

the time of restitution, he can demand the improvements to be removed. This is also the practice under the present setup.

In order to make it clear in the present law, item (3) will be amended as follows:

(3) If the property owned by a claimant at the time of the commencement of the war and restituted had been physically improved in the light of his purposes of use at the time of restitution than at the time of the commencement of the war, a sum of money

b. No objection. The item (2) will be amended to read “A sum of money equivalent to the amount of the pre-war liabilities satisfied by way of”.

Article 15

It is quite clear what your suggestion will be under the new conditions described herein.

Article 24

In view of your suggestion, paragraph 1 will be amended as follows and paragraph 2 will be deleted.

If the Government finds it necessary in connection with the investigation of the amount of damage suffered by the property of Allied nationals, it may, within the extent of such necessity, collect reports or data from those persons other than claimants who had or have a right or an obligation in regard to such property. (The latter part concerning entering, etc. is deleted)

Article 26 and 27

In line with the above, Article 26 will be amended as follows:

A person who in violation of the provisions of paragraph 1 of the preceding article has failed to make reports or submit data, or has made false reports, shall be punished with a fine of not more than one hundred thousand yen. (Reference to entry or inspection deleted)

Article 27 will remain as it is.

Omissions from proposed law

We believe that the purpose of your suggestion is satisfied by the provisions of Article 18, paragraph 2.

Corrections

In Article 3, paragraph 3, “the preceding article” will read “paragraph 1”.

In Article 15, the words “if he is an individual” will be deleted.

In Article 16, the words “in Japan” will be deleted.

In Article 17, the following changes will be made:

The compensation payable in accordance with the provisions of the preceding Article shall be paid in Japan in the Yen, and its remittance abroad by the recipient shall be subject to laws and orders relating to the foreign exchange.

附録 25

連合国財産補償法案に関する専門家会議議事要録

第1回	1951年6月29日
第2回	“ 7月3日午前
第3回	“ 7月3日午後
第4回	“ 7月5日

連合国財産補償法案に関する打合せ(第1回)(昭.26.6.29)

出席者

Mr. Arnold Fraleigh (State Dpt.), Mr. D. H. Blake (CPC), Mr. R. Gillies (ESS), Miss M. L. Smith (CPC), Mr. W. Stier (CPC), Mr. J. Bassin (LS), Mr. R. B. Finn (DS)

西村条約局長、藤崎条約課長、内田大蔵省管財局長、佐々木外国財産課長

6月26日当方からDSボンド氏に提出した本法案に対し、先方から別添のCommentsを提示し、これについて論議した。問題になった主要な点は、(1)この法案に平和条約案でリファーする場合の方式、これに関連して、SCAPIN—ポツダム政令の方式を採用することの適否、(2)補償されるべき人、財産、損害の範囲、(3)占領期間中に占領軍により連合国人に加えられた損害のうち、いかなるものがこの法律でカバーされるべきか、(4)株式の損害の算出方法等である。

これらの点及びその他のこまかい問題について、先方の意見で受け容れられるものについては、次回(7月3日午前)までに当方で本法案の修正案を作成して提出することにな

つた。先方は、条約案発表期日の関係上、数日中に結論に到達することを強く希望している。

1. 平和条約中でリファーする場合の方式

閣議決定の日付を入れてリファーする方式には、当方に異存ないと述べた。

政令でやることは、非常に難色を示した。この段階に来てやることが具合が悪いということ、SCAP の命令でやつたことを平和条約中にリファーすることも面白くないという理由からである。これに対して、当方から、(1)平和条約案の他の箇所（工業所有権に関する措置について）政令を引用していること、連合国財産の返還に関する SCAP の基本的指令で補償の点をリザーブしていること、まず政府からリクエストを出してもよいと思うこと（先方の係官の1人がサジェストした）を述べておいた。

2. 先方案第2条第1項で示唆している「日本と協定することにより他の国も本法の関係で連合国と見なされることができる」という文言を入れることには、当方から、「韓国あたりが補償してもらえるとの誤解を与えるおそれがある。協定があれば、いずれにしても、条約は法律に優先することになつていから、この法律にこの種の規定を入れる必要はない」と述べ、先方も了承した。

3. 先方案第2条第5項、宗教団体のようなものをカヴァーするように法案を修正すること、当方了承す。第6項の字句の修正も了承。

4. 先方案第3条第1項の点、すなわち「但し、連合国人については、戦時特別措置の適用を受けた場合に限る」を削除することは、フランス人等を念頭においてなされた示唆である。又、アメリカ人でも、本人はアメリカ本国にあり、その在日財産が手落ちで戦時特別措置を受けなかつたものの損害のことも心配している。この後の点については、先方の希望を入れてカヴァーすることを了承した。

5. 第4条については、地震や台風による被害がカヴァーされない点を心配していた。

また、占領軍による連合国財産の損害をすべて日本側がこの法律によつて補償することを希望していた。

この後の点については、LS のバシン氏が特に強く主張した。その趣旨は、「連合軍による日本占領は、国際法上の性質からいえば、軍事占領である。従つて、占領軍が連合国財産に与えた損害については、第4条第1号の趣旨により日本政府が補償すべきものである。米国には、Foreign Claims Act なるものがあつて、一般に米国軍が外国に

ある間に外国人に与えた損害を補償することを定めているが、それには、いろんな細かい条件がついて、カヴァーされない場合があるから、日本側で補償してもらう外ない」というにある。

これに対して、当方から「占領軍の組織としての行為から出た損害は、この法律の第4条第1号でカヴァーされる。しかし、1米兵がジープの運転を誤つて連合国人の家屋を損壊したり、連合国人の所有に属するレスト・ホテル（占領軍専用の）が1米兵の過失により焼失したような場合は、もちろんカヴァーされない。SCAP から命令によつて強制されるとなれば別だが、日本の自発的意思によつて補償法を制定するという建前をとる以上、何等かの意味において日本政府の責に帰すべき損害でなければ補償することはできない」と主張した。

結局、この責任論で意見が一致せず、地震、台風、米兵の行為を含ましめるように規定するかどうかの問題については、結論が得られなかつた。

6. 第7条 外貨建債権について、円貨による弁済の受領を債権者たる連合国人に強制する結果になることは、面白くないということを当方も認めた。

しかし、先方案の第2項（連合国又は連合国人に対する私人の債務の保証について）は、日本政府の責任にあらざることだから、承認しえないことを指摘した。

7. 第11条 会社の財産に損害があつた場合に、それを会社の株式だけで背負うか、又は、株式の外、社債その他の総資産で背負うこととするかの問題について、先方は、前に当方から出した要綱にある前者の方式をとるように本法案を改めたいと述べた。損害額の少ない場合には、株式だけにふりあてることもあるので、先方の意をくんで修正案を出すこととした。

以上の外の問題は、次の会議に譲られ、5時散会。

第2回打合せ（昭.26. 7. 3. 午前DSにおいて）

前回（6月29日）の約により、先方のコメントに対する当方のオブザーヴェーション（別添）を用意し、これについて論議した。先方の出席者は、Mr. Fraleigh, Mr. Blake CPC, Miss Smith CPC, Mr. Stier CPC, Mr. Bassin LS（外に、LSの者1名）Mr. Finn DS

当方 西村条約局長、藤崎条約課長、内田管財局長、佐々木外国財産課長

1. 平和条約で引用するための方式については、「書翰」によつてアイデンティファイする方法を先方もうまい考えであるとするものの如くであつた。

2. 第3条（補償の原則—フランス人で本国にいたものの財産の損害に対する補償その他）の修正案了承。

第4条も論議（先方の間で）の上了承。但し、フレイリー氏は、西村氏は、占領軍の行為による損害の補償について平和条約に規定を設けられることに異存ないといわれたと思うがどうか、ときいたので、そういわれたと思うと答えておいた。

3. 第7条（金銭債権の損害）に対する先方の comment に応じ、第17条に追加される2項の案は、patent working fee を含ましめるように修正。

連合国人に対する個人の債務を政府が肩替りすべしという先方の提案に対して反対の意見を述べたが、この点先方留保。

4. 第11条（株式の損害）

会社の資本のうち株式以外のものにも損害を分担させることを基礎とする当方案には（今回は、緩和的但し書を加えたが）、なお同意せず。技術的にそこまで立ち入るとすれば、但し書ももつと細かく規定しなければならないといい、日本側原案、すなわちイタリー平和条約のラインまでかえることを繰返し繰返し要望した。

なお、第11条の趣旨を明かにするため、前文のようなものを入れることを先方提議、当方了承。

5. 第12条 Articles 5 to 10 を 5 to 11 に

フレイリー氏から、会社に対する損害額の算定については、連合国人が会社の1部を所有していた場合をカヴァーするために提案され、当方了承。

6. 第15条（補償請求の方法及び期限）に対する先方の comment は ignore してもらいたいという。

7. 第24条（報告等の徴収及び立入検査）からは、先方の意見により、立入検査を除いたが、なお罰則をおくことに、U. S. Comment と同趣旨の反対論が Bassin 氏から出たので、削除すべしと当方からいう。同じく Bassin 氏の意見あり、審査会では、本人に出頭して陳弁の機会を与えることを規定することになる。

8. なお、大蔵省側から、第10条（商標権の損害）、第13条（他の損害）、第21条（課税上の特例）に対する修正案が出された。第13条の修正案は、会社の合併、新会社の設立の場合について、政令で定める趣旨を入れるものであるが、先方難色あり、第11条及び第12条を準用すると規定することに落ち着いた。第21条課税上の特例に但し書を

挿入することについては、趣旨がはつきりせず、留保。

9. さらに、CPC のブレイク氏から、特許権及び商標権に関する条項の修正案が出た。

結局、

(イ) 第9条第5項の shall be deducted from を may be taken into consideration in calculating と改めること。

(ロ) 同条第6項削除（第17条に2項を追加することになったため）

(ハ) 第10条 its reputation to its status as of the time..... を its good will as at the time..... と改めること

の3点については、了解ができたが、その他の特許権、商標権関係のことについては、さらに、午後3時から CPC で会合して協議することになる。

（午前9時半から12時半まで）

第3回打合せ（昭.26. 7. 3. 午後 CPC において）

出席者 先方 フレイリー氏

ブレイク氏、アリスン氏、トムキンス氏（CPC）

当方 内田管財局長、佐々木外国財産課長、藤崎条約課長

主として、特許権、商標権、課税上の特例、株式の損害に関する問題

1. 先方は、特許権について「連合国人工業所有権戦後措置令（昭和24年政令第309号）の規定により回復されなかつたもの」という限定句を削除し、その代りに、「連合国人たる所有者が特許実施料及び右の期間内における損害に対する権利を放棄した場合を除き」という文句を入れることを提案した。

その趣旨は、アリスン氏の説明によれば、「占領下で外国人の特許権を回復するに当たっては、開戦から回復までの期間に相当する期間だけ存続期間を延長して回復し、その代りに一切の請求権を放棄するか、期間を延長しないで回復する（この場合は、請求権を放棄しない）かの二つのいずれかを特許権者に選ばせた。その結果、大部分の者は、前者を選び、従つて請求権を放棄する旨を文書で約している。（その写は、特許庁にも行っているから、将来問題が起つたら、これを援用したらよい。）

この放棄は、特許実施者に対する請求権のみならず、政府に対するそれも放棄したものである（内田局長によれば、特許庁では、この点に関する政令の規定の解釈がもつと不利になつており、政府に対するものは残つているといわれるだろうといつていたとい

う)しかし、第2の途を選んだものが若干ある。この方の特許も、回復されることは回復されたわけだが、補償請求権は放棄していない。従つてこれは補償されることにしなければならない」というにある。

当方、この説明を了承、但し、「権利を放棄した」というところに政令を引用することを提案し、先方了承。

先方提案の第2点、裁判所の判決または政府の機関若しくは官吏の行為により不当に移転された場合の補償に関する規定を挿入することについては、当方から、戦後措置令第16条の2(別添第1号)にならい、「当該連合国人の自由な意思に基かないで連合国人以外の者に移転されたもの」という趣旨を入れることを提議し、先方これを了承。従つて、先方提案のこの点はドロップさる。

(右の措置令の規定は、昨年5月の改正によつて入つたもので、裁判所の判決の場合も含む趣旨である。ウェスティングハウスの例があるという。先方も当然この規定のことはよく知つていたので異存はなかつた)。

2. 商標権については、大蔵省から午前中に修正案が出されたが、これは、連合国人商標戦後措置令第3条第5項の規定の意味を誤解したところから出たものであり、トムキンス氏の説明により納得したので、大蔵省修正案はドロップ。

3. 課税の問題について、大蔵省側から午前の案を若干修正した案(別添第2号)が出された。種々押問答の上、先方から、*The damages for which compensation is provided under this law will not be authorized as the loss or necessary expenses in computing the income prescribed in the Corporation Tax Law or the Income Tax Law.* という意味かときかれ、しかりと答えた。しかし、先方は、なお、

(イ) 右の案でも、まだ時期を限定しなければならない。

(ロ) 一体、これまでに課税上そんな取扱をうけた連合国の会社があるか。われわれの承知している限り、今、事業をやっているものは、皆全く新規の事業としてやつている。

(ハ) かりに、補償を受けた上所得税の算定について損害額を収入から差引いたりするものがあつたら、そんなことは当然認めないといえよではないか。

といつて、これを容れず、大蔵省側は、

(イ) 実例は別として、理論上ありうることである。その場合にこの規定を引用できるようにしたい。

(ロ) 会社の経理上、損害は損失、補償はそれとして又別にしておかれるので、補償を受けても、損害額を損失として計算するのが一般である。

等主張したが、結局了解に達しなかつた。

逆に先方は、イタリー平和条約第78条第6項(別添第3号)の例になつた規定を置くべきではないかと思うといつて来た。これに対して、大蔵省側から、「このイタリー平和条約の規定の趣旨は、この法律に入つて来べきことではない(先方は、イタリー平和条約では、補償のところに規定しているといつた)。戦時補償法(先方がメンションした)は、政府による再保険の債務を切りすて、兵器製造業者に前渡ししていた金を取り上げるような目的のためのものであつて、財産を取り上げたりするためのものではない。いずれにしても、こんな規定をおくとすれば、第3条や第4条等でカバーされていないことだから、法律の建て方を根本的にあらためなければならないことになる」と述べたが、先方了承するに至らず、結局課税の点は、大蔵省の追加提案も、先方の追加提案も留保さる。

4. 第12条(会社の損害額の計算)の差引くべきものの第3号「会社が開戦時以後良好な経営により会社財産を増加したものとあるときは、その増加した金額」というのは、計算が困難だから削除したいという先方のコメントに対し、対案として別添第4号の案を出した。フレイリー氏は、「これでよいと思うが、この点についてはESSのギリース氏が特に関心をもっているので、その意見をきいた上で回答したい」と述べた。午前に出したオブザベーション中の第2号の例示による説明についても同様。

5. 第11条(株式の損害)については、大蔵省から、右の第12条の第3号を認めてくれるならば、第11条は貴方の意見通りにすると述べた(フレイリー氏は、trading など笑つていた)

6. その他、第14条、Omissions from proposed Law の点についての当方のObservations に対しては、先方に別に異存ないことを確めた。

7. フレイリー氏は、土曜日夜東京をたつ予定。金曜日までに、できれば木曜日中に、邦文と英文の法律案の決定版をもらいたいとのこと。

残りの問題について、木曜日午前9時半からDSで又会議することに約す。

(午後3.15から5.30まで)

別添第1号

連合国工業所有権戦後措置令

第16条の2 第3条第1項又は第4条第1項（これらの規定を第6条において準用する場合を含む。）の規定の適用に関しては、戦争開始の日において連合国人が有していた特許権で、戦争開始の日以後収用され、その他当該連合国人の自由な意思に基かないで連合国人以外の者に移転されたものについて、連合国最高司令官の指示に従い特許庁長官が指定したときは、その収用又は自由な意思に基かない移転は無効とし、その特許権は当該連合国人が引き続き有していたものとする。

別添第2号

Article 21 (Exception concerning Taxation)

(1) No tax shall be imposed on the compensation to be received by Allied nationals in accordance with this law.

(2) Out of the compensation for damages on the property owned by Allied nationals which have been paid under the provisions of this law, such amount as was authorized as the loss or necessary expense because of sustaining the damages in computing the income prescribed in the Corporation Tax Law or the Income Tax Law shall be included in the profits or the receipt in computing the income prescribed in these laws.

別添第3号

イタリア平和条約

第78条の6 連合国民及びその財産は、戦争から生じた負担を支払い、又は占領軍の費用若しくは連合国中のいずれかの国に支払われる賠償の費用を支払うという特別の目的のために、1943年9月3日とこの条約の実施の日との間においてイタリア国政府又はイタリア国の官憲によつてイタリア国に在る資本金的資産に対し課せられたいかなる例外的租税、賦課金又は課金をも免除される。このように支払われたいかなる金額も払い戻されなければならない。

別添第4号

Article 12, Clause 3 shall be amended as follows:

(3) If the current price of the property owned by a company at the time of compensation, which was not owned by the company at the commencement of the war exceeds the acquisition cost of the property, the sum of such excesses.

第4回（最終回）打合せ（昭.26.7.5.CPCにおいて）

出席者

先方 Mr. Fraleigh State Dpt., Mr. Blake CPC, Mr. Gillies ESS

Miss Smith CPC, A representative of LS Mr. Carrington

当方 西村条約局長 藤崎条約課長

大蔵省 佐々木外国財産課長

本日の会議で未解決の問題をすべて片付けて、法案全体について了解ができた。

1. まず先方から別添 Final U. S. Comments on Japanese Draft of Allied Powers Property Compensation Law（別添1）を提示した。

(イ) 第3条第1項のfor purposes of its wartime special measures は、はつきりしないから、敵産管理法と改めたいという佐々木外国財産課長の申出、先方了承。

(ロ) 同条第2項は、フランスの会社で、フランス人はいなかったが、日本人の手で事業が継続されたものもカバーするための修正が行われた（この意味は、修正案でもはつきり出てはいないと思われるが）。

(ハ) 同項 resident を not physically present と改めたのは、先方の LS 代表者の意見によるもので、resident という語には、非常にデフィニットな意味があるからである。

(ニ) 第4項 paragraphs 1 and 2 は 1 or 2 にすることに先方了承。

以上の外の点、先方の意見すべていれる。

2. 右の書きもので口頭陳述に留保してある第12条第3項は、当方で第11条について先方の意見を入れるならば、こちらの案（3日午後提出）を入れようとのこと。但し、current price は current market value と改めたいと。そのとおり決る。

3. 課税の点については、先方がイタリー平和条約第78条第6項のようなものを入れることをドロップしてくれるなら、こちらも落とそうということで、これも妥協成立。
4. これで一応行きついたら先方は思っていたらしいが、当方から占領軍による損害につき別添の案（別添2）を示したところ、非常に喜んでいて、フレイリー氏は、これで平和条約にこのための規定をいれなくてすむだろう（I hope）といった。
連合国人の所有に属する接収家屋に対して日本政府の支払っている家賃が安いといつて来た場合、このクレームもこれでカバーされるかとのことだつたが、カバーされないと答えた。カリントン氏が、家賃を統制するという根本の建前の可否に関する問題で、この法律でカバーすべき性質のものではないと述べ、先方係官もみな了承した。
日本に現に居住していたフランス人の家屋が接収された場合はカバーされないが、そうすべてのことをカバーできるものではない、ということで、そのままになった。
5. 佐々木外国財産課長から、「補償は、返還を前提とする建前になつている。ところが、フランス人の財産は、管理に付されなかつたから、従つて返還ということもない。この場合も補償できるようにするために、第5条に1項を設けたい」と申出た。先方、もちろん、これを了承した。

（午前10時—11時過）

別添 1

FINAL U.S. COMMENTS ON JAPANESE DRAFT OF ALLIED POWERS PROPERTY COMPENSATION LAW

For the purpose solely of clarifying the language of certain parts of the law, without changing the meaning as understood by representatives of U.S. and Japanese Government, the following suggestions are made:

Article 3

It is suggested that the first two paragraphs of Article 3 be worded as follows:

“1. If the property owned in Japan by the Allied Powers or their nationals at the time of the commencement of the war has suffered the damage listed in Article 4, paragraph 1, as a result of the war, the Japanese Government shall compensate for such damage,

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provided that, with regard to the properties of Allied nationals, such nationals either (a) were nationals of a country declared by the Japanese Government to be an enemy country for purposes of its wartime special measures, or (b) were subject to apprehension, internment or detention or to the seizure, disposal or sale of their property during the war.

“2. In cases other than those mentioned in the preceding paragraph, if property owned in Japan at the time of the commencement of the war by Allied nationals who were neither resident in Japan nor engaged in business in Japan during the period of hostilities, has suffered the damage mentioned in Article 4, paragraph 1, item (1), the Japanese Government shall compensate for such damage.”

In the paragraph which has been renumbered 4, instead of 3, the wording should be:

“..... compensation mentioned in paragraphs 1 and 2”

Article 5

The ending of paragraph 2 should read:

“for the purchase of property of similar condition and value”

Article 12

Our comments on item (3) of paragraph 12 will be made orally.

Article 14

It is suggested that item (3) be changed to read:

“If improvements have been made to property between the time of the commencement of the war and the time of the restitution of the property, and if the owner does not elect to have the improvements removed, a sum of money equivalent to the value of the improvement at the time of compensation.”

Articles 26 and 27

We are not clear whether these Articles are to be entirely deleted in view of the deletion of Article 24.

July 5, 1951

(195)

5 July 1951

Re. Article 4, c of “U. S. Comments”

Please substitute the following for Article 4, c of our “Observations”:

In accordance with your suggestion,

- (a) The following will be added as Article 4, paragraph 1, item (5):
 (5) Damage suffered owing to and while in use of the Occupation Forces
- (b) In Article 3, paragraph 2, “..... the damage mentioned in Article 4, paragraph 1, item (1)” will be amended to read: “..... the damage mentioned in Article 4, paragraph 1, items (1) and (5)”.

附録 26

1951 年 7 月 6 日先方に交付した連合国財産補償法（案）

（和文及び英文）

連合国財産補償法（案）

目 次

- 第 1 章 総則（第 1 条—第 4 条）
 第 2 章 損害額の算定（第 5 条—第 13 条）
 第 3 章 補償金の支払（第 14 条—第 19 条）
 第 4 章 連合国財産補償審査会（第 20 条）
 第 5 章 雑則（第 21 条—第 25 条）
 附 則

第 1 章 総 則

（目的）

第 1 条 この法律は、連合国との間の平和の回復に伴い、連合国又は連合国人が本邦内

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に有していた財産について戦争の結果生じた損害に対し、補償を行うことを目的とする。

（定義）

第 2 条 この法律において「連合国」とは、日本国と戦争した国又は交戦状態にあつた国で日本国との平和条約の当事国となるものをいう。

2 この法律において「連合国人」とは、左の各号に掲げるものをいう。

- 一 連合国の国籍を有する者
 二 連合国の法令に基いて設立された法人その他の団体
 三 前号に掲げるものを除く外、営利を目的とする法人その他の団体で、前 2 号又は本号に掲げるものがその株式又は持分（当該法人その他の団体の役員が有する株式又は持分を除く。）の全部を有するもの
 四 第 2 号に掲げるものを除く外、前 3 号又は本号に掲げるものが支配する宗教法人その他の営利を目的としない法人その他の団体

3 この法律において「本邦」とは、本州、北海道、四国、九州その他平和条約により日本国の主権が回復される地域をいう。

4 この法律において「戦時特別措置」とは、旧敵産管理法（昭和 16 年法律第 99 号）による措置その他の対敵措置であつて、連合国の国籍を有する者の逮捕、抑留若しくは拘禁又は連合国人の財産の処分若しくは処分の制限その他の日本政府又はその代理機関による公権力の行使としてとられた措置をいう。

5 この法律において「財産」とは、動産、不動産、これらのものの上の権利、特許権、商標権、債権、株式、出資に基く権利その他これらに準ずる財産権をいう。

（補償の原則）

第 3 条 連合国又は連合国人が開戦時において本邦内に有していた財産について戦争の結果損害が生じたときは、日本政府は、その損害を補償するものとする。但し、連合国人が有していた財産に関しては、当該連合国人が旧敵産管理法により敵国として公告された国に所属する場合、又は戦時特別措置により逮捕され若しくは拘禁され若しくはその有する財産が押収され、処分され、若しくは売却された場合に限る。

2 前項に規定する場合を除く外、戦時中本邦内に現実に居住していなかつた個人又は本邦内において業務を行つていなかつた法人である連合国人が開戦時において本邦内に

（197）

有していた財産について第4条第1項第1号又は第5号に掲げる損害が生じたときは、日本政府は、その損害を補償するものとする。

- 3 返還できる状態にある財産について、平和条約に規定される 期限までに返還の請求がされなかつたときは、その財産について生じた損害は、補償されないものとする。但し、その期限までに返還の請求がされなかつたことにつき、日本政府がやむを得ない事由があると認めたときは、この限りでない。
- 4 第1項又は第2項の規定による損害の補償の請求を することができる者は、開戦時及び平和条約の効力発生時において連合国人であるものでなければならない。
- 5 連合国人の財産の承継人が平和条約の効力発生時において連合国人であるときは、その承継人は、第1項又は第2項の規定による損害の補償の請求をすることができる。

（損害の範囲及び財産の所在）

第4条 前条第1項に規定する戦争の結果財産について生じた損害は、左の各号に掲げる損害とする。

- 一 戦闘行為に基因する損害
 - 二 戦時特別措置その他日本政府又はその代理機関の措置に基因する損害
 - 三 当該財産の管理者又は所持人が善良な管理者の注意を怠つたことに基因する損害
 - 四 連合国人が戦争のため当該財産を 本邦内において 保険に付することができなかつたことに基因する損害
 - 五 連合国占領軍が当該財産を使用した期間中におけるその使用に基因する損害
- 2 開戦時公海を航行中の日本船舶に船積されていた 運送品又は手荷物であつて本邦内に直接陸揚げされたものは、開戦時において本邦内にあつたものとみなす。

第2章 損害額の算定

（有体物の損害）

第5条 有体物で返還されたものについて生じた損害額は、その財産の返還時の状態を開戦時の状態まで回復するため補償時において必要な金額を限度とする。この場合において、その財産がその返還後日本政府の負担によつて補修されたものであるときは、当該財産については、その補修された時の状態を返還時の状態とみなす。

- 2 有体物で滅失したもの若しくは所在不明のもの又は著しいき損のため返還されなかつたものについて生じた損害額は、補償時において開戦時の状態の財産と同様の財産を買い入れるため必要な金額を限度とする。

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つたものについて生じた損害額は、補償時において開戦時の状態の財産と同様の財産を買い入れるため必要な金額を限度とする。

- 3 前2項に規定する有体物以外の有体物について生じた損害額は、その財産の平和条約の効力発生時の状態を開戦時の状態まで回復するため補償時において必要な金額を限度とする。

（用役物権及び不動産の賃借権の損害）

第6条 地上権、永小作権、地役権又は不動産の賃借権で、これらの権利の目的物の滅失したもの又は著しい変更のため返還されなかつたものについて生じた損害額は、これらの権利と同様の権利を補償時において取得するため必要な金額とする。

（金銭債権の損害）

第7条 金銭債権について生じた損害額は、戦時特別措置により 譲渡され又は消滅した債権額に相当する金額とする。

- 2 金銭債権を担保する抵当権、質権、留置権若しくは先取特権が戦時特別措置により消滅した場合又はこれらの権利の目的物が戦争の結果滅失又はき損した場合における金銭債権について生じた損害額は、これらの権利の消滅又はその目的物の滅失若しくはき損により債権者が弁済を受けることができなくなつた額に相当する金額とする。

（公債等の損害）

第8条 戦時特別措置の適用を受けた公債、社債、特別の法律により法人の発行した債券又は外国若しくは外国の法人の発行する公債若しくは社債（以下「公債等」という。）で返還されなかつたもののうち補償時までに償還期限が到来しているものについて生じた損害額は、その公債等の元本の額とその公債等に附属していた利札の額との合計額とする。

- 2 返還されなかつた公債等で 補償時までに償還期限が到来していないものについて生じた損害額は、その公債等の補償時における時価と補償時までの利札の額との合計額とする。

（特許権の損害）

第9条 専用権（旧工業所有権戦時法（大正6年法律第21号）第5条の規定により専有することの免許をうけた者の権利をいう。以下同じ。）を設定された特許権（連合国人

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工業所有権戦後措置令（昭和24年政令第309号）第5条の規定によりその特許発明実施又は特許権の消滅に対する報酬又は損害賠償の請求権が抛棄された特許権を除く。）について生じた損害額は、その専用権者がその特許権の存続期間中その特許を実施した場合において支払うべき特許実施料に相当する金額からその特許権者が日本政府に対し納付すべき特許料に相当する金額を差し引いた金額とする。

2 戦時特別措置によつて取り消され又は特許権者である連合国人の自由な意思に基かないで譲渡された特許権（連合国工業所有権戦後措置令第5条の規定によりその特許発明実施又は特許権の消滅に対する報酬又は損害賠償の請求権が抛棄された特許権を除く。）について生じた損害額は、その特許権が存続すべきし期間中に、その特許を実施した者が支払うべき特許実施料に相当する金額から同期間中にその特許権者が日本政府に対し納付すべき特許料に相当する金額を差し引いた金額とする。

3 特許料の不納又は存続期間の満了によつて消滅した特許権（連合国工業所有権戦後措置令第5条の規定によりその特許発明実施又は特許権の消滅に対する報酬又は損害賠償の請求権が抛棄された特許権を除く。）について生じた損害額は、その特許料が納付されていたならば又はその特許権の存続期間の延長が申請されていたならばその特許権が存続すべきし期間中にその特許を実施した者が支払うべき特許実施料に相当する金額から同期間中にその特許権者が日本政府に対し納付すべき特許料に相当する金額を差し引いた金額とする。

4 前3項において、特許を実施した者がその実施した特許につき支払うべき特許実施料は、その特許権について、開戦時において実施契約が存していたときは、その実施契約に定められた実施料、開戦時において実施契約が存していなかつたときは、その特許権と類似の特許権について開戦時において存していた実施契約に定められた実施料の計算方法に準じて算出する。

5 前項に規定する実施契約中に特許権者が実施権者に対し履行すべき義務又は実施権者が特許権者から受けることができる利益について定があるときは、第1項から第3項までに規定する期間中その義務が履行されず又はその利益を受けることができなかったことにより実施権者が蒙つた不利益は、その者が支払うべき特許実施料を計算する場合において、これを参しやくすることができる。

（商標権の損害）

第10条 戦時特別措置による取消又は存続期間の満了によつて消滅した商標権について生じた損害額は、その商標を使用した者がその商標を使用したことによつて受けた利益に相当する金額とその商標の信用を補償時において開戦時の状態に回復するため必要な費用に相当する金額との合計額とする。

（株式の損害）

第11条 第2条第2項第3号に掲げるもの以外の会社の株式について生じた損害額は、当該株式の発行会社について第12条の規定により計算した損害額に、開戦時における当該会社の払込済資本金の額に対し連合国人が開戦時において有していた当該会社の株式の払込済株金額が有する割合を乗じて得た金額とする。

2 会社が清算中である場合において、その株式について返還前に残余財産の分配が行われたときは、その株式の損害額は、返還時前の分配額に相当する金額を前項の金額に加算した金額とする。

（会社の損害額の計算）

第12条 会社の損害額は、開戦時において当該会社が本邦内に有していた財産につき第4条に規定する損害を第5条から第11条までの規定に準じて算出した金額から左に掲げる金額を差し引いた金額とする。

一 会社が企業再建整備法（昭和21年法律第40号）又は金融機関再建整備法（昭和21年法律第39号）により特別損失又は確定損を生じたものである場合において、当該特別損失又は確定損が負債の切捨てによつて補てんされたものであるときは、その切捨てのうち資本以外の戦前債務の切捨て額

二 会社が戦争の結果蒙つた損害を補てんするため減資した場合において、連合国人以外の株主の払込による増資によつてその資本の補充が行われたときは、その補充した金額

三 会社が開戦時において有していなかつた財産で補償時において有しているものの時価がその取得価額をこえるときは、その超過額

第13条 開戦時後株式の発行会社が合併し又は分割した場合における株式の損害額は、前2条の主旨に従い、計算するものとする。

第3章 補償金の支払

(補償金額)

第14条 第3条第4項又は第5項の規定により日本政府に対し補償を請求することができる者（以下「請求権者」という。）に支払われる補償金額は、第2章の規定により算定された損害額から左の各号に掲げる金額を差し引いた金額とする。

- 一 旧特殊財産資金特別会計法（昭和18年法律第86号）第14条の規定により管理され、現に一般会計に属する保管金として日本銀行が管理する特殊財産管理勘定に属していた資金のうち、請求権者又はその代理人によつて引き出された金額
- 二 請求権者が開戦時において有していた財産又はその果実によつて戦時特別措置として弁済された戦前債務の額に相当する金額
- 三 返還された財産が返還時において開戦時よりも価値が増加している場合において、返還を受けた者がその価値増加分の除去を要求しなかつたときは、補償時におけるその価値増加分の価額に相当する金額

(補償請求の方法及び期限)

第15条 請求権者は、その所属する国の政府を経てその国と日本国との間の平和条約の発効時から18箇月内に、日本政府に対し、補償金支払請求書を提出しなければならない。

2 前項に規定する補償金支払請求書には、請求権者が第3条第4項又は第5項の規定により補償の請求をすることができるものであること及び請求する補償の内容を明らかにする書類を添付しなければならない。

3 請求権者が第1項に規定する期間内に補償金支払請求書を提出しないときは、その請求権者は、補償金の支払請求権を放棄したものとみなす。

(補償金額の支払)

第16条 日本政府は、前条第1項の規定により補償金支払請求書が請求権者から提出されたときは、これを審査し、その請求金額を支払うべきものであると認めたときは、遅滞なく、その金額を請求権者に支払わなければならない。

2 日本政府は、補償金支払請求書を審査した結果、その請求金額が請求権者に支払うべき金額と異ると認めたときは、支払うべきであると認めた金額を請求権者に通知しな

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ければならない。

3 請求権者は、前項の規定により通知された金額に異議ないときは、その金額の支払を請求することができる。

4 日本政府は、前項の規定により同項の金額の支払を請求されたときは、遅滞なく、その金額を請求権者に支払わなければならない。

(補償金の円貨による支払)

第17条 前条の規定により支払うべき補償金は、本邦内において円貨で支払われるものとし、その受領者による外国向送金については、外国為替に関する法令に従うものとする。

2 日本政府は、第7条、第8条又は第9条に規定する金銭債権、公債等又は特許実施料の金額が円貨以外の通貨（以下本条において「外貨」という。）により表示され外貨により支払われるべきものである場合又は円貨で表示されているが特約により確定換算率をもつて外貨に換えて支払われるべきものである場合においては、補償金の外貨による支払を承認するものとし、日本の為替状態の許す最も速かな時期において、外国為替に関する法令の規定に従い、請求権者が外貨を取得できるようにしなければならない。

3 前項の場合において、請求権者が円貨による支払を承認したときは、日本政府は、その補償金を補償時の為替換算率により換算した円貨で支払うことができる。

(補償金に対する異議)

第18条 請求権者は、第16条第2項の規定により通知された金額に異議があるときは、同項の通知をうけた日後5週間内に、第20条に定める連合国財産補償審査会に再審査を請求することができる。

2 前項の規定は、日本国と連合国との間に特別の協定がある場合には適用しない。

(一会計年度における支払の限度)

第19条 日本政府は、支払うべき補償金額の合計額が一会計年度において100億円を超過するときは、その超過額については、翌会計年度において支払うものとする。

第4章 連合国財産補償審査会

第20条 日本政府は、第18条の規定に基く再審査の請求を審査させるため、大蔵省に連

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合国財産補償審査会を置く。

2 連合国財産補償審査会の組織及び運営に関し必要な事項は政令で定める。

第 5 章 雑 則

(課税上の特例)

第 21 条 この法律により連合国人の受領する補償金には、租税を課することができない。

(書類の提供)

第 22 条 請求権者は、補償金を請求するため必要がある場合においては、その請求権の立証のため必要な書類をその所属する国の政府を経て、日本政府に対し要求することができる。

2 日本政府は、前項の要求があつたときは、その要求に係る書類を無償で請求権者に提供しなければならない。

(費用の支払)

第 23 条 請求権者は、その請求権の立証のため、本邦内で必要な費用を支出したときは、その所属する国の政府を経て、日本政府に対しその支払を請求することができる。

2 日本政府は前項の請求があつた場合において、その金額が合理的なものであると認めたとときは、その金額を請求権者に支払わなければならない。

(報告等の徴収)

第 24 条 日本政府は、連合国人の財産に生じた損害額の調査に関し必要があると認めるときは、その必要の範囲内において、その財産について権利又は義務を有していた者又は有している者で請求権者以外の者から報告又は資料を徴することができる。

第 25 条 この法律の実施に関し必要な事項は、政令で定める。

(附則)

この法律は、平和条約の最初の効力発生の日から施行する。

ALLIED POWERS PROPERTY COMPENSATION LAW

Chapter I General Provisions

Article 1.

(Purpose)

The purpose of this Law is to compensate, following the restoration of peace with the Allied Powers, for the damage suffered as a result of the war by the property owned in Japan by the Allied Powers and their nationals.

Article 2.

(Definitions)

In this Law, “the Allied Powers” means the states which were at war or in a state of belligerency with Japan and which become parties to the Peace Treaty with Japan.

2. In this Law, “Allied nationals” means the following :

(1) Individual persons who are nationals of Allied Powers ;

(2) Corporations and other associations established under the laws and orders of any of the Allied Powers ;

(3) In addition to those mentioned in the preceding item, those corporations and other associations in which the individuals or corporations or associations mentioned in the preceding two items or this item hold the whole stock or capital investments apart from qualifying shares ;

(4) In addition to those mentioned in paragraph 2, religious juridical persons, non-profit juridical persons and other similar organizations controlled by the persons mentioned in the preceding three items or this item.

3. In this Law, “Japan” means Honshu, Hokkaido, Shikoku, Kyushu, and other territory, over which the sovereignty of Japan is restored by virtue of the Peace Treaty.

4. In this Law, “the war-time special measures” means the measures toward the enemy, including but not limited to the application of the Enemy Property Custody Law (Law No. 99 of 1941—abolished), which were adopted by way of exercise of official authority by the Japanese Government or its agencies, such as the apprehension, internment, or

detention, of individual persons of Allied nationality, the disposal or sale of the property of Allied nationals, etc.

5. In this Law "property" means movable or immovable property, the rights on such property, patents, trademarks, debts, shares, and other property rights and interests of a similar nature.

Article 3.

(Principles of Compensation)

If the property owned in Japan by the Allied Powers or their nationals at the time of the commencement of the war has suffered the damage listed in Article 4, paragraph 1 as a result of the war, the Japanese Government shall compensate for such damage, provided that, with regard to the properties of Allied nationals, such nationals either (a) were nationals of a country declared by the Japanese Government to be an enemy country in accordance with the provisions of the Enemy Property Custody Law, or (b) were subject to apprehension, internment or detention or to the seizure, disposal or sale of their property during the war.

2. In cases other than those mentioned in the preceding paragraph, if property owned in Japan at the time of the commencement of the war by Allied individuals who were not physically present in Japan or Allied corporations which were not in operation in Japan during the period of hostilities, has suffered the damage mentioned in Article 4, paragraph 1, item (1) and (5), the Japanese Government shall compensate for such damage.

3. In cases where a claim for restitution has not been filed for a piece of property in a state capable of restitution within the term fixed in the Peace Treaty, no compensation shall be made for its damage, provided, however, that this shall not apply to cases where this failure in filing a claim is deemed by the Japanese Government as due to unavoidable circumstances.

4. Those, who may claim the compensation mentioned in the paragraph 1 or 2 shall be those who had and shall have the status of Allied nationals at the time of the commencement of the war and at the time of the coming into force of the Peace Treaty.

5. In cases where the successors in interest of Allied nationals are

Allied nationals at the time of the coming into force of the Peace Treaty, they may claim the compensation mentioned in paragraph 1 or 2.

Article 4.

(Scope of Damage and Location of Property)

The damage suffered as a result of the war mentioned in the preceding Article shall be the damage listed in the following items:

- (1) Damage caused by acts of hostility;
- (2) Damage caused by the war-time special measures or other measures of the Japanese Government and its agencies;
- (3) Damage on account of the administrator or possessor of the property concerned having neglected the good administrator's care;
- (4) Damage suffered owing to the inability of an Allied national to have the property insured on account of the war;
- (5) Damage suffered owing to and while in use of the Occupation Forces.

2. The cargo or baggage which had been loaded on board the Japanese ships navigating the high seas at the time of the commencement of the war and which was unloaded directly in Japan shall be regarded as property which was in Japan at the time of the commencement of the war.

Chapter II Calculation of the Amount of Damage

Article 5.

(Damage to Tangible Property)

The amount of damage to restituted tangible property shall be a sum of money required at the time of compensation for the restoration of such property as of the time of restitution to its status as of the time of the commencement of the war, in so far as the damages mentioned in Article 4, paragraph 1 are concerned; provided that, if such property has been repaired by government expenditure after its restitution, its status upon repair shall be regarded as its status as of the time of restitution.

2. The amount of damage to tangible property which is incapable of restitution on account of its loss, substantial destruction, or its location

being unknown, shall be a sum of money required at the time of compensation for the purchase of property of similar condition and value, in so far as the damages mentioned in Article 4, paragraph 1 are concerned.

3. The amount of damage to tangible property other than those falling under the preceding two paragraphs shall be a sum of money required at the time of compensation for the restoration of such property as of the time of the coming into force of the Peace Treaty to its status as of the time of the commencement of the war, in so far as the damages mentioned in Article 4, paragraph 1 are concerned.

Article 6.

(Damage to Use and to Lease of Immovable property)

The amount of damage to the superficies, perpetual tenant-right, servitude, or lease of immovable property, which is incapable of restitution on account of the loss or substantial alteration of the objects of such rights shall be a sum of money required at the time of compensation for the acquisition of the rights of the same substance as such rights.

Article 7.

(Damage to Debts)

The amount of damage to debts shall be a sum of money equivalent to the amount of the debts transferred or liquidated by the war-time special measures.

2. The amount of damage to debts in cases where mortgage, pledge, lien, or priority, has been extinguished by the war-time special measures or in cases where the object of these rights has been lost or destroyed as a result of the war shall be a sum of money equivalent to the amount due to the creditor which has been defaulted on account of the liquidation of such right or loss or destruction of such object or extinction.

Article 8.

(Damage to Public Loans, etc.)

The amount of damage to those public loans, debentures, bonds issued under special laws by juridical persons, or public loans or debentures issued by foreign states or juridical persons (hereinafter referred to as

“the public loans, etc.”) which have been subjected to the war-time special measures and have not been restituted and for which the time of their redemption have arrived before the time of compensation shall be the total of the amount of the principal which should have been repaid by way of the redemption of principal at the time of their redemption and the amount of the interest coupons which accompanied such public loans, etc.

2. The amount of damage to those public loans, etc. whose time of redemption has not arrived by the time of compensation and which are incapable of restitution shall be the total of their current price as of the time of compensation and the amount of the interest coupons up to the time of compensation.

Article 9.

(Damage to Patents)

The amount of damage to a patent which has had the exclusive license established (meaning here and hereinafter the right of persons who have received the license of exclusive use in accordance with the provisions of Article 5 of the Industrial Property Rights War-time Law (Law No. 21 of 1917—abolished)) shall be a sum of money equivalent to the patent working fee payable in cases where the exclusive licensee has worked the patent during the term of the patent, deducted by a sum of money equivalent to the patent fee payable to the government, unless the Allied owner has waived rights to patent working fee and damages for the said term in accordance with the provisions of Article 5 of the Order for Post-war Dispositions of Industrial Property Rights owned by Allied Nationals (Cabinet Order No. 309 of 1949) as amended.

2. The amount of damage to a patent which has been cancelled or transferred by the war-time special measures or without free consent of the Allied national concerned shall be a sum of money equivalent to the patent working fee payable by the person who has worked it during the term for which it should have continued, by a sum of money equivalent to the patent fee payable to the government during such term, unless the Allied owner has waived rights to patent working fee and damages for the said term in accordance with the provisions of Article 5 of the Order for Post-war Disposition of Industrial Property Rights Owned by

Allied Nationals as amended.

3. The amount of damage to a patent which has become extinct on account of the non-payment of the patent fee or the expiration of its term of continuation shall be a sum of money equivalent to the patent working fee payable by a person who has worked it during the term for which it would have continued if the patent fee had been paid or if the extension of its term of continuation had been applied for, deducted by a sum of money equivalent to the patent fee payable to the Japanese Government during such term, unless the Allied owner has waived rights to patent working fee and damages for the said term in accordance with the provisions of Article 5 of the Order for Post-war Dispositions of Industrial Property Rights Owned by Allied Nationals as amended.

4. In the case of the preceding three paragraphs, the patent working fee payable by a person who has worked the patent shall be calculated on the basis of the method of calculation of the working fee stipulated in the working contract existing at the time of the commencement of the war in case such working contract existed, and on the basis of the working fee stipulated in a working contract for a patent analogous to the patent concerned existing at the time of the commencement of the war in case there was no working contract for the patent concerned.

5. If stipulation has been made in the working contract mentioned in the preceding paragraph for the obligation to be performed by the patentee to the working-licensee or for the benefit receivable by the working-licensee from the patentee, a sum of money equivalent to the loss suffered by the person working the patent on account of the default of such obligation or the impossibility to receive such benefit during the term provided for in paragraph 1 to 3 inclusive may be taken into consideration in calculating the patent working fee payable by such person.

Article 10.

(Damage to Trade Marks)

The amount of damage to a trade mark which has become extinct on account of the cancellation by the war-time special measures or the expiration of its term of continuation shall be the total of a sum of money equivalent to the benefit obtained through its use by the person who has used it and a sum of money equivalent to the cost required at

the time of compensation for the restoration of its goodwill as at the time of the commencement of the war.

Article 11.

(Damage to Shares)

The amount of damage relating to the shares other than those of which the issuing company is an Allied national mentioned in the provision of Article 2, paragraph 2, item (2) shall be a sum of money, which is the amount of damage to the issuing company calculated in accordance with the provisions of Article 12, multiplied by the ratio of the amount of the paid up shares of the stock which were owned by the Allied nationals at the time of the commencement of the war to the amount of its paid up capital at the time of the commencement of the war.

2. If, in cases where a company is in the course of liquidation, distribution has been made of its net assets for its shares before restitution, the amount of their damage may be a sum of money equivalent to the amount of the distribution made before the time of restitution, added to the sum of money mentioned in the preceding paragraph.

Article 12.

(Calculation of Amount of Damage to Companies)

The amount of damage to a company shall be a sum of money which is the amount of the damage provided for in Article 4, paragraph 1, calculated in a manner conforming to the provisions of Article 5 to Article 11 inclusive in regard to the property owned in Japan by the company at the time of the commencement of the war, and deducted by the following sum of money:

(1) If, in cases special loss or final loss has occurred to the company in accordance with the Enterprise Reconstruction and Reorganization Law (Law No. 40 of 1946) as amended or the Financial Institutions Reconstruction and Reorganization Law (Law No. 39 of 1946) as amended, such loss has been made up by writing off liabilities, the amount of such writing-off of pre-war liabilities other than the capital;

(2) If, in cases where a company has decreased its capital to make up the loss suffered as a result of the war, its capital has been replenished

with the capital increase through the payment by its shareholders other than Allied nationals, the sum of such replenishment;

(3) If the current market value of the property owned by a company at the time of compensation, which was not owned by the company at the commencement of the war, exceeds the acquisition cost of the property, the sum of such excess.

Article 13.

The calculation of the amount of damages to shares in case where the issuing company has been merged or divided after the commencement of the war shall be made in conformity with the provisions of preceding two Articles.

Chapter III Payment of Compensation

Article 14.

(Amount of Compensation)

The amount of compensation payable to a person who may claim compensation to the Japanese Government in accordance with the provisions of Article 3, paragraph 3 or 4, (hereinafter referred to as "a claimant") shall be a sum of money which is the amount of damage calculated in accordance with the provisions of Chapter III deducted by the sum listed in the following items:

(1) A sum of money withdrawn by a claimant or his agent out of the funds which belonged to the Special Property Administration Account in the custody of the Bank of Japan as entrusted funds belonging to the General Account of the Government Budget;

(2) A sum of money equivalent to the amount of the pre-war liabilities satisfied by way of the war-time special measures by property owned by a claimant at the time of the commencement of the war or its fruits;

(3) If improvements have been made to property between the time of the commencement of the war and the time of the restitution of the property, and if the owner does not elect to have the improvements removed, a sum of money equivalent to the value of the improvement at the time of compensation.

Article 15.

(Method and Term of Claiming Compensation)

A claimant shall file a written claim for payment of compensation with the Japanese Government through the Government of the state to which he belongs within eighteen months from the time of coming into force of the peace treaty between such state and Japan.

2. The written claim for payment of compensation mentioned in the preceding paragraph shall be accompanied with papers which establish the status of the claimant as a person capable of filing claims according to Article 3 and the substance of the claim.

3. If a claimant fails to file a written claim for payment of compensation within the term mentioned in paragraph 1, he shall be regarded as having waived the claim for payment of compensation.

Article 16.

(Payment of Compensation)

If a written claim for payment of compensation has been filed by a claimant in accordance with the provisions of paragraph 1 of the preceding Article, the Japanese Government shall examine it and, if it has found that the sum of money claimed is payable, shall pay it to him without delay.

2. If the Japanese Government has found, as a result of the examination of a written claim for payment of compensation, that the sum of money claimed differs from that payable to the claimant, it shall notify to him the sum of money which it has found payable.

3. If there is no objection to the sum of money notified in accordance with the provisions of the preceding paragraph, the claimant may demand its payment to the Japanese Government.

4. If in accordance with the provisions of the preceding paragraph the payment of the sum of money mentioned in the same paragraph has been demanded to the Japanese Government, the Japanese Government shall pay it to the claimant without delay.

Article 17.

(Payment of Compensation in Yen)

The compensation payable in accordance with the provisions of the preceding Article shall be paid in Japan in the Yen, and its remittance abroad by recipients shall be subject to laws and orders relating to the foreign exchange.

2. In cases where the amount of money of the debts, loans, etc. or patent working fee stipulated in Article 7, 8 and 9, has been designated in terms of currencies other than the Yen (hereinafter referred to as "foreign currency") or, although designated in the Yen, should have been paid in foreign currency at the fixed exchange rate with the term of contract, the Japanese Government shall recognize its liability to make compensation in foreign currency and make it available to the claimant at the earliest date permitted by the Japanese foreign exchange position and in accordance with the regulations concerning the foreign exchange.

3. If, in the case mentioned in the preceding paragraph, the claimant accepts payment in the Yen, the government may make the payment of compensation in the Yen calculated at the exchange rate at the time of compensation.

Article 18.

(Objection to the Amount of Compensation)

If a claimant has an objection to the sum of money notified in accordance with the provisions of Article 16, paragraph 2, he may demand re-examination to the Allied Property Compensation Examination Committee provided for in Article 20 within five weeks after the date of receipt of the notification mentioned in the same paragraph.

2. The provisions of the preceding paragraph shall not be applied in cases where there is a special agreement between Japan and any of the Allied Powers.

Article 19.

(Limitation of Payment in a Fiscal Year)

If the total of sums of money payable for compensation exceeds ten billion Yen in one fiscal year, the Japanese Government make the payments involved in the excess in the following fiscal year.

Chapter IV Compensation Examination Committee

Article 20.

The Japanese Government shall establish in the Ministry of Finance an Allied Property Compensation Examination Committee which is to examine the demands for re-examination under the provisions of Article 18.

2. Necessary matters relating to the organization and operation of the Allied Property Compensation Examination Committee shall be provided for by Cabinet Order.

Chapter V Miscellaneous Provisions

Article 21.

(Exception concerning Taxation)

No tax shall be imposed on the compensation to be received by Allied nationals in accordance with this Law.

Article 22.

(Furnishing of Papers)

Article 22. A claimant may, if necessary for making a claim for compensation, demand the Japanese Government through the Government of the state to which he belongs to furnish papers which are necessary for establishing such claim.

2. If the demand mentioned in the preceding paragraph has been made, the Japanese Government shall furnish the papers so demanded to the claimant free of charge.

Article 23.

(Payment of Cost)

If a claimant has defrayed in Japan necessary cost to establish his claim, he may demand its payment to the Japanese Government through the Government of the state to which he belongs.

2. If, in cases where the demand mentioned in the preceding paragraph has been made, the Japanese Government has found the amount of money reasonable, it shall be paid to the claimant.

Article 24.

(Collection of Reports, etc.)

If the Japanese Government finds it necessary in connection with the investigation of the amount of damage suffered by the property of Allied nationals, it may, within the extent of such necessity, collect reports or data from those persons other than the claimant who had or have a right or an obligation in regard to such property.

Article 25.

(Cabinet Order concerning Enforcement)

Necessary matters in enforcing this Law may be provided for by Cabinet Order.

Supplementary Provisions

The date of enforcement of this Law shall be the date of first coming into force of the Peace Treaty.

附録 27

1951 年 7 月 6 日 先方に交付した(イ)「戦時特別措置」の内容及び(ロ)敵産管理法による敵国の指定に関する大蔵省告示に関する文書

War-Time Special Measure

- 1) Enemy Property Custody Law (Law No. 99 of 1941)
- 2) War-time Law of Industrial Property (Law No. 21 of 1917)
- 3) Regulation for Control of the Transactions related to the person of Foreign Nationality (Ministry of Finance Ordinance No. 46 of 1941)
- 4) Imprisonment, internment, house arrest by Japanese Government or Agency thereof (for instance, policeman, military police, etc.) except in the case where those measures were taken as the punishment for crime.

Successive Amendments made on Ministerial Notifications for Designation of "Enemy Country" under the Enemy Property Custody Law

I (Original)	II	III	IV (Final)
Designated by the Ministry of Finance Notification No. 585 (December 24, 1941)	Designated by the Ministry of Finance Notification No. 12 (January 16, 1942)	Amended as follows by the Ministry of Finance Notification No. 70 (March 1, 1943)	Amended as follows by the Ministry of Finance Notification No. 74 (March 2, 1945)
United States of America (including Republics of the Philippines and all of territories thereof)	United States of America (including all of territories thereof)	United States of America (including all of territories thereof)	United States of America (including all of territories thereof)
United Kingdom of Great Britain (including India and overseas territories)	United Kingdom of Great Britain (including overseas territories, excluding, however, former British Borneo, Burma and former British Malaya)	United Kingdom of Great Britain (including overseas territories, excluding, however, former British Borneo and former British Malaya)	United Kingdom of Great Britain (including overseas territories, excluding, however, Hongkong, former British Borneo and former British Malaya)
	Netherlands Indies and Dutch East Indies	Netherlands Indies, excluding, however, former Dutch East Indies	Netherlands Indies, excluding, however, former Dutch East Indies

附録 28

1951 年 7 月 13 日 ボンド参事官 から受領 した 条約第 15 条の案
文と 7 月 14 日付補償法案 の 閣議決定を 通達する シーボルト大
使宛書簡

“..... compensation will be made in accordance with the draft
Allied Powers Property Compensation Law approved by the Japanese
Cabinet on July ”

July 14, 1951

My dear Mr. Ambassador

I have the honor to inform Your Excellency that the Japanese
Cabinet approved the draft Allied Powers Property Compensation Law
yesterday, July 13, 1951.

Your sincerely

Sadao Iguchi

His Excellency

Mr. William J. Sebald,
United States Ambassador,
Tokyo.

附録 29

1951 年 7 月 20 日 外交部 フィン書記官の連絡記録

連合国財産補償法案に関する件 (昭. 26. 7. 20)

7 月 20 日 午前、西村条約局長 (藤崎随行) DS のフィン氏を往訪。同氏から、本件法案
に関し、左の連絡があつた。

ダレス氏から、まだ確定的ではないが、英国側も大体この案に異存がないようである

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と知らせて来た。従つて、最終案が発表される場合 (8 月 13 日説については、公報を
接受していない) 例の引用方式 (閣議決定に リファーする) が入ってくる可能性があ
る。その場合、日本側で ステイトメントを出される 必要があるのではないかと思うの
で、連絡する次第である。また、在京ミッションで本法案を外務省にもらいにくるかも
知れない (米国側では、日本の外務省に行つてくれという可能性がある)。それに応ず
る用意をして置かれたい。

なお、この会談の際、字句の修正を取り入れた改訂版を一部渡した。

附録 30

外貨債を連合国財産補償法の適用から除外する問題に関する

1951 年 8 月 1 日、2 日、4 日の会談要録

連合国財産補償法案の一部修正 (外貨債を同法の適用から除外)

に関する件 (昭. 26. 8. 4 藤崎)

1. 8 月 1 日、CPC ブレイク氏から電話で「補償法案は外貨債をカバーするものなりや
否や、明かでない。解明をうするため、明日会議したい」と申し越した。
2. 8 月 2 日 午前、CPC で会議した。出席者、先方 CPC ブレイク氏、キャリントン氏
外、LS バッシン氏、オット氏、DS フィン氏。

当方、藤崎、大蔵省外債課荒川事務官外 1 名。(外国財産課長は会議終了後來たので、
会議の模様を話した)。先方から、「外貨債で戦時中に抵当権を消滅せしめられたものの
如きは、戦時特別措置を受けたものとして、この補償法第 8 条による補償を受けうるの
ではないか」との質問があつた。これに対して、当方から「一般の金銭債権の損害に関
する第 7 条では、抵当権を消滅せしめられた場合を規定しているのに対して、公債等の
損害に関する第 8 条には、そういう場合を規定していない。従つて、そのような外貨債
もこの補償法ではカバーされないと解している。」と答えた。また、藤崎から、「これら
については、すでに平和条約の第 18 条に規定がある以上、この方で行くべきがすじで
はないか」との趣旨を述べた。

先方も、結論において異存なく、「外貨債を有する連合国人が平和条約第 18 条による
弁済と補償法による補償を共に受けうると誤解しても困るから、補償法でカバーされな

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いことをはつきり法文の上に示したらどうか」ということであつた。当方、これを了承、3日午前中に案文を提出すべきことを約した。

3. 8月3日午前、大蔵省外債課長及び外国財産課長は、約により、CPC のブレイク氏を往訪した。後できいたところによると、話合いは、前日以上に進まなかつた模様である。
4. 8月4日朝、大蔵省外国財産課長からの依頼により、CPC における会議に参加した。参加者 CPC ブレイク氏、キャリントン氏、大蔵省佐々木外国財産課長、上田外債課長、荒川事務官、外務省藤崎。

大蔵省で用意した案文は、別添第1のとおり。この案文で一切の外貨債を補償法の適用から除外している点について、先方は、「平和条約第18条で日本政府が債務に関する責任を負うのは、政府発行の外貨債と政府がその責任であると後に宣言した外貨債のみである。従つて、政府発行のものと旧外貨債処理法により処理したものだけを除外すればよい。その他のものは、補償法で補償したらよい」といつた。上田外債課長は、「政府発行のものと政府が引受けたもの以外の外貨債の処理については、別に立法する予定である」と説明した。これに対して、先方は、「なぜこの補償法でやつてはいけないのか」といつて、なかなか意見が一致しなかつた。

藤崎から「平和条約第18条第2項では、日本政府は、本来政府の責任たるべきもののみならず、普通の私的な外貨債についても、支払を容易にするという責任を負っている。両者の間に区別が設けられていることは事実だが、連合国人の立場からしても、後から日本国の責任であると宣言されたか否かということが、支払ないし補償について、全く取扱を違える程本質的差異と認められるというわけか。」と反問した。

これに対して、キャリントン氏は、「政府は、その責任であるものだけについて責任を負えばよいので、私的な会社の外貨債については、当該関係者に任せておけばよい。ただ外貨払の手續を容易にしさえすればよい」といつた。

藤崎から、「私人間の債権債務関係なりという貴方の考え方を貫けば、補償法の適用も受けられなくなるではないか」と反問したところ、キャリントン氏は「補償法の第17条で補償を受けることになつていのではないか」といつたので、藤崎から「補償法の建て方は、政府に何等かの責任があることを前提にしてゐる。補償すべき損害の範囲もはつきり第4条でしぼつてある。従つて、外貨債の全部がこの補償法でカバーされ

ることはできない」と述べた。

これでブレイク氏もキャリントン氏も納得して、修正案を了承した。ただ、大蔵省案は、補償法案の他の部分と用語が違つていたので、別添第2のとおりなおした。

5. 右の藤崎の説明は、その場で大蔵省側と相談なしに述べたものであつたが、後で会議に出席した大蔵省側係官は、そのとおりであると確認した。

もつとも、大蔵省側では、別の考慮もある模様である。(前日は、理財局と管財局と大いに論議したといつていた)。

すなわち、理財局長は、一切の外貨債を補償法からはずして、イタリアの場合のように、すべて借換で行く途を残しておきたいという意見であり、管財局の方では、その間に一線をひいて、私的な外貨債については、この際外貨による弁済を考えてもよいではないか、という意見もあつたらしい。

6. 別添第2(附録31参照)の修正案は、8月6日 DS フィン氏に提出、これについて司令部側の意見を取り纏めた上、DS からワシントンに電報することに CPC と了解済み。

別添第 1

Article 3.

6. The provisions of the foregoing items shall not apply to public bonds or corporate debentures issued before the outbreak of war by the Japanese Government, its public organization, or juridical persons incorporated under Japanese Laws or Ordinances before the war, and expressed in currency other than Japanese currency (which shall be referred to as "foreign currency" wherever used in this Paragraph and Paragraph 2 of Article 17 below) and/or those expressed in Japanese currency which are made payable in Japanese currency under a special clause to that effect.

In Paragraph 2 of Article 17, "currency other than Japanese currency" (which shall be referred to as "foreign currency" wherever used in this Paragraph) shall read "foreign currency".

附録 31

外貨債を連合国財産補償法の適用から除外するための 1951 年

8 月 6 日わが方提出の法案第 3 条修正案（及び会談メモ）

連合国財産補償法案の修正（外貨債を本法の適用から除外）

に関する件（昭. 26. 8. 6 藤崎）

8 月 6 日午前、別添の修正案を DS フィン氏に手渡した（8 月 4 日、CPC で協議済みのもの）。その際フィン氏は、「今になつてこれをワシントンに送ることのアドバイザーリティを疑問に思っている。平和条約の最終案は 8 月 13 日に 発表されることになつてゐるが、その際『7 月某日に閣議で決定された』という引用方法が採用されるかも知れない。そうすると、これから一週間位のうちにこの修正について所要の手續をすませることは、ほとんど不可能ではないか。日本政府としては、どう思つておられるか」ときいた。当方からは（大蔵省のヘラも分らなかつたので）はつきりした意見をいわなかつた。（その後大蔵省上田外債課長に電話したところ、修正を入れることを希望するとのことであつた）同日午後又フィン氏を他用で往訪した際、当方からこの問題に言及したところ、フィン氏は「CPC では、すでに電報を打つたらしい。その写はまだ見ていない。DS としてはどうしようかと考えているところだ。3、4 箇月前ドレス特使が外貨債所有者達にあてた手紙で「外貨債に対する補償は、日本の国内法によつて行われる」という意味のことをいつたことがある。当時は、現在の平和条約第 18 条の規定は入つていなかった。それが入っている以上、前に出された手紙を修正する手紙を出してもらうことが一番簡単な方法ではないかと思う。補償法案をひねくつたりするより、この問題は平和条約第 18 条で行くのだと解釈をはつきりしさえすればよいことだ」と述べた。

6 August, 1951

The draft Allied Powers Property Compensation Law is to be changed as follows:

1. In Article 3, the following will be added as paragraph 6:

6. The provisions of the foregoing paragraphs shall not apply to public bonds or debentures which were issued before the commence-

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ment of the war by the state of Japan, its local autonomous bodies, or juridical persons incorporated under Japanese laws or ordinances, and were designated in terms of currencies other than the Yen (which shall be referred to as "foreign currency" wherever used in this paragraph and Article 17, paragraph 2 below) and should be paid in foreign currency or, although designated in the Yen, should be paid in foreign currency at the fixed exchange rate in accordance with the terms of the contract.

2. Accordingly, in Article 17, paragraph 2, "currencies other than the Yen" shall read "foreign currency".

附録 32

1951 年 8 月 14 日連合国財産補償法案の公表問題に関するわが回答

Re. the draft Allied Powers Property Compensation Law

14 August, 1951

The Japanese Government has no objection to the text of the draft Allied Powers Property Compensation Law being made available to interested members of the public. It is requested, however, that the timing of its release to the press be decided upon further consultation between the U.S. Government and the Japanese Government. It may be some time between the date of closing of the coming session of the Diet which will open on August 16 and the opening of the session which will be convoked after the signing of the Peace Treaty.

附録 33

1951 年 8 月 25 日及び 8 月 27 日フィン書記官から受領した連合国財産補償法案に対する修正申出

August 25, 1951

(U. S. Comments)

There is transmitted herewith a list of proposals submitted by the United States Government on behalf of the British, Canadian and United

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States Governments for revising and clarifying the language of the draft Allied Powers Property Compensation Law approved by the Japanese Cabinet on July 13, 1951. It is believed that none of the proposed changes is of great significance. The view of the Japanese Government is requested as to whether or not it is willing to incorporate the proposed changes in the draft law when it is submitted to the Diet.

To the extent that any of the proposed changes can be considered to be substantive changes, the Japanese Government will be under no treaty obligation to abide by them, since the treaty obligation is limited to the terms expressed in the text of the draft law as approved by the Japanese Cabinet on July 13.

Proposals for Revisions of Draft

Allied Powers Property Compensation Law

Article 2, paragraph 5

Insert the word, “designs” after the word “patents”.

Comment: The Japanese Cabinet Order (No. 309 of August 16, 1949) for Post-War Disposition of Industrial Property Rights refers to designs and utility models, as well as patents.

Though the phrase in this paragraph, “other property rights and interests of similar nature” would cover designs and utility models, assume Japanese would have no objection to including word, “designs”.

Article 3, Paragraph 5

Add the following sentence:

“If the successor has purchased the property in its damaged state, the transferor shall retain his rights to compensation under this law without prejudice to obligations between the transferor and the purchaser under domestic law.”

Comment: This proposal has been made by the Canadians to cover the case of a Canadian nationals who sold property in a damaged state to a Japanese national prior to the coming into force of the treaty, reserving the right to claim compensation for the damage. While it is believed the present language of

the law would permit the Canadian transferor to claim, it is assumed that the Japanese would have no objection to the revision, which follows the wording of Article 78, paragraph 9 (b) of the Italian treaty.

Article 3

Add (only if Japanese Government actively desires) Paragraph 6 to read substantially as follows:

“The provisions of the foregoing paragraphs shall not apply to the pre-war external debt of the Japanese State and debts of corporate bodies subsequently declared to be liabilities of the Japanese State.”

Comment: The above proposal is a revision of the one reported to have been made by the Japanese Government. The Department is of the opinion that the amendment of the draft Compensation Law to specifically exclude foreign currency bonds from its application is not considered necessary, but that no objection would be made if the Japanese Government actively desired to exclude such bonds from the operation of the law.

The Department considers the language of the amendment proposed by the Japanese Government to be objectionable as possibly excluding from application of draft compensation law some bonds which should be included within its application. Words, “debts declared to be liabilities,” in Article 18 (b) of draft treaty are understood to refer to liabilities assumed by the Japanese Government pursuant to the provisions of Article 9 of the Japanese Law relating to the treatment of foreign currency bonds. (Law No. 60 of March 15, 1943). In contrast, the debts for which the Japanese Government would undertake to provide compensation under Articles 7 and 8 of draft compensation law are those debts, including foreign currency debts, which debtors paid to the Japanese Government pursuant to the provisions of Article 3 of the Japanese Enemy Property Custody Law (Law No. 99 of December 22, 1941), one of the war-time special measures. Since it is possible that some bonds of Japanese corporations were paid to the Japanese Government under the provisions of Japanese Enemy Property Custody Law,

and, therefore, were never “declared to be liabilities of the Japanese Government” it would not be advisable to exempt all such bonds from application of draft compensation law.

Article 4, Item (1)

Strike out the semi-colon after the word, “hostility,” and add “on the part of Japan or of any of the states which were at war or in a state of belligerency with Japan.”

Comment: The British proposed that the addition be worded “on the part of Japan or of any of the Allied Powers.” Such phrase is too restrictive. Since it is believed that the law would be construed as if the proposed language were added, it is assumed that the Japanese will have no objection to the addition.

Article 4, Item (3)

Insert after the words, “on account of,” the words, “lack of due care on the part of,” and strike out the words, “having neglected the good administrator’s care.”

Comment: This probably requires no change in the Japanese text, but can be handled as a correction of the translation.

Article 4, Item (5)

Change the word “and” to “or.”

Comment: This is proposed by the Department to make clear that compensation should be provided for damage to property while in use of the occupation forces even though the damage was not due to acts of the occupation forces, but to natural causes, such as fire, against which the owner could have insured himself. By virtue of item (4), an owner is not obliged to bear losses to property suffered either while the property was under sequestration by the Japanese Government. He should also not be obliged to bear such losses while his property is under requisition by the occupation forces. Item (5) was intended to be an assumption by Japan of full responsibility for damage suffered to property of Allied nationals (as defined in the law) attributable to the occupation force.

Article 4, Paragraph 2

Change the phrase “which was unloaded directly in Japan” to read “which cargo or baggage was unloaded in Japan.”

Comment: The British were considering a proposal that Japan undertake to compensate for damage to all property on Japanese ships on the high seas even though it was unloaded and remained outside Japan. It was agreed, however, that language should only be broad enough to cover cases where cargo or baggage was initially unloaded outside Japan but subsequently transhipped and unloaded in Japan.

Article 5 and following articles

Change the words “the amount of damage” wherever they appear to “the amount of compensation for damage” and change the words “at the time of compensation”, wherever they appear to “at the time of payment of compensation.”

Comment: The British suggested these changes only with reference to the first three paragraphs of Article 5. If they are to be made in Article 5, however, they should also be made in other articles.

Article 5, Paragraph 2

Insert after the word, “purchase” the words, “in Japan”.

Article 9

Change the heading of the Article to read “(Damage to Industrial Property Rights)”. Add the following as a new paragraph (6) to Article 9:

“The provisions of paragraph 1-5 inclusive apply mutatis mutandis to designs and utility models, reference to the patentee being read as referring to the proprietor of the design or utility model.”

Comment: The British raised only the point of including designs within the scope of Article 9. They suggested that the heading of the article read “(Patents and Designs)” and that the new paragraph 6 mention only designs. Since the Cabinet Order for Post-War Disposition of Industrial Property Rights refers to designs and utility models, as well as patents, it is believed desirable to include both.

Article 17, Paragraph 2

Change words “currencies other than the yen” to “foreign Currency.”

Comment: This is a drafting change which was proposed by the Japanese Government and would be desirable irrespective of the desirability of amending Article 3 to exclude foreign currency bonds from the application of the law.

Article 18, Paragraph 1

Change the phrase “within five weeks” to read “within three months.”

Comment: This proposal is of little significance since it is expected that agreements will be entered into establishing international claims commissions, as contemplated in paragraph 3, and making it unnecessary for claimants to resort to hearings before Japanese agencies.

Article 18, Paragraph 3

Strike out the phrase “any of the Allied Powers” and substitute the words “the Government of the Allied national concerned.”

Article 19

Substitute the number, “10,000,000,000” for the words “ten billion”.

Comment: In England ten billion means ten million million or 10,000,000,000,000.

August 27, 1951

Department of State desires to make the text of the draft Allied Powers Property Compensation Law available to the public by means of a press release and requests that the Japanese Government concur in the issuance of such a press release.

The following additional changes are proposed for clarification of the language of the draft compensation law:

1. Article 3, Paragraph 4: Insert at beginning of paragraph words “in addition to the Allied Powers”.
2. Article 21: Insert at end of paragraph words “or on any Allied national in respect of such compensation”.

附録 34

1951年8月25日及び27日の先方の修正申出に対する8月29

日のわが方の回答

Re. Proposals for Revisions of Draft Allied Powers
Property Compensation Law

August 29, 1951

Subject to Cabinet decision to be made prior to the introduction of the draft Allied Powers Property Compensation Law to the Diet, the observations of the Japanese Government offices concerned on the Proposals for Revisions of the draft law dated August 25, 1951 are as follows:

Article 2, Paragraph 5

Agreed. After the word “patents”, the words “utility models, designs” will be added.

Article 3, Paragraph 5

There is no objection to the purport of your proposal. The following proviso will be added to paragraph 5:

However, in cases where the successors have succeeded to property which has suffered damage, this shall apply only if they have succeeded to the claim for compensation for the relevant damage as well as to such property.

Comment: By the provisions of paragraph 5 incorporating the above proviso, the claim rests with the Allied national who is the original owner, unless the successor is entitled to the claim.

Article 3

It is hoped that the following sentence will be inserted as paragraph 6:

6. The provisions of the preceding five paragraphs shall not apply to those public loans and debentures and the interest right accrued to them to which the provisions of the Law relating to the Treatment of Foreign Currency Bonds (Law No. 60 of 1943—abolished) have been applied.

Comment: It is believed desirable that the above-mentioned public loans and debentures to which the provisions of that law have been applied should be excluded from the application of the present law. The Japanese Government is drawing up a draft of Law Concerning Revalidation of Certain Categories of the Foreign Currency Bonds Converted into the Japanese Currency Bonds in Accordance with the former "Law Relating to the Treatment of the Foreign Currency Bonds" and Other Matters and the draft dated June 26 of this year has been submitted to Mr. S. Gilbert, the Office of Alien Property, Department of Justice, U.S. The following articles are proposed to be inserted in the above-mentioned draft. It is believed the articles will solve the points specially raised in your comment.

The draft of the new articles reads as follows:

"Those bonds and interest coupons of the foreign currency loans and those public loans which are provided for in Article 17 of the former Law (Relating to the Treatment of Foreign Currency Bonds) and which have been paid by order under the former Enemy Property Custody Law and invalidated by the provisions of Article 18, paragraph 1, of the former Law (Relating to the Treatment of Foreign Currency Bonds) shall be revalidated retroactively as from the date of the relevant payment."

"If the loans provided for in the preceding paragraph are municipal bonds or debentures, the Government shall succeed to the obligation to pay their principals and interests."

Additionally, the Japanese Government intends to transfer the provisions of Article 6 of the above-mentioned draft Law to the current Cabinet Order concerning the Restitution of Allied Property, etc., which shall be amended to the effect that the equivalent foreign currency bonds and interest coupons shall be purchased and restituted by the Japanese Government.

The draft you have proposed is believed to be of the same purport as the Japanese draft of revision, and the revision as presently proposed is considered to make the extent of exception clearer.

Article 4, Item (1)

Agreed.

Article 4, Item (3)

Agreed. The Japanese text will be amended accordingly.

Article 4, Item (5)

Not agreeable.

Comment: If the word "and" is changed to "or", damage done to property used by the Occupation Forces during the course of their use by uncontrollable causes, such as typhoon, should also be compensated. It will be recalled that this point was raised and fully discussed at the recent Tokyo Conference.

Article 4, Paragraph 2

Agreed.

Article 5 and following Articles

It is hoped that the original wording will be retained. If it is changed as you proposed, confusion is likely to arise with the amount of compensation to be actually paid under Article 14.

Article 5, Paragraph 2

Agreed.

It is believed that together with the revision to this paragraph as you proposed, the words "in Japan" should be added also after the words "of the same substance as such rights" in Article 6.

Article 9

There is no objection to the purport.

The subtitle will be amended to "Damage to Industrial Property Rights".

The following sentence will be added as paragraph 6:

6. The provisions of paragraph 2 to the preceding paragraph inclusive shall be applied mutatis mutandis to utility models and designs.

Comment: The reason for the wording "the provisions of paragraph 2 to the preceding paragraph inclusive" instead of "the provisions of paragraph 1 to 5, inclusive" is that paragraph 1 provides for damage to the patent for which the right of exclusive use was established in accordance with the War-time

Industrial Property Law, that the right of exclusive use was established only in the case of patents and not in the case of utility models and designs, and that accordingly it is useless to apply mutatis mutandis paragraph 1 to utility models and designs.

No provision is to be made that the word “patentee” is read “the proprietor of the utility model or design”, because provision for application mutatis mutandis is considered sufficient. If provision should be made for such reading, it should be made not only for “patentee”, but also for, “patent” and “patent working fee”.

Article 17, Paragraph 2

The words “currencies other than the Yen” will be followed by “(hereinafter in this paragraph referred to as “foreign currency”)

Article 18, Paragraph 1

Agreed.

Article 18, Paragraph 3

Agreed.

Article 19

Agreed.

Regarding your proposals for additional revisions dated August 27, 1951:

Article 3, Paragraph 4

Agreed.

The opening words will be changed to read “Those who may claim the compensation mentioned in paragraph 1 or 2 shall be, unless they are the Allied Powers,”.

Article 21

There is no objection to the purport.

It is hoped that the wording of this Article will be amended as follows:

No tax shall be imposed on any Allied national for receiving the compensation in accordance with this law.

In addition to the proposed revisions, it is desired that the following revisions be made, for the sake of consonance with the terminologies of the Peace Treaty.

1. Article 2 will be amended as follows:

In this Law, “the Allied Powers” means the Allied Powers as provided for in Article 25 of the Treaty of Peace with Japan signed at San Francisco on September (date), 1951.

Comment: The original definition of “the Allied Powers” was intended to define the same extent of the Allied Powers as provided for in the Peace Treaty. Accordingly, it is believed to be a more precise way to define the term to quote the provisions of the Peace Treaty.

2. The words “at the time of the commencement of the war” in the present draft Law will be amended to “on December 8, 1941”.

Comment: Article 15 of the Peace Treaty provides that property for which compensation shall be given shall be the property which was in Japan on December 8, 1941. Accordingly, it is believed better to use the specific description “on December 8, 1941” than to use the term “at the time of the commencement of the war”, which is likely to cause doubt in interpretation.

附録 35

1951年10月3日の先方の文書

October 3, 1951

It is proposed that Article 4, Para. 5 of the draft Compensation Law be changed to read:

“Damage suffered while in use of the Occupation Forces owing to lack of due care on the part of the Occupation Forces or the inability of the owner to insure the property.”

The Department of State reserves its comments regarding the comments of the Japanese Government on Article 21.

The other positions taken by the Japanese Government and its two additional proposals are acceptable to the Department.

The comments of the British and Canadian Governments on the Japanese Government's position will be forwarded in the near future.

Comments on the draft agreement for the settlement of disputes will be forwarded separately.

1951年10月16日のイギリス及びカナダ政府の意見

October 16, 1951

1. The following are the British comments on the observations of the Japanese Government.
 - (A) December 7, 1941 should be used instead of December 8, 1941 to conform with Article 15 (a) of the Peace Treaty.
 - (B) The words "the amount of damage" should be changed to "the amount of compensation for damage" wherever they appear.
 - (C) The phrase "at the time of compensation" should be changed to "at the time of payment of compensation" wherever it appears.
 - (D) Article 21 should be changed to read "No tax shall be imposed on any Allied national in respect of compensation received in accordance with this Law and no tax shall be imposed on the compensation which may be received by Allied nationals in accordance with this Law".
2. The following are the Canadian Comments:
 - (A) Change the words "subject" in Article 3, paragraph 1 to "subjected".
 - (B) Delete the words "a piece of" in Article 3, paragraph 3.
 - (C) The following words should be added to proviso proposed by the Japanese Government for insertion in Article 3, paragraph 5: "In the absence of specific reference to the contrary in the instrument of transfer the claim for compensation shall be deemed to have remained with the transferor".
 - (D) Change the phrase "payment to the Japanese Government" in paragraph 3 of Article 16 to "payment by the Japanese Government".
 - (E) Change the phrase "demanded to the Japanese Government" in paragraph 4 of Article 16 to "demanded from the Japanese Government".

3. Except as noted, the Japanese Government observations are satisfactory to the British and Canadian Governments.
4. The Department of State does not agree with the British comment (B) for reasons stated by the Japanese Government in its observations. The Department joins in the British comment (D) since it is believed that the original wording of Article 21 should be construed to prohibit either excise tax on compensation or income tax on receipt of compensation. If the British proposal is rejected by the Japanese Government, the Department considers existing language of Article 21 preferable to the language proposed in observations of the Japanese Government.
5. The Department wishes to revise the ending of its proposal for the change in Article 4, paragraph 5 to read "inability of Allied national to insure property". The purpose of the Department's proposal regarding paragraph 5 is to cover cases where destruction of property in use of Occupation forces is not caused by Occupation forces and Allied nationals was unable to insure either because the title had not been restored as in the Wiersum case or because insurance was not available for property in the hands of Occupation forces.

附録 37

1951年10月16日の先方（イギリス、カナダ、アメリカ）の
修正申出に対する10月18日のわが方の回答

The Observation of the Japanese Government on the Proposals for
Revisions of Draft Allied Powers Property Compensation
Law dated October 16, 1951.

October 18, 1951

1. On the British comments
 - (A) No objection to the purport. However, in Japanese domestic law, it is customary to stipulate Japan Time. December 8, 16th

year of Showa (December 8, 1941) in the Japanese text of this Law should be construed as meaning December 7, 1941, in British Time, both of which are identical, with the adjustment of geographical difference. Accordingly, in English text this will be translated as “December 7, 1951”.

(B) Not agreeable. The view of the Department of State mentioned in 4. will be preferred.

(C) Agreed. After the words “the time of compensation”, the words “(meaning here and hereinafter the time of payment of compensation by the Japanese Government in accordance with the provisions of Article 16, paragraph 1 or 4)” will be added in Article 5, paragraph 1.

(D) Agreed. Article 21 will be changed as follows:

Article 21.

(Exception concerning Taxation)

No tax shall be imposed on the compensation which may be received by Allied nationals in accordance with this Law.

2. No tax shall be imposed on any Allied national in respect of compensation received in accordance with this Law.

2. On the Canadian Comments

(A), (B), (D) and (E) agreed.

(C) Not agreeable

Article 3, paragraph 5 should be construed to include such case as is mentioned in the Canadian Comments. There seemed no reason to add redundant provision to the provision of the proviso of this Article.

3. Agreed to your Comment 5.

Article 4, item (5) will be changed as follows:

(5) Damage suffered while in use of the Occupation Forces owing to lack of due care on the part of the Occupation Forces or the inability of an Allied national to insure property.

英文官報に掲載された連合国財産補償法英文

ALLIED POWERS PROPERTY COMPENSATION LAW

(Law No. 264 of November 26, 1951)

Contents

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Supplementary Provisions

Chapter I General Provisions

(Purpose)

Article 1. The purpose of this Law is to compensate, following the restoration of peace with the Allied Powers, for the damage suffered as a result of the war by the property owned in Japan by the Allied Powers and their nationals.

(Definitions)

Article 2. In this Law, “the Allied Powers” means the Allied Powers as provided for in Article 25 of the Treaty of Peace with Japan (hereinafter referred to as “the Peace Treaty”).

2. In this Law, “Allied nationals” means the following:

- (1) Individual persons who are nationals of Allied Powers;
- (2) Corporations and other associations established under the laws and orders of any of the Allied Powers;
- (3) In addition to those mentioned in the preceding item, those corporations and other associations in which the individuals or corporations or associations mentioned in the preceding two items or this item hold the whole stock or capital investments apart from qualifying shares;

- (4) In addition to those mentioned in item (2), religious juridical persons, non-profit juridical persons and other similar organizations controlled by the persons mentioned in the preceding three items or this item.
3. In this Law, "Japan" means Honshu, Hokkaido, Shikoku, Kyushu, and other territory, over which the sovereignty of Japan is restored by virtue of the Peace Treaty.
4. In this Law, "the war-time special measures" means the measures toward the enemy, including but not limited to the application of the old Enemy Property Custody Law (Law No. 99 of 1941), which were adopted by way of exercise of official authority by the Japanese Government or its agencies, such as the apprehension, internment or detention, of individual persons of Allied nationality, the disposal or sale of the property of Allied nationals, etc.
5. In this Law, "property" means movable or immovable property, the rights to such property, patents, utility models, designs, trademarks, debts, shares, and other property rights and interests of a similar nature.

(Principles of Compensation)

Article 3. If the property owned in Japan by the Allied Powers or their nationals on December 8, 1941 (hereinafter referred to as "the time of the commencement of the war") has suffered damage as a result of the war, the Japanese Government shall compensate for such damage; provided that, with regard to the properties of Allied nationals, such nationals either (a) were nationals of a country declared by the Japanese Government to be an enemy country in accordance with the provisions of the old Enemy Property Custody Law, or (b) were subjected to apprehension, internment or detention or to the seizure, disposal or sale of their property during the war.

2. In cases other than those mentioned in the preceding paragraph, if property owned in Japan at the time of the commencement of the war by Allied individuals who were not physically present in Japan or Allied corporations which were not in operation in Japan during the period of hostilities, has suffered the damage mentioned in Article

- 4 paragraph 1 item (1) or (5), the Japanese Government shall compensate for such damage.
3. In cases where a claim for restitution has not been filed for property in a state capable of restitution within the term fixed in the Peace Treaty, no compensation shall be made for its damage; provided, however, that this shall not apply to cases where this failure in filing a claim is deemed by the Japanese Government as due to unavoidable circumstances.
4. Those who may claim the compensation mentioned in paragraph 1 or 2 shall be, unless they are the Allied Powers, those who had and shall have the status of Allied nationals at the time of the commencement of the war and at the time of the coming into force of the Peace Treaty.
5. In cases where the successors in interest of Allied nationals are Allied nationals at the time of the coming into force of the Peace Treaty, they may claim the compensation mentioned in paragraph 1 or 2. However, in cases where the successors have succeeded to property which has suffered damage, this shall apply only if they have succeeded to the claim for compensation for the relevant damage as well as to such property.
6. The provisions of the preceding five paragraphs shall not apply to those public loans and debentures and the interest right accrued to them to which the provisions of the old Law relating to the Treatment of Foreign Currency Bonds (Law No. 60 of 1943) have been applied.

(Scope of Damage and Location of Property)

Article 4. The damage suffered as a result of the war mentioned in paragraph 1 of the preceding Article shall be the damage listed in the following items:

- (1) Damage caused by acts of hostility on the part of Japan or of any of the states which were at war or in a state of belligerency with Japan;
- (2) Damage caused by the war-time special measures or other measures of the Japanese Government and its agencies;
- (3) Damage on account of lack of due care on the part of the administrator or possessor of the property concerned;

- (4) Damage suffered owing to the inability of an Allied nationals to have the property insured in Japan on account of the war;
 - (5) Damage suffered while in use of the Occupation Forces owing to lack of due care on the part of the Occupation Forces or the inability of an Allied national to insure property.
2. The cargo or baggage which had been loaded on board the Japanese ships navigating the high seas at the time of the commencement of the war and which was unloaded in Japan shall be regarded as property which was in Japan at the time of the commencement of the war.

Chapter II Calculation of the Amount of Damage

(Damage to Tangible Property)

- Article 5. The amount of damage to restituted tangible property shall be a sum of money required at the time of compensation (meaning here and hereinafter the time of payment of compensation by the Japanese Government in accordance with the provisions of Article 16 paragraph 1 or 4) for the restoration of such property as of the time of restitution to its status as of the time of the commencement of the war, in so far as the damages mentioned in paragraph 1 of the preceding Article are concerned; provided that, if such property has been repaired by government expenditure after its restitution, its status upon repair shall be regarded as its status as of the time of restitution.
2. The amount of damage to tangible property which is incapable of restitution on account of its loss, substantial destruction, or its location being unknown, shall be a sum of money required at the time of compensation for the purchase in Japan of property of similar condition and value, in so far as the damages mentioned in paragraph 1 of the preceding Article are concerned.
 3. The amount of damage to tangible property other than that falling under the preceding two paragraphs shall be a sum of money required at the time of compensation for the restoration of such property as of the time of the coming into force of the Peace Treaty to its status as of the time of the commencement of the war, in so far

as the damages mentioned in paragraph 1 of the preceding Article are concerned.

(Damage to Use and to Lease of Immovable Property)

- Article 6. The amount of damage to the superficies, perpetual tenant-right, servitude, or lease of immovable property, which is incapable of restitution on account of the loss or substantial alteration of the objects of such rights shall be a sum of money required at the time of compensation for the acquisition of the rights of the same substance as such rights in Japan.

(Damage to Debts)

- Article 7. The amount of damage to pecuniary debts shall be a sum of money equivalent to the amount of the debts transferred or liquidated by the war-time special measures.
2. The amount of damage to debts in cases where mortgage, pledge, lien, or priority, has been extinguished by the war-time special measures or in cases where the object of these rights has been lost or destroyed as a result of the war shall be a sum of money equivalent to the amount due to the creditor which has been defaulted on account of the extinction of such right or loss or destruction of such object.

(Damage to Public Loans, etc.)

- Article 8. The amount of damage to those public loans, debentures, bonds issued under special laws by juridical persons, or public loans or debentures issued by foreign states or juridical persons (hereinafter referred to as "the public loans, etc.") which have been subjected to the war-time special measures and have not been restituted and for which the time of their redemption has arrived before the time of compensation shall be the total of the amount of the principal and the amount of the interest coupons which accompanied such public loans, etc.
2. The amount of damage to those public loans, etc. whose time of redemption has not arrived by the time of compensation and which are incapable of restitution shall be the total of their current price as of the time of compensation and the amount of the interest coupons up to the time of compensation.

(Damage to Industrial Property Rights)

Article 9. The amount of damage to a patent which has had the exclusive license established (meaning here and hereinafter the right of persons who have received the license of exclusive use in accordance with the provisions of Article 5 of the old Industrial Property Rights War-time Law (Law No. 21 of 1917) shall be a sum of money equivalent to the patent working fee payable in cases where the exclusive licensee has worked the patent during the term of the patent, deducted by a sum of money equivalent to the patent fee payable to the Japanese Government, unless the Allied owner has waived right to patent working fee and damages for the said term in accordance with the provisions of Article 5 of the Order for Post-war Disposition of Industrial Property Rights Owned by Allied Nationals (Cabinet Order No. 309 of 1949) as amended.

2. The amount of damage to a patent which has been cancelled or transferred by the war-time special measures or without free consent of the Allied national concerned shall be a sum of money equivalent to the patent working fee payable by the person who has worked it during the term for which it should have continued, deducted by a sum of money equivalent to the patent fee payable to the Japanese Government during such term, unless the Allied owner has waived rights to patent working fee and damages for the said term in accordance with the provisions of Article 5 of the Order for Post-war Disposition of Industrial Property Rights Owned by Allied Nationals as amended.

3. The amount of damage to a patent which has become extinct on account of the non-payment of the patent fee or the expiration of its term of continuation shall be a sum of money equivalent to the patent working fee payable by a person who has worked it during the term for which it would have continued if the patent fee had been paid or if the extension of its term of continuation had been applied for, deducted by a sum of money equivalent to the patent fee payable to the Japanese Government during such term, unless the Allied owner has waived rights to patent working fee and damages for the said term in accordance with the provisions of Article

5 of the Order for Post-war Disposition of Industrial Property Rights Owned by Allied Nationals as amended.

4. In the case of the preceding three paragraphs, the patent working fee payable by a person who has worked the patent shall be calculated on the basis of the method of calculation of the working fee stipulated in the working contract existing at the time of the commencement of the war in case such working contract existed, and on the basis of the working fee stipulated in a working contract for a patent analogous to the patent concerned existing at the time of the commencement of the war in case there was no working contract for the patent concerned.

5. If stipulation has been made in the working contract mentioned in the preceding paragraph for the obligation to be performed by the patentee to the working-licensee or for the benefit receivable by the working-licensee from the patentee, the loss suffered by the person working the patent on account of the default of such obligation or the impossibility to receive such benefit during the term provided for in paragraphs 1 to 3 inclusive may be taken into consideration in calculating the patent working fee payable by such persons.

6. The provisions of paragraph 2 to the preceding paragraph inclusive shall apply mutatis mutandis to utility models and designs.

(Damage to Trade Marks)

Article 10. The amount of damage to a trade mark which has become extinct on account of the cancellation by the war-time special measures or the expiration of its term of continuation shall be the total of a sum of money equivalent to the benefit obtained through its use by the person who has used it and a sum of money equivalent to the cost required at the time of compensation for the restoration of its good-will as at the time of the commencement of the war.

(Damage to Shares)

Article 11. The amount of damage relating to shares of stock other than those of which the issuing company is an Allied national mentioned in the provisions of Article 2 paragraph 2 items (2) and (3) shall be a sum of money, which is the amount of damage to the issuing company calculated in accordance with the provisions of Article 12, multiplied by the ratio of the amount of the paid up

shares of the stock which were owned by the Allied national at the time of the commencement of the war to the amount of its paid up capital at the time of the commencement of the war.

2. If, in cases where a company is in the course of liquidation, distribution has been made of its net assets for its shares before restitution, the amount of their damage shall be a sum of money equivalent to the amount of the distribution made before the time of restitution, added to the sum of money mentioned in the preceding paragraph.

(Calculation of Amount of Damage to Companies)

Article 12. The amount of damage to a company shall be a sum of money which is the amount of the damage provided for in Article 4 paragraph 1, calculated in a manner conforming to the provisions of Article 5 to the preceding Article inclusive in regard to the property owned in Japan by the company at the time of the commencement of the war, and deducted by the following sums of money :

- (1) If, in cases special loss or final loss has occurred to the company in accordance with the Enterprise Reconstruction and Reorganization Law (Law No. 40 of 1946) as amended or the Financial Institutions Reconstruction and Reorganization Law (Law No. 39 of 1946) as amended, such loss has been made up by writing off liabilities, the amount of such writing-off of pre-war liabilities other than the capital ;
- (2) If, in cases where a company has decreased its capital to make up the loss suffered as a result of the war, its capital has been replenished with the capital increase through the payment by its shareholders other than Allied nationals, the sum of such replenishment ;
- (3) If the current market value of the property owned by a company at the time of compensation, which has not owned by the company at the commencement of the war, exceeds the acquisition cost of the property, the sum of such excess.

(Amount of Damage to Shares of Company which has been Merged, etc.)

Article 13. The calculation of the amount of damages to shares in case where the issuing company has been merged or divided after the

commencement of the war shall be made in conformity with the provisions of preceding two Articles.

Chapter III Payment of Compensation

(Amount of Compensation)

Article 14. The amount of compensation payable to a person who may claim compensation from the Japanese Government in accordance with the provisions of Article 3 paragraph 4 or 5 (hereinafter referred to as "claimant") shall be a sum of money which is the amount of damage calculated in accordance with the provisions of the preceding Chapter deducted by the sums listed in the following items :

- (1) A sum of money withdrawn by a claimant or his agent out of the funds which belonged to the Special Property Administration Account in the custody of the Bank of Japan ;
- (2) A sum of money equivalent to the amount of the pre-war liabilities satisfied by way of the war-time special measures by property owned by a claimant at the time of the commencement of the war or its fruits ;
- (3) If improvements have been made to property between the time of the commencement of the war and the time of the restitution of the property, and if the owner does not elect to have the improvements removed, a sum of money equivalent to the value of the improvements at the time of compensation.

(Method and Term of Claiming Compensation)

Article 15. A claimant shall file a written claim for payment of compensation with the Japanese Government through the Government of the state to which he belongs within eighteen months from the time of coming into force of the Peace Treaty between such state and Japan.

2. The written claim for payment of compensation mentioned in the preceding paragraph shall be accompanied with papers which establish the status of the claimant as a person capable of filing claims according to the provisions of Article 3 paragraph 4 or 5 and the substance of the claim.
3. If a claimant fails to file a written claim for payment of compen-

sation within the term mentioned in paragraph 1, he shall be regarded as having waived the claim for payment of compensation.

(Payment of Compensation)

Article 16. If a written claim for payment of compensation has been filed by a claimant in accordance with the provisions of paragraph 1 of the preceding Article, the Japanese Government shall examine it and, if it has found that the sum of money claimed is payable, shall pay it to him without delay.

2. If the Japanese Government has found, as a result of the examination of a written claim for payment of compensation, that the sum of money claimed differs from that payable to the claimant, it shall notify him of the sum of money which it has found payable.

3. If there is no objection to the sum of money notified in accordance with the provisions of the preceding paragraph, the claimant may demand its payment by the Japanese Government.

4. If in accordance with the provisions of the preceding paragraph the payment of the sum of money mentioned in the same paragraph has been demanded from the Japanese Government, the Japanese Government shall pay it to the claimant without delay.

(Payment of Compensation in Yen)

Article 17. The compensation payable in accordance with the provisions of the preceding Article shall be paid in Japan in the Yen, and its remittance abroad by recipients shall be subject to laws and orders relating to the foreign exchange.

2. In cases where the amount of money of the debts, loans, etc. or patent working fee stipulated in Articles 7 to 9 inclusive has been designated in terms of currencies other than the Yen (hereinafter in this paragraph referred to as "foreign currency") and should have been paid in foreign currency or, although designated in the Yen, should have been paid in foreign currency at the fixed exchange rate in accordance with the term of contract the Japanese Government shall recognize its liability to make compensation in foreign currency and make it available to the claimant at the earliest date permitted by the Japanese foreign exchange position and in accordance with the laws and regulations concerning the foreign exchange.

3. If, in the case mentioned in the preceding paragraph, the claimant accepts payment in the Yen, the Japanese Government may make the payment of compensation in the Yen calculated at the exchange rate at the time of compensation.

(Objection to the Amount of Compensation)

Article 18. If a claimant has an objection to the sum of money notified in accordance with the provisions of Article 16 paragraph 2, he may demand re-examination to the Allied Powers Property Compensation Examination Committee provided for in Article 20 within three months after the date of receipt of the notification mentioned in the same paragraph.

2. On request a claimant shall be entitled to a hearing before this Committee and to be represented by counsel if desired.

3. The provisions of the preceding two paragraphs shall not apply in cases where there is a special agreement between the Japanese Government and the Government of the Allied national concerned.

(Limitation of Payment in a Fiscal Year)

Article 19. If the total of sums of money payable for compensation exceeds ten billion (10,000,000,000) yen in one fiscal year, the Japanese Government makes the payments involved in the excess in the following fiscal year.

Chapter IV Allied Powers Property Compensation
Examination Committee

Article 20. The Japanese Government shall establish in the Ministry of Finance an Allied Powers Property Compensation Examination Committee which is to examine the demands for re-examination under the provisions of Article 18.

2. Necessary matters relating to the organization and operation of the Allied Powers Property Compensation Examination Committee shall be provided for by Cabinet Order.

Chapter V Miscellaneous Provisions

(Exception concerning Taxation)

Article 21. No tax shall be imposed on the compensation which may be received by Allied nationals in accordance with this Law.

2. No tax shall be imposed on any Allied national in respect of compensation received in accordance with this Law.

(Furnishing of Papers)

Article 22. A claimant may, if necessary for making a claim for compensation, demand the Japanese Government through the Government of the state to which he belongs to furnish papers which are necessary for establishing such claim.

2. If the demand mentioned in the preceding paragraph has been made, the Japanese Government shall furnish the papers so demanded to the claimant free of charge.

(Payment of Cost)

Article 23. If a claimant has defrayed in Japan necessary cost to establish his claim, he may demand its payment to the Japanese Government through the Government of the state to which he belongs.

2. If, in cases where the demand mentioned in the preceding paragraph has been made, the Japanese Government has found the amount of money reasonable, it shall be paid to the claimant.

(Collection of Reports, etc.)

Article 24. If the Japanese Government finds it necessary in connection with the investigation of the amount of damage suffered by the property of Allied nationals, it may, within the extent of such necessity, collect reports or data from those persons other than the claimant who had or have a right or an obligation in regard to such property.

(Cabinet Order concerning Enforcement)

Article 25. Necessary matters in enforcing this Law may be provided for by Cabinet Order.

Supplementary Provisions:

This Law shall come into force as from the date of the first coming into force of the Peace Treaty.

附録 39

1951 年 8 月 25 日 先方から受領した平和条約第 15 条(a)に関する
紛争の解決のための協定案

August 25, 1951

There is transmitted herewith a tentative draft of an agreement for the settlement of disputes concerning Article 15 (a) of the Peace Treaty. This draft is now under consideration by the British, Canadian and United States Governments. The views of the Japanese Government concerning the draft agreement are requested.

It is considered possible, if it should be decided that the Japanese Government is willing to assume an international obligation with respect to the proposed changes in the draft Allied Powers Property compensation Law, to express that obligation in the agreement for settlement of disputes.

Agreement for the Settlement of Disputes
Concerning Article 15 (a) of the Peace Treaty

The governments of the parties to the Treaty of Peace with Japan signed at San Francisco on September , 1951, desiring to establish procedures for the settlement of disputes concerning Article 15 (a) of the Treaty have agreed as follows:

1. Disputes between the government of each Allied Power and Japan concerning the interpretation and execution of Article 15 (a) of the Treaty of Peace with Japan, and legislation enacted by the Japanese Government pursuant to Article 15 (a) shall be referred for final determination to a commission composed of three members, one appointed by the Allied Government, one appointed by the Japanese Government, and the third appointed by mutual agreement of the two governments. In the event that either government fails to appoint a member, or that the two governments cannot agree on the appointment of a third member, such member or members shall be appointed by the President of the International Court of Justice. Any vacancy which may occur in the membership of

the commission shall be filled in the same manner as in the case of the original appointment.

2. Each government shall pay the salary of the member appointed by it. The salary of the third member of the commission and the expenses of the commission shall be borne equally by the Allied Government and the Japanese Government.

3. The decision of a majority of the member of the commission shall be the decision of the commission, and shall be accepted by the parties as binding and final.

4. The Japanese Government shall advise the Allied Government of its action on each claim within eighteen months from the date of the submission of the claim to the Japanese Government. If the claimant is not satisfied with the action taken by the Japanese Government, he may submit his claim to the commission for final decision.

5. Any Allied Power which is a party to the Treaty of Peace signed at San Francisco on September , 1951, may become a party to this agreement.

(Provision for signatures and for notifications of accession to this agreement will be added.)

附録 40

平和条約第 15 条(a)に関する紛争の解決のための協定案に関する
1951 年 8 月 28 日のわが意見

Re. Agreement for the Settlement of Disputes
Concerning Article 15 (a) of the Peace Treaty

28 August 1951

The Japanese Government has in principle no objection to the conclusion of an agreement in the proposed line. But it is not prepared to state formally its observations on the proposed draft at the present time. The following suggestions are made informally and tentatively:

- 1) The commission may be named as a "conciliation commission" as in the Italian Peace Treaty (Article 83) and the word "of" may

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be inserted before the word "legislation" in the first paragraph, in order to clarify the functions of the commission.

- 2) It is assumed that several commissions are to be established under this agreement. However, there may be just one commission for all the signatory Powers to be composed in the same manner as proposed, only the member representing the Allied Power concerned to be changed for each case according to the nationality of the claimant. It would be better for the sake of uniformity of decision. It means less expenses for the Japanese Government which does not expect to have so many disputes with the Allied governments are to necessitate the establishment of several commissions.
- 3) The Japanese Government understands that the claims against the action taken by the Japanese Government be submitted to the commission through the respective Allied governments. The wording of the second sentence of paragraph 4 may be changed accordingly. Also a time limit of, say, three months may be set for the submission of such claim.
- 4) As for the procedure of the commission, the pattern of the Italian Peace Treaty (Article 83-3 "Each Conciliation Commission shall determine its own procedure, adopting rules conforming to justice and equity.") may be followed.

It is requested that these details of the proposed agreement be discussed after the signing of the Peace Treaty.

附録 41

1951 年 12 月 4 日交付された新協定案

Draft Agreement for the Settlement of Disputes
Arising Under Article 15(a) of the Peace Treaty

The Allied Powers signatory to this Agreement and Japan desiring, in accordance with Article 22 of the Treaty of Peace with Japan, signed at San Francisco on September 8, 1951, to establish procedures for the

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settlement of disputes concerning the interpretation and execution of Article 15(a) of the Treaty have agreed as follows:

(1) In any case where a claim for compensation has been submitted by the Government of an Allied Power to the Government of Japan in accordance with the provisions of Article 15(a) of the Treaty and the Allied Powers Property Compensation Law, enacted by the Japanese Diet on , 1951, the Japanese Government agrees to inform the Allied government of its action with respect to such claim within eighteen months from the date of submission of the claim. In the event that the Government of an Allied Power is not satisfied with the action taken by the Japanese Government with respect to a claim for compensation, or with respect to the application for the return of property, rights, or interests submitted to the Japanese Government pursuant to the provisions of Article 15(a), the Government of the Allied Power, within six months after it has been advised by the Japanese Government of such action, may refer such claim or application for final determination to a commission appointed as hereinafter provided.

(2) A commission for the purpose of this Agreement shall be appointed upon request to Japan made in writing by the Government of an Allied Power and shall be composed of three members; one, appointed by the Government of the Allied Power, one, appointed by the Japanese Government, and the third, appointed by mutual agreement of the two Governments. Japan may appoint the same person to serve on two or more commissions; provided, however, that if, in the opinion of the Government of the Allied Power, the service of the Japanese member on another commission or commissions unduly delays the work of the commission, the Government of the Allied Power may require the Japanese Government to appoint a new member. The Government of an Allied Power and the Japanese Government may agree to appoint as a third member, a person serving as a third member on other commissions; provided, however, that if, in the opinion of the Government of the Allied Powers, the service of the third member on another commission or commissions unduly delays the work of the commission, the Government of the Allied Power may require that a new third member be appointed by agreement of the Government of the Allied Power and Japan. In the event that the Japanese Government fails to appoint a member

within thirty days of the request for the appointment of such member or in the event that the two Governments fail to agree on the appointment of a third member within sixty days of the request for the appointment of such third member, the Government of the Allied Power may request the President of the International Court of Justice to appoint such member or members. Any vacancy which may occur in the membership of the commission shall be filled in the same manner as in the case of the original appointment.

(3) Each commission shall be known as the (name of the Allied Government concerned)-Japanese Property Commission.

(4) Each Commission created under this Agreement shall determine its own procedure, adopting rules conforming to justice and equity.

(5) Each Government shall pay the remuneration of the member appointed by it. In the event that the Japanese Government fails to appoint a member, it shall pay the remuneration of the member appointed on its behalf. The remuneration of the third member of each Commission and the expenses of each Commission shall be fixed by the Commission and shall be borne in equal shares by the Government of the Allied Power and the Japanese Government.

(6) The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted as binding and final by the Government of the Allied Power and Japan.

(7) This Agreement shall be open for signature by the Government of Japan and by the government of any state which is a party to the Treaty of Peace. This Agreement shall come into effect between the Government of an Allied Power and Japan upon the coming into force of the Treaty of Peace between the Allied Power and Japan.

(8) This Agreement shall be deposited in the archives of the Government of the United States of America, which shall furnish each signatory government with a certified copy thereof.

1951 年 12 月 5 日わが方が協定案に関し提出した意見

Informal

Observations on Draft Agreement for the Settlement of Disputes
Arising under Article 15(a) of the Peace Treaty

5 December, 1951

The following suggestions are made informally with regard to the above-mentioned Draft Agreement:

(1) In the preamble, “..... for the settlement of disputes concerning the interpretation and execution of Article 15(a) of the Treaty” be amended as follows:

..... for the settlement of disputes concerning the compensation to be made in accordance with the Allied Powers Property Compensation Law (Japanese Law No. 264, 1951) under Article 15(a) of the Treaty

(2) In (1) of the Draft Agreement;

a. In the first sentence, “In any case where a claim for compensation has been submitted by the Government of the Allied Power to the Government of Japan in accordance with the provisions of Article 15(a) of the Treaty and the Allied Powers Property Compensation Law, enacted by the Japanese Diet on , 1951, the Japanese Government” be amended as follows:

In any case where a claim for compensation has been submitted by a claimant through the Government of the Allied Power to which he belongs to the Government of Japan in accordance with the Allied Powers Property Compensation Law, the Japanese Government

(cf. Article 15 of the Law.)

b. In the second sentence, “In the event that the Government of an Allied Power is not satisfied with the action taken by the Japanese Government with respect to a claim for compensation, or with respect to the application for the return of property, rights, or interests

submitted to the Japanese Government may refer such claim or application for final determination” shall be amended to read:

In the event that the claimant is not satisfied with the action taken by the Japanese Government with respect to a claim for compensation submitted to the Japanese Government may refer such claim for final settlement

(3) In (2) of the Draft Agreement;

a. The first part of the last sentence but one, “In the event that the Japanese Government fails to appoint a member within thirty days of the request for the appointment of such member or” be deleted.

b. In the same sentence, “the Government of the Allied Power may request the President of the International Court of Justice” be amended to read “either party may request the President of the International Court of Justice”.

(cf. Article 83, paragraph 1, of the Italian Peace Treaty.)

(4) In (3) of the Draft Agreement, each commission be known as “the Japanese Property Compensation Commission”, instead of “the Japanese Property Commission”.

(5) In (5) of the Draft Agreement, the second sentence, reading “In the event that the Japanese Government fails to appoint a member, it shall pay the remuneration of the member appointed on its behalf,” be deleted.

(6) With regard to the language of the authentic text, it is felt that it could be done only in the English language. But if other languages also were to be used, it is suggested that the Japanese language be included.

1952 年 1 月 11 日交付された新協定案

Draft Agreement for the Settlement of Disputes
Arising Under Article 15(a) of the Peace Treaty

The Governments of the Allied Powers signatory to this Agreement and the Japanese Government desiring, in accordance with Article 22 of

the Treaty of Peace with Japan signed at San Francisco on September 8, 1951, to establish procedures for the settlement of disputes concerning the interpretation and execution of Article 15(a) of the Treaty have agreed as follows :

ARTICLE I

In any case where an application for the return of property, rights, or interests, has been filed in accordance with the provision of Article 15(a) of the Treaty of Peace, the Japanese Government shall within six months from the date of such application, inform the Government of the Allied Power of the action taken with respect to such application. In any case where a claim for compensation has been submitted by the Government of an Allied Power to the Government of Japan in accordance with the provisions of Article 15(a) of the Treaty and the Allied Powers Property Compensation Law, enacted by the Japanese Diet on November 26, 1951, the Japanese Government shall inform the Government of the Allied Power of its action with respect to such claim within eighteen months from the date of submission of the claim. If the Government of an Allied Power is not satisfied with the action taken by the Japanese Government with respect to an application for the return of property, rights, or interests or with respect to a claim for compensation, the Government of the Allied Power, within six months after it has been advised by the Japanese Government of such action, may refer such claim or application for final determination to a commission appointed as herein-after provided.

ARTICLE II

A commission for the purpose of this Agreement shall be appointed upon request to the Japanese Government made in writing by the Government of an Allied Power and shall be composed of three members; one, appointed by the Government of the Allied Power, one, appointed by the Japanese Government, and the third, appointed by mutual agreement of the two Governments. Each commission shall be known as the (name of the Allied Government concerned)-Japanese Property Commission.

ARTICLE III

The Japanese Government may appoint the same person to serve on two or more commissions; provided, however, that if, in the opinion of the Government of the Allied Power, the service of the Japanese member on another commission or commissions unduly delays the work of the commission, the Japanese Government shall upon the request of the Government of the Allied Power appoint a new member. The Government of an Allied Power and the Japanese Government may agree to appoint as a third member, a person serving as a third member on other commissions; provided, however, that if, in the opinion of the Government of the Allied Power, the service of the third member on another commission or commissions unduly delays the work of the commission, the Government of the Allied Power may require that a new third member be appointed by agreement of the Government of the Allied Power and the Japanese Government.

ARTICLE IV

If the Japanese Government fails to appoint a member within thirty days of the request for the appointment of such member or if the two Governments fail to agree on the appointment of a third member within ninety days of the request for the appointment of such third member, either the Government of the Allied Power or the Japanese Government may request the President of the International Court of Justice to appoint such member or members. In case a vacancy occurs in the membership of a commission, a successor shall be chosen in accordance with the procedure provided above for the selection of the predecessor member.

ARTICLE V

Each Commission created under this Agreement shall determine its own procedure, adopting rules conforming to justice and equity.

ARTICLE VI

Each Government shall pay the remuneration of the member appointed by it. If the Japanese Government fails to appoint a member, it shall pay the remuneration of the member appointed on its behalf. The

remuneration of the third member of each Commission and the expenses of each Commission shall be fixed by, and borne in equal shares by the Government of the Allied Power and the Japanese Government.

ARTICLE VII

The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted as final and binding by the Government of the Allied Power and the Japanese Government

ARTICLE VIII

This Agreement shall be open for signature by the government of any state which is a signatory to the Treaty of Peace. This Agreement shall come into force between the Government of an Allied Power and the Japanese Government upon the date of its signature by the Government of the Allied Power and the Japanese Government, or upon the date of the entry into force of the Treaty of Peace between the Allied Power whose Government is a signatory hereto and Japan, whichever is the later.

ARTICLE IX

This Agreement shall be deposited in the archives of the Government of the United States of America, which shall furnish each signatory government with a certified copy thereof.

December 29, 1951

附録 44

1951年12月5日のわが意見に対する国務省のコメント (1952年1月11日受領)

Comments of State Department on Observations of Japanese Foreign Office, dated December 5, 1951, Regarding Draft Agreement for Settlement of Disputes.

1. Limitation of Agreement to Claims For Compensation: The Department considers that both types of disputes should be covered in

a single agreement. It would not be appropriate to refer either type of dispute to the International Court of Justice for decision, as would be possible under Article 22 of the Peace Treaty in the absence of a special claims tribunal. It is expected that there will be few disputes for the recovery of property since an owner will have only a claim for compensation unless he is able to prove that his property is physically present in Japan and has, nevertheless, not been returned to him.

2. Failure of the Japanese Government to Appoint Member to Commission: The Department considers such clauses appropriate. The agreement does not provide, in similar fashion, for the eventuality of failure of the Government of an Allied Power to appoint a member because it has been assumed that the Japanese Government would have no interest in insisting upon the establishment of a commission if the Government of the Allied Power concerned failed to take action necessary to establish a commission. If, actually, the Japanese Government conceives it has an interest in insisting upon the establishment of a commission, the Department would have no objection to revising the draft agreement to provide that a commission may be appointed, not only upon request by the Government of an Allied Power but on request by the Japanese Government, and to provide for the eventuality of failure of the Government of an Allied Power to appoint a member. To the extent possible, however, the Department wishes to avoid further changes in the language of the draft since it is difficult to coordinate changes with both London and Tokyo, and it is desired that the agreement be concluded before the Peace Treaty comes into force.

3. Individual Claimant: The Department has not agreed to the proposal of the Japanese Foreign Office that certain sentences be revised to specify that it is the individual owner who makes the claim, not his Government, and the individual owner who decides whether action taken by the Japanese Government is satisfactory. In the first place, the Property Compensation Law permits Allied Governments to file claims on their own behalf for damage to government-owned property. In the second place, the United States Government, and, it is assumed, the Governments of other Allied Powers, may decide that action taken by the Japanese Government is satisfactory even though the claimant disagrees.

4. Language: On the question of the language to be used, it is expected that the text of the agreement would be prepared in the same way as the text of the Peace Treaty. There would be English, French and Spanish texts which would be authentic, and also a Japanese text.

附録 45

新協定案文に関し 1952 年 1 月 14 日提出したわが修正提案

Suggested Changes in the Draft Agreement for the
Settlement of Disputes Arising under Article
15(a) of the Peace Treaty

14 January, 1952

The following minor changes are requested to be made in the Draft Agreement dated December 29, 1951.

Re. Article 1

(a) “..... the Allied Powers Property Compensation Law, enacted by the Japanese Diet on November 26, 1951” be amended to read as follows:

“..... the Allied Powers Property Compensation Law (Japanese Law No. 264, 1951)”

November 26 is the date of promulgation of the Law, not the date of its enactment by the Diet.

(b) The period for the Government of an Allied Power to refer claim or application to a commission be made three months instead of ‘six months.’ Article 18 of the Allied Powers Property Compensation Law provides for a period of three months for a claimant to demand re-examination to the Allied Powers Property Compensation Examination Committee.

Re. Article 2

In “the (name of the Allied Government concerned)-Japanese Property Commission,” “Government” may better be amended to read Power.

Re. Article 3

The proviso of the last sentence be amended as follows:

; provided, however, that if, in the opinion of either the Government of the Allied Power or the Japanese Government, the service of the third member on another commission or commissions unduly delays the work of the commission, either party may require that a new third member be appointed by agreement of the Government of the Allied Power and the Japanese Government.

This is not a substantial point. But the changes are suggested with a view to facilitating the approval by the Diet of this agreement.

Re. Article 7

In “The decision of the majority be the decision of the Commission, and shall be accepted,” “and” should read which.

附録 46

平和条約第 15 条(a)に基いて生ずる紛争の解決のための協定の署名に関する 1952 年 1 月 22 日 (米国) 及び 25 日 (日本) の覚書

MEMORANDUM

Reference is made to the December 29, 1951 draft of an Agreement for the Settlement of Disputes Arising Under Article 15(a) of the Peace Treaty, which was informally submitted to the Ministry on January 11, 1952, and to the Ministry’s informal memorandum of January 14, 1952 setting forth certain suggested changes in that draft.

The Department of State accepts the Ministry’s suggested changes except for that involving the substitution of the three months period for the six months period in Article I of the draft Agreement. In view of the time required for communications between the Governments concerned and the claimants, it is considered that the six months period as provided in Article I is desirable. The Department does not believe it necessary that Article I conform in this respect with the period stipulated in Article 18 of the Compensation Law.

The Government of the United States and the Government of the United Kingdom through its Mission in Washington plan to circulate the December 29 draft, with the accepted changes, to the Missions in Washington of the Allied Powers signatory to the Treaty of Peace, with the statement that the two Governments intend to conclude such an agreement with the Japanese Government in Tokyo as soon after February 15, 1952 as possible. However, the circulation of the Draft is contingent upon the willingness of the Japanese Government and the British Government to sign an agreement in the terms specified.

It is therefore requested that the Japanese Government indicate at its earliest convenience whether it is prepared to sign an agreement in the terms of the December 29 draft, as modified by those changes proposed by the Ministry and accepted by the Department of State as indicated above.

Office of the United States Political
Adviser for Japan,
Tokyo, January 22, 1952.

MEMORANDUM

Reference is made to Memorandum from the Office of the United States Political Adviser for Japan to the Ministry of Foreign Affairs dated January 22, 1952, concerning the draft of an Agreement for the Settlement of Disputes Arising Under Article 15(a) of the Peace Treaty.

The Japanese Government is ready to sign an agreement in the terms of the December 29, 1951 draft of the said agreement, as modified by those changes proposed by the Ministry of Foreign Affairs in its informal memorandum of January 14, 1952 and accepted by the Department of State.

Tokyo, January 25, 1952.

附録 47

1952年2月5日英国政府提出の協定第4条の新案文及びわが方の記録

「平和条約第15条(a)に基いて生ずる紛争の解決のための協定案」

に関する件(昭. 27. 2. 5 藤崎)

2月5日午後外交局バッシン氏から、別添の本文協定案第4条の修正案を受領した。在ワシントン英国大使館から国務省に申し入れたものであるという。原案がすでに関係各国に配布済みであるか、この修正案を取り入れたものが配布されているか、こちらではわからない由。そこで、バッシン氏は、「修正案に日本政府として異存がないか、それよりむしろ、新旧のいずれの案でも受諾できるか。また、そうだとすればいずれをより好ましいとするか。閣議決定のやりなおしの要があるかをききたい」といつた。藤崎から、私見として、閣議決定のやりなおしの要はなかるべきこと、修正案の方が好ましいと思うが、大蔵省側と協議の上何分の回答をすべきことを答えておいた。

“If the Japanese Government or the Government of the Allied Power fails to appoint a member within thirty days of the request referred to in Article 2 or, if the two Governments fail to agree upon the appointment of a third member within ninety days of the request referred to in Article 2, the Government of the Power which has already appointed a member, in the first case, and either the Government of the Allied Power or the Japanese Government, in the second case, may request the President of the International Court of Justice to appoint such member or members. Any vacancy which may occur in the membership of a commission shall be filled in the manner provided in Article 2 and 3.”

附録 48

協定の和文の認証謄本及び協定の末文に関する1952年2月29日の先方の申入れ

MEMO FOR: Mr. M. Fujisaki
DATE: February 29, 1952
SUBJECT: Agreement for Settlement of Disputes

The Department makes an urgent request for an authentic Japanese text of the Agreement on Settlement of Disputes. I don't know which version of Article 4 is being used; however, I am taking steps to determine that immediately. The Department indicates that the signature clauses read as follows:

"In witness whereof the undersigned, having been duly authorized, sign this Agreement on behalf of their respective Governments on the dates appearing opposite their signatures.

Done at Washington this blank day of March, 1952, in the English, French, Spanish and Japanese languages, all being equally authentic."

May I suggest that you prepare a Japanese text of the Agreement with alternative versions of Article 4 so that as soon as we hear from Washington we can dispatch the authentic Japanese text.

Thank you.

J. Bassin

附録 49

日本国との平和条約第15条(a)に基いて生ずる紛争の解決に関する協定の署名国及び署名日付表

26国（昭34年5月上旬現在）

日本国との平和条約第15条(a)に基いて生ずる紛争の解決に関する協定

1952年（昭和27年）6月12日ワシントンで署名

アルゼンティン	1952. 10. 3
オーストラリア	1952. 8. 12
ベルギー	1952. 8. 22
カンボディア	1952. 8. 13
カナダ	1952. 6. 13
セイロン	1952. 6. 16
チリ	1954. 4. 28
キューバ	1952. 8. 15

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ドミニカ	1952. 6. 12
フランス	1952. 7. 24
ギリシャ	1953. 5. 19
ハイチ	1953. 5. 1
イラク	1955. 8. 18
日本国	1952. 6. 12
レバノン	1954. 1. 7
リベリア	1952. 12. 29
メキシコ	1952. 8. 11
オランダ	1953. 9. 10
ニュー・ジーランド	1952. 6. 19
ノールウェー	1952. 9. 9
パキスタン	1952. 7. 16
トルコ	1952. 7. 24
南アフリカ連邦	1953. 1. 7
連合王国	1952. 7. 14
アメリカ合衆国	1952. 6. 19
ヴェネズエラ	1954. 2. 3

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