

are personal. Being under the Occupation now, the occupation forces sometimes exercises judicial jurisdiction and police power over the Japanese, but such a state of affairs will not arise in future.

(h) Remedy

Under the Occupation, mention has often been made of the insufficiency of the remedy to the Japanese who have suffered injury to lives or property by acts or accidents on the part of the Occupation Forces or its personnel. It is because the Occupation authorities are under no obligation of remedy and all that can be done is the administrative remedy by the Japanese Government, which has never been adequate on account of the financial difficulties. The Japanese side pointed out the need for remedying this situation under the Security Treaty. The American side agreed that they would make compensations on their own responsibility and expressed the hope that the Japanese side would cooperate with them for its expeditious administration.

(i) Joint Commission

Both sides recognized the usefulness of the proposed joint committee, composed of an equal number of members from both sides, as an organ of liaison and consultation in the execution of the Treaty and administrative Agreements.

(j) Publication of Administrative Agreements

Since the administrative agreements determine the conditions of the garrisoning of American forces, they may contain some matters which, by their nature, are not fit for publication. Otherwise it will be advisable in principle to make them public at a suitable opportunity. That was the opinion of both sides.

付録 /3 衆議院特別委員会における三木（武夫）委員の質問に対する

答弁方針（英文）

Cases where the U.S. forces are
utilized outside of Japan

In cases where the United States utilizes outside of Japan its armed forces stationed in Japan for the maintenance of peace in the Far East, I presume that the United States Government will do so under the closest coordination with the Japanese Government.

Sharing of cost

In regard to the manner of sharing by the two countries of the cost incidental to the garrisoning of American forces in Japan, full exchange of views is yet to be made. It is deemed only natural that Japan whose national defense is to be taken care of should share the cost as far as possible, but it is also an inevitable fact that there is limitation to this due to her present financial conditions.

Establishment of bases

Neither side ever mentioned about furnishing the so-called bases to America. Bases are certain delimited areas where jurisdiction is granted to a foreign country for a definite period of time so that they may be used for military purposes. Their establishment has never been discussed between the two Governments. Needless to say, garrison troops should be able to control for themselves the area and structures where they are quartered or which they use.

Privileges and immunities

It is an accepted idea of international law that the sovereigns, ministers for foreign affairs, diplomatic and consular officials, and the armed forces of a country stationed in accordance with a treaty, etc. enjoy privileges and immunities. Accordingly, it is only a matter of course that the American forces garrisoned in Japan in accordance with the Security Treaty should enjoy privileges and immunities. That should be so, even without treaty provisions. However, the practice in international law has not been well-established and clearly defined in details, and it is believed desirable for practical purposes that definite rules be set in the administrative agreements.

Organ for the execution of the administrative Agreements

If a sort of committee is to be established as an organ of liaison and consultation in the execution of the administrative agreements, I presume that it will be composed of an equal number of members from both sides.

付録 / 4 / 1951年 / 10月3日の連合国財産補償法に対する先方の修正提案及び我が方意見に対する回答

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.

付録 15 1951年10月16日の連合国財産補償法に対する英・加・

米の修正提案

October 16, 1951

1. The following are the British comments on the observations of the Japanese Government.

(A) December 7, 1951 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 word "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 transfer or".

(D) Change the phrase "payment to the Japanese Government" in paragraph 3 of Article 16 to "payment by the Japanese Government".

(E)

(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 national 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.

付録16 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日の我が方の回答

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.

極秘

付録 17 日本国とアメリカ合衆国との間の安全保障条約第3条に基づく行政協定の協議のための合同会議公式議事録

1952年2月26日

次の主要な代表が出席した。

日 本 国

岡 崎 国務大臣

井 口 外務次官

西 村 条約局長

伊 関 国際協力局長

石 原 主計局次長

合 衆 国

ディーン・ラスク大使

アール・ジョンソン次官補

シーボルト大使

A・L・ハムブレン將軍

L・L・ウィリアムス將軍

ナイルス・W・ボンド氏

R・イングリング氏

事 務 局

外 務 省 藤 崎 条約第一課長

合衆国政治顧問室 R・B・フィン氏

合衆国政治顧問室 コッソイ嬢

ラスク氏は、議長として、専門委員会及び起草委員会から提出された協定草案の本文が合衆国にとって同意しうるものであると述べた。同氏は、議事録に採録するため、協定の各条項に関して評釈を行うことにしたいと述べた。

岡崎氏は、日本国の閣議が、当日午前、協定草案を承認したこと及び日本国政府が協定草案を承認するための手続を完了したことを伝えることができるのは喜ばしいと述べた。

極秘

ラスク氏は、感謝の意を表し、また、本国政府から最終的な訓令を問もなく受取るものと期待していると述べた。

ラスク氏及び岡崎氏は、専門委員会の業績に対し感謝の意を表した。

行政協定草案のある条項に関し、議事録に採録するため、次のような個々の陳述が行われた。

第1条

ラスク氏は、次の陳述を行つた。

「合衆国軍隊が、第三国国民である高級熟練技術者をもつばら合衆国軍隊に雇用するために日本国に入国させる場合もあるであろう。合衆国は、そのような技術者を軍属の中に含める問題を合同委員会に提起し、合同委員会が本件に関する相互の取極を行うこととしたい。」

岡崎氏は、「これに同意する。」と述べた。

第3条

ラスク氏は、次の陳述を行つた。

「第1項に関し、合衆国は、この権利、権力及び権能が、この協定の目的を遂行するのに必要な限度において、特に、次のことを行う権利、権力及び権能を含むものであると了解する。

- a 施設及び区域を構築(しゅんせつ及び埋立を含む。)し、運営し、維持し、利用し、占有し、警備し、及び管理すること
- b 建物又はその他の工作物を移動し、それらに対し変更を加え、定着物を附加し、又は附加物を建立すること及び補助施設とともに附加的な建物又はその他の工作物を構築すること
- c 港湾、水路、港門及び投錨地を改善し、及び深くすること並びにこれらの施設及び区域に出入するために必要な道路及び橋りょうを構築し、又は維持すること
- d 施設及び区域の能率的な運営及び安全のため軍事上必要とされる限度で、その施設及び区域を含む又はその近傍の水上、空間又は地

上において船舶及び舟艇、航空機並びにその他の車両の投錨、繫留、着陸、離陸及び操作を管理すること（禁止する権利を含む。）

- e 合衆国が使用する路線に軍事上の目的で必要とされる有線及び無線の通信施設を構築すること。前記には、海底電線及び地中電線、導管並びに鉄道からの引込線を含む。
- f 施設又は区域において、いずれの型態のものであるかを問わず、必要とされる又は適当な地上若しくは地下、空中又は水上若しくは水中の設備、兵器、物資、装置、船舶又は車両を構築し、設備し、維持し、及び使用すること。前記には、気象観測の体系、空中及び水上航行用の燈火、無線電話及び電波探知の装置並びに無線装置を含む。」

岡崎氏は、「私は、この了解が日本政府にとって同意できるものであることを確認する。」と述べた。

第5条

岡崎氏は、次の陳述を行つた。

「日本国政府は、第5条に関連して、次のように了解する。

- (a) 「合衆国及び合衆国以外の国の船舶……で、合衆国によつて、合衆国のために又は合衆国の管理の下に公の目的で運航されるもの」とは、合衆国公有船舶及び合衆国被用船舶（裸用船、航海用船及び期間用船契約によるもの）をいう。一部用船契約によるものは、含まれない。商業貨物及び私人たる旅客がこれらの船舶に積載されるのは、例外的な場合のみに限る。
- (b) 本条の日本国の港とは、通常「開港」をいう。
- (c) 「適当な通告」をする義務を免除されるのは、合衆国軍隊の安全のため又は類似の理由のため必要とされる例外的な場合に限られる。
- (d) 本条に特に定のある場合を除く外、日本国の法令の適用があるも

のとする。

ラスク氏は、「私は、合衆国政府がこの了解に同意するものであることを確認する。」と述べた。

ラスク氏は、「第5条2に関して、合衆国は、施設及び区域への出入及びその間の移動は、使用料その他の課徴金を免除されるものと了解する。」と述べた。

岡崎氏は、「同意する。」と述べた。

第7条

岡崎氏は、次の陳述を行つた。

「第7条に関して、日本国政府の警察機関に適用される電気通信料金は、警察機関の通信施設が日本国政府のその他の機関の通信施設に合体した時に定められたものであつて、特別の低料率であることを述べておきたい。この施設をきよ出したので、警察機関に特惠料率を与えることが望ましいと考えられた。この低料率は、また、警察予備隊にも現在適用されている。」

ラスク氏は、この情報に謝意を表し、かつ、次の陳述を行つた。

「この点に関して、私は、日本国が合衆国の安全保障軍に与える待遇における無差別の原則を合衆国は重視するものであることを申し述べたく、かつ、日本国にある合衆国軍隊に適用される電気通信料率の問題が、合同委員会によつて研究されるよう提議したい。当方としては、当分の間、警察以外の日本国政府の各省各庁が支払う最低料率を支払う用意がある。もつとも当方としては、合衆国が、相当期間に亘つて、警察予備隊が支払う料金よりも高率の料金を支払うべきであるとは考えておらず、従つて、合同委員会に、この問題を慎重に検討し、かつ適当な勧告を与えるよう要請したい。」

岡崎氏は、「合同委員会がこの基礎にたつて問題を検討し、かつ、適当な勧告を行うべきことに同意する。」と述べた。

第8条

ラスク氏は、次の陳述を行った。

「合衆国政府は、第8条に関して、日本国が、通常日本国自身のために又は国際協定その他に基づいて国際社会のために行う気象業務の費用を合衆国が負担することを期待されるとは考えておらず、従って、第8条に基づいて合衆国の負担となるべき経費は、合衆国軍隊にそのような情報及び業務を供与するために要する附加的費用である増加分に限定されると了解している。私は、合同委員会が、適当な勧告を行うために、本条に関連する経費の問題をこの一般的な原則に基づいて検討するよう提議したい。」

岡崎氏は、「貴下の提議に同意する。」と述べた。

第11条

ラスク氏は、「3(a)は、貨物の船積が所有者の旅行と同時であることを必要とするものでなく、また、積込又は船積が一回であることを要求するものでもないと了解する。」と述べた。

岡崎氏は、「同意する。」と述べた。

ラスク氏は、また、「5(c)にいう『軍事貨物』とは、武器及び備品に限定されるものでなく、合衆国政府の船荷証券により合衆国軍隊に向けて船積されるすべての貨物をいうものと了解する。この『軍事貨物』という用語は、合衆国軍隊に向けて船積される貨物を合衆国政府の他の機関に向けて船積される貨物と区別するために用いたのである。」と述べた。

岡崎氏は、「同意する。」と述べた。

ラスク氏は、また、「9(b)及び(c)に関して、『合衆国軍隊は、……可能なすべての援助を与えなければならない』とは、合衆国軍隊による合理的なかつ実際の措置をいうものと了解されたい。」と述べた。

岡崎氏は、「私は、そのように了解している。」と述べた。

第12条

岡崎氏は、「私は、合同委員会その他の適当な者が日本国及び合衆国両国の経済関係の法令及び商慣習の相違から生ずる調達契約に関する紛議の満足すべき解決につき研究することを提案したい。」と述べた。

ラスク氏は、「私もその問題を研究すべきだと思う。」と述べた。

岡崎氏は、次の陳述を行った。

「最終的には合衆国軍隊が使用する物資の購入に関する課税免除を確保する手続について、次の記録を残すことを提議する。

- 1 合衆国軍隊に向けて託送され、又は仕向けられた資材、需品及び備品が、合衆国軍隊の監督の下に、もつぱら第2条に掲げる施設及び区域の構築、維持若しくは管理のための契約若しくは施設及び区域内にある軍隊の維持のための契約を履行するため使用され、又はその全部若しくは一部が消費されることとなつているか、あるいは、当該軍隊が使用する物品若しくは施設に最終的には合体させられるものである旨の適当な証明を合衆国軍隊がした場合には、合衆国軍隊の権限のある代表者が、生産者から直接に当該資材、需品及び備品の引渡を受けるものとする。この場合、物品税及び揮発油税の徴収手続は、進めないものとする。
- 2 施設及び区域における前記の資材、需品及び備品の受領は、合衆国軍隊の権限のある官憲から日本国の当局に対して行われる。
- 3 物品税及び揮発油税の徴収手続は、次に定めるいずれかの時期まで進めないものとする。
 - (a) 合衆国軍隊が、前記の資材、需品及び備品の消費の量又は程度を確認して証明する時

(b) 合衆国軍隊が使用する物品又は施設に合体させられた前記の資材、需品及び備品の量を確認して証明する時

4 3(a)又は(b)に従って証明された資材、需品及び備品は、その経費が合衆国政府予算から支払われ、又は日本国政府が合衆国の支出にあてる経費から支払われる限り、物品税及び揮発油税を免除されるものとする。

ラスク氏は、「この手続は、わが政府にとって満足すべきものであろう。1951年の相互安全保障法の規定に基づいて承認された軍事経済援助計画のために合衆国が日本国において行う物資の調達に関する課税問題を含め、広汎な租税問題についてわが政府が、近い将来、貴国政府と討議することを希望することは疑わないところである。現在の討議に関連して、この種の問題を提起するのは、これまでのところ実際的でもなかつたし、また、適当でもなかつた。」と答えた。

第13条

ラスク氏は、「第13条2及び第14条6に関して、合衆国軍隊における勤務又は合衆国軍隊若しくは第15条に定める諸機関による雇用の結果として、あるいは合衆国政府と合衆国において結んだ契約に基づいて日本国で受ける所得は、日本国の源泉から発生する所得として取り扱われず、また、認められないと了解する。」と述べた。

岡崎氏は、「同意する。」と述べた。

第15条

ラスク氏は、「私は、本条が起草委員会に回付された時に到達した次の了解、すなわち、通常海外で同様の特権を与えられている合衆国政府のその他の官吏及び職員が1に掲げる施設を利用することに異議がないということを確認したい。」と述べた。

岡崎氏は、「了承する。」と述べた。

第17条

岡崎氏は、次の陳述を行った。

「本条3に関して、日本国政府は、次のように了解する。

- a (a)及び(c)にいう「犯罪の未遂」とは、その未遂自体が日本国の法律に基づいて罪として処罰することができるものの場合をいう。
- b (d)のいかなる規定も、日本国憲法で保障されるすべての者の住居の不可侵の権利の侵害を許容するものと解釈されてはならない。
- c (g)に定める「本条3(a)に従って逮捕することができる者に関する場合は、この限りでない。」という除外規定は、次の場合を含む。

- 1 犯人を逮捕する目的をもってする搜索及び差押
- 2 逮捕された犯人に対する証拠の収集のための搜索及び差押
- 3 犯人捜査のための搜索及び差押。」

ラスク氏は、「私は、この了解が合衆国政府の同意できるものであることを確認する。」と述べた。

ラスク氏は、次の陳述を行った。

「当方は、日本国政府が、第23条に基づいて合衆国軍隊、その設備及び財産の十分な安全及び保護を規定するために必要な立法を求めることに同意するという事実を了承する。適当な時期に、当方は、当方の軍隊が使用する施設及び区域の近傍において人を逮捕することに関し、合衆国軍事警察に民事警察が有するある種の権利及び権限を行使することを許すために、更になんらかの立法が望ましいかどうかを日本国政府と検討したい。

本条4に関し、合衆国は、この項に基づいて生ずる事件について合衆国の軍事裁判所が行った処分を日本国の当局に通告することに同意した。その場合、通告の手続はなるべく簡易でなければならないこと、かつ、合同委員会は貴国政府の利益を完全に満足させ、同時に不必要な行政上の負担又は手続を避けるような取極を、経験を基礎として作成することについて、貴方及び当方が同意見であると信ずる。」

岡崎氏は、「完全に了承する。」と述べた。

第19条

岡崎氏は、次の陳述を行った。

「本条に関して、日本国政府は、合衆国軍隊の構成員及び軍属並びにそれらの家族並びに第14条に掲げる者以外の者に対する、合衆国軍隊及び第15条に規定する諸機関の日本国における支払が日本国の外国為替の法令に従って行われ、この支払においては、基準為替相場が用いられるものと了解する。」

ラスク氏は、「私は、日本国政府のこの了解が合衆国政府にとって同意できるものであることを確認する。」と述べた。

第20条

岡崎氏は、次の陳述を行った。

「本条に関して、日本国政府は、第20条の規定の遵守を確保するために、日本国における軍用銀行施設の維持及び運営を監督する合衆国の当局は日本国政府の大蔵省に対し毎月の円と交換された軍票の金額を月報により証明するものと了解する。」

ラスク氏は、「私は、日本国政府のこの了解が合衆国政府にとって同意できるものであることを確認する。」と述べた。

第21条

ラスク氏は、「私は、通常海外で同様の特権を与えられている合衆国の政府のその他の官吏及び職員が合衆国軍事郵便局を利用することに異議がないものと了解する。」と述べた。

岡崎氏は、「異議がない。」と述べた。

第25条

岡崎氏は、次の陳述を行った。

「日本国とアメリカ合衆国との間の安全保障条約に示されているように、日本国が漸増的に「自国の防衛のため自ら責任を負う」ことあ

るべきに応じ、そのような防衛のための経費が増加することにかんがみて、日本国にある合衆国軍隊の維持のための2に規定する経費の減額に考慮が払われるよう要請する。」

ラスク氏は、次のとおり回答した。

「合衆国は、そのような考慮を払おう。しかし、当方としては、日本国が、そのような要請をするに当って、共同及び相互的の防衛の努力のため必要とされる合衆国の経費も増加することについて妥当な考慮を払われるよう希望する。」

岡崎氏は、次の陳述を行った。

「私は、次のとおり了解している。すなわち、2(b)に規定する円資金は、日本国政府が四半期ごとに合衆国特別勘定に繰り入れることになる。支出負担行為の計画は、四半期ごとに日本国政府と共同して作成される。特別勘定の収入、支出負担行為及び現金支払については、月報(必要な場合には、更に短期間についての報告を含む。)を、その後の繰入れについて必要な調整を容易にするため、遅滞なく日本国政府に送付するものとする。この勘定からの支出は、日本国における標準慣行に妥当な考慮を払い、合衆国政府会計検査院が要求する標準の線にそつて両当事者が合意する標準要件に合致するものとし、また、合同委員会の日本国委員は、政府専門家の援助及び合衆国の当局の援助を得て特別勘定を監査することができる。」

ラスク氏は、次のとおり回答した。

「私は、この資金の支出が合衆国によつて行われるものと了解する。しかし、前記の支出手続が実施に移される前に、合衆国議会の授權立法が必要とされる。臨時的措置として、これらの資金の支出は日本国の支出官吏によつて行われるが、その支出は貴下の説明された計画手続に従って行われるものと了解する。」

岡崎氏は、同意を表明し、かつ、次のとおり述べた。

「租税の納付は日本国政府の通常確立された慣行であるから、日本国政府の歳出予算によつて使用に供される 2 (b) に掲げる日本国通貨の中には、租税の納付のための要素が含まれている。従つて、1952 年－53 年(昭和 27 年度)防衛費歳出予算は、税込みのものであると了解する。」

ラスク氏は、次の陳述を行つた。

「私は、貴方の防衛費予算が予算慣行として租税の要素を含むことができるものであると了解する。しかし、国際関係を律する原則として、共同及び相互的の防衛の努力に関する事項において、一国が他国に租税を納付することは、根本的に不適當である。従つて、当方は、日本国政府によつて予算化されるこれらの資金を直接税の納付に消費すべきではないと信ずる。その理由は、このような消費が、共同及び相互的の防衛の努力には資するところがなくして、かかる租税納付分を補うため合衆国の負担分に増額を必要とすることになるからである。しかし、1952 年－53 年(昭和 27 年度)の日本側負担分の算定は、租税の要素を含んでおり、従つて、租税の納付を含むべきであると認められる。今後は、両当事者は、租税の免除の一般原則を遵守し、将来の見積りをこの方法により算定することに合意する。1952 年－53 年(昭和 27 年度)に合衆国が支出するため日本国予算から合衆国(勘定)に移される資金は、合意される租税要素の額だけ減額されるものとする。」

岡崎氏は、「同意する。」と述べた。

ラスク氏は、「2 (b) において、「公定の平価」とは、日本国の外国為替及び外国貿易管理法(昭和 24 年法律第 228 号)に定める基準外国為替相場をいう。現在、この相場は、1 米ドル対 360 円である。日本国政府と合衆国政府との間の取引においては、買相場又は売相場とは別な中間為替相場を用いるものとする。」と述べた。

岡崎氏は、同意を表明した。

ラスク氏は、「この協定のいかなる規定も、合衆国がこの協定に基づいて負担すべき経費の支出のため、合衆国が合法的に取得したドル又は円資金を利用することを妨げないものと了解する。」と述べた。

岡崎氏は、同意した。

ラスク氏は、「日本国との平和条約の効力の発生に先き立つて、合衆国軍隊の維持のため日本国が行つた支出負担行為で同条約の効力発生の日において支出未済残高となるものは、日本国の責任とすることが了解され、かつ、合意される。」と述べた。

岡崎氏は、「本件は、了解する。」と述べた。

第 28 条

岡崎氏は、「第 17 条 1 に、「1951 年 6 月 19 日にロンドンで署名された「軍隊の地位に関する北大西洋条約当事国間の協定」が合衆国について効力を生じたときは、合衆国は、直ちに、日本国の選択により、日本国との間に前記の協定の相当規定と同様の刑事裁判権に関する協定を締結するものとする。」と述べられている。私は、合衆国政府がこの約束をされたことを感謝する。今後経験を積むに従つて、その他の問題で相互に討議することが望ましいものが出てくることもあろう。」と述べた。

ラスク氏は、「そのことこそ、第 28 条の目的であり、私は、合衆国政府がいつでも、われわれのいずれかが本条に基づいて提起しようと希望する事項を討議する用意があることを保証することができる。」と述べた。

ラスク氏は、行政協定の公式締結のための会合が、両代表間の討議によつて非公式に取り極められるべきことを提議した。

岡崎氏は、これに同意する旨を述べた。

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SECRET SECURITY INFORMATION

TENTH MEETING
February 26, 1952

JOINT MEETING FOR THE NEGOTIATION OF

ADMINISTRATIVE AGREEMENT

OFFICIAL MINUTES

The following principal representatives were present:

United States

Ambassador Dean Rusk
Assistant Secretary Earl Johnson
Ambassador Sebald
General A. L. Hamblen
General L. L. Williams
Mr. Niles W. Bond
Mr. R. Yingling

Japan

Minister K. Okazaki
Vice Minister Iguchi
Mr. K. Nishimura
Mr. Y. Izeki
Mr. K. Ishihara

Secretariat

Mr. R. B. Finn, USPOLAD
Mr. M. Fujisaki, Ministry of Foreign
Affairs
Miss L. M. Kossoy, USPOLAD

The Minutes of the Ninth Meeting were approved without objection.

Mr. Rusk as Chairman stated that the text of the draft Agreement as forwarded by the Technical Committee and the Drafting Committee was acceptable to the United States. He suggested that comments for the Minutes might be made on various Articles of the Agreement.

Mr. Okazaki said he was pleased to state that the Japanese Cabinet had approved the draft Agreement this morning and that the Japanese Government had completed its procedures for approval of the draft Agreement. Mr. Rusk expressed appreciation and said he expected to receive final instructions from his Government shortly.

Mr. Rusk

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Mr. Rusk and Mr. Okazaki expressed appreciation for the work of the Technical Committee.

The following specific statements for the Minutes were made on certain Articles of the draft Administrative Agreement:

Article I: Mr. Rusk made the following statement: "highly skilled technicians who are nationals of third States might be brought to Japan by the United States armed forces solely for employment by the United States armed forces; the United States would like to raise in the Joint Committee the question regarding inclusion of such technicians in the civilian component with a view to mutual agreement by the Joint Committee on this matter." Mr. Okazaki said this was agreeable.

Article III: Mr. Rusk made the following statement: "In connection with Paragraph 1 it is the understanding of the United States that such rights, power and authority shall include, inter alia, to the extent necessary to accomplish the purposes of this agreement, the rights, power and authority:

a. To construct (including dredging and filling), operate, maintain, utilize, occupy, garrison and control the facilities and areas;

b. To remove buildings or structures, make alterations, attach fixtures, or erect additions thereto and to construct any additional buildings or structures together with auxiliary facilities;

c. To improve and deepen the harbors, channels, entrances and anchorages, and to construct or maintain necessary roads and bridges affording access to such facilities and areas;

d. To control (including the right to prohibit) in so far as may be required by military necessity for the efficient operation and safety of the facilities and areas, anchorages, moorings, landings, takeoffs and operation of ships and waterborne craft, aircraft and other vehicles on water, in the air or on land comprising, or in the vicinity of, the facilities and areas;

e.

e. To construct on rights of way utilized by the United States such wire and radio communications facilities, including submarine and subterranean cables, pipe lines and spur tracks from railroads, as may be required for military purposes; and

f. To construct, install, maintain, and employ in any facility or area any type of installation, weapon, substance, device, vessel or vehicle on or under the ground, in the air or on or under the water that may be requisite or appropriate, including meteorological systems, aerial and water navigation lights, radio and radar apparatus and electronic devices."

Mr. Okazaki said: "I confirm that this understanding is acceptable to the Japanese Government."

Article V: Mr. Okazaki made the following statement: "It is the understanding of the Japanese Government in connection with Article V:

a. that 'United States and foreign vessels operated by, for, or under the control of the United States for official purposes' mean United States public vessels and chartered vessels (bare boat charter, voyage charter and time charter). Space charter is not included. Commercial cargo and private passengers are carried by them only in exceptional cases.

b. that the Japanese ports mentioned herein will ordinarily mean 'open ports';

c. that the exemption from making 'appropriate notification' will be applicable only to exceptional cases where such is required for security of the United States armed forces or similar reasons.

d. that the laws and regulations of Japan will be applicable except as specifically provided otherwise in this Article."

Mr. Rusk said: "I confirm that this understanding is acceptable to the United States Government."

Mr. Rusk said: "in connection with paragraph 2 of Article V it is the understanding of the United States that access to and movement between facilities and areas shall be free from toll and other charges."

Mr. Okazaki

Mr. Okazaki said: "that is acceptable."

Article VII: Mr. Okazaki made the following statement: "With regard to Article VII, I wish to state that the telecommunications rate applicable to the police agencies of the Japanese Government is a special low rate, which was established at the time the communications facilities of the police agencies were joined with those of other agencies of the Japanese Government. Because of the contribution of these facilities, it was thought desirable to give the police agencies a preferential rate. This low rate is also presently applicable to the National Police Reserve."

Mr. Rusk expressed appreciation for this information, and made the following statement: "In this regard I should like to state that the United States attaches great importance to the principle of non-discrimination in the treatment accorded its security forces by Japan, and I should like to suggest that the problem of telecommunications rates applicable to the United States forces in Japan might be studied by the Joint Committee. For the time being, we are prepared to pay the lowest rate paid by any ministry or agency of the Japanese Government other than the police. However, we do not consider that the United States should for any significant period pay rates higher than those paid by the National Police Reserve and we shall ask the Joint Committee to give this problem careful study and make an appropriate recommendation."

Mr. Okazaki said: "I agree that the Joint Committee should study the problem on this basis and that it should make an appropriate recommendation."

Article VIII: Mr. Rusk made the following statement: It is the understanding of the United States Government in connection with Article VIII that the United States will not be expected to bear the cost of such meteorological services as Japan would normally provide for itself or for the international community, either under international agreements or otherwise, and that, therefore, expenses chargeable to the United States under Article VIII would be limited to that increment representing additional cost in furnishing such information and services to United States armed forces. I suggest that the Joint Committee might study the problem of expenses in connection with this Article in the light of this general principle with a view to making appropriate recommendations."

Mr. Okazaki

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Mr. Okazaki said: "your suggestion is acceptable."

Article XI: Mr. Rusk said: "It is understood paragraph 3 (a) does not require concurrent shipment of goods with travel of owner nor does it require single loading or shipment."

Mr. Okazaki said: "I agree."

Mr. Rusk also said: "I understand the term 'military cargo' as used in paragraph 5(c) is not confined to arms and equipment but refers to all cargo shipped to the United States armed forces on a United States Government bill of lading, the term 'military cargo' being used to distinguish cargo shipped to the United States armed forces from cargo shipped to other agencies of the United States Government."

Mr. Okazaki said: "I agree."

Mr. Rusk also said: "In regard to subparagraphs (b) and (c) of paragraph 9, it be understood that the words 'The United States armed forces shall render all assistance within their power etc.' refer to reasonable and practicable measures by the United States armed forces."

Mr. Okazaki said: "That is my understanding."

Article XII: Mr. Okazaki said: "I wish to propose that the Joint Committee or other appropriate persons study the problem of a satisfactory settlement of difficulties with respect to procurement contracts arising out of differences between Japanese and United States economic laws and business practices."

Mr. Rusk said: "I agree that the problem should be studied."

Mr. Okazaki made the following statement: "I suggest that the following record be made of the procedures for securing exemptions from taxation on purchases of goods for ultimate use by the United States armed forces:

1. Upon appropriate certification by the United States armed forces that materials, supplies and equipment consigned to or destined for such forces, are to be used, or wholly or partially used up, under the supervision of such forces, exclusively in the execution of contracts for the

construction,

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construction, maintenance or operation of the facilities and areas referred to in Article II or for the support of the forces therein, or are ultimately to be incorporated into articles or facilities used by such forces, an authorized representative of such forces shall take delivery of such materials, supplies and equipment directly from manufacturers thereof. In such circumstances the collection of commodity and gasoline taxes shall be held in abeyance.

2. The receipt of such materials, supplies and equipment in the facilities and areas shall be confirmed by an authorized officer of the United States armed forces to the Japanese authorities.

3. Collection of commodity and gasoline taxes shall be held in abeyance until

(a) The United States armed forces confirm and certify the quantity or degree of consumption of the above referred to materials, supplies and equipment, or

(b) The United States armed forces confirm and certify the amount of the above referred to materials, supplies, and equipment which have been incorporated into articles or facilities used by United States armed forces.

4. Materials, supplies, and equipment certified under 3(a) or (b) shall be exempt from commodity and gasoline taxes insofar as the price thereof is paid out of United States Government appropriations or out of funds contributed by the Japanese Government for disbursement by the United States."

Mr. Rusk replied: "Such procedures would be satisfactory to my Government. My Government will undoubtedly wish to discuss a wide range of tax problems with your Government in the near future, including the tax aspects of procurement of goods in Japan by the United States for use in military and economic assistance programs authorized under the provisions of the Mutual Security Act of 1951. It has not been practicable or proper to raise questions of that sort in connection with the present discussions."

Article XIII:

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Article XIII: Mr. Rusk said: "It is understood that with respect to paragraph 2 of Article XIII and paragraph 6 of Article XIV, income payable in Japan as a result of service with or employment by the United States armed forces or by the organizations provided for in Article XV, or under contract made in the United States with the United States Government, shall not be treated or considered as income derived from Japanese sources."

Mr. Okazaki said: "That is understood."

Article XV: Mr. Rusk said: "I wish to confirm the understanding reached at the time this Article was referred to the Drafting Committee to the effect that there will be no objection to use of the facilities referred to in paragraph 1 by other officers and personnel of the United States Government ordinarily accorded such privileges abroad."

Mr. Okazaki said: "That is acceptable."

Article XVII: Mr. Okazaki made the following statement: "In connection with paragraph 3 of this Article it is the understanding of the Japanese Government:

a. that 'the attempted commission of an offense' in (a) and (c) refers to cases where the attempt itself is punishable as an offense under the law of Japan;

b. that nothing contained in (d) should be construed as warranting infringement of the right of all persons to be secure in their homes as guaranteed by the Constitution of Japan;

c. that the exception provided in (g), which reads 'except as to such persons as may be arrested in accordance with paragraph 3(a) of this Article' covers the following;

1. search and seizure for the purpose of arresting offenders;

2. search and seizure for collecting evidence against the offenders who have been arrested;

3. search and seizure for searching for offenders."

Mr. Rusk

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Mr. Rusk said: "I confirm that this understanding is acceptable to the United States Government."

Mr. Rusk made the following statement: "We take note of the fact that, under Article XXIII, the Japanese Government agrees to seek such legislation as may be necessary to provide for adequate security and protection of United States forces, installations and property. At the proper time, we shall wish to discuss with the Japanese Government whether any further legislation would be desirable to permit the United States military police to exercise certain of the rights and authority of civil police with respect to the arrest of persons in the vicinity of facilities and areas in use by our forces."

"Regarding paragraph 4 of this Article, the United States agrees to notify Japanese authorities of the disposition made by United States service courts of cases arising under that paragraph. In doing so, we believe that you and we are in agreement that procedures for notification should be as simple as possible and that the Joint Committee might work out, on the basis of experience, arrangements which will entirely satisfy the interest of your Government and at the same time avoid unnecessary administrative burdens or procedures."

Mr. Okazaki said: "That is quite acceptable."

Article XIX: Mr. Okazaki made the following statement: "In connection with this Article it is the understanding of the Japanese Government that payment in Japan by the United States armed forces and by those organizations provided in Article XV to persons other than members of the United States armed forces, civilian component, their dependents and those persons referred to in Article XIV shall be effected in accordance with the Japanese Foreign Exchange Control Law and regulations. In these transactions the basic rate of exchange shall be used."

Mr. Rusk said: "I am glad to confirm that this understanding of the Japanese Government is acceptable to the United States Government."

Article XX:

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Article XX: Mr. Okazaki made the following statement: "In connection with this Article it is the understanding of the Japanese Government that in order to ensure compliance as provided in Article 20 the United States authorities, under whose supervision military banking facilities are established and operated in Japan will certify to the Ministry of Finance of the Japanese Government monthly reports on the amount of military payment certificates converted into yen during the month."

Mr. Rusk said: "In confirm that this understanding of the Japanese Government is acceptable to the United States Government."

Article XXI: Mr. Rusk said: "It is my understanding that there would be no objection to use of United States military post offices by other officers and personnel of the United States Government ordinarily accorded such privileges abroad."

Mr. Okazaki said: "There will be no objection."

Article XXV: Mr. Okazaki made the following statement: "As Japan may increasingly 'assume responsibility for its own defense' as is indicated in the Security Treaty between the United States of America and Japan, I request that consideration be given, in the light of increased expenses required for such defense, to the reduction in expenditures as provided in paragraph 2 for maintenance of United States armed forces in Japan."

Mr. Rusk replied: "The United States will give such consideration. However, we desire that when Japan makes this request, it will give due consideration to increased expenses which may be required of the United States for joint and mutual defense efforts."

Mr. Okazaki made the following statement: "It is my understanding that the yen fund provided in paragraph 2(b) shall be transferred to a United States Special Account by the Japanese Government on a quarterly basis. The obligation program shall be on a quarterly basis and shall be prepared in concert with the Japanese Government. With respect to receipts, obligations and cash payments of the Special Account, monthly reports (including reports for shorter periods, if necessary) shall be promptly

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transmitted to the Japanese Government to facilitate necessary adjustments on subsequent transfers. Disbursements from this Account shall meet standard requirements as agreed by both parties along the line of standards required by the General Accounting Office, United States Government, with due consideration given to the standard practices in Japan, and Japanese members of the Joint Committee may audit the Special Account with the assistance of Government experts and with the cooperation of United States authorities."

Mr. Rusk replied: "I understand that disbursement of this fund will be made by the United States. However, enabling legislation will be required of the United States Congress before such disbursement procedure can be placed in effect. As an interim measure, I understand that disbursement of these funds shall be made by Japanese disbursing officers but that such disbursement will be made under the programming procedures which you have described."

Mr. Okazaki expressed agreement and said: "Inasmuch as payment of taxes is the normal established practice of the Japanese Government, the Japanese currency referred to in paragraph 2(b) provided by means of a Japanese Government appropriation includes an element for payment of taxes. It is therefore understood that the 1952-53 appropriation for defense expenses includes taxes."

Mr. Rusk made the following statement: "I understand that as a budgetary practice your defense appropriations may include an element for taxes. However, as a principle governing international relations it is basically inappropriate for one Government to pay taxes to another Government in matters pertaining to joint and mutual defense efforts. Therefore, we believe that such funds appropriated by the Japanese Government should not be depleted by the payment of direct taxes, since such depletion would require an increase in the contribution of the United States to offset such payments without adding to the joint and mutual defense effort. It is recognized, however, that the computations for the Japanese contribution for 1952-53 did include a tax element and therefore should include the payment of taxes. In succeeding years it is agreed that both parties will adhere to the general principle of relief from taxation and future estimates will be so computed. Such funds as are turned over to the United States from the Japanese appropriation for 1952-53 disbursement by the United States shall be reduced by the amount of the agreed tax element."

Mr. Okazaki

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Mr. Okazaki said he agreed.

Mr. Rusk said: "In paragraph 2(b), 'the official par value' shall mean the basic rate of exchange as set forth in the Japanese Foreign Exchange and Foreign Trade Control Law (Law No. 228, 1949); at present this rate is ¥360 = U.S. \$1.00. In transactions between the Japanese Government and the United States Government, the middle rate of exchange as distinguished from the buying rate or selling rate shall be used."

Mr. Okazaki expressed agreement.

Mr. Rusk said: "It is understood that nothing in this Agreement shall prevent the United States from utilizing for the defrayment of expenses which are to be borne by the United States under this Agreement, dollar or yen funds lawfully acquired by the United States."

Mr. Okazaki agreed.

Mr. Rusk said: "It is understood and agreed that any obligations incurred by Japan in support of the United States armed forces prior to coming into force of the Treaty of Peace with Japan, which are outstanding on the date this Treaty comes into force, shall be the responsibility of Japan."

Mr. Okazaki said: "That is understood."

Article XXVIII. Mr. Okazaki said: "In Article XVII, paragraph 1, it is stated taht 'Upon the coming into force with respect to the United States of the 'Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces,' signed at London on June 19, 1951, the United States will immediately conclude with Japan, at the option of Japan, an agreement on criminal jurisdiction similar to the corresponding provisions of that Agreement.' I appreciate this undertaking on part of the United States Government. There may be other questions which in the light of experience it may become desirable for us to discuss with cash other."

Mr. Rusk said: "It is our understanding that that is the purpose of Article XXVIII and I can assure you that the United States Government would be prepared

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to discuss matters which either of us might wish to raise under this Article."

Mr. Rusk suggested taht a meeting for formal conclusion of the Administrative Agreement be arranged informally by discussions between the two Delegations. Mr. Okazaki said this was agreeable.

The meeting was adjourned at 6:45 p.m.

付録 18 国会審議に備えて作成した1951年10月1日
付「日米安全保障条約の行政協定に関する
解説」

1951.10.1

1. 経緯

安全保障条約第3条は、米国軍隊の日本国内及び附近における配備を規律する条件は、両政府間の行政協定できめることを明らかにする。安全保障条約の実施細目を行政協定で定めようとする趣旨である。

この行政協定は、安全保障条約が9月8日署名されるまでに、両政府間にまとめあげられる時間的余裕がなかった。行政協定は、これから交渉して作成されるものである。シーボルト大使も、9月28日日米協会における演説で、「条約第3条にいう日本国内及び附近における米国軍の配備の条件を規律する行政協定は、これから両政府間に交渉さるべきものである」と述べている。

もちろん、この行政協定の内容をなすべき事項について、今日まで、両国間に話合が行われたことは皆無だというのではない。本年1、2月ダレス特使訪日の際、平和条約と並んで安全保障条約について話合が行われた。そして、安全保障条約の構想について意見の一致をみるに至った。その際、行政協定の内容をなすべき事項についても若干意見が交換されたことは、事実である。しかし、協定にまとめあげるまでに結晶しなかった。じ後、米国政府は、50余国を相手として平和条約案を作成する大事業に忙殺されたものごとく、安全保障条約の本文すらサン・フランシスコ会議直前ようやく一応のまとまりをみたほどである。行政協定については、2月の会談の後、ついに、今日まで、交渉することができなかった実情にある。

2. 内容

本年春の会談で、触れられた諸点と、その構想は、大体次に述べるとおりである。

(a) 行政協定の観念

日本側は、安全保障条約のうちに米国軍隊の日本駐屯の条件のうち主要な事項について原則規定を設けることにし、この条約の実施に必要な細目は、日米共同委員会のようなものを設けて協議作成させることにする考案を述べた。米国側は、駐屯の条件を決定するがごとき広い権限を委員会に与えることは好ましくないとし、駐屯の条件は、政府間の行政協定で定めることにし、日米共同委員会は、本条約と行政協定との実施に当つての連絡協議機関たらしむることを希望した。ここから、行政協定の観念が生れたのである。

(b) 兵力量

日本に駐屯すべき米国の陸、海、空三軍の兵力量は、意見交換の題目となつたことがない。日本側は、これは、主として、米国政府が、米国の国家の安全と平和の維持に対するその責任と日米安全保障条約の責務の見地から、自ら決定すべき米国軍の配置の問題であると考え、日本政府が、要請に応じ、又は、自発的に見解を述べることはありうるかも知れないが、事の決定は、米国政府においてなさるべきものとする。

(c) 便益の供与

米国が武力攻撃に対して日本を防衛するために日本の希望に応じて日本国内及び附近にその軍隊を駐屯させる以上、日本側でこれに便益を供与すべきは、当然のことである。現実問題として、米国軍は現に占領軍として日本にあつて日本から土地、建設物、その他諸般の役務の提供をうけつつある。平和条約が発効して占領が終了すると同時に米国軍は、安全保障条約に従つて日本に駐屯する軍隊に性格を一変する。従つて、現に提供されている土地、建設物、その他の役務などの

便益がそのまま引き続き提供されるということはない。いかなる便益を提供すべきかは、行政協定において、協議して定めようということになっておる。政府としては、予算その他の関係があるので、なるべく早く協議を開始して具体案を得たいと希望しておるけれども、米国側で準備がととのわずとのことで、まだ話合は行われず何も具体的にきまつていない。

(d) 基地

安全保障条約の結果として日本が米国に基地を提供するというようなことは、話題にのぼったことがない。基地とは、一定の土地の範囲を画して年限を定めて軍事目的に使用しうよう管轄権(ジュリスディクション)を外国政府に与えるものである。かようなものを設定するがごときことは、両政府間で問題とされたことはない。今回の安全保障条約は、日本に対する武力攻撃を阻止するためと極東の平和維持のため米国軍が日本国内及び附近に駐屯することが眼目となつていて、日本はこの軍隊の駐屯に便益を供するものである。北大西洋条約に基づいて米国軍隊が西欧諸国に派遣されているのに似た関係である。安全保障条約は基地供与条約ではないのである。

(e) 経費

米国軍の日本駐屯に伴う経費をいかに両国間に分担すべきかについては、米国側から、大体現在英国に駐屯している米国空軍の例によることにしたいとの話を聞いておる。その説明によると、英国側がその負担で提供する特定の費目を除き、原則として米国の負担となつておるとのことである。

(f) 権能

駐屯する軍隊が起居し、又は、使用する土地建設物を自ら管理し得ねばならぬことはいうまでもない。又、駐屯する軍隊がその使命を達成するため必要な施設や建造を自らなしうようにすることも必要で

ある。これらも、行政協定で、明らかにする必要があると考えられる。

(g) 特権免除

条約に基づいて一国の軍隊が外国にあるとき、その軍隊が特権を享有することは、国際法の通念である。国際法で、当然、他国にあつて特権を享有するものは、元首、外務大臣、軍隊(陸、海、空たるを問わず、このうち、軍艦の享有する特権が最も広い。)外交官、国際機関の職員、館事官(但し、後の2者は条約に根拠をもち、その他は、国際法上の確立した慣行に基づく点で、相違がある。)である。従つて、安全保障条約に基づいて日本に駐屯する米国軍が特権を享有すべきは、理の当然であつて、条約に規定せずとも、そうあるべきものである。特権は、裁判権、課税、警察等に及ぶ。もつとも、国際法の慣行も具体的に微細にわたつて確立しておる訳ではないから、協定において明確に準則を定めておくことが、実際上の紛糾を避ける意味において望ましいと考えられる。行政協定で、規定する方針であるけれども、まだ、十分に意見の交換が行われていない。これらの特権は属人的である。又、現在の占領下では、占領軍が日本人に対して裁判権を及ぼし、その警察権を及ぼすようなことがあるが、さようなことは、将来は、ないであらう。

(h) 救済

占領下にあつては、占領軍又はその構成員の行為や事故によつて生命財産上の損害をうけた邦人に対する救恤の不十分が問題とされた。けれど占領軍に救恤の責任なく、すべて日本政府の行政的救済にまかされていて、日本の財政上、十分の補償が与えられない事情があつたからである。安全保障条約の下においては、事態を改善する必要がある点を日本側でとりあげた。米国側は、自分の方で救恤の責に当ることに異存なく、救恤事務の敏速な運営のため日本側の協力を希望する

との意向を表明した。

(i) 共同委員会

本条約と行政協定の実施に当って両国間の連絡協議機関として双方同数の委員からなる委員会を設ける考案は、双方において、有用性を認めた。

(j) 行政協定の公表

行政協定は、米国軍隊の駐屯に関する条件を定めるものだから、そのうちには事の性質上公表に適しないものがありうる。そうでない限り、原則として、適當の機会に公表するのがいいというのが、双方の見解であつた。

付録 19 交渉再開に備え事務当局の用意した行政協
定案にたいするわが方の修正意見(1952年
1月23日付第2次案)
行政協定案に対する修正意見

27.1.23

タイトル及び前文

安全保障条約のタイトルに適合するように改める。

第一章

Garrison Troopsを、他の箇所におけると同様、United States forcesに改める。

第一章(1)

stationedを、安全保障条約の用語にならい、disposedに改める。また、under international lawをunder international law and customと改める。

第一章(2)

本項を次のとおり改める。

(2) The United States forces disposed in Japan shall be garrisoned at installations listed in Annex A and shall have the facilities also listed in Annex A.

The said Annex shall be revised from time to time by agreement between the two governments in order to meet the actual requirements of United States forces.

原案は、安保条約発効後においても占領時代の事態が継続するがごとき印象を伴うもので、おもしろくない。なお、合衆国軍隊によるコントロール云々については、第九項に明記されている。

第二項は、このアネックスが現実の事態に適合するように随時改められるべきことを明らかにせんとするものである。

第一章(3)

本項を次のとおり改める。

(3) Further assistance such as the use of coastal areas of appropriate size and location for military exercises, for additional staging areas, bombing and gunnery ranges, and for such intermediate airfields as may be required for safe and efficient air operations, shall be provided by Japan as mutually agreed between the United States and Japanese governments. Operations in such areas shall be carried on with due regard and safeguards for the public safety.

原案の第一文章は、修正案のようにアネックスを随時改変されるものにすれば、不要となる。第二文章に述べられている援助も両国間の合意によつて提供されるものであることを明らかにすべきである。

なお、中間飛行場に言及しているので、coastal areasとあるのは、land and coastal sea areasであるべきではあるまいか。

第一章(4)

不動産及び動産の返還に関する第一文章を独立の項とする。また、それが(2)及び(3)によつて提供されるものであることを明らかにするため、United States forcesの後にunder(2)and(3)を挿入する。

第二文章の冒頭のExcept for losses arising directly from hostilitiesを削除する。行政協定には、戦争を予見する字句を入れることを回避すべきである。

...on account of loss of life, limb, property or personal injury
to any Japanese citizen.....を

...on account of loss of life, of or personal injury to any Japanese national, or loss or destruction of or damage to property of any Japanese national or public entity.....

に改める。意義を明確にし、且つ、日本の法人、地方公共団体等の財産に対する損害も補償されることを明らかにするためである。

本項末尾のto be recommended for paymentをto be paidに改める。
関係日本人に現実に支払を受けることの保障を与えるためである。

第一章(5)

意義を明確にするため、第一文章の後半を次のとおり改める。

...and such rights, power and authority within the limits of territorial waters and air space adjacent to, or in the vicinity of, installations or areas as are necessary to provide access to them, or appropriate for their control.

(d)は、左のとおり改める。

(d) to acquire, as may be agreed between the two governments, such rights of way, and to construct thereon, as may be required for military purposes, wire and radio communications facilities, including submarine and subterranean cables, pipe lines and spur tracks from railroads,

to the installations and areas.

右の案文は、米比協定になつたものであつて、意義を明らかにし、実施を容易にするためである。

(e)のincluding以下の文章を削除する。

なお、本項の文言は、米比間基地協定の権利の明細に関する規定と全く同じである。これでは、日米安全保障条約及び行政協定は基地と呼ぶべきものを他の名で呼んでいるに過ぎないといわれても仕方がない。本項の内容については異存ないが、表現を改めるべきである。

第一章(7) United States installations and areasを、他の場合と同じく the installations and areasと改める。

第一章(9)

本項は、施設及び区域に対する管理権と駐屯軍所屬員に対する裁判管轄権の二点を規定している。この両者は、別個の項目として規定するのが適當である。管理権に関する規定を次のとおり改める。

(9) The United States shall have exclusive control over all installations and areas in Japan, while they are utilized by United States forces

けだし installations and areasのうち特に areasについては、たとえばある種の演習場のように、米国軍隊が常時使用するのではなくて、必要に応じ、特定の時期を限って使用するものがあると考えられる。特定の時期を限って使用されるものについては、使用中だけ、米国の exclusive control をもち、使用されない間は日本が管理するのがより実際的であると思う。

裁判管轄権に関する規定は、次のとおり改める。

1. The United States shall have the right to exercise its jurisdiction over the following offenses:

(a) Any offense committed within the installations and areas

by the military and civilian personnel of the United States Government(including nationals of a third country...the same hereinafter)and their families; provided,however,that Japan shall have jurisdiction over offenses against its security;

(b) Any offense committed outside the installations and areas by the military and civilian personnel of the United States Government while performing official duty;

(c) Any offense committed outside the installations and areas by the military and civilian personnel of the United States Government and their families solely against the person or property of the military and civilian personnel of the United States Government and their families.

2. The United States authorities shall turn over to the Japanese authorities any person committing an offense within the installations and areas other than those subject to the jurisdiction of the United States under paragraph 1.

3. Japan shall have the right to exercise jurisdiction over any offense committed outside the installations and areas by the military and civilian personnel of the United States Government and their families which does not fall under (b) and (c) of paragraph 1. However,Japan may decide not to exercise jurisdiction and turn over the offender to the United States authorities.

4. The Japanese and the United States authorities shall cooperate closely in order to put into practice the provisions of the preceding paragraphs.

5. The United States shall not claim immunity from the jurisdiction of the courts of Japan for the military and civilian personnel of the United States Government and their families in respect of the civil jurisdiction of the courts of Japan except in a matter arising from the performance of official duties.

原案によれば、すべてのinstallations and areas内における合衆国政府の軍人及び文民たる職員並びに家族のみならず第三人についても、米国の裁判管轄権をもつことになっており、また、これらのinstallations and areas外においても、すべての合衆国政府の軍人及び文民たる職員並びに家族に対し、常に、裁判管轄権をもつことになっている。国際法の一般的慣行又は先例によると、条約に基いて他国にある一国の軍隊に認められる特権は、第一に、その軍隊の常時駐屯する場所において駐在国の裁判管轄権から免除され、且つ、この場所外においてはon dutyの際の犯罪について裁判権を免除されるのが普通であると考える。

第一章(10)

本項の関税に関する部分と旅券等に関する部分を分けて、それぞれ独立の項とし、関税に関する部分を次のとおり改める。

All materials,supplies and equipment for the United States forces,and for the personal needs of military and civilian personnel and their families,consigned to or destined for the United States authorities and satisfied by them for such purposes,shall be permitted entry into Japan free of customs duties,excise taxes,or any other charges.

挿入された文言は、軍事基地に関する米比協定にならったものである。

旅券等に関する規定を次の1.のとおり改め、あらたに下記の2及び3の二項を挿入する。

1. The military personnel of the United States Government shall be exempt from Japanese regulations pertaining to passport,visa,registration and control of aliens,and their families,the civilian personnel and their families shall be exempt from Japanese regulations pertaining to visa, registration and control of aliens.
2. The military personnel of the United States Government shall carry personal identity card issued by the United States showing names,date of birth,rank and number (if any),service,and photograph; and their families,the civilian personnel and their families shall be so described in their passports.
3. Service vehicles of United States forces shall carry,in addition to their registration number,a distinctive service mark.

右の規定は、大体、軍隊の地位に関する北大西洋条約当事国間の協定にならつたものである。

第一章(12)

the United States security forces in Japanを、他の箇所におけると同様、the United States forces in Japanと改める。

本項の末尾にor sources other than the United States sources.を付加する。米比協定の例に従う。これなくんば、(11)と本項とを別にする意味がない。

第一章(13)

最後の文章(This is to include……)を削除する。本文章の意味

は、第一文章に十分含まれている。施設及び区域内に設けられた郵便局がなす相互の間の通信並びに日本外の合衆国の郵便局となす通信を施設及び区域内で合衆国がもつばら規制管理しうことは、当然であると考ええる。外において規制し管理することは、好ましくない。

第一章(14)

本項の末尾に

…,except excise taxes on merchandise produced in Japan
を挿入する。

第二章

stationedをdisposedに改める。

第一文章とそろえるため、第二文章の主語にplacesを挿入する。

第一章(2)におけると同様、(2)として次の一項を付け加える。

The said Annex shall be revised from time to time by agreement between the two governments in order to meet the actual requirements of United States forces.

第三章

garrison troopsをUnited States forcesと改める。

第四章

両国が、安保条約を締結したのは、本章で予見せられている措置をとらなければならないような事態の発生を防ぐためであり、日本国民も、かかる意味で同条約を支持している。敵対行為又はその緊迫した危険が発生したとき、かかる措置がとられることは当然であり、これがため、平常から相互に密接な協力をなし、もつと詳細な具体的計画を打合せておくべきであろう。かかる具体的計画は、性質上公表されるべきものではないと考える。よつて、この章は、削除し、別に次のような原則を不公表の文書で確約しておくのが適当であろう。

日本区域において、敵対行為又はその緊迫した危険が発生したとき

は、両国政府は、統一的集団防衛のために適当な措置(appropriate measures for unified collective defense)をとるものとする。その具体的計画は共同委員会がこれを作成する。

追 加 条 項

1. 第一章の末尾に次の一項を付け加える。

1. It is the duty of United States forces and military and civilian personnel thereof as well as their families to respect the law of Japan, and to abstain from any activity in consistent with the spirit of the Security Treaty between Japan and the United States of America.
2. The priviledges and immunities accorded to United States forces and military and civilian personnel thereof as well as their families under this Agreement shall not be abused.

右の第一項は、軍隊の地位に関する北大西洋条約当事国間の協定にならったものである。

あらたに第二章として、次の一章を設ける。

Chapter II

Procurement

- (1) Requirement of United States forces for Japanese workers shall be satisfied with the assistance of the Japanese Government. The conditions of employment and work, in particular, wages, supplementary payments and conditions for the protection of workers, shall be those laid down by the legislation of Japan. Such Japanese workers shall not be regarded for any purpose as being member of United States forces.
- (2) The military and civilian personnel of the United States

Government and their families may purchase locally goods necessary for their own consumption, and such services as they need, under the same conditions as the nationals of Japan.

- (3) Goods and services which are required from local sources for the subsistence of United States forces shall normally be purchased through the competent authorities of Japan so that such purchases have no adverse effect on the economy of Japan. The competent authorities of Japan may indicate, when necessary, any articles the purchase of which should be restricted.

右の諸項は、いずれも軍隊の地位に関する北大西洋条約当事国間の協定にならったものである。労務については、現在、日本の労働法規が進駐軍労務者に現実に適用されていないため、紛糾が生じている。この事態を改善する必要がある。

付 録 20 行政協定案(米案)にたいする大蔵省および 法務府の意見

- 1 行政協定案にたいする大蔵省の意見
- 2 民事裁判権に関する法務府の意見
- 3 行政協定案第22条にたいする佐藤法制意見長官の改訂案

- 1 行政協定案に対する大蔵大臣の意見

2月1日岡崎国務大臣より受領。 西村

行政協定案(1951年12月21日附)に対する意見中 重要事項

昭27.1.30大蔵省

1 一般的事項

日米親善関係の確保及び安全保障条約の円滑な実施を期する見地から本協定の各条項の内容及び表現については、左の諸点につき考慮が払われることが望ましい。

- (1) 安全保障条約に基き日本に駐とんする米国軍隊の地位は、占領軍たる地位の継続ではなく、講和条約及び安全保障条約の発効によつて、独立国としての日本と米合衆国との間に全然新しい関係が創設せられるものである点を明瞭にすること。従つて施設の使用等に関しても、占領中のものがそのまま継続使用されるという様な建前は一切排除することが望ましい。
- (2) 安全保障条約に基き駐とんする米国軍隊の地位及び特権については、占領軍の当事に比して、日本側がより不利になる様な条件は如何なる点においても規定せられるべきではなく、特殊の事情のため已むを得ない場合を除き、原則として「軍隊の地位に関する北大西洋条約当事国間の協定」(以下「北大西洋条約の協定」という)における受入国に比して日本側が不利とならないことが望ましい。
- (3) 日米の対等関係を明確にする必要がある。各規定の内容及び表現において、片務的なものは、双務的なものとするか或は場合により削除することが望ましい。
- (4) 条文の配列においても、例えば第14条(日本国の法律尊重を北大西洋条約の協定の場合と同様第1条定義)のすぐ次に置きかえる等の配慮が望ましい。

第1条 定義

「軍属」の定義に関し、北大西洋条約の協定におけると同様、(b)項前段中「合衆国軍隊と契約関係にある者」を、また(b)項後段即ち「及び日本国にある合衆国軍隊の請負業者に雇用せられまたはこれと契約関

係にある者」を、削ること、

右のように定義を厳格に狭くする結果、税法関係その他の条項において、米国側にとつて窮屈となり過ぎる場合は、夫々の条項において必要な規定を設ける方がよい。定義を広くすると却つて個々の条項における規定を厳格にせざるを得なくなる。

第2条 施設及び区域

1. 経過措置として、協定の効力発生の上に現に使用中の施設及び区域がそのまま使用される建前は好ましくない。協定の効力発生の上までに、両国政府の協議によつて、新しい関係において使用さるべき施設と区域とを具体的に決定しておくべきである。
2. 右の具体的決定に当つては、安全保障条約の目的と直接関係がないと一般に思考せられる様なもの(例えばゴルフ場、都会の中央にある社交クラブ等)を包含しない様にすることが必要である。

第3条 権利の明細

施設及び区域の建設、建造物の移動、等本条の権利の行使に当つては、施設及び区域外の公益に影響を及ぼす場合には、日本政府に協議することが望ましい。

なお、施設の拡張等の経費は、日本側の負担とならないものであることにつき念を押すこと。

第7条 公共事業

日本政府のいずれの省庁よりも不利でない条件というのは、各省庁の一般的な利用条件によるべきで、一省庁の特別有利な条件によるものではない趣旨と諒解したいこと。

第8条 気象観測業務

「合衆国に対する負担なしで」を削ることとしたい。

第9条 日本国への入国

第10条 輸入

第11条 日本国内における調達

第12条 一般の課税

第13条 販売及び役務

第5条 通過特権

これらの諸条項に関する内国税及び関税の取扱いについては、より具体的且つ詳細に規定することが望ましく、この点については両当事者中の専門家の交渉に俟つこととしたい。

第15条 刑事裁判管轄権

北大西洋条約の協定が効力を発生する前と雖も、本協定が効力を発生する当初から、北大西洋条約の協定におけると同様の内容を規定することが望ましい。

第17条 外国為替管理

第18条 軍票

軍票の規定についてはその取締り及び不法使用の責任に関し片務的な規定がなされているので、為替管理の規定と併せて詳細を別途の取極めにゆづつては如何かと考えられる。

なお、特定銀行の監督については、合衆国のみならず日本政府においてもこれを行うことができるようにすることとしたい。又、特定銀行の指定については、合衆国より日本政府に要請し、日本政府において、これを行うようにすることとしたい。

第20条 予備団体

予備団体に編入された合衆国市民が「軍隊、軍人、軍属、従属者」に入らないことを明確にすべきであると考ええる。

第23条 経費

1. 第3項と第4項との関係において、第3項では日本側の負担として、(a)項の費用と、(b)項の155百万弗とが明示されているに拘わらず、第4項では、米国側の負担程度は明示されていないので、折半原

則によっているのかどうか日本国民一般が不安を感じる惧れがある。

2. 3項(b)の「その後毎年」は、削除して欲しい。

3. 役務、需品、配給物資等の用語の内容を明確にするとともに、

第3条の施設及び区域の拡張等の費用

第4条1項の原状回復乃至補償の費用、同3項の費用

第8条気象観測の費用

第11条2項の調達のための日本側の援助の費用

第16条3項(d)の請求に関する費用

等と、本条第3項(a)及び(b)との区別又は関係を明確にすること

4. 3項(b)の日本通貨の「提供」については、5項の規定とも関連し、その経理の方法については、別途細目を打合せる必要がある

5. 為替換算率は、公定換算率一本でゆくこと

2 民事裁判権に関する法務府の意見

第16条に関する質問点及び修正意見

2月1日夜佐藤法制意見長官より受領。 西村

1 について

(イ) “Suffered...by a member of its armed forces” etcとあるのは、その軍隊の構成員等が加害者である場合を意味し、被害者が何人であるかを問わない趣旨と解せられるが何如。

(ロ) “a civilian employee of its government” とあるのは、日本国籍を有する者を含まないものと予約して差支えないか。また、これは、地方公共団体の職員を含む趣旨であるかどうか。

2 について

“damage to any property in Japan owned by it ” とあるのは、地方公共団体の有する財産に対する損害をも含む趣旨か。

3 について

(本文) “claimers…arising out of acts or omissions of members of…” とある点は、合衆国軍隊の使用する宮造物、施設又は兵器等の設置又は管理の瑕疵に起因する請求権をも含ませるように修正すべきである。

(a)(i) claimers…とあるのは、個人のなす請求であることを明示すべきである。

(ii) “from the date on which they arise” とあるのは、「損害発生の日から」の意味であることをはっきりさせるべきである。

(i) “claimers arising from the activities” とある点は、(本文)の修正意見に会わせて修正すべきである。

(d)(i) “The costs” には、賠償金額のみならず、訴訟費用をも含む趣旨か。

(ii) “in equal proportions” とあるのは、賠償責任の帰属が明白な場合には、その負担割合を変更すべきである。

(f)(i) “an enemy of the United States” とあるのは、国際法上戦争状態に入った敵を意味するのか。

また合衆国が国連の当事者として現実には戦闘を行っている相手をも含むのか。

(ii) “engaged in combat” とあるのは、現に戦闘行為を行いつつある場合のみを指すのか、それとも航空機による爆撃の途中にある場合等をも含む趣旨や。

(i) “resulting directly or indirectly” とある “indirectly” は、削除すべきである。

4 について

「各当事国」を「joint committee」に改め「前諸項」を「3の(d)」に改めるべきである。

5 について

(i) 3に定める請求に関しては、出訴前当事国間において協議する機会をもつようにすべきである。

(ii) “Subject to the civil jurisdiction of Japanese courts” とあるのは、日本国裁判所の強制執行手続にも服する趣旨である。

合衆国軍隊の使用する施設には区域内における日本人個人財産に対する強制執行が不可能である場合には、少なくともこれを差し押えて引き渡すことを要求し得る権限を与えるよう措置すべきである。

(i) その他、民事訴訟については、合衆国当局は証人及び証拠を提供するために協力すべき旨の条項を設けるべきである。

3 行政協定案第22条にたいする佐藤法制意見長官の改訂案

27.2.12 林法制意見第二局長から受領。 藤崎

第22条の改訂案

日本区域において敵対行為が発生した場合又は敵対行為の急迫した脅威がある場合に日本国とアメリカ合衆国との間の安全保障条約第1条の目的を遂行し、且つ、日本国にある合衆国の軍隊の安全を保持するため特別の措置を必要とするときは、両国間の協議によつて、この協定の規定に対する特例を定めることができるものとする。このような提案が合衆国側からなされたときは、日本国政府は、すみやかにその協議に応ずるものとする。

付録 2 / 1952年2月1日日米協会午餐会におけるラスク大使の演説

TEXT OF REMARKS PREPARED FOR DELIVERY
BY AMBASSADOR DEAN RUSK,
SPECIAL REPRESENTATIVE OF THE PRESIDENT,
AT A LUNCHEON MEETING OF THE AMERICA-
JAPAN SOCIETY IN TOKYO AT 1 P.M. FRIDAY, FEB. 1

President Komatsu, General Ridgway, Distinguished and Gracious Guests, Ladies and Gentlemen:

I deeply appreciate the cordial invitation which you extended to Assistant Secretary Earl Johnson and me, together with others of our visiting mission, to have lunch today with the America-Japan Society. I am the more grateful because you were willing to repeat your invitation, when it became clear that Secretary Johnson and I would, unfortunately, not be able to reach Japan for the first date which you had kindly suggested.

It is a particular pleasure, President Komatsu, that I now have an opportunity to repay the call which you made on us in the United States several weeks ago, a visit which added much to the feeling of good comradeship between the peoples of our two countries.

I was informed by the press that I am going to make an "important speech" today. I am not sure that my remarks will qualify for such a lofty description. Nor am I sure that it is a good thing for us to be seeking always to make "important" speeches to each other, when we meet in friendly association. It is quite true that these are serious times, but times are often serious. There are elements of crisis in the present world situation, but there were when we first heard about crises—many years ago. There is much hard work to be done — but there will always be. There will be disappointments, perhaps even disasters, but they are a part of our nation of satisfaction and triumph. It is not my suggestion that we be frivolous about serious matters, but rather that we pause once in a while in a calmer mood to think quietly about some of the ordinary things which add flavor to our short and turbulent lives. If there be any among us, therefore, who are expecting that my remarks will raise any temperatures, deepen any anxieties, or inflate any hopes, I trust in all good spirit that you will be disappointed.

Secretary

Secretary Johnson and I are in Japan on a mission which understandably has stimulated the keenest interest both here and in our two countries. In fact, our mission has a very simple purpose. Our two Governments have decided that it would serve the cause of peace and our mutual security if, "as a provisional arrangement" for the defense of Japan, American armed forces remain for a time in Japan after the effective date of the Treaty of Peace. The need seemed to be clear and, despite our heavy obligations and responsibilities, the United States was willing to meet that need. Such forces are to be in Japan on a security mission of the highest importance to both our countries. The arrangement represents a common enterprise in which each is vitally interested. I have no doubt that each of us shall do everything possible to reduce or remove irritations and obstacles standing in the way of complete and cordial cooperation in this field. In the historic Vandenberg resolution in the United States Senate, which laid the basis for the further organization of peace and security in support of the United Nations, the concept of selfhelp and mutual aid was fundamental. The purpose is peace; the method is joint action, joint contribution and joint responsibility.

The presence of armed forces in any country, whether in one's own country or in another, necessarily involves a requirement for facilities and areas. Such facilities and areas need to be such as to permit the efficient performance of the duties laid upon such forces. Further, the presence of armed forces in any country involves the establishment of working relationships between the armed forces and the civilian authorities and population. It is particularly important that these relationships be thoughtfully considered where the forces of one country are present inside another country, where the broad basis of relationship is not established by custom or long association. These relationships have to be considered not because they are expected to generate trouble, but because an understanding of them will avoid trouble.

Secretary Johnson and I are here, therefore, to discuss with the Government of Japan the facilities and areas which our forces will need and the relationships between our forces and the country in which they are to remain for a further period. These are problems which have arisen many times before among governments and we know that they are capable of practical and mutually agreeable solution.

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If armed forces need facilities which are consistent with the efficient performance of their task, it is also true that arrangements should be found which result in the least practicable interference with the commercial, industrial, agricultural and social processes of the nation, and which contribute to good relations between the forces and the people around them. We know that our forces will have friendly hosts in this country; I am certain that our forces will do their host to be considerate guests.

I am honored that we have with us today Minister of State Okazaki, the distinguished representative of Japan in our conversations, I feel that we have made good progress in our talks in the few days we have had thus far; certainly, for my part, I feel that I have benefitted greatly from the frank and friendly discussion in which we have exchanged our views.

I know that there is an intense public interest in the details of the results which we hope to achieve. Our two Governments have expressed agreement that the arrangements we make shall be fully known to the peoples of our two countries and that the close association of our two nations in the cause of peace has nothing in it to be concealed. I know that the hope and confidence on both sides is that we can conclude an agreement which will merit and obtain the cordial support and approval of the peoples of our two countries and will be looked upon with sympathy by peoples elsewhere.

If I may quote from the opening remarks made by the distinguished representative of Japan, "Friendly association among peace-loving nations is predicated upon the existence of friendly relations between individual nations. Friendship arising out of mutual respect, mutual trust and mutual understanding must be the keynote of our association with each other, and it is on the bedrock of such friendship that the Security Treaty between your country and mine must rest in order to serve its wider international purpose. I am sure that we are in full concurrence that our common task here is to work out arrangements which will best serve the purpose of promoting effective cooperation between our two countries."

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I am happy to record my own full concurrence with his views.

It may be known to some of you that I am shortly to leave the service of my Government and return to private life. I should already have done so had I not been asked, as a concluding task, to undertake the negotiations in which I am now engaged. There is great satisfaction in having a part to play in the completion of the agreements between our two countries, of which the Peace Treaty and Security Treaty are the foundations. I have had the privilege of working closely with my friend and colleague, Ambassador John Foster Dulles, who carried so much of this work for the United States and whom you know so well here.

It occurred to me that I might take advantage of your invitation today to mention, as among friends, a few of the things which have impressed themselves upon me during the past decade in which I have been in Government service, a decade of great changes in the world situation and in the relation of my own country to our neighbors beyond our frontiers. These are not "important" thoughts - and are not offered as such.

The first lesson I take away from my official service is that of the basic identity of purpose of ordinary men and women from all corners of the earth. I say this not because I feel I am entitled to speak for them, but merely to resist what it is I think I have learned. I am a little impatient with some of my countrymen these days because of the ease with which they attempt to speak "for Asia" or "for Europe". If we restrain our tongues and attune our ears, we shall discover that others can speak for themselves. And we hear them speak in the dozens of great international organizations of which we are members, in the tens of thousands of meetings we have held to discuss even more tens of thousands of questions of more or less importance to one country or another. There has accumulated a massive record of the hopes, the fears, the aspirations, the needs, the convictions and the judgments of all the peoples. As I have listened, and read, and negotiated - I became profoundly convinced that the men and women of the earth would like to move in the same direction - and the direction is described in the Preamble and opening Articles of the United Nations Charter:

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"To save succeeding generations from the scourge of war."

"To reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small."

"To promote social progress and better standards of life in larger freedom."

"To practice tolerance and live together in peace with one another as good neighbors."

"To ensure .. that armed force shall not be used, save in the common interest."

I would invite you to study the records of the world community for the past seven years; these are the purposes toward which men are building, however hesitantly and imperfectly; these are the tests by which the conduct of nations is judged; these are the ties which bind men together in joint endeavor. It is a great tribute to the power of the Charter and of these essential ideas that even those governments who are in the very act of defying the Charter, attempt to bring themselves somehow within its protection by a distortion of its meaning. I have heard much cynicism in the course of international debate; I recall none directed toward the great purposes inscribed by the nations of the world in the Charter.

My next belief is one which will undoubtedly invite your skepticism - but it is that the basic national interests of the nations of the world are essentially in harmony. Whether you find in it a trace of profound truth or merely the signs of excessive optimism, I believe there is considerable evidence for it. There is much experience to show that when representatives of nations come to the conference table with a clear and realistic appreciation of their own national interests, seen as a whole, arrangement and mutual accommodation are a normal result. The trouble is that mistakes are made as to just where real national interests lie, or special groups may develop an irrational lust for power, or special interest may distort a proper appreciation of national interests seen as a whole. But the great aggressions of our country have failed; the peace, freedom and well-being of one can be enjoyed only in relation to the peace, freedom

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and well-being of others. Here again, there appears to be deep wisdom in the Charter of the United Nations - for there are set forth the rules by which the real interests of the members can be promoted by common action and close cooperation. I do not believe that the need for security, the need for raw materials, the need for food, the need for markets, the need for water, or fuel, or power, or self-respect and dignity - I do not believe that such national needs must result in centroyersy and chaos; to the contrary, we each have great needs which can only be met with the help of others - the very demands which we have looked upon as elements of contention are compulsions for friendly association and mutual adjustment.

My next impression is one with which most will agree - the great problems of modern international life are so complex as to challenge the intellectual capacities of modern man to solve them. A tour of duty in an active foreign office is a lesson in humility. For here we find no pin-ball machine into which we can drop a problem and from which, with flashing lights and ringing bells, there suddenly rolls forth a solution. Hard thought is required and, as often as not, the harder the thought the more difficult becomes the problem. Our luncheon meeting is not the place to wrestle with logic and philosophy, nor am I the speaker to try it. But thinking for a moment about some of our complex international problems, how do we know whether we are asking ourselves the right questions? How can we find and put together in usable form the relevant information we need for a judgment? How do we take hold of a problem which is too big to grasp all at one time, but no part of which can be dealt with apart from the whole? How do we sort out competing principles, conflicting policies, and the hundreds of major premises forever at work on our minds? How do we test the practicability of a policy before launching it in action? It is easier to ask these questions than to answer them. Man, who has split the atom, defied disease, and telescoped time and space, needs all the brains he can muster to deal with the great questions of international life upon which our survival may depend. A great deal has been said about the return of Japan to the world community; I suggest that not the least important aspect is the need of others to share the intellectual powers of your countrymen so we may have your help in finding our way through some of the most baffling question with which all of us have been confronted.

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If complexity poses a great problem, so does the intensive pace of current events. Japan is rapidly entering the great international organizations through which so much of the world's business is now conducted. Today, as we meet here, there are at least 20 international meetings going on somewhere in the world to discuss matters of varying degrees of importance. I know there are at least 20, because there are always at least 20. That means that every few minutes of every working day, there must be a representative of my country present at one or another city somewhere in the world, with a staff and with instructions about my government's policy on the matters to be discussed. That means thousands of meetings a year and tens of thousands of agenda items to be discussed. It is no answer to say, "stop the meetings." That would merely multiply the problems many fold by throwing the matter back to the channels of bi-lateral diplomacy - channels which are still basic and fundamental, but which cannot deal with urgent questions requiring consideration by dozens of governments who may be involved. The pace is killing - but it would take a brave man to predict that the pace is likely to be slowed in a world with radio and jets and a daily press and all the other devices which crowd action upon action at an ever-increasing speed.

If we are discouraged by some of the complexities of world events we may take heart from something which is going on right here in Japan and Korea which may have the profoundest historic significance for the survival of the human race. In Korea, the world community is determined, on the one hand, to resist aggression and, on the other, to maintain the general peace. It represents the first great test of the possibility of organizing the world community for peace; the first great test as to whether we can, in sober judgment, repel the forces of violence without total destruction. It would be easy to allow any act of violence to move quickly into world war - whether in Greece, or Berlin or Korea. What is difficult is to bring to bear the organized force of the world community for the essential purposes of maintaining the peace without allowing the aggression, at the same time, to consume us all in a great conflagration.

It is not easy for great powers, involved in combat, to pull away from it short of a world war and the total destruction of one side or the other. We have had little experience in

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recent history in disengaging the great nations from a struggle in which their strength and prestige are seriously engaged. After a half century of total war, and in an era of weapons of frightful destructiveness, we are trying to discover whether we can take a rational step back toward sanity and self-restraint by limiting the use of force to the absolutely essential requirements of the maintenance of peace. We will bring all possible skill and patience to the task of preventing a disastrous war.

We know that the people of Japan are interested in the basic attitude of the American people toward the great issues of war and peace - an interest which is natural and proper as we move into the future with you in close association under our Security Treaty. I believe that we are entitled to point both to the determination and to the self-restraint which have been demonstrated in Korea to show that our resolve is to support peace and not a course of violence and destruction. General Ridgway and his United Nations troops in Korea are carrying out a task of the utmost importance to the future of our civilization; it may prove to be the decisive action which determines whether we can organize peace in our time. The debt we owe to those who have fought is as large as the goal for which their sacrifice has been made.

In conclusion, Mr. President, I should like to express a word of confidence. We should not be surprised by discouragements and set-backs which are certain to come. Most of the world community is trying to build - to build not only physical things but a decent and acceptable way of life. But there are enemies who are trying merely to destroy, to tear down what they themselves cannot control. The building is far more difficult than is the tearing down. It is hard to organize a constitutional society of free men; it is easy to impose a reign of terror. It is hard to build the economy of a great nation and to raise the standards of living of its people; it is easy to organize riots and strikes and to burn down factories and plantations. The tasks you and we have set for ourselves cannot be accomplished overnight and our efforts will show slow progress, slower at times than we should like.

But if the material odds appear heavy at times against us, in the spiritual, moral and political fields, our common

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efforts are a part of the great stream of aspiration and accomplishment of the human race which will not be denied. There is now going on by peaceful means a shift of the world balance of power in favor of those who are committed to peace. This is possible only because the great majority of the world's peoples have decided to act together to achieve common purposes of the highest moral and spiritual value. United in spirit and purpose, our battles are half won; divided in purpose, our guns will be of no avail. I am certain that the real and lasting association between our two great peoples will not be limited to arrangements for security but will extend to the entire range of common purpose and action outlined in the United Nations Charter. For in that association you and we shall be joined by men and governments all over the earth, against which the forces of destruction cannot prevail.

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付録 22 1952年3月22日総理内奏資料

1. 平和条約の批准の状況
2. 日韓交渉
3. 日華平和条約交渉の経緯

27.3.20

1. 平和条約の批准の状況

1. 平和条約第23条によつて、平和条約の効力発生の条件とされている11箇国の批准状況は、次のとおり。

(1) アメリカ合衆国

2月5日上院外交委員会で可決され、3月14日から上院本会議において審議されておる。今明日可決され、近く大統領によつて批准される予定。

(2) ニュー・ジーランド

2月初旬議会で可決され、批准書は、同国の在ワシントン公館に保管されている。

(3) オーストラリア

3月5日に議会で可決されたが、批准が完了しているかどうか、明らかでない。

(4) セイロン

3月18日議会で可決された。

(5) パキスタン

パキスタンの憲法は、まだ制憲議会において審議中のため、条約締結の手続も定っていない。従つて、政府は、条約を議会に付議することなく、アメリカ合衆国の批准をまつて、4月初旬に批准するであろうとも伝えられている。

(6) オランダ

昨年12月9日下院に上程されたが、討議は、延期されている。

(7) フランス

昨年11月14日国民議会外交委員会において可決されたが、本会議上程は、国内政情のため延期されている。

(8) カナダ

総督は、2月28日の開院式における演説で、本会期中に条約を提出し、審議を求める旨を言明したが、その審議は、施政演説及び予算演説に関する討論のため4月下旬以後になるものと思われる。

(9) フィリピン

3月17日上院に提出されたと伝えられるが、その可決の見透しは、賠償問題もあり、明らかでない。

(10) インドネシア

まだ議会に提出されていない。

2. 条約第23条に掲げられていない署名国

批准書を寄託したものとしてメキシコ、議会の承認を得たものとして、アルゼンティン、ホンデュラス、エル・サルヴァドル及びイランがある。

3. 発効の見透

条約第23条(a)に掲げられた諸国のうち、すでに批准書を寄託したわが国及びイギリスの外、アメリカ合衆国、オーストラリア、セイロン及びニュー・ジーランドが遠からず批准書を寄託するものと見られる。その外もう一国が批准すればよいわけであるから、4月中旬には、発効するものと思われる。

昭27.3.20

2. 日韓交渉

昨年10月20日総司令部のあつ旋のもとに、日本に在住する韓国人の法律上の地位の問題を主たる議題として日韓会談を開始した。

次いで船舶の所属問題についても会談を始めた。

この昨年10月の会談における申合せに従いまして、本年2月15日から日韓間の諸懸案の解決を目的とする会談を開いている。この会談では、まず本会議を開いて、外交関係を含む基本関係樹立に関する問題、財産及び請求権に関する問題、漁業問題の三についてそれぞれ分科委員会を設けて討議すること、その他の問題についてはそのうち討議を行うことを決定した。

かような次第で、日韓交渉においては、現在、昨年から取り上げている二の問題と今年に入ってから取り上げられた三の問題、都合五の問題について並行的に話をしている。

第1の日本に在住する韓国人の法的地位については、国籍の問題と処遇の問題がある。国籍については、平和条約の発効後、在日韓人は、日本の国籍を有せず、大韓民国の国籍を有することを確認することになっている。処遇についても、在日韓人の強制退去の場合の日韓両国間の協議、在日韓人の財産権及び職業、自由意思で帰国する者の送金、荷物の携行についての特別取扱等について、原則的な了解ができています。

第2の船舶の所属については、

(イ) 朝鮮に船籍のある船舶及び日本内地に船籍のある船舶で昭和20年8月9日に朝鮮水域にあつたものの韓国への引渡

(ロ) 日本から韓国に貸与した5隻の船舶及び抑留されている日本漁船の日本への返送

を議題として会議を重ねているが、まだ妥結するに至っていない。

第3に、基本関係の樹立に関する問題である。日韓両国の基本関係を規律する条約をつくろうということについては、一致しているが、その条約の内容、条約締結の時期について、双方の意見が異っている。わが方では、善隣友好関係の設立を規定し、将来締結されるべき現在交渉中の諸案件に関する協定等の指導的な原理を掲げるような内容のものとし、これを早く締結して、個々の問題の解決を促進しようという態度をとっている。これに対して、韓国側は、1910年の日韓併合及びその前に締結されたすべての日韓両国間の条約が無効であることを確認し、交渉中の諸案件については、大体妥結したところでその結論を規定として取り入れることとし、この基本条約は、個々の案件の解決をまつて締結したいと主張している。

第4は、財産及び請求権の問題である。平和条約の第4条で、日本から切り離される地域と日本との間の公私の財産及び債権その他の請求権の処理については、日本と関係当局との間で取り決めることになっている。しかし、まだ根本的な法律上の問題について双方の意見に隔りがあるために、交渉は停頓の状態にある。

第5は、漁業問題である。平和条約第9条に、「日本国は、公海における漁獵の規制又は制限並びに漁業の保存及び発展を規定する2国間及び多数国間の協定を締結するために、希望する連合国とすみやかに交渉を開始するものとする。」とある。朝鮮は、もとより連合国ではないが、平和条約の第21条でこの第9条の利益を受ける権利を有するものとされている。わが方は、公海の自由という原則を根本として、魚族保存のため必要である場合には合意によつて制限措置を講ずるという建前をとり、日米加3国間の条約案もこの精神で貫かれているといっている。これに対して、韓国側は、本年1月19日の韓国大統領の宣言でも明らかにしたように、領海外の水域に対する沿岸国の管轄権を国際法上認められた権利なりと主張し、日米加漁業条約案でもこれが認められていると

主張している。

3. 日華平和条約交渉の経緯

昭27.3.20

1. 政府はさきに日華条約締結の全権を付与して河田烈を台北に派遣し、2月20日に至つて第1回公式会議を開催する運びになった。

国民政府側は重要問題については陳誠行政院長、張群最高顧問等の政府高官を交えて協議し、更に蔣総統の決裁を仰いでいる模様である。特に張群顧問は、交渉の円満妥結に格別の努力を払っており、わが全権団も同顧問にたえず連絡をとつて斡旋方を依頼している。

2. 右会議の席上、国民政府側は22箇条よりなる条約案を提示した。

この案は、サン・フランシスコで調印された対日平和条約の諸条項を、国民政府に不利な条項を削除して、おおむねそのまま列記したものである。中国側の意図は、他の連合国と同等の待遇を確保したいことにあるように考えられる。

3. 右条約案は、日本側の考え方とはなほだしい懸隔があるので、これを直ちに討議の対象とすることを不適当と認め、まず国民政府側の真意を確認することとし、次いで、日本側の基本的考え方として、
 - (イ) 条約は日華両国が戦争状態を終結して国交を回復することを目的とするきわめて簡潔なものであるべきこと、
 - (ロ) 双務条約である以上条約規定は両国に直接関係ある条項に限定し、また、サン・フランシスコ平和条約にならうの余り日本に一方的に義務を負わすがごとき規定は避けたいこと、
 - (ハ) 交渉の基礎は、吉田・ダレス間に交換された書簡の線に沿うべきものであること、

等の諸点を説明した。

これに対し、国民政府側は、

- (イ) 国民政府が中国の正統政府であることは国際間に広く認められており、今般の交渉でこの立場を失うことはできないこと、
- (ロ) 日本側が右の立場並びに平和条約という名称の使用及び国民政府条約案第1条の平和条項(戦争状態を終結し、日本の主権を承認する主旨)を認めない限り、条約案審議に入ることはできない。もし日本側がこの立場を認めるならば、条約案に対する日本側の加除訂正をも受けるし、日本側が仮に暫定的に認めることでも結構で今後条約内容についての交渉の結果これを変更する必要が生ずる場合には変更してもよい。

との主旨を申述べた。

- 4. 日本側は、国民政府側に対し実質的に平和条約と解することで一応満足し日本案の提出と内容審議に入るよう説得に努めたが、国民政府側は譲らないので、交渉の円満な進行を計るため、次の諸点で先方の了解を取付け内容審議に入ることとした。

- (イ) 平和条約の名称の使用及び国民政府案第1条を暫定的に了承するが、それが暫定的であることの了解を秘密文書で残すこと。
- (ロ) 日本側が右了承を与える代りに、国民政府側は条約が簡潔であり、現実に即し、且つ相互主義に基づくものであることを声明すること。

- 5. 以上の経緯を経た後、3月1日第2回の公式会議を開催し、前文、名称、第1条について審議を行うと共に、日本側は6箇条から成る簡潔な条約案を提出し、また既述の主旨の覚書を交換した。

- 6. 右第2回公式会議に続いて、数日間にわたり国民政府案の逐条審議を行つた。この審議においては、意見不一致の点は後日に持越し一応全条文について双方の意見の交換を行う方式を執つた。この間、日本側は各条項についての国民政府の意向の強弱を確めると共に日本側の意向を先

方に印象付けることを主眼とした。

右逐次審議を通じ、国民政府側の意向が、

- (イ) サン・フランシスコ平和条約の連合国と同待遇を受けることが先決問題と考え、従つて国民政府案第21条(日本がいくつかの国にこの条約の規定より有利な利益を与えた場合は中華民国にもこれを与える主旨)はキー・ポイントであるとしていること、
- (ロ) 戦前の全条約の廃棄、対華特権の放棄、1927年4月18日すなわち国民政府成立時以前の契約上の利益の放棄等は先方の基本方針に触れるから譲れないとの立場を採っていること、
- (ハ) 前記(イ)の先方案第21条を日本側が受諾するならば戦争犯罪条項はこれを削除する意図あること

にあることが察知された。

- 7. 以上のごとく、日本側は交渉の成立のため努力を重ねてきたのであるが、国民政府側には条約の締結に対する日本の誠意を疑っている模様も見受けられたので、国民政府案の逐条討議が終了したのを機会に、日本の立場を明確にするため、3月7日、河田に対し吉田・ダレス書簡の主旨にもとらぬ限り国民政府側の意向を充分考慮し円満妥結に到達するよう更に努力すべき旨を訓令すると共に、右訓令の精神に基づいて先方案を相当程度織り込んだ日本案を作成し、外務省アジア局長をして台北にこれを携行せしめ政府の意向を現地に伝達せしめた。

日本全権団は従来の交渉経過に右携行案を加味して別に新らしく13箇条より成る条約案及び交換公文案を作成し、3月12日これを先方に手交した。

右日本案の特徴は、前述のごとく先方案を充分織り込むと同時に、

- (イ) 賠償については、在華日本資産の引渡で中華民国の賠償請求権は満足されたものとする条項を設けるに止め、今後役務賠償に関する交渉を行うとの規定を挿入しないこと。

- (ロ) 戦争犯罪条項を落すこと。
- (イ) 条約の適用範囲を中華民国政府が現実支配し、又は今後支配すべき地域に限るとする規定は、先方の希望を入れ、条約よりは落し、その代り交換公文に入れること。
- (ニ) 又別に、両国間の問題でサン・フランシスコ条約の諸原則を適用することによつて解決の可能なものは、右諸原則に副つて処理する旨の規定を交換公文に入れること。

等双方の意見の調整に努めた点にある。

なお、右条約案の提出と同時に、平和条約という名称の使用が暫定的である旨を認めた覚書を撤回して、平和条約締結の決意を明らかにしたのであるが、この措置により国民政府側は、日本の誠意に対する疑念を一掃した模様である。

8. 右日本案の提出で交渉は第2段階に入ったわけで、先方は、目下これを検討中である。
9. 以上、彼我の見解は近づいてきているが、なお賠償問題の取扱及び中華民国の連合国なみの扱い等の重要な点で意見の一致を見ていないので、ここ数日の折衝が重大である。

しかし、日本側の条約案は現状で得られる最善のものであるし、先方もその点了解してきているから、月末ないし4月初めには調印の運びになるものと期待している。

付録 23 1952年3月18日、井口次官からシーボ

ルト大使に手渡された委嘱書類

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
6. 賠償
7. ソ連邦との関係
8. 平和条約発効に伴う諸外国との正常関係の再開
9. 国連加盟国の軍隊に日本が与える援助について日本国政府加盟国間に締結する協定
10. 平和条約第3条の実施問題
11. 太平洋諸島に関する財産および請求権についての取極(平和条約第4条a)
12. 戦犯特赦

添付書類 1

2

~~二 極 秘 二~~
極 秘

Oral and Confidential

1. The Immigration and Naturalization Bill

It is hoped that the new omnibus Immigration and Naturalization Bill now before Congress will be passed before the Japanese-American Treaty of Commerce and Navigation is concluded. The passage of this bill would not only facilitate the ratification of the coming treaty when it is submitted to the Diet but also generate a favorable atmosphere for the promotion of Japanese-American friendship and cooperation. For the sake of the friendly relations between the two countries, we would like to see an early enactment of the proposed American law on a matter, to which Japanese public opinion has always been very sensitive.

2. Induction of American Capital

Some time ago the Japanese Government requested the American government for assistance in procuring American capital for electric power development and highway construction. This matter is now under consideration in Washington. We would like to ask you to use your influence toward the realization of our government's plan in this respect.

3. Charter of Liberty Ships

You are aware of the request I made to General Ridgway concerning the charter of Liberty ships. If we could get these ships, it would substantially buttress the present position of the government vis-a-vis a certain segment of public opinion which is clamoring for trade with Communist China chiefly on the ground that Japan cannot afford the shipping cost for hauling raw materials from distant countries.

4. Treaty Negotiation with Nationalist China

(1) The Nationalist government at the outset took the position that it would refuse to enter into negotiation of a treaty with Japan unless it was called a "Peace Treaty." Japan agreed to provisional use of the nomenclature, whereupon negotiation was opened.

(2)

~~二 極 秘 二~~
極 秘

(2) In this negotiation, the basic policy of Japan is to follow the line of the letters exchanged between Yoshida and Dulles, and to draw up a simple treaty covering matters directly involving the two parties, whereas Taipei, persisting in its contention that the Nationalist Government is the legitimate government of China, seeks to negotiate on all the matters stipulated in the San Francisco Treaty.

(3) The Nationalist Government submitted a draft treaty composed of 22 Articles; the Japanese draft comprised 6 Articles. Up to March 12, the conference was devoted largely to discussion of the Chinese draft, Article by Article.

(4) At times it appeared that the Chinese were not quite convinced of our sincerity, and our government felt it necessary to clarify its position. On March 7 we instructed Plenipotentiary Kawada to try to reach an agreement by giving full consideration to Chinese views as long as they did not contravene the Yoshida-Dulles letters. At the same time we despatched to Taipei Asiatic Bureau Chief Wajima with written instructions drawn up in that spirit.

(5) The Japanese delegation wrote a new draft treaty on the basis of the above-mentioned instructions and in the light of the results of the negotiation so far achieved. This draft was delivered to the Chinese delegate on March 12, and simultaneously the Japanese memorandum, on the provisional use of the term "Peace Treaty", was withdrawn, thus setting forth the final attitude of Japan.

(6) This new draft treaty is believed to be about the best draft obtainable under the existing condition. There might occur minor hitches, but it is anticipated that an agreement will be reached within a week or so.

5. Japanese-Korean Conversations

1. Japanese-Korean conversations were inaugurated through the good offices of the G.H.Q., SCAP, on October 20, 1951, with "the Legal Status of Korean Residents in Japan" as the principal subject of discussion. Subsequently conversations were opened on the question of "Ship Ownership between Japan and Korea". Then, with the objective in view of faithful execution of the San Francisco Peace Treaty

conversations

conversations were resumed on February 25 this year to solve the pending issues between Japan and Korea along the lines such as had been agreed upon at the previous conversations. The conversations were begun with a plenary conference at which it was decided to form sub-committees on the questions of establishing the basic relations between the two countries, including diplomatic relations, of property and claims, and of fisheries; to discuss the respective questions separately; and to hold discussions later on other questions.

Accordingly, the questions now under discussion between Japan and Korea are: (1) Legal status of Korean residents in Japan; (2) Ship ownership between Japan and Korea; (3) Establishment of basic relations, including diplomatic relations; (4) Property and claims; (5) Fisheries.

(1) Legal status of Korean residents in Japan.

The question is one that automatically arises from the recognition of Korean independence under Article 2 of the Peace Treaty. After more than 30 meetings since last October an agreement has been practically completed.

As regards nationality, it has been agreed that all Korean residents in Japan will possess not Japanese nationality but Korean nationality as from the effective date of the Japanese peace treaty.

As regards treatment, agreement has been reached on the following points excepting the duration of a fixed period mentioned under (a), on which the views of the two governments are now being adjusted.

(a) In case compulsory evacuation of any Koreans from Japan is to be ordered after the effectuation of the peace treaty, the governments of the two countries shall confer on the matter for a fixed period.

(b) The property rights or occupations which are now held by Koreans will be recognized exclusively to the holders thereof, even such rights and occupations as are denied to aliens in general.

(c)

(c) Korean going back to their home country will be granted special treatment with respect to baggage and remittance of money within a fixed period.

(2) Ship ownership

The questions on the agenda are four: (1) Return of ships of Korean registry to Korea, (2) Return to Korea of ships of Japanese registry in Korean territorial waters, (3) Return to Japan of the 5 ships loaned to Korea, and (4) Return to Japan of the fishing vessels seized by Korea. Some 30 meetings since the latter part of October have failed to produce any result. It would seem necessary for us to turn over to Korea in the name of contributing toward the revival of Korean shipping some ships or to pay a sum corresponding to their value, and we are now considering concrete measures therefor.

If, therefor, the Korean side shows a sufficiently conciliatory attitude on other issues, the solution of this problem may prove not too difficult.

(3) Establishment of basic relations

A substantial area of agreement has been discovered in the course of discussions of a "Treaty of Amity" drafted by Japan and a "Basic Treaty" submitted by Korea.

The Japanese draft provides for establishment of relations of neighborly amity, conclusion of a treaty of commerce navigation, an agreement on disposition of claims, an agreement regarding the division of the submarine cable, and the guiding principles for a fishery convention. The Korean draft stipulates: voidance of all treaties concluded between the two countries prior to 1910 (Annexation of Korea); incorporation in this treaty of conclusions, if any, to be reached by the sub-committees on the various problems now under deliberation; verbatim adoption of the clause in the San Francisco Treaty with respect to the treaty of commerce and navigation, and to the division of submarine cable. Whereas Japan advocates the early conclusion of such a treaty in order that it may serve as an instrument to guide and facilitate the deliberations of the subcommittees, Korea insists on concluding the treaty after solution of the various issues before the subcommittees.

(4)

(4) Property and claims

On this subject Korea first submitted a rough draft agreement and statement of details. Japan then submitted a part of its counter draft. Each side stated its legalistic views, and questions and answers have been exchanged.

Both drafts are intended to serve the purposes of the "Special arrangement" stipulated by the San Francisco Treaty, Article 4. But with respect to the validity of the dispositions of Japanese property in Korean made by directive of the U.S. forces and especially the interpretation of the so-called "vesting decree" regarding the ownership of Japanese property, referred to in Paragraph (b) of the Article, Korea contends that it is tantamounts to an overall confiscation, while Japan takes the stand that it will recognize only such dispositions as are recognized under international law. Thus, there exists between the two drafts a wide gap on the matter of basic principle.

For the present formal conversation is in a state of suspension.

(5) Fisheries

Discussion is proceeding on a draft fishery convention submitted by Japan. The debated points are as follows:

Japan stands for the freedom of high seas, and maintains that it is subject to restriction only in connection with the measures for the conservation of fish stock, and that this principle governs its draft Japan-Korea fishery convention as it does the Japan-United States-Canada Convention. Korean contention is that the jurisdictional claim of coastal Power is a right recognized by international law -- a right which Japan recognized in the Japan-United States-Canada Fishery Convention, so that the proposed convention between Japan and Korea should be based on this principle. The answer of Japan on this point has been that the fishery jurisdiction in question is something that has not been internationally recognized, and the Japan-United States-Canada Fishery Convention neither affirms nor negates that jurisdiction. With respect to conservation measures, Japan stands for equality of application, against unilateral namely equality in fishery equipment and methods and in the number of fishing craft.

2.

2. Observations

The fundamental aim of Japan's Korea policy is to establish a neighborly relationship between the two countries through the realization by both sides of the fact of the interdependence and common destiny which permanently and inevitably bind the two nations in views of their geographical propinquity, their close historical, cultural, political and economic relations. We cannot afford to let the whole of the Korean peninsula fall under Communist domination, and we hope that Korea will be brought to realize the imperative necessity of cooperation with Japan for her very existence, and we shall then be able to collaborate effectively with that country and contribute toward the promotion of its economic revival and the elevation of its living standards, and thus to prevent the infiltration of Communism.

It is from such a standpoint that we submitted to the present conference our drafts for a treaty of amity and a fishery convention, and proposed the solution of property-and-claims problem on a basis of justice and equity.

On the other hand, the Korean negotiations appear to be determined to erase completely the history of the past forty years, and anxious to maintain the position of a victor nation writing the terms of peace. The draft treaty, as amended by them says: "Korea recognizes Japan as an independent spereign state;" and the two countries "affirm the invalidity of all treaties and agreements concluded between the former Empire of Korea and the Japanese Empire prior to August 22, 1910." This victor mindedness is further revealed in their attitude in claiming all Japanese property in Korea, or upholding their own thesis regarding jurisdiction over highsea fishery. Of course, we cannot very well recognize or accept the Korean arguments as they are.

6. Reparations

1. The results of the initial conversations with the Philippines and Indonesia are as follows:

Indonesia:

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Indonesia: On January 18 this year an "Interim Draft Agreement relating to Reparations" was initialed; and an understanding has been reached on the basic principles of reparations and the scope of services to be furnished; but no agreement on the war damage, the total of reparation amount and other questions. These matters will be taken up at the second conference to be held in May at Jakarta.

The Philippines: The conversations were confined to the explanation by each side its fundamental attitude toward the problem of reparations, and ended without any concrete conclusions.

2. Subsequently, in order to demonstrate our sincerity we communicated to the Indonesian government our readiness to despatch to the Republic even prior to the effectuation of the peace treaty survey boats for the salvage of sunken vessels, and also a group of a dozen or more experts to investigate reparation and relevant matters. The Indonesian government has expressed its appreciation of our proposal. But owing to the political crisis and other reasons in that country, no definite reply has yet been received.

At the request of Ambassador Melencio in Tokyo a preliminary talk has been started on March 10 for a second conference with the Philippines. We have made a proposal to the Philippine government similar to that made to the Indonesian government concerning the despatch of survey boats and an investigation mission.

3. At these second conferences -- one with Indonesia scheduled for May, and the other with the Philippines expected to take place sooner or later -- both countries are likely to press strongly for fixing the total sums of their respective reparations. Since Japan will not be in a position to discuss figures for the reparations totals because of the still unsettled questions of compensations for Allied property, and the payments of Japan's foreign loans etc., the conferences are bound to encounter considerable difficulties.

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Only in the case of Indonesia, which has manifested a keener interest in obtaining economic cooperation rather than reparation in service, it is not improbable that we might be able to settle the reparation issue more advantageously if we offered to furnish economic cooperation. We are considering the advisability of sounding the view of the Indonesian government in this respect prior to the May conference.

It would seem that the Philippines might not be necessarily prepared to abandon its demand for monetary reparations. But we on our part adhere to the view that all reparations should be paid in service as stipulated in Article 14 of the Peace Treaty, and no special consideration can be given in the case of the Philippines alone.

7. The Soviet Union

It is desirable that when the Council on Japan ceases to be upon the effectuation of the Peace Treaty, the Soviet Mission in Tokyo be notified by the G.H.Q., SCAP, to the effect that there exists no longer any reason for the mission to remain in Japan, or that the task of the mission has been completed. Of course, it will be up to Japan to handle the question of the Soviet Mission after the coming into force of the Peace Treaty. But we believe it desirable that the question is turned over to our government after the issuance of a notification such as above by the Allied Headquarters. We do not want to see the Soviet Mission remain as a hotbed of Communist propaganda and conspiracies.

8. Measures which have been taken for the reopening of diplomatic relations between Japan and various countries on the coming into force of the Peace Treaty

(As of March 11, 1952)

cf. Enclosure II

9.

9. Agreement to be concluded between the Government of Japan and the Governments of Members of the United Nations concerning the assistance to be given by Japan to the armed forces of such Members of the United Nations

An informal tentative draft for such agreement was submitted on March 11. It would be much appreciated if, through the good offices of the State Department, negotiation for the conclusion of an agreement for this purpose could be started in Tokyo as soon as possible so that it will be ready at the time of coming into force of the Peace Treaty.

10. Implementation of Article 3 of the Peace Treaty

A paper on this subject ("Practicable Arrangement" for the Southern Islands, dated 10 December, 1951) was submitted to Ambassador Dulles (Enclosure II). The desires of the Japanese Government is set forth frankly in this paper. We earnestly hope that the United States Government would give it most sympathetic consideration as soon as possible from the standpoint of friendly relationship between our two peoples.

11. Disposition of property and claims for the Pacific Islands

It is requested that the State Department would make it possible to begin discussion in Tokyo in the near future for making necessary arrangements under Article 4(a) of the Peace Treaty covering the Pacific Islands formerly under mandate to Japan (Article 2(d)).

12. Clemency to war criminals

For the day on which the Peace Treaty will come into force, the Japanese Government is preparing domestic legislative measures for granting clemency to ordinary prisoners on a large scale. The Japanese Government would be most grateful if the United States Government could consider taking steps of the same nature with respect to war criminals serving sentences imposed by it and also urge the governments of the Allied Powers concerned to do the same.

MEASURES

MEASURES TAKEN BY THE JAPANESE GOVERNMENT FOR RESUMPTION OR ESTABLISHMENT OF DIPLOMATIC RELATIONS AND ESTABLISHMENT OF EMBASSIES, LEGATIONS AND CONSULAR SERVICES

(As of March 11, 1952)

NOTE: (E), (L), (G) and (C) stand
for embassy, legation,
consulate general and
consulate respectively

1. Exchange of notes for resumption or establishment of diplomatic relations:

- | | |
|---|---|
| Italy | Sept. 27, '51 in Tokyo |
| Vatican (L) | (Including exchange of ministers)
Jan. 23, '52 in Tokyo |
| Spain (E) | (Including exchange of ambassadors)
Feb. 12, '52 in Tokyo |
| *Denmark (L) | (Including exchange of ministers)
Feb. 27, '52 in Tokyo |
| Yugoslavia | A note dated Jan. 23, 1952
was sent by Yugoslav Government to
Japan and the Japanese Government
sent a note in return to Yugoslavia
on February 27. |
| India (E) | Steps to terminate the state
of war and to establish diplomatic
relations between two countries
are expected in the near future. |
| Burma (E) | Negotiations are expected
soon for establishment of
diplomatic relations between
two countries. |
| Korea (E) | Similar negotiations are
now under way. |
| China | Similar negotiations are
now under way. |
| * The Japanese Minister to Sweden will be
concurrently the Minister to Denmark.
So Japan will not have her legation in
Denmark, although Denmark will have her
legation in Japan. | |

2. Proposal and agreement on exchange of ambassadors or ministers

NOTE: JGOA stands for Japanese Government Overseas Agency.

	Date of proposal by Japan	Date of agreement	Place of proposal or agreement
Netherlands (E)		Dec. 24, '51	Proposed by Netherlands and agreed by Japan by exchange of letters in Tokyo
Italy (E)		Jan. 11, '52	Proposed to and agreed by Diplomatic Mission in Japan, orally
France (E)		Jan. 12, '52	"
Brazil (E)		Jan. 14, '52	"
Turkey (E)		Jan. 16, '52	"
Belgium (E)		Jan. 23, '52	"
United States (E)		Jan. 30, '52	Proposed to and agreed by DS, SCAP
Canada (E)		Jan. 31, '52	Proposed to and agreed by Diplomatic Mission in Japan, orally
New Zealand (L)		Jan. 16, '52	"
Switzerland (L)		Jan. 16, '52	"
Sweden (L)		Jan. 18, '52	"
Peru (L)		Jan. 23, '52	"

	Date	Details
United Kingdom (E)	Jan. 14, '52	Proposed to Diplomatic Mission in Japan
Australia (E)	Jan. 16, '52	"
Portugal (L)	Jan. 12, '52	"
South Africa (L)	Jan. 14, '52	Proposed to UK Mission in Japan
Uruguay (L)	Nov. 30, '51	Proposed by JGOA in Montevideo and agreed by Uruguay Government
Chile (L)	Feb. 7, '52	Proposed by JGOA in Rio de Janeiro and agreed by Chilean Government
Thailand (E)	Jan. 25, '52	Proposed by JGOA in Bangkok
Pakistan (E)	March 1952	Proposed by JGOA in Karachi
Egypt (L)	Jan. 17, '52	Proposed by JGOA in Paris
*Dominica (L)		Proposal to establish legation in Tokyo was made on February 5, 1952 by the Dominican Ambassador to JGOA in Washington, D.C. and was accepted.
Yugoslavia (L)		Proposal for exchange of ministers was made on January 15, 1952 by JGOA in Washington, D.C. to Yugoslav Ambassador and was agreed on January 25, 1952.
Mexico (E)		Exchange of notes for this purpose is expected in the near future between JGOA in Washington, D.C. and Mexican Ambassador.

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West Germany (E) Proposal is going to be made after arrival of Chief of JGOA, in Bonn.

Argentina (E) Proposal is going to be made after arrival of Chief of JGOA, in Buenos Ayres.

Ceylon (L) Proposal is going to be made by JGOA in Colombo soon.

**Norway (L) Proposal is going to be made to Norwegian Mission in Japan soon.

Vietnam(L), ***Laos (L) and ***Cambodia (L)
Inquiry was made on February 6, 1952 by the Japanese Government with the French Mission in Japan about the procedures to be taken.

Indonesia (E) Inquiry was made on January 30 by the Japanese Government with the Indonesian Mission in Japan about Indonesian Government's intention in this regard.

Philippines (E) No step will be taken pending negotiations on reparations, etc.

* Japanese Ambassador to Mexico will be concurrently the Minister to Dominica. So Japan will not have her legation in Dominica, although Dominican Government will have her legation in Japan.

** Japanese Minister to Sweden will be concurrently the Minister to Norway. So Japan will not have her legation in Norway, although Norway will have her legation in Japan.

*** Japanese Minister to Vietnam will be concurrently the Minister to Laos and Cambodia. So Japan will not have her legation in Laos and Cambodia.

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	Date of proposal by Japan	Date of agreement	Place of proposal or agreement
New York (G)		Jan. 30, '52	Agreed by DS, SCAP
San Francisco (G)		"	"
Honolulu (G)		"	"
Chicago (G)		"	"
Los Angeles (G)		"	"
Seattle (C)		"	"
Portland (C)		"	"
New Orleans (C)		"	"
Singapore (G)	Jan. 25, '52		Proposed to UK Mission in Japan
Hongkong (G)	"		"
Geneva (G)		Jan. 23, '52	Proposed to and agreed by Swiss Mission in Japan
Sao Paulo (G)		Jan. 14, '52	Proposed to and agreed by Brazilian Mission in Japan
Vancouver (C)		Jan. 31, '52	Proposed to and agreed by Canadian Mission in Japan
Calcutta (G)	Proposal for establishment of consulate general was made to the Indian Government by JGOA.		
Bombay (G)	Proposal for establishment of consulate general was made to the Indian Government by JGOA.		
Surabaya (C)	Establishment of consulate is yet to be taken up.		
Pusan (C)	"		"

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Agrément given by the Japanese Government

- 1) Australian Mission in Japan
- 2) Belgian Mission in Japan
- 3) Bragilian Diplomatic Mission in Japan
- 4) Canadian Liaison Mission in Japan
- 5) Chinese Mission in Japan
- 6) Denish Diplomatic Mission in Japan: Min. Tillitse
(February 12, 1952)
- 7) French Mission in Japan: Amb. Dejean
(February 12, 1952)
- 8) Indian Liaison Mission in Japan
- 9) Indonesian Mission in Japan
- 10) Italian Diplomatic Mission in Japan: Amb. D'Ajeta
(February 29, 1952)
- 11) Korean Diplomatic Mission in Japan
- 12) Netherlands Mission in Japan: Amb. Teppema
(January 30, 1952)
- 13) Norwegian Diplomatic Mission in Japan: Min. Reusch
(February 8, 1952)
- 14) Peruvian Diplomatic Mission in Japan
- 15) Philippine Mission in Japan
- 16) Portuguese Diplomatic Agency in Japan
- 17) Spanish Diplomatic Mission in Japan: Amb. Castillo
(February 15, 1952)

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- 18) Swedish Diplomatic Mission in Japan: Min. Lagerfelt
(March 6, 1952)
- 19) Swiss Diplomatic Mission in Japan
- 20) Thai Diplomatic Mission in Japan
- 21) Turkish Diplomatic Agency in Japan
- 22) United Kingdom Liaison Mission in Japan: Amb. Dening
(September 1951)
- 23) New Zealand Mission in Japan*
- 24) Dominican Republic Min. Sanchez
(February 22, 1952)

* Agrément was requested of Mr. Challis as
Chargé d'affaires on March 4, 1952.

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The Nansei Islands

1. We are most grateful that the Peace Treaty leaves the Nansei Islands as Japanese territory and their inhabitants as Japanese nationals. We understand that the reason why America wants to administer these islands lies in the military necessity for safeguarding the peace and security of the Far East. We earnestly hope that as far as this military necessity permits, the desires of the inhabitants will be considered in the disposition of these islands.

2. As materials for conversation the desires of the Japanese government is set forth in a separate paper. We hope conversation will be opened as soon as possible and a settlement will be reached in accordance with the wishes of the Japanese people -- especially the inhabitants of those islands.

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"Practicable Arrangement" for
the Southern Islands

10 December, 1951

On August 16, 1951, I made to the Diet the following statement, for which the understanding of the United States Government had been obtained:

The flexible provisions of Article 3 of (the Peace Treaty) leave room for us to hope that subject to strategic control by the United States in the interest of international peace and security some practicable arrangements might be worked out to meet the desires of these inhabitants (of the Southern islands) concerning intercourse with the homeland of Japan, nationality status of inhabitants and other matters.

Keen interest in the fate of these islands mentioned in Article 3 of the Peace Treaty (hereinafter referred to as "the Southern Islands") was evinced throughout the discussions which took place in the course of deliberation on the Peace Treaty in the Diet. It would be most desirable for the friendly and cooperative relationship between the American and the Japanese peoples to work out a mutually satisfactory arrangement concerning these islands.

As a "practicable arrangement" between the United States and Japan concerning these islands, I venture to submit the following for a sympathetic consideration by the United States Government:

1. The United States will confirm that the Southern Islands remain under the sovereignty of Japan and therefore, their inhabitants remain Japanese nationals.
2. The United States will agree to restoring the previous relationship between Japan proper and the Southern Islands so far as compatible with its military requirements and, in particular, will recognize that these islands are treated as a part of Japan in connection with the following matters:

Moving and travelling between Japan proper and Southern Islands

Trade

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Trade (no custom or duty to be imposed)

Fiscal transaction

Fishing

The Japanese Yen will be the legal tender in the Southern Islands.

Note: Preparatory steps should be taken at an early date in order to put this into effect.

3. The United States will admit that the Southern Islands are treated by Japan as a part of its territory in any economic, social or cultural treaty or agreement which Japan may conclude with a third country.

Japan will exercise its protective authority over those inhabitants of these islands are residing in a third country, and passports for those who go to a third country in future will be issued by an agency to be established by the Japanese Government in this area. This does not preclude, however, that the United States Authorities may issue certain travel documents to these latter persons.

4. The United States declares its intention to permit in principle the self-rule of the inhabitants of these islands in matters of civil administration and, in particular, a complete self-rule in the following matters, although the authority of these islands shall be subject to that of the United States Government in the final instance:

Juridical jurisdiction over civil and criminal cases among the inhabitants themselves Educational system and its operation

5. The United States will recognize the property rights in these islands which belong to the Japanese nationals residing in Japan proper and facilitate the resumption of their business activities.

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6. Notwithstanding the above provisions, the United States will abstain from exercising its powers of administration, legislation and jurisdiction and admit the exercising of these powers by Japan over those islands and their inhabitants which the United States does not presently see any military necessity to administer.

Note: We understand that of all the Southern Islands, United States military establishments are located only on the main island of Okinawa and the Ie-jima of the Ryukyu group and the Iwo-jima of the Volcano group.