

VII 日本国における国際連合の軍隊

の地位に関する取極の交渉

1. 安全保障条約にたいし、行政協定が必要であると同じように、安全保障条約の署名に際しアチソン国務長官と吉田総理との間に交換された平和条約の発効後における国連軍にたいする日本の協力継続に関する公文についても行政協定に対応する取極を締結する必要があつた。このことについては、行政協定の交渉開始直後、ラスク・岡崎両代表間で話題にのぼった次第は、すでに説明したとおりである。そこで、事務当局は、行政協定の交渉を終わると直ちに、15箇条から成る「日本国における国際連合の軍隊の地位に関する取極」案を作成して3月12日外交局を通じ合衆国政府に提案した。
2. わが方提案の「取極」案は、下記のとおりである。

DRAFT AGREEMENT REGARDING
STATUS OF UNITED NATIONS FORCES IN JAPAN

1. In the notes exchanged between Prime Minister Yoshida and Mr. Acheson, Secretary of State, on September 8, 1951, the Japanese Government has confirmed that if and when the forces of a Member or Members of the United Nations are engaged in any United Nations action in the Far East after the Treaty of Peace comes into force, Japan will permit and facilitate the support in and about Japan, by the Member or Members, of the force engaged in such United Nations action.
2. Japan has been and now is rendering important assistance to the United Nations action in the form of facilities and services made available to the members of the United Nations, the Armed Forces of which are participating in the United Nations action in Korea.

Accordingly, the Government of Japan and the following Governments of Members of the United Nations have agreed as follows:

Article 1. Definitions

Except as otherwise provided for in this Agreement, the following definitions of terms shall be adopted for the purpose of this Agreement:

- (a) "the United Nations forces" means the forces of the land, sea or air armed services of any of the Member States of the United Nations which have been sent in support of and to participate in the actions of the United Nations in Korea pursuant to the resolution of the Security Council of the United Nations dated June 27, 1951.
- (b) "sending State" means the States to which the United Nations forces belong.
- (c) "members of the United Nations forces" means the personnel on active duty belonging to the United Nations forces when they are in Japan.
- (d) "civilian component" means the civilian persons employed by the United Nations forces

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when they are in Japan, excluding stateless persons, Japanese nationals, persons who are not nationals of the sending State concerned, persons of whatever nationality employed in Japan and persons who are ordinarily resident in Japan.

Article 2. Respect of Law

It is the duty of the United Nations forces in Japan as well as the members and civilian component thereof to respect the law of Japan and to abstain from any activity inconsistent with the spirit of this Agreement, and, in particular, from any political activity in Japan.

Article 3. Entry and Departure

1. Subject to the provisions of this Article, Japan will permit the entry into, departure from, and sojourn in her territories of a United Nations force and the members thereof. In such case, they shall be exempt from passport and visa formalities, immigration examination, and the obligation to register as aliens; provided that the authorities of the sending State concerned shall notify, in the case of entry or departure, its date and the number of persons entering or departing, and shall also notify from time to time, in the case of sojourn, its period, purpose and the number of persons sojourning to the Japanese authorities.

2. Members of the United Nations forces shall be in possession of the following documents, which must be presented on demand:

(a) Personal identity card issued by the sending State showing name, date of birth, rank and number, service, and photograph;

(b) Individual or collective travel order certifying to the status of the individual or group as a member or members of the United Nations forces and to the travel ordered.

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3. The identity card and the travel order mentioned in the proceeding paragraph must be made out in the Japanese language, language of the sending State and in the English language.

4. Members of the civilian component shall have their status and the unit to which they belong described in their passports.

5. If members of the United Nations forces or the civilian component have lost their status as such members, they shall depart from Japan within three weeks from the date of such loss of status.

6. If Japan has requested the removal from her territory of a member of the United Nations forces or the civilian component, the authorities of the sending State concerned shall be responsible for causing him to leave Japan without delay.

Article 4. Motor Vehicles

1. Japan shall accept as valid, without a driving test or fee, the driving permit or license of military driving permit issued by the sending State to a member of the United Nations forces or the civilian component, under the same conditions as these applicable to Japanese nationals.

2. Official vehicles of the United Nations forces of the sending State shall carry a distinctive nationality mark and numbered plates.

3. Privately owned vehicles of members of the United Nations forces or the civilian component shall carry Japanese number plates to be acquired under the same conditions as those applicable to Japanese nationals.

Article 5. Facilities

1. Japan agrees to grant to the United Nations forces the use of such Government-owned facilities as may reasonably be required for their support in Japan.

2. The facilities used by the United Nations forces shall be promptly returned to Japan whenever they are no longer needed for the carrying out of the purposes

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of the United Nations forces. the Mixed Committee provided in Article 12 of this Agreement shall keep the needs for facilities under continual observation with a view toward such return.

3. Any alteration of the existing condition of the facilities being used by the United Nations forces shall be made by mutual agreement.

4. Japan agrees that the United States may permit temporarily the use by members of the forces serving under the United Nations Command of any facilities the use of which is provided to the United States under the Security Treaty between Japan and the United States and that the members of the forces serving under the United Nations Command may use such facilities in Japan as may be agreed upon through the Mixed Committee provided in Article 12 of this Agreement.

Article 6. Customs Duties

1. Save as provided in this Agreement, the United Nations forces, members and the civilian component thereof shall be subject to the laws and regulations administered by the customs authorities of Japan, and, as the case may require, subject to quarantine laws and regulations of Japan.

2. Materials, supplies and equipment imported by the United Nations forces exclusively for their official use shall be free from customs duties and other such charges.

3. Reasonable quantities of provisions and daily necessities imported by the United Nations forces for the exclusive use of members and their civilian component thereof from the country of such members and civilian component shall be free from customs duties.

4. When the goods mentioned in the preceding two paragraphs are imported, a certificate signed by a person authorized for the purpose, in the form determined by an arrangement with the United Nations forces, and certifying that they are being imported for the purposes stated in the preceding two paragraphs, shall be submitted by the United Nations forces to the customs office.

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5. Property consigned to and for the personal use of members of the United Nations forces and their civilian component shall be subject to customs duties and other such charges, except that no duties or charges shall be levied with respect to:

(a) Personal effects for their own use by the members of the United Nations forces or their civilian component when they first arrive in Japan:

(b) Vehicles and parts brought by the members of the United Nations forces or their civilian component for their own use upon entrance.

6. The exemptions granted in paragraphs 2, 3 and 5 shall apply only to cases of importation of goods and shall not be interpreted as refunding customs duties and domestic excises collected by the customs authorities at the time of entry in cases of purchases of goods on which such duties and excises have already been paid.

7. Customs examination shall not be made in the following cases, except that a declaration shall be made to the customs office and the import or export permit shall be obtained:

(a) Cargo and personal effects of units or members of the United Nations forces under orders entering or leaving Japan;

(b) Official documents under official seal;

(c) Arms, ammunition and vehicles imported or exported by the United Nations forces for their official use and so certified by such forces.

8. Except as such disposal may be authorized by the authorities of Japan and of the United Nations forces in accordance with mutually agreed conditions, goods imported into Japan free of customs duties and other such charges under this Agreement shall not be disposed of in Japan to persons not entitled to import such goods free of customs duties and other such charges under this Agreement.

9. If disposal has been authorized in accordance with the provisions of the preceding paragraph, a person who intends to dispose of such goods shall make a declaration to the customs office in advance

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and have them examined and obtain the license of disposal, and offenses in connection with such disposal shall be treated in accordance with the laws and regulations in Japan.

10. Goods imported into Japan free of customs duties and other such charges pursuant to paragraph 2, 3 and 5, may be re-exported free of customs duties and other such charges.

11. The United Nations forces, in cooperation with the Japanese authorities, shall take such steps as are necessary to prevent abuse of privileges granted to such forces, members and civilian component thereof in accordance with this Article.

12. (a) In order to prevent offenses against laws and regulations administered by the customs authorities of the Japanese Government, the Japanese authorities and the United Nations forces shall assist each other in the conduct of inquiries and the collection of evidence.

(b) The United Nations forces shall render all assistance within their power to ensure that articles liable to seizure by, or on behalf of the customs authorities of the Japanese Government are handed to those authorities.

(c) The United Nations forces shall render all assistance within their power to ensure the payment of duties, taxes, and penalties payable by members or civilian component thereof.

(d) Vehicles and articles belonging to the United Nations forces seized by the customs authorities of the Japanese Government in connection with an offense against its customs or fiscal laws or regulations shall be handed over to the appropriate authorities of the forces concerned.

Article 7. Procurement

1. Materials, supplies equipment and services which are required from local sources for the support of the United Nations forces and the procurement of which may have an adverse effect on the economy of Japan shall be procured in coordination with, and,

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when desirable, through or with the assistance of, the competent authorities of Japan.

2. Disputes arising out of contracts concerning the procurement of materials, supplies, equipment, services, and labor by or for the United Nations forces, which are not resolved by the parties to the contract concerned, may be submitted for conciliation to the Mixed Committee in Article 12 of this Agreement, provided that a party who is dissatisfied with the conciliation of the said Committee may file a suit with Japanese courts.

3. Materials, supplies and equipment procured for official purposes in Japan by the United Nations forces, upon certification by the authorities of such forces, shall be exempt from the following Japanese taxes:

(a) Commodity tax

(b) Gasoline tax

4. Except as such disposal may be authorized by the Japanese authorities and the United Nations forces in accordance with mutually agreed conditions, goods purchased in Japan exempt from taxes in accordance with the provisions of the preceding paragraph shall not be disposed of in Japan to persons not entitled to purchase such goods exempt from such taxes.

5. Neither members of the United Nations forces nor their civilian component shall by reason of this Article enjoy any exemption from taxes or similar charges relating to personal purchases of goods and services in Japan chargeable under Japanese legislation.

6. Local labor requirements of the United Nations forces shall be satisfied with the assistance of the Japanese authorities, and in all cases the prevailing wages shall be paid.

7. The obligations for the withholding and payment of income tax and of social security contributions, and, except as may otherwise be mutually agreed, the conditions of employment and work, such as those relating to wages and supplementary payments, the conditions for the protection of workers, and the rights of workers concerning labor relations shall be those laid down by the legislation of Japan.

Article 8.

Article 8. Taxation

1. The United Nations forces shall not be subject to taxes or similar charges on property held, used or transferred by such forces in Japan.

2. Members of the United Nations forces and their civilian component shall not be liable to pay any Japanese taxes to the Japanese Government or to any taxing agency in Japan on income received as a result of their service with such forces. The provisions of this Article do not exempt such persons from payment of Japanese taxes on income derived from Japanese sources, nor do they exempt citizens of the sending State who for purposes of income tax of that State claim Japanese residence for payment of Japanese taxes on income.

3. Periods during which the persons referred to in the preceding paragraph are in Japan solely by reason of being members of the United Nations forces and their civilian component shall not be considered as periods of residence or domicile in Japan for the purpose of Japanese taxation.

4. Members of the United Nations forces, and their civilian component shall be exempt from taxation in Japan on the holding, use, transfer inter se, or transfer by death of movable property, tangible or intangible, the presence of which in Japan is due solely to the temporary presence of these persons in Japan, provided that such exemption shall not apply to property held for the purpose of investment or the conduct of business in Japan or to any intangible property registered in Japan. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

Article 9. Criminal Jurisdiction

1. Subject to the provisions of this Section

(a) the authorities of Japan shall have jurisdiction over all members of the United Nations forces and their civilian component with respect to offenses committed within the territory of Japan and punishable by the Japanese law;

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(b) the military authorities of the sending State shall have the right to exercise within Japan all criminal and disciplinary jurisdiction conferred on them by the law of the sending State over all members of the United Nations forces of that state and their civilian component.

2. (a) The authorities of Japan shall have the right to exercise exclusive jurisdiction over members of the United Nations forces of the sending State and their civilian component with respect to offenses punishable by the Japanese law but not by the law of that State.

(b) The military authorities of the sending State shall have the right to exercise exclusive jurisdiction over members of the United Nations forces of that State and their civilian component of that State with respect to offenses, including offenses relating to its security, punishable by the law of that State but not by the Japanese law.

(c) For the purposes of paragraphs 2 and 3 of this Article a security offense against a State shall include

(i) treason against the State;

(ii) sabotage, espionage or violation of any law relating to official secrets of that State, or secrets relating to the national defence of that State.

3. In cases where the right to exercise jurisdiction in concurrent the following rules shall apply:

(a) The military authorities of the sending State shall have the primary right to exercise jurisdiction over a member of the United Nations forces of that State or their civilian component in relation to

(i) offences solely against the property or security of that State, or offences solely against the person or property of another member of the United Nations forces of that State or their civilian component;

(ii) offences arising out of any act or omission done as performance of official duty.

(b) In the case of any other offence the authorities

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of Japan shall have the primary right to exercise jurisdiction.

(c) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance.

4. The provisions of the preceding three paragraphs 1, 2 and 3 shall not imply any right for the military authorities of the sending State to exercise jurisdiction over persons who are nationals of or ordinarily resident in Japan.

5. (a) The authorities of Japan and the military authorities of the sending State shall assist each other in the arrest of members of the United Nations forces of that State or their civilian component in the territory of Japan and in handing them over to the authorities of the State which is to exercise jurisdiction in accordance with the provisions of the preceding four paragraphs 1, 2, 3 and 4.

(b) The authorities of Japan shall notify promptly the military authorities of the sending State of the arrest of any member of the United Nations forces of that State or their civilian component.

(c) The custody of an accused member of the United Nations forces of the sending State or their civilian component over whom Japan is to exercise jurisdiction shall, if he is in the hands of the sending State, remain with that State until he is charged by Japan.

6. (a) The authorities of Japan and the military authorities of the sending State shall assist each other in the carrying out of all necessary investigation into offences, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offence. The handing over of such objects may, however, be made subject to their return within the time specified by the authority delivering them.

(b) The authorities of Japan and the military authorities of the sending State shall notify one another of the disposition of all cases in which

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there are concurrent rights to exercise jurisdiction.

Where an accused has been tried in accordance with the provisions of this Article by the authorities of Japan or of a sending State and has been acquitted, or has been convicted and is serving, or has served, his sentence or has been pardoned, he may not be tried again for the same offence within the territory of Japan by the authorities of the other State. However, nothing in this paragraph shall prevent the military authorities of the sending State from trying a member of the United Nations forces for any violation of rules of discipline arising from an act or omission which constituted an offence for which he was tried by the authorities of Japan.

8. Whenever a member of the United Nations forces of that State or their civilian component is prosecuted under the jurisdiction of Japan he shall be entitled:

(a) to a prompt and speedy trial;

(b) to be informed, in advance of trial, of the specific charge or charges made against him;

(c) to be confronted with the witnesses against him;

(d) to have compulsory process for obtaining witnesses in his favor, if they are within the jurisdiction of Japan;

(e) to have legal representation of his own choice for his defence or to have free or assisted legal representation under the conditions prevailing for the time being in Japan;

(f) if he considers it necessary, to have the services of a competent interpreter; and

(g) to communicate with a representative of the government of the sending State and, when the rules of the court permit, to have such a representative present at his trial.

9. The military police of the sending State shall be employed only subject to arrangements with the authorities of Japan and in liaison with those authorities, and in so far as such employment is necessary to maintain discipline and order among the members of the United Nations forces, of the sending State concerned.

Article 10.

Article 10. Civil Jurisdiction

1. Claims, other than contractual, arising out of acts or omissions of members of the United Nations forces or employees (including civilian component) of the sending State done in the performance of official duty, or out of any other act, omission or occurrence for which the United States forces of the sending State are legally responsible, and causing injury, death or property damage in Japan to a party other than the sending States, members of their United Nations forces and civilian component, shall be dealt with by Japan in accordance with the following provisions:

(a) Claims shall be filed within one year from the date on which they arise, and shall be considered and settled or adjudicated in accordance with the laws and regulations of Japan concerning State liability for damages.

(b) Japan may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by Japan in yen.

(c) Such payment, whether made pursuant to a settlement or to adjudication of the case by a competent tribunal of Japan, or the final adjudication by such a tribunal denying payment, shall be binding and conclusive.

(d) The whole cost incurred in satisfying claims pursuant to the preceding subparagraphs shall be borne by the sending State concerned.

(e) In accordance with procedures to be established, a statement of all claims approved or disapproved by Japan pursuant to paragraph 1, the findings in each case, and a statement of the sums paid by Japan, shall be sent periodically to the authorities of the sending State concerned, together with a request for reimbursement. Such reimbursement shall be made within the shortest possible time in yen.

2. Claims against members of the United Nations forces or employees (including civilian component) of the sending State arising out of tortious acts or omissions in Japan not done in the performance of official duty shall be dealt with in the following manner:

(a) The Japanese authorities shall consider the

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claim and assess compensation to the claimant in a fair and just manner, taking into account all the circumstances of the case, including the conduct of the injured person, and shall prepare a report on the matter.

(b) The report shall be delivered to the authorities of the sending State concerned, who shall then decide without delay whether they will offer an ex gratia payment, and if so, of what amount.

(c) If an offer of ex gratia payment is made, and accepted by the claimant in full satisfaction of his claim, the authorities of the sending State shall make the payment themselves and inform the Japanese authorities of their decision and of the sum paid.

(d) Nothing in paragraph 2 shall affect the jurisdiction of the courts of Japan to entertain an action against a member of the United Nations forces or an employee (including civilian component) of the sending State unless and until there has been payment in full satisfaction of the claim.

3. (a) Members of the United Nations forces and their civilian component of the sending State shall not be subject to suit in Japan with respect to claims specified in paragraph 1, but shall be subject to the civil jurisdiction of Japanese courts with respect to all other types of cases.

(b) In case any private movable property, excluding that in use by the United Nations forces of the sending State, which is subject to compulsory execution under Japanese law, is within the facilities in use by the United States forces of the sending State, the authorities of that State shall, upon the request of Japanese courts, possess and turn over such property to the Japanese authorities.

(c) The authorities of every sending State shall cooperate with the Japanese authorities in making available witnesses and evidence for civil proceedings in Japanese tribunals and also in making available, outside of court proceedings, such evidence as may be required for investigation by the Japanese authorities.

Article 11.

Article 11. Expenses

All forces serving under the United Command of the United Nations forces will bear for the duration of this Agreement without cost to Japan all expenditures incident to the support of such forces in Japan, including the expenses and charges required for the use, maintenance, repair, remodelling and operation of the facilities the use of which has been permitted to the United Nations forces pursuant to Article 6 of this Agreement.

Article 12. Mixed Committee

1. A Mixed Committee shall be established in Tokyo as the means for consultation and decision between the Japanese Government and the Unified Command of the United Nations forces, on matters relating to the interpretation, application and implementation of this Agreement. If Agreement of opinion has been reached through consultation of the Mixed Committee, that agreement shall become a decision, and shall be binding upon the Governments of Japan and the sending States concerned.

2. The Mixed Committee shall be composed of a representative of the Japanese Government and of the Unified Command, each of whom shall have one or more deputies and a staff. The Mixed Committee shall determine its own procedure, and arrange for such auxiliary organs and administrative services as may be required. The Mixed Committee shall be so organized that it may meet at any time at the request of the representative of either of the representatives.

3. If the Mixed Committee is unable to resolve any matter, it shall refer that matter to the respective Governments for further consideration through appropriate channels.

Article 13

1. This Agreement shall operate from April 28, 1952, subject to the completion of constitutional and other necessary procedures by the parties. The Governments other than the Japanese Government shall notify of its acceptance of this Agreement, to the Japanese Government.

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2. Each party to this Agreement undertakes to seek from its legislature necessary legislative or budgetary action with respect to provisions of this Agreement which require such action for their execution.

Article 14

1. The Government of any Member of the United Nations that may hereafter place forces at the disposal of the Unified Command in pursuance of the aims of the United Nations in Korea may accede to this Agreement upon notification in writing to the Government of Japan of its acceptance of this Agreement.

Article 15

1. Each party to this Agreement may at any time request the revision of any Article of this Agreement, in which case all the parties shall enter into negotiation through appropriate channels.

2. This Agreement, and agreed revisions thereof, shall operate until 90 days from the date on which all forces serving under the United Nations Command have been withdrawn from Korea or such earlier date as may be agreed upon between the Government of Japan and the Unified Command.

Done in duplicate at Tokyo on, 1952.

3. わが提案は、「大いに助かる」とアブリシェートされ、ワシントンで合衆国政府と朝鮮に出兵している連合諸国との間に内協議が進められた。しかし、関係国が多いので時日がかかり、平和条約および安全保障条約の発効(1952年4月28日)に間に合わないことがはつきりしたので、4月27日、先方から両条約発効後90日の間に交渉を続けて協定を作成する前提のもとに、それまでの中間措置として交換公文で急場をしのぐとの申出があつた。爾後、事務当局で交換公文の起草をいそぎ岡崎外務大臣(4月30日就任)とヒッキー参謀長間の交渉となり、5月2日案文妥結にこぎつけ、5月6日、閣議の決定をえた。
4. 5月6日の閣議の決定をえた交換公文の閣議決定(案)は、下記のとおりである。

閣議決定(案)

朝鮮における国際連合の行動に従事する国際連合加盟国軍隊に許与すべき待遇に関し、関係国との間に協定が締結されるまでの間、別紙国際

連合軍司令官との間の交換書簡案に掲げられたところにより暫定的にこれを律することとし、この書簡の交換を行うこととする。

(注) 綴込のコピーの第1ページに左記の記入がある。

閣議決定したが実施されず。(カナダ、ニュージーランド水兵事件等の事件発生に伴い)

国際連合軍司令官から日本国外務大臣あての来簡案

書簡をもって啓上いたします。本官は、日本国政府が国際連合が朝鮮で執っている軍事的措置の継続期間中日本国の領域における施設及び役務を国際連合加盟国の軍隊の使用に供することに同意された1951年9月8日にサン・フランシスコで吉田茂氏とディーン・アチソン氏との間に交換された書簡に言及し、且つ、国際連合軍司令部の下に行動している軍隊が必要とする施設及び役務、それらの施設及び役務の使用条件、前記の軍隊に対して行使されるべき裁判権並びにそれらの施設の維持のために必要な関係措置に関する協定を締結するため日本国政府と国際連合軍司令部の下においてその軍隊が行動している政府を代表する国際連合軍司令部との間に既に開始されている交渉が緊急に行われてすべての関係政府にとって満足な最終的協定ができる限りすみやかに締結されるべきこと並びに前記の協定が平和条約の効力発生後90日の期間内に締結されるようあらゆる努力をすべきことを提案する光榮を有します。

前記の最終的協定が締結されるまでの間に経過する中間の期間について暫定的に規定するため、本官は、更に、1951年9月8日にサン・フランシスコで署名された平和条約の最初の効力発生の日から前記の協定の効力発生の日までの間、(a)国際連合軍司令部の下において行動している軍隊は、現に使用していて実際に必要とする施設を引き続き従前と同一

の条件で使用する事ができ、(b)国際連合軍司令部の下において行動している軍隊は、日本国への入国及び日本国からの出国を許されるものとし、国際連合軍司令部は、前記の入国及び出国の日、当該人員の数並びにそれらの軍隊の日本国への入国の目的及び日本国における在留期間を予め日本国政府に通告しなければならず、(c)裁判権は、前記の軍隊(軍隊の構成員及びその家族を含む。)に対して従前のように行使することができるが、裁判権又は与えられる特別待遇に関するいかなる事項も、一関係政府の要請があるときは、日本国政府と当該国際連合加盟国政府との間の二国間の交渉の主題とし、且つ、合意されたところに従って処理することができるものと了解され、並びに(d)前記の施設の維持又は役務の利用のために必要な財政上の措置は、日本国政府が面倒をみてきた限りにおいては、従前のおりに継続することができることを提案する光栄を有します。但し、前記の措置は、日本国政府のいかなる最終的の約束も意味するものではなく、最終的の協定に規定される財政上の措置は、平和条約の効力発生の日にさかのぼるものであります。

本官は、貴大臣に敬意を表します。

日本国外務大臣から国際連合軍司令官あての返簡案

書簡をもって啓上いたします。本大臣は、貴官が次のように通報された1952年5月 日付の貴簡を受領したことを確認する光栄を有します。

(ここに来簡の本文が入る。)

貴簡に掲げられる事項に関し、本大臣は、この機会に、日本国政府の希望及び見解を明らかにする次の声明を行うことが本大臣の義務であると考えます。

日本国政府の衷心の希望は、国際連合軍司令部の下にある軍隊により使用される施設が絶対に必要な最小限度に厳格に制限され、残余のもの

ができる限りすみやかに返還されることであります。日本国政府の了解するところでは、(a)施設の維持又は役務の利用のための財政上の措置が当分の間従前のおりに継続されるという貴官の提案は、日本国政府による終戦処理費による調達を終結するため既に執られた措置に何ら影響を及ぼすものではなく、また、(b)1952年2月28日の日本国政府と合衆国政府との間の行政協定の規定は、安全保障条約に基いて日本国にある合衆国軍隊以外のいかなる軍隊に対しても特権を主張する根拠を与えるものと解してはならないものであります。

前記の諸点を念頭において、本大臣は、貴官に対し、日本国政府が貴簡に掲げられる提案に同意すること及び日本国政府が国際連合軍司令部の下において行動している軍隊に関する最終的の協定を平和条約の効力発生後90日の期間内にできる限りすみやかに締結するため引き続きあらゆる努力をすることを保障します。

本大臣は、貴官に敬意を表します。

1952年5月 日 東京において

来簡要旨

安全保障条約の署名の際の交換公文に言及し、次いで現在日本政府と関係政府との間に行われている交渉を至急促進して、遅くとも平和条約の発効から90日を経過しないうちに、国連加盟国軍隊に関する確定的な協定の締結ができるよう提議している。

次いで、この来簡の主要な目的として、平和条約の発効から確定的協定締結に至るまでの暫定期間、国連加盟国軍隊の取扱を律する原則4項目を次のとおり提議している。

- (a) 国連加盟国軍隊が現に使用しており、且つ、実際に必要とする施設の継続使用
- (b) 国連加盟国軍隊の入出国の自由。但し、日本政府に対して、入出国

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の日、人員数、目的及び在留期間の予告を行う。

- (c) 裁判権の従前どおりの行使。但し、裁判権及び特典に関しては、一
関係政府が要請すれば必ず二国間に協議しその決定に従って処理す
る。(これは、事件毎に日本政府から要求して協議して処理するように
するためこうしたものである。)
- (d) 日本政府による従前どおりの財政的措置

最後に、この提議は、暫定措置であつて、将来の確定的協定の締結に
 当り日本政府を何ら拘束するものでなく、特に、将来確定されるべき財
 政に関する取極は、遡及してこの暫定期間にも適用されるべき旨を断つ
 ている。

返簡要旨

来簡の本文を引用した後、来簡に掲げられた事項に関する日本国政府の希望と見解を表明する外務大臣の声明を次のように行っている。

1. 国連軍に属する軍隊が使用する施設を必要の最少限度に制限し、残余は、できる限りすみやかに返還さるべきこと。
2. 施設の維持、役務の利用のための財政的措置を当分現状のままとする来簡の提案は、日本国政府が終戦処理費支出の終了に基づく調達終結のために既に措置済みの事項に影響を与えるものでないこと。
3. 日米間の行政協定の規定は、安保条約に基づいて駐留している米軍以外の軍隊が特権を主張するいかなる根拠をも与えるものでないこと。

以上の諸点に留意した上で、外務大臣は、日本国政府が来簡に掲げられた諸提案に同意し、且つ、平和条約の発効後90日以内のできるだけ早い時期に、国連軍司令部下で行動する軍隊に関する協定締結のため最善を尽す旨を国連軍司令官に対し約束している。

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(Draft Note from UNC to Japanese Government, May 3, 1952)

Excellency,

I have the honor to refer to the notes exchanged between Their Excellencies Mr. Shigeru Yoshida and Mr. Dean Acheson at San Francisco on September 8, 1951, in which the Government of Japan agreed to provide, for the duration of the United Nations military commitment in Korea, facilities and services in Japanese territory for use by the forces of members of the United Nations, and to propose that the negotiations already begun between the Japanese Government and the United Nations Command on behalf of the Governments whose forces are serving under the United Nations Command for the conclusion of an agreement concerning facilities and services required, the conditions under which such facilities and services are used, the jurisdiction to be exercised over the said forces, and relevant arrangements necessary for the maintenance of these facilities, be urgently conducted so that a definitive agreement satisfactory to all governments concerned may be concluded at the earliest possible date and that every effort be made to conclude such agreement before the expiration of 90 days after the coming into force of the Treaty of Peace.

In order to provide temporarily for the interim period which will elapse before a definitive agreement, as mentioned above, can be concluded, I have the honor further to propose that, from the date of the first coming into force of the Treaty of Peace signed at San Francisco on September 8, 1951, until the date of the coming into force of such an agreement, (a) forces serving under the United Nations Command may continue to use, under the same conditions as heretofore, those facilities presently used and actually needed by them, (b) entry into and exit from Japan of forces serving under the United Nations Command shall be permitted and the United Nations Command shall make prior notification to the Japanese Government of the date of such entry and exit, of the number of persons involved, and of the purpose of their entry into and the duration of their stay in Japan, (c) jurisdiction may be exercised over the said forces (including the members thereof and their dependents) in the same manner as heretofore, it being understood, however, that any matter concerning jurisdiction or special

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treatment accorded the may, at the request of a government concerned, become the subject of bilateral negotiations between the Japanese Government and the United Nations government concerned and be disposed of as agreed upon, and (d) financial arrangements necessary for the maintenance of such facilities or for the utilization of services, so far as they have been taken care of by the Japanese Government, may be continued as heretofore. However, the foregoing arrangement does not imply any final commitment on the part of the Japanese Government and the financial arrangements provided for in the definitive agreement shall be made retroactive to the effective date of the Treaty of Peace.

Accept, Excellency, the assurances of my highest consideration.

Draft Reply from Japanese Government to UNC,
Suggested by Foreign Office

Excellency,

I have the honor to acknowledge the receipt of Your Excellency's Note of May __, 1952, in which Your Excellency informs me as follows:

"I have the honor, etc."

Appertaining to the matters contained in Your Excellency's Note, I consider it my duty, as this time, to make the following statement explaining the desire and observations of the Japanese Government.

It is the earnest desire of the Japanese Government that the facilities used by the forces under the United Nations Command be limited strictly to the absolute minimum necessary, the remainder to be returned as soon as possible. The Japanese Government understands (a) that Your Excellency proposal that the financial arrangements for the maintenance of facilities or for the utilization of services be continued for the interim as heretofore does not in any way affect the measures already taken for the discontinuance of procurement pursuant to termination of war expenditure by the Japanese Government, and (b) that none of the provisions

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of the Administrative Agreement between the Japanese Government and the Government of the United States of February 28, 1952, shall be construed as giving rise to any claim to special rights or privileges on the part of any armed forces other than the United States Armed Forces in Japan under the Security Treaty.

With the foregoing points in mind, I assure Your Excellency that the Japanese Government is in agreement with the proposals contained in Your Excellency's Note and that it will continue to make every effort to conclude a definitive agreement concerning the forces serving under the United Nations Command as soon as possible before the expiration of the 90 days after the coming into force of the Treaty of Peace.

Accept, Excellency, etc.

5. しかしながら、当時、行政協定が公表されて刑事裁判権の取り扱いなどを中心に国会の内外で不満・非難が爆発していたところに国連軍の軍人による銀行ギャング事件などが起つて世論騒然たるものがあつたので、公文の交換は見合わされ、そのままになってしまった。
6. 世論が落ち着きを取りもどしてからおもむろに協定の交渉は再開され、長い日時を要し1954年2月19日にいたつてようやく「日本国における国際連合の軍隊の地位に関する協定」が署名され6月11日発効して、この問題は解決をみた。
7. なお、上記交換公文の交渉について、当時、筆者は「備忘録」にその経過を詳細書きとどめている。当時の状況が躍如としているので、ここに転載しておく。

「備忘録」抄

国連協力協定交渉

3月12日

午前11時シーボルト大使およびボンド参事官を往訪して、国連協力に関する協定案を手交した。

案は、総理および岡崎国務大臣の承認を得ていないので、外務省試案として華府にリファーしてもらうことにした。同案は、11日午前午後を費して、藤崎君の援助を得て、作成したものである。

席上、大使と参事官に「日本国民は豪州軍を好まぬ、豪州軍の日本におけるプレゼンスはアブセンスより、両国友好関係のため、ハームフルだ。私個人として彼等を嫌悪する。」と断言しておいた。

3月24日

午前10時40分外交局ボンド参事官、次官を来訪。西村も同席、次のように内報した。

「協定案は、ワシントンで好感を以つて迎えられた。日本側から交渉

の基礎案を出してくれたことはヘルプフルであり、多とする。英、加、豪、新代表に協定案を示して話をしている。連合国側で意見をまとめた上で、日本政府にアプローチすることになろう。

協定案は、華府に送付した外東京では参謀長に与えてある。

新西蘭代表が外交局に協定案をくれるよう申出てきたが、外交局としては、日本政府の協定案だから日本外務省にアプローチするよう答えておいた。

英連邦諸代表から外務省にアプローチしてくれると思うので、外務省で処理してほしい。」

当方は、ボンド参事官のinformationに感謝しておいた。協定案は、西村の手に3通しかないので、更に、5通を作成しておくことにした。内部では、岡崎国務大臣が1通もっているだけである。

ボンド参事官は、外交局内部では、協定とせず公文の交換がいいではないかとの意見があるといつたので、私は、その点は交換公文でもよい、協定の形式にとらわれるものでないと軽く答えておいた。

4月27日(日曜)

午後3時半フィン書記官、夫人と令嬢(3歳半)同伴拙宅を来訪。国連協定の締結が平和条約発効に間に合わないで、最終協定は発効後90日内に結ぶことにして、それまでの中間協定を交換公文でしたいとの趣旨で、リッジウェイ司令官の署名した書簡をもってきた。

一読して即座の意見を申しておいた。3点、1国会関係で承認を要しない方式にすること、2最終協定の条項を平和条約発効の日に溯及させて事態を再調整することを明示すること、3調達(物資および労務)の終止処分が英豪軍についてはSCAPによつて既にとられている、これらの効力は中間協定によつて不動であることを明らかにすることであつた。

直ちに外務省に行く。岡崎国務大臣すでにGolfより呼びもどされて、倭

島アジア局長室にあった。両人で合議する。国務大臣から裁判管轄権とその他の特権について現状どおりとする点は、国会の行政協定に対する批判的態度にかえりみて、先方提案はのみがたく、この点わが主張がとおると否とを問わず百パーセント主張しおくを可とするとの意見であった。これは、もつともと思つた。

で、上述4点を述べた政府の意見書とそれに基づいた対案とを和文と英文と混こうしたものを作成し(ひとり条約局長室で)、その英訳を島内君に依頼して帰宅した。夜11時。

島内君のところへ行つたが、夕食後散歩に出て帰宅がおそく、それまで赤坂檜町3の同君のアパートの前で自動車の中にたむろして待った。

4月28日

午前9時半、島内君から英文を受領し、中島秘書官を通じて岡崎国務大臣に差し出した。

午前10時半、フィン書記官来訪。当方のリアクションを求めた。よつて、国務大臣に差しだした文書(英文)を見せ、これが国務大臣と僕との協議の結果自分が書いたものであるが、まだ国務大臣の了承を得ていないがみせるといつて、読んでもらった。日本側の意向は、良く解つたといい、そして、こういう意見ならば、28日中に公文を交換することはむずかしい。だから、中間協定ができるまでの一週間位は現状でゆくということをヒッキー参謀長と岡崎国務大臣との間で口頭で了解して、この際切りぬける外あるまいといい、僕からも、そうする外ないじゃないかと思う。お互いに上司にその趣旨で話そうということにした。

フィン書記官辞去に際し、わが意見書と対案1通を自分の判断で一國務大臣、大蔵大臣、或は必要かもしれぬ総理のOKを得ないものであることを明示して一手交した。

それから、参議院外務委員会に出席。

国会で中島秘書官から「今朝の書類はあれで結構ですからすぐ出すよ

うに」との岡崎国務大臣の意向を伝えられたので、帰省後直ちに(午後)フィン書記官に通じた。その節、フィン書記官は、昨日のリッチウェイ司令官のNoteは非公式のものとみなすこと、従つて日本政府の意見と対案も非公式とみなすことにしたいと先方の意向を伝え、当方、これを了承した。

フィン書記官からヒッキー参謀長と岡崎国務大臣と会談の希望があつた(前述のとおり)ので、国務大臣の意向で午後5時外務省国務大臣室でということになり、ロッキー参謀長は定刻にやつてきたが、直前、国務大臣から国会関係で離れられないので、午後8時にしてくれとの連絡があり、外務省の玄関前で、西村と影井とでヒッキー参謀長をまちかまえ自動車を降りたところをつかまえて、事情を話して帰つてもらつた。

午後6時少し前、ヒッキー参謀長に、午後8時外務省大臣室で会うことを伊関局長を通じて先方に連絡した。

このため零時半の旧外務省跡における平和条約発効祝賀式に顔が出せなかつた。

28日ヒッキー参謀長、岡崎国務大臣と大臣室で会談。会談要旨は、別に作成してあるので、ここでは省略。

4月29日

天皇誕生日で休日。家に休息しているとフィン君から電話がある。国連軍人が日本にはいりたいのがあるが、今日以後どうすればいいんだとの問合せ。わが方提案の第1条に、これら軍人の出入国について事前の通報を条件として容認しておることを思いだして、事前に書面による通報をしてくれ一外務大臣宛一と返事しておいた。

4月29日夕方から夜おそくまでかかつて、国務大臣とヒッキー参謀長の会談のラインをしんしやくしつつ新たに来簡案と返簡案を作成した。大いに苦心して、日本の言いたいことは、わが返簡の中に盛る方式を案出した。

4月30日

午前、島内君にわたくしの英文を改良してもらう。午後5時半フィン書記官に交付。同君、即座に同意を表し、いい作である、とお世辞をいつてくれた。

5月1日

フィン書記官と電話で交渉し、出入国に関する一項を加えることとその表現を打合せる。それから、返簡にSCAPに言及したところは今はないSCAPに言及するのはよそうとの先方の希望に賛成し、フィン書記官の表現に賛成しておいた。

5月2日

正午、フィン書記官、案文を持参す。時に、たまたま7階の食堂で新大臣の御挨拶を聞いていたので、重光君受領。室に帰って、一読。二箇所気にいらぬところがあったので、フィン君に電話して、意見を述べ、希望どおり改めることにした。これでフィン君と私の間の妥結案として、先方は、華府にこちらは、内閣に提出して意見を求めることに打合した。直ちに岡崎国务大臣に報告。大臣の了承を得た。大臣の意見で来週火曜日(6日)の閣議に大臣から持ちだして閣僚に諮ること、および、閣僚の賛成があれば、即日、持ち廻り閣議で決定することに打合せた。

即座に条約一課の諸君を動員してその準備をはじめた。3.4.5の3日は連休なので。

Ⅷ 総理の内奏とシーボルト大使への委嘱

1. 総理の内奏

3月22日、総理は参内して陛下に内奏された。

内奏の資料として、事務当局は、

イ) 平和条約の批准状態

ロ) 日韓交渉

ハ) 日華平和条約交渉の経緯

の3文書を作成して、総理に差しだした。

3文書は、付録22に収録してある。

2. シーボルト大使への委嘱

1952年3月シーボルト大使は任を終えて帰国することとなった。

このとき、総理の了承をえて当時政府が当面しつつあった対外問題について現況をのべ、かつ、これにたいする政府の希望を盛った文書を作成して同大使に手渡し、「これらの書類は貴大使のための情報として作成した。外務省は貴大使がそこに示されている日本政府の希望が達成されるようインフルエンスをを用いられることを期待する」旨を伝えることとなった。

まず、条約局長のところで日本文の原案を整え、それに基づいて小畑君が英文を作成した。そして、3月18日、井口次官が文書を持参してシーボルト大使に手交した。文書には当初考えていたカバリング・ノートは省略し、その趣旨は口頭で次官から大使に伝えられた。

文書は、

1 移民国籍法案の成立促進

2 外資要請

3 リバチー船の傭船

4 日華平和条約交渉

5 日韓交渉