

1-25-73 NYI

Protocol on the Prisoners

Protocol to the Agreement on Ending the War and Restoring Peace in Vietnam

Concerning the Return of Captured Military Personnel and Foreign Civilians and Captured and Detained Vietnamese Civilian Personnel

The parties participating in the Paris conference on Vietnam,

In implementation of Article 8 of the Agreement on Ending the War and Restoring Peace in Vietnam signed on this date providing for the return of captured military personnel and foreign civilians, and captured and detained Vietnamese civilian personnel.

Have agreed as follows:

The Return of Captured Military Personnel and Foreign Civilians

ARTICLE 1

The parties signatory to the agreement shall return the captured military personnel of the parties mentioned in Article 8 (a) of the agreement as follows:

¶ All captured military personnel of the United States and those of the other foreign countries mentioned in Article 3 (a) of the agreement shall be returned to United States authorities.

¶ All captured Vietnamese military personnel, whether belonging to regular or irregular armed forces, shall be returned to the two South Vietnamese parties; they shall be returned to that South Vietnamese party under whose command they served.

ARTICLE 2

All captured civilians who are nationals of the United States or of any other foreign countries mentioned in Article 3 (a) of the agreement shall be returned to United States authorities. All other captured foreign civilians shall be returned to the authorities of their country of nationality by any one of the parties willing and able to do so.

ARTICLE 3

The parties shall today exchange complete lists of captured persons mentioned in Articles 1 and 2 of this protocol.

ARTICLE 4

(a) The return of all captured persons mentioned in Articles 1 and 2 of this protocol shall be completed within 60 days of the signing of the agreement at a rate no slower than the rate of withdrawal from South Vietnam of United States forces and those of the other foreign countries mentioned in Article 5 of the agreement.

(b) Persons who are seriously ill, wounded or maimed, old persons and women shall be returned first. The remainder shall be returned either by returning all from one detention place after another or in order of their dates of capture, beginning with those who have been held the longest.

ARTICLE 5

The return and reception of the persons mentioned in Articles 1 and 2 of this protocol shall be carried out at places convenient to the concerned parties. Places of return shall be agreed upon by the Four-Party Joint Military Commission. The parties shall insure the safety of personnel engaged in the return and reception of those persons.

ARTICLE 6

Each party shall return all captured persons mentioned in Articles 1 and 2 of this protocol without delay and shall facilitate their return and reception. The detaining parties shall not deny or delay their return for any reason, including the fact that captured persons may, on any grounds, have been prosecuted or sentenced.

The Return of Captured and Detained Vietnamese Civilian Personnel

ARTICLE 7

(a) The question of the return of Vietnamese civilian personnel captured and detained in South Vietnam will be resolved by the two South Vietnamese parties on the basis of the principles of Article 21 (b) of the agreement on the Cessation of Hostilities in Vietnam of July 20, 1954, which reads as follows:

"The term 'civilian internees' is understood to mean all persons who, having in any way contributed to the political and armed struggle between the two parties, have been arrested for that reason and have been kept in detention by either party during the period of hostilities."

(b) The two South Vietnamese parties will do so in a spirit of national reconciliation and concord with a view to ending hatred and enmity in order to ease suffering and to reunite families. The two South Vietnamese parties will do their utmost to resolve this question within 90 days after the cease-fire comes into effect.

(c) Within 15 days after the cease-fire comes into effect, the two South Vietnamese parties shall exchange lists of the Vietnamese civilian personnel captured and detained by each party and lists of the places at which they are held.

Treatment of Captured Persons During Detention

ARTICLE 8

(a) All captured military personnel of the parties and captured foreign civilians of the parties shall be treated humanely at all times, and in accordance with international practice.

They shall be protected against all violence to life and person, in particular against murder in any form, mutilation, torture and cruel treatment, and outrages upon personal dignity. These persons shall not be forced to join the armed forces of the detaining party.

They shall be given adequate food, clothing, shelter and the medical attention required for their state of health. They shall be allowed to exchange post-cards and letters with their families and receive parcels.

(b) All Vietnamese civilian personnel captured and detained in South Vietnam shall be treated humanely at all times, and in accordance with international practice.

They shall be protected against all violence to life and person, in particular against murder in any form, mutilation, torture and cruel treatment and outrages against personal dignity. The detaining parties shall not deny or delay their return for any reason including the fact that captured persons may, on any grounds, have been prosecuted or sentenced. These persons shall not be forced to join the armed forces of the detaining party.

They shall be given adequate food, clothing, shelter and the medical attention required for their state of health. They shall be allowed to exchange post-cards and letters with their families and receive parcels.

ARTICLE 9

(a) To contribute to improving the living conditions of the captured military personnel of the parties and foreign civilians of the parties, the parties shall, within 15 days after the cease-fire comes into effect, agree upon the designation of two or more national Red Cross societies to visit all places where captured military personnel and foreign civilians are held.

(b) To contribute to improving the living conditions of the captured and detained Vietnamese civilian personnel, the two South Vietnamese parties shall, within 15 days after the cease-fire comes into effect, agree upon the designation of two or more national Red Cross societies to visit all places where the captured and detained Vietnamese civilian personnel are held.

With Regard to Dead and

Missing Persons

ARTICLE 10

(a) The Four-Party Joint Military Commission shall insure joint action by the parties in implementing Article 8 (b) of the agreement. When the Four-Party Joint Military Commission has ended its activities, a Four-Party Joint Military Team shall be maintained to carry on this task.

(b) With regard to Vietnamese civilian personnel dead or missing in South Vietnam, the two South Vietnamese parties shall help each other to obtain information about missing persons, determine the location and take care of the graves of the dead, in a spirit of national reconciliation and concord, in keeping with the people's aspirations.

Other Provisions

ARTICLE 11

(a) The Four-Party and Two-Party Joint Military Commissions will have the responsibility of determining immediately the modalities of implementing the provisions of this protocol consistent with their respective responsibilities under Articles 16 (a) and 17 (a) of the agreement. In case the Joint Military Commission, when carrying out their tasks, cannot reach agreement on a matter pertaining to the return of captured personnel they shall refer to the international commission for its assistance.

(b) The Four-Party Joint Military Commission shall form, in addition to the teams established by the protocol concerning the cease-fire in South Vietnam and the Joint Military Commissions, a subcommission on captured persons and, as required, joint military teams on captured persons to assist the commission in its tasks.

(c) From the time the cease-fire comes into force to the time when the Two-Party Joint Military Commission becomes operational, the two South Vietnamese parties' delegations to the Four-Party Joint Military Commission shall form a provisional subcommission and provisional joint military teams to carry out its tasks concerning captured and detained Vietnamese civilian personnel.

(d) The Four-Party Joint Military Commission shall send joint military teams to observe the return of the persons mentioned in Articles 1 and 2 of this protocol at each place in Vietnam where such persons are being returned, and at the last detention places from which these persons will be taken to the places of return. The Two-Party Joint Military Commission shall send joint military teams to observe the return of Vietnamese civilian personnel captured and detained at each place in South Vietnam where such persons are being captured, and at the last detention places from which these persons will be taken to the places of return.

In implementation of Articles 18 (b) and 18 (c) of the agreement, the International Commission of Control and Supervision shall have the responsibility to control and supervise the observ-

ance of Articles 1 through 7 of this protocol through observation of the return of captured military personnel, foreign civilians and captured and detained Vietnamese civilian personnel at each place in Vietnam where these persons are being returned, and at the last detention places from which these persons will be taken to the places of return, the examination of lists and the investigation of violations of the provisions of the above-mentioned articles.

ARTICLE 13

Within five days after signature of this protocol, each party shall publish the text of the protocol and communicate it to all the captured persons covered by the protocol and being detained by that party.

ARTICLE 14

This protocol shall come into force upon signature by plenipotentiary representatives of all the parties participating in the Paris conference on Vietnam. It shall be strictly implemented by all the parties concerned.

Done in Paris this 27th day of January, 1973, in Vietnamese and English. The Vietnamese and English texts are official and equally authentic.

For the Government of the United States of America
WILLIAM P. ROGERS
Secretary of State

For the Government of the Republic of Vietnam
TRAN VAN LAM
Minister for Foreign Affairs

Continued on Following Page

For the Government of the Democratic Republic of Vietnam
NGUYEN DUY TRINH
Minister for Foreign Affairs

For the Provisional Revolutionary Government of the Republic of South Vietnam
NGUYEN THI BINH
Minister for Foreign Affairs

2-Party Version
Protocol to the Agreement on Ending the War and Restoring Peace in Vietnam Concerning the Return of Captured Military Personnel and Foreign Civilians and Captured and Detained Vietnamese Civilian Personnel

The Government of the United States of America, with the concurrence of the Government of the Republic of Vietnam,

The Government of the Democratic Republic of Vietnam, with the concurrence of the Provisional Revolutionary Government of the Republic of South Vietnam,

In implementation of Article 8 of the Agreement on Ending the War and Restoring Peace in Vietnam signed on this date providing for the return of captured military personnel and foreign civilians, and captured and detained Vietnamese civilian personnel,
Have agreed as follows:

[Text of protocol Articles 1-13 same as above]

Article 14

The protocol to the Paris Agreement on Ending the War and Restoring Peace in Vietnam concerning the Return of Captured Military Personnel and Foreign Civilians and Captured and Detained Vietnamese Civilian Personnel shall enter into force upon signature of this document by the Secretary of State of the Government of the United States of America and the Minister for Foreign Affairs of the Government of the Democratic Republic of Vietnam, and upon signature of a document in the same terms by the Secretary of State of the Government of the United States of America, the Minister for Foreign Affairs of the Government of the Republic of Vietnam, the Minister for Foreign Affairs of the Government of the Democratic Republic of Vietnam and the Minister for Foreign Affairs of the Provisional Revolutionary Government of the Republic of South Vietnam. The protocol shall be strictly implemented by all the parties concerned.

Done in Paris this 27th day of January, 1973, in Vietnamese and English. The Vietnamese and English texts are official and equally authentic.

For the Government of the United States of America
WILLIAM P. ROGERS
Secretary of State

For the Government of the Democratic Republic of Vietnam
NGUYEN DUY TRINH
Minister for Foreign Affairs