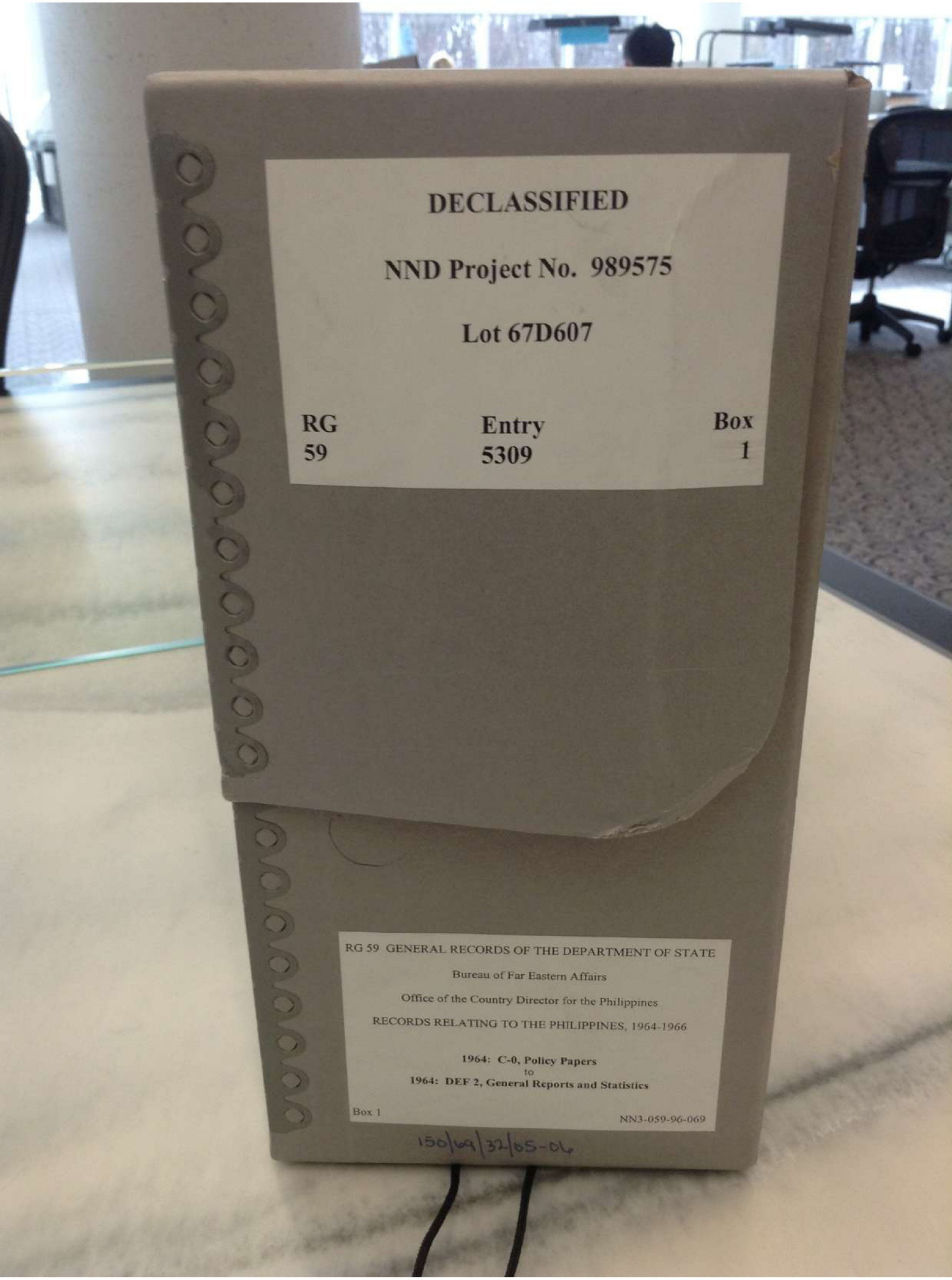

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NND Project No. 989575
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RG
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RG 59 GENERAL RECORDS OF THE DEPARTMENT OF STATE
Bureau of Far Eastern Affairs
Office of the Country Director for the Philippines
RECORDS RELATING TO THE PHILIPPINES, 1964-1966
1964: C-0, Policy Papers
to
1964: DEF 2, General Reports and Statistics
Box 1
NN3-059-96-069
150/69/32/05-06

DEF - DEFENSE AFFAIRS

UNITED STATES GOVERNMENT

Memorandum CONFIDENTIAL

TO : SPA - Mr. Cuthell

DATE: June 11, 1964

FROM : OFE - Benjamin Caplan

SUBJECT: Reimbursement of the U.S. for logistical support provided to other participants in the U.N. operations in Korea

Earlier this year the U.S. arranged for the settlement of the last accounts with developed countries for logistical support provided by the U.S. in connection with the U.N. operations in Korea. All these settlements have provided for full reimbursement in dollars.

The accounts of the less developed countries that participated in the U.N. operations have not been settled. Recently the Treasury Department asked the Department of State to review the situation again to see what might be done to settle these accounts, the amounts of which are as follows for all the U.S. military departments combined:

	Millions
Colombia	$13.4
Ethiopia	14.4
Greece	18.8
Philippines	47.8
Thailand	19.8
Turkey	87.1

The attached paper describes the general situation and the circumstances specially pertinent to the accounts of each of the six less developed countries. On the basis of this information and other relevant considerations, the current review is aimed at answering the following questions for each of the six countries, except Colombia (which is in a unique position for reasons indicated in the paper):

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1. Should the U.S. open negotiations with the country in question with the aim of obtaining full reimbursement? Partial reimbursement? (In either case, it may be assumed that payments over a period of time would be acceptable if a lump-sum payment could not be made.)

2. To what extent would the answer to No. 1 be affected by a decision not to approach or negotiate with one or more of the other countries in the group in the same way?

3. If settlement negotiations are not considered to be feasible, would there be any significant advantage to our relations with the country in formally cancelling any claim that we might have? (The Department of the Air Force, for example, might feel more comfortable if the uncollectible accounts were written off the books. On the other hand, formal cancellation probably would not be possible without action by the President.)

4. Or would it be preferable to leave things as they are, with the intention of introducing the U.S. claim as an active matter if some development in the future suggested the desirability of doing so? If this is considered to be the best course, is there any way that the U.S. claim could be kept alive without creating new problems in our bilateral relations?

We would appreciate your comments on each of these questions as they pertain to the Philippines.

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OFE:MDGoldstein:fa

Status of Remaining U.S. Accounts for Logistical Support Provided in Korea

General

During the U.N. operations in Korea the U.S. provided logistical support to twenty participating U.N. member countries. All but six of these have concluded settlement arrangements with the U.S. and generally have completed payments for the supplies, equipment, and services we furnished. The countries that have not settled with the U.S. for logistical support are all less developed countries; the total accounts for these six nations amount to nearly $200 million.

While it was our policy at the start of the U.N. operations in Korea to inform all countries receiving logistical support from the U.S. that we would expect the recipients to recognize an obligation to reimburse the U.S., the ways in which individual participants accepted or recognized such an obligation varied widely. Similarly, U.S. efforts during and since the Korean hostilities to effect or implement formal reimbursement agreements have been marked by substantial differences in timing, approach, and insistency. For the most part these differences reflected (1) U.S. foreign policy considerations which transcended the Korean operation per se; (2) the financial capacity of these countries to reimburse the U.S.; and (3) uncertainty regarding the freedom of the Executive Branch to negotiate settlements providing for less than full dollar reimbursement, i.e., presumed lack of authority to propose or accept token repayment with substantial "write-offs" of the balance. There has also been, and there still is, considerable doubt regarding the legal validity of U.S. claims against at least some of the six less developed countries, notably the Philippines and Turkey.

In June 1957, following a country-by-country review of the situation, Deputy Under Secretary Dillon approved a recommendation that the Department of State not then press any

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of the less developed countries for negotiations regarding settlement of their accounts. A year later--in the spring of 1958--the situation was re-examined with essentially the same results. For the most part, the country desks in the Department of State continued to oppose the submission of statements of account (bills) to the several countries and, in general, cautioned against raising the subject of logistical costs with any of the LDC's. (As a reault, these countries have not been billed.) In several instances it was felt that reference to the logistical support question--not to mention a suggestion of reimbursement--would prove damaging to U.S. relations with the recipient countries. Perhaps the least negative comment was that of OSA which observed that the submission of a support cost statement to the Colombian Government "is not likely to serve any useful purpose."

Though there has been no similar review of this matter as a whole, the situation in particular countries has been considered from time to time. In particular, the issue has been reopened in the Department with respect to at least two of the six countries--Colombia and Thailand--more recently. The only change, however, has been a Presidential decision to advise the Colombians informally that we consider our claim for reimbursement to be a dead issue (see below).

Legal Problem

For a number of years before and following the armistice in Korea, and at a time when the U.S. Government might logically have sought to press settlement negotiations with its wartime allies, the Executive Branch in general and the Department of Defense in particular were deferred from such a course because of the existing uncertainty regarding legal authority to accept less than "full" dollar reimbursement for the cost of supplies and services furnished the forces of the several participating U.N. members. It was clear that none of the less developed countries was in a position to repay the U.S. either in a lump sum or over a moderate period of time. These countries were (and, in some cases, still are) meeting their current defense and other public needs only with the benefit of U.S. foreign assistance. Obviously, payment for logistical support provided during the Korean

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operation would have involved either curtailing other desirable expenditures or a sizable increase in U.S. budgetary support. We were also concerned that any U.S. pressure on this point might lead at least some of the LDC's formally to terminate the active participation in Korea that they had only reluctantly initiated in response to the call of the U.N. and the U.S. for troops in Korea. The Department of State had reason to believe that the U.S. could not obtain full payment from any of the LDC's without exerting undue diplomatic pressure or otherwise damaging U.S. interests or objectives.

An important factor standing in the way of a U.S. initiative to open negotiations with the LDC's was the doubt regarding the legal authority of the Executive Branch to agree to a settlement for less than the full amount of the U.S. claims. At one time in fact, in search for a way out of this predicament, consideration was given to requesting a specific authorization from Congress; but, for various reasons, this was not done.

Rather, the matter was referred to the National Security Council which, in turn, solicited the opinion of the Attorney General regarding the President's authority in this regard. The Attorney General concluded on March 1, 1955, that "it would appear that the President lacks this authority under the circumstances mentioned." However, this opinion did contain the following important qualification:

> "Where the validity of an obligation is actually subject to question, or where there is genuine doubt as to the ability of a country to repay a debt, the President might properly make the best deal he can for the country and agree to accept less than the full amount of the debt because that is in fact all that can be collected."

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Thus the doubt that had existed regarding the authority of the Executive Branch to agree to settlements for less than the full amount of U.S. claims was, if not wholly dispelled, substantially reduced. Following receipt of the Attorney General's opinion, the Department's Legal Adviser stated, as his interpretation of the paragraph quoted above, that "the President /has/ such authority, taking into account the nature of the obligation assumed by a recipient government, that government's ability to pay, /and/ the President's judgment as to whether the claim is collectible in view of political and other factors." In amplifying this at the time of the 1957 review, the Assistant Legal Adviser for Economic Affairs said: "In other words...the President has the authority to make a settlement on the best possible terms /including less than full reimbursement/:

"(a) Where the validity of the obligations is actually subject to question either by the recipient government or the U.S., or

"(b) Where there is doubt as to the ability of the recipient country to repay the debt (in those cases where the obligation to repay is clear to all), or

"(c) If, despite the fact that the obligation to repay is clear and the country is clearly able to repay, the debt is uncollectible; here, too, the recipient countries' views are to be taken into account."

Country Review

U.S. collection efforts with respect to each of the six less developed countries are described briefly in the following paragraphs.

Colombia. In November 1950, when Colombian ground and naval units were first committed to the U.N. operation in Korea, the Colombian Government explicitly recognized that

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there would be an obligation to reimburse the U.S. Government for logistical support provided by this country. A note to the Department of State at that time contained the following statement: "The Government of Colombia recognizes that there will be an obligation to reimburse the U.S. Government for the training, logistic support, and any other services which this battalion will have to receive, the details is to be arranged later between the Government of Colombia and the Government of the United States." Early in 1952, the Colombian Embassy formally advised the Department that the Government of Colombia would be able to bear only the cost of the pay and benefits of personnel assigned to Korea, and not the other expenses involved in supporting its expeditionary force. Despite protracted and intensive discussion of this subject within the U.S. Government, negotiations were never initiated with the Colombians with a view to reaching a settlement agreement. In July 1962, following the visit of Colombian President-elect Valencia to Washington, President Kennedy authorized providing the Colombian authorities with informal assurances that the U.S. did not intend to pursue the reimbursement question and that the U.S. would regard this issue, for all practical purposes, as closed.

Ethiopia. In January 1951, in a memorandum to the American Ambassador at Addis Ababa the Government of Ethiopia indicated that:

> "It is now understood that the U.S. Government require...that the Imperial Ethiopian Government now indicate they are prepared to recognize the existence of an obligation to compensate the U.S. Government for such supplies and facilities as may be provided by the U.S.
>
> "The Imperial Ethiopian Government are now in a position to give that assurance, it being understood that the discussion of the cost of the services and facilities and the means and manner of payment will subsequently be taken through the diplomatic channels."

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This position was subsequently reaffirmed by the Ethiopian Ministry of Foreign Affairs in a note of February 10, 1953. Thus, the Ethiopians promised to pay the U.S., but did not commit themselves with respect to the timing or amount. Although the initiation of negotiations regarding these points was considered at various times, specific terms of settlement have never been discussed with Ethiopia, since it was felt within the Department of State that such negotiations would interfere with other U.S. military and political objectives, e.g., the negotiation of military base rights.

Greece. By an exchange of notes between the American Embassy at Athens and the Greek Ministry of Foreign Affairs in 1950 and 1951, the Greek Government agreed to reimburse the U.S. for logistical support provided Greek forces in Korea. The U.S. note of November 14, 1950, specified: "It is understood that the Greek Government shall reimburse the United States Government for all expenses incurred in connection with this operation, and that such reimbursement will be the subject of a negotiated settlement at some future time in a manner to be determined at that time...." Acknowledging this communication nearly six months later, the Greeks wrote: "In reply the Royal Ministry wishes to inform the Embassy that the Greek Government agrees to the arrangements formulated in the above note." There does not appear to have been any attempt to open settlement negotiations with the Greeks. Initially, negotiations were deferred lest they upset plans to increase the size of the Greek contingent in Korea. Subsequently, a review of the Greek budgetary and balance-of-payments position militated against pressing Greece for a consideration of reimbursement terms.

Philippines. There does not appear to have been a clear understanding--much less an agreement--between the Governments of the U.S. and the Philippines regarding reimbursement for logistical support provided the Philippine forces in Korea. The record does not suggest that the Philippines ever promised to pay for such logistical support, in whole or in part. On the other hand, there is no evidence that the U.S. intended to furnish such support on preferential terms. There is some indication that early in the

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Korean war the U.S. Government gave notice to Philippine officials that the U.S. would present a bill for logistical support, but there is no suggestion that the Philipinos formally recognized any obligation to reimburse the United States. Rather, the record of discussions in 1950 with the Philippine Embassy at Washington reveals that the Philippine Government specifically stated that it could not assume the expenses of its expeditionary forces.

Thailand. On October 12, 1950, at about the time Thai troops were first sent to Korea, the Government of Thailand transmitted a note to the American Ambassador at Bangkok, stating in part: "I have now the honor to inform your Excellency...that...His Majesty's Government in principle accept to undertake the reimbursement in respect of the costs thereof, and will be agreeable to discuss the method of reimbursement later on..."

Negotiations were opened in Bangkok in February 1951 with a U.S. presentation of a draft agreement calling for full payment in dollars on an installment basis. The Thai Government indicated that it was not in a position to pay promptly and proposed that the bulk of U.S. logistical support be provided under the Mutual Defense Assistance Program. The U.S. rejected this approach and sought agreement on quarterly payments of $1 million beginning shortly after conclusion of the settlement agreement. However, in an effort to avoid the difficulties foreseen in pressing for dollar payments, the U.S. approved alternative schemes to cover at least part of the logistical support costs. Payment in rice for delivery to the Joint Logistics Command in Korea was considered at one time, but a change in the world rice situation rendered this solution impractical. Subsequently, the U.S. indicated a willingness to accept iron and steel scrap (or the proceeds from Thai sales thereof), but ultimately the quantity of scrap available proved insufficient to be of interest. Negotiations continued into 1953, but to no avail.

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In 1957 the U.S. began providing logistical support to Thai troops in Korea on a grant basis. As recently as 1962, when U.S. forces were temporarily stationed in Thailand, FE discouraged a proposal informally advanced by FN to re-open the question of U.S. claims against that country, with a view toward offsetting these against Thai charges associated with the presence of American troops in Thailand.

Turkey. In 1950 an informal (and possibly only oral) understanding was reached at Ankara between representatives of the Governments of Turkey and the United States that Turkey would provide reimbursement for logistical support supplied by the U.S. to Turkish forces in Korea in accordance with the terms to be arrived at through bilateral, diplomatic discussions upon conclusion of the Korean operations. This understanding was confirmed by the Department in a memorandum to the Turkish Embassy in 1953 and reaffirmed in 1957. After July 1, 1957, the U.S. provided logistical support to Turkish elements in Korea on a grant basis. While the principle was early established that some repayment would be expected from the Turks, the obligations of Turkey in this regard have not been defined.

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