



白皮書第七十號（三十七年一月）

中美關於處理在華美軍人員刑事案件換文

（中華民國三十二年五月二十一日發換
中華民國三十二年五月二十一日生效）

中華民國國民政府外交部編印

中美關於處理在華美軍人員刑事案件換文

（一）美國駐華代辦艾其森先生致外交部政務次長暫代部務吳國楨博士照會

逕啓者：本代辦爲證實貴我兩國政府代表在滬由商談而得之了解各節，茲奉達

貴次長代理部務如下：查美國政府之意願，係於此次對其共同敵人作戰存續期內，凡美國海陸軍人員，如或在中國觸犯刑事罪款，應由該軍軍事法庭及軍事當局單獨裁判。

如間有以特別原因，美國政府軍事當局或認爲此項裁判，以不受理爲宜，則建議每次均應以書面經由外交途徑通知中國政府，俾可由中國當局從事裁判。

茲保證在華美軍軍事法庭及軍事當局，對於該軍人員被控於中國犯刑事罪而有充分證據者，願加審理，且有審理之能力，並於宣判後，按所犯刑事罪予以懲處。美國當局對於美國軍隊被控在中國犯刑事罪者，無論係准中國該管機關通知，或係美國當局自行發覺，原則上均願調查，並予適當處理。

美國軍隊之任何人員，如對平民有犯罪行爲，美國軍事當局於不妨害軍事安全範圍內，當於離被控犯罪地點相當距離

之中國地方，迅速公開審理，庶案內人證，毋須跋涉長途，即可到案受審。

美國主管當局並準備與中國當局合作，對於美國軍事人員被控犯罪之偵查案情及搜集證據，安定互助辦法。按通常規例，如擬向其取供之案內人證等並非美軍人員，則應由中國當局代美國當局向證人等辦理初步取供手續。至於中國法院辦理之案件，被控者非美軍人員而彼等與案情有關時，美國軍事當局於可能內亦樂於協助，向其取供，或於案情作適當之偵查。

上述辦法，如能根據互惠原則施行，則爲共同目標計，更覺有益，故美國政府準備如中國在美國轄境內駐軍，亦以同樣辦法，擔保該中國軍隊有與在華美軍相同之地位。

茲建議上開辦法於此次戰爭期間及戰後六個月內有效。

如中國政府接受此項辦法，則本照會及接受此項辦法之復文，當視爲兩國政府間之了解文件而存案。相應照請貴次長代理部務查照爲荷。

本代辦順向

貴次長代理部務表示敬意。

此致

中華民國外交部政務次長代理部務吳

西曆一九四三年五月廿一日於重慶
中華民國卅二年

艾其森

(二) 外交部政務次長代理部務吳國楨博士覆美國駐華代辦艾其森先生照會

逕覆者：接准

貴代辦本日照會內開：

「本代辦爲證實貴我兩國政府代表在渝由商談而得之了解各節，茲奉達貴次長代理部務如下：查美國政府之意願，係於此次對共同敵人作戰存續期內，凡美國海陸軍人員，如或在中國觸犯刑事罪款，應由該軍軍事法庭及軍事當局單獨裁判。

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美國軍隊之任何人員，如對平民有犯罪行爲，美國軍事當局於不妨害軍事安全範圍內，當於離被控犯罪地點相當距離之中國地方，迅速公開審理，庶案內人證，毋須跋涉長途，即可到案受審。

美國主管當局並準備與中國當局合作，對於美國軍事人員被控犯罪之偵查案情及搜集證據，安定互助辦法。按通常規例，如擬向其取供之案內人證等並非美軍人員，則應由中國當局代美國當局向證人等辦理初步取供手續。至於中國法院辦理之案件，被控者非美軍人員而彼等與案情有關時，美國軍事當局於可能內亦樂於協助，向其取供，或於案情作適當之偵查。

上述辦法如能根據互惠原則施行，則爲共同目標計，更覺有益，故美國政府準備如中國在美國轄境內駐軍，亦以同樣辦法，擔保該中國軍隊有與在華美軍相同之地位。

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如中國政府接受此項辦法，則本照會及接受此項辦法之復文，當視爲兩國政府間之了解文件而存案。相應照請貴次長代理部務查照爲荷。」

等由；本次長代理部務業經閱悉。

對於

貴代辦來照所稱：兩國政府關於管轄在華美軍人員觸犯刑事罪款一事所成立之了解，暨規定該項了解應依互惠原則辦理，以擔保中國軍隊如駐在美國轄區境內亦有與在華美軍相同之地位各節，本次長代理部務茲奉命代表中華民國國民政府予以

證實。

本照會及

貴代辦前項來照自應視爲已將該項了解紀錄在卷。相應復請查照爲荷。

本次長代理部務順向

貴代辦重表敬意。

此致

美利堅合衆國駐中華民國暫行代辦使事艾其森先生

中華民國三十二年五月二十一日於重慶

吳國楨
(簽字)

ARRANGEMENT BETWEEN CHINA AND
THE UNITED STATES OF AMERICA ON
THE JURISDICTION OVER CRIMINAL
OFFENSES COMMITTED IN CHINA
BY MEMBERS OF THE UNITED
STATES FORCES

EXCHANGE OF NOTES

I. NOTE FROM MR. GEORGE ATCHESON, Jr.,
CHARGE D'AFFAIRES a. i., AMERICAN EMBASSY,
TO DR. K. C. WU, POLITICAL VICE MINISTER IN
CHARGE OF MINISTERIAL AFFAIRS, MINISTRY
OF FOREIGN AFFAIRS

Chungking, May 21, 1943.

Excellency:

Confirming the understanding reached in the conversations which have taken place in Chungking between representatives of our two Governments, I have the honor to inform Your Excellency that it is the desire of the Government of the United States that the service courts and authorities of its military and naval forces shall during the continuance of the present conflict against our common enemies exercise exclusive jurisdiction over criminal offenses which may be committed in China by members of such forces.

If cases arise in which for special reasons the service authorities of the Government of the United States may prefer not to exercise the above jurisdiction, it is proposed that in any such case a written statement to that effect shall be sent to the Chinese Government through diplomatic channels, in which event it would be open to the Chinese authorities to assume jurisdiction.

Assurance is given that the service courts and authorities of the United States forces in China will be willing and able to try, and on conviction to punish,

all criminal offenses which members of the United States forces may be alleged on sufficient evidence to have committed in China and that the United States authorities will be willing in principle to investigate and deal appropriately with any alleged criminal offenses committed by such forces in China which may be brought to their attention by the competent Chinese authorities or which the United States authorities may find have taken place.

Insofar as may be compatible with military security, the service authorities of the United States will conduct the trial of any member of the United States forces for an offense against a member of the civilian population promptly in open court in China and within a reasonable distance from the place where the offense is alleged to have been committed so that witnesses may not be required to travel great distances to attend the trial.

The competent United States authorities will be prepared to cooperate with the authorities of China in setting up a satisfactory procedure for affording such mutual assistance as may be required in making investigations and collecting evidence with respect to offenses alleged to have been committed by members of the armed forces of the United States. As a general rule it would probably be desirable that preliminary action should be taken by the Chinese authorities on behalf of the United States authorities where the witnesses or other persons from whom it is desired to obtain testimony are not members of the United States forces. In prosecutions in Chinese courts of persons who are not members of the United States forces, but where members of such forces are in any way concerned, the service authorities of the United States will be glad to render such assistance as is possible in obtaining testimony of members of such forces or in making appropriate investigations.

Inasmuch as the interests of our common cause will best be served by provision that the foregoing arrangement may be placed on a reciprocal basis, the

Government of the United States will be ready to make like arrangements to ensure to such Chinese forces as may be stationed in territory under United States jurisdiction a position corresponding to that of the United States forces in China.

It is proposed that the foregoing arrangement shall be in effect during the present war and for a period of six months thereafter.

If the above arrangement is acceptable to the Chinese Government, this note and the reply thereto accepting the provisions outlined shall be regarded as placing on record the understanding between our two Governments.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

(Signed) George Atcheson Jr.

His Excellency,

Dr. K. C. Wu,

Political Vice Minister

in charge of Ministerial Affairs,

Ministry of Foreign Affairs,

CHUNGKING.

II. NOTE FROM DR. K. C. WU, POLITICAL VICE MINISTER IN CHARGE OF MINISTERIAL AFFAIRS, MINISTRY OF FOREIGN AFFAIRS, TO MR. GEORGE ATCHESON, Jr., CHARGE D'AFFAIRES a. i., AMERICAN EMBASSY.

Chungking, May 21, 1943.

Monsieur le Chargé d'Affaires:

I have the honor to acknowledge receipt of your Note of to-day's date reading as follows:

"Confirming the understanding reached in the conversations which have taken place in Chungking between representatives of our two Governments, I have the honor to inform Your Excellency that it is the desire of the Government of the United States that the service courts and authorities of its military and naval forces shall during the continuance of the present conflict against our common enemies exercise exclusive jurisdiction over criminal offenses which may be committed in China by members of such forces.

"If cases arise in which for special reasons the service authorities of the Government of the United States may prefer not to exercise the above jurisdiction, it is proposed that in any such case a written statement to that effect shall be sent to the Chinese Government through diplomatic channels, in which event it would be open to the Chinese authorities to assume jurisdiction.

"Assurance is given that the service courts and authorities of the United States forces in China will be willing and able to try, and on conviction to punish, all criminal offenses which members of the United States forces may be alleged on sufficient evidence to have committed in China and that the United States authorities will be willing in principle to investigate and deal appropriately with any alleged criminal offenses committed by such forces in China which may be brought to their attention by the competent Chinese

authorities or which the United States authorities may find have taken place.

"Insofar as may be compatible with military security, the service authorities of the United States will conduct the trial of any member of the United States forces for an offense against a member of the civilian population promptly in open court in China and within a reasonable distance from the place where the offense is alleged to have been committed so that witnesses may not be required to travel great distances to attend the trial.

"The competent United States authorities will be prepared to cooperate with the authorities of China in setting up a satisfactory procedure for affording such mutual assistance as may be required in making investigations and collecting evidence with respect to offenses alleged to have been committed by members of the armed forces of the United States. As a general rule it would probably be desirable that preliminary action should be taken by the Chinese authorities on behalf of the United States authorities where the witnesses or other persons from whom it is desired to obtain testimony are not members of the United States forces. In prosecutions in Chinese courts of persons who are not members of the United States forces, but where members of such forces are in any way concerned, the service authorities of the United States will be glad to render such assistance as is possible in obtaining testimony of members of such forces or in making appropriate investigations.

"Inasmuch as the interests of our common cause will best be served by provision that the foregoing arrangement may be placed on a reciprocal basis, the Government of the United States will be ready to make like arrangements to ensure to such Chinese forces as may be stationed in territory under United States jurisdiction a position corresponding to that of the United States forces in China.

"It is proposed that the foregoing arrangement shall be in effect during the present war and for a period of six months thereafter.

"If the above arrangement is acceptable to the Chinese Government, this note and the reply thereto accepting the provisions outlined shall be regarded as placing on record the understanding between our two Governments."

I have the honor to inform you that I am authorized to confirm, on behalf of the National Government of the Republic of China, that the understanding arrived at between our respective Governments regarding jurisdiction over criminal offenses which may be committed by members of the United States armed forces in China, with a provision for placing the said understanding on a reciprocal basis to ensure to such Chinese forces as may be stationed in territory under United States jurisdiction a position corresponding to that of the United States forces in China, is as set forth in your Note under reply.

The present Note and your Note under reply will accordingly be regarded as placing this understanding on record.

I avail myself of this opportunity to renew to you the assurances of my high consideration.

Kuo-cheng Wu

Mr. George Atcheson, Jr.,
Chargé d'Affaires a.i.,
American Embassy,
CHUNGKING.

ARRANGEMENT BETWEEN CHINA
AND THE UNITED STATES OF AMERICA
ON THE JURISDICTION
OVER CRIMINAL OFFENSES
COMMITTED IN CHINA BY
MEMBERS OF
THE UNITED STATES FORCES

EXCHANGE OF NOTES