requirements of the NNRC on the explaining area in the Southern Camp have been received.

You may be assured that the United Nations Command is willing and able to comply with the provisions of the Terms of Reference and with the requests of the NNRC made under the provisions thereof, when these requests are timely and capable of being complied with.

(Signed) A. L. HAMBLEN
Brigadier-General, USA
Commanding

11. LETTER FROM THE CHAIRMAN OF THE NEUTRAL
NATIONS REPATRIATION COMMISSION TO THE COM-
MANDING GENERAL, UNITED NATIONS COMMAND
REPATRIATION GROUP

2 October 1953

I have received your letter No. AG.600.1 RGCG dated 30 September 1953 and also a letter from Brigadier-General Osborne dated 29 September 1953.

I am now writing to you in accordance with the decision of the NNRC that I should inform you of the present position in regard to the construction of explaining facilities in the Southern Camp.

You will recall that, on 28 September, I had written to you in my letter No. 122/NNRC, that the Commission at its meeting on that day had decided that explaining facilities in the Southern Camp should conform to the specifications set out in the plan which was forwarded to you along with that letter. I had also stated that the exact locations and further details would be furnished to you next morning, i.e., 29 September. As you are aware, I inspected the site suggested by the KPA and CPV, accompanied by Brigadier-General Osborne and Colonel Beggs. I was informed that the area was full of mines, and that since it was marshy and full of grass, it would take a very long time before the constructions could be completed. The Commission, accordingly, decided that while the site suggested by the KPA and CPV was not suitable, the actual design submitted by them for the construction of explaining facilities should generally be accepted. That decision was conveyed to you in my letter No. 122/NNRC dated 29 September 1953.

When the KPA and CPV were informed of the reasons for the rejection by the Commission of the site proposed by them, they suggested an alternative site in the same area where the earlier site, suggested by them, was situated, and they further stated that, in a meeting of the Military Armistice Commission on 16 September, General Bryan had made a statement to the effect that the Demilitarized Zone under the control of the United Nations Command was free from mines and other hazards. As regards the other objection, namely, that the site was a low-lying land, full of marsh and grass, they suggested an alternative site which the Commission inspected and found to be suitable. The Commission therefore, felt that they should accord to the KPA and CPV side facilities in regard to explanation in accordance, reasonably, with their wishes, on a reciprocal basis. And since they had agreed to accord to the United Nations Command facilities requested by you, the Commission felt that every endeavour should be made to accede to the request of the KPA and CPV side.

I shall, therefore, be grateful to be informed, by 3 October 1953, how soon you can construct the following facilities at the site shown by my Chief of Staff, Brigadier B. M. Kaul, to your representative, Colonel Beggs, on 1 October, at 9 a.m.:

1. Construction of two sets of facilities in accordance with the specifications and design shown in the enclosed sketch map (the sketch map shows only one set).

2. While the constructions required above in (1) are going on, the following temporary facilities to be constructed:

- (a) Twenty tents for explanations;
- (b) One holding enclosure for 250 prisoners of war;
- (c) One enclosure for those prisoners of war who desire repatriation after explanation;

(d) One enclosure for those prisoners of war who do not desire repatriation;

I am aware of the fact that you had constructed the explaining facilities in the Southern Camp in accordance with certain views expressed by the CFI. This took place before the NNRC had occasion to address itself to the whole question, and much before the Commission had invited your Command and the Command of KPA and CPV to submit your suggestions in regard to these facilities. The Commission might have gone into this question a bit earlier but, again, between the day when the Commission started functioning, i.e., 9 September, and the day it took up the question connected with explanations, it was deeply engrossed with the problems connected with taking into custody the twenty-three thousand and odd prisoners of war. Very little time was available to the Commission to do anything else.

I realize that you have been put to considerable amount of expense and inconvenience, but I am sure that you will appreciate the difficulties of the Commission, which has no other recourse than to rely upon the assistance of the two Commands. I feel confident that, despite the difficulties which you have pointed out, you will be able to carry out the construction work. For this purpose, the CFI is prepared to assist you by providing additional manpower.

(Signed) K. S. THIMAYYA
Chairman

12. LETTER FROM THE COMMANDING GENERAL,
UNITED NATIONS COMMAND REPATRIATION
GROUP, TO THE CHAIRMAN OF THE NEUTRAL NA-
TIONS REPATRIATION COMMISSION

3 October 1953

Your letter No. 122/NNRC, HQ NNRC, dated 2 October 1953, reached me late in the evening of that date.

Because of our desire to meet your request that a reply be submitted by 3 October 1953, there has been insufficient time to make a reconnaissance and to evaluate fully all the factors which affect the speed with which the suggested construction can be completed.

It is noted that you now propose that three new explaining areas be prepared, one of which would be abandoned when the other two are completed. It is further noted that, under your proposal, the explaining area already completed would likewise be abandoned.

Without any commitment as to the willingness of the United Nations Command to undertake the proposed construction, it is estimated that a temporary accommodation can be completed within seven days from the date on which the construction is approved; that the first regular area can be completed within twenty days from the same date; and that a second area could be completed within thirty days of the same date. These estimates are based upon the assumption that the distances and locations of the various elements of the accommodation as set forth in your sketch need not be strictly adhered to but can be adjusted to fit the size and contours of the areas available, and that the area selected is within the present perimeter of the Custodial Force, India, camp.

Should the Neutral Nations Repatriation Commission, after receipt of the above information, decide that it may repudiate the decision of the Custodial Force, India, with reference to the construction already completed in the Southern Camp, and desire additional construction for explaining purposes, it is requested that the area in which the construction is desired be

outlined clearly in a contour map and that the latitude allowed in location of the various units of the accommodation be clearly set forth.

(Signed) A. L. HAMBLEN
Brigadier-General, USA
Commanding

13. LETTER FROM THE CHAIRMAN OF THE NEUTRAL
NATIONS REPATRIATION COMMISSION TO THE RE-
PRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND
CHINESE PEOPLE'S VOLUNTEERS

4 October 1953

I have the honour to acknowledge the receipt of your communication dated 2 October 1953.

In accordance with the decision of the NNRC, I had addressed, on 2 October 1953, a letter to the United Nations Command requesting it to inform me by 3 October how soon it could complete the construction of the following facilities for the conduct of explanation work:

(1) Construction of two sets of facilities in accordance with the specifications and design submitted to the Commission by your Command;

(2) Construction of temporary facilities for explanation consisting of twenty tents for explanation and holding enclosure for prisoners of war.

In reply to my letter, the United Nations Command has now written to me to say that, without any commitment as to the willingness of the Command to undertake the proposed construction, it was hoped that the temporary accommodation could be completed within seven days from the date on which the construction is approved by the Command; that the first regular area can be completed within twenty days from the same date and that the second area could be completed within thirty days from the same date. They have further stated that this was based on the assumption that the new location suggested by your Command was within the present perimeter of the Custodial Force, India.

As regards the question of postponement of the commencement of explanations and the consequent extension of the time, I had addressed a communication to the United Nations Command requesting it to reconsider its inability to an extension of period of time for explanation. I have now received a fresh communication from the United Nations Command in which it has finally expressed its inability to agree to any extension.

I shall be grateful to have your comments on the above by this evening.

(Signed) K. S. THIMAYYA
Chairman

14. LETTER FROM THE REPRESENTATIVE OF THE KOR-
EAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S
VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL
NATIONS REPATRIATION COMMISSION

4 October 1953

I have the honour to acknowledge the receipt of your letter of 4 October, concerning the construction of explanation facilities as well as the postponement and consequent extension of the explanation period.

I would like to inform the Neutral Nations Repatriation Commission that the Korean and Chinese side has completed the construction at Songgong-ni in accordance with the requirements of the United Nations Command regarding the location and design of the explanation site.

The United Nations Command side not only has failed to undertake construction at Tongjang-ni in accordance with the requirements of our side regarding the location and design of the explanation site, but has openly expressed its refusal to undertake obligation so as to delay such construction indefinitely. Obviously the United Nations Command side is wilfully obstructing the operation of the explanation work and disrupting the implementation of the Terms of Reference for the NNRC. We consider that the United Nations Command has the full responsibility for completing the construction work in accordance with the requirements of our side within a reasonable time limit, just as our side has done in accordance with the requirements of the United Nations Command side. But, in view of the fact that the United Nations Command flagrantly disregards the provisions of the Terms of Reference for the NNRC of the Armistice Agreement and is determined to obstruct the work of the NNRC, we request that the NNRC take immediate measures and take upon itself the responsibility to speedily solve this question of constructing the explanation facilities. In this construction work, the Korean and Chinese side is willing to provide the NNRC with all necessary assistance in accordance with paragraph 18 of the Terms of Reference.

The explanation period, postponed as a result of the repeated obstruction by the United Nations Command, should be extended in the manner as proposed in the letter of 24 September from the NNRC. The NNRC has the responsibility for ensuring the right of the representatives of the nations to which the prisoners of war belong to conduct explanations to the prisoners of war for a period of ninety days, and the right of the prisoners of war to listen to explanations for a period of ninety days. The United Nations Command side delays the construction of the explanation facilities on the one hand, and objects to the extension of the explanation period on the other. This can only prove that it is bent on obstructing the work of the NNRC. This, however, cannot change the duties enjoined on the NNRC by the Terms of Reference.

(Signed) LEE Sang Cho
Lieutenant-General

15. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

5 October 1953

Thank you for your letter No. AG.600.1/RGCG dated 3 October 1953, and for the courtesy of replying expeditiously to my letter dated 2 October.

The Commission, at its meeting this morning, discussed your letter under reference and directed me to acquaint you with the decisions reached in respect of explanation facilities in the Southern Camp. The Commission decided that the United Nations Command should be requested to undertake, as a matter of extreme urgency, the construction of explanation facilities in accordance with the details given to you in my letter dated 2 October, and in conformity with the design and specifications accompanying that letter. As to the site for these constructions, you will recall that it was indicated to Colonel Beggs of the United Nations Command by my Chief of Staff, Brigadier B. M. Kaul, on 1 October at 9 a.m.

The Commission confidently hopes that you will be able to complete the constructions in much less time than

you have forecast in your letter. I once again repeat my offer conveyed to you in my letter of 2 October that I am prepared to place at your disposal additional manpower in order to assist you to carry out the constructions within the shortest possible time. As the United Nations Command has so far not been able to accede to the request made for an extension of the date of termination of explanations, it is all the more imperative that the work be taken in hand and completed in the shortest possible time.

I may also mention here that the Command of KPA and CPV have made a definite offer that they are prepared to complete the permanent structures within four days and can erect the temporary ones within two days.

As I have stated earlier, the site where the new constructions are to be made was shown by Brigadier B. M. Kaul to Colonel Beggs on 1 October. The site, along with necessary temporary and permanent constructions including also the access roads, are shown on a trace fitted to a map of the area in question enclosed herewith. However, I am prepared to depute one of my officers to describe in detail the plan on the ground to any of your competent representatives.

I shall be grateful if you will kindly treat this letter as a firm demand of the NNRC for construction of new explanation facilities at the site indicated. I once again express my sincere hope that the United Nations Command, with resources which are at its disposal, will be able to carry out and complete the necessary construction work in the shortest possible time. I will be glad to know the dates by which you will be in a position to make available the temporary and permanent structures as indicated above, and will appreciate if you can let me have this information by 2200 hours on 6 October 1953.

(Signed) K. S. THIMAYYA
Chairman

16. LETTER FROM THE COUNSELLOR, NEUTRAL NATIONS REPATRIATION COMMISSION SECRETARIAT, TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

6 October 1953

I am directed to inform you that the construction of explanation facilities in the Northern Camp have been completed. These were inspected by your representative on 3 October and it is assumed they are acceptable to you.

(Signed) P. N. HAKSAR
Counsellor

17. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

7 October 1953

I have your letter No. 124/NNRC, HQ NNRC, 5 October 1953, with reference to additional construction for explaining areas. As you are aware, preliminary work on the areas was started this morning, as the result of a reconnaissance made by a representative of the United Nations Command on 6 October 1953.

It is my understanding that, as a result of this reconnaissance, at which a representative of the Neutral Nations Repatriation Commission was present, it was agreed that a temporary area would be constructed on the site of a permanent area and would be developed into the permanent area. The other permanent area will be constructed simultaneously.

In your telephone conversation this morning, you indicated the desirability of speeding the work of the temporary area by making it less elaborate. This has been investigated. It has been found that, while the temporary area can probably be constructed in four days with favourable weather, two or three days are required to clear the area of mines and explosives. If this clearing can be done with greater speed, the completion date will be advanced accordingly.

The completion dates for the first permanent area and the second permanent area remain as indicated in my letter of 3 October.

The United Nations Command is unwilling to agree to any construction outside the existing perimeter of the Custodial Force, India, camp. Accordingly it cannot agree to the construction of an entrance roadway to the west of the CFI area and paralleling the Military Demarcation Line as shown in your sketch. Another road giving access to the area as shown on the attached sketch can be constructed. In this connexion, it is my understanding that General Bryan, of the United Nations Command Military Armistice Commission, has already informed you that the United Nations Command cannot agree to an access road across the Military Demarcation Line to the south of Tongjang-ni.

The reconnaissance showed that it was impracticable to meet the exact measurements of the explaining areas as set forth in one of your sketches, because of the topography of the areas. It is not believed that the minor changes involved would adversely affect the plan. So that there be no possibility of misunderstandings or any requirement for alterations of the construction after completion, it is essential that a representative of the NNRC be constantly present during the construction, who is authorized to approve such minor changes as practical considerations demand.

Your offer of additional manpower is appreciated and accepted. In order that the most effective use may be made of this additional labour, it is requested that the CFI appoint a liaison officer to work with the senior engineer officer on the ground.

(Signed) A. L. HAMBLÉN
Brigadier-General, USA
Commanding

18. MEMORANDUM FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

8 October 1953

Construction of explanation facilities

Your letter dated 7 October 1953 has been received. It was circulated to the Commission last night and was discussed by it in its meeting this morning. The Commission reached the following conclusions and decisions:

1. The Commission considers that the forecast of time for construction of explanation facilities, given in your letter dated 3 October 1953 and reaffirmed in your letter of yesterday, is too long. This conclusion is based on:

(a) Reconnaissance of the site in question;

(b) The estimate of resources both technical and in manpower, available to the United Nations Command;

(c) The fact that the offer of some additional manpower has been made by NNRC to you; and, finally,

(d) The repeated assurances given by the Command of KPA and CPV that they would be prepared to

undertake and complete the entire permanent constructions within four days.

2. Your forecast of time would, in effect, mean postponement of the commencement of full explanatory work. It would, in effect, mean curtailment of the explanatory period by about forty-one days. The Commission is not prepared to be a party to the curtailment of the period for explanation, particularly in view of the fact that the United Nations Command is unable to agree to an extension of the date of termination of explanations.

3. In the light of the foregoing considerations, and having regard to the responsibilities of the Commission to ensure freedom and facilities to the explaining representatives, the Commission now requests you either:

(a) To construct the permanent facilities in four days; or

(b) Permit the Command of KPA and CPV to act in accordance with its offer.

4. The Commission also considered the objection raised by you in your letter dated 7 October to the construction of a roadway to the west of the CFI area and paralleling the Military Demarcation Line. You have also invited my attention to General Bryan's letter in which he had set out his objections to the opening of an access road across the Military Demarcation Line to the south of Tongjang-ni.

5. The Commission is well aware of the argument that the United Nations Command has a right to designate an area within which it was to hand over the prisoners of war. But the Commission has not been able to discover any provision in the Terms of Reference prohibiting the United Nations Command from adjusting that area. The Commission, therefore, confidently hopes that the United Nations Command would be prepared to make the necessary adjustments in the interest of enabling the Commission to carry out its most important responsibility regarding the work of explanations.

6. The reason why the Commission would insist upon the construction of the entrance roadway to the west of the CFI area is that, without such a road, the CFI cannot effectively discharge its functions. The CFI is called upon to ensure the security of explainers, interpreters, pressmen and members of the NNRC in and around the explaining area. It has also to ensure that the prisoners of war do not create any disturbance. The CFI will not be in a position to do all this in view of the fact that the road you have offered runs closely to the prisoner of war camps. I am sure that the United Nations Command would not like to add to the difficulties of the CFI and would accede to the request of the Commission to have the other road to the west of the CFI made available to it.

7. As regards the road south of Tongjang-ni about which General Bryan had written, the Commission is addressing to him a separate communication. You may, however, like to know that, in the Commission's view, such a road is equally essential for discharging the responsibilities of the CFI.

8. I shall be grateful if you will kindly let me know whether the United Nations Command is ready and willing to carry out the necessary constructions by 0900 hours on 14 October, or, alternatively, permit the Command of KPA and CPV to carry out the work in accordance with its offer.

9. As the construction of explanation facilities has already been delayed beyond any reasonable limits for a

variety of reasons, the Commission would appreciate a reply to this letter by 1000 hours on 9 October 1953.

(Signed) K. S. THIMAYYA
Chairman

19. LETTER FROM THE COMMANDING GENERAL,
UNITED NATIONS COMMAND REPATRIATION
GROUP, TO THE CHAIRMAN OF THE NEUTRAL NA-
TIONS REPATRIATION COMMISSION

9 October 1953

Reference is made to your letter file No. 124/NNRC, 8 October 1953. The construction of the new temporary explaining area will be completed on 11 October 1953. The engineer in charge of construction has been able to reduce his initial time estimated from seven to five days by putting the construction work on a twenty-four-hour basis and by accepting your kind offer of assistance from the troops of the Custodial Force, India. The second explaining area will be completed as expeditiously as possible. Your offer of assistance from the communists has been considered. The proposal cannot be accepted. In connexion with paragraph 2 of your letter, I desire again to point out that an explaining area constructed in conformity with the desires of the CFI, an agency of the NNRC, has been completed and available for use since 25 September 1953.

Decision on road construction in the area is contingent upon negotiations in the Military Armistice Commission. This subject will be the topic of a separate subsequent letter.

(Signed) A. L. HAMBLÉN
Brigadier-General, USA
Commanding

20. LETTER FROM THE CHAIRMAN OF THE NEUTRAL
NATIONS REPATRIATION COMMISSION TO THE RE-
PRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND
CHINESE PEOPLE'S VOLUNTEERS

9 October 1953

I have the honour to inform you that the Neutral Nations Repatriation Commission had requested the United Nations Command to construct explanation facilities at the site suggested by your Command and in accordance with specifications and designs given by you.

The Commission was informed, on 3 October, that the United Nations Command would take about a week's time to put up twenty temporary tents for explanation; that the first regular permanent area would be completed within twenty days; and that the second permanent area would be completed within thirty days from the date of commencement of construction.

In view of the fact that your Command had offered to build permanent facilities within four days, the Commission requested the United Nations Command, on 8 October 1953, either to construct these facilities so that they are made available on 14 October at 0900 hours, or to permit your Command to undertake the necessary construction.

The United Nations Command in its reply received this morning, has notified that it would be able to provide the Commission with the temporary explanation area of twenty tents on 11 October 1953; that the second explanation area would be completed "as expeditiously as possible". The United Nations Command has, however, expressed its inability to accept your offer conveyed to it in my letter dated 8 October.

I may also add that, in my letter dated 8 October to the United Nations Command, I had also requested it to construct a roadway to the west of the CFI area and paralleling the Military Demarcation Line. I had also requested it to open an access road across the Military Demarcation Line to the south of Tongjang-ni.

The United Nations Command has not yet communicated to me its decision on these roads but has promised to write to me about it. I am now awaiting a reply. In the meantime, the Commission felt that I should inform you of these developments which the Commission will finally discuss tomorrow morning.

(Signed) K. S. THIMAYYA
Chairman

21. LETTER FROM THE CHAIRMAN OF THE NEUTRAL
NATIONS REPATRIATION COMMISSION TO THE RE-
PRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND
CHINESE PEOPLE'S VOLUNTEERS

10 October 1953

I am writing to you in continuation of my letter No. 124/NNRC dated 9 October 1953. The Commission, at its meeting this morning, again reviewed the matter. It decided to write to the United Nations Command reiterating its proposal that permanent facilities be constructed by 14 October, 0900 hours, or your Command be enabled to undertake the construction with a view to their completion within four days.

I thought I should also let you know that the roadway to the west of the CFI would, according to verbal information given to me, be ready for use by tomorrow night; further, the road giving access across the Military Demarcation Line to the south of Tongjang-ni would also be similarly available for use.

While the Commission is awaiting the final reply of the United Nations Command as regards the construction of permanent facilities, the Commission would suggest that you might commence explanatory work in the temporary facilities with effect from 12 October. These facilities, as you know, would consist of twenty explanatory tents.

I shall be grateful for an early reply in regard to this matter.

(Signed) K. S. THIMAYYA
Chairman

22. MEMORANDUM FROM THE CHAIRMAN OF THE NEU-
TRAL NATIONS REPATRIATION COMMISSION TO THE
COMMANDING GENERAL, UNITED NATIONS COM-
MAND REPATRIATION GROUP

10 October 1953

Construction of explanation facilities

Your letter No. AG.600.1 RGGG dated 9 October has been received. The Commission notes with satisfaction that your engineer in charge of construction has now been able to promise completion of temporary explanation facilities by 11 October 1953. The Commission must, however, reiterate its earlier proposal, contained in my memorandum of even reference dated 8 October, that if the United Nations Command is unable to complete the construction within the time indicated in paragraph 8 of that memorandum, it should let the Command of KPA and CPV undertake the construction to complete them.

Your statement that the second explaining area will be completed "as expeditiously as possible" is disappointing to the Commission. The Commission feels

that it is entitled to know the precise date when the entire facilities will be placed at its disposal.

Finally, the Commission has noted that in accordance with information given to my Chief of Staff, Brigadier B. M. Kaul, the roads indicated in paragraphs 6 and 7 of my memorandum of even reference dated 8 October 1953 would be available to the Commission by 11 October. A confirmation to this effect would be appreciated.

The Commission is now awaiting your final reply by Sunday, 11 October, 0900 hours.

(Signed) K. S. THIMAYYA
Chairman

23. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

9 October 1953

My representatives visited the explaining area in the Northern Camp on 8 October. As a result of their visit, I am at a loss to know how your Rule of Procedure 20, which requires that prisoners of war who have received explanations be segregated from those who have not, can be applied at the Northern Camp. I would appreciate knowing, therefore, what, if any, facility exists to provide for the segregation you have required. I would appreciate knowing, too, the time at which explanations can be initiated in the Northern Camp under the published Rules of Procedure.

(Signed) A. L. HAMBLÉN
Brigadier-General, USA
Commanding

24. LETTER FROM THE COUNSELLOR, NEUTRAL NATIONS REPATRIATION COMMISSION SECRETARIAT, TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

11 October 1953

1. I am directed to acknowledge receipt of your letter No. AG 600.1 RGCG dated 9 October 1953. I am to inform you that the Commission has taken steps to ensure the observance of paragraph 20 of the Rules of Procedure on an exactly similar basis in the Southern and Northern Camps respectively. Accordingly, prisoners of war who have been explained to will be "kept separated in custody" from those who have not been explained to.

2. As regards your inquiry about the commencement of the explanation facilities, you will be notified about it as soon as the necessary facilities which the Commission is required to place at the disposal of the two Commands are made available to it so that explanatory work in the two Camps could commence simultaneously.

(Signed) P. N. HAKSAR
Counsellor

25. LETTER FROM THE COMMANDING GENERAL, EIGHTH UNITED STATES ARMY, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

11 October 1953

I have just gone over with my engineer the situation with regard to the construction of explanation facilities in the Demilitarized Zone. I find the estimates for the completion of the permanent thirty-two-booth facilities considerably more favourable than our recent discussion indicated. Colonel Beggs now expects to finish the per-

manent job by 21 October, and I have told him to make every effort to reduce this figure if possible. This means working constantly twenty-four-hours a day around the clock, with the maximum force which the construction site will accommodate.

I considered the advantages of interim temporary construction to be subsequently replaced by permanent. Actually, I find that there is virtually no advantage to this procedure, so that we will henceforth make all of the construction permanent. The present twenty-booth area is now permanent except for four tents, which will be removed after the completion of the second set of sixteen permanent booths.

I have asked Colonel Beggs to deliver this letter to you personally so that you may ask him any other questions which may occur to you in connexion with this project.

(Signed) Maxwell D. TAYLOR
General, USA
Commanding

26. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

11 October 1953

I have the honour to acknowledge the receipt of your letters of 9 and 10 October 1953, concerning the explanation compound.

It is inconceivable that a period of thirty days would be required to complete the construction of the entire permanent facilities according to the design suggested by our side and at the location designated by our side. It is even more intolerable that the commencement of the explanation work on a full scale would consequently be delayed for forty-one days. Even after the firm demands of the Neutral Nations Repatriation Commission, the United Nations Command has not indicated up to now that the time required for the completion of the entire permanent explanation facilities would be shortened. Obviously, the aim of the United Nations Command is wilfully to delay the commencement of the explanation work on a full scale. It is entirely proper that the NNRC has again demanded that the United Nations Command side complete the construction of the entire permanent explanation facilities before 0900 hours, 14 October. We wholeheartedly support this decision of the NNRC. However, in view of the fact that the United Nations Command is delaying the commencement of the explanation work on a full scale under the pretext of constructing the permanent explanation facilities, if the United Nations Command still refuses to complete the construction of the entire permanent facilities before 0900 hours, 14 October, we are willing to make a concession in order to remove the pretext of the United Nations Command for procrastination and to expedite the commencement of the explanation work on a full scale. We are prepared to conduct from 14 October onwards the explanation work on a full scale as regulated by the NNRC in the expanded temporary explanation facilities. Since it has been possible for the United Nations Command to complete the construction of twenty temporary explanation tents and related supplementary facilities in four days, it can have no pretext whatsoever for not agreeing to complete the construction of all the thirty-two temporary explanation tents and related supplementary facilities before 0900 hours, 14 October. On 10 October I sent my

liaison officer to make an inspection on the spot, and it has been verified that it is unquestionably possible to complete much earlier than 14 October the construction of the supplementary temporary explanation tents in the area where the United Nations Command prepares to construct the permanent facilities. I will send my liaison officer to explain specifically to your Chief of Staff our views on the construction of the entire temporary facilities.

I thank you for your notification that the explanation work can start on 12 October. We have consistently held that the explanation work should start as soon as possible. However, after the explanation work has been delayed for so long because of the obstructions of the United Nations Command side, we can not agree that, at the very beginning of the explanation work, our right to conduct the explanation work be further curtailed by more than one-third, while the United Nations Command can conduct the explanation work in the entire explanation facilities required by it.

We are prepared to start the explanation work on a full scale on 14 October. The period for the explanation work on a full scale, postponed because of repeated procrastinations by the United Nations Command, should be extended according to the decision which the NNRC has already made. I am awaiting your reply.

(Signed) LEE Sang Cho
Lieutenant-General

27. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

12 October 1953

I thought I should let you have an indication of the latest position in regard to construction of explanation facilities in the Southern Camp. As I had informed you in my letter dated 10 October 1953, the Commission had requested the United Nations Command to make the permanent facilities available by 14 October. I am now informed by that Command that explanation facilities on a permanent basis, with sixteen tents, are already available and that the remaining permanent facilities would be completed by the 21st of this month. The United Nations Command has, however, been requested to reduce the period of the second lot of facilities so that the entire facilities may become available by 14 October as originally requested by the Commission.

I would, however, once again request you whether you would not be willing to commence explanatory work within the existing facilities.

(Signed) K. S. THIMAYYA
Chairman

28. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

12 October 1953

I am enclosing a copy of a letter received from General Maxwell D. Taylor. Having regard to the fact that a twenty-booth area has already been completed on permanent basis within a period of five days, the Commission feels that it is not unreasonable to expect that you may be able to complete the entire permanent structures by 14 October. The Commission will, therefore, be grateful if you will kindly let me know whether

the Commission's demand in this respect will be met by the date indicated.

(Signed) K. S. THIMAYYA
Chairman

29. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

13 October 1953

I am in receipt of your No. 124/1/NNRC, 12 October 1953.

As the Commission is well aware, the maximum feasible effort is being made to complete the final explaining area in the minimum of time. The Commission is also aware that the Commanding General, Eighth Army, who is responsible for the actual construction, has given and is giving this matter his personal attention.

I am unable at this moment to give the exact date and hour at which construction of the second and final area will be completed. Barring some unforeseen contingency, I shall undertake to furnish this information by 1000 hours tomorrow, 14 October 1953.

(Signed) A. L. HAMBLIN
Brigadier-General, USA
Commanding

30. LETTER FROM THE COUNSELLOR, NEUTRAL NATIONS REPATRIATION COMMISSION SECRETARIAT TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

13 October 1953

I am directed to invite your attention to paragraph 2 of my letter of even reference dated 11 October 1953. I am to say that, at the time when the letter was written, the Commission was hoping that the entire facilities for conduct of explanatory work might be ready on 14 October in the Southern and Northern Camps respectively. It was, therefore, felt that the explanation work might commence simultaneously in the two camps on that date. Since it now appears that the entire facilities in the Southern Camp may not be completed until 21 October, the Commission feels that the United Nations Command might consider commencing explanatory work with effect from 15 October in the Northern Camp as the facilities for this purpose there are completed.

The Commission would be grateful to be informed of your decision in this matter.

(Signed) P. N. HAKSAR
Counsellor

31. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

13 October 1953

I have the honour to acknowledge the receipt of your letter of 12 October 1953.

In order to expedite the commencement of the explanation work, I have already informed the Neutral Nations Repatriation Commission that, once the twenty temporary explanation tents which have been completed by the United Nations Command side are expanded into thirty-two, we are prepared to start the explanation work on a full scale on 14 October. The United Nations Command has no justification whatsoever

ever to reject this proposal. To take four tents away from the twenty temporary explanation tents and give the rest a high sounding name as sixteen permanent tents is to make a mockery of common sense. Simply because it is no longer possible to continue to delay the construction of explanation facilities under the name of temporary explanation facilities, the United Nations Command side is unscrupulously playing this absurd trick. It is entirely proper that the NNRC has asked the United Nations Command side for the third time to complete all the explanation facilities before 14 October.

We are still prepared to start the explanation work on a full scale on 14 October. Once we are informed by the NNRC that facilities for the explanation work on a full scale are completed, we will submit to the NNRC our specific plan of the explanation work for the first day.

I appreciate your inquiring again as to whether we would be willing to commence work within the sixteen so-called permanent explanation tents which have been completed. In my letter of 11 October to you, I already stated that the Korean People's Army and Chinese People's Volunteers side can not agree to be deprived of more than one-third of its right to conduct the explanations at the very beginning of the explanation work. It is even harder to expect the KPA and CPV side to agree to have its right cut by half at the very beginning of the explanation work. The NNRC could not be unaware of the fact that the explanation work, like all other questions of the Korean armistice, cannot be proceeded with on a basis of inequality between the two sides.

The responsibility of delaying the explanation work lies entirely on the United Nations Command side. We object to such delays. But no matter how long the United Nations Command side delays the explanation work, the period for the explanation work must be extended in accordance with the provisions of the Terms of Reference. The NNRC has the obligation to ensure that the representatives of the nations to which the prisoners of war belong shall have a period of ninety days to conduct the explanations, and it has already made an unequivocal and unmistakable decision on this matter. This just decision of the NNRC should not be changed because of the wilful and continuous procrastination of the United Nations Command side.

(Signed) LEE Sang Cho
Lieutenant-General

32. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

13 October 1953

Reference is made to my letter, AG 600.1 RGGO, 13 October 1953.

The engineer in charge of construction of the explaining area in the Southern Camp advises me that the permanent construction will be complete at midnight tonight. Enough chairs and tables are available at the Custodial Force, India, warehouse to furnish each of the explaining points. I am informed that the CFI has made arrangements to receive the tables and chairs.

Your representatives have requested that a strip of construction road be converted to accommodate light

vehicles. This additional roadwork will be completed on 14 October.

(Signed) A. L. HAMBLÉN
Brigadier-General, USA
Commanding

33. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

28 September 1953

I am writing to you about the clearing up of mines which may be embedded in the short stretch of road between the CFI area and the demarcation line near Tongjang-ni. My Chief of Staff, Brigadier B. M. Kaul, had conversations with some of your officers on this subject, and I myself mentioned the matter to General Osborne and Colonel Beggs when they came to see me on 26 September 1953. The opening up of this road would facilitate the task of the CFI and the NNRC in regard to the entry into the CFI area of the explaining representatives, observers, etc., of the KPA and CPV side during the period provided for explanations.

I feel confident that you would be able to accede to this request and make the necessary arrangements for clearing up this small stretch of road.

(Signed) K. S. THIMAYYA
Chairman

34. LETTER FROM THE SENIOR MEMBER, UNITED NATIONS COMMAND, MILITARY ARMISTICE COMMISSION, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

3 October 1953

I am writing to you in reply to your letter of 28 September to General Hamblen on the subject of clearing mines imbedded in the road between the CFI area and the Demarcation Line near Tongjang-ni. General Hamblen referred this letter to me since he considered it in my jurisdiction rather than his.

I have discussed the question of opening this road with the appropriate authorities. In reaching a decision, we took cognizance of the fact that this was a road almost entirely for the use of enemy personnel. Furthermore, there is another road just completed which gives ready access to the CFI camp. The distance by this latter road from Kaesong via Panmunjom to the "explainers" compounds is almost exactly the same as the distance via the proposed road.

In view of the above, we do not feel able to accede to your request.

(Signed) B. M. BRYAN
Major-General, USA

35. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE SENIOR MEMBER, UNITED NATIONS COMMAND, MILITARY ARMISTICE COMMISSION

9 October 1953

Thank you for your letter dated 3 October 1953.

When I wrote to you on 28 September requesting you to open the access road between the CFI area and the Demarcation Line near Tongjang-ni, the only consideration I had in mind was the easing of the task of the CFI, whose responsibility it is to provide escorts and ensure security of the explaining representatives, observers, pressmen, etc., of the KPA and CPV side, during the explanations. Since then, the argument in

favour of the opening of such a road has, if anything, been further strengthened by reason of the fact that the site for explanations is now located very near it. The new road to which you have referred makes a wide detour before it reaches the new explanatory compounds. Consequently, the burden on the CFI is proportionately increased. I shall, therefore, be grateful if you would reconsider your decision in the light of what I have stated above and agree to the opening of the access road between the CFI area and the Demarcation Line near Tongjang-ni.

(Signed) K. S. THIMAYYA
Chairman

36. LETTER FROM THE SENIOR MEMBER, UNITED NATIONS COMMAND, MILITARY ARMISTICE COMMISSION, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

10 October 1953

I am writing in reply to your letter of 9 October on the subject of opening the access road between the CFI area and the Military Demarcation Line near Tongjang-ni.

Since you have stated that the only consideration in asking to have this road opened was to ease the task of the CFI, the United Nations Command will take necessary action to open this access road.

Of course, in discharge of our own security responsibilities, we shall maintain check points on the new access road near the Military Demarcation Line and near the entrance to the CFI area.

(Signed) B. M. BRYAN
Major-General, USA

37. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

10 October 1953

Reference is made to your letter file No. 124/NNRC, 8 October 1953, concerning additional road construction in the south prisoner-of-war camp. I understand that the Senior Member, United Nations Command, Military Armistice Commission, has advised you that the road crossing the Military Demarcation Line will be opened. I understand, too, that construction work on this project has begun.

I wish to advise you that an access road connecting the above crossroad with the explaining area in the Southern Camp also has been approved. After consultation with a NNRC representative on the ground, it was agreed that two access roads might have to be constructed. If the unimproved one-way road on the path which now exists in the area cannot be improved satisfactorily, a two-way road which will border the western boundary of the CFI camp will be constructed. The initial one-way road will be ready for use on Monday, 12 October.

The approval for the construction of these roads does not imply any change in the location of the exchange point of prisoners of war as set forth in the final sentence of paragraph 10 of the Terms of Reference. This remains at Panmunjom.

(Signed) A. L. HAMBLEN
Brigadier-General, USA
Commanding

ANNEXURE IX

Extension of the time-limit for the explanation period

1. MEMORANDUM FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

24 September 1953

Explanations and interviews

I am desired by the NNRC to inform you that arrangements and facilities to be placed at your disposal for explanations to the prisoners of war, under paragraph 8 of the Terms of Reference, have not been finalized and would not be ready on 26 September 1953. It will not, therefore, be possible to start the explanation work on that date. The Commission is thus obliged to request the two Commands to agree to a postponement of the commencement of explanations and interviews for a period not exceeding five days.

The Commission sincerely hopes that your Command would agree to the postponement and the consequent extension, by five days, of the period prescribed under paragraph 8 of the Terms of Reference.

(Signed) K. S. THIMAYYA
Chairman

2. MEMORANDUM FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

24 September 1953

Explanations and interviews

I am desired by the NNRC to inform you that arrangements and facilities to be placed at your disposal for explanations to the prisoners of war, under paragraph 8 of the Terms of Reference, have not been finalized and would not be ready on 26 September 1953. It will not, therefore, be possible to start the explanation work on that date. The Commission is thus obliged to request the two Commands to agree to a postponement of the commencement of explanations and interviews for a period not exceeding five days.

The Commission sincerely hopes that your Command would agree to the postponement and the consequent extension, by five days, of the period prescribed under paragraph 8 of the Terms of Reference.

It is anticipated that the Commission would require construction of certain facilities for the explanation work, in addition to those already existing. In the

circumstance, I would be grateful if the necessary engineering personnel are directed not to leave the custodial area on 26 September 1953. I hope to be able to inform you of the exact position some time tomorrow.

(Signed) K. S. THIMAYYA
Chairman

3. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

25 September 1953

The receipt of your letter, No. 124/NNRC, dated 24 September 1953, is acknowledged. Your difficulties regarding arrangements and facilities to be placed at the disposal of the nations to which the prisoners of war belonged are understood and appreciated.

There is no objection to the commencement date for the explanations as proposed in your letter, or any other date required by the circumstances. However, as indicated in General Harrison's letter of 12 September 1953, the United Nations Command cannot agree to a change in the Terms of Reference as proposed in the second paragraph of your letter.

Your attention is invited to paragraph 11 of the Terms of Reference wherein it is provided: "At the expiration of ninety (90) days after the transfer of custody of the prisoners of war to the Neutral Nations Repatriation Commission, access of representatives to captured personnel as provided for in paragraph 8 above, shall terminate. . . ." In view of this provision it further appears that access of representatives will terminate ninety days after 24 September 1953.

Your attention is further invited to paragraph 22 of the Terms of Reference: "After the Armistice Agreement becomes effective, the Terms of this agreement shall be known to all prisoners of war who, while in the custody of the detaining side, have not exercised their right to be repatriated." This provision has been fully complied with by the United Nations Command, and each prisoner of war in our custody who did not exercise his right to return to the control of the communists has had the terms of the agreement made known to him. Therefore, in order to preclude any apprehension by the prisoners of war with reference to the period of time they must remain in custody, it is recommended that the prisoners be informed at this time that the access of the representatives to the prisoners of war provided for in paragraph 8 of the Terms of Reference will terminate ninety (90) days after 24 September, i.e., on 23 December 1953.

Your anticipation that the construction of certain additional facilities for the explanation work may be required is noted and your request in reference to the departure of the engineer has been forwarded to the interested agency.

(Signed) A. L. HAMBLÉN
Brigadier-General, USA
Commanding

4. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

25 September 1953

I have received your letter of 24 September. In view of the fact that the Neutral Nations Repatriation Commission is unable to get ready the arrangements and

facilities for explanations on 26 September 1953, the Korean and Chinese side agrees to the postponement and the consequent extension, by five days, of the period for explanations prescribed under paragraph 8 of the Terms of Reference, as requested by the NNRC.

(Signed) LEE Sang Cho
Lieutenant-General

5. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

28 September 1953

Thank you for your letter AG 383.6 RGCG dated 25 September 1953, which was circulated to the members of the NNRC, who considered it along with the reply received from the Representative of the Korean People's Army and Chinese People's Volunteers. The Command of KPA and CPV expressed its willingness to accede to the request made by the NNRC to postpone the commencement of explanations and to the consequent extension of the explanatory period.

The Commission, at its meeting on 27 September, decided that I should write to you again and request you if you would not reconsider your decision in the light of the following considerations:

(1) The Commission felt that it must grant access and facilities to the two sides to send their explaining representatives for the full period of ninety days.

(2) The postponement of the commencement of the explanatory work would shorten the period of ninety days.

(3) It may be possible that the explanatory work might terminate within the shortened period, but if it did not, the curtailment would be to the detriment of the side which has a larger number of prisoners requiring explanation.

(4) The only objection to any extension of the period of explanation as suggested by the Commission would be that the prisoners of war would be detained for a longer period. But this would not be the case, as the prisoners, according to the Terms of Reference, would continue to be in the custody of the Commission for one hundred and twenty days. Thus the extra days required could easily be drawn upon the thirty-day period during which the Political Conference is to consider the problem of the non-repatriates. While the Political Conference is considering this matter, the prisoners of war would still be in custody and they could be explained to, if necessary. And everything that needs to be done would have been done.

Provided there is an agreement between the two sides to the suggestion of the Commission, there would be no contravention of the Terms of Reference. The explaining representatives would not have access to the prisoners for a day more than ninety days from the actual commencement of explanation.

Under the Armistice Agreement, paragraph 61, additional agreements and amendments can be made by mutual agreement between the "Commanders of the opposing sides". I shall be grateful if you would let me know your decision in the matter as soon as possible.

(Signed) K. S. THIMAYYA
Chairman

6. LETTER FROM THE COMMANDING GENERAL,
UNITED NATIONS COMMAND REPATRIATION GROUP,
TO THE CHAIRMAN OF THE NEUTRAL NATIONS
REPATRIATION COMMISSION

3 October 1953

The United Nations Command appreciates the view-point of the Commission concerning the extension of the period for explanations, as expressed in your letter No. 122/NNRC, HQ NNRC, dated 28 September 1953. I am obliged, however, to restate the United Nations Command position along with certain self-evident considerations in this matter.

The Terms of Reference, an agreement between the opposing sides, specifically state, in part, that "At the expiration of ninety (90) days after the transfer of custody of the prisoners of war to the Neutral Nations Repatriation Commission, access of representatives to captured personnel . . . shall terminate. . . ." This provision is explicit and is not open to interpretation. The prisoners themselves are aware that 24 December marks the end of the explaining period. The United Nations Command agreed to this provision primarily for the purely humanitarian purpose of giving each individual prisoner a beginning and an end to the period when the communists could have access to them. We cannot now be a party to a breach of faith with these men and accordingly must adhere to the agreement as written. In any event, the present terms, as you so clearly point out, can be changed only by the mutual concurrence of the Commanders concerned through the Military Armistice Commission. This concurrence we cannot give.

(Signed) A. L. HAMBLER
Brigadier-General, USA
Commanding

7. LETTER FROM THE CHAIRMAN OF THE NEUTRAL
NATIONS REPATRIATION COMMISSION TO THE REP-
RESENTATIVE, KOREAN PEOPLE'S ARMY AND
CHINESE PEOPLE'S VOLUNTEERS

24 December 1953

I have the honour to acknowledge receipt of your plan for conduct of explanations on 24 December 1953. The Commission considered your request contained in the aforesaid plan at great length at its meeting on 23 December 1953.

The majority of the members of the Commission were of the view that, having regard to the relevant provisions of the Terms of Reference, they could not comply with your request.

Paragraph 11 of the Terms of Reference provides as follows:

"At the expiration of ninety (90) days after the transfer of custody of the prisoners of war . . . , access of representatives . . . shall terminate."

The above provision is mandatory. Accordingly, the Commission has no power to allow access to your explaining representatives so that they may conduct explanations in accordance with paragraph 8 of the Terms of Reference. Any extension of the period of access can only be secured by agreement between the Signatories of the Armistice Agreement. You will recall that the Commission had taken this position as long ago as 28 September 1953, when it had addressed a communication to the United Nations Command requesting it whether it would not consider agreeing to an extension of time for explanations. The United Nations Command had then indicated that it was not prepared to do so. Since then I understand that you had taken this matter up in the Military Armistice Commission.

The above view being the majority view constitutes the authoritative interpretation of the relevant provisions of the Terms of Reference in accordance with paragraph 24 thereof.

I may, however, state that the Czechoslovak and the Polish members of the Commission do not agree with that view, and argue that, under paragraph 8 of the Terms of Reference, the Commission is under an obligation to provide freedom and facilities to the explaining representatives of the two sides for a full period of ninety (90) days. Since the two sides have not had such facilities for the ninety (90) day period, it is argued, that explanations must continue in the Northern and the Southern Camps.

The above interpretation, as I have stated, is not acceptable to the majority of the Commission. In their view the ninety (90) day period for explanations begins to run from the date of taking into custody of the prisoners of war by the Neutral Nations Repatriation Commission; that date having been fixed as 24 September, the termination of the period of ninety (90) days also is consequently fixed. Nowhere in the Terms of Reference does this period depend on any contingency. In this view of the matter, I regret having to inform you that the Commission will not be able to grant to your explaining representatives access to the prisoners of war for purposes of conduct of explanations.

(Signed) K. S. THIMAYYA
Chairman

ANNEXURE X

Draft letter from the Neutral Nations Repatriation Commission to the Representative of the Korean People's Army and the Chinese People's Volunteers (put to the vote at the 34th meeting of the Commission on 19 October 1953)

DRAFT LETTER TO THE REPRESENTATIVE OF THE KOREAN
PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUN-
TEERS, PUT TO THE VOTE AT THE 34TH MEETING OF
THE COMMISSION ON 19 OCTOBER

To: Lieutenant-General Lee Sang Cho,
Representative of the Korean Peoples' Army and
the Chinese People's Volunteers

I have the honour to acknowledge the receipt of your communication dated 18 October 1953.

The Commission recognizes that, under paragraph 8 of the Terms of Reference, you have the right to "explain to all the prisoners of war". In pursuance of that right, you had, in your plan for explanation for 19 October, requested that 1,000 Korean prisoners of war be brought for explanation. Subsequently, you agreed to reduce the number to 500. The Commission, on the advice received from the Commander of the Custodial Force, felt that it would not, without using considerable amount of force and inflicting heavy

casualties, produce the Korean prisoners of war for explanation. On the grounds therefore of feasibility, the Commission could not accept your plan, which it had the right to do, and suggested that you might consider continuing explanatory work to the Chinese prisoners of war who could be brought to the explainers without use of force. However, you insisted upon the production of the Korean prisoners.

A deadlock has thus ensued and the explanatory work has come to a stop. In the meantime, I have directed the Commander to continue his efforts to produce the recalcitrant Korean prisoners to come before the explainers.

You have stated that the Korean prisoners were resisting efforts to bring them to explainers because they

are being instigated by "the special agents of Chiang and Rhee under the instigation of the original detaining side". There can be little doubt that there does exist within the camps a strong organization under definite leadership whose object it is to resist explanations but the Commission has so far found no means of finding it out.

Despite all the difficulties, I would request you once again whether you would not agree to continue explanations to the Chinese prisoners until such time as the Commission is able to produce the Korean prisoners. This will enable the Commission to continue the explanation work without interruption and give it some more time to finally induce the Korean prisoners to appear before the explainers.

ANNEXURE XI

Requests of the Command of KPA and CPV for prisoners for explanations

1. *Aide-mémoire* FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

17 October 1953

The explanation work started on 15 October. However, in the last two days, the explaining representatives of our side had actually conducted explanations to our captured personnel for only three hours and thirty minutes. On 15 October, the actual time for explanations was from 1515 hours to 1845 hours. On 16 October no explanation work was carried out at all. We understand that the Custodial Force, India, of the Neutral Nations Repatriation Commission has certain difficulties in arranging for the prisoners of war to attend the explanations because of the reign of terror of the secret agents of Chiang Kai-shek and Syngman Rhee over our captured personnel. However, we can not but invite the attention of the NNRC to the fact that the ninety-day explanation period has been agreed upon by the two belligerents after a long period of negotiations and that the NNRC has explicitly prescribed eight hours of explanation work for each day. Obviously, three-and-a-half hours of explanation work can not be considered as sixteen hours of explanation work. The explanation period should be computed according to the time in which explanation work has actually been conducted.

The fundamental spirit of the Terms of Reference for the NNRC lies in the removal of the control and influence of the detaining side so that the nations to which the prisoners of war belong can have freedom and facilities to conduct fully explanations to and interviews with the prisoners of war in the custody of the NNRC. In this regard, the NNRC has made explicit and specific provisions which are basically reasonable. However, from the very first day when the explanation work started, the United Nations Command, as the detaining side, has openly violated the Terms of Reference and the Rules of Procedure governing Explanations and Interviews, and resorted to all possible means to sabotage the explanation work in an attempt to carry through its scheme of forcibly retaining the prisoners of war.

The reactionary remnants of the Kuomintang are not at all a belligerent in the Korean conflict. However, the United Nations Command, for the purpose of achieving its aim of forcibly retaining prisoners of war, has used a large number of such elements, who have appeared in the explanation tents under the disguise of interpreters and representatives of the United Nations Command side. This cannot be tolerated. We strongly protest against this, and reserve the right to take necessary action with regard to this state of affairs. Interpreters should have been the technical personnel completely under the direction of the Neutral Nations Repatriation Commission. Even under the Rules of Procedure, the so-called representatives of the detaining side can present their views to the Chairman of the Neutral Nations Repatriation Commission or its subordinate body only at the end of each explanatory session. However, the so-called interpreters and the so-called representatives of the detaining side sent by the United Nations Command have constantly substituted for each other, incessantly interrupted the process of the explanation work, gesticulated as if they were the chairmen of the subordinate bodies, and even openly threatened the prisoners of war against applying for repatriation. If such a state of affairs is permitted to continue, the role played by the Neutral Nations Repatriation Commission in upholding justice will be destroyed completely. The Neutral Nations Repatriation Commission must put an end to such a state of affairs.

It is explicitly provided in the Terms of Reference that only the explaining side has the right to bring into the custodial area communications facilities. However, the United Nations Command has openly brought transmitters to the explanation compound. In addition, from the first day when the explanation work started, military aircraft of the United Nations Command have been constantly circling above the custodial area in an attempt to maintain thereby their influence over the prisoners of war. All this is in violation of the letter and spirit of the Terms of Reference and the Rules of Procedure. We hold that the NNRC must immediately stop such unlawful activities of flagrantly violating agreements on the part of the United Nations Command.

It is specifically provided in the Rules of Procedure that every one of the prisoners of war shall attend the explanations. This provision is completely in conformity with the Terms of Reference. However, in view of the fact that the prisoner-of-war compounds are now under the reign of terror of the secret agents of Chiang and Rhee, the Neutral Nations Repatriation Commission must take effective measures to arrange for every one of the prisoners of war to attend the explanations. We hold that the essence of such measures is to release our captured personnel from the reign of violence of the secret agents of Chiang and Rhee. However, it is regrettable that the measures taken by the CFI of the NNRC up to the present are not aimed at removing the minority control of these secret agents, but attempting to use these dominating secret agents as representatives of the prisoners of war in order to "persuade" the prisoners of war to attend the explanations. This is obviously not workable. For instance, on the morning of 15 October, the NNRC wasted a great amount of energy on negotiating with the so-called representatives of the prisoners of war, hoping to "persuade" the prisoners of war through them to attend the explanations. But as a matter of fact, according to the reliable reports from the repatriated personnel of our side, our captured personnel did not know at all that the NNRC ordered them to attend the explanations, and everything is under the minority control of the so-called "representatives" of the prisoners of war, who are secret agents of Chiang and Rhee. In order to remove the minority control with violence of the secret agents of Chiang and Rhee over the prisoners of war so as to make it possible for our captured personnel to attend the explanations and apply for repatriation, effective measures are necessary. Only if these so-called "representatives" of the prisoners of war are mistakenly considered as truly representing the prisoners of war can one be led to the mistaken conclusion that bloodshed on a large scale is unavoidable. The NNRC has not only failed to segregate the secret agents of Chiang and Rhee in order to release our captured personnel from their control, but, on the contrary, recognized these secret agents as the representatives of the prisoners of war and constantly held meetings with them. This can only facilitate the mutual contact between the secret agents of Chiang and Rhee and their control over the prisoners of war. As a result, the present situation is created. The NNRC has the responsibility for guaranteeing that every one of the prisoners of war attends the explanations, and therefore can not evade taking effective measures to fulfill this guarantee.

(Signed) LEE Sang Cho
Lieutenant-General

2. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

18 October 1953

I have the honour to inform you that the Neutral Nations Repatriation Commission, at its meeting today, considered the plan submitted by your Command for the conduct of explanatory work on Monday 19 October 1953.

The Commission regrets its inability to proceed in accordance with your plan as it feels that, having regard to the state of affairs at present prevailing in the camps of the Korean prisoners of war, it will not be possible for the Commission to produce these prisoners before the explainer for some more time until they are reduced to a calmer mood. In the circumstances, the Commission would request you to conduct explanations among the Chinese prisoners of war until such time as the Commission is in a position to produce the Korean prisoners by peaceful and persuasive means. I shall be grateful to be informed whether the suggestion made by the Commission is acceptable to you.

I might also state that while the Commission is at all times prepared to give every consideration to the plan for explanatory work submitted by your Command, it feels that the final acceptance of these plans must rest with the Commission.

(Signed) K. S. THIMAYYA
Chairman

3. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

18 October 1953

I have the honour to acknowledge the receipt of your notification dated 18 October in connexion with the explanation work 19 October.

I regret to inform your Excellency that the Korean People's Army and the Chinese People's Volunteers cannot consent to change their established plan of giving explanations to captured personnel of the Korean People's Army on the 19th. According to the provisions of paragraph 8 of the Terms of Reference for NNRC and paragraph 23 of Rules of Procedure governing Explanations and Interviews unanimously adopted by the NNRC, the nation to which the prisoners of war belong has the right to make plans for explanations, and the CFI of the NNRC has the obligation to arrange without delay for the carrying out of such plans. The explanation plan of the Korean-Chinese side is made after careful consideration; and due consideration has been given to all possible difficulties that might confront the CFI of the NNRC while working out this plan. In order that the difficulties of the CFI may be further reduced, we plan to give explanations only to the Korean captured personnel in either compound 48 or compound 34. It has been proved by facts that obstacles to the arrangements for the prisoners of war to listen to explanations were created by the special agents of Chiang and Rhee under the instigation of the original detaining side. To overcome these difficulties some practicable and effective measures should be taken. Submission to these difficulties not only would violate the Terms of Reference and the Rules of Procedure, but would encourage these special agents to sabotage the explanation work, and thus make it impossible for the CFI of the NNRC to carry out its mission.

(Signed) LEE Sang Cho
Lieutenant-General

ANNEXURE XII

Protests received from the Command of KPA and CPV on the conduct of explanations

1. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

20 October 1953

The Korean People's Army and the Chinese People's Volunteers have repeatedly pointed out to the Neutral Nations Repatriation Commission and the Custodial Force, India, that in order to implement the provisions of the Terms of Reference for the NNRC and to ensure that all prisoners of war have the opportunity to exercise their right to be repatriated following the armistice, it is necessary to remove completely the organization and control of secret agents, which have long been established by the United Nations Command among our captured personnel and closely to guard against any of the schemes of the United Nations Command side for sabotaging the explanation work and continuing with its obstructions to the repatriation of prisoners of war. When the CFI was taking over the custody of our captured personnel we already requested that the secret agents of Chiang and Rhee planted by the United Nations Command be segregated, that the original set-up of the prisoners of war established while under the control of the United Nations Command be readjusted and that those instigators who obstruct the prisoners of war from applying for repatriation and coerce them into engaging in disruptive activities be punished. Although General Thimayya stated that he could not immediately proceed with the readjustment of the set-up of the prisoners of war, because the CFI had not all arrived, yet he agreed to punish the instigators and indicated that he would readjust the set-up of the prisoners of war and segregate the secret agents after the operation of taking over the custody was completed. In order to assist the NNRC in this work, we have submitted to the NNRC a partial list of the secret agents based on solid evidences. However, in the course of receiving and taking into custody the prisoners of war and after the CFI had all arrived following the completion of the operation of taking over the custody, the NNRC and the CFI have not taken any effective measure to remove the secret agents of Chiang and Rhee or to readjust the set-up of the prisoners of war. The CFI has not even taken any action against the instigators. This is not all. The NNRC and the CFI have, on the contrary, recognized the chieftains of the secret agents of Chiang and Rhee as representatives of the prisoners of war, allowed them to openly hold meetings, widening their sphere of action and connived at their illicit activities.

Owing to this erroneous policy adopted by the NNRC and the CFI, the captured personnel of our side, though in the custody of the CFI, are still under the reign of terror of the secret agents of Chiang and Rhee and are incessantly subjected to persecution and murder by the secret agents. Therefore, although the NNRC has prescribed on the basis of the Terms of Reference, Rules of Procedure governing Explanations and Interviews which are basically reasonable, yet the secret agents under the custody of the CFI are so ferocious and rampant that the implementation of the

provision of the Terms of Reference for the NNRC and the Rules of Procedure governing Explanations and Interviews are rendered practically impossible. This has further been borne out by the actual situation since the commencement of the explanation work.

It is clearly stipulated in the Terms of Reference for the NNRC that the purpose of establishing the NNRC is to ensure that all prisoners of war have the opportunity to exercise their right to be repatriated following the armistice. But the present situation of our captured personnel in the custody of the CFI is just the opposite. Paragraph 1 of the Rules of Procedure governing Explanations and Interviews stipulates: "Any act of force or threat of force to prevent or to effect repatriation of prisoners of war is prohibited." But, in fact, under the custody of the CFI, the desire of our captured personnel to apply for repatriation is still being openly and flagrantly suppressed by secret agents; the NNRC is fully aware that those captured personnel of our side who asked for repatriation had to risk their lives to escape from the terrorist grip of the secret agents. Paragraph 2 of the Rules of Procedure stipulates: "No prisoner of war shall commit an act of violence against another prisoner of war." However, those captured personnel of our side who expressed their desire for repatriation have been brutally flogged, trampled, and even got their chests sliced open and hearts cut out by the secret agents in the camps under the control of the CFI; the NNRC is fully aware that the body of one of our captured personnel who asked for repatriation is buried in compound 28 and has not been recovered up to the present. Paragraph 3 of the Rules of Procedure stipulates: "Any action infringing upon the rights of prisoners of war under the Terms of Reference of the Commission is prohibited." However, in front of the CFI, the so-called camp guard units organized by the secret agents are openly depriving our captured personnel of their rights to attend explanations and to apply for repatriation. Paragraph 4 of the Rules of Procedure stipulates: "Any acts of prisoners of war which have the effect of derogating from or obstructing the authority of the Commission to exercise its legitimate functions and responsibilities are prohibited." However, the secret agents, posing as representatives of the prisoners of war, have publicly put forward to the CFI outrageous conditions for permitting the prisoners of war to attend explanations, while the CFI has indicated that there is no other way at all to have access to the prisoners of war except through these secret agents. Paragraph 5 of the Rules of Procedure stipulates: "Any act on the part of prisoners of war impeding the work of explanations and interviews is prohibited." But the secret agents have openly assaulted the explaining representatives, insulted the personnel of the NNRC and even categorically prohibited the prisoners of war from attending the explanations and interviews. The CFI said that captured personnel of the Korean People's Army in compound 48 were unwilling to come to attend the explanations, yet, on 19 October, some captured personnel of our side risked their lives and escaped from compound 48 out of the terrorist grip of the secret agents and applied for repatriation. Does it not vividly show that the secret agents of Chiang and

Rhee, with their organization and reign of terror, are obstructing our captured personnel from attending the explanation? Obviously, such a state of affairs is inseparable from the policy of the NNRC and the CFI of maintaining the organization of the secret agents and conniving at the activities of the secret agents. This erroneous policy of the NNRC and the CFI is dissatisfactory to us. We firmly request the NNRC and the CFI to break up the organization of the secret agents and to prohibit their activities. Otherwise, the Terms of Reference for the NNRC and the Rules of Procedure governing Explanations and Interviews could not be implemented at all.

It is explicitly stipulated in paragraph 8 of the Terms of Reference that the nations to which the prisoners of war belong shall make explanations to the prisoners of war. According to paragraphs 7 and 23 of the Rules of Procedure, the nations to which the prisoners of war belong have the right to draw up explanation plans and the CFI has the obligation to make arrangements for implementing these plans and to make every one of the prisoners of war attend the explanations and interviews. But, ever since the beginning of the explanation work, it has never been carried out according to explanation plans. Recently, because of the failure of the CFI to arrange for the captured personnel of the Korean People's Army to attend the explanations and interviews, the explanation work has even been completely stalled. In order to be as considerate as possible of the difficulties of the CFI, the Korean and Chinese side has modified more than once its original explanation plans. It is not to be tolerated by the Korean and Chinese side that the explanations and interviews, which constitute the most essential part of the Terms of Reference, continue to be outrageously sabotaged and obstructed by the United Nations Command and the secret agents of Chiang and Rhee in its service. The Korean and Chinese side can tolerate even less the situation in which the captured personnel of the Korean People's Army are still being suppressed by the secret agents and cannot attend the explanations and interviews at all.

If the NNRC and the CFI, having failed at the time of the take-over operation to readjust the set-up of the prisoners of war, segregate the secret agents, and punish the instigators, but on the contrary tolerated the outrages of the secret agents, should further fail during the process of the explanation work to carry out the provisions of the Terms of Reference and the Rules of Procedure to make every prisoner of war attend the explanations and interviews according to explanation plans, then the entire Terms of Reference for the NNRC of the Armistice Agreement would be reduced to a scrap of paper, and the NNRC itself would be an organization in name only. The Korean People's Army and the Chinese People's Volunteers resolutely request that the NNRC and the CFI immediately take effective measures, stop the activities of the secret agents, and thoroughly carry out the provisions of the Terms of Reference for the NNRC and the Rules of Procedure governing Explanations and Interviews, and first of all make practical and responsible arrangements for the captured personnel of the Korean People's Army to attend the explanations and interviews according to explanation plans.

We are awaiting a concrete reply from Your Excellency.

(Signed) LEE Sang Cho
Lieutenant-General

2. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

31 October 1953

Owing to the direct obstruction and disruption of the United Nations Command and the long-established reign of terror of its special agents on the captured personnel of our side, the explanation work provided in the Terms of Reference for the NNRC not only failed to commence at the scheduled time but has been stalemated for a long time after the only two explanation sessions. During this period the NNRC and the CFI have not exercised and discharged their authority and duties under the Terms of Reference to take practical and effective measures to eradicate the organizations and control of the special agents and make arrangements for the prisoners of war to attend explanations and interviews according to explanation plans free from any interference. On the contrary, they have been "persuading" the special agents posing as representatives of prisoners of war, and requested these special agents to permit the prisoners of war to attend the explanations. This, in fact, means capitulating to the special agents, and enhances their control over prisoners of war and virtually gives the special agents a free hand to make active preparations in this period to further obstruct and disrupt the explanations and interviews. These are serious violations of the Terms of Reference for the NNRC and the Rules of Procedure governing Explanations and Interviews, adopted by the Commission itself under the Terms of Reference.

Under paragraph 8 of the Terms of Reference and paragraphs 7 and 23 of the Rules of Procedure, the NNRC, after taking over all prisoners of war, should immediately make arrangements so that representatives of the nations to which the prisoners of war belong can have freedom and facilities to carry on explanations and interviews according to their explanation plans to every prisoner of war. Paragraphs 3 and 7 of the Terms of Reference and paragraphs 1 to 5 of the Rules of Procedure further clearly stipulate that the NNRC and the CFI have the full power to exercise their legitimate functions and responsibilities, control the prisoners of war in their custody and ensure that the prisoners of war may not be obstructed by force or threat of force from listening to explanations and applying for repatriation. On the basis of these stipulations, the NNRC itself has also repeatedly made decisions instructing the CFI to use forcible means so that the special agents may not prevent with acts of violence the prisoners of war from attending explanations and applying for repatriation. But actually the NNRC and the CFI have not carried out these solemn provisions and decisions, but, on the contrary, have yielded to the disruptive activities of the special agents, refused to break the reign of terror of the special agents with forcible measures and allowed the special agents to make further preparations and arrangements to disrupt the explanations and interviews by inhuman and cruel acts of violence. Facts of how the special agents are arranging for disruptive activities under the indulgence of the CFI have been revealed by the captured personnel of our side, who returned to our side after having broken through the control of the special agents, and applied for repatriation at the risk of their lives, while the NNRC and the CFI are "persuading" the special agents. Mun Jung Ho, a special agent chief planted

among the captured personnel of the Korean People's Army, has openly issued orders to use the period of suspension of the explanations to expand the "camp guard units" and other special agent organizations, step up the making of arms, and imprison and murder what they call "unreliable elements" who resolutely demand repatriation, so that after everything has been properly arranged, they may take a step further to disrupt explanations and interviews. The NNRC and the CFI do not exercise and perform the authority and functions vested in them by the Terms of Reference, but rather yield to the reign of terror of special agents. Thus, regardless of whether or not the special agents of Chiang and Rhee will allow the prisoners of war to attend explanations in appearance, it will still be impossible to carry out the stipulations of the Terms of Reference and the Rules of Procedure. With this, the Korean People's Army and the Chinese People's Volunteers cannot but express their profound dissatisfaction.

Facts show that, under the tyranny of the special agents who are under the direct command of the United Nations Command, explanations and interviews have never been able to proceed in accordance with the stipulations of the Terms of Reference and the Rules of Procedure. In the only two explanation sessions conducted on 15 October and 17 October, the actual time for the explanations was only seven-and-a-half hours altogether, which is even shorter than the time stipulated for explanations in a single day. The special agents openly issued orders to postpone the meal time to delay the beginning of the explanations. Before the commencement of the explanations on 15 October, when the CFI was trying to "persuade" the special agents, who are posed as representatives of the prisoners of war, to allow the prisoners of war to listen to explanations, the prisoners of war did not even know that there were to be explanations, while the special agents openly put to the CFI preposterous conditions for allowing the prisoners of war to attend explanations, demanding that all prisoners of war who were to attend the explanations had to return to their original compound regardless of whether they requested repatriation or not. The special agents then openly declared to the prisoners of war that the CFI had already agreed to these conditions, threatening that, if a prisoner of war should walk out through the door to repatriation after listening to explanations, even if he were not immediately killed on the spot by the ambushing troops of the United Nations Command and Syngman Rhee, he would certainly be killed after he returned to his original compound. The secret agents also lined up the prisoners of war who were to attend the explanations in a definite order to carry out the so-called "mutual-responsibility" system, and threatened that in case one of them applied for repatriation, then the prisoners of war immediately preceding and following him would be brutally beaten. Moreover, the secret agents forced the prisoners of war to shout at the top of their voice and beat the explaining representatives after entering the explanation tents, telling them that the representatives of the United Nations Command and the "instructors" from Taiwan on the spot would carry name cards of the prisoners of war and record their behaviour at the time; and that, after returning to the compounds, those who had listened to the explanation instead of making any boisterous noise would be brutally beaten or killed. The secret agents further threatened the prisoners of war that in case no boisterous noise was heard from the explanation tents, the "bat-

tion leaders", "company leaders", "platoon leaders", who were the so-called "representatives" of the prisoners of war, and "camp guards" would rush into the tent immediately and drag out the prisoner of war and punish him severely. The secret agents openly declared that the CFI had already agreed not to punish those who beat the explaining representatives and disrupt the explanations. When the secret agents were carrying out such unlawful activities and making such unlawful arrangements in the holding compounds while waiting for the explanation, the CFI not only did not stop them, but, on the contrary, furnished them with means of transportation. Because of all this, the secret agents have become even more truculent. They openly beat the explaining representatives, and insulted personnel of the NNRC. The prisoners of war, even if they did attend the explanations, could not be assured of the opportunity to exercise their right of attending explanations and applying for repatriation. Under the tyranny of the secret agents and the direct obstructions and disruptions of the so-called "representatives" of the United Nations Command, explanations and interviews prescribed by the NNRC according to the Terms of Reference are in fact impossible. The Korean People's Army and the Chinese People's Volunteers resolutely hold that in order to implement thoroughly the provisions of the Terms of Reference for the NNRC and the Rules of Procedure governing Explanations and Interviews, the NNRC and the CFI should immediately and without further hesitation take practical and effective measures and steps to put an end to the disruptive activities of special agents planted among the captured personnel of our side by the United Nations Command, eliminate special agents, break up and eradicate the organizations of special agents, and ensure that all prisoners of war shall actually attend explanations and interviews free from any obstructions and coercion so that all prisoners of war may actually have the opportunity to exercise their right to repatriation. Thus, the Korean People's Army and the Chinese People's Volunteers resolutely make the following requests to the NNRC and the CFI:

1. In accordance with the provisions of paragraphs 3 and 7 of the Terms of Reference with paragraphs 1 through 5 of the Rules of Procedure, necessary forcible means should be used to stop the disruptive activities of the special agents, refuse to recognize the special agents as representatives of the prisoners of war, segregate the special agents now assuming the posts of so-called "battalion leaders", "company leaders", and "platoon leaders", and break the organizations of the special agents such as the "camp guard units". Serious and responsible investigation should be made on every unlawful act of the special agents which is in violation of the Terms of Reference, necessary conditions should be arranged for the investigations, and offenders guilty of perpetrating unlawful activities should be punished.

2. In accordance with the provisions of paragraph 8 of the Terms of Reference and paragraphs 7, 22 and 23 of the Rules of Procedure, arrangements should be made for every prisoner of war to attend the explanations and interviews according to explanation plans, and the explanations should be assured of being carried out every day according to schedule.

3. In accordance with paragraph 22 of the Terms of Reference and paragraph 6 of the Rules of Procedure, the provisions of the Terms of Reference and of the Rules of Procedure should really be made known to all the prisoners of war, the special agents should be pro-

hibited from spreading rumours and intimidating the prisoners of war, and the special agents under the name of "representatives" of the prisoners of war should absolutely not be allowed to engineer disruptive activities in the holding compounds while waiting for the explanation.

4. In accordance with the provisions of paragraphs 7 and 8 of the Terms of Reference and paragraphs 5 and 18 of the Rules of Procedure, any act obstructing explanations and interviews should be strictly forbidden, explanation facilities, including broadcasting facilities, should be ensured from sabotage by the special agents, and special agents engaging in activities to disrupt explanations should be severely punished. Those special agents who, during the explanations on 15 and 17 October, disrupted the explanation work by beating the explaining representatives and were under arrest by order of the subordinate bodies of the NNRC should be segregated and punished, and the results of prosecutions against them should be made public to all the prisoners of war so as to prevent the special agents from coercing the prisoners of war into similar acts.

5. In accordance with the provisions of paragraphs 4, 8 and 18 of the Terms of Reference and paragraph 14 of the Rules of Procedure, representatives of the United Nations Command should strictly be prohibited from disturbing the proceedings of the explanations and, in particular, the special agents of Chiang Kai-shek should not be allowed to attend explanations and interviews in the disguise of representatives of one side.

6. In accordance with the provisions of paragraphs 3 and 9 of the Terms of Reference and paragraph 9 of the Rules of Procedure, it should be ensured that every prisoner of war may apply for repatriation at any time and at any place, without being exposed to any threats.

7. In accordance with the provisions of paragraph 8 of the Terms of Reference and paragraph 22 of the Rules of Procedure, as well as the decision already reached by the NNRC, the explanation period, which has been delayed and interrupted, should consequently be extended by counting the actual time of explanations in order to ensure a ninety-day explanation period, with eight hours per day. Arguments which distort the provisions of paragraph 11 of the Terms of Reference in an attempt to object to the extension of the explanation period are untenable. Paragraph 11 of the Terms of Reference obviously has as its prerequisite the provisions of paragraph 8 of the Terms of Reference, that is, explanations should commence immediately after the NNRC has taken over all the prisoners of war and that explanations should be conducted regularly and without interruption. Since explanations have not been commenced on time and conducted regularly and without interruption because of the direct obstructions of the United Nations Command and the disruptions of the special agents planted by it as well as because of the failure of the NNRC and the CFI to adopt practical and effective measures to ensure their progress, the explanation period should naturally be extended correspondingly in accordance with the actual time spent on explanations.

(Signed) LEE Sang Cho
Lieutenant-General

3. MEMORANDUM FROM THE LIAISON OFFICERS, KOREAN PEOPLE'S ARMY AND CHINESE PEOPLE'S VOLUNTEERS COMMAND TO THE CHIEF OF STAFF, NEUTRAL NATIONS REPATRIATION COMMISSION

4 November 1953

To: Brigadier Kaul
From: Colonel Wang Chien,
Colonel Coe Hak Sung

We have received your message. Now we are instructed to reply as follows:

According to the provisions of paragraph 20 of the "Rules of Procedure governing Explanations and Interviews", the NNRC and the CFI must be responsible for keeping in separate custody those prisoners of war of compound 28 who have not been given explanations today and those prisoners of war of the same compound who have been given explanations today but have not submitted their applications for repatriation. Those prisoners of war who have not been given explanations absolutely should not be returned to their original compound. Our side resolutely does not agree to such a violation of the "Rules of Procedure governing Explanations and Interviews" which has been unanimously adopted by the NNRC. If the CFI fails strictly to implement the provisions of the "Rules of Procedure governing Explanations and Interviews" and sends back the prisoners of war who have not been given explanations to their original compound, it will be impossible for our side to continue to give explanations to the prisoners of war of compound 28 tomorrow. On this, our side reserves the right to make further comment. At the same time, we must point out that it is also not certain that tomorrow our side will complete the explanations to all the prisoners of war in one compound. The CFI must immediately make ready the arrangements for keeping prisoners of war in separate custody in accordance with the provisions of paragraph 20 of the Rules of Procedure.

4. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND CHINESE PEOPLE'S VOLUNTEERS

6 November 1953

Please refer to Colonel Wang Chien and Colonel Choe Hak Sung's letter dated 4 November 1953 to Brigadier Kaul regarding the return of prisoners of war back to compound 28 without being individually explained to.

1. Paragraph 20 of the Rules of Procedure governing Explanations and Interviews, to which you have referred to in your letter, was adopted by the Commission on the clear understanding that explanations should be given to one or more full compounds of approximately 500 prisoners daily, as there would otherwise be no place for them to go back at the end of the day's explanation. This position was made clear also to you on the very first day when you had asked for 250 Chinese People's Volunteers and 250 Korean People's Army prisoners of war for explanation. It was then explained that we cannot bring out a part of a compound for explanations, as there were no spare compounds available where prisoners explained to could be sent in order to separate them from those not explained to. You were good enough to appreciate our difficulties and agree to explain to complete compounds every day. On the first two days, although the working hours were roughly only four hours a day, complete compounds were in fact explained to. We had, therefore, no reason to think that

complete compounds would not be explained to on any particular day. Yesterday however, only 203 prisoners were explained to. For the first time, therefore, we were faced with the problem of finding accommodation for segregating the prisoners who had not been individually explained to. In the absence of any spare compounds, it was obviously impossible to segregate them. We had, therefore, no option but to send back all the prisoners of compound 28 whether explained to individually or not, back to the same compound.

2. In this connexion, I would invite a reference to rule 23 of the Rules of Procedure governing Explanations and Interviews, which requires that the explaining representatives of the nations to which the prisoners of war belong shall forward to the secretariat of the NNRC plans one day in advance from day to day regarding the method of explaining work. If, in your plans for explanation submitted for 4 November, you had not asked for compound 28 but had stated that you would explain to only as many prisoners in that compound as you desire, we could not have accepted the plan on the grounds of impracticability and there would then have been no occasion to violate rule 20 of the Rules of Procedure. The whole object of rule 23 is to give the NNRC an opportunity to consider whether the plan submitted by the explaining representatives is, from their point of view, practicable or not. The CFI cannot, in the circumstances, accept any responsibility for the breach of rule 20 of the Rules of Procedure.

3. Now that it appears that you have considerably slowed down the process of individual explanations, the CFI has been presented with a problem of finding spare accommodation for the segregation of those prisoners who have been explained to from those who have not been explained to. There is no spare compound available for the purpose, nor is it possible, with the forces at the disposal of the General Officer Commanding, CFI, to man any more compounds and ensure guarding the prisoners of war in such additional compounds. We are, however, always anxious to meet with your wishes within the limits of our resources. I am, therefore, prepared, in spite of the difficulties of manpower, to put up one extra compound to meet such contingencies. You will, I hope, appreciate that it is impossible to make any more compounds and guard them adequately. The extra compound will enable the CFI to separate the prisoners of war explained to and those not explained to, provided you agree not to ask for a new compound until you have completed explanation to all prisoners of war of one compound. If you agree to this procedure, we will go ahead with the construction of an additional compound as soon as practicable.

An immediate reply is requested.

(Signed) K. S. THIMAYYA
Chairman

5. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

6 November 1953

Paragraph 20 of the Rules of Procedure governing Explanations and Interviews stipulates: "Prisoners who have applied for repatriation, those who have been given explanation in accordance with paragraph 7 above but have not submitted their applications for repatriation, and those who have neither been given explanation nor applied for repatriation should be kept separated in custody." On 4 November, the CFI of the NNRC failed

to keep in separate custody those prisoners of war of compound 28 who had not been given explanation from those of the same compound who had been given explanation but had not yet applied for repatriation in accordance with the stipulation of this paragraph. As a result, our side could not continue to give explanations to prisoners of war of compound 28 on 5 November. The NNRC informed us that the above-mentioned circumstances arose from the fact that the CFI had not made previous arrangements for separate custody. Therefore, on 4 November, I instructed my liaison officer to make a request of your chief of staff, Brigadier Kaul, that the CFI should promptly arrange for separate custody. But, on 5 November, the CFI again sent the prisoners of war who had not been given explanation, together with those who had been given explanation but not yet applied for repatriation, back to their original compound. This obviously is a most serious violation of the Rules of Procedure governing Explanations and Interviews adopted unanimously by the NNRC. We are entirely dissatisfied with it. This kind of action helps to aggravate the control of the secret agents over the prisoners of war and creates great difficulties for our side to continue explanation to the prisoners of war from compound 22. The CFI of the NNRC cannot shirk the responsibility for this. Although on 6 November we shall have to explain, under such circumstances, to those prisoners of war from compound 22 who have not yet been given explanation, yet this should not be taken to mean that we acquiesce in the Rules of Procedure governing Explanations and Interviews being thus violated. We request that the NNRC and the CFI effectively implement the related provisions of the Rules of Procedure governing Explanations and Interviews so that similar circumstances may not recur.

(Signed) LEE Sang Cho
Lieutenant-General

6. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

7 November 1953

I have the honour to acknowledge the receipt of your letter of 6 November, concerning the question of keeping prisoners of war in separate custody.

The provision of paragraph 20 of the Rules of Procedure governing Explanations and Interviews adopted by the NNRC in accordance with paragraph 8 of the Terms of Reference is very explicit. Since the CFI of the NNRC has the responsibility of ensuring the thorough implementation of the Rules of Procedure, it is only natural that it should make all necessary arrangements in accordance with the relevant provision of the Rules of Procedure. Before the commencement of the explanation work, my Liaison Officer discussed on 13 October with Brigadier-General Kaul, your Chief of Staff, the question of keeping prisoners of war in separate custody in accordance with the relevant provision of the Rules of Procedure. Brigadier-General Kaul indicated that enclosure A of the Tongjang-ni prisoner-of-war camp could be set aside for the use of segregation. However, the CFI has thus far failed to implement the provision of paragraph 20 of the Rules of Procedure on the ground that there is no spare compound available. We cannot but feel that this is deeply regrettable.

The length of time for giving explanations to each prisoner of war and the number of prisoners of war to

be explained to every day are matters which should be determined entirely by the explaining representatives of our side in the light of the actual situation. Moreover, there is no reason whatsoever to compel our side to complete the explanations to all the prisoners of war in one compound. The provisions of paragraph 8 of the Terms of Reference and paragraph 20 of the Rules of Procedure are laid down precisely for the purpose of safeguarding the right of the nations to which the prisoners of war belong. This right is absolutely not to be violated. Since the CFI has failed to implement the provisions of paragraph 20 of the Rules of Procedure, it certainly cannot shirk its due responsibilities.

In order to promptly settle the question of keeping prisoners of war in separate custody, it is absolutely necessary to construct additional compounds for their segregation. Taking into consideration the practical difficulties of the CFI of the NNRC, we agree not to give explanations to the prisoners of war of another compound until we have completed, no matter for how many consecutive days, the explanations to all the prisoners of war in one compound, although we do not consider there is any such necessity to do so under the Terms of Reference and the Rules of Procedure.

(Signed) LEE Sang Cho
Lieutenant-General

7. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

9 November 1953

Last week, the explanation work had been conducted only for three days. As a result of the insistence by the secret agents in the guise of "prisoner-of-war representatives" on their so-called conditions for attending explanations, and the erroneous procedure of holding negotiations with the secret agents in the guise of "prisoner-of-war representatives" adopted by the CFI of the NNRC, as well as its failure to take practical and effective measures to carry out thoroughly the Terms of Reference and the Rules of Procedure, the explanation work could not proceed on 2 and 6 November. Facts have repeatedly proved that explanation work can be carried out successfully according to plan, and the provisions of the Rules of Procedure governing Explanations and Interviews can be actually implemented, only if the CFI of the NNRC immediately undertakes to liquidate the secret agents' organization and break up the secret agents' control.

The prisoners of war who attended the explanations had not been freed from the control of the secret agents. The secret agents not only had made scrupulous arrangements before the prisoners of war left their original compounds, but were still actively carrying on their activities after they arrived in the holding tents where prisoners of war await explanations. The prisoners of war in compound 28 attended the explanations on 4 November. Before that, the ringleader of the secret agents, Ying Hsiang-yun, "leader of enclosure 3", who resided in compound 31, had entered compound 28 to readjust and strengthen the secret agents' organization, and used threats and lies to prevent the prisoners of war from applying for repatriation. When the prisoners of war in compound 28 arrived in the holding tents on 4 November, in addition to the secret agents of the same compound, "battalion leader" Teng Juei-ting, secret agent

of compound 31, Mou Ping-huei, secret agent of compound 24, as well as others, were seen moving about in a jeep of the CFI, instigating the prisoners of war to make assaults as soon as they entered the explanation tents if possible, if not, to hurl obscenities, and threatened that anyone who failed either to make assaults or hurl obscenities, or in a voice not loud enough, would be put to death. On 5 November, secret agents were again seen carrying out activities in the vicinity of the holding tents. This fact not only had been personally witnessed by the representatives of our side who were giving group explanations, but also had been testified to by the Chairman of the subordinate body of the NNRC who was present at that time. Our side considers it absolutely unsatisfactory that the CFI should have tolerated the secret agents openly carrying out sabotage activities against the explanation work to such an extent.

Under the instigation and coercion of the secret agents, the prisoners of war screamed and shouted during group explanations or individual interviews, and this seriously obstructs the explanation work. On 3 November, as was obviously pre-arranged by the agents, many prisoners of war of compound 48 wore masks to sabotage the explanation work. Furthermore, the secret agents mingled among the prisoners of war audaciously assaulted our representatives, while they were being given explanations. On 3 November, the secret agents in explanation tent 15 attacked the representatives of our side with disinfectant powder. Indeed, the CFI did arrest on the spot some of the agents wilfully engaging in sabotage activities, yet the NNRC so far has not yet been able to give an explicit accounting as to how these secret agents would be punished.

The United Nations Command observers, interpreters and the so-called "representatives" of the detaining side are the very same instigators and culprits who had for a long period perpetrated underhand plotting in the United Nations Command prisoner camps in forcibly retaining, maltreating and murdering prisoners of war. Now they appeared again inside and outside of the explanation tents as representatives and interpreters in their attempt to influence the prisoners of war lest they should apply for repatriation. Inside the explanation tents, they signalled with hands and gesticulated from time to time to prisoners of war, instigating them to perpetrate riotous conduct and use abusive language, and resorted to every conceivable means to urge the prisoners of war to go out through the exit for those who have not yet applied for repatriation. During the process of explanations, they repeatedly made interventions to interrupt the explanations in violation of paragraph 14 of the Rules of Procedure. Acts like these are found in each of the explanation tents every day. This is completely against the letter and spirit of the relevant provisions of the Terms of Reference and the Rules of Procedure.

Certain Swiss and Swedish representatives in the subordinate agencies of the NNRC, in disregard of the status which a neutral nation should assume, during the process of explanations, often attempted to exert influence on the prisoners of war and obstruct the explanations of our side. On 4 November, the Swedish representatives on teams No. 22 and 23 and the Swiss representative on team No. 24 made nods and waved their hands to prisoners of war, and directed the prisoners of war to go out through the exit for those who have not yet applied for repatriation. The Swiss representative on team No. 18 unreasonably prevented our explain-

ing representatives from reading to the prisoners of war the message of Marshal Kim Il Sung and General Peng Teh-huai to prisoners of war, which is a document long since examined and approved by the NNRC. Again, the Swedish representative on team No. 23 arbitrarily asserted that during the explanations the mention of the prisoner's mother by our explaining representative constituted a coercion on the prisoner. The arbitrary and ridiculous arguments put forward by this representative can in no way be explained as arising from his ignorance, but are obviously caused by some ulterior motive. The Swedish representative on team No. 20 had seven times interrupted the explanations in one single interview with a prisoner of war, and the last interruption lasted as long as forty minutes. The Swiss representative on team No. 29 unreasonably staged walkouts from the explanation tent, which stalled the explanation for a whole hour. The Swiss representative on team No. 9 and the Swedish representative on teams No. 21, 27 and 28 have all resorted to unreasonable walkouts from the explanation tents to interrupt the explanation of our side. Such prejudiced acts on the part of the representatives of the neutral nations cannot but seriously compromise the reputation and prestige of the NNRC.

Moreover, I cannot but disappointedly point out that in the process of the explanation work on 3 and 4 November, some of the Chairmen of the subordinate agencies of the NNRC repeatedly held up explanations on the ground that the time spent by our representatives in making explanations was too long, or led out the prisoner of war before a representative of our side had finished his explanation. The afore-mentioned cases happened to teams 7 and 31 on 3 November, and to teams 14, 20, 22, 23, 27 and 29 on 4 November. On 4 November, the Chairman of team 29 declared that, according to the rules, explanations to each prisoner of war could only last twenty-five minutes, and thereby suspended the explanation work of that team for as long as three hours. As a matter of fact, we could not find any such rule in any document. This assertion is obviously groundless. The argument on which some of the Chairmen of the subordinate agencies of the NNRC based such an action of theirs is an incorrect one. They considered the comparatively long time spent by an explaining representative of our side in making explanations to one prisoner of war to be "a threat to the prisoner of war". The incorrectness of this viewpoint is only too obvious. The length of time for making explanations to one prisoner of war should be decided upon exclusively by the explaining representatives of our side. No one else has the right to interfere in or to impose restrictions on it. The captured personnel of the Korean and Chinese side have long been kept under the evil influence of the original detaining side and the reign of terror of the secret agents; and thus they are filled with such apprehensions that they have not exercised their right to be repatriated. The stipulations in the Terms of Reference for the NNRC laid down by the belligerent sides are precisely for the purpose of eliminating these apprehensions through repeated explanations. For a long time, we were opposed to the United States side's unlawful standpoint of screening the prisoners of war and insisted on the reasonable standpoint of making explanations to them. As a result, we finally reached agreement with the United States side on the Terms of Reference, the purpose of which is to get the explanation work performed under the NNRC without any obstructions. To carry out explanations to

the prisoners of war in the presence of the NNRC can in no sense whatsoever be regarded as a threat. But certain components of the NNRC completely ignore the fact that the secret agents have engaged themselves in murder in order to intimidate prisoners of war into not applying for repatriation, and have cursed and assaulted the explaining representatives in order to disrupt the explanation work, and completely ignore the fact that the detaining side has tried every means possible to influence the prisoners of war within the explaining tents; yet they call it inhuman to the prisoners of war for our side to conduct relatively long explanations to them. This is absolutely intolerable. Any agreement by the NNRC to such a point of view will constitute a submittal to the United States side's unlawful standpoint of screening the prisoners of war and will thoroughly overthrow the Terms of Reference. Consequences arising therefrom will be extremely serious.

I hope that the NNRC will, in accordance with the provisions of the Terms of Reference and Rules of Procedure, adopt practical and effective measures to correct immediately the abnormal situation mentioned above so as to ensure that later explanation work will be conducted under a situation free from any disturbance and sabotage.

(Signed) LEE Sang Cho
Lieutenant-General

8. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION OF THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

10 November 1953

With reference to your letter dated 9 November 1953, I have noted the contents of your letter and, if explanation work recommences, I will take every step within my power to ensure that the explanation work is carried out as smoothly as possible.

(Signed) K. S. THIMAYYA
Chairman

9. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

14 November 1953

Taking into consideration the practical difficulties of the CFI of the NNRC, I informed you on 9 November that the Korean and Chinese side was prepared to conduct explanations anew to all the prisoners of war of compound 22, including those who had already been explained to; and that we, in compliance with the proposal in your letter of 6 November, agreed not to request that explanations be given to a new compound until individual explanations to all the prisoners of war of one compound had been consecutively carried out. As a result of the United Nations Command-directed Chiang and Rhee secret agents not allowing the prisoners of war of compound 22 to attend explanations, and the failure of the CFI of the NNRC to take practical and effective measures to break up the rule of the secret agents and make arrangements for the prisoners of war to attend explanations in accordance with our explanation plan, the explanation work has again bogged down completely. This state of affairs obviously arises from the deliberate sabotage against the explanation work of the United Nations Command-directed

Chiang and Rhee secret agents; but I cannot but frankly point out that the failure of the CFI of the NNRC to take up its responsibilities under paragraph 7 of the Terms of Reference is also one of the causes that have given rise to such a state of affairs.

In accordance with the related provisions of the Terms of Reference and the Rules of Procedure, the Korean and Chinese side has the full right to make explanations to the prisoners of war of compound 22 which it has designated. But, in order that the explanation work may not fall into a long period of suspension, we are willing to make another effort. We agree to make explanations to the prisoners of war of other compounds instead of the prisoners of war of compound 22 for the time being. We reserve, however, our right to make explanations to the prisoners of war of compound 22 at any time in the future.

Here, I must once again emphatically point out to you that under the circumstances that the secret agents of Chiang and Rhee are deliberately sabotaging the explanations and the CFI of the NNRC is indulging these agents, the explanation work has never been carried out in accordance with the provisions of the Terms of Reference and the Rules of Procedure. The actual situation of only six explanation sessions in the past fifty-one days is such that, instead of being the explaining representatives making explanations to the prisoners of war, it should rather be called allowing the secret agents of Chiang and Rhee to come to the explanation tents to disrupt explanations. Take for example the explanation session on 4 November. On that day, the prisoners of war stayed in the thirty-two explanation tents for about 167 hours. But, owing to shoutings and screamings of the prisoners of war under the coercion of the secret agents, the unlawful obstructions of the personnel of the detaining side, and the unreasonable interruption of the explanation work by some Swiss and Swedish members, the actual time for the explaining representatives to make explanations to the prisoners of war totalled only about ninety-four hours. As a result, on 4 November, our side could conduct explanations only to 203 prisoners of war, and the actual time for each prisoner of war to listen to explanations was only twenty-seven minutes on an average. Such a state of affairs cannot be long tolerated.

I have repeatedly taken up with you that, in order to ensure the implementation of the Terms of Reference and the Rules of Procedure, the NNRC and the CFI should take practical and effective measures to clear away step by step the secret agents, break up their control over the prisoners of war, and bring about a real and not nominal custody of the prisoners of war by the CFI of the NNRC. Now, in order to make it possible for the explanation work which is to be resumed soon to be carried out normally in strict accordance with the provisions of the Terms of Reference and the Rules of Procedure, I ask the NNRC and the CFI to guarantee effectively that:

1. In accordance with the provisions of paragraphs 7 and 8 of the Terms of Reference and paragraphs 5 and 18 of the Rules of Procedure, any act on the part of the secret agents to obstruct the explanations shall be strictly prohibited and order in the explanation compound shall be responsibly maintained. Such unlawful acts as Chiang and Rhee agents coercing the prisoners of war into shouting, screaming, insulting or even assaulting the explaining representatives, shall not recur in the explanation tents. Any agent who obstructs ex-

planations or assaults the explaining representatives shall be segregated and punished, and the results be announced to all prisoners of war. The situation that agents in the explanation compound openly went around in the jeeps of the CFI directing and coercing the prisoners of war shall absolutely not be allowed to recur.

2. According to the provisions of paragraphs 4, 8 and 18 of the Terms of Reference, and paragraphs 14 of the Rules of Procedure, personnel of the United Nations Command shall be strictly prohibited from making disturbances in the explanation tents, interrupting the explanation work, and openly coercing the prisoners of war into abstaining from applying for repatriation. It must be pointed out particularly that secret agents of the Chiang Kai-shek brigand, who does not belong to either belligerent side in Korea, should be absolutely not allowed to appear in the explanation tents under the guise of representatives of the United Nations Command side, as this is entirely unlawful and absolutely cannot be tolerated.

3. In accordance with the provisions of paragraphs 8 and 24 of the Terms of Reference and paragraphs 23 of the Rules of Procedure, the situation should be immediately ended where the Swiss or Swedish members in certain subordinate agencies suspended arbitrarily, wilfully, repeatedly and for long periods of time, the explanations of our side, and freedom and facilities to conduct explanations according to plans put forward by our side shall be ensured.

(Signed) LEE Sang Cho
Lieutenant-General

10. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

17 November 1953

In my letter to you dated 14 November, I have pointed out that, in order to ensure the strict implementation of the Terms of Reference and the Rules of Procedure, the NNRC and the CFI must thoroughly clear away the control over the prisoners of war by the secret agents of Chiang and Rhee under the instigation of the United Nations Command. As regards the explanation work, which was going to be resumed, the clamorous noise-making of the secret agents and of those prisoners of war under the coercion of the secret agents in the explanation tents must be strictly prohibited. The attempts of the personnel of the detaining side to influence the prisoners of war in the explanation tents must likewise be strictly prohibited, and it must be ensured that the Chairmen and the components of the subordinate bodies of the NNRC will abide by the related provisions of the Terms of Reference and the Rules of Procedure. Only under such circumstances can the explanation plans put forward by our side be realised.

During the explanations of 16 November, owing to the unremoved control of Chiang Kai-shek and Syngman Rhee agents on the captured personnel of our side, the noise-making and use of violence by secret agents and prisoners of war under the coercion of the agents in the explanation tents, the continued resort to various means by the personnel of the detaining side to influence the prisoners of war, and the failure of some of the subordinate bodies of the NNRC to fulfil their duties, the explaining representatives of our side could only make explanations to a part of the prisoners of war under the plan. We originally planned to make explana-

tions to 500 prisoners of war, but actually could only complete explanations to 190 of them. Evidently, the responsibility does not rest on our side.

When the explaining representatives of our side found out that it would be difficult to fulfil the plan put forward by our side, they took it up with Brigadier-General Kaul that prisoners of war who had not been explained to should, in accordance with paragraph 20 of the Rules of Procedure, be segregated from those who had been explained to but not yet applied for repatriation. At the conclusion of the explanation session, the explaining representatives of our side again took it up with Brigadier-General Kaul that the majority of the prisoners of war in the original plan who had not yet been explained to should be segregated so that explanations to them might be resumed. Indeed, we did serve a notification on 16 November that we planned to give explanations to 500 captured personnel of the Chinese People's Volunteers on 17 November. But this notification evidently had as its prior condition the situation that the NNRC and the CFI thoroughly complied with the requests made in my letter of 14 November. As those requests were not complied with, it was, therefore, impossible for us to fulfil the plan put forward by our side. In view of this, it is completely justified for us to request that, as the majority of prisoners of war of compound 53 have not yet been explained to, explanations to them should be continued on 17 November while they be held in separate custody.

It must be pointed out that, in your letter of 6 November, you explicitly stated: "I am therefore, prepared, in spite of the difficulties of manpower, to set up one extra compound to meet such contingencies. . . . The extra compound will enable the CFI to separate the prisoners of war explained to and those not explained to, provided you agree not to ask for a new compound until you have completed explanation to all prisoners of war of one compound."

We have long since agreed to this request of the NNRC; we think that the NNRC has no reason at all to change its own promise.

We firmly request that the NNRC and the CFI take immediate measures to correct the above mentioned state of affairs so as to ensure the carrying out of the explanation work.

We await your reply.

(Signed) LEE Sang Cho
Lieutenant-General

11. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

18 November 1953

Kindly refer to your letter dated 17 November 1953.

I have pointed out to you more than once that, in view of the limited time at our disposal, resources available and limitations placed upon us by the Geneva Convention and the Terms of Reference, I find it is not possible for us to segregate the so called agents and to break up the existing organizations within prisoner-of-war camps. From the outset we have always stated that we were unable to remedy this state of affairs, which existed due to reasons beyond our control and not of our making. We, therefore, considered that the best solution to this problem would be to make it incumbent upon prisoners of war to appear for explanations individually. This was the best we could do in respect of prisoners of war

who were under the influence of some organization or leaders. You, however, do not consider this solution satisfactory, in view of the behaviour of prisoners in the explanation tents and the attitude of some United Nations representatives and the members of the NNRC subordinate bodies. As regards the behaviour of the prisoners, it is not possible to completely prevent them from their vocal outbursts. The best we can do is to keep them as calm as possible and to stop them from assaulting anyone within these tents. On 16 November 1953 I admit there were some cases of violence, but there were many instances in which prisoners listened to explanations without any fuss. Regarding the behaviour of the United Nations representatives on this day, I found it exemplary. As for the NNRC subordinate bodies, I must state quite clearly that they are fully competent to take decisions on any points which may arise within their tents, including decision on whether explainers have had enough opportunity to explain to a prisoner and whether a prisoner is in a fit state to continue receiving explanations.

Regarding the total duration of explanations, I need only mention that, in the early days of explanatory work, your representatives, within a period of about four hours, were able to explain to approximately 500 prisoners, who were comparatively much more disorderly. Since then, in spite of an improvement in the behaviour of prisoners, the duration of your explanations has, on the contrary, steadily increased.

Finally, there is the question of segregation. I explained to you in my letter dated 6 November 1953 that, owing to various administrative and technical difficulties, the CFI would not be able to segregate prisoners who have been explained to and those who have remained unexplained. In order to meet with your wishes, however, I asked you in this letter whether you were prepared to agree to our putting up one extra compound for this purpose, provided you do not ask for prisoners from a new compound, until you have completed explanations to all prisoners of war of one compound. I now find, however, that it is not possible for us to persuade prisoners to be segregated after explanations. One of the reasons why we are unable to persuade them to agree is their contention that this would be an indirect way of breaking up their organizations. This they are not prepared to accept. Whilst we may succeed in segregating them for one night, the ultimate result will be that we will be unable to persuade them to attend explanations thereafter, which, of course will defeat the whole object of the NNRC. In view of this, I did not progress the question of putting up another compound.

To sum up, therefore, I would like to say that the utmost I can do is to bring all prisoners by complete compounds for explanations each day. I can also continue my efforts to improve their behaviour whilst they are in the explanation tents. More than this I regret I am unable to do. If this is not acceptable to you, we must accept a deadlock. The NNRC will then report to both sides the circumstances leading up to this situation.

(Signed) K. S. THIMAYYA
Chairman

(Note: This letter represented the majority view of the Commission, the Polish and Czechoslovak delegations being against it.)

12. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION
2 December 1953

On 1 December 1953, I sent a letter to Your Excellency indicating that our side had already installed additional necessary segregation facilities in the camp for the captured personnel of the United Nations Command in compliance with the request of the NNRC, and requesting that the NNRC and the CFI should immediately make necessary segregation arrangements in the Tongjang-ni prisoner-of-war camp and strictly implement the Terms of Reference and the Rules of Procedure. I have not yet got a reply from you.

I would like to point out emphatically again that segregation arrangements should be made on the basis of equality between the two sides, and secret agents in the Tongjang-ni prisoner-of-war camp under the immediate direction of the United Nations Command absolutely should not be allowed to continue their resistance to segregation arrangements, and make it impossible for the explaining work of our side to proceed. I request that the NNRC and the CFI should complete all necessary segregation arrangements in the Tongjang-ni prisoner-of-war camp within two days.

(Signed) LEE Sang Cho
Lieutenant-General

13. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

6 December 1953

I have the honour to acknowledge your letter of 1 December 1953. I shall be grateful if you will kindly refer to paragraph 3 of my letter of even reference dated 18 November 1953. I had then explained to you the reasons why the Commission was unable to proceed with the arrangements for segregating the prisoners of war. It is not due to any lack of desire on the part of the Commission that the prisoners have not been segregated; nor, indeed, had the Commission any desire to depart from the principle of strict equality between the two sides. The inability to segregate, in the situation obtaining at present, is entirely due to the refusal by the representatives of the prisoners of war to come out of the compounds if they were to be segregated.

(Signed) K. S. THIMAYYA
Chairman

14. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

8 December 1953

I have the honour to acknowledge the receipt of your letter dated 6 December 1953 concerning the segregation arrangements. In your letter you indicated that the NNRC is unable to proceed with the arrangements for segregating the prisoners of war in the Tongjang-ni prisoner-of-war camp. With this, I cannot but express my disappointment and dissatisfaction.

To segregate the prisoners of war who have been explained to from those who have not is an explicit provision in the Rules of Procedure governing Explana-

tions and Interviews. In your letter of 6 November, you clearly promised to construct a segregation compound in the Tongjang-ni prisoner-of-war camp. The Rules of Procedure must be implemented, and promises must be kept. The NNRC and the CFI have no reason for not carrying out in the Tongjang-ni prisoner-of-war camp the stipulations of the Rules of Procedure, and your definite promise.

In your letters dated 18 November and 6 December respectively, you stated that the inability to segregate the prisoners of war is entirely due to the refusal of the representatives of the prisoners of war to come out from the compound if they were to be segregated. To this we utterly cannot agree. Solid facts have proved that the so-called "representatives" of the prisoners of war at present in the Tongjang-ni prisoner-of-war camp are the very secret agents designated by the United Nations Command side, who are the persecutors and murderers of our captured personnel, and disruptors of the explanation work; they absolutely cannot represent the prisoners of war. The NNRC and the CFI have failed to clear out the secret agents and break their organizations, but, on the contrary, recognized the secret agents as the representatives of the prisoners of war, and, taking the will of the secret agents as the will of the prisoners of war, refused to proceed with segregation arrangements. This cannot but make us feel gravely indignant. The NNRC has never seriously made any segregation arrangements; how could the Commission know that these arrangements cannot be made? The situation of complying with the utterings of the secret agents and thus making the explanation work of our side to bog down into suspension cannot be tolerated.

I resolutely ask the NNRC and the CFI to construct segregation compounds, proceed with all necessary segregation arrangements, and, in accordance with the stipulations of the Terms of Reference and the Rules of Procedure, take resolute measures to carry them out so that the explanation work of our side may proceed.

(Signed) LEE Sang Cho
Lieutenant-General

15. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

11 December 1953

According to a report of our liaison officer, the NNRC notified us that, for the reason that the so-called "compound leaders" in compound 53 at Tongjang-ni stated that the prisoners of war would not attend explanations because they did not accept segregation, the NNRC and the CFI are not prepared to arrange for explanations on 12 December in the prisoner-of-war camp at Tongjang-ni. With this, I cannot but express my deep dissatisfaction. With regard to our future explanation plan set forth in my letter of 11 December, I have not yet obtained a reply from you. I ask the NNRC to give a speedy reply.

At present, in the prisoner-of-war camp at Songgong-ni, the captured personnel of the United Nations Command, well behaved, making neither commotion nor disturbance, are requesting the United Nations Command side to give them full explanations, yet the NNRC and the CFI have been employing compulsory means to force them to leave the explanation compound. For this, the captured personnel of the United Nations

Command are most indignant and they have protested. We understand that the NNRC has discussed this problem and is now seeking a reasonable solution. However, in the Tongjang-ni prisoner-of-war camp, although the NNRC and the CFI have, under our repeated demands, just arranged a segregation compound, yet they still let themselves be swayed by the words of the secret agents, and refuse to adopt resolute measures to implement the provisions for the segregation of the prisoners of war, thus making it still impossible for our side to resume the explanations. With regard to this extremely serious question, the NNRC and the CFI are not making any effort to seek a solution. We cannot but ask, how could this be called impartial treatment for both sides?

We request to know what measures will the NNRC be prepared to take to rectify the above situation. I am awaiting your reply.

(Signed) LEE Sang Cho
Lieutenant-General

16. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

14 December 1953

I have the honour to acknowledge receipt of your letter dated 11 December 1953, which was received by me on the morning of 12 December. I must point out that nothing is farther from the desire of the Commission than to act with partiality to any of the sides. There are, no doubt, certain material differences in the situation prevailing in the prisoner-of-war camps in the south and north respectively. Whereas, in the former, the prisoners of war have often resorted to making noises and being generally unruly and violent, those in the Northern Camp have behaved quietly and have carried out orders given to them by the Commission. The only exception to their generally good behaviour was their recent refusal to leave explanation tents because, as they stated, they desired to put a number of questions to the explaining representatives. The explaining representatives stated that they were not prepared to answer questions as they had finished with their explanations. I am sure you will agree with me that the right to explain belongs to the side conducting explanations. Once the explaining representative had indicated that he had finished explanations, the subordinate bodies of the Commission had always acted on the assumption that explanation to that particular prisoner of war had concluded. On a number of occasions such a situation had arisen during the explanations in the Southern Camp. At that time, the prisoners of war concerned were removed from the explanation tents even by use of physical force. In a similar situation prevailing in the Northern Camp, the subordinate bodies of the Commission acted in a similar manner. In this view of the matter, I am sure you will agree with me that the Commission, or its subordinate bodies and the CFI have acted impartially. I must at the same time state that it is not the intention of the Commission to deprive a prisoner of war of any chances of putting reasonable questions to the explaining representatives. The Commission must, however, reserve for itself the right to decide what amounts to a reasonable question.

As to the segregation of the prisoners of war in the Northern Camp and non-segregation in the Southern Camp, it is entirely due to the fact that in the latter

do not co-operate with the Commission and have refused to be segregated. The difference again is to be attributed to the different situations prevailing in the two camps and is not due to any acts of alleged partiality by the Commission or the CFI.

(Signed) K. S. THIMAYYA
Chairman

17. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

15 December 1953

I have the honour to acknowledge receipt of your letter dated 11 December 1953. I have noted that you desire to reserve the right to demand compensation for the time lost due to interruptions of explanations. I may, however, state that the Commission was at all times prepared to make the necessary arrangements for segregation; and if it did not proceed to do so it was because it felt that such arrangements, even if made, would not materially alter the situation created by the refusal of the representatives of the prisoners of war to come out for explanations if they were to be segregated. It is not my purpose to plead justification for this attitude of the representatives of the prisoners of war. Such an attitude is obviously unreasonable. The Commission is, however, unable to alter the situation.

I have noted the plan for explanations in paragraph 3 of your letter. The Commission would have been too glad to implement such a plan but it is unable to do so in the circumstances set out in the preceding paragraph.

(Signed) K. S. THIMAYYA
Chairman

18. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

23 December 1953

It is one of the major aspects of the disruption of the explanation work by the United Nations Command that secret agents of the Chiang Kai-shek brigands have been employed to be present at the explanations by our side, under the disguise of so-called "representatives" of the United Nations Command, so as to coerce the captured personnel of our side into abstaining from applying for repatriation. I have repeatedly pointed out to the NNRC that it is absolutely impermissible to allow the secret agents of the Chiang Kai-shek brigands to be present at the explanations by our side under the disguise of so-called "representatives" of the United Nations Command. But, during the explanations by our side on 21 and 22 December, 1953, there appeared again a great number of Chiang Kai-shek secret agents in the explanation tents, intimidating the captured personnel of our side. To mention only those identified, there are already the following ten:

Chang Pi: He was dispatched from Taiwan in November 1951, to prisoner-of-war camp No. 72 on Kojedo to carry out secret agent activities. In 1952, he was transferred to the Mo Sul Po prisoner-of-war camp on Cheju-do and, after that, had made frequent trips between South Korea, Taiwan and Tokyo. He has undertaken various kinds of secret agent missions in the CIE, a US Army secret agent organization in the prisoner of war camps of the United Nations Command. In the

afternoon of 21 December 1953, he appeared in explanation tent 24 in the capacity of the so-called "observing representative" of the United Nations Command side. In the afternoon of 22 December, he appeared in explanation tent 3.

"Instructor" Ma: He was dispatched in October 1951 from Taiwan to carry out secret agent activities in prisoner-of-war camp No. 86 on Koje-do, wherefrom he was transferred to Mo Sul Po prisoner-of-war camp on Cheju-do in April 1952. He returned once to Taiwan in the winter of 1952, and came back to Cheju-do in January, 1953. He worked his way into the US Army 64th Field Hospital after the transfer of the prisoners of war to the NNRC to direct the secret agents in the various compounds of the prisoner-of-war camp at Tongjang-ni, and supply the secret agents with such weapons as daggers and so on. He appeared as the so-called "representative" of the United Nations Command side in explanation tent 3 on 21 December 1953, and in explanation tent 24 in the afternoon of 22 December.

"Instructor" Yang: He was dispatched in November 1951 from Taiwan to Tokyo, wherefrom he was transferred to prisoner-of-war camp No. 72 on Koje-do to carry out secret agent activities. In April 1952, he was transferred to the Mo Sul Po prisoner-of-war camp on Cheju-do. He has been undertaking all along various secret agent missions for the CIE, a US Army secret agent organization in the prisoner-of-war camps of the United Nations Command. On the morning of 21 December 1953, he appeared in explanation tent 17 as the so-called "observing representative" of the United Nations Command side.

"Instructor" Li: He was originally dispatched from Taiwan to do intelligence work for the US Army at the Korean front. In September 1953, he went to the Mo Sul Po prisoner-of-war camp on Cheju-do to make arrangements for disrupting the explanation work. He appeared in explanation tent 10 as the so-called "interpreter" of the United Nations Command side in the afternoons of 21 and 22 December 1953.

"Instructor" Li: He was originally dispatched from Taiwan to do intelligence work for the US Eighth Army. In September 1953, he went to the Mo Sul Po prisoner-of-war camp on Cheju-do to make arrangements for disrupting the explanation work. He appeared in explanation tent 30 as the so-called "observing representative" of the United Nations Command side in the morning of 21 December 1953 and in the afternoon of 22 December.

"Instructor" Wu: He was originally dispatched from Taiwan to the US Army at the Korean front to engage in the work of forcible interrogation of prisoners of war. In September 1953, he went to the Mo Sul Po prisoner-of-war camp on Cheju-do to make arrangements for disrupting the explanation work. He appeared in explanation tent 19 as the so-called "observing representative" and "interpreter" of the United Nations Command side in the mornings of 21 and 22 December respectively.

"Instructor" Li: He was originally dispatched from Taiwan to the US Army at the Korean front to engage in the work of forcible interrogation of prisoners of war. In September 1953, he went to the Mo Sul Po prisoner-of-war camp on Cheju-do to make arrangements for disrupting the explanation work. On 21 De-

ember 1953, he appeared in explanation tent 7 as the so-called "interpreter" of the United Nations Command side.

"Instructor" Chin: He was originally dispatched from Taiwan to the US Army at the Korean front to engage in the work of forcible interrogation of the prisoners of war. In September 1953, he went to the Mo Sul Po prisoner-of-war camp on Cheju-do to make arrangements for disrupting the explanation work. He appeared in explanation tent 8 as the so-called "observing representative" and "interpreter" of the United Nations Command side on 21 and 22 December 1953, respectively.

"Instructor" Wang: He was originally dispatched from Taiwan to the US Army at the Korean front to engage in the work of forcible interrogation of prisoners of war. He arrived at the Mo Sul Po prisoner-of-war camp on Cheju-do in September 1953, to make arrangements for disrupting the explanation work. On 21 and 22 December, 1953, he made his appearance in explanation tent 8 respectively in the capacity of interpreter and observing representative of the United Nations Command side.

Ke Tien-min: He was originally dispatched from Taiwan to do intelligence work for the United States Army at the Korean front. He arrived at the Mo Sul Po prisoner-of-war camp on Cheju-do in August 1953 to make arrangements for disrupting the explanation work, and instigate the murder of our explaining representatives and captured personnel of our side who insist on repatriation. On 22 December 1953, he made his appearance in explanation tent 9 in the capacity of "observing representative" of the United Nations Command side.

It is already a serious unlawful act that the United Nations Command has dispatched secret agents of the Chiang Kai-shek brigands, who are apart from the two belligerent sides in Korea, to its prisoner-of-war camps to persecute and oppress the captured personnel of our side. And now, great numbers of bandit Chiang's secret agents even made their appearance in the explanation compound, intimidating the captured personnel of our side and preventing their repatriation. This is absolutely unlawful, and entirely intolerable. Against this I hereby lodge a serious protest with the NNRC, and request that the NNRC should immediately adopt measures to rectify this situation.

(Signed) LEE Sang Cho
Lieutenant-General

19. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

23 December 1953

The entire spirit of the Terms of Reference for the NNRC lies in the assurance that the side to which the prisoners of war belong shall have freedom and facilities to conduct explanations to the prisoners of war for ninety days, thus ensuring that the prisoners of war shall have the opportunity to exercise their right to be repatriated. Accordingly, paragraph 8 of the Terms of Reference explicitly provides that the NNRC, after having received and taken into custody all those prisoners of war who have not exercised their right to be repatriated, shall immediately make arrangements so that within ninety days after the NNRC takes over the custody, the nations to which the prisoners of war be-

long shall have freedom and facilities to conduct explanations to the prisoners of war. If the afore-mentioned spirit and specific provision of the Terms of Reference had really been carried out, the explanation work should have been started on 25 September 1953, when the Commission took into custody the prisoners of war, and should have been continued from then on without interruption until 23 December 1953. Had this been done, the requirement would have been fulfilled that the side to which the prisoners of war belong has the ninety-day explanation period to which it is entitled.

But the facts are quite to the contrary. After the take-over of the custody had begun, the United Nations Command side procrastinated, using the problem of the reconstruction of explanation facilities as an excuse. It would take the Korean and Chinese side only four days to reconstruct the explanation facilities, yet the United Nations Command side claimed that it would take four weeks. And, as a matter of fact, only one night was finally spent to get these facilities completed. Owing to the procrastination of the United Nations Command side, it was not until 15 October that the explanation work really commenced, while it should have begun on 25 September. Obviously, the time thus lost should be made up for. The NNRC also held at this early stage that, because of the time lost, the explanation period should consequently be extended, and with this our side readily concurred. However, after the United Nations Command side had calculatedly deprived the Korean and Chinese side of twenty explanation days, the Commission did not persist in maintaining that the time lost should be made up for. And this made the United Nations Command side dare to take a step further and direct the secret agents to obstruct the explanations.

After its commencement, the explanation work has been interrupted as many as five times, because the secret agents refused to let the prisoners of war attend explanations, and because the Commission, anticipating that the agents would do so, notified our side with finality to suspend explanations. And thus our side was made to suffer an additional loss of sixty explanation days. Of these five interruptions, the first and the third caused only a loss of two days because of the quick concessions made by our side, and the other three all developed into prolonged deadlocks, for the Commis-

sion adopted practically an attitude of an on-looker. When the explanations were interrupted for the fourth and the fifth time, even though the Commission has, according to the Terms of Reference and the Rules of Procedure, the inescapable responsibility to make segregation arrangements to enable our side to resume the explanations, even though Your Excellency had promised on 6 November to provide segregation tents, even though our side had changed several times our choice as to the compound to be explained to in an attempt to make it easier for the Commission to get the prisoners of war out for explanations, yet the Commission had never given due consideration to all this. Even when the segregation tents were at long last furnished on 10 December, the Commission still stressed that the secret agents would not allow the prisoners of war to be segregated, and as a result, it was impossible for our side to carry on the explanation work. However, owing to the just insistence of our side, the prisoners of war were at last segregated on 21 December, and the explanation work was thereby resumed. The allegation was proved to be untrue that the Commission could not take any action in view of the fact that the secret agents refused to be segregated and to attend explanations. On the contrary, it can be seen from the situation of 21 December, that if the Commission had resolutely put an end to the obstructive activities of the secret agents in accordance with the provisions of the Terms of Reference, our side would not have sustained a loss of time for explanations. It is, therefore, clear that, although the United Nations Command side should bear the main responsibility for the enormous loss which our side has sustained as regards the time for the explanations, the Commission cannot but also bear the direct responsibility for failing to implement resolutely the Terms of Reference and thus causing such a loss.

Now, up to 23 December, the explanation work of our side has proceeded for only ten days. Our side resolutely demands that the explanation work be continued until the ninety-day period has been fully made up. We consider that the NNRC should satisfy this reasonable demand for our side.

I am awaiting a reply from Your Excellency.

(Signed) LEE Sang Cho
Lieutenant-General

ANNEXURE XIII

Interview of Chinese prisoner of war with the Neutral Nations Repatriation Commission

1. RECORD OF CHINESE PRISONER'S INTERVIEW WITH THE NEUTRAL NATIONS REPATRIATION COMMISSION AT ITS 35TH MEETING ON 22 OCTOBER 1953

Chairman: We have one Chinese prisoner who wishes to be interviewed by the NNRC and he is the same person who was removed by me from tent 7. He is now coming before us and we will ask him what he wants.

(The prisoner was escorted by Brigadier B. M. Kaul and others into the Conference Room. Dr. Kumar was the interpreter.)

Chairman: Please tell him that we are members of the NNRC and that I understand that he wished an interview with us.

Prisoner: Yes.

Chairman: What does he want to see us about?

Prisoner: I want to go back home to my fatherland, Chinese mainland.

Polish member: Was he prevented in his camp to exercise his will and by whom?

Prisoner: There were five prisoners of war of whom I was afraid that they might prevent me from going back home. That is why I could not decide then to apply for repatriation.

Chairman: Ask him why did he not come out and say that he wanted to go home? Why did he not exercise his will inside the compound?

Prisoner: There were people in the compound of whom I was afraid.

Chairman: Who were these people who tried to prevent you from doing so?

Polish member: Were they the agents of Chiang Kai-shek?

Prisoner: There are quite a number of people in the compound and they do not like anyone to go back.

Polish member: During the explanation, did anybody prevent him from expressing his wish to be repatriated and eventually by whom?—was it the observers or representatives of any side?

Prisoner: I heard the explanation but I was not clear in my mind. There was some confusion and I did not understand what they were saying. I stood up and wanted to go by one door and was stopped. Then I wanted to go out by the other door and was again stopped. I only said that I wanted to go out.

Chairman: What actually happened was that every time he wanted to go out he was stopped from going, because he was not yet asked the question “Do you want to be repatriated or not?”.

Czechoslovak member: I would like to ask the prisoner if he has some knowledge of the acts of violence committed in the compound against the prisoners and, if so, by whom and what?

Prisoner: I have heard about the acts of violence, but in my own compound I have not seen any. I have also heard that in other compounds if anybody wants to go home he is beaten. They say that if anybody does not want to be tattooed in the hospital, they beat him, and in some cases they say that Indian guards have killed them. But he knew, this was not the case.

Czechoslovak member: If a prisoner of war wishes to be repatriated, has he the possibility in the compound to express his wish?

Prisoner: It is very difficult for anyone to say openly that they want to go home. Of course there are prisoners who crossed the wires and went away. I know a number of persons in my own compound who have done that. But, openly they are afraid.

Polish member: Are all the prisoners acquainted with the Rules of Procedure governing Explanations and Interviews and has he heard about them?

Prisoner: Some prisoners have heard but many are not allowed to listen. I could not hear myself.

Chairman: Did he hear the broadcast?

Prisoner: Yes I heard some broadcast was going on.

Chairman: But did he listen to it?

Prisoner: I was afraid; I could not go out to listen.

Chairman: Did he close his ears? Wherever he was, could he hear the broadcast?

Prisoner: I was inside the tent and I could not hear. I could not go outside. I was afraid.

Chairman: What was he afraid of?

Prisoner: I did not dare to go, so that I might not be beaten.

Polish member: Did he know that he was going to the explanations? What was he told?

Prisoner: I knew about it. The other prisoners in the compound had told me the evening before that we were to go for explanations the next day.

Chairman: Did he get any explanation from the compound commander as to how he was to behave or were any other instructions given to him?

Prisoner: We were told that when you go to the explanations, don't say that you want to go to the

mainland of China. If anyone expresses his wish to go there, they will kill him.

Polish member: Who are “they”?

Prisoner: Other prisoners at the back of the explanation compound. They said that if anybody wanted to go home then they will create confusion, make noise, etc., get hold of him and kill him.

Chairman: Ask him where is his home?

Prisoner: In Shansi province of China.

Chairman: How long ago has he been there?

Prisoner: About seven to eight years.

Chairman: Why did he leave his home?

Prisoner: I volunteered to join the army.

Chairman: Which army?

Prisoner: Previously I was common man and then I joined the People's Army.

Chairman: Who did he fight against? What happened in those eight years?

Prisoner: I fought against the Kuomintang at different theatres of war in several provinces of China before coming to Korea.

Chairman: Did he get any leave during that period?

Prisoner: No, I did not.

Chairman: When did he come to Korea?

Prisoner: In 1951.

Chairman: How long did he fight before he was taken as a prisoner of war?

Prisoner: I was caught in July 1952.

Chairman: After he became a prisoner, did anybody tell him to become a communist or anti-communist or something like that?

Prisoner: I was all along sick but persons in other camps were telling people to oppose communists.

Chairman: Were there any people in the camp who were not prisoners?

Prisoner: I only heard that Chiang Kai-shek had sent a number of agents in the camps. I have not seen anybody myself.

Chairman: Is he with the same unit with which he was captured in July 1952? Is he with his associates of the same unit? Or are they the same people in the compound?

Prisoner: They are not of the same unit but from various units.

Chairman: Does he know that in his compound the leaders were formerly officers in his Army?

Prisoner: The representatives in my compound were formerly officers in the Kuomintang Army but later on they joined the People's Army and were ordinary soldiers.

Polish member: In which camp was he before he was sent to the CFI?

Prisoner: In Cheju Island (Cheju-do)—third group.

Polish member: Was he screened in this camp or was he prevented from being repatriated and by whom? What methods were used?

Prisoner: When they screened other prisoners I was not then a prisoner of war. I became a prisoner of war in July 1952. So I do not know about the screening.

Czechoslovak member: When he was captured in July 1952, did he ask at any time after that to be repatriated directly, before being turned over to the CFI? Was he ever asked to go back home before he came to the present camp?

Prisoner: I was a sick prisoner of war and nobody asked me anything.

Czechoslovak member: My point is that he has been put among the non-repatriates without being asked whether he wishes to go home or not.

Chairman: What actually happened was that all the explainers got up and the interpreter made an obvious sign towards the repatriation door and said "If you want to go by this door, then you go home" otherwise by the other door. I tried to find out what exactly it was. But I do not think he was explained to clearly as he was very much confused. The subordinate body did not agree which way to send him because they held that the question was already asked. So I put them the proposition that this question be put before the NNRC.

Polish member: When he was asked the question about repatriation and non-repatriation, did he know what that meant?

Chairman: Please ask him what repatriation meant and if he had any doubt in his mind what the two doors meant?

Prisoner: When I was asked this I was not very clear in my mind. The only thing I knew was that if I wanted to go home I go by that door.

Chairman: Did he know where that door led to? Where would he have gone had he gone by that door, did he know about it?

Prisoner: The only thing I understood from the explainer was that "If you want to go back, go by this door."

Swiss member: Would it be clear if some signs were put up at the doors? Does the prisoner have any suggestion that we should put a sign on the door?

Chairman: Please ask him if he thinks the doors should be marked? If he likes any signs to be put up to make it clear?

Prisoner: We have been prisoners of war for a long time and our minds are very much confused. There are so many people in the room and some prisoners get confused and I think it is better if you put a sign at the door written in Chinese characters "Those who want to go home, this is the door". (The interpreter asked him what marking should be on the other door.) The other door; you leave it blank.

Chairman: Can everybody read?

Prisoner: If you write in Chinese characters then some can read.

Chairman: Please tell him that we have listened to him and will send him back where he wants to go but he has got to be validated.

Prisoner: Has it not been decided that I could go home?

Chairman: Yes. It is decided.

(The prisoner did not seem quite clear about what validation was to be and he seemed apprehensive. When he was offered to go out for a cup of tea he still seemed to be afraid of leaving the Commission's room.)

Polish member: Can't we have him validated immediately. He is confused and perhaps does not wish to face the validation body. He might be confused further. I think it is only just and fair to the poor man.

(The Chairman of the NNRC and members of the Commission validated him in the Conference Room right then and it was decided to hand him over to the Command of KPA and CPV the next day at 1100 hours.)

Name of the prisoner: Yua He Tan.

No. of the prisoner: 719571.

Rank: Private.

Nationality: Chinese.

Unit: Signals.

The prisoner replied that he has asked for repatriation voluntarily.

On hearing that he would be sent home the next day, the prisoner clapped his hands with joy.)

2. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

19 October 1953

I am obliged to call to your attention the circumstances surrounding the prisoner of war interview at explaining point 15 which occurred on the afternoon of 17 October 1953. I am certain that you are at least partially familiar with the incident, since it was only through your personal intervention that the interview was finally terminated. At this particular interview, Captain Churaya was Chairman, Lieutenant-Colonel Reutersward was the Swedish delegate and Lieutenant Geisshusler the Swiss delegate.

I am in possession of a report of investigation conducted on this particular incident. Pertinent extracts are appended.

This incident involves intimidation and coercion of a prisoner of war by communist explainers. It is the most flagrant violation of the principle of freedom from coercion that has come to my attention. It is imperative that this practice be terminated in future explanations conducted by the NNRC.

(Signed) A. L. HAMBLER
Brigadier-General, USA
Commanding

3. LETTER FROM THE COUNSELLOR, NEUTRAL NATIONS REPATRIATION COMMISSION SECRETARIAT TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

30 October 1953

1. I am directed by the Chairman to acknowledge the receipt of your letter No. AG 383.6 RCGG dated 19 October 1953, along with its enclosures.

2. I am to say that the report of investigation forwarded by you was carefully examined by the Commission. In so far as your observer's account tends to assume that the real intention of the prisoner in question was to go to Taiwan, it is evident that the assumption was incorrect and too hastily drawn.

3. The prisoner in question, when given a quiet period for reflection, unhesitatingly expressed his desire for repatriation. In the process of validating his application he was examined at great length by the Commission on 22 October, when he categorically insisted upon being repatriated and was most apprehensive about being sent anywhere else. It is, therefore, clear that justice has been done and the wishes of the prisoner have prevailed.

4. I am to state that the Commission, on the basis of its experience of explanatory work on 15 and 17 October respectively, does not feel justified in assuming that a prisoner's shouting of words "Taiwan, Taiwan" constitutes the final and conclusive proof of his intention. The Commission observed that even the pris-

oner, about whom you have written, entered the tent by shouting "Taiwan, Taiwan," and eventually elected to be repatriated.

5. While the wishes of the prisoners must prevail, there is a solemn obligation imposed on the Commission that it must ensure that a prisoner's will is not overborne by compulsions and threats. The Commission is also under an obligation to give freedom and facilities to the explaining representatives in accordance with

the Terms of Reference and the Rules of Procedure. Having regard to all these matters, the Commission feels that the incident to which you have invited its attention does not call for any special measures. The subordinate bodies of the Commission have already been given strict instructions to ensure that no prisoner of war is harassed, coerced or threatened in any manner.

(Signed) P. N. HAKSAR
Counsellor

ANNEXURE XIV

Protests to the Neutral Nations Repatriation Commission from South Korean prisoners of war refusing repatriation

1. LETTER OF PROTEST TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION FROM THE SOUTH KOREAN PRISONERS OF WAR REFUSING REPATRIATION

Panmunjom, 11 December 1953

It is with great regret that we, all of the prisoners of war who have already been explained to in the course of the explanations held since 2 December 1953 to date by the United Nations side submit the following letter of protest to you who are so fully occupied.

We remember well that the explanations which began on 2 December 1953 constitute a matter of vital importance that will finally decide and settle the question of the course of life in the future for all of us. Therefore, it was with great anxiety that we had been looking forward to the coming of that day and had been expecting that the NNRC would then justly and reasonably settle the question.

We have all along respected the Korean Armistice Agreement, which is an international treaty, and have respected the Rules of Procedure governing Explanations and Interviews transmitted by the NNRC. As genuinely educated Korean youth and as peace-loving citizens of the world, in a gentleman-like manner, we went to the explanations. Since according to article III, paragraph 8, of the Terms of Reference for the NNRC we are to be informed of "any matters relating to . . . return to homeland", particularly of our "full freedom to return home to lead a peaceful life", we should have the right to raise questions on all occasions on points where we have doubts or apprehensions. It has been a long time since we left South Korea, so there surely will exist a number of doubts when we come to decide on our attitude. Therefore, in the light of past experiences, it is only when ambiguous and unconvincing points in the present explanations by the explainers are solved, that we can decide the question of our future course of life with assurance. Thus, we have the right to express our views. However, out of all our expectations, the Chairman of the NNRC only respected what the explainers said, and not only would not permit us to put forward our views on unclear and ambiguous points, but even completely deprived us of the right to speak.

Before we had decided on our attitude, on what grounds could it have been determined that we had already shown our attitude, thus ordering us to withdraw from the tent? On what grounds were we hindered

or even prevented from drawing conclusions in compliance with and showing exclusive respect to the intentions of the explainers? And sometimes, without any warning, we were subjected to such procedure as being asked to decide on our attitude with the limited time of thirty seconds, which revealed another lack of sincerity. And not only this, we were even unreasonably ordered to be dragged out by Indian soldiers without being given a chance to protest. Then, have the NNRC and its Chairman arranged to give us full "freedom" and "facilities" to make "representations" as is prescribed in article III, paragraph 9, of the Terms of Reference for the NNRC? And are these prejudiced provisions among the "arrangements" made by the Commission?

While dealing with the important and key question of the future of us prisoners of war during the explanations could the NNRC disregard our human rights by bowing to the views of a certain side? Furthermore, with regard to this, could the Commission be fully responsible for everyone of us?

We demand a clear answer as to for whom is the explanation work conducted, and what is its basic spirit? Besides, could the Indian soldiers in the explanation compounds forcibly take hold of our hands and twist them? Twisting hands and shaking hands are obviously not the same thing. After the explaining representatives left the explanation tents upon saying that we were allowed five minutes to think it over, and there remained only our comrade and two Indian soldiers in each tent, could the Indian soldiers intimidate us with tight-clenched fists and glaring stare? Or could the Indian officers intimidate us with an ugly look in their eyes?

Why should the NNRC outwardly take a friendly attitude, but would always openly or secretly force us out without even asking what we would choose from the door through which those refusing repatriation withdraw? And there were cases like the following:

About 1000 hours on the morning of 9 December 1953, in the second explanation tent to the left of the entrance of the double barbed wire fence, the explainee was told through the interpreter of the United Nations Command side to go out to think for a while, and was thus manoeuvred out, and being refused re-entrance into the tent, was forced to get on the bus.

Could the NNRC arbitrarily decide our question for us and issue compulsory and unreasonable order to re-

move us from the tents? We hold that this point should be made clear to us. Here, nobody is allowed to impose any compulsory or unlawful restrictions on us. This is our stand.

Next, let us look at the explainers before us. They came with preconceived conclusions and prejudiced feelings. One would doubt whether they had not come here only to perpetrate insults and slanders. These people openly carried on slanders, insults and intimidations by the vilest and most dexterous means; and became worse and more outrageous every day. They audaciously kept on being provocative by sharp slanders and insults, and inciting us to indignation by contemptuous trifling and sneering. They have been perpetrating calumnies completely foreign to the ways of explanations. For example, they said sarcastically: "Hong Dae Kyu is a patriot, but I am a better patriot than Hong Dae Kyu," or, that they would go back to tell Hong Dae Kyu to work better, and so forth. Could such vile sneering be permitted to prevail here? They also said things like "Go back behind the double-rolls of barbed wire", or "If you do not come back, you will still be living the life of a prisoner of war" and so on, to calumniate and slander the People's Democratic Republic of Korea in an attempt to deceive and intimidate us. They not only interrupted or paid no attention to what we said, but even withdrew before we had drawn any conclusions, obviously with the intention to disrupt the session. Where did their intention lie when the Chairman happily acquiesced in this practice? And the explainers also talked such nonsense to us as, "What have you promised the People's Democratic Republic of Korea?" or, "Are you under forcible retention?" In the course of the explanations, when we, following our own outlook in life, asked for clarification on certain points which were not clear to us, in great confusion they just refused to answer and yet talked all this nonsense. Is this permissible? What was even more serious is that also the explainers themselves asserted that they were in the sacred international arena, yet they charged that there were documents signed by Kim Il Sung, Nam Il and Chou En-lai on the forcible retention of prisoners of war. It would be more appropriate to take the assertion as the most wicked, deliberate and insane fabrication than to attribute it to the lack of common sense of the explainers. What has such gross mud-throwing slander to do with the explanations? If the NNRC, after hearing all this, still pays no attention, then it should be held responsible together with the explainers.

On no account could we tolerate the explainers using such utterly unpermissible language to-day, when the expiration of explanations is near at hand. Moreover, the NNRC, in disregard of our attitude, only echoes the preconceived subjective judgment made by the explainers based on experiences in previous explanations, and adopts the same attitude as that of the explainers. We hereby point out the impropriety of all these actions: such as the prejudiced attitude and irrational judgment, and the mental torture and bodily attack practised on us by the Indian Custodial Force. By this we lodge a strong protest through you, Lieutenant-General Thimayya, Chairman of the NNRC, and resolutely insist on the immediate rectification of the situation, and an early reply. At the same time we have had faith all along in the reasonable and impartial settlement of our questions by the NNRC. As we were dragged out by the CFI before we had time to state our attitude, we have profound faith that the NNRC will give us

opportunities to state our attitude in the sacred international arena.

All the South Korean prisoners of war refusing repatriation

2. LETTER FROM THE "REPRESENTATIVES" OF THE AMERICAN-BRITISH NON-DIRECTLY REPATRIATED PRISONERS OF WAR OF THE PEOPLE'S DEMOCRATIC REPUBLIC OF KOREA

Non-directly repatriated
prisoners of war
Korean and Chinese side
People's Democratic
Republic of Korea
13 December 1953

To: Neutral Nations

Repatriation Commission, Paumunjom,
Democratic People's Republic of Korea

This is a letter of protest concerning various aspects of explanations which are going on presently on this side. With the knowledge that the NNRC would want no prisoners of war to attend any explanations if there were any misunderstandings, or disagreements with present procedural matters of explanations and also if the prisoners of war had any grievances with any or all parties connected with the explanations, we recognize this procedure to be correct. This was explained to us by General Thimayya in a meeting with him held on the morning of 12 December this year. General Thimayya further stated that there were such instances to exist then he would like to have the explanations stop and the matter cleared up, rather than to allow any unpleasant incidents arising during the explanation. We agree wholeheartedly with these opinions and consider them quite reasonable.

In short, in lieu of what General Thimayya has told us and because misunderstandings, disagreements with explanation procedures and grievances do exist, we launch this protest to the NNRC.

If there is any question as why we did not bring these things out at the meeting with General Thimayya we would like to say that for the most part we did not know of them until after the meeting; and on what we did know we were very vague and unsure as to the exactness and accuracy of the reports. Since this time we have had long talks with the Korean non-directly repatriated prisoners of war of this camp, compared this new information with the objective data we knew of concerning the explanations, and found their protest quite true and justifiable.

Further, we were, up to the 12 December meeting with General Thimayya, under the impression that explanations would first be completed with the Korean NDRP's before the American and British explainers came to explain to us. At the meeting, General Thimayya told us that our explanations would begin on Monday, 14 December. Knowing the nature and intentions of the other side, it is quite obvious that the Governments of the United States and Britain are exerting pressure on their lackey, Syngman Rhee, to give up or at least temporarily abandon his explanations to the Korean NDRP's that the US and British explainers may get at us, the American and British NDRP's. Actually, what this means is that the Korean NDRP's are not permitted their full rights to explanations and that the US, British and Syngman Rhee Governments are using the explanations as a means to attack, slander and defile politically the NDRP's of

this side as well as the Governments of the People's Democratic Republic of Korea and New China. How else could this be interpreted?

The NNRC must understand that, as we see it, the explanations are for the NDRP's and not for the explainers, therefore prime importance must be placed on protecting and conducting explanations for NDRP's and not for the explaining officer, as has been the case during the explanations so far. If the NDRP is not allowed full and unlimited explanation during the ninety-day period, then the explaining side need not come to explain. The NNRC must admit that during the course of the explanations on this side the explaining officer has been allowed to act like a slaveholder dealing with slaves. Our full anger and resentment to this matter cannot be expressed within the compass of this protest.

However, we will not allow this to continue to our fellow NDRP's nor will we, ourselves, be exposed to such a shameful and insulting procedure. We demand immediate correction, our full right as NDRP's, and the necessary guarantees to ensure us that we will be protected from any reoccurrences of such incidents.

The Korean NDRP's are quite willing to attend explanations. They have proved this by their co-operation to date; therefore, we demand that, if they want explanations, they receive the required explanations necessary to guarantee that they are explained to satisfactorily within the ninety-day period, and that if during the course of explanations there are those NDRP's who, having been explained to once, still cannot make up their minds, that they be returned to the camp of unexplained NDRP's and be allowed their right of further explanation, and that this continue until the NDRP has made a decision one way or the other and that this procedure be carried out until the termination of the explaining period, that is, the end of the ninety days.

Following are some examples of some of the things the explainers have said or done which we consider breaches of explanation procedure, and are in fact violations of the Korean Armistice Agreement:

1. NDRP's were told that they would be a prisoner of war all of their life if they did not come back.
2. That the communists have taught us nothing but lies.
3. That the NDRP's determination will not last ten years.
4. That we have been forced to stay behind.
5. In the future we do not know on what mountain (where in Korea) we will meet again.
6. That if the NDRP's are captured again they will be killed.
7. Have called some NDRP's "bastards".
8. Explainers will not answer questions of the NDRP's or listen to any statements made by the NDRP concerning his decision.

What has the NNRC done about this thing? Nothing that we know of. Yet you ask us to come to explanations to expose ourselves to the abuses and slanders of the explainers. This is ridiculous, and until the situation is rectified we refuse to go to explanations. This does not mean that we refuse to attend explanations. No, on the contrary, we welcome explanations. We only ask that we be protected from the slander, abuse and political attacks of the explainers, that explanations be continued and completed with the Korean NDRP's before we go to explanations. The Koreans demand and welcome explanations.

Therefore, we demand that they be explained to; that during the ninety-day period we be allowed the right of explanation until such time as the individual has made his decision; that we be allowed the privilege of questioning the explainer and of making statements to the explainers concerning our decisions. When these important and necessary matters are taken care of then we are ready to go to explanations.

We have no underlying motives for demanding these things. The point is that at present we are forced to go to explanations and while there are abused, slandered and intimidated by the explanation officer. We must sit and listen like mute cattle and are not allowed to contest or question the explanation officer if the explanation officer so desires that we don't. Yet he is allowed an indefinite period to talk, question or abuse us.

We are the persons that should be given primary rights, not the explainers. We demand that we be treated with the respect due to all human beings and specially peace-loving people. We refuse to be viciously and falsely slandered before the eyes of the world's people and be forced to remain silent.

When we are guaranteed that our demands have been accepted and considered by the NNRC, also that the necessary corrective measures have been taken to ensure us of no reoccurrences, when the Korean's demands are likewise considered and acted upon and their right to explanation are met, then, and only then, are we willing to attend explanations.

We would also like to protest against the brutal treatment used by the CFI upon the Koreans NDRP's whom they escorted from the explanation tents. There were enough CFI personnel present to warrant no necessity for mistreatment of any kind. Yet some of the Korean NDRP's were brutally kicked and beaten by the CFI officers and men. The Korean NDRP's were unarmed and could put up no or little resistance to the armed and much larger number of CFI men. We deem that investigation is necessary and that punishment be meted out to those responsible among the CFI men of this camp for the brutal mishandling of the NDRP's.

We were quite shocked and surprised to hear of this, because the guards around our camp have been relatively friendly here of late, therefore it is quite possible that those officers commanding them are responsible and, in fact, the Commanding Officer of this camp and his assistant officer participated in the brutal beatings of the men. We not only consider this an unnecessary brutal physical attack upon these men but a direct insult to the dignity and self-respect of all the NDRP's of this side.

You are the NNRC and it is your duty and task to carry out the work assigned you according to the Korean Armistice Agreement and the Terms of Reference to this agreement. It seems to us that you have, in relation to explanations on this side, paid more attention and allowed greater rights to the explainers than you have to explainees. Not so much in your laying down the rules and procedures governing explanations but in the carrying out of these rules and regulations you have either been lax or misinterpreted your own rules and procedures.

We are not condemning the NNRC or going against any decisions they have made. We are taking the advice of General Thimayya, Chairman of the NNRC, by asking that these points contained in this protest be settled satisfactorily before we begin explanations. We feel that things will be settled satisfactorily and, to be sure that

no misunderstandings arise from this protest, we ask that if any of the points mentioned here is not clear, please notify us in order that we might clarify whatever point may be in question.

We would like you to note that this protest is signed by only twenty-two of the twenty-three non-Korean NDRP's of this camp. If there are any questions as to why this is so we would like to say that a most democratic manner of living is followed by us. One from which we never waiver. Each man is an individual and may act accordingly. In this case we have one man who does not agree in full with the report; he objects to refusing explanations until this protest is cleared up, but not because he thinks we are wrong but because he wants to be explained to now, immediately. To allow him his just rights to his own opinions and decisions, we ask that the NNRC see that this man is explained to as quickly as possible.

We look forward to your co-operation and have full trust in your decisions. We shall carry on a normal and happy camp life until these matters are settled. Also, in order that the people of the world may have a clear understanding on this matter, we ask that this protest be released to the press of both the sides.

(Signed) Richard G. CORDON
Andrew M. CONDRON
on behalf of twenty-two
American-British NDRP's
People's Democratic
Republic of Korea

3. REPLY FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE LETTER OF PROTEST FROM THE NON-DIRECTLY REPATRIATED SOUTH KOREAN PRISONERS OF WAR

22 December 1953

1. Please refer to your undermentioned letters of protest addressed to the Chairman, Neutral Nations Repatriation Commission:

- (a) Letter of protest signed by all the South Korean Prisoners of War dated 11 December 1953.
- (b) Letter of protest from 96 South Korean prisoners of war.
- (c) Twenty-four protests from individual prisoners dated 11 December 1953.
- (d) Two individual protests dated 12 December 1953.
- (e) One individual protest dated 10 December 1953.

2. Your letters of protest have been considered by the Commission.

3. The Commission is unable to accept your contention that the right to demand explanations rests with the prisoners of war. Under the Terms of Reference, it is for the explaining side to decide how it wants to carry out its explanation work in order to persuade its captured personnel to return to their homelands. While the Commission is prepared to ensure that the prisoners are given a reasonable chance of clearing up their legitimate doubts to enable them to make up their minds, it cannot, however, agree with your contention that the prisoners of war are entitled to unlimited explanations or that the explaining representatives of the side concerned could be compelled to give such explanations. The final responsibility for ensuring that explanations are conducted in accordance with the Terms of Reference and the Rules of Procedure rests with the subordinate body of the NNRC in charge of each explanation tent.

4. Your protest against the alleged brutal treatment meted out by the CFI guards is not justified. The Commission is satisfied that it was only when the prisoners refused to vacate the explanation tent when ordered to do so by the Chairman of the subordinate body that a slight degree of force was used and was limited to removing the prisoner from impeding the explanation work.

5. At one of the meetings of the Chairman of the NNRC with you, he explained how even the slight degree of force used by the CFI guards in removing the prisoners or carrying them out of the explanation tents would have been unnecessary if the prisoners had obeyed the orders to vacate the tent. However, to prevent recurrence of such incidents, the Commission would advise all the prisoners to leave the explanation tents when asked to do so by the Chairmen of the subordinate bodies.

6. Your complaint about breaches of explanation procedure by the explaining representatives of the United Nations side is noted. The Commission would, however, like to point out that the representative from the Command of KPA and CPV present in the explanation tent has the right, whenever he feels that there has been a violation of either the Terms of Reference or Rules of Procedure, to lodge a protest or bring the matter to the notice of the Chairman of the subordinate body at the end of each explanation. A couple of such protests were received from the representatives of that Command and have been satisfactorily settled.

7. Your complaint that the NNRC was not paying attention to the rights of the prisoners but was giving more thought to those of the explaining representatives is incorrect. If, however, you feel that during an explanation your rights are being violated, then you have the freedom to bring this to the notice of the Chairmen of the subordinate bodies for rectification.

8. The Commission feels, therefore, that it is incumbent on you to attend explanations in accordance with paragraph 7 of the Rules of Procedure.

(Signed) K. S. THIMAYYA
Chairman

4. REPLY FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE LETTER OF PROTEST FROM THE "REPRESENTATIVES" OF THE AMERICAN-BRITISH NON-DIRECTLY REPATRIATED PRISONERS OF WAR

22 December 1953

Messrs. Richard G. Cordon,
Andrew M. Condron

Representatives American-British NDRP's

Please refer to your representation dated 13 December 1953 addressed to the Neutral Nations Repatriation Commission.

2. Your representation has been considered by the Commission.

3. The Commission is unable to accept your contention that the right to demand explanations rests with the prisoners of war. Under the Terms of Reference, it is for the explaining side to decide how it wants to carry out its explanation work in order to persuade its captured personnel to return to their homelands. While the Commission is prepared to ensure that the prisoners are given a reasonable chance of clearing up their legitimate doubts to enable them to make up their minds, it cannot, however, agree with your contention that the prisoners of war are entitled to unlimited explanations or that the

explaining representatives of the side concerned could be compelled to give such explanations. The final responsibility for ensuring that explanations are conducted in accordance with the Terms of Reference and the Rules of Procedure rests with the subordinate body of the NNRC in charge of each explanation tent.

4. The Commission cannot also agree that it is for the prisoners of war to decide as to what group and number of prisoners are to be explained to by the explaining side. Your claim, therefore, that the South Korean NDRP's be first explained to and the representation made by them be considered before commencement of explanations to the American and British prisoners is unreasonable.

5. Your protest against the alleged brutal treatment meted out by the CFI guards to the Korean NDRP's is also not justified. The Commission is satisfied that it was only when the prisoners refused to vacate the explanation tents when ordered to do so by the Chairman of the subordinate bodies that a slight degree of force was used and was limited to removing the prisoners impeding the explanation work.

6. When the Chairman of the NNRC met you on 15 December, he explained how even that slight degree of force used by the CFI guards in removing prisoners or carrying them out of the explanation tents would have been unnecessary if the prisoners had obeyed the orders to vacate the tents. However, to prevent recurrence of such incidents, the Commission would advise all the prisoners to leave the explanation tents when asked to do so by the Chairmen of subordinate bodies.

7. The Commission agrees with you that, where a prisoner has had explanations and still cannot make up his mind, he can be segregated from those who have been explained to. Such a prisoner may also be given further opportunity to listen to explanations until he makes up his mind.

8. Your complaint about breaches of explanation procedure by the explaining representatives of the United Nations side is noted. The Commission would, however, like to point out that the representative from the Command of KPA and CPV present in the explanation tent has the right, whenever he feels that there has been a violation of either the Terms of Reference or Rules of Procedure, to lodge a protest or bring the matter to the notice of the Chairman of the subordinate body at the end of each explanation. A couple of such protests were received from the representatives of that Command and have been satisfactorily settled.

9. Your complaint that the NNRC was not paying attention to the rights of the prisoners but was giving more thought to those of the explaining representatives is incorrect. If, however, you feel that during an explanation your rights are being violated, then you have the freedom to bring this to the notice of the Chairmen of the subordinate bodies for rectification.

10. The Commission feels, therefore, that it is incumbent on you to attend explanation in accordance with paragraph 7 of the Rules of Procedure.

(Signed) K. S. THIMAYYA
Chairman

ANNEXURE XV

Start of explanations in the Northern Camp

1. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

11 November 1953

Anticipating a start of explanations in the Northern Camp, certain clarification of the Rules of Procedure is required in order to permit a smooth non-controversial operation. Under the provision of the tenth Rule of Procedure, it is assumed that one United Nations Command representative to observe may be present at each site at which explanations are taking place. It is also assumed that, under the provision of the fifteenth Rule of Procedure, one United Nations Command interpreter will be required at each explanation site.

As applied to the number of explainers who may be present in the explaining area, it is the United Nations Command's understanding of paragraph 8 (a) of the Terms of Reference that there may be five American, five British and five Korean explainers operating in the explaining area simultaneously.

In the event the NNRC concurs in the above views on the Rules of Procedure and Terms of Reference, planning for explanations in the Northern Camp will proceed on that basis.

(Signed) A. L. HAMBLEN
Brigadier-General, USA
Commanding

2. LETTER FROM THE COUNSELLOR, NEUTRAL NATIONS REPATRIATION COMMISSION SECRETARIAT, TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

21 November 1953

I am directed to acknowledge the receipt of your letter No. AG 383.6 RGCG dated 11 November 1953.

With reference to the second paragraph of your letter under reference, I am to say that the Commission is unable to understand the interpretation given by the United Nations Command to paragraph 8 (a) of the Terms of Reference. That paragraph clearly lays down the mode of computing the total number of explaining representatives to which the United Nations Command would be entitled, at the rate of seven per thousand of prisoners of war, irrespective of their nationality. I am to inform you that the total United Nations Command's entitlement is five explainers.

With reference to your inquiry in the first paragraph of your letter, I am to state that where explanations are conducted in the English language, no interpreters would be required. In case of explanation of Korean prisoners, the Commission would, as hitherto, require one Korean-English interpreter.

(Signed) P. N. HAKSAR
Counsellor

3. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

24 November 1953

Reference is made to No. 177/1/NNRC, Headquarters NNRC, 21 November 1953, which is a reply to my AG 383.6 RGCG, 11 November 1953. In the second paragraph of the NNRC letter it is stated that the Commission is unable to understand the United Nations Command interpretation of paragraph 8 (a) of the Terms of Reference.

Paragraph 8 states in part: "... The nations to which the prisoners of war belong shall have freedom and facilities to send representatives . . ." In the present instance those nations are the Republic of Korea, the United Kingdom and the United States. The intent is clear that each nation to which the prisoners belong shall have the authority to explain, and that it is not an authority granted to the United Nations Command as a military command.

Paragraph 8 (a) states in part: "... The number of such representatives . . ." This phrase refers to the representatives of the individual nations to which the prisoners of war belong as set forth in paragraph 8. Prisoners belong to individual nations and not to the United Nations Command and only representatives of the individual nations can be explainers. The United Nations Command finds it impossible to understand paragraph 8 (a) as restricting the number of explaining representatives to the number authorized by grouping all the prisoners held as though they belonged to one country.

The United Nations Command notes as a matter of interest that the NNRC has required the other side to construct ten explaining sites at the Northern Camp of the Custodial Force, India. This indicates that the Commission at one time must have had views contrary to those now set forth; otherwise the construction of the extra five sites was useless.

It is the firm position of the United Nations Command that the intent and wording of the Terms of Reference on this particular point are unmistakably clear and form the basis for no interpretation other than that of permitting us to utilize a total of fifteen explainer personnel, five for each of the nationalities represented in the Northern Camp, Custodial Force, India. In view of the above, and in order to permit us to complete our present plans, request we be authorized, at the earliest practical date, the use of five each Korean, United States and British explainers during periods at which explanations will be conducted for prisoners of those respective nationalities.

(Signed) A. L. HAMBLEN
Brigadier-General, USA
Commanding

4. LETTER FROM THE COUNSELLOR, NEUTRAL NATIONS REPATRIATION COMMISSION SECRETARIAT, TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

30 November 1953

1. I am directed to acknowledge receipt of your letter No. AG. 383.6 RGCG dated 24 November 1953. I am to say that the Commission is still unable to understand your interpretation of paragraph 8 (a) of the Terms of Reference.

2. I am to reiterate the Commission's view that the total number of explaining representatives who can be

allowed to function in the Northern Camp, at any given time, cannot be more than five. These five representatives can be of British, or United States or Korean nationality. It is equally permissible to break up these five into smaller nationalities, e.g. two Koreans, two United States and one British.

3. It is, therefore, clear that the nations to which the prisoners of war belong will have freedom and facilities to send representatives to explain to the prisoners of war of their respective nationality. What is, however, not permissible, under the Terms of Reference, is that the total number of these representatives should exceed five.

4. The only paragraph in the Terms of Reference which provides a method of ascertaining the number of explaining representatives is paragraph 8 (a). In that paragraph, it is laid down that the number of explaining representatives shall be seven per thousand of prisoners of war in the custody of the NNRC. It is quite evident that the nations to which the prisoners of war belong can derive no comfort from this sentence of paragraph 8 (a) of the Terms of Reference whether one took the prisoners of war in their totality or in their national components. Consequently, for computing the number of explaining representatives which can be allowed to function in the Northern Camp, the nations to which the prisoners of war belong must take recourse to the second sentence of paragraph 2 which provides that the total number is to be five. No amount of interpretation can, therefore, alter the plain meaning of this sentence that the total number of explainers permissible is five.

5. There is no warrant for assuming that the sentence "and the minimum authorized shall not be less than a total of five", can be made to read as "and the minimum authorized per nation to which the prisoners of war belong shall not be less than five". Such a redrafting of paragraph 8 (a) will neither be justified by the context of paragraph 8 or by any canon of legal construction.

6. The interpretation given by the Commission thus safeguards the right of the nations to which the prisoners of war belong to send their representatives to explain to the prisoners of war concerned. It equally safeguards the paragraph 8 (a) in limiting the number to a total of five.

7. I am to point out that your quotation in paragraph 3 of your letter under reference of a portion of paragraph 8 (a) is inaccurate. You have quoted paragraph 8 (a) as reading "... The number of such representatives. . . ." Actually, however, the relevant portion you have quoted should read "*The number of such explaining representatives . . .*" It is perhaps possible that your interpretation of the word "such" may have been vitiated by your omission to prefix the word "such" to the word "explaining".

8. I am to invite your attention to the fact that the term "*explaining representative*" does not occur in paragraph 8 of the Terms of Reference. It merely refers to "representatives" whose functions are defined to be "to explain to all the prisoners of war . . .". Consequently the word "such" merely means "explaining representatives" whose functions are defined in paragraph 8 as being "to explain to all the prisoners of war depending upon those nations their rights, etc.". The word "such" cannot be interpreted in any other manner.

9. With reference to the fourth paragraph of your letter under reference, I am to state that the NNRC in

requesting the Korean People's Army and Chinese People's Volunteers Command to construct ten explanation facilities in the Northern Camp, was merely acting upon the principle that the two Commands were entitled to have such explanation facilities as they desired. The Commission was in no way committing itself to the number of explaining tents it would set up for the conduct of explanations in the Northern Camp.

10. The Commission, from the very early days of the adoption of the Rules of Procedure governing Explanations, had a clear idea as to the entitlement of the United Nations Command in regard to explanation facilities. In this connexion, I am to state that the Commission had resolved to set up thirty-five bodies for purposes of supervising explanations. Proceeding on the principle of strict equality of opportunity to the two sides these thirty-five subordinate bodies were distributed, in proportion to the number of the prisoners of war in the two camps between the two Commands. Accordingly, thirty-two subordinate bodies were allocated to supervise explanations in the Southern Camp, two subordinate bodies were put in charge of validating the applications made by the prisoners of war for repatriation, and one subordinate body was allocated for supervising explanations in the Northern Camp. Indeed, if explanations had been going on simultaneously in the Northern and Southern Camps, this would have been the distribution of the subordinate bodies set up by the Commission. In view of the fact that the explanations have stopped for the time being in the Southern Camp, the Commission may consider allocating a larger number of subordinate bodies for supervising explanatory work in the Northern Camp. The number of such subordinate bodies will necessarily be limited by the number of explaining representatives.

(Signed) P. N. HAKSAR
Counsellor

5. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

1 December 1953

I have been requested by the Chief of the Republic of Korea Explainer Group to inform you that the Republic of Korea desires to begin explanations to prisoners of war belonging to the Republic of Korea at 0900 hours, tomorrow, Wednesday, 2 December 1953.

The Republic of Korea explainers anticipate explaining to thirty prisoners of war daily. It is requested that thirty Korean prisoners of war be made available to receive individual explanations beginning at 0900, 2 December 1953. Request that thirty different Korean prisoners of war be made available to receive individual explanations on 3 December and daily thereafter (except Sundays), until all Korean prisoners of war have received explanations.

It is desired that explanations be conducted at five explanation points. To conduct the explanations, there will be present at each site one explainer, one observing representative and one Korean/English speaking interpreter. An extra team of one explainer, one observer, and interpreter will be available to provide replacements. Three additional officers will be present to act in a supervisory capacity. The explanations will be conducted in the Korean language. In addition there will be in the explaining area two communications teams consisting of a total of nine communications personnel.

Further information concerning United Nations Command press representation, vehicles and drivers required to enter the area and other logistical essentials will be arranged with the proper staff officers of the NNRC and the CFI.

(Signed) A. L. HAMBLÉN
Brigadier-General, USA
Commanding

ANNEXURE XVI

Official release of the Neutral Nations Repatriation Commission

NNRC/PR/10, Panmunjom, 2 October 1953. In view of the various reports being circulated about the activities of the NNRC, the Commission desires to put the situation in its correct perspective. In the task that is facing the NNRC we are guided by the supreme objective of giving the prisoners of war a fair chance to express their free will to be repatriated or not to be repatriated.

The Commission from the very start has been facing quite a few problems. The first problem it had to solve was the question as to whether observers from both sides were to be permitted to attend the intake of prisoners by the Commission. The Command of the Korean People's Army and Chinese People's Volunteers maintained that the presence of observers was necessary. The Commission, after serious consideration, invited observers from both sides to be present. The United Nations Command at a later date raised an objection to the presence of observers from both sides at the intake of prisoners. Its stand was that the taking over of prisoners was not an NNRC operation but was purely an operation of the Custodial Force, India. This contention could not be accepted, as in the Terms of Reference it is the Com-

mission which takes over the custody of prisoners through its agency, the Custodial Force, India.

There is no doubt that the prisoners at the time of taking over were well organized in groups and that this pattern of organization still persists in the camps. The leadership which existed amongst prisoners before they were taken over by the Custodial Force, India, continues to exert its influence on the prisoners who are subjected to a considerable degree of pressure involving, in some cases, acts of violence. This is the problem that the Commission is facing today.

The Commission has now completed its first phase of work and is embarking on the second phase of explanations and interviews of the prisoners. The success of the NNRC will depend on the smooth execution of this work.

The Commission has finally adopted the rules governing the conduct of explanations and interviews and has forwarded to both Commands copies of these rules. In the same way that the leaflet approved by the Commission informing the prisoners of war of their rights and duties under the Terms of Reference has been translated into Chinese and Korean, circulated and read

out to the prisoners, the Commission will, in a day or two, adopt a similar procedure in regard to the rules for explanations and interviews.

It will be recalled that, because the Rules of Procedure governing Explanations and Interviews had not been finalized in time, the Commission was compelled to suggest to both Commands a postponement by five days of the date for the commencement of explanations and interviews and a consequent extension of the period by five days. Both Commands agreed to this postponement. But, while the Command of the KPA and CPV agreed to the consequent extension of the explanation period, the United Nations Command could not. The Commission has requested both Commands to reconsider this point. In the meantime, they both have made certain suggestions regarding the facilities to be provided to the

explaining representatives, as well as on the locations where the explanation and interviews are to be conducted. In regard to the prisoners formerly detained by them, the Command of KPA and CPV have accepted the suggestions made by the United Nations Command. In regard to the prisoners formerly detained by the United Nations Command, that Command had provided facilities on certain locations in consultation with the Custodial Force, India. Command of KPA and CPV, however, did not find these facilities and locations suitable. This matter is still under discussion with the United Nations Command.

As soon as possible, and within the shortest practicable time, the Commission will make its final decision on these suggestions and proceed to the second phase of its work, that of explanations and interviews.

ANNEXURE XVII

A

Correspondence between the Neutral Nations Repatriation Commission and the United Nations Command Repatriation Group *re* covert activities in the Southern Camp

1. MEMORANDUM FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION, TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

3 October 1953

Recently, the CFI has noticed an increased signalling on the part of the prisoners of war. On 2 October 1953, the CFI observed that the signalling by the prisoners was connected with signalling from the direction of hill 155. As the hill is situated outside the area of responsibility of the CFI, the NNRC would request you to ensure that no such signalling is permitted and repeated. It is evident that signalling, in the circumstances, cannot presumably be for any lawful purpose and may have an adverse influence on the prisoner-of-war camps.

(Signed) K. S. THIMAYYA
Chairman

2. MEMORANDUM FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

4 October 1953

I have your memorandum No. 118/NNRC, HQ NNRC, dated 3 October 1953, with reference to signal communications on the part of prisoners of war with outside agencies. While the chances that there is any exchange of information are so remote as to be practically impossible, it is recognized that any activity which casts a shadow of doubt concerning the intention of the United Nations Command to abide by the letter and spirit of the Terms of Reference should be eliminated. Steps have been taken to preclude any signal communication with the prisoners of war from areas under United Nations Command control. I shall be pleased if you will inform me promptly of any further activities from without the area under your control which you consider to be objectionable.

(Signed) A. L. HAMBLÉN
Brigadier-General, USA
Commanding

3. RESOLUTION ADOPTED BY THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 48TH MEETING ON 13 NOVEMBER 1953

(a) Having taken note of a report of the Custodial Force, India, authorities on a radio receiving set detected in food supply provided as logistical support by the United Nations Command for the prisoners of war under custody of the NNRC,

(b) Considering the fact deriving from the report mentioned above as violation of the Terms of Reference for the NNRC,

The Neutral Nations Repatriation Commission decides:

(1) To bring to the notice of the Command of Korean People's Army and Chinese People's Volunteers and the United Nations Command the reports mentioned under (a) above;

(2) To request the United Nations Command to take immediate measures to prevent further deliveries of objects having not the character of logistical support as provided for in the Terms of Reference for the NNRC into the prisoner-of-war camps as logistical support, and to inform the NNRC of steps taken in this respect;

(3) To request the Custodial Force, India, authorities responsible for the administration of the 64th Field Hospital to submit to the NNRC a detailed report on any illegal activities of personnel employed in the hospital in order to take appropriate measures against personnel found guilty of illegal activities.

4. NOTE FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE UNITED NATIONS COMMAND

16 November 1953

The Neutral Nations Repatriation Commission has the honour to invite the attention of the United Nations Command to a letter No. 118/NNRC dated 11 November 1953 from Mr. P. N. Haksar, Counsellor, NNRC secretariat, to Brigadier-General A. L. Hamblen on the subject of interception of a radio receiving set from a drum of yeast issued to the C enclosure of the prisoner-

of-war camps in the CFI area as part of their ration distributed from the United Nations warehouse.

The Commission, in pursuance of a resolution adopted by it on 13 November 1953, requests the United Nations Command to take immediate measures to prevent further deliveries of objects, having not the character of logistical support as provided for in the Terms of Reference for the NNRC, into the prisoner-of-war camps as logistical support, and to inform the NNRC of steps taken in this respect.

5. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

16 November 1953

1. In pursuance of a resolution passed by the NNRC on 13 November 1953, I have the honour to inform you that, on 7 November 1953, a portable radio receiving set was found from a drum of dry yeast issued to the C enclosure of the prisoner-of-war camps in the CFI area as part of their ration distributed from the United Nations warehouse. The details of the radio set are as follows:

(a) Portable superhet (Silver) ;

(b) A white label with following marking was pasted outside the cardboard box in which the set was packed:

NSN
Radio receiving set
1 each
Order No. 33-204.
Silver Trading Co.
Tokyo, Japan.
Date pkd : 9/53.

M/F: Co., 1st Radio Broadcasting & Leaflet Group, 8239th Army Unit, APO 500.

2. This matter has been brought to the notice of the United Nations Command and a protest has been lodged with them against the abuse of confidence reposed in the integrity of the officers concerned with the packing and distribution of rations to the prisoners of war.

(Signed) K. S. THIMAYYA
Chairman

6. LETTER INTERCEPTED WHILE BEING THROWN TO THE NURSING SISTER OF THE 64TH US FIELD HOSPITAL FROM COMPOUND G.49

7 November 4286 (Korean calendar)

Messrs. Baek Ung Tae and Kim Sung Nok :

I have received several notes from you. As to whether the explanation should be attended, it has already decided according to the will of all the anti-communist youths, and to alter this is not only a heavy task but also, judging from the present situation, an impossible one. Let it be known that we, on the basis of the thought of annihilating communism and saving the country, should [be left to] overcome our internal difficulties ourselves. Of course, we do not mean that the Republic of Korea or the Central [Anti-Communist] Group has wrongly directed our operations, but as the higher level does not understand our internal affairs and the actual situation, and over-pessimistic petitions and other letters have been written from the compounds to people outside, the higher level is made to feel that we anti-communist youths are really in a critical state, and a wrong understanding is caused. All these facts are the cause that

people outside consider who we are doing now childish. What is to be stated in particular is that we have already understood well the capital plan of the Reds to "stand by my side and contemplate my annihilation".

At present let discussions on all the problems be suspended. We all have decided that we should attend the explanations under the present circumstances ; for :

(1) The Communists do not want to see the defeat of the "red dogs" so they purposely evade explanations.

(2) To alienate India from the communists and organize a common front comprising Switzerland, Sweden, India and the anti-communist youths.

Finally, I would like to say that our aim is not to desert, riot, or oppose explanations, but to annihilate communism. You should know that, in order to annihilate communism, the method of welcoming explanations may take the place of the method of opposing explanations. What are the missions of the secret emissaries who are being sent here almost every day? If their mission is only to transmit petitions, I do not think they need to be sent here any longer. So far the dispatching of secret emissaries and the petitions here only served to make people outside feel that we are anti-communist youths without self-confidence, and, in confusing them, make it impossible for these people to get a correct understanding of us. Although we expect support from outside, yet all the problems should be solved by ourselves. Only when outside support unites with the inside state of affairs, can it be all right [?]. If there be internal obstacles, then although there were outside support, yet it would still be of no avail.

(Signed) MUN JUNG HO
Branch Leader of the Republic
of Korea Anti-Communist Youth
Group of Unnan Village

7. RESOLUTION SUBMITTED BY THE CZECHOSLOVAK DELEGATION AND ADOPTED BY THE NEUTRAL NATIONS REPATRIATION COMMISSION AT ITS 49TH MEETING ON 14 NOVEMBER 1953

(a) Having taken note of a report of the Custodial Force, India, authorities on "a letter which was recovered during transmission from compound No. 49 to nursing sisters of 64th Field Hospital" as well as a further report on "circumstances under which a letter thrown out of compound G.49 was intercepted by the Custodial Force, India",

(b) Considering the facts deriving from the reports mentioned above as an abuse of providing medical support by the United Nations Command and as violation of the Terms of Reference for the NNRC,

The Neutral Nations Repatriation Commission, in addition to its resolution of 13 November 1953, decides :

(1) To bring to the notice of the Command of the Korean People's Army and Chinese People's Volunteers and the United Nations Command the reports mentioned above ;

(2) To request the United Nations Command to take immediate measures to prevent any further illegal activities of personnel employed in the 64th United Nations Field Hospital and to inform the NNRC of steps taken in this respect.

16 November 1953

The Neutral Nations Repatriation Commission has the honour to invite the attention of the United Nations Command to the fact that, on 7 November 1953, at 1825 hours, the sentry on duty on the side of the perimeter of Compound G.49 which is near to the nurses' living quarters of the 64th Field Hospital noticed two nurses near the perimeter talking to some prisoner of war in compound G.49. The sentry told the nurses to go away which they did. A few minutes later the sentry saw something being thrown out from compound G.49 which he picked up. It was a letter wrapped round a stone and tied with thread. A little later the nurses came and started searching for something. The nurses were told to go away which they did. A little later an oldish nurse came and asked the sentry if he had found anything.

The Commission has resolved that it considers the activities of the nursing sisters constitute an abuse of their position as part of the medical support provided by the United Nations Command, and is a violation of Terms of Reference for the NNRC. The Commission, therefore, requests the United Nations Command to take immediate measures to prevent any further illegal activities of personnel employed in the 64th US Field Hospital and to inform the NNRC of steps taken in this respect.

16 November 1953

In pursuance of a resolution adopted by the NNRC on 14 November 1953, I have the honour to inform you that a letter was recovered during transmission from the prisoners of war compound G.49 to nursing sisters of the 64th Field Hospital in the following circumstances:

At about 1825 hours on 7 November, the sentry on duty on that side of the perimeter of compound G.49 which is near to the Nurses' living quarters of 64th Field Hospital noticed two nurses near the perimeter talking to some prisoner of war in compound G.49. The sentry told the nurses to go away which they did. A few minutes later the sentry saw something being thrown out from compound G.49 which he picked up. It was a letter wrapped round a stone and tied with thread. A little later the nurses came and started searching for something. The nurses were told to go away which they did. A little later an oldish nurse came and asked the sentry if he had found anything.

The United Nations Command has been informed of this matter and has been requested to take immediate measures to prevent any further illegal activities of the personnel employed in the 64th United Nations Field Hospital and to inform the Commission of steps taken in this respect.

(Signed) K. S. THIMAYYA
Chairman

B

Copies of letters intercepted by the Custodial Force, India

1. COPY OF LETTER RECOVERED FROM THE KOREAN PRISONER OF WAR WHO WAS APPREHENDED WHILE TRYING TO ENTER ENCLOSURE E, COMPOUND 40, ON 8 NOVEMBER

To: Han Un Song, Chai Kee Chol
and each member of the Commission

Mr. Han Mr Chi, Chief of security department, Chief of the organization department, members of the Commission; How are you enjoying in the task? I don't know how I shall explain myself with the proper words. When I arrived at Seoul, I visited the highest important staff and received orders by the General Commander of the Provost Marshal to initiate the job of anti-communism for the anti-communist youth. On my way from Seoul, I had trouble of crossing the Imjin River at the Munsamri area. So I returned to Seoul, but finally found my way to HQ, 12th Company. From here I will be working to do my job. I invited my two friends with tearful welcome who had succeeded in escaping from the death time. In order to come to HQ 12th Company, I submitted my blood letter to the President and also often times wrote to him through Mr. X. But, due to the poor condition of communication, the letter was not received at the 40th camp—according to the two persons who escaped from the prisoner camp the other day and also by a letter from the Group Commander. I would like to write about the matter of "explanation" as well as the matter of liberation in accordance with the ideas of President Rhee and also of the General Commander of the Provost Marshal.

1. The Government of the Republic of Korea has already proposed to the United Nations Conference to release all anti-communist young men. However under

the exquisite effect of international relations, it could not be executed. If they had already determined in their mind that the Republic of Korea to be their original country, what will be the necessity of listening to communists explanations.

2. I thought they don't get to the explanation, the terms, under the base of the prisoner's convention will not be delayed. If it is delayed, the Republic of Korea will try to liberate all anti-communist young men by means of national power.

3. If the anti-communist young men do not listen to the "explanation", the Government of the Republic of Korea will use this opportunity to put into motion the national power as fast as possible. If the Indian Forces use force in demanding the anti-communist young men to listen to the explanations, it will be a violation of the convention. Then Switzerland and Sweden declared that they will depart the Government of the Republic of Korea will release all anti-communist young men sustaining the face of world peace and this will be convenient for those young men.

I have explained all as above, however this is the message of President Rhee, which will be given to the General Commander of the Provost Marshal.

The instruction to the Chinese anti-communist young men will be similar with that for the Korean anti-communist young men.

Mr Chi Kee Chol will be responsible for giving the message to each prisoners' camp in the name of the order by the ambassador to Formosa.

Instruction of General Commander of Provost Marshal for reorganization of the anti-communist young men in the camps.

The Korean anti-communist young men in Unam village will be named as follows:

Unam village anti-communist young men group.

Group Commander will be situated in General HQ of the Provost Marshal, and each Branch Group Commander will be situated in Kanjae-ki, Ronsan, and Hospital. The first group will be in Kanjae-ki, and the second group will be in Kosang and Ronsan, and the third group will be in hospital.

The first group Commander will be Han Un Sang, and the second group Commander will be assigned by Han Un Sang, and will be communicated. The third Group Commander will be Kim Sang Sok. The Commission will be composed of Group Commander, Branch Group Commander, Battalion Commander in each camp.

All individuals will be prohibited from violating these instructions. If it is necessary provision is allowed to stop these violations. This will be the responsibility of the General Commander of the Provost Marshal. It is desired to instruct the prisoners of war so that the Indian Force cannot have the opportunity to do action of brutality in the 40th branch, the man who wishes to go to North Korea will be killed to prevent the secret from being exposed. However, the other camps will NOT be the same.

Selection of 40th Group Commander, 2nd Group Commander will be carried by each man, and it is necessary in the camp where the radio was set up.

Group Commander, will you please inform the 2nd Group Commander of the radio code with which he can receive the news? In that way he can receive the orders of the General Commander of the Provost Marshal by radio without going through the 12th Company Headquarters. I will send the messages daily once after the morning news and twice after the evening news beginning 9 November, by this code which I am now sending to you.

You may assign a Chinese anti-communist representative to the 4th group Commander according to the necessity of operation.

After you received this letter, inform the contents of this letter at the conference of the camp representatives and execute the anti-explanation demonstration under a certain time with the violence plea and submit the protest statements which are the most important order of President Syngman Rhee as soon as possible. Custodial Forces, India, said that they can not use force against the Korean anti-communists of prisoners of war, and if they do, the R.O.K. Army will march on. With these facts in mind take attention politically. Read messages of President Syngman Rhee and General Command of the Provost Marshal thoroughly which I am sending with this letter. I am very sorry that I can not keep the etiquette, because I am doing the work secretly.

Group Commander, did you receive the news which was sent by the code at the morning broadcasting time of 5, 6 and 7 November from the 40th sub-group. Henceforth liaisons will be taking by broadcasting or through Kim Sung Lock who is at the Hospital with the 1st, 2nd and 3rd group Commander. I will use the address as follows, to Central Headquarters of Uso Nam village anti-communist group, from transmitter (.) (.) (.) If you get the letter with those address, you may know it is the order from General Commander of Provost Marshal.

Make Mr. Lee, who enter the camp, escape out again when he accomplish his work completely. Then hand him messages to the General Commander of Provost Marshal, the Government and President Syngman Rhee and to the embassy showing that Korean and Chinese peoples are fighting against communist unitedly to the whole world. The fight of Uvo-Nam village anti-communist prisoners of war, especially demonstrated the spirit of Korean folk to the whole world. So, I hope that you will fight it out against the explanation sub-doing the many difficult situations. Above are the order from President Syngman Rhee, so extents them.

We sometimes call the prescribed 1st group commander as the East Group Command and 2nd Group Command as the west Group Commander, so we may call the 2nd Group Command as the Hospital Group Commander and 4th Group Commander as the Chinese Group Commander. Mr. Han the Seoul Provost Marshal can not come here because of his illness. (.) Please let me know the result of operation occasionally by the following signals. Then I will report to General Commander of Provost Marshal.

1. When Mr. Lee reaches safely demonstrate and sing a song from 1100 to 1200 and from 1330 to 1430. Then I will know he reaches sound and safe.

2. The signal when you hold the conference of representatives is to put a pile of fire under the flag tower and sing the song of anti-communist youth's group.

3. When you transmit the order and decided the desperate opposition against the explanation at the conference put two piles of fire under the flag tower at 1000 and 1600 and sing a song of beat the communist.

4. When you receive the order by radio, one man move the Korean flag on the mess hall roof at 0800 to 0900.

(.) When I received above signals, I will put a pile of fire and raise the smoke to sky.

There is only a few men in Korean Government who know above mentioned secrets, so you must be careful to keep the secret completely.

Blessing healthy fighting of Group Commander and other members.

(Signed) PACK TONG HYOCK

Message No. 1,
7 November 1953

2. INTERCEPTED MESSAGE FROM COMPOUND G.53 TO COMPOUND G.48

To the leader of the 48 Battalion:

Are you well day and night? What we have to say that's about our volley match. Formerly your people agreed to have a match with us from the 53 Battalion. But what we have to say, tomorrow we have a game with the 52 Battalion and therefore I have to inform you that we can't have the game with you.
16 November 1953(?)

(Signed) Leader of the 53 Battalion

3. INTERCEPTED MESSAGE FROM COMPOUND G-53 TO COMPOUND G-48

To the leader of the 50 Battalion:

How are you? I like to inform you that we agreed a base-ball match with the 52 Battalion. So we shall have the game with the 50 Battalion next week. When we play tomorrow with the 52 Battalion, so you from the 50 Battalion are cordially invited. You told us three days ago that you will come and play this game with us, but

we agreed already before to play with the 52 Battalion, so we have to play with them tomorrow. Some day next week, when the weather is fine, we shall play with you, the 50 Battalion in your Compound.

(Signed) 53 Battalion Leader

16 November 1953(?)

4. LETTER

My dear elder brother,

How are you? I am here with triumph and victory and have not been deceived by communism's false propaganda because of your anxiety for me.

I am writing you this letter though I have already sent you one through a church minister. I am looking forward for your answer. The thing I want to know most is news about you. Since I could not find the time to leave my Battalion to see you I would appreciate it if you would come and see me. That is all I have to say. May you be in good health.

(Signed) AN CHUNG OK

4 November 1953

5. COLLECTIVE OPINION

27 October 1953

We the anti-communist youths, love peace and liberty. We are able to decide the future for ourselves because we have human reason and wisdom. The so-called "red dog" explanations interfere with the fate of our anti-communist youths. We are neither fools nor mental cases. Therefore, we still hold the character of human beings. We anti-communist youths have opposed the explanations, even unto death, and we have accomplished our purpose. It would be useless to force us by arms to attend the explanations because we four thousand anti-communist youths would only resist as we have been all along. We have made the Reds understand that arms and threats will not force us to attend the explanations. That is because we want to attend the explanations voluntarily. We want to expose the Red intrigue in covering up their failure in their explanations to the anti-communist Chinese youths. We are going to attend the explanations voluntarily in order to trample the Reds' evil plan. It is the will of the anti-communist youths to trample down the explainers in the Demilitarized Zone. However, if either the Neutral Nations Repatriation Commission or the Custodial Force, India, depart from their neutrality, or if they commit any act which would interfere with our freedom to express our will or our freedom of action, then the explanations will fail again.

(Signed) MUN JUNG HO
Unnan Village Branch
Commander
Republic of Korea Anti-
Communist Youth League

6. LETTER

My dear Sangchul,

How are you getting along, my dear Sangchul? I am now in good health so don't worry about me. I was so delighted to see you again. I don't know what to say. I will have to ask you to forgive me for not answering you for a long time. Now I am writing this letter knowing that I have been lazy and hope you will understand.

How is everything with you so far? You must be very lonesome when you see the far northern sky for you have your own duty to fulfil regardless of your poor physical condition. I hope you will do your best to accomplish your mission and please take care of yourself

for the chilly autumn season has gone and severe winter is now here. The cold weather has brought memories of that hospital where we used to comfort each other. During the day when I look down at your compound and try to recall you, there is a sadness that no one understands; this is the reason for my grief. Our friendship is getting deeper. By this time, I hope you are continuing your studies and that you will be industrious. Your strong will and endurance will overcome the explainer and we will march, hand in hand, to the Republic of Korea. Please do not worry about me, and may God bless you. Hoping to hear from you soon.

My address: Kitchen, Compound 36.

Poem

Oh, my dear friend,

March to the north and recover our homeland,

Let us march for revenge,

And we will put the flag on top of the white Head —
Mountain;

Drive our enemy, the communist,

To the river Tumang and the Yalu,

And return to our home.

26 October 1953

To: Sangchul

From: Sungbong

Letter: come quickly;

Envelope:

Sungbong

Compound 36

27 October 1953

Mr. Shin, Sangchul

Compound 38

7. LETTER

26 October 1953

Chief Nonsan Branch,

I hope this note finds you in the best of health. Also may I take this opportunity to express our appreciation to you for your efforts in formulating and abiding by our original purposes.

Please allow me to come directly to the point. We once swore that we, the youth of the right wing, once we had come to this undreamt of place would accomplish our mission by firmly uniting under your leadership.

It is correct for me to say that the whole body of the Hospital Branch is unified and has been and still is being backed up by your Nonsan Branch. It is regrettable, therefore, that a representative from your Branch, at the conference table and in the presence of representatives summoned from various commands, said, "The Hospital should just follow us and do as we do. No more arguments".

Of course, it is very true that the works of the Hospital Branch should be based on the principles recommended by your Branch. Matters, however, shouldn't be decided by the arbitrariness of a single man in charge of just one camp because each decision might affect the lives of more than a thousand persons.

The serious subject under consideration should be viewed in concert and should not rest upon the opinion of a minority or of one individual.

It seems doubtful that such an arbitrary person could represent a team. I sincerely hope and believe that this

matter will be taken into your rightful and careful consideration.

At the same time I respectfully inform you that the cadre members of the present Hospital Branch are not meagre youths and should not be under-estimated. We are still willing to serve under your leadership until the last day. Great success to you!

KIN SUNG NOK

8. LETTER FROM COMPOUND G.51 TO COMPOUND G.49

22 October 1953

Group Chief
Sir,

At this last moment, thinking that I shall have to cross high mountains and angry waves, I cannot help crying with sorrow. I cannot but feel that among us in the Battalion of the Nonsan Camp there were vicious cadres. I believe you, sir, should know well that I was treated as a trouble-maker by them. Even in Nonsan I know that the interpreter and Siberia were bad men, and this has often been told to you and others. Thus, I have been standing firm not to let them be appointed battalion leaders or team leaders. I have demanded many times that in Joon and Kang should be leaders, but some of our friends believed that Kang and I might form another group. At the same time, I explained my opinions to them, citing many real examples. I don't like to abuse our friends, but I cannot help feeling angry about the past. These matters are a shame to us. Where is our destiny taking us? I would like to advise you that the utmost attention should be paid to the corrupt 3rd Battalion so that it will not become a failure.

I hope, sir; that you will understand me and that this letter will be valuable information for you in the future.

Yours sincerely,

(Signed) PAK YUNG CHUN

9. LETTER

Anti-Communist Nonsan Branch No. 43
Korean Anti-Communist Youngmen Group,
Nonsan Branch

Chief of the Branch: Mun Chung Ho
20 October 1953

To: Each team leader

Delivery of special news

According to an announcement made yesterday in Japan, the Reds who were so blindly boisterous on Koje Island are still going on to their death. But these facts do not surprise us for we have known them all along. We must, however, feel sorrow for those who have thus been taken away, who have abandoned their priceless freedom and happiness because of their single desire to again see their children and parents. Compared to them, we are happy. Here is the real story:

1. Most of the more than 70,000 PW who have been repatriated since the Armistice was signed on 27 July are now confined in Chin Chou Province, Manchuria. Some of them are in the brain-washing hospital (prison) of Chien Tao Province. A few of them are in various provinces of North Korea. They have been put to work as parrots of the Kremlin. Not a one of them has been returned to his home. But that is only natural. We just hear it too late.

2. The communist side yesterday promised the Indian forces they would explain to Chinese prisoners, but they gave up that plan on the pretext that they wished to ex-

plain to us. They should know we will never attend the explanations.

3. There will be no explanations today.

(Translator's note: On envelope containing above is written: "To: 3, 4 and 7 Team Leaders".)

10. INTERCEPTED LETTER FROM COMPOUND G.53 TO COMPOUND G.54

My dear Song Han,

My dear Song Han, I do feel that I have been and still am indebted to you. But let me now say that I will devote my life to fight for you. The future of all our friends has been greatly dimmed by Mr. "Siberia" and his indifference to human morale, humanity and mercy. The following is the order pertaining to Mr. "Siberia", which was released by the branch office.

The order to investigate and dispose of those collaborating with Mr. "Siberia" has been approved by all 500.

We are very much ashamed of ourselves for being placed under surveillance by cadre members and particularly of being looked upon as the "enemy's running dogs". However, I can say this much: Even though I may be humanely friendly, I cannot be friendly on the point of ideology. Regardless of the fact that I have been accused a running dog of the enemy, I will, from a position of righteousness, fight for the achievement of my objective and return to the warm bosom of the Republic of Korea.

So, please don't worry about us even a little bit. Try your utmost not to have even one straggler from the 7th Battalion. If there is any straggler among you, he might force all of us to face death. The cadre members all know that I was fighting with Mr. "Siberia" for several days prior to our departure from Nonsan. We haven't met each other since we came to the neutral zone.

It is quite unbelievable that Mr. "Siberia", who hasn't talked to me, talked to Mr. Myong Chull. The problem pertaining to us would be very simple if the present team leader is generous enough to give us benevolent consideration. All members of the team can now verify that I am, to the best of my ability, taking the lead in the performance of our works.

In the near future, the discipline chief and I are likely to face danger. It is not my object to become cadre. What will be my future if I leave the platoon because I have been looked upon as a running dog of the enemy? Should that happen, I must choose death for I would be incapable of being a member of the group.

I can hardly imagine how the person who has spoiled my life by demoting me to the platoon will take the responsibility when the time comes for return to the Republic of Korea. If, in the course of our works, I have been found to have any colour of the enemy's running dog, I will be willing to choose death.

Although I have been given responsibility in matters pertaining to Mr. "Siberia", I believe that cadre members of the battalion should hold joint responsibility.

I am not a man who gives up easily. Never mind it. I will fight it out bravely to my death.

20 October 53(?)

(Signed) CHUNG KYONG

11. INTERCEPTED MESSAGE FROM COMPOUND G-53 TO COMPOUND G-54

Mr. Song,

How are you solving the accident of a few days ago? I cannot but be at a loss on this matter, too. I have

frequently received your letters. I think I can understand your situation more than anyone among the members of the 8th Battalion. I always respect you and I believe you are the only friend I have. I think I would be the first one associated with you among these battalion leaders. I and Chon Eyung and Duk Sun are in the same condition. Though Mr. Song is our friend, I feel that you would feel more friendly to us because you are in the other battalion. I don't know why I didn't notice the movements of the red dogs. I, one of the anti-communist youth who didn't know of the red, was appointed a battalion leader and I brought disgraceful conditions to the members of the group. I don't know how I can explain it. But it does not mean I am corrupt.

Last evening I told all the members of the group about your speech. This morning I received the order from the branch group which was really a warning—"Notice to the members of the 40th Battalion". While I was discussing it with the members at 1000 hours this morning I was prompted by the Branch. And so, I had to discharge him from his position. Meanwhile, as you have advised me, I am going to give him an opportunity to regain his honour. This is my opinion and I acted accordingly. But he does not understand me. I hope you will try to make him understand. Some time in the future, when everything is settled, I will come up and see you to remove the misunderstanding between us. I would advise you to talk this over with the Branch Group Chief.

Now you and I are in a most delicate situation. But we should never be discouraged. Let's fight for the next three months and sing the song of victory and support each other. Our mission is not meaningless—it's great.

How are the friends who were with me. Please guide them and remember me to them.

(Signed) Team Leader

20 October 1953 (?)

12. INTERCEPTED MESSAGE FROM COMPOUND G.49 TO COMPOUND G.51

Leader, 53rd Team,

As to the problem of the speaker and method of demonstration. I would like to make it clear to you that instructions pertaining to them will be issued during the course of this evening, pending tonight's broadcast.

Don't let the personnel under your jurisdiction be influenced by the speaker matter. I hope you will wait for the next instructions so as to avoid any head-on collisions.

(Signed) Branch Chief

20 October 1953(?)

13. INTERCEPTED MESSAGE FROM COMPOUND G.50 TO COMPOUND G.48

Presbyterian Team,

I presume that the Chinese Brigade is going to attend the explanations. I'm not sure of the exact number, but about 500 of them have already passed our battalion area. Send us your opinion as to how we should act if the entire Chinese Brigade attends the explanations.

(Signed) MUN JUNG HO

20 October 1953(?)

14. WORDS OF PRAISE

Wonderful!

You have demonstrated to the whole world with your own blood not only our greatest anti-communist youth

fighting spirit but also the very idea of anti-communism to the pro-communist Indian authorities. (This idea of anti-communism symbolizes the bravery of our pure race, a bravery which we have inherited from our ancestors.)

It is not in vain that you have lost your precious blood. That blood will change into the poison which will kill all the communists. Meanwhile, that blood is just the same as a large quantity of rice or life-giving water to our people.

Representing 4,000 anti-communists, I hereby express to you our praise and thanks. History will surely record that you fought bravely. Keep going the way toward the ruin of communism. This is the only way you can redeem the cost of your blood.

I and all youth hope that you will recover as soon as possible.

(Signed) MUN CHUNG HO
Chief, Nonsan Branch

Dai Han Anti-Communist Youth

20 October 1953(?)

15. BULLETIN

From: The Branch

To: Teams 48, 50, 52, 53, 51, 55 and 54

According to reliable sources, the communist side was so afraid of our strength that they begged the Neutral Nations Repatriation Commission to postpone the explanations until the 14th (Wednesday) of this month in spite of the fact that the so-called explanation were scheduled to start Monday (today).

The instructions pertaining to the demonstration for this morning will be carried out until the receipt of specially issued instructions. The demonstration will be from eight to eleven o'clock this morning.

(Name of writer not written)

19 October 1953(?)

16. BULLETIN

Urgent

Anti-Communist Nonsan Branch No. 36

Korean Anti-Communist Youth Group

Nonsan Branch Chief: Mun Chung Ho

To: Team Leaders of Teams No. 53, 8 and 4

Today's meeting

The meeting of compound leaders is scheduled to be held at eight o'clock on the 16th. It is instructed that detailed plans be mentioned at this meeting and that the demonstration be cancelled.

Added: At ten o'clock this morning, when the formation is held, there will everywhere be a one minute silent prayer (this is again brought to your attention in order to refresh your memory of instructions in the prior official note).

(Name of writer not written)

19 October 1953(?)

17. LETTER

Yong Sik,

Since I have been dying to hear from you, your sweet letter pleases me as much as if I were to meet you face to face. Our friends are all well. Please put yourself at ease about our welfare.

During this period of deciding between life and death in this undesirable place—this neutral zone—we must take care of ourselves, whatever may happen and be released back to the breast of the great and glorious Republic of Korea within a short period. Then we can meet again and welcome the happy day and recollect

my being charged as a prisoner of war and my restricted life as a prisoner of war. In case I will not be able to meet you after my release, I will be much obliged if you would visit my home.

I have a great many things to tell you but I must now close this disorganized letter.

May health and happiness be yours.

I remain,
Goodbye,

(Name of writer not written)

19 October 1953(?)

18. MEMORANDUM

No. 39 of anti-communism essay
18 October 4286 (1953)

Branch Chief of the Republic of Korea,
Anti-Communist Youth Party
Mr. Moon Choong Ho

to each section chief

Matters concerning the demonstration on United Nations Day

On subject, we have directed an official letter to you. Our mission on the present situation is to expose the barbarity of the communist clique, which is going to infringe on the freedom of human beings and to let them realize the justice of the United Nations (except the Soviet bloc) apostles of freedom and peace.

That is why we direct you to hold a big special demonstration, regarding to the present situation of each section on 24 October.

It is our desire for you to hold the demonstration and to exert your best effort.

Appendix

1. On receiving this official letter, you should make a copy.
2. Any official letter will be copied hereafter (by short hand).
3. Key points of official memorandum will be dictated.
4. If the official memorandum were missed on the way, another copy will be sent by the issuing section. (additional) We want the 53rd Section to play [word illegible] official role again.

19. LETTER

Envelope:

(To) Commander, 64th Field Hospital Compound

(From) Lee Hyong 111

1st Branch Office, 46th Battalion,

64th Field Hospital Area,

Republic of Korea Anti-Communist Youth Group

Main body:

Invitation

16 October 1953

Commander of Field Hospital Compound

I wish to express my endless appreciation for your devotion toward the destruction of communism and, thereby, your devotion for the peace and freedom of the whole world.

Your presence, if you have several hours to spare, is requested at the musical concert to be held in this Battalion's area to show our desperate opposition to the communist explanations.

Date and time to be held: 1300 hours, 18 October 1953.

Chairman, 1st Branch Musical Concert.

46th Battalion, 64th Field Hospital Area.

20. LETTER INTERCEPTED WHILE BEING PASSED TO GARBAGE TRUCK DRIVER, KUM YOUNG TEAK, No. 4841961

To: The Unforgettable Comrades of the Anti-Communist Unit on Koje Island

A thousand emotions crowd my mind as I write this letter to you, my dear friends, who will be released 100 days from now.

Dear anti-communist comrades of high morale, it is regretful that my unpleasant destiny prevented me joining you in the anti-communist struggle at the village of Yangnam Ch'on.

Physically, I reside in E enclosure, but spiritually I have never forgotten you there. Such emotions, I believe, largely depend upon personal considerations common to all mankind, but I must confess that they have also been created by ideological ties with you and our training and our co-operation.

I, who am always thinking of you, firmly believe that you will retain strength enough to easily overcome the difficulties of the next 100 days. The cloud in my thinking seems to clear away when I anticipate the day of triumphant joy of our return to the Republic of Korea. I will sing the song of victory with who have so successfully achieved your cherished desire by opposing the communist explanations at the risk of your lives, and under the guidance of our present group leader and of all our leaders, and under the flag of the Anti-Communist Youth Group which has united us into one.

My very strong bond with you has been temporarily cut, but live with a gleam of hope that I will see you again after 100 more days of detention.

My dear comrades! I apologise that I did not better guide you on Koje Island. My conscience hurts that did not more warmly live with you in greater respect of your human rights.

Dear friends! You may have already been informed by the next compound, or by your present leaders, of the current situation. The communist explanation work has not yet started and the communists persuaders have met the anti-communists desperate opposition to the explanations. I think they will, in the long run, come to the point where they will not begin their explanations to us, and of necessity give up the idea. They will consider it wise to stop and, therefore, we may not get their explanations.

When I organized the combat unit and made the speech at 1-B, I assured them that even the neutral nations were our enemies. Barbarous Indians have killed our comrades. We have come here, not to hear the explanations, but to demonstrate our free will according to the official notice of our president. He has never told us to listen to the explanations. He didn't approve the ceasefire, either. The neutral nations are the fellows who came to Korea to be faithful to the articles of Armistice Agreement which was not even approved by the Republic of Korea.

But we are not isolated, nor are we at a disadvantage. The excited demonstrations in the Republic of Korea and the Republic of Korea's strict warning to India were made because of India's killing of the anti-communist fighters.

By the protests of America and the free world, India presently is being severely attacked for its pro-communist activities. The situation on our side, I am sure, will always be favourable to us. But should we meet with any grave situation, the Republic of Korea will

not abandon us. Demonstrations are now being held in Seoul and throughout Korea. Their slogans are, "Drive Indian forces out of Korea", and, "Release the anti-communist prisoners of war."

My dear anti-communist friends from Koje Island, you must do your best in the struggle so that you will be behind no one. Let us build a tower of victory on this plain of desolation by mercilessly fighting against the enemies within and without. Let us return to our fatherland Republic of Korea triumphantly singing the victory song. For that day and for the day we again meet, you must overcome the impending hardships. Respect our mutual love and let us unite together. By so doing, we will win the final victory, a fighting victory.

Oh! my unforgettable and real friends, let's meet in Seoul on the day of our release.

This letter comes to you with the compliments of your former group commander, O Ui Song.

All the men of the group who came here with me are in good health and fighting well. I work in the present group headquarters. Kim Si Pong and Kim Nung Ik are also here with me.

15 October 1953

SONG

Added: To the Cadres

Please let me know which enclosure Mr. Lee Chi Su is in and who was the battalion leader of the branch group (compound F and compound E) at the Nonsan Camp. This is requested by Mr. Han Un Song, the chief of our branch. I would like you to find out this information from the adjoining enclosure. The special note to the cadres is not enclosed because I am in a hurry, but I will send it next time. I hope that you will without fail give me a reply. (Please also enclose the present cadre's organizational roster and the system diagram.)

21. LETTER INTERCEPTED WHILE ONE OF THE PRISONER OF WAR FATIGUE PARTY WAS TRYING TO HAND OVER TO THE DRIVER KUM YOUNG TEAK, VEHICLE NO. 4841961 (USA), DETAILED FOR CARRYING NIGHT SOIL

(This investigation is secret.)

This man worked in Camp #93 Hospital on Koje-do.

From investigation it has been determined that he was unkind to patients in the hospital and that he deceived the Americans by admitting communist prisoners to the hospital. And he was graduated from high school, too. After being transferred to the mainland he joined "Kurupa" activities in Kwangju Camp.

Finally, this man should be classified "C".

22. INTERCEPTED MESSAGE FROM COMPOUND G.48 TO COMPOUND G.50

Leader, 7th Team

In connexion with liaison problems, we can hardly communicate with you through the 3rd Battalion. So, we request you to direct communications to the 7th Team. We hope your team will post a regular signal man at the base of the flagpole platform who will carefully watch and receive signals.

Method of communication: when sending any document to your team, contact will be made by waving cap in the vicinity of the latrine until your team recognizes our signal. As soon as we have received your recognition of our signal, we will throw you a stone. The

same method will be used when you send documents to us.

Immediately upon receipt of this document, it is requested that you promptly reply and state in your reply whether or not this message has been safely received by your team.

Branch Office
15 October 1953

23. A PROTEST AGAINST EXPLANATION

All of us anti-communists express our hearty thanks to Indian Government and its soldiers that make every effort for the sake of lasting peace, freedom and human right under United Nations' banner, and that treat us humanely, kindly lovely.

Giving solemn promise to plan friendship more than ever, to enter into connexion with you closely, we appeal our heart to you.

You might understand already that all Korean struggled against communist invader, by having sent your field hospital into front line of Korean War, and having done your best.

When your Government proposed Indian plan of eight articles for prisoners of wars' free repatriation, your previous plan was refused by red side, your Government and our heart burnt with great indignation.

In such surroundings, that we had been moved into here neutral zone, that our enemy, communist explainers appeared before us, and try to explain against us is not only unjust but also action ignoring our human right.

We experienced and save with our eyes that communist deceived and deprived peaceable people of property and that butchered democrats.

At last they provoked the Korean War on 25 July 1950, and sent people compulsorily irrespective of age. But we cast away weapons and came over to free nations as we were anti-communists objecting tryanny. We cannot forgive to meet communists who persecuted and butchered our family.

Therefore we boycott communist explanation with death. Our future is to be decided by ourselves. Nobody can interfere.

We offer such a protest against communist explanation as above with sign in blood.

14 October 1953

From all anti-communists of camp 48.

To Chairman of NNRC

24. RESOLVED SENTENCE SENDING TO THE CHAIRMAN OF NEUTRAL STATE RETURN COMMITTEE

We heard exactly the delivery about communists persuasion that in the position of neutral state, you told anti-communists' representative yesterday.

In anti-communist youths' resolved sentence presented already on 23 September, and the protestant sentence of bloody sign, presented already on 28 September. We represented that we oppose communists' explanation, and exclude communist persuasive party's seeing originally. We wish you to inspect it again.

All anti-communist youth oppose communist's explanation for our life.

We will settle like communist the man.

Who export us communist persuasive party's seeing.

If you will add us the word, order and constraint containing communist persuasive party's seeing.

We shall quarrel with you for our life.

We hope what authority of India will not ignore our right of person and our pride, and will not insult our reason. We hope too what you will work with justice and humanity.

14 October 1953

G enclosure, compound 52

All anti-communist youth in compound 52 together

Representative of compound 52

(Signed) LEE GI SOO

25. SUMMARY TRANSLATION

This is a letter written by the first company military officials in compound D.25 Lin Chaw who is undergoing treatment for his wounds in the 26th Hospital. The summary translation of the letter is as follows:

"You have shed your blood on behalf of us 'anti-communist resist Russia youths'. You got wounds at the hand of Indians who have only false neutrality and are running dogs and cruel supporters of communist bandits. We are all much concerned about you. As our freedom is at present restricted by the false neutrality of Indians we are unable to go to the hospital to comfort all of you but we hope that will soon recover from your wounds and return to our battalion and then we can all return to free China—Taiwan."

Translated

(Signed) V. KUMAR

13 October 1953

26. TO THE CHAIRMAN OF THE NEUTRAL REPATRIATION COMMITTEE

12 October 1953

Friendly General,

All of us anti-communist except about sixty betrayers who escaped into the hand of communist these days since we have been here, refuse to meet the communist explainers with desperate courage.

We thank you and members of Neutral Repatriation Committee for their endeavour to complete voluntary repatriation.

Today we have received guide and rule about communist explanation issued by order of the 9th article of the enterprise of Neutral Repatriation Committee, the addition of treaty of armistice.

We are sure some of this issue lost impartiality and inclined to communist explainers. So I am sure that this issue is off the treaty and fear we would lost our human rights and free will by this forced request so now I protest you against this issue by agreement of the article of the treaty.

Friendly General,

After reading it all of us fear Indian troops would force us with arms to receive the communist explanation. We believe that issue only help the communist explainers and deprive freedom from us. We cannot understand these 23 articles had been printed by Neutral Repatriation Committee.

Frankly speaking I cannot believe that Neutral Repatriation Committee would publish such partial issue. So now I lay bare the partiality as follows:—

1. Neutral Repatriation Committee threaten us by the 4th article. It says that every behaviour had been prohibited that will obstruct the progress of the business of Neutral Repatriation Committee.

I wonder and can't understand the 4th article because Neutral Repatriation Committee admitted our right of

refusing to receive communist explanation but other hand Neutral Repatriation Committee says that prisoner of war should sit on the chair at the room and take explanation, I am sure this saying is partial and lost neutrality.

2. We can't understand the 5th article. Because by threat and force Neutral Repatriation Committee tried to talk us to receive explanation. We are too hopeless to read the 7th article.

3. Neutral Repatriation Committee don't admit the right of us that nobody can force prisoners of war to receive explanation. We don't praise the member of Neutral Repatriation Committee who always stand by communist explainers. You must pay kindness to poor prisoners, too. It is out of treaty that every prisoner of war should receive explanation.

4. I fear that Neutral Repatriation Committee have admitted the Communist explainers to force or threaten us to bring back because Neutral Repatriation Committee prohibit the United Nations partakers to interfere communist explainer who will threaten, prisoner of war, after reading the 13th article.

We can understand quite well the partiality of Neutral Repatriation Committee because Neutral Repatriation Committee give the communist explainers right and an opportunity to threaten us without interference from the United Nations partakers. I wonder if you are neutral if you don't admit the United Nations partakers to partake at the explanation and after communist explanation threatened us to be obedient to them it is no use for us that if the partakers of the United Nations propose trouble to Neutral Repatriation Committee about communist explainers threat to us. Can you understand that we fall into poor situation that will occur from the unneutrality?

5. The 16th article says that the communist explainers could ask everything to prisoners of war but on other hand it says that members of Neutral Repatriation Committee or the United Nations partakers must make known to us the right of refusing to answer to explainers if the explainers directly or indirectly threaten or force us to answer.

We believe these talks can use only to a baby and it too foolish. I wonder if you are understanding a vocabulary of threat.

It is true that we have no duty to answer about asking of explainers but the 16th article says that the communist explainers can ask everything to prisoners of war, supposing at explanation for instance: Where is your home? (prisoner of war's home) if you (prisoner of war) do not come back; your family will be killed then the hearer (prisoner of war) would happy or unhappy he could be obedient to them and come back.

Have you ever thought such a communist trick?

We can't express our free will before explainers.

Can you admit communist explainers threat about us as a man of neutral country?

You must restrain the business of communist explanation and stop threat.

6. The 20th article says that all prisoners shall separate into compounds among them who will refuse to meet explainers and who will agree to go back and who will refuse to go back after explanation, this article make us fear and have us force to be obedient to communist explainers.

So I have mentioned as above.

We have been obedient to you sometimes we are obedient to Indian authority by treaty of armistice and Geneva Convention since we have been here.

We have been obedient to your order. It is unhappy for you to declare such a foolish and threatening issue to us.

So I as the representative 484 in number, protest you about your guide and rule of communist explanation, having told about the guide and rule of explanation.

1. We declare this guide and rule of explanation is one kind of threat to us that stands to help communist, so we do not admit it and none of us are in obedience to it.

2. As long as Neutral Repatriation Committee has such a pro-communist behaviour, we boycott to receive explanation with desperated courage.

3. We request the amendment of the issue about guide and rule of explanation that keep our right of free will.

Representative of the 50th camp
(Signed) SONG JUNG TAIK

27. LETTER

From: Enclosure 13, Compound No. 3
To: Secretariat NNRC

12 October 1953

1. We escaped from behind the Iron Curtain three years ago, as the communists had enslaved our country and sold it to Russia. We consider Chu and Mao the biggest tyrants in our history. Even before surrendering we had decided to denounce the communists and sworn to go to Formosa.

2. The communist explainers have chased us here and intend to deceive us to return to the state of torture. We must prevent this.

3. We have received the Rules governing the explanations and instructions on 12 October 1953. We protest against article 20 which segregates our companions in different places and weakens our forces and characters. We shall be subjected to deceitful communistic propaganda. The trick of the communists are already known to the world.

4. We like the impartial and neutral attitude adopted by the NNRC and appeal that you consider our application.

5. If there is amongst us any who wishes to return to the rule of Mao and to his death, we will obey you. But there is no one amongst us, or in the world, who wishes to die. We want our existence and believe "No freedom, rather die".

6. It is evidently a communistic trick to disband our forces by segregating those who have been explained to but do not wish to be repatriated and those who have refused to attend explanations. That is why we oppose the contents of this paragraph.

7. If this is implemented we shall put up a desperate fight against the communists.

(Signed) *Anti-communist prisoners of war*

28. LETTER

To: How San, 6th Battalion Commander

I am writing this letter of remembrance you with trembling hands, feeling ashamed and also apologising to you, devoted anti-communist. I am telling you our real and pleasant situation.

Pardon me. On 21 September before being released from the hospital I have fulfilled my duties for the organization.

I contacted the Chief of the American Hospital and Indian representatives, telling them the truth for the last four or five days.

They then gradually accepted me, saying that I would be released. One man from our battalion told me to go in, so I was obliged to get in.

On 29th they said that we would be back to this camp, if we want to return. The number of persons who wanted to get in from each battalion were sixteen.

In order to return we were told to get in the vehicles, then was taken to jail in Pusan(s) Camp 41, without any reasons, so were very frightened. We sent a letter of petition to the Chief of E Camp. We decided to starve while in this camp. Ten o'clock in the morning on 30th we offered the letter of petition to the Indian officer. After a while he brought the letter back saying he was not responsible for our starving. About 5 p.m. the acting Adjutant of E Camp called on me and said he would send us to our camp thus complying with our wishes. So having a doubt about the Indian Army, we were forced to ride on the car. Sixteen of us were in doubt, because we were not notified as to our destination.

They even violated article 45 of the Geneva Convention, that is why we could not help but get off the car. When we got off the car a number of Indian officers came and beat us very seriously in front of the Indian Camp located in the Demilitarized Zone. The rest of us (sixteen men) were unspeakably beaten and injured by many of the Indian soldiers and a man by the name of Chang Sung Kum, who was in Hon Han 3rd Battalion, was later missing.

We think that he was killed by the Indian soldiers, as a matter of fact, we were handcuffed and put on cars which started with. We pledged to die together so prayed to God.

We were then put in the 11th jail, B Camp, beside the central railway, after passing them the Chinese Brigade located about 3 miles north from the place where we were caught.

We made up our minds to meet together, if we were not killed, and at night we could not sleep. In the jail were thirty-six Chinese anti-communist youths plus the sixteen of us.

On 1 October, when the Indian Red Cross visited us to administer medical treatments I and Pak Koo Byung and Cho Sung Ho who came from 3rd Battalion, was hospitalized. So I am now in 45th Headquarters Hospital, leaving my young brothers and women friends in the jail. At present, Kim Chung Sun, Ha Chong Koo and Pak Man Kap are detained in the jail, plus two in the hospital.

Though I recovered my health, I am always worrying about the men in jail. When I was released from the hospital, I reported the accident to the Republic of Korea, the true story of the accident, and hypocritical behaviour of the Indians, through a social interpreter.

As there were friction between us and the Indian officers, I felt it hard to be released from hospitalization. But on 6 October at 9 p.m. Indian Reds wanted me to come out, so I kidnapped him and took his hat off and kicked him out. Then I petitioned. On 6 October I got

information that the Battalion C.O. would visit the hospital to pick those men that were to return to the camp. So I expected him to pick me as soon as possible but on the other hand I believed the problem of thirteen men in jail was a problem at any rate.

We cannot trust India. If the problem in jail is not solved then there would be no solution for us. I am going to stay as a hospital member for the time being, under the impression of my being released from the hospital. Members of this Battalion who are in the hospital are all well and awaiting the return to battalion. I do not know exactly how those in jail are getting along. Awaiting the earliest solution and cooperation. May every body in battalion be in good health. Praying continuous struggle for the explanation period. End.

7 October 4286 (1953)

Members in jail	In hospital 5	4 Chae Ha Young
11th jail B Camp	Special agent	Pak Koo Byung
55th Bn Kim Chung Sun	33218	Ron San 8th Bn
55th Bn Ra Chong Koo	62382	
55th Bn Pak Man Kap	15781	
48th Bn Chang Sung Kun	41235	Missed
48th Bn Baik Chan Hyun	47203	Ron San
48th Bn Kim Dae Sik	15505	3rd Bn
52nd Bn Kim Yung Sik	121914	Ran San 5th Bn
52nd Bn Han Chang Kun	13653	
52nd Bn Yoo Has Byun	20912	
52nd Bn Pak Tae Kik	2281	
53rd Bn Pak Sun Bo	108804	Ku Joe-do Bn
54th Bn Sun Kun Kun	139576	Ron Son 4th Bn
54th Bn Bang Byung Yup	57229	

S-4 Chief (*Signature*)

29. LEAFLET

The following leaflet was thrown out wrapped around a stone from compound C.13 towards a prisoner-of-war working party which had come out from compound C.14.

Summary translation of the printed leaflet

We United Nations troops are giving you assurance that we shall do what we say to you. We came here to protect the Republic of Korea and repulse communist aggression. We accomplished our work, saved Republic of Korea from the communists and were preparing for peace when you all came over to our side and appealed to us to regain for you your freedom and not to send you back to communist territory. We agreed to your request as we believe that everyone should have the freedom to decide his future himself. The communists insisted that whether you like it or not all must be returned to them. Only because of this hinderance we fought for nineteen months more and obtained ultimate victory. Now all of you will become free men and go to any place you choose to go. During these nineteen months we have paid heavily for our righteous stand. More than 106,000 men of free world had either died or were wounded. These people have sacrificed their lives of their free will in order to gain freedom for you. These people who sacrificed themselves for you had never seen you and came from US, Britain, Canada, Australia, Turkey, Korea, etc. Five people sacrificed themselves to save the life of one of you. We should not forget the high price for freedom paid by these men. Therefore whatever we tell you is what we believe. These people have sacrificed their lives for the highest principles of humanity.

We have made every effort for you during the last one and a half years. We will still not abandon you.

After you have obtained freedom we shall still help you to go to free China, Taiwan and become free people and start your new life again.

We do not want that you should reply to us by your blood. We only want that you should return our confidence by your sincerity. You must express your heroic feelings which will be respected by the whole world. By real facts you should show to us that our confidence in you was not misplaced.

We have brought you to the part of freedom, which you have yourself seen. You should continue to remember firmly that so many people sacrificed their lives for your freedom during the last nineteen months. You should firmly uphold your resolve for freedom. This is your only responsibility and only in this way you could repay the sacrifices made for you.

30. TRANSLATION OF LETTER SENT BY 1ST LIEUTENANT UI (CAMP), GROUP No. 8, TO OTHER GROUPS OF "ANTI-COMMUNIST" PRISONER OF WAR

Summary translation

The four characters at which the fingers are pointing out mean "Communist bandits must die". By the side of the plan there is a verse saying the communists are opposed by four classes (soldiers, farmers, workers and merchants), four seasons, four seas, four directions, etc.

The letter says that before the prisoners of war came to Neutral Zone the United Nations friends had told them that Taiwan government was planning to counter attack the Chinese main land with the help of the United Nations. They also said that Anti-Communist guerillas on the Chinese mainland are very active and are gaining strength. Prisoners of war were also told that communists were in reality weak and if they saw their representatives they should abuse them.

Secondly the letter informs that every afternoon each group should send a representative to the hospital when they can exchange news and views among each other and also with the representative of United Nations troops and the teacher from Taiwan.

Thirdly, the anti-communist prisoners of war should keep a diary of daily events giving details of anti-communist movement and happening inside the camps. The representatives of United Nations troops would like to publish such things throughout the world.

Fourthly, prisoner-of-war compounds should collect stones to beat the communist bandits where they see them.

31. LETTER

Republic of Korea Anti-Communist Youth Group
Office of Nonsan Branch
Anti-Communist Nonsan Branch 19
6 October 1953

To: Leader, 4th team

Request for statistics on members and list of arriving and departing personnel

It is requested that a statistical accounting, as of 6 October 1953, and a list of arriving and departing personnel be drawn up, according to the following forms, and forwarded to this branch. This report will be submitted only when the next meeting of responsible persons of compounds is called. However, when requested by this branch, the report shall be submitted immediately by hand signals, prior to the above-mentioned time.

	Statistics of members			Departing personnel			Arriving personnel			
	No.	Description	No. of persons	Remarks	No.	Membership Card No.	PW No.	Age	Present address	Remarks
Total personnel at time departure Nonsan . . .										
Hospital cases										
Deserters										
Others										
Arrivals										
Present total										

Note: The remarks column will contain information on hospitalization, desertion and departure, together with the date of each. Description of diseases is required for hospitalized cases.

Translator's note: Three additional sheets are the same, with the exception of addresses. These three addresses are: Leader, 2nd team; Leader, 8th team; Leader, 53rd team.

Clipped to the above four (4) sheets of paper was one (1) identification card. The writing on this card is translated as follows:

Front: Membership card, Republic of Korea Anti-Communist Youth Group.
Reverse: No. 124383.

This is to certify that the person below is a member of this organization.

Permanent address: Haeun-Myon, Young gang-gun, Pyongannam-do.

Present address: Same as above.

Name: Im Nung Sam.

Born: 15 February 1917.

Date of affiliation: 15 February 1953.

Position: Member.

Issued: 26 August 1953.

Issued by: Koje-do Branch, Republic of Korea Anti-Communist Youth Group.

Translator's note: Reverse is stamped with official stamp of above organization. The left of the reverse side shows the Korean peninsular upon which are drawn the two characters meaning "anti-communist".

32. LETTER FROM PRISONERS OF CAMP 35 HANDED OVER TO GARBAGE VEHICLE DRIVER

I hasten to inform you that I write with much indignation about the fatal wounding of our friends.

How diligently are you striving to raise the spirit of our associates and to guide their fighting spirit?

We of the 1st Team left Nonsan on 22 September and arrived here in the neutral zone around 1600 of the same day.

In our own minds, we have raised our spirit and our pulse has been beating rapidly. In front of the puppet army's generals we have demonstrated our anti-communist.

When we entered the camp, we found South Korean and Free Chinese flags, symbols of freedom, waving high in the sky. Waves of small flags, too, welcome us and our emotion and excitement was irrepressible. All this made us shed tears of joy and greatly encouraged our burning spirit.

As soon as we arrive—we had no time to recover from the difficulties of the trip—we were separate from the branch organization. So, we have been uneasy. Even since then we have been searching for a method to establish contact. Fortunately, a few days ago we dis-

covered a communication route. So, I submit this report to you with great pleasure.

We are not sure of the details but we have heard that they took the demonstrations to be riots and opened fire, killing several men.

We know well that this is an illegal act and that it violates the Agreement and our free will.

We have to protest to them immediately and act in concert with each other. We think it is necessary to declare our firm attitude toward them.

We propose to establish a communication network among us in order to maintain the privileges of our organization and to preserve the procedure of contact with the Custodial Forces.

If the Custodial Forces do not ease their armed oppression of our demonstrations to oppose the explanations with desperate courage, we think the only counter-measure left to us is to break out of this custodial and escape from the neutral zone to our "home country".

We believe that in so doing we shall be able to gain our honour and to be most effective in exposing completely the tyrannical governments of the communists to all the nations of the world.

Our team is planning a "thrilling scene" like that mentioned above and expects that each enclosure will respond to it.

We should consider carefully outside influence and the prospects of expression of our free will. We are going to thoroughly devise this plan.

This letter is submitted to you in order to reach a common and consolidated method which will be ratified by the branch organization.

The above covers today's report. A detailed report will be sent to you at the next opportunity. We await your early reply.

We hope this letter finds the chief and cadre members of the branch organization in the best of health.

Yours truly,
4 October 1953

Former Nonsan 1st team Committee
(Signed) NUN SANG HUN
Enclosure E, compound 35

To: Chief of Branch Organization

Translator's note: Writing on envelope containing above is translated as follows:

To: Former Chief of Nonsan Branch Organization
(From: Committee of 1st team)

33. STATEMENT OF IDO CHENG KANG, No. 704015, 26 SEPTEMBER 1953

At Fusan last week the ring leaders in my camp suspected me to be a communist desirous of repatriation to

China. I was working in the hospital and had objected to the practice of forced tattooing of prisoners. I was severely beaten and received many wounds. I was saved only because I screamed loudly and ran and fell down on the fence. On hearing my cries for help an American sentry fired a round and the plotters ran away. I was sent to the hospital and soon was brought to the prisoner-of-war hospital in the Demilitarized Zone under Indian custody.

Yesterday in the hospital the people recognized me. Some Kuomintang agents held a secret meeting and plotted to kill me in the night. I saw them writing a letter to another ward informing them of their design. I asked for help from the American doctor who sent for an Indian officer. The Indian officer asked me whether I wanted to go to China. I could not give any reply as the American doctor was present and I was afraid that I may be killed if others know about it. When the American went away I told the Indian officer that I want to return to communists.

Many prisoners of war in the hospital would like to be repatriated but they dare not say so because of fear of Americans and Kuomintang leaders. At the hospital there are two Chinese United Nations personnel who are working as interpreters. These Chinese formerly worked for CIE and used to carry on pro-Kuomintang and US propaganda in prisoner-of-war camps. They are probably sent from Taiwan. Yesterday noon time an American doctor (a Captain) who came to make inquiries regarding some incident between a prisoner of war and an Indian soldier told the prisoner of war in surgical department that they could beat the communist representatives when they come but they should not beat their own men.

People from various compounds come to the hospital for medical inspection or treatment. While in the hospital they exchange messages and information between different compounds. Meetings are also held every day in one of the hospital tents and no one is allowed to go in during the time of the meeting. The hospital serves as a measure for liaison between different compounds and also with United Nations representatives.

Various prisoner-of-war compounds have decided to kill people who may express a desire to return to China. They are resolved not to listen to any explanations and resist the Indian troops if force is used.

In Cheifu island prisoner-of-war camp many prisoners were killed who wanted to return to China. The bodies were thrown down in deep trench latrines. Some people were hanged and it was said that he had committed suicide. Some were killed while bathing in the sea and were reported to have been drowned.

Wang Shuin Chien is a leader of one lien (one group of ten to fifty people). He beat and killed several people. Here he is somewhere near compounds B9. He beats drum and blows bugle.

Recorded by me
(Signed) V. KUMAR
26 September 1953

34. PETITION

We are thinking it as a great honour that have opportunity of offering our petition to you Neutral Nations Repatriation Commission which are controlling anti-communist youths.

We were transferred here Neutral Zone according with Armistice Agreement against our wishes.

During last five years when we had been North Korea under communist dictator. We had lost all our fundamental human rights and freedom by communist fellows' untruth and violence.

So we always yearned for free Republic of Korea, but we had unfortunate position that could not escape from Iron Curtain owing to unhumane and cruel defence of communist fellows.

Therefore we claim it is actually useless that communist representative going to explain those who had a life-and-death fight against since had been North Korea but were forced to army after communist aggressor caused disturbance of Korea or as a civilian status in spite of directly fought against communist troop and unfortunately were detained to United Nations side.

We claim and claim that it is no use explain to us whom were anti-communist, are anti-communist, and will never be communist.

Though communists not only does not reflect their past unhumane action but also going to try to invite us, anti-communist youths, by fine words, its only results show their crime (all over the world) that communists trample on holy human right.

Though communist fellows' intrigue give us mental trouble over long time, their strategies will be broken because the more they intrigue in order to change our mind the more hate for communist and anti-communist will occur. We are thinking the radical purpose of your Commission is protection the liberty of human rights, and in order to carry out your purpose the guarantee freedom of one's will should be exit.

Even though we are now in Demilitarized Zone and under your control power against our wishes, we have no wishes at all to receive any explanation.

Our anti-communist will is already decided fact and we would rather choose death in the free Republic of Korea than repatriated to behind the Iron Curtain North Korea.

So we inform you we will refuse such a explanation to the end that hereafter communist representative will have by force. We hope you deal with this problem.

Lastly we are confident that your Commission will not ignore our wishes.

25 September 1953
Enclosure E, compound 36
(Signed) LEE KUN SHI
Representative

35. STATEMENT BY SERGEANT WANG HASIN, PRISONER OF WAR NO 704755 FROM COMPOUND D.31 ON 24 SEPTEMBER 1953

Communication between prisoner-of-war camps

The various prisoner-of-war compounds can easily communicate messages among each other. Communication is made through signals by flags or blowing of bugles. Written messages are also sent through trained dogs in same compounds and also by members of different compounds who may go out of the compound for some work or to consult the doctor.

Demonstration on 25 September 1953

Before the prisoners of war handed over to the custody of the Indian forces they had been trained to organize demonstrations against explanation teams sent by the communists. They were told that on 25 September 1953 they should organize a powerful demonstration against the explanation teams. The spies from Taiwan had organized this training. The prisoners of war have,

now an organized plan to demonstrate on 25 September morning simultaneously in all compounds. They will make a demand that gates of ten compounds in an enclosure should be open and they should be given freedom to hold meeting of leaders of various compounds. This demand they will make in order to have an organized strength of about 5,000 people to enforce demands; can well control any dissentients who may wish to return to their homes; can have a well-organized scheme to prevent explanations taking place and will also enable the leaders to have easy communications with United States agents outside the camps. The demonstrations will also be to demand that if explanations take place at all they should be given to whole groups who will go together without giving an opportunity to individuals to make a free choice alone.

The demonstrations may also try to kill some people who are suspected of desiring repatriation and are being kept under strict surveillance. This may be done to strike terror in those who may be vacillating.

If demands are not met, it is likely that the demonstration will take an anti-Indian turn. They will write slogans against Indians, throw stones on Indian soldiers and cut wires to come out of the fencing.

Such demonstrations will be held everyday dating from 25 September 1953.

Organization in the Camp

The prisoners of war are organized in small sections of eight or nine people. A group of fifty makes a "Shad Tued" of 100 to 200—a "Chung Twei" and of 500, a "Ta Tusi". Each unit has a leader and deputy leader. The leaders keep a strict control over everyone. Before the prisoners of war were sent into the custody of Indian troops, the agents from Taiwan had carried out the election of leaders of various units.

Taiwan propaganda

Agents from Taiwan had carried out extensive propaganda in prisoner-of-war camps. They gave lectures against communism, distributed propaganda literature in huge quantities and organized training classes for taking measures to prevent anyone from returning to Chinese mainland. They even taught people how to kill those who expressed a desire to be repatriated. Such people were to be strangled and a letter left in their pockets saying that they had committed suicide as their longing for returning to Taiwan had not been fulfilled.

Before the prisoner of war left Cheju Island for the Demilitarized Zone, the Taiwan Government had sent two groups to instruct and train them. One group of twelve people was led by Ni Wen Ya and the second one of six people was under Fang Chito. These groups included people from Taiwan foreign office, local government; Kuomintang Party headquarters etc. They told prisoners of war that everyone must return to Formosa and no one will be allowed to go back to mainland. If any one returned to Chinese mainland the communists will kill him or amputate parts of his body which were tattooed with anti-communist expressions. They gave training as to how prevent the communist representatives from giving explanations and to beat them up. The prisoners of war, when asked any questions by representatives of NNRC, should not give any answer but merely say that they want to go to Taiwan. Each prisoner of war was taught to write the words—"Taiwan". Group leaders were told by Kuomintang agents that if they found the situation delicate and large numbers of people expressing desire for repatriation, they should

immediately beat the Indian troops and try to break out of the fence so that confusion may be created.

United States propaganda

The American authorities not only gave a free hand to Taiwan agents and sources but also rendered all assistance. Colonel Hanson (?), Chief of CIE, came to Cheju Island from Tokyo a week before the armistice was signed. He told prisoners of war that the Indian troops in the Demilitarized Zone could not coerce them and they could do as they liked. India was neutral so could not use force against them. If Indian used force or interfered in their activities they could request them to refer the matter to United Nations. United States will take immediate action to publish in newspapers that India was unjust, cruel and hard and treated the prisoners of war in an inhuman manner.

Miscellaneous

The prisoners of war have hidden some shovels, knives given for cutting vegetables etc., in order to use them when they want to kill someone who wishes to be repatriated. These things have been either buried underground, placed with a wooden floors of tents or hung inside latrines. The leaders inside the compounds have perpetrated a reign of terror and so no one dare say that he wishes to be repatriated. The anti-communist organization inside the compounds is very strong and do they have a hold on the majority of prisoners.

Recorded by me
(Signed) V. KUMAR
24 September 1953

36. LETTER DATED 20 SEPTEMBER 1953 TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION FROM PRISONER OF WAR NUNG SAM REPATRIATED ON 10 SEPTEMBER 1953

Delighted with my success of escaping from that fearful misfortune of forcible detention, I pay my deepest respect to your glorious efforts to carry out the lofty mission of repatriating prisoners of war in connexion with the peaceful cessation [conclusion] of the war in Korea.

Your Excellency Chairman,

As you presumably still remember, I am one of the Korean People's Army captured personnel who returned to their loving homeland on 10 September 1953, when the American detaining authorities transferred to the custody of the Neutral Nations Repatriation Commission those captured personnel who had been forced to refuse to be directly repatriated by a series of malicious intrigues.

I write this letter because I think it might be helpful for the function and human activities undertaken by the NNRC to expose to your Commission inside stories of the forcible detention launched by the American imperialists which had forced me and my comrades to be in that intolerable position of eternal slavery so that all the prisoners of war may regain their own liberties and their families and friends may not be shocked again.

Apart from numerous crimes committed by the American military authorities against the prisoners of war, I am going to tell you only about a series of their criminal actions with an attempt to detain forcibly under the pretext of "voluntary repatriation" the captured personnel who are anxious to return home.

On 8 April 1952, in compound 93 in which I had been detained, there started an operation of interview and interrogation for the purpose of coercing the prisoners of war individually to refuse the repatriation. For in-

stance, at the end of March, American authorities segregated approximately 1,200 prisoners of war insisting upon direct repatriation from 3,200 men interred in compound 93. Those segregated prisoners of war thus underwent brutal tortures and persecutions day and night without interruption. On the night of 7 April, American camp authorities mobilized more than 300 members from the so-called Anti-Communist Youth Association and camp investigation personnel to force the prisoners of war to write blood letters of opposing direct repatriation by torturing them individually. On this particular day I was beaten for over an hour by five investigation personnel with pickets until their pickets were all broken. They also gripped my throat furiously. After the brutal tortures, the fear of death forced me unable to speak even a word expressing my cherished desire of going home. Consequently I was forced to write a blood letter against repatriation. In order to detain forcibly many prisoners of war insisting upon repatriation, in the morning of 8 April, the terrorists proceeded with the operation of interview and interrogation under the guidance and protection of American armed troops led by Lieutenant-Colonel Laven, Commanding Officer of 94th Military Police Battalion. On this day the camp investigation personnel picked up about 200 prisoners of war insisting on going home and drove them into the place where they beat them with pickets and shovels and forcibly changed their desire of returning to fatherland. In this way 2,500 prisoners of war out of 3,200 in total detained in compound 93 had to refuse to be repatriated. On 17 March 1953, I was transferred to H Battalion, Compound 1 on Koje Island, where those who had been forced to refuse repatriation were concentrated.

The Americans and special agents are in nature exactly the same in controlling everything with attacks, intimidation, threats and death.

The outrage of forcible release of prisoners of war brought more atrocious provocations in this compound. The Shore Patrol Personnel of 6137th Military Police Detachment and agents dispatched from G-2 section of 6133rd Units of Syngman Rhee Puppet Army visited very often our camps, had talked with their special agents for many hours and gave them secret instructions. On 25 June, this year, under the leadership of O No Sun and Shin Ui Sup, ring leaders of special agents, so-called "Military party for Realization of Release" was openly organized which carried out "anti-armistice" demonstrations on 12 July.

American military authorities who had normally resort to mass measures under the pretext of suppressing demonstrations even when we just shouted or spoke loudly observed the aforementioned terrorist demonstrations, sending cheers and applause. Furthermore, at the end of June, Americans offered their special agents large quantities of paper and ink, the use of which had been strictly prohibited in prisoner-of-war camps and forced everyone of internees to write blood letter of petition for release. Some internees were coerced to write "I will serve in the National Army of Greater Republic of Korea" and so on. On 16 June, as soon as Park Yong Do, Chief of special agent group, came back from American Army Headquarters, he issued an order that all the prisoners of war in the compound must be tattooed on their arms with marks and letters showing opposition to our fatherland by midnight of the same day. Those who were opposed to the order were beaten or tortured or prohibited to receive meals. Eventually the

order was carried out. As for me, I was also beaten and tortured in various brutal methods which I could not stand on. Finally I had the letters "Absolutely Resist Repatriation" on my body in an attempt to escape from death. After the armistice was signed, violations and intrigues for the forcible release were carried out still more maliciously under the direct supervision of the Americans. For example, on 30 July, American compound Commander Colonel Richardson gathered all the internees in the camp. Richardson told us that "I am going to take care of you for four months from now on I want you to be more patient during the period so that you may overcome persuasions to the end". He agitated us to destroy the custodial functions and implementations of agreement undertaken by the NNRC. Again, on 7 August, Richardson brought one company of armed troops and threatened us by repeating the same statement. Furthermore in mid-August, Richardson sent two armed companies to heavily surround the compound and forced every captured personnel individually to stamp fingerprints on a document stating that "I will never go to "North Korea".

As from mid-August, American camp authorities started specific activities for the purpose of interfering with the operation of the NNRC and leading the work of explanation groups of the People's Democratic Republic of Korea to bankruptcy, by openly giving instructions to the prisoners of war and agitating them on the said purposes. Particularly, on 29 August, four 1st Lieutenants of the South Korean Puppet Army were dispatched to our camp. They had been specially trained in Taegu in order to forcibly retain us, prisoners of war. After introducing themselves to us and saying that "We belong to this camp", they were assigned, one to each barrack. From then on these four special agents distributed booklets enumerating more than 100 insulting questions to be put forward to the explaining representatives for the purpose of destroying the explanation work. They lectured in detail on various methods of leading explanation work to bankruptcy and forced each prisoner of war to recite the subjects of the questions. And under the participation of over 200 Americans they organized rehearsals in which the methods of insulting explaining representatives and interfering with the explanation work more carefully and systematically studied. One day, after the rehearsal the American Commander of the camp ordered us "to do just like this". Furthermore, the four lieutenants dispatched by the Syngman Rhee Government in full co-operation with the Americans drafted a plan for interfering with the operation of the NNRC. The plan is as follows:

The first stage in order to prevent the explaining representatives and personnel of the NNRC from access to the camps, all the prisoners of war shall carry out every available violation—including stone casting, "demonstrations", speaking of insulting remarks, etc.—so that we may not have explanations for forty or sixty days.

The second stage: During the short remaining period, five or six persons instead of one person at each time, shall agree to hear explanations, put forward various insulting questions and treat explaining representatives with ridicule and contempt for more than an hour.

Under the instigation of the Americans, the special agent lieutenants made this plan public among the prisoners of war. Together with the other special agents who had already penetrated into the compound, they held secret meeting every day in order to reorganize the so-

called "Association for Annihilation of Communism" and strengthen various subordinate groups for special activities, agitation and propaganda and mobilization works. On the other hand, the Americans readjusted the so-called "Military Party Group for Realization of Release" so that each battalion of the party might be divided into four companies, namely into twelve platoons. The leadership of the group appointed by the Americans was entirely composed of the influential special agents. And they issued to everyone of us towels and undershirts with South Korean puppet flags on them. We prisoners of war were ordered to learn anti-communist songs and attend drills for stonemasonry and other violent actions. The special agents were allowed to carry with them deadly weapons such as bayonets and [word illegible] and fountain pens equipped with sharp knives and whenever they perceive anyone who was desirous of going home they would threaten or hurt them with the concealed weapons.

Thus being unable to resist any more to these outrageous beating and threats, I took part in the military training for riots, shouting reactionary slogans, singing reactionary songs and throwing stones. And even while we were on our way to Panmunjom to be delivered to the NNRC, I was forced to continue singing reactionary songs and shouting slogans. The Syngman Rhee-dispatched hoodlums beat Byon Chang Su, twenty-nine years old, for eight hours, merely because he pronounced a few words which had no connexion with the repatriation. That was "Sakhalin was a fine place to live in before". As soon as he said this they inflicted upon him an incurable bruise on his breast.

Comrade Kim Chung-man, interment No. 206097, asked one day "Where shall we go?" and the special agents ceased immediately food supplies to him for twenty days because, they said, he was willing to go home. More than ten hoodlums gathered around him, and keeping his mouth closed, beat him and inflicted upon him a mortal wound on his breast. Thus, during the period of past one month, thirty-two prisoners, including Bak Do-byun and others, received great bruises which caused inner bleedings, and decisive disorder on spinal column. These persons are being detained there at this very moment.

Recently, the Americans began to deliver us to the NNRC and on 3 September, Commander Richardson, accompanying an American Major-General and another American Lieutenant-General visiting H Battalion of the camp No. 1, when all the prisoners of war assembled on order of Richardson the Major-General tried openly to persuade them to betray their fatherland claiming "You are anti-communists. I am also against commu-

nism. We are all friends. I hope you will come back here again after rejecting all kinds of explanations and persuasions. We will provide you whatever wish to have. We will provide all conditions necessary for your happy life. In order to protect you, we have already prepared a large number of guns and tanks. Reject all sorts of explanations and persuasions to the end".

The South Korean Puppet Army soldiers who were sent to our camp under the instigations of Americans at the time of our departure, said that they needed carpentry instruments, because the camp where they were going to be interned under the custody of the NNRC was located in a zone newly established. And bringing secretly four axes, two saws, four hammers and three files, they penetrated into the camp, disguising themselves as the prisoners. There is no doubt that they might use these instruments for the purpose of killing prisoners who heartily desire to return to their fatherland.

These brief facts just described the misfortune from which I suffered and the reason why the prisoners now under the custody of the NNRC could not reveal their sincere desire and hope to return to the free fatherland earlier.

Honourable Chairman and members of the Commission. There are still thousands of my captured friends who, although feverish to return to their beloved homeland, cannot express their own desires due to fear of death and apprehension in that bloody living hell where the American henchmen and Syngman Rhee murderers perpetrate atrocities. Therefore, I heartily request that you help my comrades to enjoy glory and happiness to return home as soon as possible out of the living hell.

I propose this and I am convinced that the explanation to the prisoners of war who are being forcibly detained can be carried out smoothly only under free and favourable conditions that a series of provocative intrigues perpetrated by Syngman traitors under the instigation of the American murderers to present and obstruct all the operations of Neutral Nations Repatriation Commission and explanation work are completely eliminated.

Lastly I welcome and strongly believe that with impartial human and credible efforts, the Neutral Nations Repatriation Commission will succeed in carrying out its mission of preserving and consolidating throughout the world the peace achieved in Korea, and in helping all the prisoners of war and their families to have welfare.

29 September 1953

Interned Number 6557

IM NUNG SAM

C

Report by the Custodial Force, India, on the activities of the 64th US Field Hospital (as base for covert operations)

1. As required by the Polish member, the Commander, Custodial Force, India, has submitted a report on the activities of the hospital personnel. The report is divided into two parts; part 1 deals with United Nations personnel and part 2 with the activities of the prisoners.

2. The Commander, Custodial Force, has reported that:

(a) The South Korean nursing sisters employed in the hospital try to talk to prisoners of war in compound G.49;

(b) Intercepted messages from prisoner-of-war compounds lead one to suspect that the nursing sisters are being used for passing of messages and information outside the Demilitarized Zone;

(c) The nursing sisters have also been seen cheering prisoners of war returning from explanations;

(d) When the establishment of the 64th Field Hospital was being discussed, it was suggested to the United Nations Command not to include the South Korean nurses, as we were anxious to avoid women living in the CFI area. We were, however, told that these nurses formed part and parcel of the hospital establishment;

(e) The Custodial Force has established a permanent sentry post between compound G.49 and the present nursing sisters' quarters. The Commander is also considering the possibility of shifting the nursing sisters to some other place in the hospital area. He further has asked the Commanding Officer, 64th Field Hospital, to instruct the staff of the US hospital not to associate with the prisoners in any manner.

3. It appears that the hospital is being used as a meeting place by prisoners. When the hospital was first established, the Commanding Officer asked for fifty prisoners to act as cooks and to attend to other duties which could not be performed by patients. Approximately thirty-five volunteer prisoners of war from other

compounds were therefore sent by the CFI. These prisoners worked there for seven days and after that refused to continue working. The presumption is that having contacted all the prisoners of war these volunteers wanted to return to their own compounds and send another batch in lieu. The CFI later took disciplinary action against these prisoners for refusing to cook, having only seven days earlier volunteered to do so.

4. From statements of repatriated prisoners and intercepted letters it seems fairly reasonable to accept that the hospital is an agency or a centre of organization of the prisoners of war and is utilized for passing messages and for bringing prisoners of war for consultations. A strict check is now maintained of all fresh admissions to the hospital. Our Indian doctors thoroughly satisfy themselves that it is absolutely necessary for a prisoner to be admitted to the prisoner-of-war hospital.

5. Repatriated prisoners have also indicated the presence of a radio set inside the hospital for communication outside. It is felt that no matter how detailed a check of the hospital is carried out, it would be practically impossible to locate this wireless set.

ANNEXURE XVIII

Objections of the Government of the Republic of Korea to the Rules of Procedure governing Explanations and Interviews

1. LETTER FROM THE FOREIGN MINISTER OF THE REPUBLIC OF KOREA TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

3 October 1953

According to reports in our hands, the Neutral Nations Repatriation Commission, of which India is Chairman, has adopted regulations governing the conduct of "explanation" provided in article III of the annex to the Korean Armistice Agreement.

The regulations provided that anti-communist prisoners of war are required to undergo the so-called "explanation" singularly instead of as a group and to receive the "explanation" irrespective of whether they desire. It is not too hard to understand the reasons for adopting such regulations, for the coercive brainwashing conducted by many communist representatives against one single prisoner of war will easily overwhelm the prisoner of war and force his repatriation to the communist slavery.

The compulsory subjection of each single prisoner of war to every conceivable communist tactic of brainwashing is clear violation of the spirit and principle of the Armistice Agreement, which guarantees the freedom of will, dignity and self-respect of prisoners of war as provided in paragraph 3, Article I, of the annex to the Armistice Agreement.

We are also shocked to learn that the NNRC deliberately circulated Chinese communist documents among non-repatriate Chinese and North Korean prisoners of war only to aid communist propaganda purposes—another proof of violation of neutrality which the Commission is required to observe.

I, on behalf of the Government of the Republic of Korea, therefore lodge strong protest with the Commission for the adoption of such unjust regulations and acts of propaganda in the interest of communist agres-

sors, infringing not only the human rights of the prisoners of war but the terms of Armistice Agreement. We demand immediate repeal of the illegal regulations and rectification of its propaganda acts, so that the prisoners of war will be treated humanely and justly in accordance with the specific provisions and spirit of the Armistice Agreement, as well as the Geneva Convention.

(Signed) CHUNG W. Cho
Acting Foreign Minister
Republic of Korea

2. LETTER FROM THE FOREIGN MINISTER OF THE REPUBLIC OF KOREA TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

3 October 1953

We have received reports that several anti-communist prisoners of war presently under the custody of the Neutral Nations Repatriation Commission were killed and wounded by members of Indian armed forces. The prisoners of war, we understand, were in the act of expressing their wish against forced repatriation which the Commission was imposing upon them through the Indian armed forces.

The Government and people of Korea are gravely concerned with such wanton acts deliberately committed by the supposedly neutral Indian armed forces. It was a murder and flagrant violation of human rights and the Armistice Agreement, which guaranteed freedom of will and opportunities for the prisoners of war against forced repatriation.

The Commission professes to be neutral but only in name. The acts recently committed by the Commission and the Indian armed forces are clear-cut evidence of their pro-communist character. I wish solemnly to warn you, on behalf of the Government of the Republic of Korea, that if the Commission and the Indian troops

do not rectify immediately the evil acts being committed, the Republic of Korea will be regretfully forced to send their armed forces to drive the irresponsible Indian troops out of Korea.

We desire to lodge strong protest with the NNRC and Indian armed forces for the most unlawful acts they deliberately committed, and also demand the immediate removal and punishment of those responsible for the criminal acts of murder.

(Signed) CHUNG W. Cho
Acting Foreign Minister
Republic of Korea

3. *Note verbale* FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDER, UNITED NATIONS COMMAND IN KOREA

6 October 1953

The Chairman of the NNRC presents his compliments to the Commander of the United Nations Command in Korea and has the honour to invite his attention to the following:

During the past few days, there have been brought to the notice of the Commission utterances made by responsible officials of the Government of South Korea regarding certain incidents in the prisoner of war camps in the CFI area in the southern part of the Demilitarized Zone.

These statements have shown a complete disregard of the duties and responsibilities of the NNRC and of the CFI and have been couched in language calculated to incite not only the prisoners of war but also the civilian population south of the Demilitarized Zone. The United Nations Command will appreciate that the threats contained in these utterances particularly against the Custodial Force, India, are not only against all accepted canons of international behaviour but will also

have the effect of interfering with the due discharge of the Commission's duty; a situation which the Commission is sure the United Nations Command has no desire to contribute to or encourage.

The Commission wishes to draw the attention of the United Nations Command to the obligations imposed on the detaining side by article II, paragraph 8, of the Terms of Reference to ensure security and order in the areas around the locations where the prisoners of war are in custody and for preventing and restraining any armed forces (including irregular armed forces) in the area under its control from any acts of disturbance and intrusion against the locations where the prisoners of war are in custody.

4. *Note verbale* FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE UNITED NATIONS COMMANDER IN KOREA

10 October 1953

The Chairman of the NNRC presents his compliments to the United Nations Commander and has the honour to inform him that he has received two letters dated 3 October 1953, from the Acting Foreign Minister of the Republic of Korea.

As the Commission deals only with the representatives of the two Commands and not with any individual government, it regrets that it is unable to take cognizance of these letters and is, therefore, obliged to send them to the United Nations Commander for such disposal as may be deemed fit and proper.

The Commission desires to bring to the notice of the United Nations Commander the unconcealed threats contained in the letters and to express the hope that the true facts of the situation and the obligations imposed upon the United Nations Command will be brought to the notice of the signatories of the letter.

ANNEXURE XIX

Particulars regarding nine prisoners of war suspected to have been murdered while in the custody of the Neutral Nations Repatriation Commission in the Southern Camp

Sl. No.	No., rank and name	Cause and date of death	Enclosure No.	Sl. No.	No., rank and name	Cause and date of death	Enclosure No.
1.	706304, Pvt. Chu Fun Loo	Traumatic rupture of aorta, retroperitoneal haemorrhage. 1 October 1953.	F.44	5.	111218, Pvt. Bak Do Wan (Continued)	ture of liver, fracture of both lower legs. 29 October 1953	
2.	39493, Pvt. Bal Ke Chan	Strangulation resulting in asphyxia and ruptured liver. 8 October 1953.	F.45A	6.	138361, Pvt. Choi Jong Joon	Asphyxia by strangulation. 12 December 1953	E.38
3.	92010, Pvt. Lee Chang Hwan	Crushed syndrome and shock. 24 October 1953.	G.55	7.	146730, Pvt. Pak Seok Koon	Asphyxia by strangulation. 12 December 1953	E.38
4.	50477, Pvt. Jo Je Keon	Forced starvation. 26 October 1953.	G.53	8.	151012, Pvt. Choi Tai Yool	Shock and haemorrhage from multiple injuries. 12 December 1953	E.38
5.	111218, Pvt. Bak Do Wan	Fracture of ribs bilateral, hemothorax bilateral, hemo-pericardium, rup-	G.53	9.	20921, Pvt. Kim Huk Sun	Asphyxia by strangulation. 12 December 1953	E.38

ANNEXURE XX

STATEMENT A

Statement of prisoners of war as at 24 December 1953

	Southern Camp			Northern Camp			
	North Koreans	Chinese	Total	American	British	South Koreans	Total
1. Total taken over	7,900	14,704	22,604	23	1	335	359
2. Explained to	1,169	2,021	3,190	—	—	255	255
3. (i) Repatriated after explanation	47	90	137	—	—	—	—
(ii) Repatriated without explanation	87	145	232	1	—	7	8
(iii) Total	134	235	369	1	—	7	8
4. Dead:							
(i) Gun shot	2	3	5	—	—	—	—
(ii) Natural causes	10	8	18	—	—	—	—
(iii) Suspected suicide	1	1	2	—	—	—	—
(iv) Suspected murder	6	1	7	—	—	—	—
(v) Starvation	1	—	1	—	—	—	—
(vi) Total	20	13	33	—	—	—	—
5. Escaped	9	—	9	—	—	1	1
6. Missing	3	2	5	—	—	—	—
7. Total in custody	7,734	14,454	22,188	22	1	327	350

(Statement B follows on next page)

STATEMENT B

Prisoner of war holding state as at 24 December 1953

DEATHS

REPATRIATES

Compound No. (a)	Nationality (b)	No. of prisoners of war originally received (c)	Whether compound explained to and number explained to (d)		Without explanation (e)		After explanation (f)		Total (g)	Gun shot (h)	Natural causes (i)				Escaped (m)	Missing (n)	Transferred to and from compound (+ or -) (o)	Balance in custody (p)	Remarks (q)
			No	Yes	Without explanation	After explanation	Natural causes	Suspected suicide			Suspected murder	Starvation							
A	Chinese	—	No	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
A	North Korean	10	No	6	—	—	—	—	6	—	—	—	—	—	—	+10	10	Plus 6 in hospital	
B.3	Chinese	492	432	6	6	56	—	—	62	—	—	—	—	—	—	+64	62	Plus 5 in hospital	
			Explained														425		
B.4	Chinese	498	21 to 22 Dec, 1953	5	11	—	—	—	16	—	—	—	—	—	—	+ 2	482	Plus 2 in hospital	
			Explained																
			23 Dec., 1953																
B.5	Chinese	490	No	1	—	—	—	—	1	—	—	—	—	—	—	+ 1	488	Plus 2 in hospital	
B.6	Chinese	486	No	1	—	—	—	—	1	—	—	—	—	—	—	—	478	Plus 7 in hospital	
B.7	Chinese	475	No	2	—	—	—	—	2	—	—	—	—	—	—	—	472	Plus 1 in hospital	
B.8	Chinese	495	No	—	—	—	—	—	—	—	—	—	—	—	—	—	489	Plus 5 in hospital	
B.9	Chinese	542	No	1	—	—	—	—	1	—	—	—	—	—	+ 2	535	Plus 7 in hospital		
B.10	Chinese	481	No	—	—	—	—	—	—	—	—	—	—	—	—	—	475	Plus 6 in hospital	
B.11	Chinese	117	No	9	72	—	—	—	72	—	—	—	—	—	+ 4	42	482	Plus 2 in hospital	
			Explained																
			22 Dec. 1953																
B.12	Chinese	494	No	1	—	—	—	—	1	—	—	—	—	—	—	—	492	Plus 1 in hospital	
C.13	Chinese	455	No	—	—	—	—	—	—	—	—	—	—	—	—	—	443	Plus 12 in hospital	
C.14	Chinese	474	No	—	—	—	—	—	—	—	—	—	—	—	—	—	465	Plus 9 in hospital	
C.15	Chinese	491	No	—	—	—	—	—	—	—	—	—	—	—	—	—	477	Plus 13 in hospital	
C.16	Chinese	479	No	—	—	—	—	—	—	—	—	—	—	—	+ 1	478	Plus 2 in hospital		
C.17	Chinese	488	No	1	—	—	—	—	1	—	—	—	—	—	—	485	Plus 2 in hospital		
C.18	Chinese	492	No	—	—	—	—	—	—	—	—	—	—	—	—	—	487	Plus 5 in hospital	
C.19	Chinese	488	No	1	—	—	—	—	1	—	—	—	—	—	—	—	485	Plus 2 in hospital	
C.20	Chinese	492	No	4	—	—	—	—	4	—	—	—	—	—	—	—	482	Plus 6 in hospital	
C.21	Chinese	475	No	—	—	—	—	—	—	—	—	—	—	—	—	—	467	Plus 8 in hospital	
C.22	Chinese	485	No	—	—	—	—	—	—	—	—	—	—	—	+ 8	488	Plus 3 in hospital		
			Explained																
			5 Nov. 1953																
C.23	Chinese	495	No	1	—	—	—	—	1	—	—	—	—	—	—	—	494	Plus 1 from F. explained and repatriated through C.22.	

STATEMENT C

Prisoner-of-war repatriates at 1200 hours on 23 December 1953

Date	Nationality	Enclosure compound	Without explanation	After explanation	Total	Date	Nationality	Enclosure compound	Without explanation	After explanation	Total
15 September 1953	North Korean	G.53	9	—	9	30 October 1953	South Korean Songgong-ni		1	—	1
16 September 1953	Chinese	D.29	1	—	1	31 October 1953	North Korean	E.35	—	21	21
18 September 1953	North Korean	G.49	1	—	1	2 November 1953	Chinese	B.11	1	—	1
18 September 1953	North Korean	G.50	2	—	2	2 November 1953	Chinese	D.28	11	—	11
18 September 1953	North Korean	G.54	2	—	2	2 November 1953	North Korean	G.48	1	—	1
18 September 1953	North Korean	G.55	1	—	1	2 November 1953	North Korean	G.51	2	—	2
20 September 1953	Chinese	B.7	2	—	2	3 November 1953	Chinese	D.28	12	—	12
20 September 1953	North Korean	E.40	1	—	1	3 November 1953	North Korean	G.48	—	19	19
22 September 1953	Chinese	B.11	1	—	1	4 November 1953	Chinese	C.19	1	—	1
22 September 1953	Chinese	D.28	1	—	1	4 November 1953	Chinese	D.28	6	2	8
22 September 1953	North Korean	E.38	1	—	1	4 November 1953	North Korean	G.49	1	—	1
22 September 1953	North Korean	G.53	5	—	5	5 November 1953	Chinese	C.22	—	2	2 ^a
25 September 1953	North Korean	A	1	—	1	10 November 1953	Chinese	B.11	1	—	1
25 September 1953	North Korean	F	2	—	2	10 November 1953	Chinese	B.12	1	—	1
25 September 1953	Chinese	F	1	—	1	10 November 1953	Chinese	C.20	1	—	1
25 September 1953	Chinese	C.23	1	—	1	10 November 1953	Chinese	F	1	—	1
25 September 1953	Chinese	D.31	1	—	1	10 November 1953	North Korean	E.38	1	—	1
27 September 1953	Chinese	B.11	64	—	64	14 November 1953	North Korean	E.34	1	—	1
27 September 1953	Chinese	F	1	—	1	14 November 1953	North Korean	G.49	1	—	1
29 September 1953	Chinese	B.11	1	—	1	14 November 1953	North Korean	G.51	1	—	1
29 September 1953	North Korean	E.35	1	—	1	16 November 1953	Chinese	C.17	1	—	1
29 September 1953	North Korean	G.51	1	—	1	16 November 1953	North Korean	G.53	—	6	6
2 October 1953	North Korean	E.36	1	—	1	16 November 1953	South Korean Songgong-ni		3	—	3
2 October 1953	North Korean	E.39	1	—	1	22 November 1953	Chinese	B.4	5	—	5
2 October 1953	North Korean	G.48	2	—	2	22 November 1953	Chinese	B.5	1	—	1
2 October 1953	North Korean	G.50	1	—	1	22 November 1953	Chinese	B.9	1	—	1
4 October 1953	Chinese	B.11	1	—	1	22 November 1953	Chinese	C.20	1	—	1
4 October 1953	Chinese	D.25	1	—	1	22 November 1953	Chinese	F	1	—	1
4 October 1953	Chinese	D.28	1	—	1	22 November 1953	Chinese	G.50	1	—	1
4 October 1953	North Korean	G.51	2	—	2	22 November 1953	North Korean	G.52	3	—	3
7 October 1953	Chinese	D.28	1	—	1	27 November 1953	Chinese	B.3	1	—	1
7 October 1953	North Korean	G.48	1	—	1	28 November 1953	Chinese	D.27	1	—	1
7 October 1953	North Korean	G.50	2	—	2	3 December 1953	Chinese	B.3	1	—	1
7 October 1953	North Korean	G.51	1	—	1	3 December 1953	Chinese	C.20	1	—	1
7 October 1953	North Korean	G.55	1	—	1	3 December 1953	North Korean	E.38	1	—	1
10 October 1953	North Korean	F	4	—	4	3 December 1953	North Korean	G.49	1	—	1
13 October 1953	North Korean	F	1	—	1	9 December 1953	Chinese	B.3	3	—	3
13 October 1953	North Korean	G.55	1	—	1	9 December 1953	North Korean	E.38	1	—	1
14 October 1953	Chinese	D.28	1	—	1	9 December 1953	North Korean	G.48	1	—	1
14 October 1953	North Korean	G.48	1	—	1	9 December 1953	North Korean	G.50	2	—	2
14 October 1953	North Korean	G.49	1	—	1	9 December 1953	North Korean	G.52	1	—	1
14 October 1953	North Korean	G.51	1	—	1	15 December 1953	Chinese	B.6	1	—	1
15 October 1953	Chinese	D.31	—	10	10	15 December 1953	Chinese	B.11	3	—	3
17 October 1953	Chinese	D.33	—	9	9	15 December 1953	Chinese	C.20	1	—	1
19 October 1953	North Korean	E.34	1	—	1	15 December 1953	Chinese	D.26	1	—	1
19 October 1953	North Korean	G.48	2	—	2	15 December 1953	North Korean	G.49	1	—	1
19 October 1953	North Korean	G.52	2	—	2	15 December 1953	North Korean	G.51	1	—	1
21 October 1953	American Songgong-ni		1	—	1	15 December 1953	North Korean	G.52	2	—	2
23 October 1953	Chinese	D.26	1	—	1	15 December 1953	North Korean	G.53	2	—	2
23 October 1953	Chinese	D.33	1	—	1	16 December 1953	South Korean Songgong-ni		1	—	1
23 October 1953	Chinese	F	1	—	1	21 December 1953	Chinese	B.3	1	33	34
23 October 1953	North Korean	E.36	1	—	1	21 December 1953	Chinese	D.26	1	—	1
23 October 1953	North Korean	G.50	1	—	1	21 December 1953	Chinese	D.27	1	—	1
23 October 1953	North Korean	G.51	1	—	1	21 December 1953	North Korean	G.51	1	—	1
25 October 1953	South Korean Songgong-ni		1	—	1	21 December 1953	North Korean	G.50	1	—	1
26 October 1953	South Korean Songgong-ni		1	—	1	21 December 1953	North Korean	G.52	2	—	2
26 October 1953	North Korean	E.40	1	—	1	22 December 1953	Chinese	B.3	—	23	23
30 October 1953	North Korean	A	1	—	1						

^a Including 1 from F. explained and repatriated through C.22.

FINAL REPORT
OF
THE NEUTRAL NATIONS REPATRIATION COMMISSION

FINAL REPORT OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

Introductory remarks

(i) The interim report of the Neutral Nations Repatriation Commission was forwarded to the United Nations Command and the Command of the Korean People's Army and Chinese People's Volunteers on 28 December 1953. It dealt with the activities of the Commission from 9 September 1953 to 23 December 1953, and thus covered by far the most significant aspects of the work of the Commission, viz., assumption of the

custody of the prisoners of war and the conduct of explanations.

(ii) The final report is exclusively concerned with events subsequent to those narrated in the interim report, and thus completes the narrative, along with the interim report, of the activities of the Commission until its dissolution. The final report is, therefore, not in substitution of the interim report but it is a supplement to it.

Chapter I. Termination of explanations

1. On 23 December 1953, the Command of the Korean People's Army and Chinese People's Volunteers purporting to act in terms of paragraph 23 of the Rules of Procedure governing Explanations and Interviews, forwarded to the secretariat of the Neutral Nations Repatriation Commission its plan for conduct of explanations on 24 December 1953. The Command requested that the balance of unexplained prisoners of war from compound B. 4¹ be brought out for explanations. In a letter dated 23 December 1953 addressed to the Chairman, the Command of KPA and CPV expressed views as follows:

"After its commencement, the explanation work has been interrupted for as many as five times, because the secret agents refused to let the prisoners of war attend explanations, and because the Commission, anticipating that the agents would do so, notified our side with finality to suspend explanations. And thus our side was made to suffer an additional loss of sixty explanations days. Of these five interruptions, the first and the third caused only a loss of two days because of the quick concessions made by your side, and the other three all developed into prolonged deadlocks, for the Commission adopted practically an attitude of an onlooker. When the explanations were interrupted for the fourth and fifth time, even though the Commission has, according to the Terms of Reference and the Rules of Procedure, the inescapable responsibility to make segregation arrangements to enable our side to resume the explanations, even though Your Excellency had promised on 6 November to provide segregation tents, even though our side had changed several times our choice as to the compound to be explained to in an attempt to make it easier for the Commission to get the prisoners of war out for explanations, yet the Commission had never given due consideration to all this. Even when the segregation tents were at long last furnished on 10 December, the Commission still stressed that the secret agents would not allow the prisoners of war to be segregated and,

as a result, it was impossible for our side to carry on the explanation work. However, owing to the just insistence of our side the prisoners of war were at last segregated on 21 December, and the explanation work was thereby resumed. The allegation was proved to be untrue that the Commission could not take any action in view of the fact that the secret agents refused to be segregated and to attend explanations. On the contrary, it can be seen from the situation of 21 December that, if the Commission had resolutely put an end to the obstructive activities of the secret agents in accordance with the provisions of the Terms of Reference, our side would not have sustained a loss of time for explanations. It is, therefore, clear that although the United Nations Command side should bear the main responsibility for the enormous loss which our side has sustained as regards the time for the explanations, the Commission cannot but also bear the direct responsibility for failing to implement resolutely the Terms of Reference and thus causing such a loss.

"Now, up to 23 December, the explanation work of our side has proceeded for only ten days. Our side resolutely demands that the explanation work be continued until the ninety-day period has been fully made up. We consider that the Neutral Nations Repatriation Commission should satisfy this reasonable demand of our side" (Annexure I, 1).

2. At its 65th meeting on 23 December 1953, the Commission considered the request made by the Command of KPA and CPV for continuing explanations. The points of view of the members of the Commission are set out in the immediately succeeding paragraphs.

3. The Czechoslovak and the Polish members of the Commission stated that the Terms of Reference were an integrated whole; that the Commission alone had the right of interpretation; that each paragraph must be so interpreted as to be consistent with the interpretation of other paragraphs; that paragraph 11, on which reliance was placed for terminating explanations, referred to paragraph 8 of the Terms of Reference; that paragraph

¹ See interim report, paragraph 81.

8 of the Terms of Reference provided a period of ninety days for explanation; that, consequently, "access of representatives to captured personnel as provided for in paragraph 8" meant access for ninety days of explanation; that, as explanations had been conducted only for ten days, they should be continued so as to make up the full period; and that only by continuing explanations could the Commission give effect to paragraph 8 of the Terms of Reference, which was of crucial importance.

4. The Czechoslovak and the Polish members recalled that the determination of the ninety-day period for explanations had been achieved as a compromise after prolonged negotiations between the belligerents; that one of the belligerents had proposed an explanation period of six months and that the other belligerent had endeavoured to restrict it to thirty or sixty days. The ninety-day period prescribed in the Terms of Reference was the result of a compromise. It was arbitrary to fix 23 December 1953 as the date of termination of explanations without ensuring explanations for the full period of ninety days.

5. The Swedish member stated that paragraph 8 of the Terms of Reference left no doubt as to its meaning; it clearly laid down that the explanations to prisoners should be completed "within a period of ninety days after the Neutral Nations Repatriation Commission takes over the custody of the prisoners". Since the Commission assumed custody on 24 September 1953, the explanations came to an end on 23 December 1953. The Czechoslovak and Polish reading of that paragraph was, therefore, not warranted by its contents. Paragraph 11 of the Terms of Reference also made it clear that access of the explaining representatives of the side concerned to captured personnel should be terminated at the expiration of the ninety days after the transfer of the prisoners to the custody of the Commission. Regarding the compensatory principle urged by the Polish member, the Swedish member said that the Commission, by agreeing to the letters of 24 September 1953 to both the Commands, had already accepted the finality of that ninety-day period and also the fact that it had no power to change that period. The sole purpose of paragraph 11 of the Terms of Reference was to prevent indefinite custody of the prisoners of war and there was nothing in the records of the armistice negotiations to support a contrary view. He, therefore, maintained that, failing agreement between the two sides on an extension of the explanation period, the Commission should apply the Terms of Reference as they now read and adhere to the time-table prescribed therein.

6. The Swiss member stated that paragraph 8 of the Terms of Reference did not use the word "during" the period of ninety days but "within" ninety days; this meant that the explanations should be over within that period and that the explaining representatives would have no further access to the prisoners after that period. The principle of compensation had been discussed in the Military Armistice Commission but there was no agreement on that basis. The Commission was not competent to change the period fixed for explanations under the Terms of Reference.

7. In the opinion of the Indian delegation, two separate questions were involved: firstly, whether, having regard to the purposes of the Terms of Reference, it was necessary to have an extension of the period of explanation; and, secondly, whether the Commission had the power to authorize such an extension. While the In-

dian delegation favoured extension of the period of explanation, it felt that such an extension could only be effected by agreement between the United Nations Command and the Command of KPA and CPV; that the letters by² which the the Commission addressed to the two Commands on 24 and 28 September 1953 were based on the assumption that the Commission itself had no power to grant an extension of period of explanation; and that paragraph 11 clearly stated that "at the expiration of ninety days after the transfer of custody of the prisoners of war . . . access of representatives . . . shall terminate . . .". Since the date of transfer of custody was fixed, the date on which access would terminate was also fixed. The extension of this date, and consequently of explanations, was possible only by agreement between the two Commands.

8. The final decision of the Commission on the question of termination of explanations was conveyed to the Command of KPA and CPV by the Chairman in his letter dated 24 December 1953. The letter was adopted by a majority of the Commission at its 66th meeting on 24 December, with the Czechoslovak and Polish members voting against. The following is a relevant extract from it:

" . . . the Commission has no power to allow access to your explaining representatives so that they may conduct explanations in accordance with paragraph 8 of the Terms of Reference. Any extension of the period of access can only be secured by agreement between the signatories to the Armistice Agreement . . ." (Annexure I, 2).

9. The Command of KPA and CPV protested against the decision of the Commission. The protest was conveyed in General Lee Sang Cho's letter dated 27 December 1953 to the Chairman. The following is a relevant extract from it.

"The various provisions of the Terms of Reference are an inter-related whole which does not allow of any mutilation. The fundamental spirit of the Terms of Reference in ensuring a ninety-day period for explanations so that all prisoners of war can have the opportunity to exercise their right to be repatriated and the specific provisions of paragraph 8 to this effect are indispensable pre-requisites for paragraph 11 of the Terms of Reference. Owing to the fact that the United States side deliberately delayed the construction of the explanation facilities, and directed the secret agents to prohibit the prisoners of war from attending explanations and to defy the regulations for the segregation of the prisoners of war, and owing to the fact that the Neutral Nations Repatriation Commission has never taken effective measures to break the control of the secret agents over the prisoners of war and to guarantee the necessary conditions for the explanation work, the explanation work of the Korean and Chinese side was neither started as scheduled nor was it conducted uninterruptedly. In the ninety day period up to 23 December, the Korean and Chinese side was able to conduct explanation work only for ten days and the number of the prisoners of war who have been explained to is less than 15 per cent of the total number of the prisoners of war. The pre-requisites for paragraph 11 of the Terms of Reference, have, therefore, been destroyed in their entirety. The Neutral Nations Repatriation Commission has not only failed to take necessary measures to en-

² See interim report, paragraphs 36 and 37 and annexure IX to the interim report.

sure ninety days of explanation work, but, on the contrary, under the pretext that the provision of paragraph 11 of the Terms of Reference is mandatory, unreasonably proclaimed the termination of the explanations work only three days after it was resumed as a result of the efforts of the Korean-Chinese side. This is utterly in disregard of fact and is a wilful mutilation of terms. This is absolutely unconvincing. Are other paragraphs than paragraph 11 of the Terms of Reference, especially paragraph 8, not mandatory? Does the Neutral Nations Repatriation Commission have only the power to delay the explanation work for as long as twenty days, only the power to look on while the United States side and their secret agents

planted by it repeatedly interrupted the explanation work for as long as sixty days, and only the power to sit idly by while more than 85 per cent of the captured personnel of our side, approximately twenty thousand in number, are prevented entirely from attending explanations, but not the power to ensure in accordance with the provisions of paragraph 8 of the Terms of Reference the full ninety-day period for the explanation work? Obviously, the adoption of the decision on the termination of the explanation work by those members of the Neutral Nations Repatriation Commission who are in a majority is not in keeping with the impartial position of neutral nations in upholding justice" (annexure I, 3).

Chapter II. Interpretation of paragraph 11 of the Terms of Reference

10. The Commission, having decided by a majority vote that the period prescribed for explanations had come to an end and could be extended only by an agreement between the two Commands, addressed itself to the task of determining the further measures to be taken in regard to the disposition of the prisoners of war. The Chairman, in his letter dated 28 December 1953 forwarding to the two Commands the interim report of the Commission, adopted by a majority, had posed the problem in the following terms:

"I, as Chairman and Executive Agent of the Commission desire to express a hope, shared by all other members of the Commission, that your Command will give earnest consideration to the problem of disposition of the prisoners of war in a manner consistent with the fundamental objectives embodied in the Terms of Reference."

11. In paragraph 104 of the interim report, the attention of the two Commands was invited to the specific problems confronting the Commission:

"Under paragraph 11 of the Terms of Reference, an obligation is cast on the Commission that 'at the expiration of ninety days, the question of disposition of the prisoners of war who have not exercised their right to be repatriated shall be submitted to the Political Conference recommended to be convened in paragraph 60, Draft Armistice Agreement . . .'. Such a Political Conference has not materialized. Consequently, the Commission cannot submit the question of their disposition to the Political Conference and is, therefore, obliged to refer the entire matter for consideration by the two Commands in the light of the report of the Commission. It is also for consideration in what manner paragraph 11 of the Terms of Reference is to be implemented, particularly in regard to the declaring 'the relief from the prisoner-of-war status to civilian status of any prisoners of war who have not exercised their right to be repatriated and for when no other disposition has been agreed to by the Political Conference within one hundred and twenty days after the Neutral Nations Repatriation Commission has assumed their custody'"³

12. With a view to implementing fully the Terms of Reference, including paragraph 11 thereof, the Chairman submitted to the Commission a memorandum (annexure II, 1) setting out the more important prob-

lems with which the Neutral Nations Repatriation Commission and the Custodial Force, India, were confronted. The Chairman also submitted for consideration of the Commission a draft letter (annexure II, 2) to be addressed to the United Nations Command and the Command of KPA and CPV. The Commission considered the draft letter and the memorandum at its 68th meeting on 2 January 1954.

13. The Swiss member of the Commission stated that, while he was not opposed to the purpose of the two documents, he was opposed to the formulations contained in them, which he found inconsistent and misleading. The Swedish member stated that he too disagreed with the contents of the letter as well as the memorandum on matters such as the explanation period, custody of the prisoners and dissolution of the Neutral Nations Repatriation Commission.

14. The Czechoslovak and the Polish members of the Commission stated that, though they had already expressed their specific points of view on various matters set out in the memorandum, it would be advisable to ascertain the stand of both the Commands, and that they would support the Chairman's proposal to send his memorandum to the two Commands.

15. The Commission approved, without any amendments, the Chairman's draft letter to the two Commands forwarding the memorandum, by 3 votes to nil, with the Swedish and the Swiss members abstaining.

16. The view of the United Nations Command, both on the problems posed by the Commission's interim report and the Chairman's letter and memorandum dated 2 January 1954, were set out in two letters dated 3 and 6 January 1954 respectively from the Commander-in-Chief, General J. E. Hull, to the Chairman of the Commission (annexure II, 3). The views of the Command of KPA and CPV were conveyed to the Chairman on 7 January 1954 in a letter from Marshal Kim Il Sung and General Peng Teh-huai (annexure II, 4).

17. On 11 January 1954, the Swedish member proposed consideration by the Commission of a draft resolution submitted by him. He proposed that the Commission resolve that:

"Paragraph 11 of the Terms of Reference, in so far as it concerns the disposition of the prisoners of war, be interpreted to mean that: the Neutral Nations Repatriation Commission shall, on 22 January 1954, declare the relief from the prisoner-of-war status to civilian status of those prisoners of war who have not exercised their right to be repatriated, provided that

³ See footnotes to paragraph 104 of the interim report for the reservations made by the Czechoslovak and the Polish members of the Commission.

before the said day no other disposition has been agreed to by the Political Conference referred to in paragraph 11 of the Terms of Reference, either because the Political Conference has not met before that day or because the Political Conference, having met, has not before that day agreed to any other disposition" (annexure II, 5).

Chapter III. Disposition of the prisoners of war

18. In the interim report forwarded to the United Nations Command and the Command of KPA and CPV, the Commission had set out the facts and circumstances which had existed, and for the most part continued to exist and surround the endeavours of the Commission in the discharge of its responsibilities in respect of the implementation of the Terms of Reference. As a result of those facts and circumstances, only a small proportion of the prisoners of war succeeded in exercising their right to be repatriated, which they did either surreptitiously or by risking their life. There remained, however, in the custody of the Commission a much larger number of prisoners who had not been able to avail themselves of the procedures laid down in the Terms of Reference and the Rules made thereunder in regard to the exercise by them of their right of repatriation.⁴

19. In so far as the fundamental objective of the Terms of Reference was "to ensure that all prisoners of war have the opportunity to exercise their right of being repatriated", the majority of the Commission felt that it must make every endeavour to ensure further and fuller implementation of the procedures and purposes of the Terms of Reference. It was with this end in view that the majority of the Commission had given its approval to the Chairman's letter and the memorandum annexed thereto to the two Commands (see paragraph 12 above).

20. The reply received from the United Nations Command made it quite clear that it was opposed to the continuance of explanations; that it saw no justification for entering into any further discussion to consider the disposition of the unrepatriated prisoners of war; and that it questioned the competence of the Custodial Force, India, to hold prisoners of war in custody beyond 23 January 1954 at 0001 hours (see paragraph 16 above).

21. The Command of the Korean People's Army and Chinese People's Volunteers agreed that the explanation period should be extended and explanations resumed; and that the Neutral Nations Repatriation Commission and the Custodial Force, India, should continue to exercise "their unfinished legitimate functions".

22. In view of the decision already taken by a majority of the Commission that the time for explanations could be extended only by an agreement between the two Commands (see paragraph 8 above), and in the absence of such an agreement, the Commission reached an impasse on the question of disposition of the pris-

The Commission discussed the draft resolution at its 70th meeting held on 11 and 12 January 1954. The Commission rejected the Swedish draft resolution, which was supported by the Swiss member. The statements made by the members of the Commission in support of or in opposition to the Swedish draft resolution are set out in annexure II, 6.

oners of war. It could also not implement the mandatory provision of paragraph 11 of the Terms of Reference, which required the Commission to submit the question of disposition of the unrepatriated prisoners of war to a Political Conference recommended to be convened under paragraph 60 of the Armistice Agreement.⁵

23. In rejecting the Swedish draft resolution, a majority of the Commission had stated their view that the prisoners could not be released to civilian status. This position later became a binding decision of the Commission by virtue of paragraph 24 of the Terms of Reference (see paragraph 33 below).

24. In the circumstances set out in paragraphs 18 to 23, the Chairman of the Commission, in his capacity as its Executive Agent and Representative of the Member providing custodial forces, addressed letters to the two Commands on 14 January 1954. The Chairman proposed to the two Commands the restoration of custody of the prisoners to the respective former detaining sides prior to 23 January 1954. The following is the relevant extract from the letter:

"I, as Chairman and Executive Agent of the Commission, desire to state in the clearest manner that in restoring the prisoners of war to the custody of the former detaining sides, I am doing so because I can neither retain custody of prisoners of war nor further implement the Terms of Reference nor release them. I am not doing so to establish any alteration in their status or to effect the final disposition of prisoners of war.

"Further, the Commission, in pursuance of its function and authority to interpret the Terms of Reference, is of the view that the alteration of the status of prisoners of war either by declaration of civilian status or disposition in any other manner requires the implementation of the procedures of explanation and Political Conference to precede it; such procedures being pursued to their legitimate termination as prescribed in the aforesaid Terms, unless the two Commands agree on alternative procedures of courses of action in regard to status and disposition of prisoners of war. Any unilateral action by any party concerned will not be in conformity with the said Terms of Reference.

"In adopting this course, I am persuaded by an earnest desire to further the purposes of the Armistice

⁵ The Swedish and the Swiss members of the Commission were of the opinion that the Terms of Reference clearly set out that the explanation period should cease with the ninetieth day after the assumption of custody, irrespective of the time effectively utilized for explanations.

These members also considered that the provision concerning the submission to the Political Conference of the prisoner-of-war question could only be mandatory if the Conference had actually convened within one hundred and twenty days after the assumption of custody.

Agreement, to conform to lawful and impartial procedures within the context of the existing situation, to avoid possible outbreaks of violence and to act in conformity with the purpose and spirit of the Geneva Convention relating to the treatment of prisoners of war" (annexure III, 1).

25. The Czechoslovak and the Polish members of the Commission opposed and protested against the restoration of custody of the prisoners of war to the respective former detaining sides. The statements containing their attitude in respect of the matter are set out in annexure III, 2(a).

26. The Swedish and the Swiss members, although disagreeing with the motivation contained in the Chairman's letters to the two Commands and objecting to his taking action unilaterally, thought it reasonable, on humanitarian and practical grounds, that the prisoners of war should be restored to the respective detaining sides, in view of the fact that the Swedish proposal for a relief of the prisoners to civilian status on 22 January 1954 had not been accepted by the Commission.

27. The United Nations Command, in its reply dated 16 January 1954 to the Chairman's letter dated 14 January, stated that, while it was willing to take over the custody of the prisoners of war, it was equally determined to "release" the prisoners on 23 January 1954. The relevant portion of the reply is as follows:

"I reiterate the unalterable conviction of the United Nations Command that the Neutral Nations Repatriation Commission has a solemn obligation to fulfil its responsibilities and release to civilian status at 230001 January all prisoners of war who have refused repatriation. Failure of the Neutral Nations Repatriation Commission to fulfil this obligation would be a deliberate avoidance of an important element of the Terms of Reference and the United Nations Command could not concur in an action constituting default by the Neutral Nations Repatriation Commission.

Chapter IV. Restoration of custody in the Southern Camp

29. The Custodial Force, India, commenced restoring custody of the prisoners of war in the Southern Camp at 0850 hours on 20 January 1954 and completed the delivery of 21,805 prisoners into the custody of the United Nations Command at 0300 hours on 21 January 1954.

30. During the transference of custody, seventy-two Chinese and thirty-two Korean prisoners sought protection of the Custodial Force, India, and ninety-two desired repatriation. The Custodial Force, India, also gave protection to twelve Chinese and eighty-nine Korean prisoners of war who had, from time to time, escaped from their respective compounds and had expressed their desire to go to neutral countries. On the

"The United Nations Command cannot accept custody of these prisoners of war in accordance with the terms of your proposal. However, in view of your stated intention to release unilaterally the prisoners of war starting 20 January, the United Nations Command must necessarily be prepared to arrange for their accommodation and disposition. In processing these personnel, after they leave the Demilitarized Zone, it must be clearly understood that we do so out of regard for humanitarian consideration and in order to ensure to the prisoners the fullest possible continued enjoyment of the benefits the Agreement was designed to assure to them. The United Nations Command, in accordance with the agreement on prisoners of war, will honour its obligation to treat them as fully entitled to their freedom as civilians on 23 January. You are already aware of the detailed plans for processing which have been made by the United Nations Command. The return to the United Nations Command of personnel prior to 230001 January can only be regarded as a failure by the Neutral Nations Repatriation Commission fully to discharge its duties, but this failure will in no way, it must be emphasized, affect the right of prisoners of war to become civilians at that time regardless of their physical location" (annexure III, 3).

As this reply meant a unilateral action in disregard of the stated view of the majority of the Commission, the Chairman reiterated his position on the question of alteration of status of the prisoners in his letter to the United Nations Command dated 18 January 1954 (annexure III, 4).

28. The Command of KPA and CPV in its replies dated 19 January 1954 protested against the Chairman's proposal for restoring the custody of the prisoners and demanded continuation of explanations and retention of the custody of the prisoners of war by the Commission (annexure III, 5).

day of transference of custody, these prisoners categorically refused to be handed over to the United Nations Command. Subsequently, fifteen Korean prisoners changed their minds and were restored to the custody of the United Nations Command on 4 February 1954. The remaining twelve Chinese and seventy-four Korean prisoners were sent to India on 8 February 1954, with the first contingent of troops of the Custodial Force, India to leave the Demilitarized Zone.⁶ These prisoners are to remain under the protection of the Government of India pending a decision on their final disposition.⁷

31. Seventeen prisoners of war against whom *prima facie* cases of murder had been established were detained by the Custodial Force, India.

32. It is pointed out that those prisoners who sought repatriation at the time when custody was being transferred to the United Nations Command did so as a result of determined and fearless action on their part. The Custodial Force, India, informed the prisoners of their right to be repatriated. Broadcasts made by the Command of KPA and CPV from the adjoining hills contained information to the prisoners that they had the right to stay in the Commission's custody, to listen

⁶ A list of the names of these eighty-six prisoners is set out in annexure VII, 1.

⁷ As the Czechoslovak and the Polish members of the Commission considered any disposition of the prisoners of war prior to the implementation of the explanation procedures and deliberation of the Political Conference as contrary to the Terms of Reference and the Armistice Agreement (paragraph 25), they were of the opinion that the release from the Commission's custody of the prisoners mentioned above was also in contravention to the Terms of Reference.

to explanations and to be repatriated; and, if they were forced to leave the compounds, to seek the CFI troops and to apply for repatriation. However, the "representatives"⁸ of the prisoners, anxious as they were to prevent any prisoner from breaking away to seek repatriation, so devised the emergence of the prisoners from their compounds as to make it extremely difficult for any one, except the most fearless and desperate prisoner, to approach the Indian guards and seek repatriation. Fear of the leaders and influence of the organization, therefore, prevailed up to the very end. It must be reiterated that the existence of such fear was all too often experienced by the Commission and the Custodial Force,⁹ India.

33. After the Commission had restored the custody of the prisoners of war in the Southern Camp, it once again reiterated its attitude on the question of disposition and status of these prisoners. At its 73rd meeting held on 21 January 1954, the Commission adopted, by a majority vote, the following resolution:

"The Neutral Nations Repatriation Commission,

"(a) Having in mind:

"(i) that the bulk of the prisoners of war in its custody have not had the opportunity to exercise their right of repatriation and have not been able to avail themselves of the procedures laid down in the Terms of Reference and the Rules made thereunder in regard to the exercise of their right of repatriation;

"(ii) That the explanation procedures to which all prisoners of war are entitled under the Terms of Reference and which are enjoined on the Commission have been carried out only in respect of a small proportion of the total of the prisoners of war in the Commission's custody;

"(iii) That the question of disposition of the prisoners of war who have not yet exercised their right to be repatriated has, under the Terms of Reference, to be submitted by the Commission to the Political Conference to be convened under paragraph 60 of the Armistice Agreement, that the submission of the question to the Political Conference is mandatory and cannot be substituted by any other procedures;

"(b) Noting as a fact that the Chairman and Executive Agent of the Commission has restored to the custody of the United Nations Command the unrepatriated prisoners of war in the custody of the Commission on 20 January 1954 and originally taken over from that Command, and that he has requested the Command of the Korean People's Army and Chinese People's Volunteers, similarly to take over the unrepatriated prisoners of war in the custody of the Commission and which were originally in custody of that Command;

"Resolves:

"(1) To declare that any alteration of the status of the prisoners of war so handed over or proposed

⁸ See interim report, paragraph 10, footnote.

⁹ The Swedish and the Swiss members were, on the other hand, of the opinion that, even if some prisoners sought to prevent those desiring repatriation, the arrangements made by the CFI at the time the prisoners left their enclosures to be transferred to the United Nations Command made it possible for the prisoners to seek repatriation or to ask to be sent to neutral countries. That this was the case was evident also from the fact that 104 prisoners availed themselves of this opportunity.

to be handed over either by declaration of civilian status or by disposition in any other manner prior to the implementation of the explanation procedures and deliberation by the Political Conference is contrary to the Terms of Reference and the Armistice Agreement;

"(2) To inform the United Nations Command and the Command of the Korean People's Army and Chinese People's Volunteers of this resolution."

The Swedish and the Swiss members of the Commission opposed this resolution because they contested the competence of the Commission to make a declaration concerning the status of prisoners who were no longer under its authority. Both the United Nations Command and the Command of KPA and CPV were informed of the resolution of the Commission by letters of the Chairman dated 21 January 1954. The United Nations Command, however, unilaterally and in disregard of the Commission's decision released the prisoners on 23 January 1954.

34. The circumstances in which the Commission found itself left it with no other alternative but to state the position taken by majority decision of the Commission concerning release of the prisoners of war to civilian status, in the hope that its decisions would be carried out by the parties to the agreement constituting the Terms of Reference whereunder they had given to the Commission the exclusive right to interpret the Terms of Reference. As already stated (see paragraph 23 above) the Commission's interpretation of paragraph 11 of the Terms of Reference precluded release of prisoners of war or their relief to civilian status.

35. The Command of KPA and CPV, in its letter dated 22 January 1954, strongly protested against the restoration of the prisoners of war in the Southern Camp to the custody of the United Nations Command. The following is a relevant extract from this protest:

"We resolutely oppose your restoring to the United Nations Command the captured personnel of our side who have not yet exercised their right to be repatriated. When you were making this decision you were fully aware of the fact that the United Nations Command was planning unilaterally to release, that is to say, forcibly retain this group of captured personnel of our side. Facts have demonstrated that the entire process of the turnover was carried out under the closely organized threat of violence of the United Nations Command. Furthermore, the captured personnel of our side restored to the United Nations Command have already been forcibly transferred to the remnant Kuomintang brigands on Taiwan, and the Syngman Rhee clique of South Korea to be readied for serving as cannon-fodder. Your action has facilitated the forcible retention of captured personnel of our side by the United Nations Command; the Terms of Reference for the Neutral Nations Repatriation Commission have thus been completely wrecked. We are resolutely opposed to such an action of yours. We hereby lodge with you a strong protest" (annexure III, 7).

36. The situation after restoration of the prisoners of war in the Southern Camp to the custody of the United Nations Command was discussed at the 74th meeting of the Commission held on 25 January 1954. The statements made by the members of the Commission are set out in annexure III, 11.

37. The Chairman of the Commission addressed a further communication on 21 January 1954 to the Command of KPA and CPV in reply to Marshal Kim Il Sung and General Peng Teh-huai's letter of 19th January 1954 (annexure III, 5 (ii)). He suggested the following course of action in regard to the prisoners of war in the Northern Camp:

"... I earnestly and sincerely hope that your Command would deem it expedient to accept the restoration of the custody of the prisoners of war in the Songgong-ni camp before midnight 22 January 1954. In the absence of transference of custody in the manner herein suggested, I shall be regretfully compelled to take the only other course open to me, namely, to withdraw the custody of the CFI from the Songgong-ni camp" (annexure III, 6).

38. The Command of KPA and CPV, in their reply dated 22 January 1954 to the Chairman's letter, stated their position as follows:

"... We cannot agree to your decision that the Custodial Force, India, will withdraw its custody from the Songgong-ni prisoner-of-war camp after midnight on 22 January 1954. As regards the question of the prisoners of war held in custody in the Songgong-ni prisoner-of-war camp, we will refer it to the Military Armistice Commission and the Political Conference for settlement. Therefore, I now urgently inform you that we ask the Custodial Force, India, to continue to be responsible for the custody of the prisoners of war at Songgong-ni during its stay in Korea, so that the Military Armistice Commission and the Political Conference may deal with the question concerning them. The question of the continuance of custody of the prisoner-of-war camp at Songgong-ni should not be subjected to, neither does it allow of, any unilateral settlement. Before this question is settled through an agreement, you must bear the whole responsibility for any such situation as the abduction and dispersion of the prisoners of war currently held in custody in the Songgong-ni prisoner-of-war camp" (annexure III, 7).

39. As the Chairman's view, shared by the majority of the members of the Commission, was that the Commission's custody expired at midnight on 22 January 1954, the Custodial Force, India, was directed to withdraw its custody at the appointed hour. This was done. The prisoners, however, remained within the compound. The Custodial Force, India, took the necessary steps to afford protection to the prisoner-of-war installations in the area.

40. The Command of KPA and CPV again lodged a formal protest against withdrawal of custody and demanded that custody be resumed. As for the prisoners of war, they stated that they were opposed to being handed back as prisoners; that they should be enabled to go through the procedures prescribed under the Terms of Reference; and that their future be finally determined so that they could regain their civilian status.

41. On 26 January 1954, the Command of KPA and CPV in a communication to the Chairman of the Commission stated that, as the entire Custodial Force, India, would be leaving the Demilitarized Zone in a short time and as the prisoners of war themselves had asked the Korean and Chinese side, through the Red Cross

Societies of the People's Democratic Republic of Korea and the People's Republic of China, to grant them the right of residence, the Korean-Chinese side was granting permission to representatives of the above Red Cross Societies to receive the 347 prisoners of war.

The relevant part of the communication is as follows:

"... the Korean People's Army and Chinese People's Volunteers side resolutely will not agree to take over the custody of the prisoners of war in the Northern prisoner-of-war Camp and, moreover, our side considers that the Custodial Force, India, instead of restoring the prisoners of war, should continue its custody of them. . . .

Now, on 23 January, Your Excellency stated that the entire Indian force would leave Korea in two weeks. The United Nations Command side, however, has refused to reach an agreement with the Korean and Chinese side within the Korean Military Armistice Commission on the question of the disposition of the prisoners of war; and the Political Conference, which should decide on a final disposition of the prisoners of war, has not been able to convene because of the obstructive activities of the United States Government. This state of affairs has put the prisoners of war in the Northern prisoner-of-war Camp in a difficult position. . . .

With a view to helping the prisoners of war in the Northern prisoner-of-war Camp out of their difficulties, and with a view to attaining temporary arrangements with the Neutral Nations Repatriation Commission on the question of the disposition of the above-mentioned prisoners of war, the Korean People's Army and Chinese People's Volunteers side has already agreed to the request of the Red Cross Societies of the People's Democratic Republic of Korea and the People's Republic of China. And the Korean and Chinese side would like to point out at the same time that, owing to the fact that the question of the prisoners of war not directly repatriated has not been able to be settled according to the fundamental objectives and procedure prescribed in the Terms of Reference for the Neutral Nations Repatriation Commission, the two sides to the Korean armistice must give satisfactory accounting and attain a settlement of this question, when the prisoner-of-war question is submitted for discussion at the Political Conference provided for in the Armistice Agreement, or at any other related international conferences. Thus, the Korean and Chinese side proposes that the Indian force turn over the above-mentioned 347 prisoners of war as well as their rosters, identification papers, and their personal properties to the Red Cross Societies of the People's Democratic Republic of Korea and the People's Republic of China" (annexure III, 8).

42. In reply to the above-mentioned letter, the Chairman of the Commission addressed a letter on 27 January 1954, to the Command of KPA and CPV reiterating that the Custodial Force, India, had withdrawn its custody on 0001 hours on 23 January 1954 and, therefore, could not participate in any process of handing over the prisoners. However, the Chairman offered to ask the representatives of the Indian Red Cross Society to hand over to representatives of the Red Cross Societies of the People's Democratic Republic of Korea and the People's Republic of China the rosters con-

taining the names and other particulars of the prisoners. These rosters were the only documents received by the Custodial Force, India, at the time they assumed custody of the prisoners (annexure III, 9).

43. On 28 January 1954, the Command of KPA and CPV, in a letter to the Chairman, reiterated its stand and stated as follows:

"I shall tell the representatives of the Red Cross Societies of the People's Democratic Republic of Korea and the People's Republic of China to proceed to the Songgong-ni camp on the north side of the Demilitarized Zone at 1000 hours, 28 January 1954, so as to make arrangements with the Indian Red Cross Society for matters of delivering and receiving the three hundred and forty-seven prisoners of war" (annexure III, 10).

44. On the same day, the Indian Red Cross Society handed over the rosters to the representatives of the

Red Cross Societies of the People's Democratic Republic of Korea and People's Republic of China, who thereafter conducted the 325 South Korean, twenty-one American and one British prisoners of war from the Songgong-ni camp to the north. Two South Korean prisoners who had previously stated that they wished to go to neutral countries and did not desire to be handed over to the Command of KPA and CPV, were consequently segregated and were sent to India on 8 February 1954, with the first contingent of troops of the Custodial Force, India, to leave the Demilitarized Zone.¹⁰ These prisoners are to remain under the protection of the Government of India pending a decision on their final disposition (see footnote to paragraph 30 above).

¹⁰ The names of the two prisoners are set out in annexure VII, 2.

Chapter VI. Check-up of rosters of the prisoners of war

45. The Custodial Force, India, in the course of performance of their administrative functions, decided to check up the rosters of the prisoners of war in the Southern Camp. It was, therefore, decided that the prisoners would be brought out of their tents into the sector between the inner and outer barbed wires and checked individually against the rosters. The "representatives" of the Chinese prisoners agreed to this procedure, but the Korean "representatives" could not make up their minds and asked for some time for consideration.

46. The first check-up of rosters was conducted on 31 December 1953 in the B enclosure of the Chinese prisoners. In the course of these operations, 131 prisoners of war came out and expressed their desire for repatriation. These routine and normal administrative operations by the Custodial Force, India, were misconstrued by the Command of KPA and CPV, which protested against it. The protest was conveyed to the Chairman in Lieutenant-General Lee Sang Cho's letter dated 31 December 1953. The following is a relevant extract from the letter:

"We believe that the Neutral Nations Repatriation Commission and the Custodial Force, India, do not like to impair their neutral position. We resolutely oppose any idea or action of screening the prisoners of war. We consider that real neutral nations should, at least, not do anything to legalize the scheme of the United States side for retaining the prisoners of war. We hope that the Neutral Nations Repatriation Commission and the Custodial Force, India, will give serious consideration to our opinion" (annexure IV, 1).

47. The Chairman of the Commission, in his reply dated 2 January 1954¹¹ to Lieutenant-General Lee Sang Cho, explained the real nature and intent of the operations conducted by the Custodial Force, India:

"On 31 December 1953, the Commander of the Custodial Force, India, informed me that in the process of checking up the roster of prisoners of war of enclosure B, 135¹² Chinese prisoners of war took

the opportunity to express their desire for repatriation, being, probably, assured of their safety by the presence of more than usual number of custodial forces. You will recall that on 2 November, in the course of investigation of the circumstances of the alleged murder of Chang Tso Len, a number of prisoners asked for repatriation. Indeed, on the very first day of the taking over of the custody of the prisoners, nine Korean prisoners sought repatriation. It is therefore not understood how the repatriation of 135 prisoners could be deemed to be 'screening' in any sense of the term.

"From the testimony of some of the recently repatriated prisoners of war, it was gathered that the compound leaders had, apparently, told the prisoners that, after 23 December, no one could seek repatriation. The Commander of the Custodial Force felt that this erroneous impression must be removed. Accordingly, he arranged for a broadcast to be made to the prisoners that those who desired repatriation still had the right to do so. This may probably have encouraged some of the prisoners to seek repatriation on 31 December.

"I should like to state clearly and emphatically that, in my view, which is based on intimate experience of the last four months, the fact that some hundred odd prisoners sought repatriation in the particular manner does not, in any way, alter the facts stated in the Commission's report. Those facts remain. The prisoner-of-war organizations remain; their coercive nature and baneful influence remains.

"I trust that, in the light of what I have stated above, you will understand that nothing is further from the mind of the Custodial Force than arbitrarily to substitute the provisions of the Terms of Reference by the alleged process of 'screening.'"

To this letter of the Chairman of the Commission the Command of KPA and CPV replied in a letter of Lieutenant-General Lee Sang Cho dated 4th January, 1954, taking note of the assurance of the Chairman of the Commission that the "checking up of the rosters was not at all a screening in any form" and that "the Custodial Force, India, would never arbitrarily substitute the provisions of the Terms of Reference by the alleged process of screening" (annexure IV, 2).

¹¹ In this connexion see also letter from Lieutenant-General Lee Sang Cho dated 4 January 1954 set out in annexure IV, 2.

¹² Out of 135 prisoners of war, 131 were actually repatriated, as four of the prisoners subsequently changed their minds.

48. The Commission was also made aware of vehement opposition to the check-up of the prisoner-of-war rosters by the authorities of the Republic of Korea.

49. When the Custodial Forces, India, endeavoured to resume the check-up of rosters, they met with opposition not merely from the "representatives" of the Korean prisoners but also from those of the Chinese prisoners. The latter endeavoured to explain the change

in their attitude because of a sense of solidarity with Korean prisoners. Once more, the attitude of the representatives of the prisoners of war made even the performance of ordinary administrative functions difficult for the Custodial Force, India. Indeed, the "representatives" of the Chinese prisoners demanded the return of those who had sought repatriation on 31 December 1953.

Chapter VII. Judicial proceedings

50. In its interim report,¹³ the Commission had referred to a number of murders committed by the prisoners of war. All these murders were committed because the victims desired repatriation or were suspected of entertaining such desire. The Custodial Force, India, instituted courts of inquiry in all the known cases, nine in number, and took action in such cases as it was possible to associate specific prisoners with the committing of crimes.

51. One such alleged brutal murder was committed on 3 October 1953 in compound D.28 when a Chinese prisoner of war, Chang Tse Lung, was killed. A board of investigation was set up which came to the conclusion that there was sufficient *prima facie* evidence of guilt against seven prisoners of war from compound D.28. The accused were charged and a court martial was convened by the Commander, Custodial Force, India, on 12 December 1953.

52. The accused, acting upon article 105 of the Geneva Convention relative to the Treatment of Prisoners of War, signified their choice of counsel for defence and requested that the United Nations Command be advised of their desire. The United Nations Command accordingly gave the names of two counsel of United States citizenship. In the view of the majority of the Commission, article 105 of the Geneva Convention gave the accused completely free choice of defence counsel and the United Nations counsel provided for the accused should, therefore, be accepted.¹⁴ The Command of KPA and CPV protested against the engagement of the defence counsel, insisted that only an Indian counsel ought to have been appointed, and that, unless the counsel were changed, they would not cooperate in the court martial proceedings. The Command argue that the engagement of the defence counsel provided by the United Nations Command would be contrary both to the Geneva Convention and the Terms of Reference and would mean an inadmissible continuation of the control of the former detaining side over the prisoners of war. It accordingly, withheld the prosecution witnesses who had given testimony before the board of investigation and had been subsequently repatriated. The correspondence on this subject between the Chairman of the Commission and the Command of KPA and CPV is set out in annexure V.

¹³ Paragraph 93 and annexure XIX of the interim report.

¹⁴ The Czechoslovak and the Polish members of the Commission were opposed to the defence of the accused by the counsel provided by the United Nations side as it was politically and morally as well as legally inadmissible. In their opinion, the United Nations side had no right to provide counsel for defence of prisoners of war not in their custody and, in the absence of a choice by the accused themselves, counsel chosen only by authorities holding custody of the prisoners of war was under the Geneva Convention permissible.

In these circumstances, the court martial could not be held. It had to be subsequently dissolved, in order that a fresh court martial could be constituted for trial of a number of Korean prisoners of war in compound E.38 who were accused of having murdered four of their fellow prisoners desirous of repatriation.

53. As both the prosecution and the defence witnesses were held in the custody of the Commission, the new court martial proceedings were commenced on 6 January 1954, and continued until 19 January 1954. On 20 January 1954, when the custody of the prisoners of war in the Southern Camp was being transferred, the defence counsel expressed their inability to attend the proceedings. The United Nations Command indicated that it would not permit the entry of KPA and CPV personnel, e.g., interpreters, into the Custodial Force, India, area in the Southern Camp, where the court martial was being held. Faced with this situation, the court martial could not proceed on 20 and 21 January 1954, and had to be adjourned.

54. The court martial was resumed on 22 January 1954. When it assembled at its usual hour on 23 January 1954, neither the defence counsel nor the defence witnesses were present. In this connexion, it may be stated that, prior to the transfer of the custody of the prisoners of war in the Southern Camp, the following communication was addressed to the United Nations Command on 19 January 1954:

"The prisoners of war whose particulars are given in the attached list and who are to be handed over to you on 20 January 1954, are material defence witnesses in the trial of the three Korean prisoners of war which is now in progress.

"It is requested that arrangements for the availability of these prisoners of war may please be ensured by you in case their attendance is required by the military court until conclusion of its proceedings".

55. The United Nations Command, in its reply dated 20 January 1954, *inter alia*, stated as follows:

"Accordingly, the United Nations Command is firmly convinced, and must insist vigorously, that the Neutral Nations Repatriation Commission—Custodial Force, India, has no legal recourse other than to release the Korean suspects concerned not later than 230001 January. The United Nations command suggests that, at this time, the record of trial to date, together with any other data and recommendations be turned over to the United Nations Command for such further action as may be appropriate.

"With specific reference to the witnesses listed in the enclosure to your letter cited above, you are advised that personnel concerned will not be considered as in the custody of the United Nations Command and will revert to civilian status" (annexure VI, 1).

56. The Commission made its position clear in a letter¹⁵ addressed to the United Nations Command dated 22 January 1954. The following is the relevant extract from it:

"On 20 January 1954, when custody of prisoners of war in the Tonggong-ni camp was transferred to the United Nations Command, seventeen prisoners of war against whom criminal proceeding on charges of murder were either pending or actually commenced were detained by the Neutral Nations Repatriation Commission in accordance with article 119 of the Geneva Convention. This intention was implicit in letter No. 125/36/NNRC dated 19 January, 1954 addressed to you by the Chief of Staff of the Chairman.

"It is, therefore, proposed to continue the trial already commenced and to start proceedings in case of other accused against whom *prima facie* case has been established. I am, therefore, to request you to make available witnesses for the purposes of carrying on the aforesaid trial or trials and co-operate with the Commission in ensuring prompt administration of justice" (annexure VI, 2).

57. As by 27 January 1954 no reply had been received from the United Nations Command, the Commission, on that day, addressed another Communication to the United Nations Command pointing out that, so long as the Commission was in existence, it had the right and the duty to enforce its laws and regulations, and in particular to give effect to the humanitarian provisions of the Geneva Convention. It was emphasised that to punish those who committed crimes was one such humanitarian provision embodied in article 119 of the Convention.

58. In particular, the Commission stressed the following aspects of the matter:

"The Neutral Nations Repatriation Commission cannot be a party to the release of any prisoners against whom a *prima facie* case of murder has been established. Such a release would amount to a total denial of justice. The Commission cannot help in creating such a precedent fraught with serious consequences."

and:

"It is impossible for the Neutral Nations Repatriation Commission to abdicate its responsibilities and it must, therefore, seek the co-operation of the United Nations Command in the interest of justice. It would, therefore, be a matter of regret to the Commission should such co-operation be denied. The Commission, therefore, earnestly hopes that on reconsideration of the matter, the United Nations Command would be able to co-operate by sending the witnesses and permitting the defence counsel to appear before the court" (annexure V, 5).

59. On 30 January 1954, replying to the Commission's letter of 27 January 1954, the United Nations Command reiterated its stand on the question of the release of the prisoners restored to its custody, stating that the prisoners had been allowed to proceed to countries of their choice and that, therefore, the Command was not in a position to produce the witnesses for the trial. The letter concluded as follows:

"we share with you the desire to ensure the administration of justice wherever indicated. We re-

iterate our offer to receive the personnel concerned together with such records and recommendation as you may wish to make, for prompt turnover to the governments concerned" (annexure V, 6).

60. On 1 February 1954, the Chairman of the Commission made another appeal to the United Nations Command. The relevant part of the Chairman's letter is as follows:

"The Commission, therefore, hopes that on further consideration you will be able to co-operate by sending witnesses and permitting defence counsel to appear before the court. The Commission is anxious to complete these trials before the date of its dissolution. If the prisoners cited by the defence as witnesses have been released, arrangements could still be made for their production before the court. As these prisoners were handed over to the United Nations Command's custody and as responsibility for producing these prisoners rests with the United Nations Command, I request that early arrangements for producing them may be made" (annexure V, 7).

61. The United Nations Command, in its reply of 3 February 1954, still maintained its position contained in its letter of 30 January 1954 (annexure V, 8).

62. On 16 February 1954, as the date of the dissolution of the Commission was drawing near and as the United Nations Command had still not been willing to comply with the Commission's request to send defence witnesses cited by the accused or to permit defence counsel to appear before the court, the Chairman of the Commission informed the United Nations Command that the only course left open to him was to hand over the accused prisoners to the custody of this Command on 18 February 1954 at 1000 hours with the records of the cases. The relevant part of the Chairman's letter is as follows:

"Any dispositions of the prisoners without completing due process of law would be tantamount to condoning alleged crimes.

"As Chairman and Executive Agent of the Commission and as India's Representative on the Commission, I must register my protest against your Command's refusal to co-operate in upholding the principles of justice.

"As the life of the Commission is about to expire and as it has not been enabled to carry out the trials of the accused prisoners, it must perforce and under protest acquiesce in the position taken up by your Command. I must at the same time continue to entertain the hope that in the interest of justice your Command will not take any steps which may have the effect of frustrating justice and enable the guilty to escape unpunished. I must also state that the responsibility for this rests on the United Nations Command and not on any other authorities.

"It is in these circumstances that I am accordingly transferring the seventeen prisoners of war to your custody on 18 February at 1000 hours along with the relevant records" (annexure V, 10).

63. On 16 February 1954, the Chairman also addressed the Command of KPA and CPV, informing them of the circumstances under which the prisoners were being handed over to the United Nations Command (annexure V, 11). Previously, on 13 February 1954, the Command of KPA and CPV had protested against this proposed course of action (annexure V, 9). On receipt of the Chairman's letter of 16 February, the

¹⁵ The Swiss member of the Commission did not agree with this letter, pointing out that the accused prisoners should be handed over to the United Nations Command as the custody of the prisoners, including jurisdiction, was terminated.

Command of KPA and CPV, in a letter dated 17 February 1954, again protested against the handing over of the prisoners, which they regarded as a violation of the Terms of Reference and the Geneva Convention (annexure V, 13).

64. The letters of the Chairman to the two Commands were discussed by the Commission at its 78th meeting. The Czechoslovak and the Polish members made statements opposing the handing over of the accused prisoners to the custody of the United Nations Command (annexure V, 12). In their views, such a step, like the earlier restoration of the 21,805 prisoners of war to the former detaining side, was an illegal act, contrary to the Terms of Reference and in violation of the Armistice Agreement. They held that the United Nations Command was behind the prisoner-of-war organizations that committed the crimes in question. The handing over, therefore, of the accused prisoners to a side that had already shown by its non-cooperation that it was not going to help in the administration of justice was inadmissible from the political, legal and the moral points of view.

65. The Swedish member expressed his attitude in a statement on 27 January 1954, according to which, in his opinion, it was the duty of the Commission to continue, in so far as it was possible, the trial as long as the Commission existed. In view of the circumstances in which the Commission found itself, that is, with no defence counsel and no witnesses available for the

continuance of the trial, and also in view of the impending dissolution of the Commission itself, there was according to him no other course open than the unilateral action, which the Chairman was going to take, namely to hand over the prisoners to the United Nations Command in the hope that the necessary steps to complete the trial and punish the guilty according to law would be taken.

66. In the view of the Swiss member, the accused should have been handed over, after 22 January 1954, to the United Nations Command, with a recommendation as to the further steps to be taken. That was the only step that the Commission could take, as the trial, in his opinion, could not be continued for lack of jurisdiction beyond that date as the custody of the prisoners was terminated. There was no guarantee, moreover, that because of the time factor involved, any judgment passed by the court would be carried out even if the trial was completed.

67. The seventeen accused prisoners were handed over to the United Nations Command at 1000 hours on 18 February 1954, together with the records of the cases. Of the prisoners so handed over, the actual trial of three of the accused had commenced and was brought to a halt on 20 January 1954 (see paragraph 53 above), while preliminary investigations had established a *prima facie* case of murder against the other fourteen accused.

Chapter VIII. Medical support for the prisoners of war

68. As India was unable to cope with the requirements of personnel and equipment for prisoner-of-war hospitals, the Chairman, before the Commission had constituted itself, requested the two Commands, under paragraph 17 of the Terms of Reference, to provide hospital accommodation and facilities for the prisoners of war held in that part of the Demilitarized Zone on their respective sides of the Demarcation Line. India was able, however, to supply all the personnel to staff the medical inspection rooms in the Camps. This was discussed at the Commission's meetings on 9 and 11 September 1953, and the Commission agreed that the two former detaining sides should be requested to provide medical cover for the prisoners of war handed over by them to the Neutral Nations Repatriation Commission. Accordingly, on 13 September 1953, the Chairman wrote to the two Commands stating that he would be grateful if they would give this assistance requested by the Commission.

69. The United Nations Command agreed, provided that neither side would introduce its personnel or equipment into the hospital manned by the personnel of the other side. The Command of KPA and CPV also agreed, though it stated that, in order to free the prisoners of war from all influence of the former detaining side, the medical facilities and personnel should be located far from where the ordinary prisoners of war were held in custody. The personnel moved in about 17 September 1953.

70. While the Commission, on 26 September 1953, was discussing the request of the Commander, Custodial Force, India, for the retention of certain essential maintenance personnel from the United Nations Command in the CFI Southern Camp, the Polish delegate requested that a visit to the hospital in the Southern Camp be arranged, as he felt that it was overstuffed. The

Chairman agreed, and a visit to the hospital by the doctors attached to all the delegations was arranged on 1 October 1953. When the visit took place, there was a demonstration by the prisoners of war, both in the hospital and in the neighbouring compounds, and the Custodial Force, India, was forced to open fire on the neighbouring compound G.43, causing some casualties. The members of the subordinate body were unwilling to risk entering the hospital thereafter and the visit had to be called off without the team having visited the whole hospital.

71. As a result of the visit, the Polish Medical Officer submitted a report on the hospital which was placed before the Commission by the Polish member at a meeting on 6 October 1953. It requested that a further visit to the whole hospital should be arranged, and stated that there was evidence to show that the hospital was the centre of an organization within the prisoner-of-war compounds. The number of beds provided was excessive, as was also the ratio of administrative to medical personnel in the hospital. The Commission agreed that, when the prisoners of war were a little calmer, a visit to the hospital should be arranged.

72. On 8 October 1953, the Assistant Director of Medical Services, CFI, submitted a report on the basis of the statement made by the Polish doctor. He stated that the beds provided were not excessive taking into account the adverse conditions under which the prisoners of war lived, and the fact that about 1000 long-term cases had been handed over by the United Nations Command. He did not feel that the staff, either administrative or medical, was excessive. It was comparable with that necessary in the normal 2,000-bed Indian General Hospital.

73. This report was discussed at a meeting of the Commission on 21 November 1953. The Polish member

stated that his Medical Officer had studied the CFI report and was still of his previous opinion. There seemed to be no doubt that the hospital was being used to exercise influence on the prisoners of war and that it occupied a central place in the terrorist organization prevailing in the camps. It was, therefore, necessary that a subordinate body should be appointed to make a thorough investigation of the hospital. He was supported by the Czechoslovak member. The Swiss and Swedish members, while considering the bed cover as well as the medical and administrative staff of the hospital as anything but excessive according to international standards for field hospitals, agreed that political activities in the hospital, if any, should be stopped. The Commission

Chapter IX. Conclusions

75. It is not considered necessary to restate the conclusions reached by the Commission and which were set out in its interim report.¹⁷ Those conclusions and the facts remain not only unimpaired by anything described in this final report, but receive some added confirmation. The proceedings of the military court martial and the testimony of the prosecution and the defence witnesses point unmistakably to the existence of the prisoner-of-war organizations¹⁸ and reveal their essential nature and objectives.

76. The prisoner-of-war organizations in the Southern Camp and the leadership which sustained them negate all assumptions or assertions about freedom of choice. As was already stated in the Commission's interim report (paragraph 11), "any prisoner who desired repatriation had to do so clandestinely and in fear of his life" or under the protection offered by the guards of the Custodial Force, India. The Commission must frankly state its conviction, founded on its experience, that in the absence of fuller and further imple-

Chapter X. Dissolution of the Commission

79. At the 79th meeting of the Commission held on 18 February 1954, the Commission adopted, by a majority vote, the following resolution on the dissolution of the Commission tabled by the Indian delegation:

"The Neutral Nations Repatriation Commission,

"Considering that paragraph 11 of the Terms of Reference prescribes the period beyond which the Commission cannot function,

decided that a subordinate body should be set up to study the working of the hospital.

74. On 27 November 1953, the Assistant Director of Medical Services, CFI, replied to the charge made by the Polish member and reiterated that the planning of the hospital was barely adequate to cover all the contingencies. The Commander, Custodial Force, India, submitted a separate report¹⁰ stating that there appeared to be no doubt that the hospital was being used as a centre for organizing the prisoners of war, for passing on messages, and for communication with persons outside the Demilitarized Zone, and that some personnel of the hospital were involved.

¹⁰ See annexure XVII, C of the interim report.

mentation of the Terms of Reference, it would be a bare assertion unsupported by any evidence that the prisoners had voluntarily sought non-repatriation.

77. The Commission must also state that the High Contracting Parties, having solemnly affixed their signature to the Agreement constituting the Terms of Reference, had thereby vested in the Commission the sole right of interpretation of the said Terms of Reference. In exercise of that right, the Commission had decided that the necessary legal pre-conditions to declaring relief of the prisoners of war to civilian status did not obtain and that, consequently, such "relief" would be illegal.

78. The Swedish and the Swiss members have set out their dissenting opinions in respect of the main questions referred to in paragraphs 76 and 77 in an appendix to the present report.

¹⁷ The conclusions of the Swiss and the Swedish members are contained in their separate report attached to the Commission's interim report.

¹⁸ See part IV, chapter I, of the interim report.

"Resolves that the Commission declares its dissolution at 2400 hours on 21 February 1954".

The Czechoslovak and the Polish members considered the resolution as illegal and protested against it.

The statements made by the various members containing their attitude to the draft resolution and the protests by the Czechoslovak and the Polish members are set out in annexure VIII.

APPENDIX

Dissenting conclusions of the Swedish and the Swiss members of the Neutral Nations Repatriation Commission

The Swedish and the Swiss members of the Commission do not join in the conclusions contained in paragraphs 76 and 77 of this report.

While admitting the existence in the camps of strong prisoner-of-war organizations, the Swedish and the Swiss members hold the opinion that the prisoners had nevertheless opportunities to apply for repatriation during the whole period of the Commission's custody and, in particular, on the occasion of their being restored to the detaining side. This is shown by the not inconsiderable number (726) of prisoners who, during the period of custody, were actually repatriated or requested to be sent to neutral countries.

The Swedish and the Swiss members agree that the

interpretation of the Terms of Reference rests with the Commission. They also recognize that the Commission, by a majority vote, has so interpreted the relevant provisions of the Terms of Reference that the conditions for declaring the relief of the prisoners of war to civilian status were not fulfilled. They consider, however, this interpretation to be incorrect and in contradiction to the letter and the spirit of the Terms of Reference, and maintain that paragraph 11 of the Terms of Reference definitely enjoins upon the Commission the duty to declare the relief of the prisoners of war to civilian status at the expiration of one hundred and twenty days from assumption of custody, and that no other requisite than the lapse of this time period is of consequence.

ANNEXURES TO THE FINAL REPORT OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

ANNEXURE I

Termination of explanations

1. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

23 December 1953

The entire spirit of the Terms of Reference for the Neutral Nations Repatriation Commission lies in the assurance that the side to which the prisoners of war belong shall have freedom and facilities to conduct explanations to the prisoners of war for ninety days, thus ensuring that the prisoners of war shall have the opportunity to exercise their right to be repatriated. Accordingly, paragraph 8 of the Terms of Reference explicitly provides that the NNRC, after having received and taken into custody all those prisoners of war who have not exercised their right to be repatriated, shall immediately make arrangements so that within ninety days after the NNRC takes over the custody, the nations to which the prisoners of war belong shall have freedom and facilities to conduct explanations to the prisoners of war. If the afore-mentioned spirit and specific provision of the Terms of Reference had really been carried out, the explanation work should have been started on 25 September 1953, when the Commission took into custody the prisoners of war, and should have continued from then on without interruption until 23 December 1953. Had this been done, the requirement would have been fulfilled that the side to which the prisoners of war belong has the ninety-day explanation period to which it is entitled.

But the facts are quite to the contrary. After the take-over of the custody had begun, the United Nations Command side procrastinated, using the problem of the reconstruction of explanation facilities as an excuse. It would take the Korean and Chinese side only four days to reconstruct the explanation facilities, yet the United Nations Command side claimed that it would take four weeks. And, as a matter of fact, only one night was finally spent to get these facilities completed. Owing to the procrastination of the United Nations Command side, it was not until 15 October that the explanation work really commenced, while it should have begun on 25 September. Obviously, the time thus lost should be made up for. The NNRC also held at this early stage that, because of the time lost, the explanation period should consequently be extended, and with this our side readily concurred. However, after the United Nations Command side had calculatedly deprived the Korean and Chinese side of twenty explanation days, the Commission did not persist in maintaining that the time lost should be made up for. And this made the United Nations Command side dare to take a step further and direct the secret agents to obstruct the explanations.

After its commencement, the explanation work has been interrupted for as many as five times, because the

secret agents refused to let the prisoners of war attend explanations, and because the Commission, anticipating that the agents would do so, notified our side with finality to suspend explanations. And thus our side was made to suffer an additional loss of sixty explanation days. Of these five interruptions, the first and the third caused only a loss of two days because of the quick concessions made by our side, and the other three all developed into prolonged deadlocks, for the Commission adopted practically an attitude of an onlooker. When the explanations were interrupted for the fourth and the fifth time, even though the Commission has, according to the Terms of Reference and the Rules of Procedure, the inescapable responsibility to make segregation arrangements to enable our side to resume the explanations, even though Your Excellency had promised on 6 November to provide segregation tents, even though our side had changed several times our choice as to the compound to be explained to in an attempt to make it easier for the Commission to get the prisoners of war out for explanations, yet the Commission had never given due consideration to all this. Even when the segregation tents were at long last furnished on 10 December, the Commission still stressed that the secret agents would not allow the prisoners of war to be segregated and, as a result, it was impossible for our side to carry on the explanation work. However, owing to the just insistence of our side, the prisoners of war were at last segregated on 21 December, and the explanation work was thereby resumed. The allegation was proved to be untrue that the Commission could not take any action in view of the fact that the secret agents refused to be segregated and to attend explanations. On the contrary, it can be seen from the situation of 21 December that, if the Commission had resolutely put an end to the obstructive activities of the secret agents in accordance with the provisions of the Terms of Reference, our side would not have sustained a loss of time for explanations. It is, therefore, clear that although the United Nations Command side should bear the main responsibility for the enormous loss which our side has sustained as regards the time for the explanations, the Commission cannot but also bear the direct responsibility for failing to implement resolutely the Terms of Reference and thus causing such a loss.

Now, up to 23 December, the explanation work of our side has proceeded for only ten days. Our side resolutely demands that the explanation work be continued until the ninety-day period has been fully made up. We consider that the NNRC should satisfy this reasonable demand of our side.

I am awaiting a reply from Your Excellency.

(Signed) LEE Sang Cho
Lieutenant-General

2. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

24 December 1953

I have the honour to acknowledge receipt of your plan for conduct of explanations on 24 December 1953. The Commission considered your request contained in the aforesaid plan at great length at its meeting on 23 December 1953.

The majority of the members of the Commission were of the view that, having regard to the relevant provisions of the Terms of Reference, they could not comply with your request.

Paragraph 11 of the Terms of Reference provides as follows:

"At the expiration of ninety days after the transfer of custody of the prisoners of war . . . , access of representatives . . . shall terminate."

The above provision is mandatory. Accordingly, the Commission has no power to allow access to your explaining representatives so that they may conduct explanations in accordance with paragraph 8 of the Terms of Reference. Any extension of the period of access can only be secured by agreement between the signatories to the Armistice Agreement. You will recall that the Commission had taken this position as long ago as 28 September 1953, when it had addressed a communication to the United Nations Command requesting it whether it would not consider agreeing to an extension of time for explanations. The United Nations Command had then indicated that it was not prepared to do so. Since then I understand that you had taken this matter up in the Military Armistice Commission.

The above view, being the majority view, constitutes the authoritative interpretation of the relevant provisions of the Terms of Reference in accordance with paragraph 24 thereof.

I may, however, state that the Czechoslovak and the Polish members of the Commission do not agree with that view and argue that, under paragraph 8 of the Terms of Reference, the Commission is under an obligation to provide freedom and facilities to the explaining representatives of the two sides for a full period of ninety days. Since the two sides have not had such facilities for the ninety-day period, it is argued, that explanations must continue in the Northern and the Southern Camps.

The above interpretation, as I have stated, is not acceptable to the majority of the Commission. In their view the ninety-day period for explanations begins to run from the date of taking into custody of the prisoners of war by the NNRC; that date having been fixed as 24 September, the termination of the period of ninety days also is consequently fixed. Nowhere in the Terms of Reference does this period depend on any contingency. In this view of the matter, I regret having to inform you that the Commission will not be able to grant to your explaining representatives access to the prisoners of war for purposes of conduct of explanations.

(Signed) K. S. THIMAYYA
Chairman

3. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

27 December 1953

I have the honour to acknowledge the receipt of your letter dated 24 December. But I still have not received any reply to my letter of 23 December to Your Excellency.

I cannot but point out that the majority decision of the NNRC, mentioned in your letter, which would not grant to the explaining representatives, as of 24 December, access to the prisoners of war for the purpose of conducting explanations is a serious violation of the spirit and substance of the Terms of Reference for the NNRC. It was asserted in your letter that the provision concerning the termination of the explanation period in paragraph 11 of the Terms of Reference was mandatory, and that, accordingly, the Commission had no power to allow the explanation work to go on. This is an utterly groundless assertion in disregard of the spirit and substance of the Terms of Reference.

The various provisions of the Terms of Reference are an interrelated whole which does not allow of any mutilation. The fundamental spirit of the Terms of Reference in ensuring a ninety-day period for explanations so that all prisoners of war can have the opportunity to exercise their right to be repatriated and the specific provisions of paragraph 8 to this effect are indispensable pre-requisites for paragraph 11 of the Terms of Reference. Owing to the fact that the United States side deliberately delayed the construction of the explanation facilities, and directed the secret agents to prohibit the prisoners of war from attending explanations and to defy the regulations for the segregation of the prisoners of war, and owing to the fact that the NNRC has never taken effective measures to break the control of the secret agents over the prisoners of war and to guarantee the necessary conditions for the explanation work, the explanation work of the Korean and Chinese side was neither started as scheduled nor was it conducted uninterruptedly. In the ninety-day period up to 23 December, the Korean and Chinese side was able to conduct the explanation work only for ten days and the number of the prisoners of war who have been explained to is less than 15 per cent of the total number of the prisoners of war. The pre-requisites for paragraph 11 of the Terms of Reference have therefore been destroyed in their entirety. The NNRC has not only failed to take necessary measures to ensure ninety days of explanation work, but, on the contrary, under the pretext that the provision of paragraph 11 of the Terms of Reference is mandatory, unreasonably proclaimed the termination of the explanation work only three days after it was resumed as a result of the efforts of the Korean-Chinese side. This is utterly in disregard of fact and is a wilful mutilation of terms. This is absolutely unconvincing. Are other paragraphs than paragraph 11 of the Terms of Reference, especially paragraph 8, not mandatory? Does the NNRC have only the power to delay the explanation work for as long as twenty days, only the power to look on while the United States side and the secret agents planted by it repeatedly interrupted the explanation work for as long as sixty days, and only the power to sit idly by while more than 85 per cent of the captured personnel of our side, approximately twenty thousand in number, are prevented entirely from attend-

ing explanations, but not the power to ensure in accordance with the provisions of paragraph 8 of the Terms of Reference the full ninety-day period for the explanation work? Obviously, the adoption of the decision on the termination of the explanation work by those members of the NNRC who are in a majority is not in keeping with the impartial position of neutral nations in upholding justice.

I resolutely demand that the NNRC reconsider the decision adopted by a majority of its members. I await a concrete reply from the NNRC.

(Signed) LEE Sang Cho
Lieutenant-General

ANNEXURE II

Interpretation of paragraph 11 of the Terms of Reference

1. MEMORANDUM BY THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

The ninety-day period having ended, the Commission finds itself in the following position:

1. Explanations

(a) Explanations have not been completed. An overwhelming majority of prisoners of war have not even been through the explanation procedure.

(b) Extension of the period of explanations which the Commission considered legitimate and necessary was not acceptable to the United Nations Command.

(c) Requests for such extensions have been made during and after the ninety-day period by the Command of KPA and CPV.

(d) The opinion of the majority of the Commission is still that explanations should be continued.

(e) The wording in paragraph 11 of the Terms of Reference, however, is that "at the expiration of ninety days after the transfer of the custody of the prisoners of war to the Neutral Nations Repatriation Commission access of representatives to captured personnel as provided for in paragraph 8 above shall terminate . . .". The literal interpretation of these words may well be that explanation period terminates on the ninety-first day after the date the prisoners of war were taken into custody. The United Nations Command has held to this position and declined to alter it. Continuance of explanations is possible only if the two Commands agree.

2. Political Conference

(a) The reference of the question of the future of the non-repatriated prisoners to the Political Conference is mandatory. The terms of paragraph 11 in this regard are ". . . the question of disposition of the prisoners of war who have not exercised their right to be repatriated shall be submitted to the Political Conference recommended to be convened in paragraph 60, Draft Armistice Agreement . . ."

(b) The failure of the Political Conference to meet is a matter for which the Commission bears no responsibility and, indeed, the Commission has no power or capacity to bring about such a Conference or to substitute any other machinery or arrangement in its place.

(c) The Commission has the duty and the right to refer this matter to the two Commands and request them to state their position in regard to the following:

(i) Whether and when the Political Conference will meet within the relevant period;

(ii) In the event of the failure of the Political Conference to meet within the relevant period, to come to an agreement between themselves in respect of the further procedure in regard to disposition of prisoners of war and to inform the Commission expeditiously.

3. Custody

(a) The custody of the prisoners of war by the Custodial Force, India, is, as contemplated in paragraph 11, to be terminated on the 121st day but is not so stated expressly. The said paragraph 11, after stating that the Political Conference shall endeavour to settle the issue of non-repatriates "within thirty days", goes on to state, "during which period the NNRC shall continue to retain custody of the prisoners of war". There is nothing here in the terms about custody coming to an end but only that custody shall obtain in the thirty days period. No other interpretation or views in respect of this matter would have had to be considered now if the repatriation arrangements had been carried out according to the plan in paragraph 11 and the issue of non-repatriates had been placed before the Political Conference.

(b) The United Nations Command has, however, stated and reaffirmed that custody shall cease on that day, while the Command of KPA and CPV takes a different view.

(c) Paragraph 11 of the Terms of Reference assigns to the CFI certain functions during the 120 days and other functions for the next thirty days. This can mean that custodial functions terminate at the end of 120 days. It can also mean that functions other than or in addition to custodial functions remain. The CFI must, however, remain on location till the 151st day, and consequently have some authority.

(d) Irrespective of any interpretations, the factual aspect of the matter, however, is that the CFI cannot maintain custody or even remain in the territory without agreement of both Commands, for the following reasons:

(i) That the CFI is dependent on peaceful conditions being guaranteed by the two sides;

(ii) Considerations of logistic support.

The continuance of custody is necessary:

(1) If explanations are to continue;

(2) If the process of repatriation is to be carried out;

(3) If prisoners remain in the locations whatever their status.

(e) The period of custody is related to the disposal of the question of non-repatriated prisoners of war in the Political Conference, which has not materialized. It, therefore, calls for reconsideration and review by both sides.

(f) The CFI, which bears the responsibility for Custodial duties, undertook the task at the request of and in accordance with agreement between the two Commands.

(g) India accepted the task to further the purposes of the Armistice Agreement and to enable the repatriation procedure to be effected.

(h) Since the conditions on the basis of which the CFI entered on its duties would not otherwise obtain, continuance of custodial duties by the CFI is possible only if the two sides agree to it.

4. Dissolution of the NNRC

(a) The NNRC has to cease to function and declare its dissolution at the end of the 150th day. The relevant provision in paragraph 11 of the Terms of Reference implies this, but such a declaration is at the same time related to previous stakes following from the Political Conference, which has not materialized.

(b) The continuance of the Commission after the 150th day is also possible only as a result of agreement between the two Commands. The NNRC, therefore, can only refer this problem also to the two Commands for consideration and agreement between them.

2. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE SUPREME COMMANDER OF THE KOREAN PEOPLE'S ARMY AND THE COMMANDER OF THE CHINESE PEOPLE'S VOLUNTEERS, AND TO THE COMMANDER-IN-CHIEF, UNITED NATIONS COMMAND

2 January 1954

1. The Neutral Nations Repatriation Commission desires me to inform the Korean People's Army and Chinese People's Volunteers/United Nations Command that the Commission has been able to implement only to a limited extent the procedure in respect of the repatriation of prisoners of war as contemplated and provided in its Terms of Reference and established under the Rules formulated thereunder by the Commission.

2. The NNRC has to come to a decision, as expeditiously as possible, in the next few days about the further steps it should or may take in the discharge of its responsibilities. The NNRC has, in particular, to arrive at a decision in respect of the status and tasks of the Custodial Force, India, and the status and disposition of prisoners of war.

3. In the report it has communicated to the two Commands, the NNRC has already set out the facts and circumstances which have existed, and for the most part continue to exist and surround the endeavours of the Commission and the CFI in the discharge of their responsibilities in respect of the implementation of the Terms of Reference.

4. A memorandum prepared by me as the Chairman of the NNRC, and annexed hereto, is set out for your information and study of the position in regard to the more important problems with which the NNRC and the CFI are confronted.

5. The NNRC requests the KPA and CPV/United Nations Command to assist the NNRC in coming to a considerate, just and a correct decision in regard to the following questions:—

(a) Whether the KPA and CPV/United Nations Command considers continuance of explanations possible;

(b) Whether the Political Conference is likely to meet as contemplated in paragraph 11 of the Terms of Reference;

(c) Whether the KPA and CPV/United Nations Command will forthwith enter into negotiations with the United Nations/KPA and CPV Command to establish procedures for the consideration of the problem of non-repatriated prisoners and consequential matters in

view of the failure of the Political Conference to meet hitherto;

(d) Whether the KPA and CPV/United Nations Command will agree to the continuance of present custodial duties of the CFI pending agreement on the disposition of prisoners of war.

6. The NNRC requests that these answers may be communicated to it without delay in the course of next three or four days to enable it to come to decisions in time and with the knowledge of your considered views on the relevant issues. The NNRC would be grateful for a reply by 6 January.

7. The NNRC seeks to assure the KPA and CPV/United Nations Command that, in making this request, it is prompted and persuaded by the earnest desire to implement the Terms of Reference and to discharge its responsibilities fully and correctly. An identical communication has been addressed to the United Nations Command and the Command of KPA and CPV.

(Signed) K. S. THIMAYYA
Chairman

3. LETTERS FROM THE COMMANDER-IN-CHIEF, UNITED NATIONS COMMAND, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

A

3 January 1954

I have read carefully the interim report concurred in by the Indian, Czechoslovakian and Polish delegations and the interim report prepared and signed by the Swedish and Swiss delegations. I have also read the accompanying communications indicating the manner in which failure to agree to a single report developed. Of the two reports, I find that prepared by the Swedish and Swiss delegations much more objective, factual and indicative of the operations of the NNRC.

In view of the fact that the ninety-day period for explanations has now terminated, and because the issues during this phase of NNRC operations have been so clearly identified by both reports, I see little positive value to be gained by expressing detailed opinions on such issues. However, in order to clarify unmistakably the position of the United Nations Command on what I consider to be certain key elements, I am constrained to submit once more a reiteration of certain salient points:

(a) The United Nations Command categorically denies any implication that we have attempted, in any way, to exercise control to the slightest degree over prisoners in the Southern Camp by the introduction of *agents provocateurs*, or that we have attempted to maintain any type of covert intelligence network.

(b) The allegation that prisoners alone in the Southern Camp were responsible for the failure to complete explanations I find totally unacceptable. Although the United Nations Command had no permanent representation in either the NNRC or the CFI, it appears clearly obvious from reports received from our duly authorized liaison, observation and explainer personnel, as well as from official statements of the NNRC itself, that the primary causes of failure were due to:

(1) The severe disappointment of the representatives of the Korean People's Army and Chinese People's Volunteers at their inability to secure more than a nominal percentage of returnees from groups receiving explanations.

(2) The delaying tactics adopted by the Korean People's Army and Chinese People's Volunteers including:

- a. Unreasonable and changing demands for facilities.
- b. Refusal to accept reasonable numbers of willing prisoners for explanations during each day.
- c. Refusal of the Korean People's Army and Chinese People's Volunteers to utilize available explaining time unless the NNRC and the CFI conformed to all their demands, which included the use of force and other impracticable actions.

(c) The United Nations Command, on the other hand, supports fully the strong stand taken by the Indian, Swedish and Swiss delegations prohibiting the use of force against defenceless prisoners.

(d) The Terms of Reference plainly specify that explanations would be terminated as of 23 December 1953. We, therefore, cannot accept any alternate proposal which may be made by any other agency on this point, just as we shall not accept any other proposal which amends the date 22 January, the last day upon which prisoners in NNRC custody can be denied their freedom.

(e) The termination date of custody, 22 January 1954, 120 days after the NNRC originally assumed custody, is fixed and does not depend on the holding of any Political Conference, the holding of which was, by terms of the Armistice Agreement, to be recommended to their respective governments by the commanders of each side in the Korean conflict.

With specific reference to that part of your letter of 28 December 1953 (forwarding the aforementioned reports) which discusses the action to be taken by the NNRC now that the explanation period has ended and no Political Conference is in session, I believe the foregoing views are sufficiently clear to serve as a basis for a sound and logical course of action. As of 230001 January 1954, prisoners now in custody of the NNRC, having then become entitled to civilian status, are free to move to destinations of their choice. For those who wish to be assisted by the United Nations Command, I suggest that they be moved south in orderly, manageable groups and according to a phased schedule, so that they may be received at a mutually agreed upon location along the southern boundary of the Demilitarized Zone. The United Nations Command is fully prepared to receive them and aid them to move to destinations of their choice to settle into peaceful civilian pursuits.

For those who may apply to go to neutral nations, the United Nations Command (as previously outlined to you) stands ready to assist the NNRC in care and disposition during the period 22 January to 21 February. Whether we can continue assisting after 21 February will depend upon the situation then prevailing; I can, however, assure you of our co-operation in so far as practicable in my capacity as a military commander.

(Signed) J. E. HULL
General, USA
Commander-in-Chief

B

6 January 1954

Reference is made to your letter of 2 January 1954, in which you request the United Nations Command to assist the Neutral Nations Repatriation Commission in reaching decisions on questions enumerated therein and

to which you have attached a copy of a memorandum approved by a majority of the Commission. It is my feeling that the position of the United Nations Command on each of the issues has been clearly stated in previous correspondence with you, particularly in my letter of 3 January commenting on interim reports made by certain members of the Commission relative to NNRC operations. However, in order to remove any possibility of doubt or misunderstanding of United Nations Command views, I now reiterate the firm position of this command on the questions posed in your letter:

(a) The United Nations Command cannot, in view of the express provisions of the Terms of Reference, consider under any circumstances a reopening or continuance of explanations to prisoners of war in NNRC custody.

(b) As a military commander, I am not in position to speak authoritatively on the convening of the Political Conference. However, the attitude of representatives of the North Korean and Chinese Governments during the preliminary talks recessed recently at Panmunjom has made it extremely improbable that a Political Conference will be in session prior to 22 January.

(c) The convening of a Political Conference was, under the terms of the Armistice Agreement, only a recommendation of the commanders of both sides to their respective governments and has no determining relationship to the question of prisoners of war in NNRC custody. Moreover, the United Nations Command can see no justification for entering into any discussion with any agency to consider further the disposition of prisoners, since paragraph 11 of the Terms of Reference constitutes agreement between the two sides settling the question. This was clearly indicated in the armistice negotiations which resulted in the Terms of Reference for the NNRC. The plain intent of that paragraph is to prevent either party to the agreement from frustrating the basic purpose of avoiding indefinite captivity simply by refusing to appear at a conference or to agree to any alternative disposition at a conference.

(d) Under the Terms of Reference, the responsibility of the CFI for holding prisoners of war in custody ceases as of 230001 January 1954. As of that time there remains the express responsibility for the Commission to release prisoners to civilian status and within the ensuing thirty-day period to assist those who choose to go to neutral nations. The United Nations Command recognizes that, under the Terms of Reference, there is authority for an appropriate number of Indian troops to remain in the Demilitarized Zone to assist in carrying out its remaining functions and responsibilities. As you have already been informed, we are prepared to receive and assist all ex-prisoners who move south of the Demilitarized Zone. After 21 February, the NNRC will be dissolved and the presence of Indian troops in the Demilitarized Zone will no longer be authorized or required.

Within the limitations expressed above, the United Nations Command stands, as always, fully prepared to assist the Commission until the time of its dissolution.

Since you have classified your communication as secret, the United Nations Command will not release either its text or the contents of this letter to the Press without prior notification to the Commission. However, in view of the steadily mounting interest and speculation in the world Press, and because there appears to be no valid reason for withholding this correspondence

from the public, I recommend strongly that such publication be delayed no longer.

(Signed) J. E. HULL
General, USA
Commander-in-Chief

4. LETTER FROM THE SUPREME COMMANDER OF THE KOREAN PEOPLE'S ARMY AND THE COMMANDER OF THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

7 January 1954

1. We have received the interim report submitted by the Neutral Nations Repatriation Commission to the two signatory sides to the Korean armistice and the separate report of the Swedish and Swiss members attached thereto, as well as the related annexures. Following that we have also received your letter of 2 January 1954, and the annexed memorandum. Having studied these documents, we consider that the interim report of the Commission is basically consistent with facts and therefore is comparatively impartial. In your memorandum, the Commission has affirmed that the extension of the period of explanations is legitimate and necessary and held that explanations should be continued. These are doubtlessly in keeping with the fundamental objectives of the Terms of Reference.

However, the separate report of the Swedish and Swiss members is at great variance with the well-known facts in the two prisoner-of-war camps in the southern and northern portions of the Demilitarized Zone in Korea, and in taking basically an attitude of covering up and whitewashing the activities of the United Nations Command side of delaying and sabotaging the explanation work, it is obviously aimed at attempting to extricate the United Nations Command side from the grave responsibilities for disrupting the explanation work and shift such responsibilities on to the Korean and Chinese side. Precisely for this reason, this separate report has impaired the neutral status of the Swedish and Swiss members and is entirely unacceptable to the Korean and Chinese side.

2. In view of the interim report of the NNRC, the grave responsibility of the United Nations Command side for effecting a policy of terrorism through the secret agents in order to sabotage the implementation of the Korean Armistice Agreement has been made very evident. The facts are as follows:

(a) Although the prisoner-of-war camp in the southern part of the Demilitarized Zone is nominally under the charge of the armed forces of India, yet, in reality, it is still under the control of the organizations for violence of the secret agents of the United States, Syngman Rhee and Chiang Kai-shek. Such organizations have never been broken up. Such organizations for violence of the secret agents have maintained close contact with the former detaining side, namely the United Nations Command side, and are under its direct command. The headquarters of these organizations is located in Seoul under the control of the Provost-Marshal of South Korea.

(b) The secret agent organizations of the United Nations Command side have committed compulsory acts of violence against the prisoners of war who desire to exercise their right to be repatriated and for a number of times murdered the prisoners of war who are desirous of repatriation. In the prisoner-of-war camp at Tongjang-ni, not a single prisoner of war dares openly request repatriation.

(c) The organizations for violence of the secret agents have sabotaged the explanations in a planned manner since the very beginning. They have refused to let the prisoners of war attend explanations and used planned and organized actions in the explanation tents to carry on sabotage and obstruction. There is an intimate connexion and co-ordination between their sabotaging activities and the obstructing attitude of the United Nations Command side toward the explanation work.

(d) As a result of the deliberate procrastination on the part of the United Nations Command side in constructing the explanation facilities and the aforementioned obstructive and sabotaging activities of the organizations for violence of the secret agents, the Korean and Chinese side has not been provided with an explanation period of ninety days, but could only conduct explanations for ten days to a small number of prisoners of war.

(e) In view of the foregoing, the NNRC has not been able to put into practice most of the provisions of the Terms of Reference for the NNRC. Hence, the legitimate functions of the Commission itself have not been accomplished either.

3. In view of this report of the NNRC, it is impossible for the United Nations Command side to shrink from the definitive facts of and the clear responsibility for its disruption of the agreement on the repatriation of prisoners of war and the explanation work. However, in his letter of 3 January 1954 to you, General J. E. Hull, Commander-in-Chief of the United Nations Command, not only arbitrarily and groundlessly made denials, but also attempted brazenly to make countercharges against the Korean and Chinese side by attributing the disruption of the explanation work to the so-called "delaying tactics" of our side. Such an unscrupulous practice of the United Nations Command side cannot but arouse the deep indignation of the Korean and the Chinese people and the peace-loving people throughout the world, and calls for a severe condemnation.

4. It should be pointed out that, in the interim report of the NNRC, the Commission has on the one hand affirmed the fact that the organizations for violence of the secret agents directed by the United Nations Command side have disrupted the explanation work and have prevented the prisoners of war from requesting repatriation with force or threat of force. At the same time, the Commission has also admitted that the Terms of Reference are no impediment to the use of force, and that paragraph 7 of the Terms of Reference indeed provides that such force can be used in discharging the functions and responsibilities of the Commission. But, on the other hand, the Commission has refused under various pretexts to adopt any effective measures to apply sanctions against the secret agents who have used violence to disrupt explanations, intimidate and murder the prisoners of war who request repatriation. Not only this, the Commission has even recognized as the "representatives" of the prisoners of war the secret agents who have murdered the prisoners of war, and thus all the work of the Commission has to be carried out in accordance with the will of the secret agents. By so doing, the Commission has in substance given protection and support to the terroristic reign of the secret agents in the prisoner-of-war camp and thereby given a free hand to the secret agents to disrupt the explanation work and to intimidate and murder the prisoners

of war who desire repatriation. From this it is apparent that the United Nations Command side should of course be held chiefly responsible for the disruption of the Terms of Reference and for the failure of the Commission to accomplish its task, but that the NNRC itself cannot but also share a certain responsibility. The interim report fails to admit this frankly. On the contrary, it has on the one hand advanced a number of arguments to defend the so-called inability to use force and on the other hand charged that the explanation plan of the Korean and Chinese side was "not feasible" because the Korean and Chinese side failed to change its explanation plan according to the will of the secret agents. We consider this unsatisfactory. We have also noted the statement made by the Czechoslovak and Polish members on this interim report.

5. According to paragraph 1 of the Terms of Reference, the fundamental objective for establishing the NNRC is to ensure that all prisoners of war have the opportunity to exercise their right to be repatriated. In order to ensure this right, the Terms of Reference further provide that explanations should be conducted to all the prisoners of war for ninety days, and that after explanations have been conducted for ninety days, those prisoners of war who have not yet exercised their right to be repatriated should be referred to the Political Conference for disposition within thirty days. All these are the key measures of a mandatory nature in the Terms of Reference and they must be effected. Now, as a result of the procrastinations and disruptions effected by the United Nations Command side and the organizations for violence of its secret agents, and the failure of the Commission completely to discharge its legitimate functions and responsibilities, explanations had been conducted only for one ninth of the time and 85 per cent of the prisoners of war have not yet been able to attend explanations, thus having had no opportunity to exercise their right to be repatriated. At the same time, the United States Government has also deliberately suspended the discussions between the two sides on the question of the Political Conference, rendering it impossible for the Political Conference to be convened expeditiously to deal with the prisoner-of-war question. In such a situation, we fully agree to what you stated in your letter of 28 December 1953, that "earnest consideration" must be given to the prisoner-of-war question "in a manner consistent with the fundamental objectives embodied in the Terms of Reference". Moreover, we consider that in order to carry through in such a manner, the only way is to hold to the stand of the Commission that explanations should be continued. This is also what the NNRC should give its earnest consideration to.

6. In view of the foregoing, and in order to be in accord with the fundamental objectives of the Terms of Reference, we insist that the ninety-day explanation period should be made up for, that the question of those prisoners of war who have not yet exercised their right to be repatriated should be submitted to the Political Conference for disposition within thirty days after it is convened, and that before the realization of these steps, the NNRC and the CFI should continue to discharge their unfinished legitimate functions. This means that explanations to the prisoners of war should be resumed at once, that the segregation of the prisoners of war should be effected, that the organizations for violence of the secret agents should be broken up, that all secret agents should be eliminated, and that the custody of prisoners of war should be continued after the ninety-

day explanation period is made up for pending a disposition by the Political Conference.

Only by holding to the impartial stand of neutral nations can the NNRC win the whole-hearted support of men of justice throughout the world, and only thus can it be possible to make the United Nations Command side withdraw from its unreasonable and insolent position. We hope that the NNRC and the CFI will not fail such an expectation.

(Signed) KIM Il Sung
Marshal
Supreme Commander
Korean People's Army
PENG Teh-huai
Commander
Chinese People's Volunteers

5. DRAFT RESOLUTION MOVED BY THE SWEDISH MEMBER AT THE 70TH MEETING OF THE NEUTRAL NATIONS REPATRIATION COMMISSION HELD ON 11 JANUARY 1954

The Neutral Nations Repatriation Commission,

Considering that the interpretation of the Terms of Reference for the Commission rests with the Commission itself, according to paragraph 24 of the said Terms of Reference,

Considering that paragraph 11 of the Terms of Reference regulates the relief of the prisoners of war from the prisoners of war status to civilian status,

Considering that different opinions have been expressed within the Commission as to the purport of the above-mentioned paragraph 11 of the Terms of Reference,

Resolves that paragraph 11 of the Terms of Reference, in so far as it concerns the disposition of the prisoners of war, be interpreted to mean that:

The Neutral Nations Repatriation Commission shall, on 22 January 1954, declare the relief from the prisoner-of-war status to civilian status of those prisoners of war who have not exercised their right to be repatriated, *provided* that before the said day no other disposition has been agreed to by the Political Conference referred to in paragraph 11 of the Terms of Reference, either because the Political Conference has not met before that day or because the Political Conference, having met, has not before that day agreed to any other disposition.

6 (a) STATEMENT MADE BY THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION IN EXPLANATION OF HIS VOTE ON THE RESOLUTION MOVED BY THE SWEDISH MEMBER AT THE 70TH MEETING OF THE COMMISSION

1. The Indian delegation has carefully considered the statement made by the Swedish member of the Commission on the question of interpretation of paragraph 11 of the Terms of Reference. For the reasons which I shall state hereafter, the Indian delegation does not find the arguments advanced by the Swedish delegation to be well-founded, either from the point of view of the actual terms of paragraph 11 or in the context of the purposes for which the Terms of Reference were drafted.

2. I would, first of all, deal with the question regarding the purpose of the Terms of Reference. In answering this question, we must clearly base ourselves on documents and speeches made in another context or another forum. We must, inevitably, base ourselves on

the Terms of Reference themselves. If you look at paragraph 1 of the Terms of Reference, it is clearly laid down that the object with which the High Contracting Parties entered into the agreement constituting the Terms of Reference for the NNRC was "to ensure that all prisoners of war have the opportunity to exercise their right to be repatriated". There can be no confusion about this object or underlying purpose of the Terms of Reference.

3. In order to give effect to this, the Terms of Reference prescribed certain procedures. Certain additional provisions were prescribed by the Commission, acting under paragraph 8 (d) of the Terms of Reference. It is established beyond doubt that the procedures set out by the Terms of Reference or elaborated by the Commission have only partially been put into effect. The result of this is that the bulk of the prisoners of war have not had the opportunity to exercise their right of repatriation. To this extent, therefore, the object of the Terms of Reference has not been carried out. In other respects too, there has been similar partial derogation from the Terms of Reference.

4. Article IV, paragraphs 10 and 11, of the Terms of Reference deal with the question of the disposition of prisoners of war. It is quite evident that such disposition of the prisoners of war is contingent upon due performance of totality of the Terms of Reference, one of the most important of which was explanations. As I have stated earlier, this has not been fulfilled. In paragraph 11, it is further provided that the question of such prisoners of war who have not exercised their right to be repatriated shall be submitted to the Political Conference recommended to be convened in paragraph 60 of the Armistice Agreement. It must be noted in this connexion that the Commission is not in a position to submit the question of disposition of such prisoners of war who have not exercised their right to be repatriated. The inability of the Commission arises from two facts: firstly, that the bulk of the prisoners of war have not had this opportunity to exercise their right to be repatriated; secondly, the forum does not exist inasmuch as the Political Conference, although recommended to be convened, has not been convened.

5. These steps in the agreement having not been carried out, it is legally impermissible to proceed to the next stage, namely, declaring the relief from the prisoner-of-war status to civilian status.

6. The fact that the interpretation sought to be put by the Swedish delegation is absolutely untenable is borne out by the proposed draft resolution. In that draft resolution, the operative part seeks to interpolate in paragraph 11 the words which do not exist and without which that interpretation cannot be sustained.

7. The actual words in paragraph 11 are as follows: "The Neutral Nations Repatriation Commission shall declare the relief from the prisoner-of-war status to civilian status of any prisoners of war who have not exercised their right to be repatriated and for whom no other disposition has been agreed to by the Political Conference within one hundred and twenty (120) days after the Neutral Nations Repatriation Commission has assumed their custody".

8. The Indian delegation is unable to understand how and by what canons of legal construction the Swedish delegation is able to interpolate in the above words the following words: "provided . . . the Political Conference has not met before." The intention of the docu-

ment must be gathered within the four corners of the document itself. We cannot travel beyond the document. The draft of paragraph 11 as finally accepted was, as stated by the Swedish member, proposed by the Command of KPA and CPV. That Command's understanding is that deliberation by the Political Conference was understood by them to be an essential step in the process of the disposition of the prisoners of war.

9. The Indian delegation has made every effort to persuade the two Commands to enable the Commission to implement fully the Terms of Reference, particularly, in regard to explanations. As is well known, the United Nations Command has not been able to agree to the extension of the period of explanation. As for the Political Conference, we all know what the situation is.

10. The Swedish member of the Commission has referred to certain considerations outside the Terms of Reference. He has quoted article 118 of the Geneva Convention in order to find support for the argument that the prisoners of war must be released. In the view of the Indian delegation, it is a well known legal principle that you cannot approbate and reprobate at the same time. In other words, you cannot quote a legal provision in support of certain rights when obligations created by that provision have not been carried out. Article 118, therefore, gives us no assistance in interpreting the clear meaning of paragraph 11.

11. I have already stated that we cannot take into account antecedent circumstances surrounding the conclusion of the agreement in regard to the Terms of Reference. There are various versions of the history and we cannot get any guidance from them.

12. The Swedish delegation has also quoted from a speech made by the Indian delegate, Mr. Krishna Menon. But, here again, it must be pointed out that the Indian delegation to this Commission is not putting forward arguments designed to create a situation whereby prisoners of war are to be detained indefinitely. What the Indian delegation is interested in is that, if any possibility exists for implementing the Terms of Reference fully, that possibility should be explored. To sum up, the Indian delegation feels that the interpretation given by the Swedish delegation to paragraph 11 is not acceptable to it and the Commission cannot declare relief to civilian status of the prisoners of war.

13. The Czechoslovak and Polish members of the Commission have sought to put upon paragraph 11 another interpretation. They argue:

(1) That the Terms of Reference would require the explanations to be carried out for a full period of ninety days;

(2) That only on completion of a full period of explanations for ninety days could the next step be taken, namely, submission of the question of the disposition of the prisoners of war who have not exercised their right to be repatriated to a Political Conference;

(3) That consideration by the Political Conference is mandatory and that, in the absence of such a Political Conference, the prisoners of war must remain in the custody of the Commission;

(4) That the Commission, therefore, must continue to exist indefinitely;

(5) That the periods of 120 or 150 days are not periods fixed but contingent upon carrying out of explanations for ninety days and consideration by the Political Conference for thirty days;

(6) That these periods begin to run only from the date of expiration of full ninety days of explanations and commencement of consideration by the Political Conference of the prisoner-of-war question.

14. It is quite evident from the discussion we have had in the Commission that this view is equally unacceptable to the Commission. In such a situation, the Indian Delegation, as the Executive Agent of the Commission and as the party providing custodial forces, in whose custody the prisoners of war are to be found, is faced with a question of making its own decision and hopes that other members of the Commission will be able to give their support to that decision.

15. It is equally clear that the life of the Commission and the various time sequences are fixed by the agreement. The Commission cannot, in the absence of a fresh agreement between the Commands, continue to exist or function indefinitely. It must terminate on a certain date which is fixed. In this view of the matter, and in the absence of an agreement between the two sides both in regard to extension of explanations, the convening of the Political Conference and the extension of period of custody, there is no alternative left for the Indian delegation, which is also the Chief Executive Agent of the Commission and which has the custody of the prisoners of war but to return the prisoners as prisoners to the two Commands.

16. With this end in view, the Indian delegation is circulating a proposal that the prisoners of war be returned to the two Commands as prisoners. The legal basis of the proposal is that the contract spelt out in the Terms of Reference not having been fulfilled, the restitution of *status quo ante* must take place. Accordingly, the prisoners of war must be returned to the two Commands as prisoners of war. I hope that the members of the Commission would see that this is the only reasonable, just and well-founded course of action.

6 (b) DRAFT RESOLUTION MOVED BY THE CHAIRMAN AT THE 70TH MEETING OF THE NEUTRAL NATIONS REPATRIATION COMMISSION HELD ON 12 JANUARY 1954

The Neutral Nations Repatriation Commission,

Considering that paragraph 11 of the Terms of Reference regulates the relief of the prisoners of war from the prisoner-of-war status to civilian status,

Considering that different opinions have been expressed within the Commission as to the purport of the above-mentioned paragraph 11 of the Terms of Reference and that no one such interpretation is acceptable to the Commission,

Resolves that the prisoners of war in the custody of the Commission be returned as prisoners respectively to the former detaining sides before 22 January 1954 so as to restore the *status quo* obtaining at the time the prisoners were taken into custody by the Commission.

6 (c) STATEMENT MADE BY THE SWEDISH MEMBER OF THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 70TH MEETING OF THE COMMISSION

The explanation period having expired on 23 December 1953, the next—and the main—task of the Commission is the disposition, according to the Terms of Reference for the Commission, of those prisoners of war who have not exercised their right to be repatriated and who therefore remain under the Commission's custody.

The relevant dispositions of the Terms of Reference are to be found in paragraph 11 which reads as follows:

"At the expiration of ninety (90) days after the transfer of custody of the prisoners of war to the Neutral Nations Repatriation Commission, access of representatives to captured personnel as provided for in paragraph 8 above, shall terminate, and the question of disposition of the prisoners of war who have not exercised their right to be repatriated shall be submitted to the Political Conference recommended to be convened in Paragraph 60, Draft Armistice Agreement, which shall endeavour to settle this question within thirty (30) days, during which period the Neutral Nations Repatriation Commission shall continue to retain custody of those prisoners of war. The Neutral Nations Repatriation Commission shall declare the relief from the prisoner-of-war status to civilian status of any prisoners of war who have not exercised their right to be repatriated and for whom no other disposition has been agreed to by the Political Conference within one hundred and twenty (120) days after the Neutral Nations Repatriation Commission has assumed their custody. Thereafter, according to the application of each individual, those who choose to go to neutral nations shall be assisted by the Neutral Nations Repatriation Commission and the Red Cross Society of India. This operation shall be completed within thirty (30) days, and upon its completion, the Neutral Nations Repatriation Commission shall immediately cease its functions and declare its dissolution. After the dissolution of the Neutral Nations Repatriation Commission, whenever and wherever any of those above-mentioned civilians who have been relieved from the prisoner-of-war status desire to return to their fatherlands, the authorities of the localities where they are shall be responsible for assisting them in returning to their fatherlands."

In my opinion, this question is very clear and simple: The Commission will, on 22 January 1954, declare the relief from the prisoner-of-war status to civilian status of the prisoners who have not exercised their right to be repatriated.

The matter has hitherto not been taken up by the Commission as a separate issue, but the points of view of the different members have been mentioned peripherally in the discussions on related matters. I am, therefore, well aware that there are different opinions among the members on this question. The differences of opinion bear upon the interpretation of paragraph 11 of the Terms of Reference. As, according to paragraph 24 of the Terms of Reference, the interpretation of this agreement rests solely with the Commission itself, the question should be discussed by the Commission and a decision taken, if necessary by vote, as to the exact meaning of the relevant provisions of the Terms of Reference. Owing to the fact that the date just mentioned, 22 January, is now only two weeks distant, the matter should be taken up with the utmost urgency.

I therefore propose that the question of the interpretation of such parts of the Terms of Reference as concern the declaration of relief from the prisoner-of-war status to civilian status of those prisoners who have not exercised their right to be repatriated be discussed and decided as soon as possible.

Having already stated my point of view in this matter, namely that the Commission is under an inescapable

obligation to declare, on 22 January, the remaining prisoners civilians—taking for granted that the Political Conference has not convened before that date, I think it appropriate to explain the reasons for this interpretation which I consider to be the only correct and possible.

Those reasons lie partly in the wording of the relevant parts of the Terms of Reference, and partly in the background and the spirit of this agreement.

With regard to the text of the Terms of Reference, I refer in the first place to the second sentence of paragraph 11, which states that the Commission *shall* declare the civilian status of the prisoners who have not requested repatriation and for whom no other disposition has been agreed to by the Political Conference *within* 120 days after the assumption of their custody by the Commission, that is up to and including 22 January. This provision is mandatory and excludes any other decision by the Commission. It is contingent only upon one fact, namely, that the Political Conference has not taken any other decision before 23 January. The reason for the absence of such other decision can be one of three: (1) The Political Conference has not convened before the said date; (2) The Conference has convened but has failed to reach agreement on such other decision; (3) The Conference has agreed on a disposition for the prisoners exactly in accordance with that outlined in the Terms of Reference.

It is clear that the first alternative is envisaged in the Terms of Reference. In the first sentence of paragraph 11 it is said that the prisoner question "*shall* be submitted to the Political Conference *recommended* to be convened. . . ." This provision is also mandatory, but it is dependent upon one fact: that the Political Conference *has* convened. The signatories of the Armistice Agreement did not *decide* that a Political Conference should be held, but did only *recommend* to their respective governments that they agree on the holding of such a conference. If the Political Conference were to be considered as a prerequisite for the solution of the prisoner-of-war question, then any of the two sides could, by delaying the convening of the Political Conference or by refusing to take part in such a conference altogether, postpone indefinitely the solution of the prisoner-of-war question and keep the prisoners confined for an unlimited time. This certainly would imply a strong coercion on the prisoners to seek repatriation instead of remaining indefinitely in the prison camps, and would thus be in contradiction to the Terms of Reference.

That the failure of the Political Conference to reach an agreement on the prisoner-of-war question is also envisaged in the Terms of Reference is clear from the wording of the first sentence of paragraph 11: ". . . the Political Conference . . . which shall *endeavour* to settle this question within thirty days" from the expiration of the period destined for explanations. These endeavours can only go up to a definite date, thirty days after the end of the explanation period, or 22 January, irrespective of if and when the discussion on this matter is taken up by the Political Conference. Were it not so, any of the sides could frustrate the solution simply by refusing to come to an agreement, in which case the considerations just mentioned would also prevail.

The third possibility lies in the words "*other dispositions*" and is self-evident.

The time-table laid down in paragraph 11 is rigid and definite and admits of no alterations. All dates and

periods contained therein are related to one starting point only: the day of the assumption of custody by the Commission, that is, 24 September 1953. This stands out most clearly in the second sentence where the thirty-day period allotted for the consideration of the prisoner-of-war question by the Political Conference is definitely declared to end with the 120th day after the beginning of the Commission's custody, or with 22 January.

That this interpretation of paragraph 11 is correct follows also from the fact that the extension of the Commission's custody of the prisoners of war is regulated in the same paragraph. In the first sentence it is thus explicitly declared that the Commission shall continue to retain custody of the non-repatriated prisoners during the period of thirty days allotted for the Political Conference to endeavour to come to an agreement on the prisoners before the 121st day after the assumption of custody. Thereafter, as the prisoners shall then have been declared civilians and are no more prisoners of war, no custody is contemplated, civilians not being objects for such custody.

From this brief analysis of the text of paragraph 11 of the Terms of Reference, it seems clear that the provisions contained therein can and should be read literally to mean exactly what they say, that is, that in the absence of any other disposition agreed to by the Political Conference the Commission shall, on 22 January, declare the relief from the prisoner-of-war status to civilian status of the remaining non-repatriated prisoners.

I wish to add, however, some remarks on the background and spirit of those provisions of the Terms of Reference now under consideration.

Article 118 of the Geneva Convention provides that "prisoners of war shall be released and repatriated *without delay* after the cessation of active hostilities." It is, therefore, a fundamental right of a prisoner of war to be released—and also repatriated—as soon as possible after an armistice. This principle was not observed in the Korean armistice, because a great number of prisoners, for political reasons, renounced their right to repatriation. This derogation in the Armistice Agreement from the stipulations of the Geneva Convention, which was in itself admissible as it was made *in* and not *against* the interest of the prisoners themselves, cannot, however, be construed as reason for prolonging unduly or indefinitely their captivity.

In fact, the principle of a limitation of the repatriation procedure and of captivity was clearly defined in the debate in the United Nations in November/December 1952. Among others the Indian delegate, Mr. Menon, when discussing the Indian proposal which became the basis of the prisoner-of-war agreement, said that this proposal "was designed to terminate" the detention of the prisoners of war.

It is true that, during the armistice negotiations at Panmunjom, the North Korean and Chinese side, as late as on 7 May 1953, proposed a text for the relevant provision in this respect, according to which the prisoner-of-war question should, after a certain explanation period, be submitted to the Political Conference for settlement, without specifying any time limit for such settlement. This proposal was rejected by the United Nations side on the grounds that the issue would then be turned over to another conference for solution and would thus not be a final settlement of the prisoner-of-war question but a means to defer such solution indefinitely; the proposal was not taken up again.

On 25 May, the United Nations side conceded that the prisoner-of-war question should be submitted to the Political Conference for settlement, contingent, however, upon "mutual acceptance of the principle that this question could not be permitted to remain unsolved indefinitely and that if no agreement was forthcoming within a prescribed period of time the problem must be self-liquidating."

On 4 June, the North Korean and Chinese side basically agreed with the last mentioned proposal and presented a new text which is substantially the same as the present paragraph 11 of the Terms of Reference.

From the foregoing, it seems clear that the intention behind the agreement on the prisoners of war in the respect now under consideration was to establish a definite time schedule for the different functions of the Commission and to stipulate a fixed and unalterable date for the cessation of the prisoners' captivity, and that that intention was accepted and agreed to by the negotiators at Panmunjom. There should be no reason for this Commission to interpret the provisions of the agreement in any other way.

Finally, I wish to draw the attention of the Commission to the fact that the agreement which we have come here to implement deals not merely with an object called "prisoners of war", it concerns a large number of human individuals who have had the misfortune to become the victims of the vicissitudes of war. The agreement is made to ensure their right to seek repatriation if they so desire, or not to be repatriated if that is their wish. In my conviction, the idea underlying the whole agreement is to safeguard the interests of the prisoners, and any contention of retaining the prisoners in captivity for an uncertain period of time would be against this basic principle and therefore contrary to the spirit of the agreement.

6 (d) STATEMENT MADE BY THE POLISH MEMBER OF THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE MEETING OF THE COMMISSION HELD ON 12 JANUARY 1954

In connexion with the draft resolution submitted by the Swedish delegate and with the statement made by that delegate at the 70th meeting of our Commission on 11 January 1954, I have the honour to state the following on behalf of the Polish delegation:

Having thoroughly studied the draft resolution and the statement of the Swedish member, our delegation reached the conclusion that the only part of the said statement which can be considered right and is acceptable to our delegation is the literal text of the provisions of paragraph 11 of the Terms of Reference quoted in the statement. Apart from that, the Polish delegation cannot fail to agree with that part of the argumentation of our Swedish colleague in which he says: "As, according to paragraph 24 of the Terms of Reference, the interpretation of this agreement rests solely with the Commission itself, the question should be discussed by the Commission and a decision taken, if necessary by vote, as to the exact meaning of the relevant provisions of the Terms of Reference." These are the only right assertions which we could find in the statement of the Swedish delegate. Regretfully, however, our Swedish colleague was not able to draw the proper conclusions from those just assertions. It should be admitted that the above assertion on the Commission's right to interpret the provisions of the Terms of Reference, following from its paragraph 24, is binding not only in January 1954, but was also binding in De-

ember 1953; whereas, as we all remember, the Swedish delegate declared less than a month ago that, as far as the question of the extension of the explanation period was concerned, the Commission had no such right and that only the two sides had the power to take a decision on a proper interpretation of the Terms of Reference in respect of the extension of the explanation period. The Polish delegation cannot agree with such an attitude.

The Swedish delegate, starting from a right assumption, reaches completely wrong conclusions which, even on superficial analysis of the provisions of the Terms of Reference and on comparison of these provisions with the actual course of the Commission's work, do not bear examination. The Polish delegation feels compelled, at least briefly, to present its point of view in the matters under consideration:

Under the provisions of paragraph 8 of the Terms of Reference, both sides have the right to conduct explanations to all prisoners belonging to them in the course of a full ninety-day period. As a result of the activities of Syngman Rhee and Chiang Kai-shek agents and of their criminal organizations operating in the Southern Camp, of which members of the Commission and, indeed, world public opinion know well, the Korean and Chinese side had the opportunity to conduct explanations to prisoners belonging to it, during only ten days. I do not wish to come back to the details of those well-known activities of the agents and of the régime of terror introduced by them into the camps, which they did under the auspices and with the active support of the former detaining side, a régime as a result of which the prisoners, contrary to the clear provisions of the Terms of Reference, had no possibility of freely expressing the wish to exercise their right of repatriation, not only while staying in the compounds, but also in the course of the few days on which the agents consented to have explanations conducted by the Korean and Chinese side. These facts are too well known to be again repeated.

Under these conditions, it was and is not only the right but also the duty of our Commission, based on its right under paragraph 24 of the Terms of Reference, to make up for the lost part of the ninety-day explanation period so that both sides are given full possibility to use the rights they are entitled to. As is known, however, the majority of the members of our Commission, contrary to the explicit provisions of the Terms of Reference, did not fulfil their duty and seriously infringed the provisions of the Armistice Agreement. In the view of the Polish delegation, it should thus be admitted that the basic task with which the Commission was confronted, *i.e.*, to enable both sides to conduct explanations in the course of a full ninety days, has, because of the attitude of the so-called United Nations Command and that taken by some members of the Commission, not been fulfilled. Also, the second vital element provided for in paragraph 11 of the Terms of Reference, *i.e.*, the transmission of the question of the future of the prisoners who have not exercised their right to repatriation after the ninety days of explanations, to a Political Conference, has not materialized in view of the fact that the said Conference has not been convened. This is neither the place nor the time for a detailed consideration of the reasons for which the Political Conference has not come about. It should merely be said that the lack of goodwill in this matter on the part of the so-called United Nations Command does not by now raise any doubts.

In this way, as a result of the non-fulfilment of these two essential preliminary conditions, the entire timetable provided for in paragraph 11 of the Terms of Reference becomes void of any substance, and any fixing of dates is not only useless, but must lead to results which would be absurd and contrary to the provisions of the Terms of Reference. In conditions of the non-completion of the explanation work and the non-materialization of the Political Conference, there can be no talk of laying down any dates on which prisoners, who have not exercised their right for repatriation and as to whose future the Political Conference has not taken any decisions, should be recognized by the Commission as having civilian status. Under these circumstances, the date of 22 January, mentioned in the Swedish member's draft resolution and in his statement is, in fact, in the light of the Terms of Reference and the facts stated above, completely irrelevant.

From what I have said, it clearly and unequivocally follows that the attempt of the Swedish delegate to misconstrue paragraph 11 of the Terms of Reference through a wrong grammatical and historical interpretation of them for political purposes known to him only, constitutes, in the light of the above arguments, a flagrant violation not only of the letter but also of the spirit of an international document, which is the basis of the work of our Commission. The Polish delegation cannot agree with such a stand.

Consequently, the Polish delegation does not see any necessity further to contend against the arguments of the Swedish delegate which he put forward in defence of his wrong conception, primarily because the whole problem is premature and at present irrelevant: the Commission should first take a decision on the required making up of the full ninety-day explanation period, ensure adequate conditions for the conduct of explanations by breaking up the terrorist organizations and isolating the agents, transmit, after the conclusion of the explanation period, the question of the prisoners who have not by that time exercised their right for repatriation to the Political Conference when it is convened, and only after a further thirty-day period, in the course of which the Conference would, among others, deal with this question, would the problem of recognizing the civilian status of the prisoners as to whose future the Political Conference would not decide otherwise, become material. Only such a course of action corresponds to the provisions of the Terms of Reference. The Polish delegation wishes to state that the acceptance of the conception put forward by the Swedish delegate would be an attempt at sanctioning all the measures taken hitherto by the Commission in contravention of the Terms of Reference, measures against which the Polish delegation has already repeatedly protested, and would by itself be a further violation of the essential provisions of the Armistice Agreement. The Polish delegation will vote against the acceptance of the draft resolution submitted by the Swedish delegate and is convinced that all members of the Commission who have the proper implementation of the provisions of the Terms of Reference really at heart and who properly understand their role as representatives of neutral countries, will join the Polish delegation in its stand. Only in this way will the Commission be able to contribute to the fulfilment of the responsible tasks resting upon it and to the peaceful settlement of the Korean conflict.

6 (e) STATEMENT MADE BY THE CZECHOSLOVAK MEMBER OF THE NEUTRAL NATIONS REPATRIATION COMMISSION AT MEETING OF THE COMMISSION HELD ON 12 JANUARY 1954

In his statement made at the meeting of the Commission on 11 January 1954, the Swedish member of the Neutral Nations Repatriation Commission is dealing with the issue of disposition of prisoners of war under the custody of the Commission who have not exercised their right to repatriation and, in connexion with this issue, with the interpretation of the provisions of article IV, paragraph 11 of the Terms of Reference for the NNRC. I take the liberty to express the attitude of the Czechoslovak delegation towards the statement of the Swedish member as well as the draft resolution submitted after the meeting of 11 January 1954.

1. The Swedish member of the Commission incorrectly and arbitrarily contends in his speech that the explanation period has expired on 23 December 1953. The Czechoslovak delegation has already clearly expressed its attitude to the question of the ninety-day explanation period stipulated by the Terms of Reference. In this connexion I, therefore, should like to refer particularly to our statements made on 23 and 24 December 1953.

2. The Czechoslovak delegation fully agrees with the Swedish delegation's point of view that "the interpretation of this agreement rests solely with the Commission itself." The Czechoslovak delegation expressed its attitude in this sense also in the statement made together with the Polish delegation on 24 December 1953, in connexion with the discussing of the Commission's interim report which is also recorded therein.

3. The Czechoslovak delegation does not agree and cannot agree to the interpretation of the provisions of article IV, paragraph 11, of the Terms of Reference contained in the statement of the Swedish member of the Commission and in the submitted draft resolution. This interpretation is a contravention of the letter and spirit and the entire substance of the Terms of Reference.

4. A correct interpretation of the provisions of article IV, paragraph 11, of the Terms of Reference must, on the one hand, be based on the letter of these provisions themselves as well as others connected with them, and on the spirit and the substance of the entire Terms of Reference on the other hand. This is an obvious rule for interpretation of provisions of international agreements altogether.

5. It is clearly evident from the letter of the provisions of article IV, paragraph 11, of the Terms of Reference that the declaration of relief from the prisoner-of-war status to civilian status cannot be considered in any case without discussion of their disposition by the Political Conference envisaged in the Armistice Agreement. Article IV, paragraph 11, thus stipulates in two places: in the first and second sentences.

(a) The first sentence of article IV, paragraph 11, stipulates in an obligatory way without any reservations as follows:

" . . . The question of disposition of prisoners of war who have not exercised their right to be repatriated shall be submitted to the Political Conference recommended to be convened in paragraph 60, Draft Armistice Agreement. . . ."

This stipulation is mandatory, unconditional, without any reservations. Any interpretation wanting to solve

the question of the final disposition of prisoners of war who have not exercised their right to be repatriated without having this question discussed by the Political Conference is evading that provision in contravention of the Terms of Reference.

(b) The second sentence of article IV, paragraph 11, stipulates that the Commission is entitled to declare the release into civilian status only of those prisoners of war "... who have not exercised their right to be repatriated and for whom no other disposition has been agreed to by the Political Conference. . . ."

It is evident also from this provision that the Terms of Reference do not envisage and do not admit the release into civilian status of the prisoners of war without prior discussion of the question by the Political Conference. Any interpretation admitting the release of prisoners of war into civilian status before the Political Conference has dealt with the question of their disposition is again evading this provision in contravention of the Terms of Reference.

The interpretation of the Swedish delegation as if the discussion of the question of the disposition of prisoners of war, who have not exercised their right to be repatriated, by the Political Conference under certain circumstances was not obligatory is, therefore, in contravention of the letter of article IV, paragraph 11. These facts are not and cannot be altered by quotations taken out of their context or by any sophisticated arguments. To accept such an interpretation and to go by it would be a flagrant violation of the Terms of Reference involving the very foundations of the Terms as well as the entire Korean Armistice Agreement. The NNRC, called upon to implement an important sector of the armistice in Korea, cannot accept such an unlawful interpretation.

6. How incorrect and untenable the interpretation of the Swedish delegation is is profoundly proved and exposed by an interpretation based upon the interrelation of the individual provisions and the entire spirit of the Terms of Reference.

The provisions of article IV, paragraph 11, settle the question of disposition of prisoners of war *after the conduct* of explanation work of ninety days according to the pertaining provisions of the Terms of Reference. The provisions of article IV, paragraph 11, together with the other relevant provisions of the Terms of Reference, are part and parcel of these Terms, constituting a single and inseparable whole. The question of disposition of prisoners of war under the custody of the NNRC is solved in the Terms by a number of consecutive measures following one after the other and linked together by firm logical sequence. The provisions of article IV, paragraph 11, envisage as the last measure in this series that the NNRC shall declare the release of a certain category of prisoners of war into civilian status. This last measure, however, is dependent upon several conditions which are unavoidable pre-requisites for this last disposition that cannot be substituted by anything. Without fulfilling these pre-requisites, the release of these prisoners of war into civilian status is unthinkable and inadmissible. These pre-requisites constitute the basic provisions of the Terms of Reference and are as mandatory as the stipulations of article IV, paragraph 11, on the declaration of release into civilian status. These unavoidable and irreplaceable pre-requisites are particularly:

(a) Explanations conducted in accordance with the pertaining stipulations of the Terms of Reference;

(b) After conducting of explanations, submitting of the question of further disposition of the prisoners of war who have not exercised their right to be repatriated to the Political Conference and consideration of the problem by the Political Conference.

7. One of the most elementary provisions of the Terms of Reference, in fact its very basis, is that the sides to which the prisoners of war belong shall have full freedom and facilities to conduct explanations to *all* prisoners of war for a period of ninety days starting from the day when the NNRC took over custody of the prisoners of war. This period cannot be curtailed all the less as it is one of the essential conditions of the agreement and the result of a compromise reached after lengthy negotiations.

As against the clear stipulations of the Terms of Reference are the following facts:

(a) In the camps in the southern part of the Demilitarized Zone, explanation work could only start considerably later than scheduled due to the delays caused in constructing the necessary facilities.

(b) The explanation work in the camps in the southern part of the Demilitarized Zone has been continuously interrupted from the very beginning, and could never be conducted without interference and in compliance with the Terms of Reference and the Rules of Procedure governing Explanations and Interviews. This has been due to the obstructions, sabotage and acts of violence perpetrated by the organizations of special agents planted among the prisoners of war.

The activity of these organizations of the agents has been and is directed against the expression of free will on the part of the prisoners of war to exercise their right to be repatriated and, first of all, against the explanation work. The organizations of the prisoners of war have been and are run by the former detaining side from within the territory under its military control. Their activity, especially the activity aiming at obstructing and frustrating the explanation work, has been and is being carried out in close connexion with, and according to orders and instructions as well as under the direct control of, the former detaining side or of their individual components. The organizations of the agents have been and are carrying out their illegal activity by means of brutal violence, threats and acts of violence, not excluding murders committed on prisoners of war who express their desire to be repatriated.

(c) As a result of this terroristic activity of the agents' organizations in the prisoner-of-war camps in the southern part of the Demilitarized Zone, the explanation work could have been conducted for only ten days of the stipulated ninety days, and only 2,449 prisoners of war could have been explained to up to now, *i.e.*, about 10.8 per cent of the total number of prisoners of war.

All those facts are well known, not only to the Commission, but also to the whole world public, and are confirmed by the official interim report of the Commission, which was adopted by the Commission unanimously, with the Swiss and Swedish members abstaining.

Consequently, the most fundamental and basic provisions of the Terms of Reference and the Rules of Procedure governing Explanations and Interviews have not been implemented up to now, a fact which is expressly stated by the NNRC in its interim report. The implementation of these provisions, however, is one of the conditions for further disposition of prisoners of war.

The Commission cannot take further measures in disposing of prisoners of war without having implemented these provisions.

It is well known that the majority of the Commission, the opinion of which constitutes according to the agreement reached by both sides a binding interpretation of the Terms of Reference according to article 11, paragraph 24, clearly gave its opinion in favour of continuing the explanation work, stating that the extension of the explanation period is legitimate and necessary. It is, however, also known that the United Nations Command side, acting against the majority view of the Commission, to which it entrusted the right to bindingly interpret the Terms of Reference, makes any further explanation work impossible and is thus violating the Armistice Agreement.

8. A further unavoidable and irreplaceable condition for the final disposition of the prisoners of war is that the question of prisoners of war has to be submitted to the Political Conference after the explanation work had been carried out for ninety days. We have seen that an absolutely mandatory provision of the Terms of Reference is involved here. This is being stressed in conformity with the majority view of the Commission also by the memorandum of the Chairman of the Commission dated 2 January 1954. No act and measure of the Commission can substitute the consideration of the disposition of the prisoners of war by the Political Conference, which has to be convened according to the recommendations of the two sides. It is an inevitable link in the series of consecutive measures, stipulated by the Terms of Reference, aiming at the final disposition of the prisoners of war. The declaration of the release into civilian status may take place only provided that the Political Conference has not agreed upon any other disposition of prisoners of war within thirty days following the day this question had been submitted to it after the explanation work had been carried out for ninety days, irrespective of the date when the Political Conference will be convened.

9. The main objective of the custody by the NNRC over the prisoners of war, together with the remaining provisions of the Terms of Reference, is to ensure to all prisoners of war the possibility to exercise their right to repatriation. This is another unavoidable condition for the final disposition of the prisoners of war.

It is common knowledge that the Commission could not ensure even this basic provision of the Terms of Reference. The prisoners of war of the prisoner-of-war camps in the southern part of the Demilitarized Zone not only have no possibility to exercise their right to repatriation but, on the contrary, have been and are consistently prevented by force, threat of force, brutal acts of violence and even by base murders from the exercising of this right. The NNRC and the CFI have not been and are not executing effective custody over and control of the prisoner-of-war camps. The prisoners of war, instead of being under the control of the Commission, are under the rule of terrorist organizations directed by the former detaining side. The Commission itself was exposed to threats and intimidations by the components of the former detaining side.

All these facts are well known to the Commission and to the world public and are confirmed and proved even by the interim report of the Commission.

In the light of all these facts, we cannot accept as sincere the concluding part of the Swedish delegate's ad-

dress as to his anxiousness to secure to prisoners of war the right to repatriation and the protection of their interests, particularly when we bear in mind that the Swedish delegation is among those delegations of the Commission which by their attitude have made impossible the effective measures that would indeed ensure the right of the prisoners of war and would protect their interests. We cannot consider these words sincere, realizing that also the interpretation pressed by the Swedish delegate in his draft resolution is even contributing to the forcible retention of the prisoners of war by the former detaining side, just at the time when we are witnessing the preparations to this forcible retention, not unknown to the Swedish delegation.

10. The Czechoslovak delegation is resolutely opposed to the interpretation contained in the draft resolution of the Swedish delegation, because it deems such interpretation unlawful.

The Czechoslovak delegation, as it has always done up to now, stands for the consistent implementation of the Terms of Reference. It is for the creation of the conditions needed for the effective ensuring of the possibility to exercise the right to repatriation, for liquidation of the rule of terror and violence in the prisoner-of-war camps. It stands for the continuation of the explanation work which would be carried out without interference throughout the ninety-day period. Only and solely the fulfilment of these conditions will enable the Commission to solve the issue of the disposition of the prisoners of war rightly and justly in accordance with the letter and spirit of article IV, paragraph 11, of the Terms of Reference.

6 (f) REMARKS OF THE SWISS MEMBER OF THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 70TH MEETING OF THE COMMISSION

After having listened to the statements of the members for Poland and Czechoslovakia, I still am of the opinion that the very clear and incisive statement made by our Swedish colleague does not leave any more doubt about the interpretation to be given to article IV, paragraph 11, of the Terms of Reference. I admit, the provision seems to be a puzzle, its wording looks desultory if not contradictory.

It is, however, a general rule of interpretation—and the interpretation of paragraph 11 lies with the Commission—that in such cases of uncertainty a conscientious interpreter, as for instance an international arbiter, will have to find out the real intentions of the parties and, in order to establish the real aims underlying the provision, he has to follow the course of negotiations and to see how the article has been given its shape. Otherwise, one would risk that every interested party will just accept that version of the article which suits it best.

I have gone through the records of the armistice negotiations, and these records give a reliable clue for a satisfactory solution. The reference to the Political Conference of such prisoners who did not avail themselves of their right to be repatriated while under the custody of the NNRC was indeed very insistently asked for by the representatives of the KPA/CPV side; from 26 April 1953—when repatriation under neutral custody was first proposed, during one month reference of the prisoners' question to the Political Conference was opposed by the United Nations side; the latter maintained that with such a provision "an agreement would not be a final settlement of the prisoner-of-war question on the

basis of principles, but a device to defer such a solution indefinitely"; in their draft proposal they claimed that the prisoners of war should be released automatically lest they be detained indefinitely in captivity if either side so desired.

In the meeting of 25 May the United Nations negotiators proposed among four concessions that the question of prisoners of war not repatriated during neutral custody will be submitted for settlement to the Political Conference, but with that important proviso that "those for whom no other disposition has been agreed to within 120 days after the Custodian Commission has assumed their custody, shall be released to civilian status". This proposal was, therefore, made under a very clear condition as is mentioned in the Swedish statement: "contingent upon mutual acceptance of the principle that this question could not be permitted to remain unsolved indefinitely and that if no agreement was forthcoming within a prescribed period of time the problem must be self-liquidating." The proposal was accepted by the KPA/CPV side and has been introduced in paragraph 11 with some minor alterations in the wording. Thus, the term "submitted for *settlement*" has been deleted and it was added that the Political Conference shall *endeavour* to settle this question within thirty days. The negotiators of the KPA/CPV side made no reservations, and when the question was put to them whether they meant what the wording said, they confirmed it explicitly. It, is therefore, obvious and beyond doubt that the self-liquidating clause—which means release after 120 days since the NNRC has assumed custody—forms part of the agreement as a mandatory provision.

The interference of the Political Conference, which at that time was not more a certainty than it is now and was only *recommended* to be convened, was practical only if within the period between the ninety-first and the 121st days after the taking-in of the prisoners by the NNRC, the Conference was in action; in this case, it had to endeavour to settle the question within thirty days.

Any further inference would be arbitrary and a wilful intrusion of political motives. For our Commission there can be only one guiding rule: the principle *pacta sunt servanda*. If to anyone the wording of paragraph 11 seems doubtful, such doubts will be overcome on a careful investigation of the historical background. Ignorance is no excuse for misinterpretation and even less for misrepresentation. The resolution of the Swedish colleague is fully justified and, therefore, it must in all good faith and sincerity be accepted.

I am particularly astonished that the members for Poland and Czechoslovakia try to open again the question of the non-completed explanations. The subject has nothing to do with the subject which we discuss. Paragraph 11 does not refer to explanations, except that it stipulates that explainers will have no more access to the captured personnel after a period of ninety days after the taking-in of the prisoners of war. It is obviously a misrepresentation to say that such explanations must be granted for a number of ninety days. Never during negotiations such a scheme had been envisaged; nothing more was discussed than that explainers shall be admitted during a period of so many months.

ANNEXURE III

Disposition of the prisoners of war; restoration of custody in the Southern Camp; prisoners of war in the Northern Camp

1. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDER-IN-CHIEF, UNITED NATIONS COMMAND

14 January 1954

I have the honour to refer to the Commission's letter No. NNRC/REP/1 dated 2 January 1954 and your reply dated 6 January 1954.

1. As mentioned in the Commission's letter dated 2 January 1954, the Neutral Nations Repatriation Commission has been able, hitherto, to implement only to a limited extent the procedures set out in the Terms of Reference.

2. The unrepatriated prisoners in the custody of the Commission include a number of prisoners of war who have declined to exercise their right of repatriation. There are also a much larger number who have not been able to avail themselves of the procedures laid down in the Terms of Reference and the Rules made thereunder in regard to the exercise, by the prisoners of war, of their right of repatriation.

3. The question of the disposition of prisoners of war who have not exercised their right to repatriation has to be referred by the NNRC to the Political Conference. Although such reference is mandatory, it has not eventuated, as the said Political Conference has not materialized. Further, the explanation procedures to which all prisoners are entitled under the Terms of Reference

and which are enjoined on the Commission have been carried out only in respect of a small proportion of the total of the prisoners of war in custody.

4. These and other failures in respect of the implementation of the Terms of Reference are due to causes and factors which have not originated with the NNRC and the Custodial Force, India, and for which they bear no responsibility.

5. Further or fuller implementation by the Commission of the procedures and of the purposes of the Terms of Reference as from the date of 24 December 1953 was possible only by agreement between or with the two Commands in respect of extension of the periods of explanation and custody, and with regard to such alternate or extended procedures as may have become necessary by failure of the Political Conference to materialize.

6. The NNRC has repeatedly made suggestions and requests to the two Commands in respect of these matters. The facts of the situation confronting the NNRC were, finally, set out at length in its letter and annexed memorandum of 2 January.

7. In particular, the Commission posed four questions on matters which are basic to any fuller implementation of the Repatriation Agreement by the NNRC and requested your answers in respect of them.

8. The NNRC has been favoured with your replies to each of these questions. Your answers seek "to re-

move any possibility of doubt or misunderstanding of the United Nations Command's views" and have reiterated "the firm position" of the United Nations Command.

9. The NNRC notes that the firm position of the United Nations Command in respect of each of the four matters is:

- (a) That continuance of explanations is not possible;
- (b) That in the opinion of the United Nations Command it is "extremely improbable that a Political Conference will be in session prior to 22 January";
- (c) That the United Nations Command sees no justification for entering into any discussion to consider the disposition of unrepatriated prisoners of war;
- (d) That the competence of the CFI for holding prisoners of war in custody ceases on 23 January 1954 at 0001 hours.

10. The above answers setting out the firm position of the United Nations Command place it beyond doubt that the United Nations Command is unable to agree to the establishment of conditions or procedure which are basic to and without which the NNRC cannot seek to implement further the procedures and purposes of the Terms of Reference.

11. The NNRC has, therefore, to make its decision in the light of the existing situation and its own appreciation of the terms and purposes of the Terms of Reference and the responsibilities and obligations arising therefrom.

12. It is also noted that, in your reply of 6 January 1954, you have further set out the views of the United Nations Command.

(a) That the Political Conference has "no determining relationship to the question of prisoners of war in NNRC custody";

(b) That paragraph 11 of the Terms of Reference preclude your entering into any discussion to consider further the disposition of the prisoners of war;

(c) That the position as set out in (b) above "was clearly indicated in the Armistice negotiations which resulted in the Terms of Reference for the NNRC";

(d) That it is "the express responsibility of the Commission to release prisoners to civilian status" on 23 January 1954 at 0001 hours.

13. The NNRC has received from the Command of the Korean People's Army and Chinese People's Volunteers its answers. It insists:

(a) That the explanation period should be extended and explanations resumed;

(b) That the problem of the unrepatriated prisoners should be referred to the Political Conference;

(c) That the NNRC and CFI should continue to exercise their legitimate functions".

14. The NNRC considers it necessary to state its own position, based on the Terms of Reference and its purposes, and its appreciation of the same in regard to aforesaid affirmations set out in paragraph 12 herein:

(i) The NNRC is unable to agree that the Political Conference has no determining relationship to the question of the prisoners of war as stated in your reply. The view of the Commission is that the Political Conference is an integral part of the pattern and procedures laid down in paragraph 11. The elimination or the non-emergence of an integral part of the pattern cannot be regarded as inconsequential or having little or no effect

on the rest of the procedures or on the decisions in regard to the status and disposition of the prisoners of war that it is the duty of the NNRC to make.

(ii) The NNRC is unable to agree that the terms of paragraph 11 preclude further discussion on matters relevant to the purposes of the agreement between the two Commands. The NNRC has on various occasions sought agreements with either or both Commands and has not regarded such discussion with or between the Commands for the implementation of the Terms of Reference and its purposes as being precluded. It will also be recalled that the temporary agreement, Annexure 2 of the Armistice Agreement, is dated 27 July 1953 after the signature of the Terms of Reference, Annexure 1, on 8 June 1953.

(iii) The NNRC was not party to the armistice negotiations and has no knowledge of the indications made by the parties to each other during the negotiations to which you refer in your reply.

(iv) The NNRC is unable to agree that it has the express responsibility to release prisoners to civilian status. The Terms of Reference do not provide for such release. They, however, provide that the Commission shall "declare relief from the prisoner-of-war status to civilian status" subsequent to the implementation of certain procedures prescribed in the Terms of Reference. These procedures, however, have not been implemented and, in consequence, the NNRC is rendered lacking in capacity even to "declare" such "relief".

15. The NNRC has given deep and anxious consideration to the problem of the status and disposition of the prisoners of war in its custody in the situation confronting it and come to the following decisions:

(1) The NNRC has no competence to release prisoners of war; such an eventuality is not provided for or contemplated by the Terms of Reference;

(2) The final disposition of prisoners of war which alone would include release is not assigned to the NNRC in the Terms of Reference;

(3) The NNRC has no competence at present to "declare" "relief" from prisoner-of-war status to civilian status of the prisoners in its custody as the procedures prescribed, preceding such declaration, has not been implemented.

(4) The NNRC has not been enabled to continue custody beyond 23 January 1954 or to perform any functions to further the implementation of the Terms of Reference, owing to lack of agreement between the Commands concerned.

16. In the light of the above decisions, I, as Chairman and Executive Agent of the Commission, and having the custody of the prisoners of war, have come to the conclusion that the only correct and lawful and peaceful course open is to restore the prisoners to the custody of the former and respective detaining sides immediately prior to 23 January 1954.

17. I, therefore, propose to request you to accept the restoration of custody as on 20 January 1954 at 0900 hours and hope that this will be completed as speedily as possible.

18. Restoration of custody will take place on the border of the southern sector of the Demilitarized Zone and the CFI perimeter, and the prisoners of war be accepted on your side of the border according to established procedures in regard to the transfer of prisoners of war.

19. I, as Chairman and Executive Agent of the Commission, desire to state in the clearest manner that, in restoring the prisoners of war to the custody of former detaining sides, I am doing so because I can neither retain custody of prisoners of war nor further implement the Terms of Reference nor release them. I am not doing so to establish any alteration in their status or to effect the final disposition of prisoners of war.

20. Further, the Commission, in pursuance of its function and authority to interpret the Terms of Reference, is of the view that the alteration of the status of prisoners of war, either by declaration of civilian status or disposition in any other manner, requires the implementation of the procedures of explanation and Political Conference to precede it; such procedures being pursued to their legitimate termination as prescribed in the aforesaid Terms, unless the two Commands agree on alternative procedures or courses of action in regard to status and disposition of prisoners of war. Any unilateral action by any party concerned will not be in conformity with the said Terms of Reference.

21. In adopting this course I am persuaded by an earnest desire to further the purposes of the Armistice Agreement, to conform to lawful and impartial procedures within the context of the existing situation, to avoid possible outbreaks of violence and to act in conformity with the purpose and spirit of the Geneva Convention relating to the Treatment of Prisoners of War.

22. I venture to express the confident hope that the respective Commands will be persuaded by the same desires in the further steps each of them takes in relation to the status and disposition of the prisoners of war who will soon be restored to their custody.

23. I am grateful to the United Nations Command for the renewal of its assurance that it is prepared to assist the Commission until the time of its dissolution and desire to assure it that the Commission has endeavoured to discharge its obligations with objectivity and to the best of its abilities. I shall be grateful for your reply to this communication by 16 January 1954

(Signed) K. S. THIMAYYA
Chairman

2. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE SUPREME COMMANDER OF THE KOREAN PEOPLE'S ARMY AND THE COMMANDER OF THE CHINESE PEOPLE'S VOLUNTEERS

14 January 1954

I have the honour to refer to the Commission's letter dated 2 January 1954 and the annexure to it of the same date and to your communication dated 7 January 1954, which includes your comments on the interim report of the Neutral Nations Repatriation Commission submitted to the two Commands as well as your reply to the Commission's letter referred to above.

2. The views of the NNRC in respect of the matters set out in sub-paragraphs (a), (b), (c), (d) and (e) of paragraph 2 of your said communication are already contained in the interim report submitted to you.

3. I do not feel that I can usefully add anything in respect of these matters or offer any useful observations on paragraph 3 of your letter. I am also unable to agree to all the observations contained in paragraph 4 of your communication, more particularly to such statements as that "the work of the Commission has to be

carried out in accordance with the will of the secret agents" and that "the Commission has in substance given protection and support to the terroristic reign of the secret agents and given free hand to the secret agents to disrupt the explanation work. . . ." The position of the Commission in this regard is set out in the interim report and is also contained in my previous communications to you.

4. As mentioned in the Commission's letter dated 2 January, the NNRC has been able, hitherto, to implement the procedures set out in the Terms of Reference only to a limited extent.

5. The unrepatriated prisoners in its custody include a number who have declined to exercise their right of repatriation and a much larger number who have not been able to avail themselves of the procedures laid down in the Terms of Reference.

6. Neither the Political Conference nor the completion of the explanation process having eventuated at the end of the ninety days after the NNRC took over custody on 24 September 1953, the NNRC, for the reasons above mentioned, has found itself incapacitated from referring the question of the disposition of prisoners of war who have not exercised their right of repatriation to the Political Conference.

7. These and other failures in respect of the implementation of the Terms of Reference are due to causes and factors which have not originated with the NNRC or the CFI and for which they bear no responsibility.

8. Further and fuller implementation by the NNRC of the procedures and purposes laid down in the Terms of Reference is possible only by extension of the periods of explanation and custody and their continuance, and by the two Commands giving consideration to and reaching agreement on such alternative procedures as are rendered necessary by the failure of the Political Conference to materialize. Such extension and alternative arrangements could only be effected as a result of agreement between or with the two Commands.

9. The NNRC, therefore, addressed its letter of 2 January 1954 to the two Commands and, in particular, posed four questions relating to continuance of explanations, prospects for the meeting of the Political Conference before 22 January, negotiations between the two Commands in respect of alternative procedures, and the continuance of custodial duties of the CFI.

10. The Commission has noted your answers to these questions as set out in paragraph 6 of your communication dated 7 January that you consider and insist:

(a) That the explanation period should be extended and explanations resumed;

(b) That the problem of the unrepatriated prisoners should be referred to the Political Conference after it has commenced;

(c) That the NNRC and CFI should continue to exercise "their unfinished legitimate functions".

11. The position in respect of each of these matters is set out in paragraphs 1 and 3 of the memorandum sent to you as annexure to the Commission's letter dated 2 January, to which I invite your reference. It has been pointed out therein that continuance of explanations and continuance of custody is possible only if the two Commands agree. The reasons for these have also been set out.

12. Such agreement has not been forthcoming. The United Nations Command has informed the Commis-

sion that such extension and continuance is not permissible and that the competence of the CFI for custody ceases on 23 January 1954. The United Nations Command is further of opinion that there is no justification for entering into discussion to consider the disposal of the prisoners, and that this problem in its view is fully covered by the Terms of Reference, which it does not consider permissible to revise or amend.

13. The NNRC, therefore, finds that it now stands incapacitated from further implementation of the provisions and purposes of the Terms of Reference. The custody of the prisoners must cease on 23 January 1954 and the dissolution of the Commission itself must occur on or before 22 February 1954 in the absence of agreement between or with the two Commands for its continuance. Further, as there is no agreement between the two Commands to negotiate to establish other or further procedures, the NNRC, in the discharge of its responsibilities and in the context of the existing situations, must come to its own decisions with regard to itself, the custodial forces, and the status and disposition of prisoners.

14. The NNRC has given anxious and careful consideration to the problems and has come to the following decisions:

(1) That the Commission has not the competence to release the prisoners of war in its custody, as the power to release prisoners of war has not been assigned to the Commission by the Terms of Reference in any circumstances whatsoever.

(2) That the Commission, in the context of existing facts, has not the competence to "declare relief of prisoners from prisoner-of-war status to civilian status" as the conditions and procedures laid down in the Terms of Reference to precede such a declaration have not materialized.

(3) That the Commission has no reason to think that there is a reasonable prospect of a meeting of a Political Conference prior to 22 January 1954. That such an eventuality is "extremely improbable" has been stated to the Commission as the opinion of the United Nations Command. Your Command has declined to accept the responsibility for the failure of the Political Conference to meet and has also indicated no prospect of its being convened in the near future.

(4) That it is impossible for the Commission to continue to retain the custody of the prisoners of war in the absence of agreement for the same between the two Commands, and it is also impossible for the Commission to prolong its own life beyond 22 February 1954 without such an agreement.

15. The Commission, therefore, considers that it must regard the procedures prescribed by the Terms of Reference as not completed and, further, that the Commission stands incapacitated as regards their fuller implementation. In the context of existing facts and circumstances and with due regard to them, the only course open to me, as Chairman and Executive Agent of the Commission, is to restore the unrepatriated prisoners of war immediately prior to 23 January 1954 to their former and respective detaining sides.

16. Such restoration must take place on the border of the northern sector of the Demilitarized Zone and the CFI perimeter in Songjong-ni and custody must be accepted by the former detaining side in its own territory and according to the established procedures for the return of prisoners of war and the requirements of the Geneva Convention.

17. I therefore propose that the restoration of custody to the former detaining sides should start at 0900 hours on 20 January 1954 and be completed as speedily as possible.

18. I, as Chairman and Executive Agent of the Commission, desire to state in the clearest manner that in restoring the prisoners of war to the custody of former detaining sides, I am doing so because I can neither retain custody of prisoners of war nor further implement the Terms of Reference nor release them. I am not doing so to establish any alteration in their status or to effect the final disposition of prisoners of war.

19. Further, the Commission, in pursuance of its function and authority to interpret the Terms of Reference, is of the view that the alteration of the status of prisoners of war either by declaration of civilian status or disposition in any other manner requires the implementation of the procedures of explanation and Political Conference to precede it; such procedures being pursued to their legitimate termination as prescribed in the aforesaid Terms, unless the two Commands agree on alternative procedures or courses of action in regard to status and disposition of prisoners of war. Any unilateral action by any party concerned will not be in conformity with the said Terms of Reference.

20. In adopting this course I am persuaded by an earnest desire to further the purposes of the Armistice Agreement, to conform to lawful and impartial procedures within the context of the existing situation, to avoid possible outbreaks of violence and to act in conformity with the purpose and spirit of the Geneva Convention relating to the Treatment of Prisoners of War.

21. I venture to express the confident hope that the respective Commands will be persuaded by the same desires in the future steps each of them takes in relation to the status and disposition of the prisoners of war who will soon be restored to their custody.

22. I am grateful to the Command of the Korean People's Army and Chinese People's Volunteers for its considered reply to the communication of 2 January 1954 and desire to assure it that the Commission has endeavoured to discharge its obligations with objectivity and to the best of its abilities. I shall be grateful for your reply to this Communication by 16 January 1954.

(Signed) K. S. THIMAYYA
Chairman

2 (a) STATEMENT MADE BY THE CZECHOSLOVAK MEMBER OF THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 72ND MEETING OF THE COMMISSION HELD ON 19 JANUARY 1954

On 12 January 1954, the Chairman of the Neutral Nations Repatriation Commission tabled a resolution on behalf of the Indian delegation asking the Commission to take a decision on restoring the prisoners of war to the custody of the former detaining side prior to 22 January 1954. Already at that meeting I declared on behalf of the Czechoslovak delegation that the Indian proposal was unacceptable to our delegation and that the measure proposed was a very serious violation of the Terms of Reference for the NNRC and the Korean Armistice Agreement. At the same time, I reserved myself the right to outline the attitude of the Czechoslovak delegation to the Indian proposal after having studied it carefully.

Before being considered by the Commission, the Indian draft resolution was withdrawn by the Chairman

at the Commission's meeting on 14 January 1954. At the same time, however, the Chairman told the members of the Commission that he was determined to put into effect the measure proposed in the withdrawn draft resolution, without having it discussed and approved by the Commission. He also submitted to the Commission the text of letters which—as he expressly stated—he sent to the United Nations Command and the Command of the Korean People's Army and the Chinese People's Volunteers on his own behalf and on his own responsibility later that same day. It is proposed in these letters to restore those prisoners of war under the custody of the NNRC who have not yet exercised their right to be repatriated to the custody of the respective former detaining side prior to 23 January 1954. On behalf of the Czechoslovak delegation, I lodged a most emphatic protest against this measure taken by the Chairman which constitutes an unauthorized, for the prisoners of war themselves fateful, and incorrigible disposition of prisoners of war, seriously and grossly violating not only the Terms of Reference but also the Korean Armistice Agreement. As the measure taken by the Chairman had not been discussed by the NNRC, and as the attitude of the Czechoslovak delegation had not been taken into account, I deemed it necessary, for the information of the public, to make the following statement to the representatives of the Press regarding the step taken by the Chairman of the Commission:

"1. The proposal made in the letters of the Chairman of the NNRC is not only not conforming with the attitude of the Czechoslovak delegation but at direct variance with it. Moreover, this proposal does not conform with the stand taken by the NNRC either. It expresses merely the point of view of the Chairman himself who, at the Commission's meeting on 14 January 1954, explicitly declared that he was acting on his own behalf and under his own responsibility.

"2. The Czechoslovak delegation's attitude has been that the interpretation of the provisions of the Terms of Reference rests exclusively with the NNRC, which has also the right to take decisions for correct implementation of these Terms. In the Czechoslovak delegation's opinion, the NNRC is, therefore, also entitled to take decisions on continuing the suspended explanation work and on fully making up for the ninety-day explanation period provided for in the Terms of Reference. The majority of the Commission has already declared that explanations should be continued and that the extension of the explanation period is legitimate and necessary.

"3. Restoration of the prisoners of war to the custody of the former detaining side would violate the very foundations of the Terms of Reference and of the Korean Armistice Agreement. Such a measure would once for all frustrate the right of the prisoners of war to exercise their right of repatriation ensured to them by the Armistice Agreement and constituting the most fundamental object and underlying purpose of the Terms of Reference. Such a measure would mean a disposition of prisoners of war not only not envisaged by the Terms of Reference, but also most definitely excluded thereby. The letters sent by the Chairman themselves recognize that any alteration of the status of the prisoners of war or any other disposition of them without implementation of the procedures of explanation and without deliberation by the Political Conference, are impermissible, and that in this respect "any unilateral action by any party con-

cerned will not be in conformity with the Terms of Reference". The measure proposed in the letters of the Chairman of the NNRC is, however, just such a unilateral action.

"4. The Czechoslovak delegation considers any measure aiming at restoring of the prisoners of war to the custody of the former detaining side as being inhumane, unjust, illegal, grossly violating the Terms of Reference and endangering the armistice in Korea itself. The Czechoslovak delegation, therefore, is and will be emphatically opposed to any such measure." In general I should like to add to the point of view of the Czechoslovak delegation as follows:

The Czechoslovak delegation, to a large extent, agrees with the fundamental contentions and the interpretation of the Terms of Reference contained in the statement made by the Chairman of the Commission on 12 January 1954 as well as in his letters of 14 January 1954 sent to both sides. These contentions and the interpretation correspond, to a large extent, to the stand taken by the NNRC, repeatedly expressed by its majority. It is the less understandable and all the more regrettable that the Indian delegation has not drawn the right conclusions from these essentially correct contentions and interpretation, but has drawn conclusions that are not only incorrect but also a flagrant violation of the Terms of Reference, indeed wrecking them completely. The Czechoslovak delegation is not and can never be agreeable to these conclusions and protests against them most resolutely.

1. We fully share the Indian delegation's opinion that the underlying purpose and main object of the Terms of Reference is—quoting paragraph 1—"to ensure that all prisoners of war have the opportunity to exercise their right to be repatriated." The Contracting Parties emphasize this fundamental task also in the Armistice Agreement itself, paragraph 51 of which stipulates: "The release and repatriation of all prisoners of war held in the custody of each side at the time this Armistice Agreement becomes effective shall be effected . . ."

The measure intended by the Chairman of the Commission, i.e., the restoration of the prisoners of war to the custody of the former detaining side, is, however, not only at variance with the main object and the underlying purpose of the Terms of Reference, but is rendering them impossible once for all.

The Indian delegation admits and, in accordance with the findings contained also in the interim report of the Commission adopted on 24 December 1953, stresses in its statement of 12 January 1954, and in the letters of the Chairman of the Commission dated 14 January 1954, the fact that the overwhelming majority of the prisoners of war had no possibility to exercise their fundamental and inalienable right to be repatriated and, what is worse, they even had no possibility to avail themselves of the procedures laid down for that purpose in the Terms of Reference and the Rules made thereunder.

It is common knowledge, stated in the interim report of the Commission and proved by facts and documents, that the reason for which those fundamental provisions of the Terms of Reference could not be carried out—as far as the prisoners of war in the camps in the southern part of the Demilitarized Zone are concerned—is the activity of the former detaining side, that is, the United Nations Command. This activity had been carried out both directly and by means of its special agents and organizations, which are under the terrorist rule of these agents. From the very beginning all this activity has

been aiming at preventing the prisoners of war from exercising their right of repatriation and making, at the end the forcible retention of the prisoners of war possible to put through the aim of the United Nations Command intentionally prepared and endeavoured after for a long time.

The measure envisaged by the Chairman of the Commission amounts, however, to rendering impossible the repatriation of prisoners of war and to making their forcible retention possible.

2. It is known from the long negotiations of the two opposing sides that the United Nations Command prevented the prisoners of war by all possible means from exercising their inalienable right of repatriation clearly granted by the Geneva Convention in order to carry out its plans for forcible retention of prisoners of war. The events that occurred in prisoner-of-war camps on Koje and Cheju Islands and elsewhere bear witness to the fact that those means were not limited or restricted by any humanitarian views at all. Under these circumstances, the only possible way how to ensure to the prisoners of war the right to repatriation was to free them from the control of the detaining side. It is, therefore, stipulated in the Terms of Reference, paragraph 4, that "all prisoners of war who have not exercised their right of repatriation following the effective date of the Armistice Agreement shall be released from the military control and from the custody of the detaining side . . .".

The purpose of this provision is to free once for all the prisoners of war from the power of the detaining side in order to put an end once for all to its control over the prisoners of war be it direct or indirect. The Terms of Reference do not allow and definitely exclude any measures to the effect as to submit the prisoners of war again to the control and to the custody of the former detaining side. Just as the provision of paragraph 1 of the Terms of Reference formulates their most fundamental aim, *i.e.*, to safeguard the right of repatriation, so does the aforementioned provision of paragraph 4 express the most basic and unavoidable means how to secure this right.

The measures intended by the Chairman of the Commission, however, are just aiming at reversing this fundamental provision and at the reversing of the agreement reached by the parties on repatriation of prisoners of war and incorporated into the Armistice Agreement and into the Terms of Reference for the NNRC.

If we remember the violence, terror and inhumane atrocities for which the names of Koje-do and Cheju-do and others became symbols, and if we bear in mind the further fate of prisoners of war, we can but consider the envisaged measures, apart from regarding them as a gross violation of the Terms of Reference and the Armistice Agreement, as inhumane and immoral.

3. The Indian delegation admits, in conformity with the opinion of the Commission, repeatedly expressed by its majority, that "disposition of the prisoners of war is contingent upon due performance of the totality of the Terms of Reference." It further admits, that without observing the procedure stipulated by the Terms of Reference, particularly without the Commission ensuring to all the prisoners of war the possibility to exercise their right to repatriation and without submitting the issue to the Political Conference for transaction "it is legally impermissible to proceed to the next stage, namely, declaring the relief from the prisoner-of-war status to civilian status."

It only stands to reason that it is legally, and we can add even politically and morally, equally impermissible to accede to whichever other disposition of the prisoners of war without having implemented the procedures prescribed by the Terms of Reference. This is recognized even by the letters of the Chairman of the Commission dated 14 January 1954, which correctly state that "the Commission, in pursuance of its function and authority to interpret the Terms of Reference, is of the view that the alteration of the status of prisoners of war, either by declaration of civilian status or disposition in any other manner, requires the implementation of the procedures of explanation and Political Conference to precede it . . ." and that "any unilateral action by any party concerned will not be in conformity with the said Terms of Reference".

The planned measure of the Chairman of the Commission, however, just means the disposition of the prisoners of war without the fulfilment of the pre-requisites laid down in the Terms of Reference—a disposition marked by the Indian delegation itself as well as by the letters of the Chairman of 14 January 1954, as inadmissible and violating the Terms of Reference. It constitutes, we can add, a very grave, incorrigible and, for the prisoners of war, fateful disposition. This fact cannot be altered even by the academical declaration of the Chairman contained in his letters: "I am not doing so to establish any alteration in their status or to effect the final disposition of prisoners of war".

The Chairman of the Commission and the Indian delegation must be very well aware—and so is the world public—what the intended measures imply in their consequences. Nobody is left in doubt by the preparations made already now, by the United Nations Command together with the cliques of Syngman Rhee and Chiang Kai-shek, before the world public. Due to public declarations of responsible statesmen and military commanders of the United States of America and also General Hull's reply to the letter of the Chairman it is absolutely clear to everyone that the United Nations Command is about to put into effect the final stage of its old intentions: to retain forcibly the prisoners of war. The planned measures of the Chairman are a welcome possibility for the United Nations Command to materialize these intentions.

4. On behalf of the Czechoslovak delegation, I resolutely oppose and violently protest against the measures intended to be taken by the Chairman. I see in them, not only an unlawful action but also a menace to the Korean Armistice, a grave step back in the peaceful solution of the Korean issue. The NNRC, entrusted by the mutual agreement of the Contracting Parties with a significant task: in the peaceable solution of the Korean issue, as well as all its members and first of all India as the Chairman and Executive Agent—the Power providing the custodial forces—bear immense responsibility. The duties conferred upon it cannot be fulfilled by the Commission stating that the agreement of the Contracting Parties embodied in the Terms of Reference was not implemented. The Contracting Parties entrusted the Commission with the fulfilment of the Terms of Reference, and provided it with due authority, not excluding use of force if necessary. This is the gist of the provision of paragraph 7 of the Terms of Reference, which is not less significant than the remaining provisions. The duties enjoined upon the Commission by the two Parties, which the members took upon themselves by their membership in the Commission, can be discharged by Commission, its members and first of all by India, only by a

consistent just and precise implementation of the Terms of Reference. The same requires to conduct the explanation work throughout the whole fixed ninety-day period and to submit the issue to the Political Conference for consideration prior to any disposition of prisoners of war. To make decisions and adopt measures requisite for this purpose is within the exclusive authority of the Commission. In order that the Commission can fulfil its significant task in the peaceful settlement of the Korean question, it is necessary for it to make these decisions and adopt measures resolutely and unhesitatingly.

2(b) STATEMENT MADE BY THE POLISH MEMBER OF THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 72ND MEETING OF THE COMMISSION HELD ON 19 JANUARY 1954

On 14 January 1954, the Chairman of the Neutral Nations Repatriation Commission, General K. S. Thimavva, having submitted to the Commission two letters, forwarded them to the so-called United Nations Command and to the Command of the Korean People's Army and Chinese People's Volunteers respectively. At the Commission's meeting that day I expressed my determined opposition against the contents of these letters and reserved the right of the Polish delegation to come back to this matter. In accordance with that reservation I wish to state the following:

The Commission has reached a crucial moment in its work which entitles and compels our delegation to make an analysis, though a brief one, of the existing state of affairs in the light of those letters of the Chairman, although I shall have to reiterate some arguments already advanced by our delegation in the past.

It is necessary first to recall what is clearly said in the official interim report of the Commission to both the Commands (paragraph 49) that, in accordance with article I, paragraph I, of the Terms of Reference for the NNRC, the latter's *raison d'être* is "to ensure that all prisoners of war have the opportunity to exercise their right to be repatriated". In conformity with these Terms the report also explicitly declares (paragraph 50) that, in order to achieve that object, "conduct of explanations was one of the fundamental and essential functions of the Commission, and constituted its most important responsibility".

Having compared these basic objectives and tasks of the Commission with the up-to-date course of its work, and primarily with the conduct of explanations merely to a very small part of the prisoners under its custody, failing to give thereby to an overwhelming majority of those prisoners the opportunity to exercise their right to be repatriated—nobody, who regards this important matter with due responsibility, can contend that the Commission has carried out its task.

There is not, therefore, the least doubt that the Chairman of the Commission was right in saying in the letters in question that, "The NNRC has been able, hitherto, to implement, only to a limited extent, the procedures set out in the Terms of Reference". He was also perfectly right when he said in his memorandum to both Commands of 2 January 1954, that: "An overwhelming majority of prisoners of war have not even been through explanation procedure".

The reasons for this state of affairs are generally known and have been stated, among others, in the above mentioned interim report of the Commission (para-

graphs 98 and 99) wherefrom it clearly follows that Chinese and Korean prisoners in the Southern Camp are, contrary to the provisions of the Terms of Reference, under the control of the former detaining side, *i.e.*, of the so-called United Nations Command, which has prevented the prisoners from exercising their right to be repatriated by acting through a terrorist organization of its agents.

Already at a very early stage of its work, the Commission came unanimously to recognize in a *press communiqué* issued on 2 October 1953, the existence among the prisoners of an organization set up before they were taken over by the Custodial Force, India *i.e.*, still in the American camps in South Korea, which organization resorted to "acts of violence" in order to exert pressure upon the prisoners. These comparatively cautious words cover ghastly crimes and murders, by now notoriously known, perpetrated by Syngman Rhee and Chiang Kai-shek agents, whose task it has been to maintain a régime of barbarous terror in the prisoners' camps in order to prevent them from applying for repatriation, a fact admitted, *inter alia*, in the Commission's interim report (paragraphs 69 and 92).

These tragic events are so well known to world public opinion that I do not deem it necessary to dwell upon them any further. They show, however, incontestably where lies the source of the sabotage of the explanation work and of the forcible holding back of prisoners from returning to their homeland, in other words they show who bears the main responsibility for preventing the Commission hitherto from carrying out its task.

It was for that reason that our delegation, in common with the Czechoslovak delegation, mindful of their responsibility as members of the Commission, consistently insisted from the very beginning that the terrorist organizations be immediately broken up, that the agents be isolated, and that conditions be thereby created enabling the Commission to fulfil its responsible tasks. In spite of the fact that, as follows among others from paragraph 16 of the Commission's interim report, also the Indian delegation regarded such measures "desirable or even necessary", our proposals were not accepted and, as a consequence, the most important tasks of the Commission, *i.e.*, the conduct of explanations and enabling the prisoners to exercise their right to be repatriated, have almost fully not been accomplished.

In this state of affairs, having in mind the basic objectives referred to above for which the Commission was set up, the only just and natural solution was that the Commission extend, on the basis of paragraph 24 of the Terms of Reference, the period of explanation work lasting, in fact, only ten days, to a full ninety-day period provided for in the Terms of Reference, and that it create conditions in which prisoners might freely express their wish for repatriation. Such a solution was supported by a majority in the Commission including its Chairman, who, *inter alia*, in his memorandum to both the Commands of 2 January 1954, considered the extension of the explanation period "legitimate and necessary".

Apart from that, as the Terms of Reference provide, the question of the prisoners who after ninety days of explanations have not exercised their right to be repatriated, "*shall be*" submitted to the Political Conference provided for in paragraph 60 of the Armistice Agreement. This submission is absolutely mandatory upon the NNRC, which fact has been admitted by a majority

in the Commission, including the Chairman, who expressed his attitude in this matter, *inter alia*, in the above mentioned memorandum of 2 January 1954.

As is known, the Commission asked both the sides for their opinion concerning the extension of the explanation period, the submission of the question of prisoners, in accordance with paragraph 11 of the Terms of Reference, to the Political Conference which was to be held, and the prolongation of CFI custody arising therefrom. The so-called United Nations Command categorically rejected the solution suggested by the Commission. "The firm position of the United Nations Command" stated the Chairman of the Commission in his letter to it of 14 January 1954, "placed it beyond doubt that the United Nations Command is unable to agree to the establishment of conditions or procedures which are basic to and without which the NNRC cannot seek to implement further the procedures and purposes of the Terms of Reference".

As for the Command of KPA and CPV, it not only expressed its consent to the Commission's proposal, but directly insisted on such a solution of the problem.

And, therefore, it seems wrong to contend, as the Chairman did in paragraph 15(4) of the above-mentioned letter to the so-called United Nations Command of 14 January, that it was "owing to lack of agreement between the Commands concerned" that "the NNRC has not been enabled to continue . . . to perform any functions to further the implementation of the Terms of Reference", since, as follows from the facts referred to by me before, the real reason for this, in the existing circumstances, was not only that a majority in the Commission attempted to shun their responsibility arising out of paragraph 24 of the Terms of Reference and did not decide on the Commission's further work, but also the position of the so-called United Nations side, which rejected the solution proposed by the Commission's Chairman. This should be pointed out most emphatically, as it again definitely shows who bears the main responsibility for frustrating the implementation of the Armistice Agreement in respect of the question of prisoners of war.

Moreover, the so-called United Nations Command insisted illegally and without any foundation that CFI custody over the prisoners ceased on 23 January 1954, that the prisoners be released to civilian status, and suggested the handing over of them to the former detaining sides. Referring to this, the Chairman of the Commission rightly says in his letter of 14 January that: "the NNRC has no competence at present to 'declare relief' from prisoner-of-war status to civilian status of the prisoners in its custody as the procedures prescribed, preceding such declaration, have not been implemented". In that letter, the Chairman also declares that *any* alteration of the status of prisoners of war cannot take place before the implementation of the procedures prescribed in the Terms of Reference, *i.e.*, before the actual completion of the explanation work and the consideration of the disposition of prisoners by the Political Conference, adding that: "Any unilateral action by any party concerned will not be in conformity with the said Terms of Reference".

It was because of these just and basic considerations that the Commission decidedly rejected, by a majority vote, a draft resolution submitted by the Swedish member recommending, on the basis of a wrong interpretation of paragraph 11 of the Terms of Reference, the

relief of prisoners of war to civilian status on 22 January 1954.

It thus follows from what I have said that, the Polish delegation agrees in principle with the premises and motivation contained in the Chairman's letters in question. This motivation being right, it is the more regrettable that the Indian delegation thought it possible and necessary to draw conclusions and adopt measures which not only show a lack of consistency in its position, but constitute an extremely serious and a downright irreversible violation of the Terms of Reference—the basis for the Commission's work. That delegation has decided to return the prisoners, on its own responsibility, as prisoners of war to the former detaining sides.

This decision is impermissible:

(a) From the purely legal point of view—because it makes it impossible for the Commission to discharge its important duties under the Terms of Reference and constitutes thereby a flagrant infringement of those Terms, which prescribe in particular that the prisoners would be completely released from the control of the former detaining side, and are formulated in such a way as to provide that those prisoners would never return under such control;

(b) From the political and legal point of view—because, by returning the prisoners to the former detaining side, it makes void even those insignificant results achieved by the Commission so far; it thus constitutes, in fact, a step backwards in the settlement of the prisoner-of-war question under the Armistice Agreement, causing the non-implementation of that Agreement in an important respect and contributing thereby to the aggravation of the situation in Korea;

(c) From the humanitarian point of view—because, as far as the prisoners belonging to the Korean and Chinese side are concerned, terror and persecution, which they suffered in the infamous camps on Koje and Cheju Islands, await them again and, as American news agencies report, camps have already been specially built for them in South Korea.

In view of what I have just said, the Polish delegation feels compelled to lodge a strong protest against the decisions taken by the Indian delegation.

As follows from all I have said, the Commission has been brought to a crucial moment in its work, in which the measures adopted by it, entirely contrary with its purposes and tasks, are pregnant with extremely serious consequences for the peaceful solution of the Korean conflict.

The facts referred to and arguments adduced by me irrefutably show that one of the belligerent sides in Korea, namely the so-called United Nations Command, brought the Commission to the present critical state of affairs by thwarting the explanation work for the prisoners, preventing them from repatriation by force and terror, while acting through a criminal organization of its agents set up by it and exerting control in the Southern Camp and, finally, by directly and categorically rejecting the solution of the prisoner question proposed by the Commission in conformity with agreements signed by that Command.

It must, therefore, be stated with all emphasis that, it is the so-called United Nations side that bears the full responsibility for all consequences arising out of its preventing the Commission from accomplishing its mission and for the flagrant violation thereby of the Armistice Agreement in Korea.

3. LETTER FROM THE COMMANDER-IN-CHIEF, UNITED NATIONS COMMAND, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION
16 January 1954

I have read your letter of 14 January, in which you propose to request the United Nations Command to accept the restoration of custody, beginning at 0900 hours, 20 January, of those prisoners of war given over to the Neutral Nations Repatriation Commission by this Command.

In my communication to you of 6 January, the position of the United Nations Command was stated clearly. That position has not and will not be changed, since it is founded on both the spirit and the letter of the Terms of Reference, which embody the factors of humanity and justice for the prisoners themselves and the recognition of their inalienable right of freedom of choice.

It is recognized that communist intransigence made it impossible for the NNRC fully to accomplish its mission under its agreed Terms of Reference. The United Nations Command, in good faith, turned over to the prisoners of war in its custody to the NNRC, with confidence that each prisoner would be given full opportunity to hear explanations and to make freely and without coercion his own choice as to his future. The United Nations Command made an earnest effort to explain their rights to repatriation to the prisoners it turned over to custody of the NNRC. The United Nations Command also sought to assist the NNRC in conducting explanations to prisoners of war formerly detained by the United Nations Command. Failure to complete explanations to more than a minority of prisoners of war formerly detained by the United Nations Command can only be attributed to the stubborn refusal of Korean People's Army and Chinese People's Volunteers to continue explanations except under conditions of their own choosing, which conditions required the use of physical force against the prisoners of war. Such use of force is contrary to the Terms of Reference, the Geneva Convention and the universally accepted concepts of human decency and rights. The United Nations Command supports and commends the NNRC and the Custodial Force, India, in their refusal to use force illegally against prisoners of war.

The United Nations side has made every effort to convene the Political Conference recommended in paragraph 60, Armistice Agreement, and referenced in paragraph 11, Terms of Reference of the NNRC, which was to consider within the specified period of thirty days the disposition of prisoners of war. These efforts have been thwarted by the other side. However, as I made clear in my letter of 6 January, the plain intent of paragraph 11 of the Terms of Reference is to prevent either party to the agreement from frustrating the basic purpose of avoiding indefinite captivity for the prisoners.

For the United Nations Command now to agree to further and indefinitely prolonged captivity of these prisoners of war would negate the very principle of human rights for which so many men of this Command have fought and died. Such unjust and unworthy action is intolerable to any free people, and is obviously unthinkable. The United Nations Command agreed to the Terms of Reference for the NNRC only because they included a prohibition against enforced repatriation, and made clear provisions for the final release of prisoners

of war to civilian status 120 days after being placed in the custody of the NNRC.

I reiterate the unalterable conviction of the United Nations Command that the NNRC has a solemn obligation to fulfil its responsibilities and release to civilian status at 230001 January all prisoners of war who have refused repatriation. Failure of the NNRC to fulfil this obligation would be a deliberate avoidance of an important element of the Terms of Reference and the United Nations Command could not concur in an action constituting default by the NNRC.

The United Nations Command cannot accept custody of these prisoners of war in accordance with the terms of your proposal. However, in view of your stated intention to release unilaterally the prisoners of war starting 20 January, the United Nations Command must necessarily be prepared to arrange for their accommodation and disposition. In processing these personnel, after they leave the Demilitarized Zone, it must be clearly understood that we do so out of regard for humanitarian consideration and in order to ensure to the prisoners the fullest possible continued enjoyment of the benefits the agreement was designed to assure to them. The United Nations Command, in accordance with the agreement on prisoners of war, will honour its obligation to treat them as fully entitled to their freedom as civilians on 23 January. You are already aware of the detailed plans for processing which have been made by the United Nations Command. The return to the United Nations Command of personnel prior to 230001 January can only be regarded as a failure by the NNRC fully to discharge its duties, but this failure will in no way, it must be emphasized, affect the right of prisoners of war to become civilians at that time regardless of their physical location.

Accordingly I have instructed the Commanding General, Eighth US Army, to adjust his present plans to permit handling and processing of personnel beginning 20 January. He will, as a matter of priority, make the necessary arrangements with you.

(Signed) J. E. HULL
General, USA,
Commander-in-Chief

4. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDER-IN-CHIEF, UNITED NATIONS COMMAND
18 January 1954

1. I have the honour to refer to your letter of 16 January. In paragraph 7 of this letter you have said that, in view of my "stated intention to release prisoners of war unilaterally starting 20 January the United Nations Command must necessarily be prepared to arrange for their accommodation and disposition." I feel that the request made in my letter of 14 January has been misunderstood by you. I am taking this opportunity to clarify the request and the reasons which have impelled me to make this request.

2. In my letter of 14 January, I have pointed out that the NNRC has come to the decision that it has no competence, in existing circumstances, either to release prisoners of war, or to declare relief from prisoner-of-war to civilian status, or to continue custody beyond 23 January. In view of this decision, I, as Chairman and Executive Agent, and having custody of prisoners of war, have come to the conclusion that the only correct lawful and peaceful course open is to restore prisoners of war to the custody of the former detaining sides

immediately prior to 23 January. I am, therefore, requesting each detaining side to accept restoration of custody as from 20 January at 0900 hours.

3. I have stated in my letter that I am making this request as Chairman and Executive Agent, as I can neither retain custody of prisoners of war, nor further implement the Terms of Reference nor release the prisoners of war. I have made it clear that it is not my intention to establish any alteration in the status of the prisoners of war or to affect their final disposition.

4. I have also stated in my letter that the NNRC, in pursuance of its functions and authority to interpret the Terms of Reference, is of the view that alteration of the status of prisoners of war, either by declaration of civilian status or disposition in any other manner, requires prior implementation of the procedures of explanation and Political Conference, unless the two Commands agree on some alternative procedures or courses of action in regard to status and disposition. I have pointed out that in the NNRC's view, any unilateral action by either party concerned in regard to change of status or disposition will not be in conformity with the said Terms of Reference.

5. In requesting you to accept restoration of custody as from 20 January, I venture again to express the confident hope that any further steps which might be taken by the two Commands in relation to status and disposition of prisoners of war who will soon be restored to their custody will be inspired by an earnest desire to further the purposes of the Armistice Agreement.

(Signed) K. S. THIMAYYA
Chairman

5(a) LETTER FROM THE SUPREME COMMANDER OF THE KOREAN PEOPLE'S ARMY AND THE COMMANDER OF THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

19 January 1954

1. We have received your letter dated 14 January 1954, in which you once again confirm the fact that the Terms of Reference for the Neutral Nations Repatriation Commission have not, hitherto, been fully implemented and that the overwhelming majority of captured personnel of the Korean and Chinese side "have not been able to avail themselves of the procedures laid down in the Terms of Reference" to exercise their right to be repatriated. You also point out that the NNRC "has not the competence to release the prisoners of war in its custody" and further "has not the competence to 'declare relief of prisoners from prisoner-of-war status to civilian status' as the conditions and procedures laid down in the Terms of Reference to precede such a declaration have not materialized". At the same time, you are of the view that the "alteration of the status of the prisoners of war either by declaration of civilian status or disposition in any other manner requires the implementation of the procedures of explanation and Political Conference to precede it" and that "any unilateral action by any party concerned will not be in conformity with the said Terms of Reference". We deem that these views and interpretation of yours are correct and in conformity with the provisions and the fundamental objectives of the Terms of Reference.

2. Regarding paragraph 2 of your letter, we have to point out that, although the NNRC has made great efforts, yet in the Southern prisoner-of-war Camp it has failed all along to take resolute measures to uphold and

implement the provisions of the Terms of Reference and to break up the secret agent organizations which hold a reign of violence over the prisoners of war and obstruct the repatriation of prisoners of war; on the contrary, the Commission has recognized the secret agents who murdered prisoners of war as so-called prisoner of war "representatives" and had dealings with them, so that the secret agents have had a free hand to sabotage the explanations and carry out various brutal and unlawful actions, while, on the other hand, all the work of the NNRC has to be carried out in accordance with the will of the secret agents, and, therefore, all the key provisions of the Terms of Reference have not been implemented. We deem this to be unsatisfactory. We hold all along that the critical situation on the prisoner-of-war question is obviously created by the United States side single-handedly and that obviously there are certain difficulties for the NNRC to carry out its work under the threat and sabotage of the United States side and its secret agents; however, it is also a fact that the NNRC has failed to fulfil its solemn duties resolutely and, therefore, it has to bear a definite share of responsibility.

3. You declare in your letter that "continuance of explanations and continuance of custody is possible only if the two Commands agree", and that "the custody of the prisoners must cease on 23 January 1954, and the dissolution of the Commission itself must occur on or before 22 February 1954, in the absence of agreement between or with the two Commands for their continuance". You also decide, in the capacity of Chairman and Executive Agent of the NNRC, "to restore the unrepatriated prisoners of war, immediately prior to 23 January 1954, to their former and respective detaining sides". Such interpretation and decision which you put forward are against the provisions of the Terms of Reference and their fundamental objectives and contradictory to the views and interpretation given by you yourself as cited in paragraph 1 of this letter. We cannot concur in such interpretation and decision. We hold that the statements made by the Polish and the Czechoslovak members concerning your letter are correct.

4. According to the provisions of paragraphs 7 and 18 of the Terms of Reference, the NNRC shall, without any derogation of its authority, "exercise its legitimate functions and responsibilities for the control of the prisoners of war under its temporary jurisdiction", and shall carry out its duties and tasks without being subjected to any interference or influence. Paragraph 24 of the Terms of Reference further stipulates that the interpretation of the Terms of Reference shall rest with the NNRC and that the Commission shall operate on the basis of majority vote. In accordance with these provisions, after the transfer of the prisoners of war to the custody of the NNRC, the two sides to the armistice have no right directly to dispose of these prisoners of war, and especially they cannot make unilateral final disposition with regard to them. We consistently hold that "the only course open to" the NNRC, which has the responsibility to accomplish the fundamental objectives of the Terms of Reference, is to shoulder its responsibility by exercising its legitimate functions and making decisions to enable the suspended explanations to continue, to make up the ninety days for explanations and to await the convening of the Political Conference. In fact, the majority in the NNRC has definitely affirmed that it is legitimate and necessary to do so. But the Chairman and Executive

Agent of the NNRC has abandoned the Commission's own authority and, using the absence of agreement between the two sides to the armistice as a pretext, would not carry out functions in accordance with the correct interpretation made by the Commission itself, but would restore the prisoners of war to their former and respective detaining sides. This is obviously in violation of the fundamental objectives of the Terms of Reference and the substance of their provisions. Since, in accordance with sub-paragraph 51 (b) of the Armistice Agreement, all prisoners of war who are not directly repatriated have been handed over to the NNRC for disposition according to the provisions of the Terms of Reference, the NNRC in order to accomplish now the fundamental objectives of the Terms of Reference, certainly has the authority to take action based on its own correct interpretation, and a so-called agreement between the two sides to the armistice is not at all necessary.

5. Moreover, from the Armistice Agreement and the Terms of Reference it is utterly impossible to derive the measure of settlement that the NNRC and its Chairman may restore the prisoners of war to their former and respective detaining sides. On the contrary, just because the United States side had over a long period been carrying out its persistent scheme to retain prisoners of war by force, thus making it absolutely impossible for the prisoners of war to have the opportunity to exercise their right to be repatriated under the military control and custody of the former detaining side, it was, therefore, explicitly stipulated in the Armistice Agreement and the Terms of Reference that all prisoners of war not directly repatriated must be released from the military control and custody of the former detaining side to the NNRC and the CFI for reception, custody and disposition. Thus, it is clear that the transfer of the prisoners of war who are not directly repatriated to the NNRC for reception, custody and disposition is one of the major premises of the Korean Armistice Agreement. Yet, now, the Chairman of the NNRC decides to restore to their former detaining side the prisoners of war who have not exercised their right to repatriation, that is, to restore the *status quo* prior to the armistice and deprive the prisoners of war of the opportunity to exercise their right to be repatriated. This would damage the premise of the Armistice Agreement and facilitate the carrying out of the scheme of the United States side for forcibly retaining prisoners of war. We cannot but express our resolute opposition to this harmful decision of the Chairman and Executive Agent of the NNRC.

6. You certainly know that the United States military authorities completed long ago arrangements for armed abduction of the Korean and Chinese prisoners of war. Now they have further indicated openly that, after the restoration of the prisoners of war, they would immediately hand them over to the Syngman Rhee clique and the Chiang Kai-shek gang. At the same time, you certainly know, too, that the Syngman Rhee clique and the Chiang Kai-shek gang declared long ago that they would "exterminate" those among the prisoners of war who desire to be repatriated, and that concentration camps had been set up in South Korea and Taiwan for subjecting them to forcible training. It can be asserted that if these prisoners of war are restored by the NNRC to the United States-Rhee-Chiang side, many of them will be persecuted and slaughtered and the survivors will be subjected to long maltreatment and will not have the opportunity to return home to lead

a peaceful life. Quite obviously, this decision is not only in violation of the Terms of Reference and the humanitarian principle of the Geneva Convention, but also incompatible with the just stand which should be taken by the neutral nations.

7. Based on the foregoing, we consider your proposal of restoring the prisoners of war who have not exercised their right to repatriation to their former and respective detaining sides starting from 0900 hours on 20 January 1954, as in violation of the Armistice Agreement and the Terms of Reference for the NNRC. We demand that the Chairman of the NNRC withdraw this proposal, actually shoulder the duties and obligations stipulated in the Terms of Reference and, in accordance with the correct interpretation made by the Commission itself, decide to continue the custody of the prisoners of war, resume the explanations, make up the ninety days for explanations, and await the disposition of the prisoner-of-war question by the Political Conference within thirty days of its convocation.

8. We consider that each prisoner of war has the full right to refuse to be forcibly restored to the former detaining side and to demand to attend further explanations. It is not for anybody to deprive them of this proper right, and especially to deprive them of this proper right by force.

9. During the period of continued custody of the prisoners of war by the NNRC, we will be responsible for maintaining and ensuring security and order in the area around the Songgong-ni prisoner-of-war camp, and preventing and restraining any acts of disturbance and intrusion against the location where the prisoners of war are in custody; we will also ensure logistical support for the NNRC, the CFI and the prisoners of war.

10. We request that you give the most careful consideration to the views of our side. We are awaiting your reply.

(Signed) KIM Il Sung
Marshal
Supreme Commander
Korean People's Army
PENG Teh-huai
Commander
Chinese People's Volunteers

5(b) LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

19 January 1954

In accordance with the stand indicated by Marshal Kim Il Sung, Supreme Commander of the Korean People's Army, and General Peng Teh-huai, Commander of the Chinese People's Volunteers, in their letter to you dated 19 January 1954, the Korean People's Army and the Chinese People's Volunteers side does not prepare to receive at 0900 hours, 20 January, the prisoners of war of the United Nations Command who are now in the custody of the Custodial Force, India, at Songgong-ni.

I request the CFI to continue with its custody of the above-mentioned prisoners of war. During the period of the continued custody, our side will continue, in accordance with the provisions of the Terms of Reference for the NNRC, to be responsible for maintaining and

ensuring security and order in the area around the Songgong-ni prisoner-of-war camp, and to prevent and restrain any acts of disturbance and intrusion against the location where the prisoners of war are in custody, and will continue to be responsible for providing logistical support for the CFI and the prisoners of war under its custody.

I am awaiting your reply.

(Signed) LEE Sang Cho
Lieutenant-General

6. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE SUPREME COMMANDER OF THE KOREAN PEOPLE'S ARMY, AND THE COMMANDER OF THE CHINESE PEOPLE'S VOLUNTEERS

21 January 1954

1. I have the honour to acknowledge the receipt of your letter of 19 January 1954. I have given it my most serious and anxious consideration.

2. In paragraph 7 of your letter you have asked me to withdraw the proposal I made to the two Commands to accept restoration of custody of prisoners of war as from 20 January 1954. You have also asked the NNRC to continue custody of prisoners, resume explanations and to await disposition of the prisoner-of-war question by the Political Conference.

3. I have given careful consideration to your suggestions. The Commission's views on resumption of explanations and the reference of problems of unrepatiated prisoners to the Political Conference have already been explained in the memorandum annexed to my letter of 2 January 1954. As stated there, resumption of explanations and continuance of custody are possible only if there is an agreement between the two Commands. This agreement has not been forthcoming and the Commission, therefore, finds itself incapacitated from further implementation of the provisions and purposes of the Terms of Reference.

4. In my letter of 14 January, I had pointed out that the Commission has come to a decision that it had no competence in the existing circumstances either to release prisoners of war or to declare relief from prisoner-of-war status, or to continue custody beyond 22 January. In view of this decision, I, as the Chairman and Executive Agent, and having custody of prisoners of war, have come to the conclusion that the only correct, lawful and peaceful course open is to restore the prisoners of war to the custody of the former detaining sides immediately prior to 23 January 1954. Accordingly I had requested each detaining side to accept restoration of custody as from 20 January.

5. I had stated in my letter of 14 January that I was making this request as Chairman and Executive Agent, as I could neither retain custody of the prisoners of war nor further implement the Terms of Reference, nor release the prisoners of war. I had also made it clear that it was not my intention to establish any alteration in status of prisoners of war or to effect their final disposition.

6. In my letter of 14 January to which I have already referred, I had stated that the NNRC, in pursuance of its functions and authority to interpret Terms of Reference, was of the view that any alteration of status of prisoners of war either by declaration of civilian status or disposition in any other manner required prior implementation of procedures of explanations and Political Conference unless the two Commands agreed

on some alternative procedures or courses of action in regard to the status and disposition of the prisoners of war concerned. In stating this position, I had pointed out that, in the view of the Commission, any unilateral action by either party concerned in regard to change of status or disposition would not be in conformity with the said Terms of Reference.

7. You have expressed the view that each prisoner of war has full right to refuse to be restored forcibly to the former detaining side and to demand to attend further explanations. I have already explained that explanations can be continued only by agreement between the two sides. As regards forcible restoration to the custody of the former detaining side, I had made it clear to the prisoners of war concerned that compulsion in this matter was ruled out both under the Geneva Convention, as well as the Terms of Reference. Those prisoners of war who expressed opposition to being handed over were allowed to remain in the prisoner-of-war camp under the general protection, for the time being, of the CFI.

8. In requesting the Commands to accept restoration of custody as from 20 January I had ventured to express the confident hope, which I repeat once again, that any further steps that they might take in relation to the status and disposition of prisoners of war restored or to be restored to their custody will be inspired by an earnest desire to further the purposes of the Armistice Agreement.

9. Having regard to the considerations set out above, I earnestly and sincerely hope that your Command would deem it expedient to accept the restoration of the custody of the prisoners of war in the Songgong-ni camp before midnight on 22 January 1954. In the absence of transference of custody in the manner herein suggested, I shall be regretfully compelled to take the only other course open to me, namely, to withdraw the custody of the CFI from the Songgong-ni camp.

(Signed) K. S. THIMAYYA
Chairman

7. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

22 January 1954

Your letters addressed respectively to the Commanders of our side and myself on 21 January 1954 have been received. I am instructed to make the following statements:

1. We resolutely oppose your restoring to the United Nations Command the captured personnel of our side who have not yet exercised their right to be repatriated. When you were making this decision, you were fully aware of the fact that the United Nations Command was planning to unilaterally release, that is to say, forcibly retain this group of captured personnel of our side. Facts have demonstrated that the entire process of the turnover was carried out under the closely organized threat of violence of the United Nations Command. Furthermore, the captured personnel of our side restored to the United Nations Command have already been forcibly transferred to the remnant Kuomintang brigands on Taiwan and the Syngman Rhee clique of South Korea, to be readied for serving as cannon-fodder. Your action has facilitated the forcible retention of the captured personnel of our side by the United Nations Command; the Terms of Reference for the

NNRC have thus been completely wrecked. We are resolutely opposed to such an action of yours. We hereby lodge with you a strong protest.

2. The arguments which you employed to support this unilateral and illegal action of yours are untenable. In their letter of 19 January to you, the commanders of our side have presented their arguments in detail, and I am not inclined to make additions at present. We reserve the right to make further comments on this matter.

3. We cannot agree to your decision that the CFI will withdraw its custody from the Songgong-ni prisoner-of-war camp after midnight on 22 January 1954. As regards the question of the prisoners of war held in custody in the Songgong-ni prisoner-of-war camp, we will refer it to the Military Armistice Commission and the Political Conference for settlement. Therefore, I now urgently inform you that we ask the CFI to continue to be responsible for the custody of the prisoners of war at Songgong-ni during its stay in Korea, so that the Military Armistice Commission and the Political Conference may deal with the question concerning them. The question of the continuance of custody of the prisoner-of-war camp at Songgong-ni should not be subjected to, neither does it allow of, any unilateral settlement. Before this question is settled through an agreement, you must bear the whole responsibility for any such situation as the abduction and dispersion of the prisoners of war currently held in custody in the Songgong-ni prisoner-of-war camp.

(Signed) LEE Sang Cho
Lieutenant-General

8. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

20 January 1954

Your Excellency, in your letters of 14 and 21 January 1954, successively addressed to Marshal Kim Il Sung, Supreme Commander of the Korean People's Army, and General Peng Te-huai, Commander of the Chinese People's Volunteers, and to me, stated that you had already come to a decision and were prepared to restore on 20 January 1954 the prisoners of war in the custody of the NNRC and the CFI in the Northern Camp to the Korean People's Army and the Chinese People's Volunteers' side; in case our side rejected this proposal, the CFI would terminate its custody of the above-mentioned prisoners of war at midnight, 22-23 January 1954, and the Korean and Chinese side was requested to accept the restoration of the custody of the said prisoners of war before midnight on 22 January 1954.

To this, Marshal Kim Il Sung, General Peng Tehuai and I myself gave Your Excellency our replies respectively on 19 and 22 January 1954, and expressed the clear stand of our side that the Korean People's Army and Chinese People's Volunteers' side resolutely will not agree to take over the custody of the prisoners of war in the Northern prisoner-of-war Camp and, moreover, our side considers that the CFI, instead of restoring the prisoners of war, should continue its custody of them.

Now, on 23 January, Your Excellency stated that the entire Indian force would leave Korea in two weeks.

The United Nations Command side, however, has refused to reach an agreement with the Korean and Chinese side within the Korean Military Armistice Commission on the question of the disposition of the prisoners of war; and the Political Conference, which should decide on a final disposition of the prisoners of war, has not been able to convene because of the obstructive activities of the United States Government. This state of affairs has put the prisoners of war in the Northern prisoner-of-war Camp in a difficult position. Owing to the fact that the United Nations Command side has long since given up their explanation work to the small part of this group of prisoners of war, who have not yet attended explanations, this group of prisoners of war, following their own free will, have openly indicated to Your Excellency their unwillingness to be repatriated, and have requested the Korean and Chinese side to grant them the right of residence. Under such circumstances, the Red Cross Societies of the People's Democratic Republic of Korea and the People's Republic of China have, out of humanitarian considerations, made requests to the Korean People's Army and the Chinese People's Volunteers' side that the Red Cross Societies of the People's Democratic Republic of Korea and the People's Republic of China be permitted to dispatch jointly personnel to the Northern prisoner-of-war Camp to receive the 347 prisoners of war after the withdrawal of custody by the Indian force, and be responsible for securing them the right of residence in the People's Democratic Republic of Korea and in the People's Republic of China.

With a view to helping the prisoners of war in the Northern prisoner-of-war Camp out of their difficulties, and with a view to attaining temporary arrangements with the NNRC on the question of the above-mentioned prisoners of war, the Korean People's Army and Chinese People's Volunteers' side has already agreed to the request of the Red Cross Societies of the People's Democratic Republic of Korea and the People's Republic of China. And the Korean and Chinese side would like to point out at the same time that, owing to the fact that the question of the prisoners of war not directly repatriated has not been able to be settled according to the fundamental objectives and procedure prescribed in the Terms of Reference for the NNRC, the two sides to the Korean armistice must give satisfactory accounting and attain a settlement of this question, when the prisoner-of-war question is submitted for discussion at the Political Conference provided for in the Armistice Agreement, or at any other related international conferences. Thus, the Korean and Chinese side proposes that the Indian force turn over the above-mentioned 347 prisoners of war, as well as their rosters, identification papers, and their personal properties to the Red Cross Societies of the People's Democratic Republic of Korea and the People's Republic of China.

If the aforementioned temporary arrangements are agreeable to Your Excellency, the Red Cross Societies of the People's Democratic Republic of Korea and the People's Republic of China will dispatch personnel to the Northern prisoner-of-war Camp in the Korean Demilitarized Zone on 28 January 1954, to receive the 347 prisoners of war, and take over their rosters, identification papers, and their personal properties from the Indian force.

(Signed) LEE Sang Cho
Lieutenant-General

9. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

27 January 1954

I have the honour to refer to your letter of 26 January regarding the prisoners of war in the Songgong-ni camp.

Your Excellency will recall that on your visit to me on 22 January I repeated my previous assertion that, if the Command of KPA and CPV were not in a position to accept restoration of the custody of the prisoners of war, then the CFI would be left with no alternative but to withdraw their custody at 0001 hours on 23 January. As I informed you at our meeting of 23 January, custody was in fact withdrawn at the stipulated time and I could not see my way to resume such custody in the absence of agreement between your Command and the United Nations Command.

With reference to your request that the CFI hand over the prisoners, together with their rosters, identification papers and personal property, to the Red Cross Societies of the People's Democratic Republic of Korea and the People's Republic of China, I should like to stress that as the prisoners are no longer in the custody of the CFI, it is not possible for it to participate in any process of handing over. Its competence to associate itself with any such action, in fact, terminated on the relinquishment of its custodial functions.

However, in order to meet the necessities of the situation, I have agreed to ask representatives of the Indian Red Cross to hand over to the representatives of the Red Cross Societies of the People's Democratic Republic of Korea and the People's Republic of China the rosters containing the names and other particulars of the prisoners. These rosters were the only documents received by the CFI from your Command at the time when they assumed custody of the prisoners.

If it is agreeable to you, representatives of the Indian Red Cross Society will meet personnel of the Red Cross Societies of the People's Democratic Republic of Korea and the People's Republic of China at 1000 hours on 28 January 1954, at the Songgong-ni camp in the northern side of the Demilitarized Zone.

In order to make the necessary arrangements, I should be grateful for confirmation some time tonight, if possible, that these representatives will be present at the time and place mentioned above.

(Signed) K. S. THIMAYYA
Chairman

10. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

28 January 1954

I have the honour to acknowledge the receipt of your letter dated 27 January 1954.

I would like hereby to reiterate the stand of our side. The Korean People's Army and the Chinese People's Volunteers absolutely do not agree to take over the custody of the prisoners of war in the Northern Camp. Our side considers that the Indian troops, instead of restoring the prisoners of war, should continue their custody of them. Since the Indian troops will all leave Korea very soon and since the prisoners of war in the Northern Camp have already given you a public indication that they refuse to be repatriated and requested

the Korean and Chinese side to give them the right of residence, our side agrees that the Red Cross Societies of the People's Democratic Republic of Korea and the People's Republic of China receive these prisoners of war so that the two signatory sides to the Korean armistice may make a satisfactory accounting and settlement when the question of the prisoners of war is discussed at the future Korean Political Conference or other related international conferences.

I shall tell the representatives of the Red Cross Societies of the People's Democratic Republic of Korea and the People's Republic of China to proceed to the Songgong-ni camp on the north side of the Demilitarized Zone at 1000 hours, 28 January 1954, so as to make arrangements with the Indian Red Cross Society for matters of delivering and receiving the 347 prisoners of war.

(Signed) LEE Sang Cho
Lieutenant-General

11 (a) STATEMENT MADE BY THE POLISH MEMBER OF THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 74TH MEETING OF THE COMMISSION HELD ON 25 JANUARY 1954

At the 73rd meeting of the Commission on 21 January 1954, speaking in connexion with the draft resolution submitted jointly by the Polish and Czechoslovak delegations and then adopted by majority vote, I said that the so-called United Nations Command did not conceal its ominous designs and openly declared that on 23 January it would arbitrarily restore civilian status to prisoners of war who had been illegally handed over to that Command by the CFI on 20 and 21 January. Facts have fully confirmed that imminent danger. Contrary to the clear provisions of the Terms of Reference for the NNRC, contrary to the attitude repeatedly expressed by our Chairman who took this decision, anyway illegally, of transferring the prisoners of war to both the sides as prisoners of war, on the understanding that their status would not be changed until the full implementation of the provisions under the Armistice Agreement and, finally, disregarding the decision of our Commission officially communicated to it, the so-called United Nations Command unscrupulously announced, on 23 January, in the form of a statement of its Commander-in-Chief, General John E. Hull that, *inter alia*: "The United Nations Command considers that these former prisoners now have civilian status. As of 0001 hours, Korean time, on 23 January 1954, they become free men."

In this way the so-called United Nations Command achieved its object, for a long time striven for. That object was being promoted by all its criminal activities among the prisoners in the by now notorious camps in South Korea, by the terror spread by agents planted in the camp of Tongjang-ni, by the sabotage of the work of the Commission both before and after the commencement of the endeavours to conduct explanations. It could thus, contrary to the provisions of the Armistice Agreement, take hold of the prisoners by force and also forcibly incorporate them into the army of its puppets-- Syngman Rhee and Chiang Kai-shek. Nobody is deceived any longer by the empty phraseology just quoted by me on the alleged intention to restore civilian status to the prisoners and to enable them to become "free men". The American press, anyway, does not conceal the fact that the prisoners are being placed in camps, that they are being drafted into the army, it reports on the designs to conduct in special camps a *sui generis*

"explanatory work" by qualified Chiang Kai-shek and Syngman Rhee experts to prisoners who would not apply for military service "voluntarily".

Is it not a telling fact that, at the time of the alleged restoration to civilian status of prisoners belonging to the Command of KPA and CPV, they were in the open sea under the guard of American troops and Chiang Kai-shek hangmen, sailing on board American ships to Formosa, the hiding place of the bankrupt politician thrown overboard by his own nation?

Thus, taking advantage of the decision of the Chairman, which was unjust and contrary to the provisions of the Terms of Reference for the NNRC, the United Nations Command committed a brutal violation of the Armistice Agreement, definitely depriving our Commission of the possibility to carry out its chief task enjoined upon it by that very agreement, namely, of ensuring to 22,000 odd prisoners of war the possibility to exercise their right to repatriation, the right to return to their fatherland, their own homes and families.

In face of the so far most critical situation which our Commission has been confronted with, the Polish delegation deems it to be its duty, not only most emphatically to protest against such an open and cynical disregarding of the decisions of our Commission by the so-called United Nations Command, but also most strongly to condemn the trampling by that Command upon the principles of the international agreement lying at the basis of the NNRC's work.

The Polish delegation expresses its conviction that the other members of the Commission, aware of what has happened and of their rights and obligations arising out of their membership in the NNRC, would join the Polish delegation in its stand. Therefore, our delegation expects and appeals to the other members of the Commission that, at today's meeting, the first after the already formal and irreversible kidnapping of the prisoners by American troops, they clearly state their attitude towards this fact. This is necessary both in view of the gravity of the moment and of the seriousness of the responsibility which rests upon us, on neutral members of the body whose basic rights have been so brutally violated.

11 (b) STATEMENT MADE BY THE CZECHOSLOVAK MEMBER OF THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 74TH MEETING OF THE COMMISSION HELD ON 25 JANUARY 1954

On 20 and 21 January, the Chairman and Executive Agent of the NNRC, without the consent of the Commission and on his own responsibility, restored, as is well known, the captured personnel belonging to the Command of KPA and CPV to the custody of the United Nations Command as prisoners of war without thus permitting any change of their status or final disposition.

On 21 January 1954, the NNRC adopted a resolution declaring that ". . . any alteration of the status of the prisoners of war so handed over . . . either by declaration of civilian status or by disposition in any other manner prior to the implementation of the explanation procedures and deliberation by the Political Conference, is contrary to the Terms of Reference and the Armistice Agreement". The United Nations Command was officially informed about the decision of the NNRC.

It is known from the official declarations of the United Nations Command that the captured personnel

belonging to the Command of KPA and CPV restored to the custody of that Command by the Chairman of the NNRC under the mentioned terms, were "released into civilian status" by that Command on 23 January 1954, which is the hypocritical term used by the United Nations Command for their illegal and forcible retention. By this unilateral forcible action, not justifiable by anything the United Nations Command crowned its criminal intentions regarding the forcible retention of the captured personnel belonging to the Command of KPA and CPV, prepared long ago and consistently pursued. The United Nations Command was shameless enough to admit that the bulk of these prisoners was, immediately after their so-called release into civilian status, press-ganged into the army of Rhee's and Chiang's clique, thus itself exposing the hypocrisy of all talk about their "free will", "voluntary repatriation", "liberation", "release into civilian status" and so on.

By its unilateral forcible action, the United Nations Command simply ignored all its commitments solemnly undertaken, all international agreements and rules. It also ignored the binding decision of the NNRC to which, according to a commitment undertaken, it turned over the prisoners of war for disposition as is expressly stipulated by paragraph 51 of the Armistice Agreement and upon which that Command itself enjoined the exclusive right of interpretation of the Terms of Reference as expressly stipulated by paragraph 24 thereof.

On behalf of the Czechoslovak delegation, I most emphatically condemn this action of the United Nations Command as a unilateral and illegal one realizing the criminal intentions of forcible retention of prisoners of war, as an action grossly infringing upon the very foundations of the Geneva Convention, the Terms of Reference, the Armistice Agreement, as well as upon the fundamental principle of international law in respect of commitments undertaken. I am condemning this criminal action as an action endangering the armistice in Korea and heightening international tension, the lessening of which is just now being increasingly endeavoured after by all peace-loving peoples of the world.

11 (c) STATEMENTS MADE BY THE SWEDISH AND THE SWISS MEMBERS AND THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 74TH MEETING OF THE COMMISSION HELD ON 25 JANUARY 1954

I

The Swedish member said that, although he might have liked to reply to the two statements later, he would make some comments now, as action on a draft letter had been requested. With regard to the action of the United Nations Command in declaring the prisoners of war civilians at midnight, 22-23 January, he was of the opinion that this action should have been taken by the Commission as prescribed in the Terms of Reference. Quoting from his statement on 21 January, the Swedish member further declared that, in his opinion, any action in respect of prisoners of war not under the Commission's custody did not fall within the Commission's competence, and that when the Chairman had restored the prisoners of war he had renounced any and every right of himself or of the Commission to have anything further to do with them. Therefore any declaration by the Commission, its Chairman or its members would have no sense whatsoever.

The Swiss delegate stated that, in the opinion of his delegation, after giving up the mandate over the prisoner of war, the Commission was in no position to make any statement nor did it have the right to make a decision regarding any action of the United Nations Command which had been made after the mandate over the prisoners of war had been given up. As such, he emphatically stated that his delegation would not agree to any decision to make a statement regarding the action taken by the United Nations Command. They could leave it to world opinion to give a judgment on these events.

ANNEXURE IV

Check-up of rosters of the prisoners of war

1. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

31 December 1953

In November 1953, when the explanation work of the Korean and Chinese side was being suspended, you issued a statement to the press indicating that, even if the explanations were terminated, the NNRC and the CFI could still pick out those who desired to return home. I already expressed my resolute opposition to this in my letter of 9 November, in which I pointed out that if the NNRC or the CFI took such an action, they would be submitting to the unlawful viewpoint of the United States side on the screening of the prisoners of war and would overthrow entirely the Terms of Reference.

Now, more than 85 per cent of the Korean and Chinese captured personnel have not yet attended explanations, and the explanation work of the Korean and Chinese side, which has been conducted only for ten days, is once again suspended. It is very obvious that the question at present is to resume the explanation work expeditiously and make up the ninety-day period for explanations. Only after a sufficient time of explanations can the apprehension of the prisoners of war, accumulated after a long duration under the rule of the secret agents of the United Nations Command, be eliminated, and only thus can they have an opportunity to exercise their right to be repatriated. If the NNRC and the CFI do not take action to meet the request of the Korean and Chinese side for the resumption of the explanation work and for making up the time for explanations, but try instead to subject the prisoners of war to screening or disguised screening to pick out those who are said to be desirous of returning home, it will mean the thorough tearing up of the Terms of Reference. The Korean and Chinese side will absolutely not concede to such an unlawful act.

The NNRC has also explicitly acknowledged in its interim report that the Korean and Chinese captured personnel are now entirely under the control of the secret agents of Chiang and Rhee directed by the United States side. How could those who desire to return home be picked out under these circumstances? Therefore, this idea of screening the prisoners of war on the part of the NNRC or the CFI violates, not only the Terms of Reference, but also the report adopted by a majority of the member nations on the NNRC.

The Chairman stated that, as far as the Indian delegation was concerned, the stand taken by his delegation was quite clear. When the prisoners of war were handed back to the United Nations Command, it had been made quite clear to the United Nations Command that the status as prisoners of war could not be changed until some conference, such as a Political Conference or the United Nations Organization, discussed their fate. As such, the Indian delegation could not approve of the fact that the recommendations of that delegation had not been carried out by the United Nations Command.

The impartial public opinion of the whole world recognizes the fact that the Korean and Chinese captured personnel have been deprived of their right to be repatriated by the secret agents of Chiang and Rhee under the direction of the United States side, and is unanimous in its sympathy for the just stand of our side that the explanation period must be made up. Under the pressure of impartial public opinion, the United States side is seeking pretexts to legalize its position of opposing the extension of the explanation period and forcibly retaining the prisoners of war. This is precisely why Son Won Il, Defence Minister of South Korea, recently holds that the captured personnel of our side be screened. Isn't it clear that if certain members on the NNRC or if the CFI were to disregard the firm opposition of our side and screen the prisoners of war, it would be actually and precisely legalizing the scheme of the United Nations Command side for forcibly retaining the prisoners of war?

We believe that the NNRC and the CFI do not like to impair their neutral position. We resolutely oppose any idea or action of screening the prisoners of war. We consider that real neutral nations should, at least, not do anything to legalize the scheme of the United States side for retaining the prisoners of war. We hope that the NNRC and the CFI will give serious consideration to our opinion.

(Signed) LEE Sang Cho
Lieutenant-General

2. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

4 January 1954

I have the honour to acknowledge the receipt of your letter dated 2 January 1954, in which you indicated that what the CFI did on 31 December 1953, in enclosure B of the prisoner-of-war camp at Tongjang-ni was a checking up of the roster and was not at all a "screening" in any form. You further indicated that the CFI would never arbitrarily substitute the provisions of the Terms of Reference by the alleged process of "screening". This is worth welcoming.

However, I must point out that after the CFI had carried out the checking up of the roster on 31 December 1953, the United Nations Command side and even the Press of India asserted that this was a "screening" of the prisoners of war in enclosure B by the CFI. Accord-

ing to press reports of the United Nations Command side on that day, even the spokesman of the CFI had called the action of the CFI on that day a "screening". I hope that you will clarify this.

The fact that the CFI will not proceed with the checking up of the rosters of prisoners of war until several months after it had undertaken the custodial functions proves that even now the CFI is not acquainted with the fundamental situation prevailing in the prisoner-of-war camp at Tongjang-ni. In order to rectify this grave situation promptly, I request that the CFI immediately augment its forces so as to undertake the responsibility of taking charge of the prisoner-of-war camp at Tongjang-ni not only in name but also in effect.

Furthermore, the work of checking up the roster of prisoners of war by the CFI has also sufficiently proved

that it is entirely possible to identify and segregate the secret agents. You stated in your letter that "the prisoner-of-war organizations remain; their coercive nature and baneful influence remain." In order to implement the provisions of the Terms of Reference and rectify the intolerable situation which has existed for a long time in the prisoner-of-war camp at Tongjang-ni under the nominal charge of the CFI, I request that the NNRC and the CFI, while checking up the rosters of prisoners of war, identify and segregate the secret agents and break up the organization of the secret agents.

I am awaiting your reply.

(Signed) LEE Sang Cho
Lieutenant-General

ANNEXURE V

Judicial proceedings

1. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

8 December 1953

According to your notification of 19 November 1953 regarding the murder case of Chang Tse-lung, a captured personnel of our side in the prisoner-of-war compound 28 at Tongjang-ni, by the secret agents of Chiang Kai-shek despatched by the United Nations Command side, the NNRC will hold, on 11 December 1953, a military court to try the seven murderers already arrested and confirmed through investigation. But, according to the news release of the Indian Armed Forces Information Services, these agent-murderers even have requested that "defence counsel" be arranged for them through the United Nations Command sources. If this is true, our side considers that this is something that cannot be permitted either legally or morally.

The United Nations Command side has, in violation of the Armistice Agreement, despatched great numbers of secret agents of Chiang Kai-shek and Syngman Rhee to sneak into the prisoner-of-war camp at Tongjang-ni to impose a bloody and terroristic reign on the prisoners of war and slaughter the captured personnel of our side so as to prevent the repatriation of these prisoners. It is only reasonable to give these murderers the judgment of justice. Our side is resolutely opposed to these murderers arranging through their instigator, the United Nations Command side, for their so-called "defence counsel" to attend the military court and to "defend" these murderers whose hands have been stained with the blood of the captured personnel of our side.

For the sake of human justice and for the sake of dignity of its military court, I hope that the NNRC will give this problem serious consideration.

(Signed) LEE Sang Cho
Lieutenant-General

2. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

11 December 1953

I have the honour to acknowledge receipt of your letter dated 8 December 1953, in which you have protested against the appointment of two counsel to conduct the defence of certain prisoners of war who stand charged for having committed murder of a Chinese prisoner of war, Chang Tse-lung. The Commission gave your protest its most anxious and serious consideration. The Commission felt that it had no choice in the matter, having regard to the fact that the law applicable to the prisoners is, in accordance with the resolution of the NNRC, Indian military law subject to the provisions of the Geneva Convention. Since the Terms of Reference themselves make no provision for imposition of judicial sanctions and, further, since these sanctions are derived entirely from the aforesaid law, the Commission became bound by the relevant provisions of the Geneva Convention. In the circumstances, the choice of the defence counsel is governed by article 105, read with article 84, of the Geneva Convention. As you know, article 105 of the Geneva Convention confers upon the accused prisoner a right to have a qualified advocate or counsel of his own choice. This being the position, and the Commission, being in duty bound not to disregard the relevant provisions of the Geneva Convention, it accepted by a majority decision the choice made by the accused prisoners of war.

(Signed) K. S. THIMAYYA
Chairman

3. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

11 December 1953

I have received your letter of 11 December 1953. To my deep regret, the NNRC still allows the United Nations Command side to appoint two so-called "defence counsel" for the culprits who murdered Chang Tse-lung, one of the captured personnel of our side. To this our side will on no condition give its consent.

The United Nations Command side has already turned the custody of the prisoners of war to the CFI of the NNRC, and hence, according to the provisions of the

Terms of Reference, it shall completely release its control and influence over the prisoners of war and has no right to appoint the so-called "defence counsel" for the prisoners of war. Furthermore, facts have already proved that the United Nations Command side itself is the instigator of these murderers. Under no circumstances is an instigator permitted to appoint "defence counsel" for the culprits. The NNRC has the responsibility to ensure the reasonable conduct of the trial under the strict regulations of the Terms of Reference.

I have repeatedly clearly indicated the stand of our side in my letter to you dated 8 December and during my talk with you on 9 December. I would like to make it clear once again: our side absolutely does not agree to the appointment by the United Nations Command side of the so-called "defence counsel" for the murderers under its own instigation. Qualified defence counsel can only be provided by India. In view of the fact that this matter has a decisive important bearing on the trial at the court martial, I cannot but request the NNRC, to give it serious further consideration.

(Signed) LEE Sang Cho
Lieutenant-General

4. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

18 December 1953

I have the honour to acknowledge receipt of your letter dated 11 December 1953, communicating to me your firm decision in regard to the procedure for the appointment of defence counsel for the accused charged with murder of Chang Tse-lung. I can only plead with you once again that the legal position is inescapable and leaves no alternative for the Commission other than to proceed in the particular manner prescribed by articles 84 and 105 of the Geneva Convention. I may, however, point out that it would not be correct to say that the counsel were appointed by the United Nations Command; that Command merely suggested the names of two counsel in response to a request made by the accused. These two counsel happen to be available in Tokyo with the requisite knowledge of Chinese language. What I am mainly concerned with is to ensure that a person charged with murder and liable to be sentenced to death should have a counsel of his own choice. It is essential that the conduct of trial should not be impugned by anyone on any ground whatsoever. Placing of any restriction on the choice of the counsel would be open to serious objections.

In the light of what I had stated in my letter of even reference dated 11 December 1953, and taking into consideration my preceding paragraph, you may like to reconsider your decision and enable the trial to proceed. You will no doubt appreciate that the accused cannot be held indefinitely in custody and if the prosecution fails to produce the required witnesses the accused will have to be discharged on grounds of "no case".

(Signed) K. S. THIMAYYA
Chairman

5. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

27 January 1954

1. Please refer to the letters addressed to you by my Chief of Staff, Brigadier B. M. Kaul, and Counsellor,

P. N. Haksar, on 19 and 22 January 1954 respectively. While awaiting your reply to the latter, I must reiterate the views of the NNRC on various matters connected with the crimes committed by the prisoners while in the custody of the Commission.

2. As you are already aware, the majority of the Commission does not accept the assertions made by the United Nations Command that the prisoners of war must be released to civilian status. Consequently, arguments based on such assertions seeking to secure the release of prisoners charged with murder are unacceptable to the Commission.

3. It will no doubt be appreciated that, so long as the NNRC exists, it has a right and a duty to enforce its laws and regulations and, in particular, to give effect to the humanitarian provisions of the Geneva Convention. To punish those who have committed crimes is one such humanitarian provision embodied in article 119 of the said Convention. The NNRC does not understand the distinction which you seek to draw between custodial functions and detaining functions. I must point out that the NNRC cannot be deemed to be in a worse position than any Detaining Power in any respect.

4. The NNRC cannot be a party to the release of any prisoners against whom a *prima facie* case of murder has been established. Such a release would amount to a total denial of justice. The NNRC cannot help in creating such a precedent fraught with serious consequences.

5. Your request contained in paragraph 4 of your letter No. AG.250.44.RGCG, dated 20 January 1954, is not understood. If the contention of the United Nations Command is that the prisoners who are charged with crimes of murder be released to civilian status, then there can be no meaning in turning over to it the records of the trial and investigations for further action.

6. I must also point out, on behalf of the Commission, that the counsel appointed to defend the accused absented themselves from the Court on 23 January 1954, without any prior notification to it.

7. In this connexion, I must further state that, while I do not accept your view about the competence of the NNRC after 22 January, it is regrettable that, having such a view, you did not see your way to co-operate in the holding of the court on 20 and 21 January.

8. It is impossible for the NNRC to abdicate its responsibilities and it must, therefore, seek the co-operation of the United Nations Command in the interest of justice. It would, therefore, be a matter of regret to the Commission should such co-operation be denied. The Commission, therefore, earnestly hopes that on reconsideration of the matter, the United Nations Command would be able to co-operate by sending the witnesses and permitting the defence counsel to appear before the court.

(Signed) K. S. THIMAYYA
Chairman

6. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

30 January 1954

Reference is made to letter No. 125/36/NNRC, Headquarters NNRC, 22 January 1954, and letter No. 125/36/NNRC, Chairman NNRC, 27 January 1954.

The general position of the United Nations Command with respect to all those former prisoners who chose not to be repatriated and who were returned on

20 January to the United Nations Command was clearly stated in the letters to you from the Commander-in-Chief, United Nations Command, dated 16 and 19 January 1954. The United Nations Command could not for the reasons therein stated agree with the qualifications expressed by you in connexion with your release of the prisoners of war. Therefore, this Command has fully respected the right of these prisoners of war to freedom on 23 January and has permitted them to proceed to countries of their choice. It follows that this Command is not in a position to supply the witnesses mentioned in your letter.

We share with you the desire to ensure the administration of justice wherever indicated. We reiterate our offer to receive the personnel concerned, together with such records and recommendations you may wish to make, for prompt turnover to the governments concerned.

(Signed) A. L. HAMBLÉN
Brigadier-General, USA
Commanding

7. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

1 February 1954

1. Please refer to your letter No. 383.6 RGCG dated 30 January 1954.

2. As I have already pointed out in my letter of 27 January, the majority view of the Commission is that prisoners restored to the custody of the former detaining side cannot be released to civilian status in the absence of agreement between the two sides. They should remain in the custody of the former detaining side.

3. I have also pointed out that, so long as the Commission remains in existence, it has the right and the duty to enforce its laws and regulations and, in particular, to give effect to the humanitarian provisions of the Geneva Convention. The trial and punishment of those who have committed crimes is one such provision embodied in article 119 of the said Convention. This responsibility vests in the Commission as long as it is in existence.

4. The Commission, therefore, hopes that, in further consideration, you will be able to co-operate by sending witnesses and permitting defence counsel to appear before the court. The Commission is anxious to complete these trials before the date of its dissolution. If the prisoners cited by the defence as witnesses have been released, arrangements could still be made for their production before the court. As these prisoners were handed over to the United Nations Command's custody and as responsibility for producing these prisoners rests with the United Nations Command, I request that early arrangements for producing them may be made.

(Signed) K. S. THIMAYYA
Chairman

8. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

3 February 1954

Reference is made to your letter No. 125/36/NNRC, Chairman NNRC, 1 February 1954.

In view of previous clear statements of the United Nations Command regarding the subject of your letter,

I am doubtful that repetition of our position is necessary to you in reaching a solution to your problem.

As stated previously, and in the interest of justice, we are prepared to receive the individuals being held by the NNRC for trial for alleged crimes and to turn them over to the governments concerned, with such records and recommendations as you may desire.

(Signed) A. L. HAMBLÉN
Brigadier-General, USA
Commanding

9. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

13 February 1954

The NNRC has under arrest seventeen criminals who have murdered prisoners of war, and has made preparations for or has commenced trying them. Everybody knows that these seventeen criminals are all murderers under the direction of the United Nations Command, who have killed the captured personnel of our side. Their crimes are flagrant and the evidence against them is well established. Therefore, they should absolutely not be lightly pardoned. However, since 23 January 1954, the NNRC has never been able to curb the various obstructions and sabotages of the United Nations Command side and, as a result, most of the above-mentioned murderers have not yet been put on trial, and the trials which were started have been suspended. At this, one cannot but feel deep regret.

The NNRC not only has failed to carry out its solemn responsibility of punishing these murderers, but has of late submitted entirely to the intimidation of the United Nations Command side, and is preparing to deliver all the above-mentioned seventeen murderers to the United Nations Command. Such an action cannot but seriously impair the position of neutral nations as well as the reputation of the NNRC itself. This action completely runs against human justice, and is fraught with serious consequences. Therefore, I must lodge a strong protest against this entirely wrong decision of yours, which goes against justice. I request in all seriousness that the Executive Agent of the NNRC adopt measures to keep these seventeen murderers under arrest and make a strict and impartial verdict on the basis of the undeniable evidence of their crime. Any other disposition of them will be illegal and will, therefore, be absolutely unacceptable to our side.

(Signed) LEE Sang Cho
Lieutenant-General

10. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

16 February 1954

1. I have given serious and anxious consideration to your letter of 3 February. The premises on which your arguments are based oblige me to reaffirm my own position and that of the Commission in regard to the seventeen prisoners of war against whom charges of murder have been preferred.

2. As the United Nations Command is aware, it is beyond dispute that murders were committed. Paragraphs 92 and 93 of the interim report of the Commission, and paragraphs 8, 11, and 13 of the separate report by the Swedish and Swiss members, testified to these

facts. Furthermore, investigations conducted by the Commission have clearly established a *prima facie* case of murder against the accused.

3. In these circumstances, the Commission was under an obligation to ensure that due process of law would take its course and the ends of justice be met with. This point of view was founded on the specific provisions of the Geneva Convention, on Indian military law adopted by the Commission with the knowledge and approval of your Command and on broad principles of natural justice.

4. When the Commission authorized me to address your Command in a letter dated 27 January regarding your co-operation in observing the principles of justice, it had every reason to hope that such co-operation would be extended by you. Subsequently, a further letter on this subject was sent by me to you on 1 February. Your response has gravely distressed us. Any dispositions of the prisoners without completing due process of law would be tantamount to condoning alleged crimes.

5. As Chairman and Executive Agent of the Commission and as India's representative on the Commission, I must register my protest against your Command's refusal to co-operate in upholding the principles of justice.

6. As the life of the Commission is about to expire and as it has not been enabled to carry out the trials of the accused prisoners, it must perforce and under protest acquiesce in the position taken up by your Command. I must at the same time continue to entertain the hope that, in the interests of justice, your Command will not take any steps which may have the effect of frustrating justice and enable the guilty to escape unpunished. I must also state that the responsibility for this rests on the United Nations Command and not on any other authorities.

7. It is in these circumstances that I am accordingly transferring the seventeen prisoners of war to your custody on 18 February at 1000 hours, along with the relevant records.

(Signed) K. S. THIMAYYA
Chairman

11. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS

16 February 1954

1. I have the honour to inform you that, despite repeated endeavours, the Commission has not found it possible to secure the co-operation of the United Nations Command for conducting the trial of Korean prisoners of war who have been charged with murder. The United Nations Command have expressed their inability to send the defence witnesses cited by the accused prisoners, as those witnesses, who were handed over to their custody, have been released by them. They have also expressed their inability to send defence counsel to appear before the court.

2. In view of this lack of co-operation from the United Nations Command, the trial cannot be held. In the absence of a trial, the prisoners cannot be convicted although a *prima facie* case of murder has been established against them. In the circumstances, as the life of Commission is about to expire and as it has not been enabled to carry out the trial of accused prisoners, it must perforce, and, under protest, acquiesce in the position taken up by the United Nations Command.

3. As the Chairman and Executive Agent of the Commission and as India's representative on the Commission, I have, accordingly, come to the conclusion that there is no alternative open to me except to hand back these prisoners to the United Nations Command's custody. While transferring custody, I am informing the United Nations Command that I must continue to entertain a hope in the interest of justice, that the United Nations Command will not take any steps which may have the effects of frustrating justice and enable the guilty to escape unpunished. The responsibility for this rests solely on the United Nations Command.

4. I may also add that the accused charged with the alleged murder of Chang Tse-lung are also being handed over to the United Nations Command's custody. As you are aware, their trial could not take place as the prosecution witnesses were not produced by you before the court.

5. It is in these circumstances that I am transferring the seventeen prisoners of war to the United Nations Command's custody on 18 February, along with the relevant records.

(Signed) K. S. THIMAYYA
Chairman

12 (a) STATEMENT MADE BY THE CZECHOSLOVAK MEMBER OF THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 78TH MEETING OF THE COMMISSION HELD ON 16 FEBRUARY 1954

At the Commission's meeting on 15 February 1954, the Chairman of the Commission acquainted the members with his intention to turn over to the United Nations Command seventeen prisoners of war accused of having committed murder of their fellow prisoners and so far kept under the custody of the Commission and the CFI respectively. Today letters were submitted to the Commission in which the Chairman is informing both sides about his personal decision.

Although having stated its attitude of principle towards the trial and the disposition of these murderers before, the Czechoslovak delegation deems it necessary, due to the intended personal decision of the Chairman, to declare the following:

1. As already stated in connexion with the restoration of custody of almost 22,000 prisoners of war to the United Nations Command, the Czechoslovak delegation, first of all, considers any return of the prisoners to the former detaining side as illegal, contrary to the Terms of Reference for the NNRC, the Armistice Agreement and grossly violating the armistice itself.

2. From the correspondence of General Hamblen with the Chairman of the Commission it is borne out that the United Nations Command is determined to release even these criminals into civilian status, which is completely contradictory to the Commission's resolution adopted on 21 January 1954. Nobody can have any doubt that the United Nations Command is not going to be dissuaded from its intended and openly notified criminal action by any reservations with which these criminals are going to be turned over to it by the Chairman of the Commission. With these facts in view, the turning over of these prisoners is bound to help the United Nations Command violate the binding decision of the Commission, already mentioned, as well as the Terms of Reference.

3. Despite repeated appeals the United Nations Command rejects in its letters every commitment to take legal action against and justly punish the convicted

murderers. On the contrary, it has the cheek to state that it is going to hand them over to "the governments concerned", that is to the cliques of Rhee and Chiang.

It would only be naive to expect those who, as has already been established during the trial of several of these murderers, were the real instigators of the murders—one of the many means intended to frustrate the mission of the Commission—to do justice by duly punishing the executors of their criminal intentions. Rhee's and Chiang's cliques are certainly not going to hesitate to make these outcasts of human society national heroes. Such mockery of all justice and human dignity will be the logical sequence of turning the murderers over to the former detaining side.

4. We cannot even agree to the argumentation that there is no other alternative. First of all it must be regretted that the tribunal has for more than three weeks not started to take some procedural measures as to the open unwillingness of the United Nations Command to send witnesses of the defence so as to continue the trial already initiated. The tribunal should have done so, all the more as the United Nations Command has taken such a step after careful consideration despite having been informed of the requirements of the tribunal before. However, it was still possible for the tribunal to do so, thus bringing the matter to a just conclusion.

The Commission having delegated jurisdiction to the Indian military court could and can, in the same way, delegate this jurisdiction to the court until such a time when justice is done.

The Czechoslovak delegation cannot, for the above-mentioned reasons, but take an extremely negative stand as to the decision taken by the Chairman of the NNRC, pointing out the responsibility for its consequences and for causing complete denial of justice.

12 (b) STATEMENT MADE BY THE POLISH MEMBER OF THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 78TH MEETING OF THE COMMISSION HELD ON 16 FEBRUARY 1954

The Polish Commission delegation already clearly stated in the course of the past meetings of the Commission that the handing over of prisoners of war to the former detaining side was an illegal act. This attitude obviously also concerns the seventeen prisoners accused of murder, who, according to the Chairman's letters, are now to be handed over to the so-called United Nations Command. From that point of view this fact would not require any further comments on the part of the Polish delegation. However, in this particular case, there are some other obvious and extremely serious circumstances in connexion with which I would like to declare our stand in view of the Chairman's letters.

It is inadmissible from the political, legal and moral point of view to hand over the criminals from the Southern Camp to the so-called United Nations Command. That Command was organizing, directing and giving support to the criminal organizations in the camps, on behalf of which the said prisoners committed their crimes. Moreover, it was the clear intention of that Command to prevent the administering of justice to the murderers, which fact is confirmed by the withholding of witnesses and the prevention to hold the trial not only after the illegal taking over and release of prisoners but even on 20 and 21 January when General Hamblen himself did not question NNRC jurisdiction over the

criminals and when the illegal handing over had not yet been accomplished. The so-called United Nations Command allegedly released to civilian status the prisoners so far handed over to it and, in fact, forcibly incorporated them into the puppet armies of Syngman Rhee and Chiang Kai-shek. Neither does General Hamblen conceal in his letters that he intends to make use of a similar procedure in respect of the seventeen prisoners concerned. He says that he would hand over those prisoners, as well as the documents of the trial, to the so-called governments of South Korea and Chiang Kai-shek in Taiwan, allegedly in order that the trials be continued. It is common knowledge that these so-called governments, under the supervision of the so-called United Nations side, directed the terrorist organization in the camps and were themselves instructing the murderers to commit crimes, hence the handing over of the murderers to them for the alleged administering of justice would only lead to results which would constitute a violation of elementary principles of justice and law.

As was already stated in the Commission's letter to General Hamblen of 27 January 1954, the NNRC cannot be a party to the release of any prisoners against whom a *prima facie* case of murder has been established. Such a release would amount to a total denial of justice. The same is confirmed in the present letters of the Chairman.

Taking into consideration the aforesaid, the Polish delegation declares that the handing over of prisoners charged with murder to the so-called United Nations Command is illegal, as it enables that Command to realize its intended and unconcealed plans to trample upon the basic principles of justice in respect of common murderers.

I would also like to make some additional remarks in connexion with the said letters. As for the question of the expiration of the life of the Commission, it was not yet even discussed by the Commission and, therefore, there is no basis whatever for using this supposition as an argument at this stage.

As for the trial of the murderers of Chang Tse-lung, it could not be held, because the Indian delegation did not provide defence counsel from India—which, in this case, would be the only just solution according to the Geneva Convention.

Finally, I want to make it clear, in connexion with paragraph 6 of the Chairman's letter to General Hamblen that the Commission as such has no part in the turning over of the murderers, as it was not decided by the Commission.

13. LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

17 February 1954

I have received your letter of 16 February 1954. To leave unpunished the seventeen murderers against whom evidence is well established, and to deliver them to the United Nations Command which has directed them to commit the murders, is a thorough violation of the Terms of Reference and the Geneva Convention which our side strongly opposes; and, moreover, this is something which will not be tolerated by human justice. Against this, I once again lodge with you a serious protest.

(Signed) LEE Sang Cho
Lieutenant-General

Judicial proceedings

1. LETTER FROM THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP, TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

20 January 1954

Reference is made to letter No. 125/36/NNRC, HQ Chairman NNRC, 19 January 1954. Although we have as yet received no official information from the NNRC on this subject, it appears that you have some intention of continuing with the trial of Korean personnel past 230001 January.

Such action would be indeed surprising since it appears clear that, quite independently of the issue of the civilian status of the prisoners as of 230001 January, the criminal jurisdiction of either the NNRC or the CFI over the prisoners of war terminates then absolutely. The CFI jurisdiction to try prisoners for offences committed while in its custody is founded entirely upon the existence of authority for such custody. When that authority terminates, it follows inevitably that, since no other than the custodial relation has ever existed between either the NNRC or the CFI, and the prisoners, no foundation for criminal jurisdiction remains, nor can a residual or continued right to exercise former jurisdiction be assumed after the authority itself has been withdrawn.

The Terms of Reference make no exception which would permit the NNRC or the CFI to retain by force, subsequent to 230001 January, any of the persons transferred as prisoners of war to their custody, whether accused, convicted, or merely witnesses, of alleged crimes. While the United Nations Command is fully sympathetic with the unquestioned motives of the NNRC in wishing to ensure the prompt administration of justice to possible offenders, the Terms of Reference cannot be interpreted to warrant continuation of custody past 23 January.

Accordingly, the United Nations Command is firmly convinced, and must insist vigorously, that the NNRC/CFI has no legal recourse other than to release the Korean suspects concerned not later than 230001 January. The United Nations Command suggests that, at this time, the record of trial to date, together with any other data and recommendations, be turned over to the United Nations Command for such further action as may be appropriate.

With specific reference to the witnesses listed in the inclosure to your letter cited above, you are advised that personnel concerned will not be considered as in the custody of the United Nations Command and will revert to civilian status.

(Signed) A. L. HAMBLER
Brigadier-General, USA
Commanding

(Signed) P. N. HAKSAR
Counsellor, Neutral
Nations Repatriation
Commission Secretariat

2. LETTER FOR THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

22 January 1954

Please refer to your letter No. 250.44 RGCG dated 20 January 1954.

On 20 January 1954, when custody of the prisoners of war in the Tongjang-ni camp was transferred to the United Nations Command, the following prisoners of war, against whom criminal proceedings on charges of murder were either pending or actually commenced, were detained by the NNRC in accordance with article 119 of the Geneva Convention. This intention was implicit in letter No. 125/36/NNRC dated 19 January 1954 addressed to you by the Chief of Staff of the Chairman:

Chinese

1. 711365, Pvt. Wu Pao Shan
2. 701640, Pvt. Chang Yu Wang
3. 718122, Pvt. Cheng Fu Sheng, alias Hu Sheng
4. 702200, Pvt. Chang Chih Chung
5. 709939, Pvt. Shiung Tse Chang
6. 710673, Sgt. Hsi Wen, alias Shin Yun
7. 704986, Pvt. Tseng Shin Chung

(Accused in the alleged murder case of a prisoner of war in compound D.28, who was reported to be missing on the night of 5/6 October 1953.)

North Korean

1. 30829, Pvt. Jeon Do Kuk
2. 53855, Pvt. Kim Hak Joon
3. 306028, Civ. Hong Woo Sik
4. 205137, Pvt. Lee Kyung Chil
5. 101417, Sgt. Pak Jang Soo
6. 151232, Pvt. Jang Byeong Ki
7. 94326, Civ. Jo Kyoo Chol
8. 6207, Pvt. Kim Chong Yul

(Accused in the alleged murder of four prisoners of war in compound E.38 on 12 December 1953.)

9. 27841, Pvt. Song Chol Ho of 'F'

(Accused in the alleged murder of 39393 Pvt. Bal Ke Chan.)

10. 31483, Pvt. Choi Dong Hak of G.53

(Accused in the alleged murder of 303323 Pvt. O. Chang Hwan.)

It is, therefore, proposed to continue with the trial already commenced and to start proceedings in case of other accused against whom *prima facie* case has been established. I am, therefore, to request you to make available witnesses for the purposes of carrying on the aforesaid trial or trials and co-operate with the Commission in ensuring prompt administration of justice.

3. LETTER FROM THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION TO THE COMMANDING GENERAL, UNITED NATIONS COMMAND REPATRIATION GROUP

Note: The text of this letter, dated 27 January 1954, has been reproduced in full in annexure V, 5 (see page 158 above).

ANNEXURE VII

Nominal roll of prisoners of war who have elected to proceed to neutral countries

SOUTHERN CAMP, CFI

SOUTHERN CAMP CFI (continued)

Serial No	Prisoner of war No.	Rank	Name	Serial No.	Prisoner of war No.	Rank	Name
<i>North Koreans</i>				<i>North Koreans (continued)</i>			
1.	150003	Civ.	Pak Sang Sin	48.	41232	2/Lt.	Kang Hak Ho
2.	148198	M/Sgt.	Hong Il Seop	49.	55792	Pvt.	O In Seon
3.	12246	Pvt.	Jo Cheon Hi	50.	86571	Pvt.	Lee Taik Joo
4.	73687	2/Lt.	Kang Yeong Bin	51.	73601	Pvt.	Moon Myung Chul
5.	139387	1/Lt.	Hang Seo Keun	52.	144999	Pvt.	Kim Hyeong Bok
6.	123794	Pvt.	Lim Ik Kan	53.	148241	Pvt.	Lee Jang Keun
7.	73526	1/Lt.	Hyeo Dong Hwa	54.	87932	Pvt.	Han Pyo Koo
8.	17328	Maj.	Ji Ki Chol	55.	95602	Pvt.	Lee Cheo Kyun
9.	129097	Sgt.	Han Hyeong Mo	56.	135116	Pvt.	Ma Ho Ceob
10.	39496	Pvt.	Jang Ki Doo	57.	305029	Pvt.	Pak Han Mo
11.	47814	Pvt.	Kim Myeong Bok	58.	98654	Pvt.	Jeong Joo Won
12.	19258	Pvt.	Choi Kuk Joo	59.	1462	Pvt.	Kim Tai Kyong
13.	79554	Pvt.	Lim Chong Heong	60.	305173	Maj.	Joo Hung Bok
14.	104017	Pvt.	Pak Chang Kun	61.	139390	2/Lt.	Jee Sin Yeong
15.	85346	Pvt.	Lee Joong Hi	62.	42311	Pvt.	Kim Neung Ik
16.	147990	Pvt.	Kim Seok Lin	63.	19522	2/Lt.	Hu Weon Sik
17.	146426	Pvt.	Lee Joon Hyeong	64.	204556	2/Lt.	Lim Kwan Taik
18.	127959	Pvt.	Jeong Seong Kong	65.	18412	1/Lt.	Kim See Bong
19.	52736	Pvt.	Hal Hung In	66.	306545	Pvt.	Yoo Pil Hong
20.	144051	Pvt.	Kim Jeo Koon	67.	72968	Pvt.	Lee Kyung Heob
21.	144745	Pvt.	Ree Bong Yeob	68.	66490	Pvt.	Kim Nam Su
22.	85127	Pvt.	Lee Beong Bal	69.	87256	Pvt.	Yoo Hyeon Keok
23.	305008	Pvt.	Kang Hi Tong	70.	135578	Pvt.	Jeong Seong Hi
24.	202519	Pvt.	Bak Yong Hoon	71.	48054	Pvt.	An In Deok
25.	11239	Pvt.	Lee Soon Sung	72.	59380	Pvt.	Lee Sang Su
26.	99715	Pvt.	Hwang Won Soo	73.	108275	Pvt.	Kim Bong Kook
27.	134404	Pvt.	Rhee Yeong Yong	74.	71099	Pvt.	Hwang Dong Lim
28.	101619	Pvt.	Jang Ki Hwa				
29.	84547	Pvt.	Kang Ho Soon				<i>Chinese</i>
30.	150690	Pvt.	Son Jae Ha	1.	719297	Pvt.	Hoc Wa Sheong
31.	181461	Pvt.	Bak Dal Mook	2.	702999	Pvt.	Woo Ek Kwo
32.	47015	Pvt.	Lim Sa Seon	3.	715261	Pvt.	Cheong Lee Ren
33.	140644	Pvt.	Kim Koong Jin	4.	701365	Pvt.	Yang Yoong Sheong
34.	145032	Pvt.	Seok Tae Hoon	5.	719583	Pvt.	Lee Hwi Shin
35.	126665	Pvt.	Im Li Ho	6.	715248	Pvt.	Hwang Maw Ching
36.	25134	Pvt.	Kim Kwon Ok	7.	701263	Pvt.	Sun Tai Yoo
37.	140496	Pvt.	Kim Hi Yong	8.	704478	Pvt.	Lee Chao Joo
38.	147226	Pvt.	Tak Jeong Hwan	9.	711388	Pvt.	Yo Zu Fang
39.	124193	Pvt.	Kim Kwang Seo	10.	709055	Pvt.	Pang Kou Young
40.	103424	Pvt.	Jo Kwang Lim	11.	730792	Pvt.	Liu Wei Yong
41.	144049	Pvt.	Nam Chang Jin	12.	710371	Pvt.	Heo Chow
42.	93006	Pvt.	Kim Chang Eon				
43.	305398	Pvt.	Khim Chaon Kun				<i>NORTHERN CAMP, CFI</i>
44.	207211	Pvt.	Hyon Hak Seon				
45.	34323	Pvt.	O Hi Seong				<i>South Koreans</i>
46.	1204	Pvt.	Choe Boo Kyeong	1.	1705637	Cpl.	Li Jong Il
47.	103812	Pvt.	Choi In Cheon	2.	0230239	Sgt.	Son Chon

Dissolution of the Neutral Nations Repatriation Commission

1. STATEMENT MADE BY THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 79TH MEETING OF THE COMMISSION HELD ON 18 FEBRUARY 1954

1. As I informed you earlier on, the seventeen accused prisoners who continued to be in our custody were handed over to the United Nations Command this morning. The only task remaining for the Commission is the adoption of the final report, after which, in accordance with the Terms of Reference, the Commission has to declare its dissolution.

2. You will recall that, on the expiration of ninety days after the assumption of custody of the prisoners, the Commission considered the question of extension of the explanation period. While the Indian delegation favoured an extension of this period, it felt that such an extension could only be effected by agreement between the two Commands. It is with this purpose that my memorandum of 2 January 1954 was addressed to the United Nations Command and the Command of KPA and CPV.

3. I posed certain specific questions in that memorandum. These questions dealt not only with the extension of the explanation period, but also with the failure of the Political Conference to meet, thus precluding the Commission from referring to that body the question of the disposition of the prisoners of war. We faced the position, at that stage, when only by agreement of the two Commands would it have been possible to achieve a further and fuller implementation of the Terms of Reference. As you are aware, the two Commands held conflicting views on these matters, and among the members of the Commission itself there was an *impasse* on these questions.

4. In this situation, the Indian delegation felt, in the same way, that paragraph 11 of the Terms of Reference meant that explaining representatives could not have access to the prisoners after 23 December 1953, unless there was agreement between both sides, so too, in the absence of such agreement, the legal custody of the prisoners would cease at midnight on 22 January 1954. Such agreement was, however, not forthcoming, although the Indian delegation itself was of the opinion that not only should the explanation period be extended, but that custody should be prolonged until the Political Conference had met and given consideration to the disposition of the prisoners.

5. Having regard to the views of the Indian delegation and in the context of the situation which had arisen, I felt that, as Chairman and Executive Agent of the Commission, I had no alternative but to restore the prisoners to the custody of the former detaining sides prior to 23 January 1954.

6. The Terms of Reference provide that, after the termination of the period of legal custody of the prisoners, the Commission can function for only another thirty days; at the end of which it must declare its dissolution.

7. The Indian delegation has always been of the view that the various time sequences, including that of the date of the dissolution of the Commission, have been

fixed by the Terms of Reference. In the absence of a fresh agreement between the two Commands, the Commission cannot continue to exist or function indefinitely. It must terminate on the date which has been laid down in the existing mandate of the Commission, i.e., the Terms of Reference.

8. I would, therefore, propose for the consideration of the Commission the following resolution:

"The Neutral Nations Repatriation Commission,

"Considering that paragraph 11 of the Terms of Reference prescribes the period beyond which the Commission cannot function,

"Resolves that the Commission declares its dissolution at 2400 hours on 21 February 1954."

2. STATEMENT MADE BY THE CZECHOSLOVAK MEMBER OF THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 79TH MEETING OF THE COMMISSION HELD ON 18 FEBRUARY 1954

A proposal for the dissolution of the NNRC on 21 February 1954, has been submitted to the Commission by the Indian delegation.

If I am to present our attitude on behalf of the Czechoslovak delegation to a proposal of such serious, factual and political consequences I cannot but remind the members of the Commission of and correctly clarify the underlying circumstances that have brought about the present situation of the Commission.

I. The NNRC was established by mutual agreement of the two belligerent sides. The pertaining provisions of paragraph 51 (b) of the Armistice Agreement read as follows:

"Each side shall release all those remaining prisoners of war, who are not directly repatriated, from its military control and from its custody and hand them over to the NNRC for disposition in accordance with the provisions in the Annex hereto, Terms of Reference for NNRC."

By this highly important provision of the Armistice Agreement, the question of non-directly repatriated prisoners was settled—after lengthy negotiations—thus removing the obstacle that had prevented the conclusion of an armistice for a long time. According to this provision, the right and duty of disposition of non-directly repatriated prisoners of war was enjoined by the belligerent sides exclusively upon the NNRC as the only pertaining body. This underlying objective of the provisions of paragraph 51 (b) of the Armistice Agreement is confirmed and further elaborated in the provisions of the Terms of Reference. The purpose of establishing the NNRC and thus also its principal task is expressed in paragraph 1 of the Terms of Reference by the words:

"... to ensure that all prisoners of war have the opportunity to exercise their right to be repatriated following an armistice..."

II. For the NNRC to be able to implement this fundamental task and thus also the entire objective and purpose of the Terms of Reference as an essential part of the Armistice Agreement, various tasks are imposed on it, the most fundamental of which are:

(1) To assume custody of non-directly repatriated prisoners of war so as to enable them to exercise their right to be repatriated;

(2) To ensure that all military control and any influence of these prisoners by the former detaining side ceases completely and definitely after assuming custody of the prisoners of war;

(3) To ensure that no force or threat of force be used against the prisoners, without construing this provision as derogating from the authority of the NNRC;

(4) To ensure to the sides to which the prisoners belong free conduct of explanations without any interference for a period of ninety days;

(5) To submit the question of disposition of prisoners of war who during the ninety days of explanation work have not yet exercised their right to be repatriated, to the Political Conference to be convened according to paragraph 60 of the Armistice Agreement.

These are, if by far not all, at least the most fundamental tasks entrusted to the NNRC by mutual agreement of the belligerent sides. Without fulfilling these tasks it is impossible to speak about fulfilling the purpose of the provisions of paragraph 51 (b) of the Armistice Agreement and the Terms of Reference, nor about termination of the Commission's activities. It is notoriously known—having been the subject of deliberations by the Commission time and again and also being confirmed in the interim as well as in the final report of the Commission—that not even one of these most fundamental tasks has been fulfilled.

I do not deem it necessary to deal again with every task of the Commission in detail. Merely confronting the facts with the above enumeration of tasks presents a sufficient and convincing picture of the state of work by the Commission:

(1) It is known that the NNRC and the CFI have never been able to carry out effective custody of the prisoners of war in the camps in the southern part of the Demilitarized Zone and were all the less able to ensure to the prisoners the opportunity of freely exercising their right to be repatriated. The Commission, in its interim report, reached the following conclusion, confirmed also in the final report:

“These activities”—i.e., the constant interference of the former detaining side—“coupled with the activities of the prisoner-of-war organization and its representatives, were not conducive to the creation of conditions whereby the prisoners could be enabled to exercise the right of repatriation in an unfettered manner. These activities derogated from the custody and control of the Commission and made its task of establishing freedom of choice at all times by the prisoners of war of unusual difficulty.”

To what extent effective custody of the prisoners in the southern camps by the Commission or the CFI was made impossible is evident, if we take into consideration that not even the performance of administrative functions that are an obvious and everyday activity of the custodian authorities in any POW camp, was possible there without interference. In the final report, it is said, e.g.:

“Once more the attitude of the representatives of prisoners of war made even the performance of ordinary administrative functions difficult for the Custodial Force, India.”

It can only be regretted in this connexion that the Commission has not accepted the proposals to take effective measures submitted by the Czechoslovak and Polish delegations since the very beginning of the Commission's activities, which could have ensured effective custody of the prisoners. The members of the Commission who rejected these proposals, are, besides the direct guilt of the United Nations Command, also responsible for the situation created in the prisoner-of-war camps in the southern part of the Demilitarized Zone.

(2) The implementation of all tasks of the NNRC and the CFI encountered from the very beginning the constant, hostile activities of the United Nations Command, carefully planned in advance, carried out directly as well as with the help of their special agents and the organizations controlled by them. During its existence so far the Commission was obliged to state more than once the gross violation of the Terms of Reference and the Armistice Agreement by the United Nations Command and reached the following conclusion in its interim report:

“The Commission cannot record a finding that prisoners of war in its custody in the Southern Camp were completely freed from the influence of the former detaining side, and in particular of the authorities of the Republic of Korea whose incursions made it impossible for the Commission to come to any other conclusion.”

and furthermore:

“Indeed, the Commission itself was subjected to a régime of threats and intimidations by the Republic of Korea . . .”

It was also ascertained by the Commission that all hostile activities aimed at frustrating the implementation of its tasks were directed from the territory under the control of the United Nations Command and by its agencies which by means of a whole network of organizations were masters of all the fifty-five compounds in the southern part of the Demilitarized Zone. Therefore, there cannot be the slightest doubt that the main responsibility for the frustration of implementing the fundamental tasks of the Commission lies with the United Nations Command, convicted of manifold violations of the Armistice Agreement. But it cannot be concealed either that the majority of the Commission has also neglected its duty in not taking the necessary measures to put an end to these hostile activities—despite the concrete Czechoslovak and Polish proposals in this respect.

(3) Everyday events in the prisoner-of-war camps in the southern part of the Demilitarized Zone were of such a kind as to make the Commission aware, from the very beginning, that a reign of the utmost violence and terror of Rhee's and Chiang's agents prevails there instead of conditions envisaged by both the letter and spirit of the Geneva Convention.

The victims of the base murders, the only motive of which was, as has been clearly established by the Commission to suppress any desire for repatriation, are telling proof, even if not the only one, of this régime of terror. There has, I am sure, not been a single meeting of the Commission which had not dealt with the various forms and consequences of this régime of terror. In its reports, the Commission has also been obliged to devote a considerable part to the nature and criminal aims of the terrorist organizations controlled by the agents. To prove that their main means was the use of

force in contravention of paragraph 3 of the Terms of Reference it suffices to quote what is briefly summed up in the interim report:

"The state of affairs in the camps was certainly not conducive to the implementation of paragraph 3 of the Terms of Reference."

(4) The non-fulfilment of the tasks of the Commission is most obvious just as far as its indisputably most important task is concerned, i.e., to ensure the free and unfettered conduct of explanations. Here it suffices to recall that, due to the hostile activities of the former detaining side, due to constant violence and terror perpetrated by its agents and—it must be added—due to the unwillingness of the CFI Command and some members of the Commission to take effective measures, the explaining representatives of the Command of KPA and CPV have been able to conduct explanations instead of the ninety days, as stipulated, only for ten days. Besides, the explanations were conducted under circumstances making an unfettered course impossible and keeping up the illegal influence by the former detaining side, its agents, and the organizations controlled by them. All this has caused that the overwhelming majority of the prisoners of war belonging to the Command of KPA and CPV has not had an opportunity to attend explanations and that even those prisoners who had attended explanations had been unable to exercise freely their right to be repatriated. Here are the conclusions reached by the Commission in its interim report:

"Despite all the care the Commission took in endeavouring to create a proper atmosphere for the conduct of explanation work, it cannot record a finding that even those prisoners of war in its custody in the Southern Camp who went through the process of individual explanations were completely freed from force or threat of force arising from and intimately connected with the camp organization and its leadership."

To this the following brief passage is added in the final report:

"Fear of the leaders and influence of the organization . . . prevailed up to the very end."

If we keep in mind at the same time that the Terms of Reference envisage ninety days of free and undisturbed explanation work as the very fundamental and unavoidable means of ensuring the basic and inalienable right of the prisoners, the right to be repatriated, we fully realize the gravity of the fact that the Commission has failed to fulfil this most fundamental task.

(5) The Commission to which both sides had by agreement entrusted the exclusive right of interpretation of the Terms of Reference reached the following clear interpretation in its resolution of 21 January 1954:

". . . the question of disposition of the prisoners of war who have not yet exercised their right to be repatriated has, under the Terms of Reference, to be submitted by the Commission to the Political Conference to be convened under paragraph 60 of the Armistice Agreement, that the submission of the question to the Political Conference is mandatory and cannot be substituted by any other procedures."

In accordance with its own interpretation it is therefore the inescapable duty of the Commission to submit the question of the disposition of the prisoners of war

who have not yet exercised their right to be repatriated to the Political Conference. The Commission has hitherto not fulfilled this task, either.

III. The proposal to dissolve the NNRC is unsubstantiated even from the point of view of a strict interpretation of the Terms of Reference. Already in connexion with the interpretation of the provisions of paragraph 11 of the Terms of Reference, the Czechoslovak delegation explained that the provisions of the Terms of Reference form an integrated and inseparable whole and that their correct interpretation was possible only having their mutual interrelations in mind. The same goes to the full extent also for the interpretation of the provisions of paragraph 11 as far as the dissolution of the Commission is concerned. This final and last measure of the Commission presupposes the preceding fulfilment of a number of indispensable prerequisites forming together a logical sequence of consecutive measures as:

(a) Free and unfettered conduct of explanation work for a period of the ninety days, as stipulated;

(b) Submission of the question of disposition of the prisoners of war who have for that period not exercised their right to be repatriated to the Political Conference;

(c) Deliberation by the Political Conference to settle this question within thirty days;

(d) Declaration by the NNRC of relief from the prisoner-of-war status to civilian status of those prisoners of war who have not exercised their right to be repatriated and for whom no other disposition has been agreed to by the Political Conference;

(e) Thereafter—paragraph 11 explicitly uses the term "thereafter", i.e., after the fulfilment of all mentioned prerequisites for the declaration of relief to civilian status—assistance in settling prisoners of war in neutral countries, provided they expressed such a desire;

(f) Only upon completion of this operation declaration of the dissolution of the Commission.

This enumeration, based upon the letter of paragraph 11 of the Terms of Reference, does not leave any doubt, in the light of known and irrefutable facts, that not one of the unavoidable prerequisites for the declaration of the dissolution of the Commission has been fulfilled. This was already clearly expressed by the Commission itself giving its findings both by rejecting the Swedish draft resolution of 12 January and by adopting the resolution of 21 January 1954, that the prerequisites for releasing the prisoners of war to civilian status had not materialized. The Commission also refused to declare such a release to civilian status and declared such a release, effected by any party, illegal and contravening the Terms of Reference and the Armistice Agreement. The Commission, having reached the binding interpretation that, due to non-fulfilment of the necessary prerequisites, not even release into civilian status was permissible, has thus already stated, in a binding way, that the further consecutive measure, i.e., the dissolution of the Commission, was impermissible. Any measure aiming at the dissolution of the Commission at the present stage would, therefore, be in complete contradiction of the Commission's own resolution and a flagrant violation of the letter and spirit both of the Terms of Reference and the Armistice Agreement.

I am, therefore, obliged to state most emphatically that the Czechoslovak delegation considers the pro-

posal to dissolve the Commission without the implementation of its substantial tasks void of any foundation and illegal. The Czechoslovak delegation, therefore, cannot agree to this proposal and will vote against it.

3. STATEMENT MADE BY THE SWISS DELEGATION TO THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 79TH MEETING OF THE COMMISSION HELD ON 18 FEBRUARY 1954

In the opinion of the Swiss delegate, the dissolution of the Commission had to take effect immediately after the transference to the Indian delegation of the eighty-eight prisoners who chose to go to neutral countries and were shipped to India to wait there for their final disposition.

The subject-matter is indeed determined by article IV, paragraph 11, of the Terms of Reference stipulating that within thirty days after the completion of the period of 120 days after the transfer of custody of the prisoners of war to the NNRC, the Commission shall assist those who choose to go to neutral nations, according to the application of each individual. The Commission has interpreted paragraph 11 to the effect that custody of prisoners ceased on termination of the aforementioned period of 120 days; therefore it is to be assumed that the period of thirty days runs as from 23 January 1954.

The obligation enjoined in that respect on the Commission consists in the assistance given to the prisoners in order to fulfil their wishes for being admitted and sent to neutral nations. Such assistance has necessarily been completed and could not any further be pursued when the Commission accepted the offer made by the Indian delegation to take the prisoners over and when they were actually shipped to India on 8 February. According to the provision in paragraph 11, the Commission has no further responsibility for these prisoners until they reach their final destination. Therefore the Commission had, in accordance with paragraph 11, to cease immediately its functions and declare its dissolution. Any postponement due to such prisoners on which custody has still been retained or to the presence of units or members of the CFI within the Demilitarized Zone, would be in contradiction with paragraph 11.

The Swiss delegation has so far abstained from making a request for immediate dissolution, after 8 February, in view of the final report of the Commission being adopted at its 78th meeting on 16 February, only assuming that this report is an essential obligation for the Commission, though not mentioned in the Terms of Reference.

The delegation objects to the view that the Commission cannot be dissolved until the Terms of Reference have been further implemented because, in the absence of fresh agreements between the two Commands, the custody of prisoners, on which its mandate was based, has lapsed on 23 January 1954.

The Swiss delegation supports the Indian draft resolution on the dissolution of the Commission.

4. STATEMENT MADE BY THE POLISH DELEGATION TO THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 79TH MEETING OF THE COMMISSION HELD ON 18 FEBRUARY 1954

It is regrettable that in spite of the insistent and earnest efforts, among others, of the Polish delegation to

prolong the existence of the NNRC in order to enable the carrying out of its responsible tasks, a draft resolution recommending its dissolution has been tabled by the Indian delegation.

In connexion with this resolution, our delegation deems it advisable and necessary to make the following statement:

Every one of us who regards his functions as a member of the NNRC with objectivity and a full sense of responsibility must admit that we have not carried out the exceptional and extremely important mission we were entrusted with six months ago.

The adoption of the submitted draft resolution would indicate that the majority of the members in the Commission either fail to recognize this fact or, while recognizing it, act inconsistently. Our delegation considers the proposal for the dissolution of the Commission not only wrong, but illegal, and will determinedly vote against its acceptance.

In order to explain this stand and in connexion with the situation which has developed, I wish to recall the circumstances and reasons which have led the Commission to this regrettable state of affairs.

Our honourable and responsible task has been to help in the peaceful settlement of the Korean conflict in respect of the repatriation of prisoners of war. Both belligerent sides in Korea, in signing the Armistice Agreement and the Terms of Reference for the NNRC, entrusted us with the task of ensuring to all prisoners handed over to our custody the opportunity of a really free exercise of their right to return to their homes to lead a peaceful life.

It is already common knowledge that the so-called United Nations Command handed over to the Commission prisoners under its custody, who remained, however, under the immediate control and brutal power of a strong terrorist organization directed by agents of that Command, of Syngman Rhee and of Chiang Kai-shek. It was the aim of that organization to prevent the prisoners from repatriation by intimidation, the use of force and terror. Generally known facts concerning the existence of the organization, its origin and its masters, the criminal methods of action used, and bestial murders perpetrated by it and, finally, the results of its activities, have been revealed in numerous documents of the Commission and analysed in its official report.

In view of the existence of this organization, our delegation, in common with the Czechoslovak delegation, demanded from the very beginning that it be definitely and immediately broken up and that the agents be isolated; in other words, we insisted that indispensable steps be taken in order to remove the decisive obstacle on the way to the implementation of the Commission's tasks.

The Indian delegation, while recognizing the need for undertaking such measures, did not, however, resolve on their adoption in fear of the alleged consequences of the use of force against the agents. The Indian delegation cannot, therefore, escape part of the responsibility for the fact that the terrorist organization in the camp was not broken up. The Swedish and Swiss delegations overtly opposed the breaking up of the organization. We pointed out, at the time, the groundlessness of these stands and the dangerous effects they would entail, namely, the gross violation of the Terms of Reference. It must be strongly emphasized that, as a result of the rejection of our proposals, the agents not only prevented

The Commission from discharging its duties, but virtually imposed their will upon it. They negotiated with the Chairman of the Commission and with the CFI Command, acting as so-called prisoners' representatives, allegedly speaking in their name, whom, in fact, they did not represent, but whom they were misinforming, deceiving and compelling to obedience by terror.

The activities of the agents and the criminal organization in the camp brought about a situation in which no prisoner had the opportunity freely to express his desire for repatriation, in which every prisoner who wished to be repatriated had to do so at the risk of his life and, in which a number of prisoners were murdered while unsuccessfully attempting to escape from the camp to be repatriated.

In this state of affairs, there were obviously no proper conditions for the conduct of the explanation work for the prisoners prescribed in the Terms of Reference. The explanation work was to enable the prisoners a free expression of will to return to their countries. As we pointed out, at the time, the so-called United Nations side, by deliberately sabotaging the construction of facilities for explanations, delayed their commencement by nineteen days. The Terms of Reference provided for a ninety-day explanation period, actually, however, explanations were conducted in the course of merely ten days, for only 15 per cent of the prisoners. This was caused by the agents of the so-called United Nations side who, by means of deception and terror, by the use of force and the commission of murders, did not give the prisoners the opportunity to hear explanations; they caused long interruptions in the explanation work and prevented the segregation of prisoners. As a result of those criminal activities an overwhelming majority of prisoners had no opportunity to attend explanations.

It should also be emphasized that, even in the course of the short period in which explanations were conducted, intimidation and brutal terror continued to have a powerful sway upon the prisoners who, in effect, became suppressed and terrorized beings not in a position to express their will for repatriation.

Even at this stage of the Commission's existence, it still could make up for the time lost and carry out its tasks by a compensatory prolongation of the explanation period and by the creation of conditions enabling the prisoners freely to exercise their right to repatriation. Both the Czechoslovak as well as our delegation recommended such a course of action on the basis of paragraph 24 of the Terms of Reference. The Indian delegation more than once spoke in favour of such a solution; the Swedish and Swiss delegations were against making use of that only chance to reactivate the Commission for the fulfilment of its tasks. In view of the categorical opposition of the so-called United Nations Command, the Indian delegation did not, however, decide consistently to bring into force what it regarded as "advisable and necessary". The object of that Command was clear: it consisted in the continuation of its previous policy, i.e., to prevent the repatriation of prisoners and, finally, through repeated violations of agreements signed by it, to bring about their retention by force.

The Swedish delegation, unreservedly supported by the Swiss delegation, urged the release of prisoners to civilian status—which was in line with the stand and demands of the so-called United Nations side and

would, if realized, amount to a sanctioning of the forcible retention of the prisoners by that side. The majority in the Commission, however, categorically rejected that proposal, since, as the Chairman of the Commission rightly pointed out in his memorandum to both the Commands, the release of prisoners could take place only after the fulfilment of the prerequisites prescribed in the Terms of Reference, i.e., after the completion of explanations and after the consideration of the question of non-repatriated prisoners by the Political Conference which was to be held.

The Indian delegation, however, in spite of its right presumptions, took the arbitrary decision to hand over the prisoner to the former detaining side as prisoners of war, performing that illegal act on its own responsibility. Our delegation, in common with the Czechoslovak delegation, condemned and strongly protested against the handing over of prisoners to the side to which—as follows from the Terms of Reference—they were never to return.

We pointed out, at the time, the illegality of that step and its inadmissibility from the legal, political and humanitarian points of view. We stated that the restoration of the *status quo ante* was a step backwards in the work of the Commission and constituted a frustration of its insignificant achievements reached so far.

In spite of the categorical reservation of the Chairman and of the subsequent decision of the Commission that any change in the status of the prisoners would be contrary to the Terms of Reference, the so-called United Nations Command formally released the prisoners to civilian status and, in fact, handed them over to the Syngman Rhee and Chiang Kai-shek cliques in order to incorporate them into their aggressive armies. These acts constitute a manifold violation of basic international agreements, including the Geneva Convention.

In this way the so-called United Nations side actually led to the abduction and retention of the prisoners belonging to the Korean and Chinese Command. That side exemplified upon the Armistice Agreement signed by it only a few months ago, making it impossible for the Commission set up under that Agreement to carry out its mission. The so-called United Nations side, instead of contributing to the peaceful settlement of the Korean conflict, to a settlement longed for by the peoples throughout the world, has brought about an aggravation of tension in Korea. Finally, we must constantly bear in mind the tragic fate of those miserable, deceived and terrorized human beings who were not only prevented from returning to their families, but have, moreover, been forced to serve the Syngman Rhee and Chiang Kai-shek cliques as cannon-fodder for their vile ends of provocation and aggression.

In view of this state of affairs fraught with serious consequences, the dissolution of the Commission before the fulfilment of its tasks would be an act highly wrong, harmful and dangerous, both from the political and legal as well as from the humanitarian point of view. It would prove that the majority of the members in the Commission who would take a decision on dissolution would have to bear a serious responsibility for violating thereby the Terms of Reference—the basis for the Commission's work. Therefore, our delegation, as I said in the beginning, will vote against the adoption of the submitted draft resolution.

5. STATEMENT MADE BY THE SWEDISH ALTERNATE MEMBER OF THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 79TH MEETING OF THE COMMISSION HELD ON 18 FEBRUARY 1954

The question of the dissolution of the NNRC is dealt with in paragraph 11 of the Terms of Reference. The relevant part of that paragraph reads as follows:

"The Neutral Nations Repatriation Commission shall declare the relief from the prisoner-of-war status to civilian status of any prisoners of war who have not exercised their right to be repatriated and for whom no other disposition has been agreed to by the Political Conference within one hundred and twenty (120) days after the Neutral Nations Repatriation Commission assumed their custody. Thereafter, according to the application of each individual, those who choose to go to neutral nations shall be assisted by the Neutral Nations Repatriation Commission and the Red Cross Society of India. This operation shall be completed within thirty (30) days, and upon its completion the Neutral Nations Repatriation Commission shall immediately cease its functions and declare its dissolution."

As the Swedish delegation repeatedly declared in the Commission, lastly in its statement of 11 January on the question of the relief of the prisoners of war to civilian status, paragraph 11 of the Terms of Reference lays down a definite and unalterable schedule for the different functions of the Commission. Thus, according to the view held by the Swedish delegation—which I regret was not accepted by the majority of the Commission—the prisoners of war should by the Commission have been declared civilians on 22 January 1954. Thereafter, a period of thirty days begins to run, during which the Commission—and the Red Cross Society of India—shall assist those prisoners of war who choose to go to neutral countries. That period ends with 21 February. If, during that period, the Commission should complete its task to assist those desiring to go to neutral countries, the Commission should immediately, and before the expiration of the said period, cease its functions and dissolve itself.

Now, the prisoners of war were not declared civilians by the Commission on 22 January. Instead, by unilateral acts of the Chairman, they were, either on 20-21 January, or on 23 January, allowed to go where they chose, and they chose to go back to the Command from which they were received. With regard to the prisoners so handed back or allowed to go back to the respective Commands, the Commission, in the opinion of the Swedish delegation, had nothing further to do with them from the moment they left the Demilitarized Zone.

Those prisoners of war who wanted to go to neutral countries were, however, not handed back or allowed to go back to the respective Commands, but were kept for some additional time under the authority of the Commission. Then, again by a unilateral act of the Chairman, they were taken along with the first contingent of the departing troops of the CFI to be brought along to India for further disposal. They left the Demilitarized Zone on 8 February.

From that moment, the Commission had no further function with regard to the prisoners of war who desired to go to neutral countries, as they were no more under its authority. To assist these prisoners was, ac-

ording to paragraph 11 of the Terms of Reference, the one and only task foreseen for the Commission during the thirty-day period from 23 January to 22 February, and the Commission should, therefore, have declared its dissolution on 8 February. This was, however, not done.

The Swedish delegation has so far not requested the dissolution of the Commission after 8 February, considering that the final report of the Commission, although such a document is not prescribed in the Terms of Reference, ought to be adopted before the Commission dissolves itself. As, however, this report will not be completed until one or two days before 21 February, the date which, as stated above, under all circumstances is to be regarded as the final time limit for the existence of the Commission, the Swedish delegation wishes to state that it fully supports the resolution made by the Indian delegation that the Commission declares its dissolution at 2400 hours on 21 February 1954.

6. FURTHER STATEMENT MADE BY THE CZECHOSLOVAK MEMBER OF THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 79TH MEETING OF THE COMMISSION HELD ON 18 FEBRUARY 1954

On behalf of the Czechoslovak delegation, I consider it necessary to declare the following:

The resolution about the dissolution of the NNRC passed by the majority of the Commission without the Commission having fulfilled the task enjoined upon it by mutual agreement of both sides is a violation of the Terms of Reference and the Armistice Agreement. The Czechoslovak delegation considers it, therefore, illegal and lodges a resolute protest against it.

The resolution has most serious consequences: the question of repatriation of prisoners of war, which is such an important question for the armistice in Korea, remains unsettled, making the peaceful settlement of the Korean question and thus also the easing of international tension and the strengthening of peace more difficult. To the prisoners of war themselves it means further suffering and serious threatening of their inalienable right to be repatriated.

On behalf of the Czechoslovak delegation, I deem it my duty to point out with all seriousness the responsibility for the serious consequences of this resolution illegally adopted by the majority of the Commission.

7. FURTHER STATEMENT MADE BY THE POLISH DELEGATION TO THE NEUTRAL NATIONS REPATRIATION COMMISSION AT THE 79TH MEETING OF THE COMMISSION HELD ON 18 FEBRUARY 1954

In view of the decision taken, the Polish delegation deems it necessary to lodge a categorical protest against the illegal dissolution of the Commission before the carrying out of its mission under the Terms of Reference for the NNRC.

Our delegation wishes, however, to stress with all emphasis that, in accordance with generally accepted principles of law and morality, no violation of agreements and no illegal acts, whatever their number and weight, can deprive the prisoners of their just and inalienable right to return to their families.

The entire responsibility for the attempt to deprive the prisoners of their rights and for all the consequences arising therefrom rests on those who brought about this state of affairs.

ANNEXURE IX

Dissolution of the Neutral Nations Repatriation Commission

LETTER FROM THE REPRESENTATIVE OF THE KOREAN PEOPLE'S ARMY AND THE CHINESE PEOPLE'S VOLUNTEERS TO THE CHAIRMAN OF THE NEUTRAL NATIONS REPATRIATION COMMISSION

20 February 1954

Disregarding the rightful opposition of the Polish and Czechoslovak members, the Indian, Swedish and Swiss members on the Neutral Nations Repatriation Commission finally adopted a resolution, on 18 February 1954, to dissolve the NNRC at 2400 hours 21 February 1954.

It is known all over the world that the NNRC has not accomplished the important functions and duties entrusted to it in the Terms of Reference for the NNRC of the Korean Armistice Agreement. It was illegal for the majority nations on the NNRC to decide to terminate the explanations on 24 December 1953, and even more illegal to restore the Korean and Chinese captured personnel to the United Nations Command on 20 Janu-

ary 1954. Now, the culmination of this series of illegal actions is seen in the declaration of dissolution of the NNRC itself.

It should be pointed out that, in order to retain the Korean and Chinese captured personnel, the United Nations Command had prolonged the Korean war for more than a year, and that the NNRC was formed by agreement between the two sides exactly with a view to ensuring that all prisoners of war have the right to be repatriated following an armistice. But the overwhelming majority of the Korean and Chinese captured personnel was not given the opportunity to be repatriated, and, nevertheless, was forcibly retained by the United Nations Command. However, the NNRC was declared to be dissolved even under these circumstances; the inspirer of such an action will have to answer to history for all the serious consequences arising therefrom.

Against this, I am instructed to lodge a strong protest with you.

(Signed) LEE Sang Cho
Lieutenant-General