FROM: New York
November 15, 1952
2:42 a.m.

TO: Secretary of State

NO: DELGA 196, November 15, 1952, 12:34 a.m., (PART 2 OF 2).

PRIORITY

Re Korea.

While Secy was discussing situation with Eden and Pearson, Gross held long conversation with Krishna Menon (India) re latter's latest draft of res on Korea (transmitted to Dept. in DELGA 193) which had been received at USUN few minutes before Menon's arrival.

Following are salient points of conversation:

1. Gross made clear at outset he was not authorized to negotiate with Menon or to make any commitments whatever. Gross wished to ask Menon a few questions and did not even wish Menon to assume these were the only relevant questions re draft.

2. First substantive point raised by Gross dealt with fact that specific provision for short-term was not used to prevent or effect return of F's to their homelands was not included in proposals to be transmitted to other side as basis for armistice. This was left for preamble while reference to force made in para 8 might apply to gen discipline or anything else. Menon said this was a typographical error and that para 8 shld specifically make point force shld not be used to prevent or effect return. Menon insisted there was no significance in separation of res into two parts, only one of which will be sent to negotiators. As far as he said the entire res might be transmitted, but it was more convenient to send those parts which were "mechanical." After considerable discussion as to what constituted "mechanical" parts, he said he will consider Gross' suggestions but will make no commitments.

3. In discussion re para 5 of draft res concerning freedom of parties to persuade F's re their rights, Gross repeated point previously made to Menon by Secy that we objected to mental coercion and third degree methods as much as to any other kind of force. Menon stated it was not his purpose to permit third degree methods and that arrangements worked out by Repatriation Commission will insure against that.

Menon stated
Menon stated same principle wil govern para 7 re freedom of Fw's to communicate with Repatriation Comm. Gross accepted statement and pointed out this wil be placing another burden upon already heavy task confronting umpire.

4. Gross then raised basic point that we cannot accpet res which confronts Fw's with choice of either going back home or remaining in captivity indefinitely. Gross pointed out para 16 of Menon draft must be so construed.

5. Further, Gross emphasised two reasons why fate of Fw's refusing to return shld not be decided at Polt Conference. First Fw's might resist transfer to custody of Repatriation Comm as much as they wil resist repatriation if they knew they wil continue indefinitely under constraint; and second, Polt Conference was designed to settle polt questions re Korea and Fw's wil, therefore, become mere pawns in conference activities. Gross stated we did not wish to get into a situation in which we wil have to negotiate on repatriation after an armistice. Menon seemed somewhat impressed.

6. Menon said he thought that our objection arose from fact that para 16 seems to prohibit comm from releasing Fw's and that we wished comm to be free to release them. Gross replied he did not wish to discuss drafting changes but at very least it shld be clear that comm wil be authorised to release Fw's and not merely to turn them over bound hand and foot to Polt Conference. Menon thought concept that comm shld be "authorised" to release Fw's was a little too positive. Gross stated he thought it wil be better to direct comm to release Fw's but that bare minimum wil be to authorize such release. By "release", Gross said he meant giving Fw's actual physical freedom to go where they wished provided country of destination was willing to receive them. Menon demurred, stating Fw's shld not be permitted to go to Formosa. Gross evaded detailed discussion this question.

7. In this connection, Menon said he wanted to tell Gross frankly, but not for quotation, that there wil undoubtedly be no problem re Korean Fw's; that as to Chinese he had reason to believe that CHICOM wil not expect all Chinese Fw's to return home. Gross asked whether Menon meant that some Chinese Fw's were considered "Chiang Kai-shek agents" and Menon said "yes".

8. In discussion re release of non-repatriates, Menon referred to length of time for which each prisoner wil be in custody of Repatriation Comm. He thought this wil become a problem because of provision for delivery of Fw's in agreed numbers. Therefore, he

Therefore, he was inclined to think that if it were possible for him to modify para 16 so as to authorize the comm eventually to release non-agitators, it might have to change the time period to refer to a minimum of 90 days from the time any particular prisoner was transferred to the comm. Gross indicated he was disturbed by this comment because it showed that Menon considered detention period as a sort of "purge" period. This was not our view. US wished to assure Pws wd be processed as rapidly as possible and regarded time limit as maximum period for that procedure. Gross felt that any attempt to use time limit as a minimum period of detention wd do violence to purposes for which whole procedure was being arranged.

9. In course of discussion re unacceptability present version para 16, Menon remarked it wd not help particularly if US agreed to this res. Gross asked whether Menon meant it wd help if US opposed the res; what help wd it be to Indians and UK if Commies were led to accept a bad res on ground US opposed it? Menon said this was not his meaning but that he thought it wd help if we abstained. Gross said US wd not abstain on any res it believed to be bad either there wd be a good res on US wd vote against it. Gross then asked Menon whether he had reason to believe CHICOMS wd accept this or any res. Menon replied that so far as he knew no summary or text had gone to Peking. In response to further questions, he said he had impression CHICOMS might accept something along these lines, but that impression was based on "climate" and "inferences". Reverting to substance para 16, Menon said he felt Polit Conference old reach quick decision; that it wd be so composed as to permit it to make decisions of this sort; and that in all probability UN element opposing forced repatriation wd be in majority. (Selwyn Lloyd made similar observation to Gross this morning and was probably source of Menon's idea). Gross ended this phase of discussion by stating that as he saw it Menon's reasoning was wholly fallacious. Commies in the Polit Conference old stall decisions easily, and conference was not intended or constructed to discuss arbitration problems.

10. Conversation then turned to composition and operations of Repatriation Comm. Gross remarked that assuming an umpire old be agreed upon, which he doubted, umpire wd be overloaded with decisions and his position wd be especially difficult if he became involved in question of fate of Pws after they were turned over to Polit Conference. Gross asked Menon whether he had any reason to believe CHICOMS wd be prepared to agree to an umpire. Menon said he had not and that there might be real difficulties on this point. Hence he had included in his draft provision for referring matter to OA if Repatriation Comm did not reach agreement within three weeks.

Gross asked
Gross asked if Menon meant that GA wil then be expected to designate an emispe. Menon sought to evade this question and finally said this wil be a natural assumption because there wil be no one else who old do it. Gross repeated point previously made to Menon that we wanted to be sure comm wil not deadlock on a basis which wil reduce whole problem from a moral issue clearly understood throughout the world to a technical issue on a procedural problem. Therefore, negotiators shld be given discretion and opportunity to work out arrangement which both sides felt was workable. That old not be done in NY. Menon denied vigorously anything in present draft res tied negotiator's hands and stated he thought he had limited himself to minimum details acceptable to CHICOM.

11. In view of heavy US responsibility under UN decisions for carrying out mil operations and serious consequences of any unacceptable GA recommendations, Gross personelly expressed view a great disservice wil be done to India itself, US and all our friends if Menon tabled a res prematurely. Gross referred in some detail to discussion with 21 co-sponsors. He stated they unanimously agreed it wil be very desirable if Menon wil circulate to co-sponsors a copy of his draft before he submitted it formally to GA. Menon saw great difficulties in this procedure.

He said he was under great pressure; leaks were occurring; he had been under instructions for a week to submit some res. Gross commented that his objective wil not be achieved if he were to incur resentment of a group of 21 countries. Gross admitted circulating anything to so large a number wil be almost tantamount to releasing text publicly, but wil not have formal aspects of submission of res. Menon said he was giving present text to the Russians. Gross expressed regret, stating this was bad way to keep res conf. Menon replied he was not so much interested in Russian attitude, he wil tell Russians that any time res old be changed. In his view CHICOM wil make decisions with or without consulting Russians. He realized this was not our point of view. However, we had failed to follow Indian advice. If we had not crossed 38th Parallel Comm could have intervened. We had made mistake of bombing Yalu River plants just as Chinese were at point of agreeing to an armistice. Gross said he did not go into these problems; he did not have adequate information; but we must fact situation as it exists today. Gross stressed importance of retaining maximum of solidarity in GA. Most members of GA, he pointed out, wil support 21-power draft and we were perfectly willing to go ahead with it. We might change it in some particulars but not substanially and we wil get a two-thirds majority. Menon stated that he wanted to assure Menon US wil not oppose his res and therefore promised, reluctantly, he wil not circulate his draft before Nov 17 or 18, promising he wil meanwhile think over this conversation.