DEPARTMENT OF THE ARMY
HEADQUARTERS, 8TH ARMY
UNIT #15236
APO AP 96205-0009

REPLY TO
ATTENTION OF:

EACG

27 APR 2011

MEMORANDUM FOR All 8th Army Assigned Soldiers and Civilians

SUBJECT: 8th Army Command Policy #5 – Separation Actions Concerning Soldiers Convicted in Republic of Korea (ROK) Foreign Tribunal/Court

1. REFERENCE.

a. AR 635-200, Active Duty Enlisted Administrative Separations, 27 April 2010.

b. AR 600-8-24, Officer Transfers and Discharges, 27 April 2010.

2. PURPOSE. To ensure that when a ROK foreign tribunal/court convicts 8th Army Soldiers of certain offenses, they are considered for separation or recommended for retention.

3. BACKGROUND.

a. Army Regulation (AR) 635-200, paragraph 14-9, authorizes major overseas commanders to approve the discharge of Soldiers convicted by a foreign tribunal. Discharge of convicted Soldiers is not mandatory. Each case must be evaluated to determine whether separation is appropriate.

b. In accordance with AR 635-200, paragraph 14-9(a), the General Court-Martial Convening Authority (GCMCA) of the 2d Infantry Division and the 19th Sustainment Command Expeditionary are delegated authority to discharge Soldiers convicted by a ROK foreign tribunal/court.

4. DISCUSSION.

a. When a ROK foreign tribunal/court convicts an enlisted Soldier of an offense where a punitive discharge is authorized for the same or a closely related offense under the Manual for Courts-Martial or when a sentence includes confinement for 6 months or more (without regard to suspension or probation of the sentence) the immediate commander of the Soldier must either initiate separation or forward a recommendation for retention through the chain of command to the appropriate GCMCA.

b. A decision to initiate separation or recommend retention will occur within 7 calendar days after the ROK foreign tribunal/court conviction. If a Soldier appeals the ROK foreign tribunal/court conviction, final action whether to separate or retain will occur after the appeal is finalized or a Soldier's current term of service expires.

c. If the immediate commander initiates separation, the separation action will be processed IAW AR 635-200, paragraph 14-5 through the chain of command to the appropriate GCMCA.

d. If the Soldier's chain of command recommends retention, the retention action will be processed through the chain of command to the appropriate GCMCA. The GCMCA will either approve the recommendation for retention or return the recommendation through the chain of command to the immediate commander for initiation of a separation action.

e. When a ROK foreign tribunal/court convicts an officer of an offense where a punitive discharge is authorized for the same or a closely related offense under the Manual for Courts-Martial or when a sentence includes confinement for 6 months or more (without regard to suspension or probation of the sentence) the immediate commander of the officer must initiate a separation action IAW AR 600-8-24, paragraph 5-13 for my action. HRC will make the final determination as to the officer's disposition.

5. PROPONENT. The 8th Army Staff Judge Advocate is the proponent for this policy. The POC can be contacted at commercial 011-822-7918-4464 or DSN 315-738-4464.

JOHN D. JOHNSON
Lieutenant General, USA
Commanding