While Secy was discussing situation with Eden and Pearson, Gross held long conversation with Bhattacharya Menon (India) re latter's latest draft of res on Korea (transmitted to Dept in DELGA 152) which had been received at USUN few minutes before Menon's arrival.

Following 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 proviso force shld not be 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 F's would be sent to negotiators. As far as he could see 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 would consider Gross's suggestions but could not make any 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 would insulate against that.
Menon stated same principle which governs Para 7 re freedom of Fw's to communicate with Repatriation Comm. Gross accepted statement and pointed out this will be placing another burden upon already heavy task confronting umpire.

4. Gross then raised basic point that we cannot accept 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 be not be remitted to PofC Conference. First Fw:s might resist transfer to custody of Repatriation Comm as much as they will resist repatriation if they knew they will continue indefinitely under constraint; and second, PofC Conference was designed to settle polit questions re Korea and Fw's will, therefore, become mere pawns in conference activities. Gross stated we did not wish to get into a situation in which we would 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 will be authorized to release Fw:s and not merely to turn them over bound hand and foot to PofC Conference.

Menon thought concept that comm shld be "authorized" to release Fw:s was a little too positive. Gross stated he thought it would be better to direct comm to release Fw:s but that bare minimum would 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 wld undoubtedly be no problem re Korean Fw:s; that as to Chinese he had reason to believe that CHICOM wld 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 wld be in custody of Repatriation Comm. He thought this wld become a problem because of provision for delivery of Fw:s in agreed numbers.

Therefore, he
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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-vicitarian captives, he 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 would be processed as rapidly as possible and regards time limit as maximum period for that procedure. Gross felt that any attempt to use time limit as a minimum period of detention would do violence to purposes for which whole procedure was being arranged.

9. In course of discussion re unsuitability present version para 16, Menon remarked it would not help particularly if US agreed to this res. Gross asked whether Menon meant it would help if US opposed the res; what help would it be to Indians and UN if Commies were led to accept a bad res on ground US opposed it? Menon said he did not mean but that he thought it would help if we abstained. Gross said US would not abstain on any res it believed to be bad; either there or US would vote against it. Gross then asked Menon whether he had reason to believe CHICOMS would 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 would be so composed as to permit it to make decisions of this sort; that in all probability UN element opposing forced repatriation would 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 armistice 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 would be overloaded with decisions and his position would be especially difficult if he became involved in question of fate of Pows after they were turned over to Polit Conference. Gross asked Menon whether he had any reason to believe CHICOMS would 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 GA if Repatriation Comm did not reach agreement within three weeks.

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

11. In view of heavy US responsibility under UN decisions for carrying out mil operations and serious consequences of any unacceptable GA recommendations, Gross personally expressed view a great disservice would be done to India itself, US and all our friends if Menon tabled a res prematurely. Gross referred in some details to discussion with 21 co-sponsors. He stated they unanimously agreed it would be very desirable if Menon would 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 would not be achieved if he were to incur resentment of a group of 21 countries. Gross admitted circulating anything to so large a number would be almost tantamount to releasing text publicly, but did 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 told Russians that any time res old be changed. In his view CHICOMS would 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 and offered opportunity to intervene we had made mistake of bombing Yalu River plants just us Chinese were at point of agreeing to an amistice. Gross said he did not go into these problems; he did not have adequate information; but we must face situation as it exists today. Gross stressed importance of retaining maximum of solidarity in GA. Most members of GA, he pointed out, would support 21-power draft and we were perfectly willing to go ahead with it. We might change it in some particular but not substantially and we did get a two-thirds majority. Menon stated that he wanted to assure GA US would not oppose his res and therefore promised, reluctantly, he would not circulate his draft before Nov 17 or 18, promising he would meanwhile think over this conversation.