

May 23, 1953

**Letter by United Nations Commander Mark W. Clark
to the Joint Chiefs of Staff on Solving the Prisoner of
War Issue**

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Summary:

General Clark relays to the US Joint Chiefs of Staff the terms of the United Nations proposal to repatriate prisoners of war captured during the conflict in Korea. The agreement grants prisoners the right to refuse to be repatriated.

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Part II.

a. Within 2 months after the armistice agreement becomes eff, both sides shall, without offering any hindrance, repatriate and hand over in groups all those prisoners of war in its cust who insist on repatriation to the side to which they belonged at the time of capture. Repatriation shall be accomplished in accordance with the related provisions of Article III of the draft armistice agreement. In order to expedite the processing of such pers, each side shall, prior to the signing of the armistice agreement, exchange the total nrs, by nationalities, of pers to be repatriated dir. Each group delivered to the other side shall be accompanied by rosters, prepd by nationality, to include name, rank (if any) and internment or mil serial nr.

b. Terms of ref for pris of war custodial commission.

I. General.

1. In order to insure that all pris of war have the opportunity to exercise their right to be repatriated folg an armistice, Sweden, Switzerland, Poland, Czechoslovakia and India shall each be rqstd by both sides to apt a member to a pris of war custodial com which shall be established to take custody in Korea of those pris of war who, while in the custody of the detaining powers, have elected not to avail themselves of their right to be repatriated. The pris of war custodial com shall establish its hq within the demilitarized zone in the vic of Panmunjom. Subor bodies of the same composition as the pris of war custodial com shall be stationed at those locations at which the custodial com assumes custody of pris of war. Representatives of both sides shall be permitted to observe the opns of the custodial com and its subor bodies to include verification and interviews.

2. The armed forces and any other operating pers required to assist the custodial com in carrying out its functions and responsibilities shall be provided exclusively by India, whose representative shall also be chairman and exec agent of the custodial com. Representatives from each of the other four powers shall be allowed staff assistants in equal nr not to exceed fifty each. The arms of all pers provided for in this para shall be limited to mil police type small arms.

3. No force or threat of force shall be used against the pris of war specified in para 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 (but see para 7 below). This duty is enjoined on and entrusted to the pris of war custodial com and each of its representatives. Both sides shall have representatives with apropr representatives of the pris of war custodial com to determine that any pers who rqst return to the other side have not been coerced into making this decision. Pris of war shall at all times be

Matthews files, lot 55 D 413: Telegram

The Commander in Chief, United Nations Command (Clark) to the Joint Chiefs of Staff

TOP SECRET

TOKYO, May 23, 1953—9:59 p. m.

OPERATIONAL IMMEDIATE

C 62592. Ref: JCS 939673.¹ This msg in 2 parts.

Part I. Part II of this msg contains the new proposal, consisting essentially of the terms of ref for the custodial commission developed in accordance with instructions contained in ref. To insure max scty of new proposal and to avoid possibility that ROK representatives at Munsan-Ni might gain knowledge of and acquaint Rhee with proposal prior to my seeing him on 25 May, Gen Harrison is hand-carrying to Korea copies of his msg.

¹ Dated May 22, p. 1082.

treated humanely in accordance with the specific provisions of the Geneva Convention, and with the gen spirit of that convention.

II. Custody of pris of war.

4. All pris of war who do not avail themselves of the right of repatriation folg the eff date of the armistice agreement shall be released from the mil control and from the custody of the detaining side as soon as practicable, and, in all cases, within 60 days subsequent to the eff date of the armistice agreement to the custodial com at locations in Korea to be designated by the detaining side.

5. The locations specified in the preceding para shall be demilitarized by the withdrawal of the mil forces of the detaining side to a dis of at least 2 kilometers from the perimeter of the pris of war installation at the time the custodial com assumes control thereof.

6. Notwithstanding the provisions of para 5 above, the custodial com is entitled to call upon the detaining side in the area under whose mil control pris of war installations are phys located, to prov such admin and scy forces as may be needed to augment the forces provided by India. Forces so provided shall be under the operational control of the senior off of the Indian scy forces.

7. Notwithstanding the provisions of para 3 above, nothing in this agreement shall be construed as derogating from the auth of the custodial com to exercise its legitimate functions and responsibilities for the control of the pris under its temp jurisdiction.

III. Verification.

8. Each side shall be afforded an opportunity to verify or ascertain the attitude towards repatriation of its captured pers while they are in the custody of the custodial com. To this end, its representatives shall be afforded access to its captured pers to explain to them their rights, and to inform them on any matters relating to their return to their homelands, under the folg provisions:

a. The nr of such verifying representatives shall not exceed one per thousand² pris of war held in custody by the custodial com, but the min shall not be less than a total of 5;

b. The hours during which the verifying representatives shall have access to the pris shall be as determined by the custodial com, and generally in accord with Article 53 of the Geneva Convention relative to the treatment of pris of war;

c. All verifications and interviews shall be conducted in the presence of a representative of each member nation of the custodial com and a representative from the detaining power;

² When the UNC handed the Communists this proposal at Panmunjom on May 25, there was one change: "one per thousand" was altered to "three (3) per thousand (1000)" (telegram CX 62621, Clark to JCS, May 25, 1953; Matthews files, lot 53 D 413).

d. Additional provisions governing verification shall be prescribed by the custodial com, and will be designed to employ the principles outlined in para 3 above.

9. Pris of war in its custody shall have freedom and facilities to make representations and communications to the custodial com and to representatives and agencies of the custodial com and to inform them of their desires on any matter concerning themselves, in accordance with arrangements made for the purpose by the custodial com.

IV. Disposition of pris of war.

10. Any pris of war who, while in the cust of the custodial com, decides to avail himself of the right of repatriation, shall so certify to a body consisting of a representative of each member nation of the custodial com. Upon execution of such cert, which is validated by majority vote of the custodial com or one of its subor orgns, he shall, while still in the cust of the custodial com, be delivered forthwith to the pris of war exchange point at Panmunjom for repatriation under the procedure prescribed in the armistice agreement.

11. 90 days after the transfer of cust of the pris of war to the custodial com is completed, access of representatives to captured pers as provided for in para 8 above, shall terminate, and ques of disp of the pris of war who have not availed themselves of their right to be repatriated shall be submitted for settlement to the political conf recommended to be convened in para 60, draft armistice agreement. Any pris of war who have not availed themselves of their right to be repatriated and for whom no other disp has been agreed to within 120 days after the custodial com has assumed their cust shall be released to civ status, the custodial com ceasing its functions and being dissolved; (or, as an alternate solution: "Any pris of war who have not availed themselves of their right to be repatriated and for whom no other disp has been agreed to within 120 days after the custodial com has assumed their cust shall be promptly referred to the United Nations Gen Assy. The custodial com shall retain cust of these pris of war until decision is reached on their disp by the United Nations Gen Assy").

V. Red Cross visitation.

12. Essential Red Cross svc for pris of war in cust of the custodial com shall be provided by India in accordance with regulations issued by the custodial com.

VI. Press coverage.

13. The custodial com shall insure freedom of the press and other news media in observing the entire opn as outlined herein, in accordance with procedures to be established by the custodial com.

VII. Log support for pris of war.

14. Each side shall prov log support for the pris of war in the area under its mil control, delivering required support to the custodial com at an agreed delivery point in the vic of each pris of war installation.

15. The cost of repatriating pris of war to the exchange point at Panmunjom shall be borne by the detaining power and the cost from the exchange point by the side on which said pris depend in accordance with Article 118 of the Geneva Convention.

16. The custodial com is entitled to call upon the detaining side to prov specified unarmed pers for the opn of facilities or the provision of services within the pris of war installations within the area under its mil control.

17. The custodial com shall prov medical support for the pris of war as may be practicable. The detaining side shall prov medical support as practicable upon the rqst of the custodial com and specifically for those cases requiring extensive treatment or hospitalization. The custodial com shall maintain cust of pris of war during such hospitalization. The detaining side shall facilitate such cust. Upon completion of treatment, pris of war shall be returned to a pris of war installation as specified in para 4 above.

18. The custodial com is entitled to obtain from both sides such legitimate assistance as it may require in carrying out its duties and tasks.

VIII. Logistical support for the custodial com.

19. Each side shall be responsible for providing log support for the pers of the custodial com stationed in the area under its mil control, and both sides shall contribute on an equal basis to such support within the demilitarized zone. The precise arrangements shall be subject to determination between the custodial com and the detaining side in each case.

20. Each of the detaining sides shall be responsible for protecting the verifying representatives from the other side while in transit over lines of comm within its area, as set forth in para 23 for the pris of war custodial com, to a place of residence and while in residence in the vic of but not within each pris of war installation. The custodial com shall be responsible for the scty of such representatives within the actual limits of pris of war installations.

21. Each of the detaining sides shall prov trans, housing, comm, and other agreed log support to the verifying representatives of the other side while they are in the area under its mil control. Such services shall be provided on a reimbursable basis.

IX. Publication.

22. The terms of this agreement shall be made known to all pris of war who, while in the cust of the detaining power, have failed to avail themselves of their right of repatriation.

X. Movement.

23. The mvmt of the custodial com, its pers, and repatriated pris of war shall be over lines of comm as determined by the command(s) of the opposing side and the custodial com. A map showing these lines of comm shall be furn the comd of the opposing side and the custodial com. Mvmt of such pers, except in the demilitarized areas established in para 5 above, around locations as designated in para 4 above, shall be under the control of, and escorted by, pers of the side in whose area the travel is being undertaken.

XI. Procedural matters.

24. The interpretation of this agreement shall rest with the custodial com. The custodial com, and/or any subor bodies to which functions are delegated or assigned by the custodial com, shall operate on the basis of majority vote.

25. The custodial com shall submit a weekly rept to the opposing commanders on the status of pris of war in its cust, indicating the nrs repatriated and remaining at the end of each week.

26. When this agreement has been acceded to by both sides and by the 5 powers named herein, it shall become eff upon the date the armistice becomes effective.

Done at Panmunjom, Korea, at () hours on the () day of () 1953, in English, Korean, Chinese, all texts being equally authentic.

Sgd William K. Harrison, Jr. Lt. Gen, United States Army Senior Del, United Nations Comd Delegation and Nam Il Gen, Korean Peoples Army Senior Del, Delegation of the Korean Peoples Army and the Chinese Peoples Volunteers.