

VI 日米安全保障条約案の確定と 平和条約最終案の公表

平和条約案第 4 条に関するわが方意見¹²

CONFIDENTIAL

Explanation of the Japanese Government's
Observations on Article 4.

24 July, 1951

1. In our "Observations" dated 2 July, we stated as follows:

It seems to us the execution of this Article (Article 4) will prove impossible in practice. (What has happened in Korea since the war's end serves to illustrate our point). Accordingly, we still believe that our formula submitted before (Property succession — positive or negative — terminates in the respective areas concerned) is the sole practical formula.

2. The formula referred above is given in 1. PROVISIONAL MEMORANDUM, (2) Territory, of The Japanese Government's Views and Requests on the Initialed Documents dated 16 March, namely, that:

As for property succession, in view of the accomplished facts of today, it would seem practically impossible to effect readjustments according to established international usage. It is, therefore, expected that at least, as far as succession of property and obligation (positive

¹¹ 同日午前、藤崎万里条約局条約課長よりフィン書記官へ交付。

¹² 本文書末尾に、「持参した藤崎君に、フィン書記官は、日本のオブザベーションを條文の形にしてほしいとの希望があった。後宮、藤崎両君と相談して、「條約案の公表をみた今日のステージでは、もはや、当方から修正案を持ち出すことは差控えたい」と返事することに決定。十一時半電話で、フィン書記官に連絡した。24-7-51」との西村局長書き込みあり。

and negative) is concerned, it will be closed within the respective territories, without permitting pursuit to Japan.

3. Our views as submitted in these papers may be amplified as follows:

In the territories to be ceded (take especially the case of Korea for instance), Japan had a huge amount of public and private property. They had a large Japanese population. All these residents were compelled to return to their homeland since the termination of war. All the properties were left behind. Then they were disposed of irresponsibly. Occupation forces came in. The remaining Japanese assets were disposed of by these Occupation authorities. The peace and order of these territories was disturbed. The occupation forces were withdrawn. A civil war broke out. Properties were destroyed.

Under these circumstances, the disposition of property of Japan and its nationals in these areas and their claims against the authorities presently administering these areas and the residents thereof on one hand, and the disposition of property in Japan of such authorities and residents (if there is any) and their claims against Japan and its nationals on the other will prove impossible in practice, even if the peace treaty provided for such principles as set forth, for instance, in Annex XIV of the Italian Peace Treaty. It is simply because the status or interrelation of all these property rights and claims as the basis for any such disposition is not only far too complex but has been completely destroyed in these six years since the surrender. If we tried to make a start in disposing of them according to a set of principles, we shall not be able to get hold of the factual data on which such disposition is to be based.

Furthermore, it is easy to surmise that the amount of claims of the authorities administering these areas and residents thereof against

Japan would be far smaller than that of our property and claims. We feel certain, however, that they will not be satisfied with simply relinquishing claims against each other, but bring up reparation claims against Japan on some pretext or other, notwithstanding the fact that they were never at war with Japan. They will demand reparations on no ground at all.

Therefore, the only practicable way to solve this problem of property succession as between Japan and these areas will be, it seems to us, to provide in the peace treaty itself that it will be closed within the areas respectively, without permitting pursuit of claims either to Japan or to the respective areas. This cutting-the-Gordian-knot way of solution is the inevitable consequence of the forcible mass evacuation of the Japanese nationals from these areas and also of the general disorder in certain areas after the termination of the war.

(和文原案)

極秘

第四條に関する日本政府の所見の説明

二六、七、二四

一、條約草案に対する七月二日付オブザベーションで、第四條の適用は、事実上不可能であると思う（終戦以来朝鮮における事態の推移を見られれば御了解つくと思う）。今なお、前に提議したフォーミュラ（財産——積極及び消極——の相続は、現地限りで終結すること）が唯一のプラクティカルなフォーミュラであると考えたと述べた。

一、ここにいう前に述べたフォーミュラとは、三月十六日付日本政府のオブザベーションの一仮覚書の(2)領域^{テリトリー}のところに陳述してある。すなわち、そこには、「財産の相続に関しては既成事実ができあがってしまった今日、

更に従来の国際慣行に照して再調整をなすことは、事実上不可能であろうから、少くとも財産（積極及び消極）の相続は、現地限りにおいて終結され、いかなる場合にも、日本に対して追求が行われなことを期待する」と述べてある。

一、われわれの趣旨は、次のとおりである。

割譲地域（とくに朝鮮を頭において考えられたい）には、巨額の日本の公有及び私有財産があった。極めて多数の日本人が居住していた。終戦後、これらの日本人はすべて本土に帰還を余儀なくされた。財産は、すべて現地に残された。これらの財産は、無責任に処理された。そこに占領軍が駐とんするに至った。残る日本の財産は、占領当局によつて処分された。割譲地の治安は、乱れた。占領軍は撤退した。内乱が発生した。財産は破壊された。

かような状態の下にあつて、一方割譲地域にあつた日本と日本人の財産と日本及び日本人の管治当局又は住民に対する請求権と、他方管治当局と住民の日本又は日本人に対する請求権及び管治当局又は住民の日本にもつ財産（もしありとして）とをいかに処理することかは、仮令條約に例えばイタリア平和條約第十四附属書に示されているような処理の根本原則を定めておく場合でも、実行不能である。けだし、前提となる財産や請求権の関係が、余りに複雑であつたばかりでなく、それが終戦後の六年間に完全に破壊し去られているからである。原則による処理をスタートしようにも、そのための事実関係が把握できないからである。しかも、日本側の財産なり請求権なりに比し管治当局や住民の日本や日本人に対してもつ請求権が僅少であることも容易に推測がつく。しかし、かれらは、それに満足しないで、相互の間に戦争がなかつたにかかわらず、必ずいろんな国で賠償請求を持ち出すであろう。理くつぬきに賠償を請求するのみであろう。かようにして、割譲地域における財産や請求権の相続問題は、日本の場合は、一刀両断的に各地域内で終結して、相互に一切の請求をしないと規定する外、実際的な解決方法はあるまい。これは、いつに、終戦後における日本

人の強制本土引揚及び割譲地域における終戦後の治安の混乱からくるやむを得ない不幸な結論である。

118 昭和 26 年 7 月 24 日^{†1}

平和条約案第 4 条で南西諸島に言及しない旨の米国覚書

In connection with Article 4 of the present draft of the Peace Treaty, it is the intention of the Department of State that reference to Article 3 be eliminated from the final draft scheduled for circulation on August 13. A literal interpretation of Article 4 as presently drafted could mean that all United States property in Japan was subject to special negotiation. Obviously, the United States will desire to enter into special arrangements with Japan concerning property questions in the Ryukyus but it is not believed either necessary or desirable to have this specifically provided for in the Peace Treaty.

^{†1} 同日午前、フィン書記官より藤崎条約課長が受領。

引き揚げ問題に関する外務省発表

引揚問題に関する外務省発表

引揚問題に関する吉田外務大臣の国際連合総会議長宛
書翰に関する件

政府は、ソ連及中共等の地域からのわが同胞の引揚を促進し、国連の引揚に関する特別委員会の来訪を要請するために、吉田外務大臣より本年五月十四日および同年六月十九日の二回にわたり国際連合総会議長に宛て書翰を送付した。

最初の書翰は、主として昨年十二月七日の国際連合第五総会でソ連代表が、同年四月二十二日附タス通信の報道を引用してソ連地区には最早約二千五百名の日本人が残留しているに過ぎないと述べたのに対し、日本政府の所見を開陳したものである。特にその附属書に於ては従来タス通信が納得のゆかない数字を引用していること、死亡者や一般邦人に全然言及していないこと、ならびに「現地釈放」というようなあいまいな言葉を使用して数字の辻褃を合せようとしていることを指摘したものである。

また第二の書翰には二つの附属書がついている。その第一は主として未帰還者の数字に関するもので、政府はソ連領ならびに終戦時ソ連軍の占領した諸地域すなわち満州、関東州、北鮮、南樺太及び千島における未帰還者数として、従来屢々発表した約三十七万名の数字とは別に、国内における調査の結果今日までに判明した未帰還者氏名約三十四万名を掌握しているが、この未帰還者についての二つの数字は全く異なる根拠に基いて計算されたものであるにも拘らず、いずれも三十数万名に達している点から見て、右ソ連、中共等の地域になお少くとも約三十数万名の未帰還者が残留していることは確実である旨述べたものである。第二の附属書は、未帰還者の待遇に関するも

ので、特にソ連側の発表によつてもまだ約二千五百名の日本人が戦犯関係者として抑留されていることが明かにされているので、従来政府の調査によつて判明した受刑者に加えられたソ連側の不法、不当の待遇を指摘し、今後これを改善するために速かに適切な措置を講じて貰うよう国際連合に要請したものである。

右二つの書翰等によつても明かな通り、ソ連領および終戦時ソ連軍の占領した諸地域にはなお約三十数万の未帰還者があることは疑いの余地がないので、政府としては国際連合を通じ関係国政府に対し、(イ)生存者を速かに送還すると共に、(ロ)すでに死亡したものについてはその死因、死亡日時、死亡状況等を通報し、(ハ)なんらかの理由で今後とも抑留されるものについてはその氏名、抑留理由、抑留場所等を通報し、かつその待遇を国際慣習に基く人道的待遇とするよう強く要望している。

また問題はすでに国際連合によつて人道問題として採りあげられ、速かにその解決をはかるための努力が種々なされているので、政府はこれに多大の期待をかけており、その目的達成のためこれに対し積極的協力を続けている。



条文解釈に関する対米折衝について

極秘

「解釈」問題についてフィン氏と会談の件

二六、七、二七、藤崎

七月二十七日、他用でフィン氏を往訪の際、別添¹¹、インタープリテーション 1、2、3、を差し出した。当方から、「これは、事務局限りの全く非

¹¹ 省略。第121～123文書として採録。

公式のものである。これらの解釈問題について国会で答辯する場合等に米国の政府のとるべき立場とそごすというようにすることがないようにしたい、という趣旨である」と説明、先方これを了承した。個々の問題についての先方の意見等、概要次のとおり。

一、インタープリテーション(1)については、同意見のように見えた。4、に述べてある引揚問題について先方がメンションしたので、それがいかに国民の関心を集めているかを強調しておいた。

二、インタープリテーション(2)の1、については、自分もなぜフランスがこの島のことをいい出したのか分らぬといった。2、(第十三条(b))については、国務省の見解と違うとあって、国務省から来た「第二項には、国際航空に関する権利等のみならず、国内航空のそれも含まれうる」との趣旨の指示を読み上げた。なお、この点については、アンダーバーグ氏が航空庁と連絡して色々研究しているから、航空庁の人と連絡されたらよいだろうといった。3、(翻訳権)については、やはり、翻訳のために要する時間を見たのであろうといった。4、(第十六条)については、誤植であることを認め、また、そうであるとすれば、戦争中から引続き平穩に居住しておる者は、連合国にいる者の場合と同様、これを免除すべきであるという当方の意見に同感であるといった。

三、インタープリテーション(3)については、問題の性質が先方によく理解できなかったようで、いろいろ質問された。なぜ国連憲章にいう地域的取極であると特にいうのか、といった類いである。当方から、国民の中に国連との結び付きということに対する関心が強いこと等を説明した。

なお、このアグリーメントについて、フィン氏から、「日本側では、その後この問題について何かやっておられるか」ときかれたので、別にアクションはとられていないと答えた。(後で考えるとGHQの他の部局と連絡でもしているかと思っての質問ではなかったかと思う。)フィン氏は、「自分等の方にも、アリソン公使が来た時以来、ワシントンから何等の連絡がない。八月十三日にこの方も公表されるのか、九月四日からのサンフ

ランシスコ会議で署名されることになっているのか(米国の全権団にこの方の関係者が入っているという報道は見たが)、別に日本に対する招待状が来るのか、何も知らされていない。問合せ中である。ヘンスレイのこの前の電報は、相当のものだったが、こうして、また平和条約草案のときのようにスクープでもされたら大変だと思っている。この問題について、日本国民一般の気持はどうか」といった。自分から私見として「この協定を締結すること自体については、今では、みな **take it for granted** になっていると思う。ただ、ヘンスレイ電の秘密協定という言葉は、どぎつく響いたらしく、二、三の友人から、少しも秘密にする必要のないことが秘密協定の内容として挙げてあるではないか、というような質問を受けた」と答えた。これに対して、フィン氏は、「御承知のとおり、三項目を本協定の方に入りたいという貴方の提案は **veto** された。この協定については、平和条約の場合と違って、国務省としては、すべて国防省のいうことをきかなければならない、平和条約の締結を促進するためにそうせざるをえないという、苦しい立場にある次第である」といていた。

121 昭和26年7月27日^{f1}

条文解釈に関するわが方覚書(1)

Interpretation (1)

27 July, 1951

1. Relation between Japan and Allied Powers not participating in the peace treaty.

Instrument of Surrender is not abrogated between Japan and non-

^{f1} 同日の折衝(第120文書)にて、藤崎条約課長よりフィン書記官へ交付。

participating powers by the conclusion of a majority peace. Therefore, the relation between them and Japan will not revert to the status prior to the Surrender. But, as the formal state of war continues, they may assert their right to continue the occupation on the contention that the terms of the Instrument of Surrender has not been or is not being carried out. They may declare their intention to occupy Hokkaido. But it cannot actually happen because in such cases Japan will be defended by virtue of the security pact between U.S. and Japan or collective security arrangements among the Allied Powers participating in the peace treaty.

2. Status of SCAP, Far Eastern Commission and Allied Council for Japan in case of majority peace.

SCAP is appointed by U.S. under an agreement among the Allied Powers. On the coming into force of the peace treaty, U.S. will relieve SCAP of his position without appointing his successor. In that case no other power can appoint a SCAP.

The Far Eastern Commission completes its mission on the conclusion of the peace treaty. Therefore it should cease to exist at that time. But theoretically it will continue to exist for any one of the four powers not participating in the peace treaty.

The same will be said about the Allied Council for Japan.

3. U.S.-Japan security agreement vis-a-vis Soviet-China Treaty of Alliance in case of majority peace.

The treaty of alliance between Soviet and China has a provision stating "In the event of one of the Contracting Parties being attacked by Japan or states allied with it and thus involved in a state of war, the other Contracting Party will immediately render military and other assistance with all the means at its disposal." But this provision was not

called upon in connection with the present situation in Korea. It is not a war and Japan is not participating in it with armed forces. It cannot become operative for the sole reason that the formal state of war with Japan continues to exist or that a security agreement is concluded between U.S. and Japan. Soviet and China cannot be justified in attacking Japan unless a war is started between them and U.S.

4. Peace Treaty vis-a-vis Potsdam Declaration, etc.

The peace treaty in principle will supercede all the instruments previously made among the Allied Powers concerning Japan. Therefore, if there be any discrepancy between them, the former would prevail. But, in case of majority peace, the Instrument of Surrender will remain in force as between Japan and Allied Powers not participating in the peace treaty as mentioned above. Therefore, for instance, such promise given in the Potsdam Declaration that the Japanese Military Forces shall be permitted to return to their homes will remain so far as the relation between Japan and U.S.S.R. is concerned. On the other hand, it follows that Japan continues to be bound by the terms of that Instrument vis-a-vis non-participating powers.

条文解釈に関するわが方覚書(2)

Interpretation (2)

27 July, 1951

Re. Draft Peace Treaty

1. Article 2 (f)

Japan has never made any claim to the Paracel Islands. It is presumed that this provision was inserted solely due to the anxiety entertained by France. Objection was not raised because the point seemed to be only academic.

2. Article 13 (b)

Paragraph (b) is interpreted to refer only to international civil air transport, as it seems evident contextually with reference to paragraph (a).

3. Article 15 (c)(ii)

What would be the reason for giving an additional period of 6 months in cases of translating rights as against other literary and artistic rights?

4. Article 16

In referring to Article 14, it is specified as “(a) 2 (i)(ii) through (v)”, but presumably it should rather read “(a) 2 (1)(ii) through (v)”. If so, it is deemed that Japanese nationals residing in neutral countries corresponding to those mentioned in Article 14(a) 2 (1)(i) should also be excepted from transfer.

^{†1} 同日の折衝(第120文書)にて、藤崎条約課長よりフィン書記官へ交付。

条文解釈(日米安全保障協定案)に関するわが方覚書(3)

Interpretation (3)

27 July, 1951

Re. Security Agreement

1. This agreement is a ‘Regional arrangement’ as defined in Chapter VIII of the United Nations Charter. As declared in Article 5 of the draft peace treaty for the benefit of Japan, any nation may enter into collective security arrangements.

2. However, unlike the North Atlantic Pact, etc., this agreement is not an arrangement for collective self-defence as defined in Article 51 of the U.N. Charter. Therefore, an armed attack against one of the contracting parties will not be considered an attack also against the other. Legally speaking, neither will be obligated to defend the other in case of an attack.

3. Again, however, an attack against Japan will constitute an attack against the U.S. forces stationed in Japan. Thus they will exercise their right of self-defense and this will naturally contribute to the defense of Japan.

In this case Japan will take all measures of defense at its disposal and this will bring about cooperative relationship between U.S. and Japan for the defense of the latter.

On the other hand, in case of an attack against U.S., it may easily be surmised that she would want to retaliate by operating from their posts in Japan. But this is not within the purview of this agreement.

^{†1} 同日の折衝(第120文書)にて、藤崎条約課長よりフィン書記官へ交付。

日米安全保障協定の修正案受領について

主題：日米安全保障協定案

一九五一年七月三十日午前十時ないし十時四十分

(西村記)

シーボルト大使 フィン書記官

井口 西村

一、七月三十日午前十時、井口次官と外交局でシーボルト大使に会う。安全保障協定案を手交さる。

五箇所の新修正が加えられている。

第一点 前文第二項において、「日本は平和條約の效力発生と同時に效力を発生する合衆国との安全保障條約を希望する」との一文章を加える。

第二点 前文第三項において、日本が集團的自衛取極を締結する権利をもつとあるところを、日本が主權国として……という言い方をする。平和條約第五條と一致させるためである。

第三点 本文第一條に「合衆国の陸、空及び海軍を……駐屯させる（ステーション）」とあるのを「……配置する（ディスポーズ）」とする。軍事用語を使用したのである。

第四点 同じく本文第一條に合衆国軍隊は外部からの武力攻撃に対する日本の安全に寄与するためにあることが規定されていたが、それでは日本以外の地域において朝鮮事変の如きが起こった場合に日本にある合衆国軍隊が動けるかどうか明瞭でない。この点を明白にしておくため、「この軍隊は、極東における國際の平和と安全の維持並びに……外部からの

武力攻撃に対する日本の安全に寄与するために使用することができる。」とする。

この点のみが、實質上の問題である。従来は、朝鮮事変については追加文書で明かにされていた。實質的に、こうなくては、動きがとれない。第五点 本文第二條に合衆国の同意なくしては第三国に与えてはならぬものに「陸、空若しくは海軍の通過」を加える。以上である。

二、シーボルト大使は、批准條項を入れたいとの日本政府の意見に対し意思表示がないのは、不思議だが、それは反対というのでなく当然のことと考えてのことだろうと思うと述べた。

当方は、新案文に対し政府の意見を回示する際にも一度こちらの要請を繰り返しておこうと述べておいた。

三、協定案の公表の時期について話がでた。大使は、早い方がよかろうとの意見だった。当方からは、案文が確定すれば早く公表された方がいいと考えるけれども、いずれにせよ目下問題とされている国会の後がよい。八月十三日に平和條約の最終案が公表されることになっている。その辺が適当かと思う。總理の意向をたたいて、これまた、文書のうちに認めて出そうと約束して辞去した。

^{†1} 第125文書。

日米安全保障協定の修正案

SECRET

DRAFT

SECURITY AGREEMENT

BETWEEN THE UNITED STATES OF AMERICA AND JAPAN

Preamble.

Japan has this day signed a Treaty of Peace with the Allied Powers. On the coming into force of that Treaty, Japan will not have the effective means to exercise her inherent right of self-defense because she has been disarmed.

There is danger to Japan in this situation because irresponsible militarism has not yet been driven from the world. Therefore, Japan desires a Security Treaty with the United States to come into force simultaneously with the coming into force of the Treaty of Peace between Japan and the United States and other Allied Powers.

The Treaty of Peace recognizes that Japan as a sovereign nation has the right to enter into collective self-defense arrangements and the Charter of the United Nations recognizes that all nations possess an inherent right of individual and collective self-defense.

In exercise of these rights, Japan desires, as a provisional arrangement for her defense, that the United States, which is one of the Allied Powers, should maintain armed forces of its own in and about Japan so as to deter armed attack upon Japan.

^{†1} 同日午前の折衝（第124文書）にて、シーボルト大使より受領。

The United States, in the interest of peace and security, is presently willing to maintain certain of its armed forces in and about Japan, in the expectation, however, that Japan will itself increasingly assume responsibility for the defense of its own home-land against direct and indirect aggression, always avoiding any armament which could be an offensive threat or serve other than to promote peace and security in accordance with the Purposes and Principles of the United Nations Charter.

ACCORDINGLY:

1. Japan grants, and the United States accepts the right, upon the coming into force of the Treaty of Peace and of this Agreement, to ~~station~~ dispose United States Land, Air and Sea Forces in and about Japan. ~~Such disposition would be designed to contribute~~ Such forces may be utilized to contribute to the maintenance of international peace and security in the Far East and to the security of Japan against armed attack from without, including assistance given at the express request of the Japanese Government to put down large-scale internal riots and disturbances in Japan, caused through instigation or intervention by an outside power or powers.

2. During the exercise of the right referred to in Article 1, Japan will not grant, without the prior consent of the United States, any bases or any rights, powers or authority whatsoever, in or relating to bases or the right of garrison or of maneuver, or transit of ground, air or naval forces to any third power.

3. The conditions which shall govern the stationing of Armed Forces of the United States in and about Japan shall be determined by Administrative Agreements between the two Governments.

4. This Agreement shall expire whenever in the opinion of the Governments of the United States and of Japan there shall have come into

force such United Nations arrangements or such alternative individual or collective security disposition as will satisfactorily provide for the maintenance by the United Nations or otherwise of international peace and security in the Japan area.

(和訳文)

極秘

アメリカ合衆国及び日本国間安全保障協定案

前 文

日本国は、本日連合国と平和條約に署名した。日本国は武装を解除されているので、この條約の実施と同時に固有の自衛権を行使する有効な手段をもたなくなる。

無責任な軍国主義が未だ世界から駆逐されていないので、前記の事態にある日本国には危険がある。よつて、日本国は、日本国と合衆国及び他の連合国との間の平和條約の効力の発生と同時に効力を生ずる合衆国との安全保障條約を希望する。

平和條約は、日本国が主權国として集団的自衛取極を締結する権利を有することを承認し、且つ、国際連合憲章は、すべての国が個別的及び集団的自衛の固有の権利を有することを承認している。

日本国は、これらの権利の行使に当つて、自国の防衛のための暫定措置として、連合国の一国たる合衆国が日本国に対する武力攻撃を阻止するよう、日本国内又はその近辺にその軍隊を維持することを希望する。

合衆国は、平和と安全のために、現在のところ日本国内又はその近辺にある程度の自国軍隊を維持する意思がある。但し、合衆国は、日本国が、攻撃的な脅威となり又は国際連合憲章の目的及び原則によつて平和と安全を増進すること以外の用に役立つ軍備をもつことを常に避けつつ、直接及び間接の攻撃に対する自国国土の防衛のため漸増的に自ら責任を負うことを期待する。

よつて

- 一 日本国は、平和條約及びこの協定の効力の発生と同時に合衆国の陸、空及び海軍を日本国内及びその近辺に配置する（原案、駐屯させる）権利を許与し、合衆国は受諾する。この軍隊は、極東における国際の平和及び安全の維持並びに、一又は二以上の外部の国家による教唆又は干渉によつて惹起された日本国における大規模の内乱及び擾乱を制圧するため日本国政府の明白な要請に応じて与えられる援助を含み、外部からの武力攻撃に対する日本国の安全に寄与するために使用することができる。
- 二 第一條に定められた権利の行使される間、日本国は、合衆国の事前の同意なくして、基地、又は基地における若しくは基地に関する権利、権力若しくは権能、又は駐兵若しくは演習の権利、又は陸空若しくは海軍の通過を、第三国に許与しない。
- 三 合衆国軍隊の日本国内又はその近辺における駐屯を規律する條件は、両政府間の行政協定で決定する。
- 四 この協定は、国際連合又はその他による日本区域における国際の平和及び安全の維持のため充分な措置を定める国際連合の措置（原案、協定）又はそれに代る個別的若しくは集団的の安全保障措置が有効となつたと合衆国及び日本国の政府が認めたときはいつでも効力を失うものとする。

条文解釈(日米安全保障協定案)に関するわが方覚書(3)
の修正

Re. Interpretation (3)

30 July, 1951

Please substitute the following for the first paragraph of 3 beginning with “Again, however.”

It is mentioned in Article 1 of the Security Agreement that “Such disposition would be designed to contribute to the security of Japan against armed attack from without.” In the event such an attack did occur, U.S. forces in Japan would naturally retaliate at once. It is granted that U.S. can take military measures without first referring to the U.N. Security Council only by way of exercise of her inherent right of self-defense, as stated in Article 51 of the U.N. Charter. And such is the present case because an attack against Japan will constitute an attack against U.S. forces stationed in Japan. Through exercising their own right of self-defense, they contribute to the defense of Japan.

日米安全保障協定の修正案に対するわが方意見

CONFIDENTIAL

Observations on the Draft Security
Agreement Received on 30 July, 1951

31 July, 1951

1. All suggested changes are agreeable to the Japanese Government.
2. The following changes in wording are suggested for the sake of uniformity.
 - a) The words “collective self-defense arrangements” in the third paragraph of the preamble reading “the Treaty of Peace recognizes that Japan as a sovereign nation has the right to enter into collective self-defense arrangements and” should read “collective security arrangements,” because Article 5 (c), of the peace treaty states “The Allied Powers for their part ^(recognize n) recognizes that Japan may voluntarily enter into collective security arrangements”.
 - b) In the fourth paragraph of the preamble reading “..... the United States, which is one of the Allied Powers,” the underlined part will no more be necessary, because in Article 5 (c) of the peace treaty the words “participated in by one or more of the Allied Powers” have been deleted.
 - c) In Article 3, “the stationing of armed forces of the United States” may better read “the disposition of”, because in Article

^{†1} 同日、藤崎条約課長よりフィン書記官へ交付。

^{†1} 同日午後、井口次官よりシーボルト大使へ交付。

1 the word “station” was changed to “dispose”.

3. The Japanese Government repeats its request to have a ratification clause added as Article 5 and understands that the agreement will be done both in the English and the Japanese languages.

4. With regard to the timing of publication, its simultaneous release with the final Peace Treaty Draft (13 August) is deemed preferable for the Japanese Government from its internal political considerations.



128 昭和 26 年 8 月 1 日^{†1}

未帰還邦人問題(連合国共同宣言案)に関するわが方の
対米要請

CONFIDENTIAL

Concerning the Japanese Nationals
Detained in Soviet Union and China

1 August, 1951

The Japanese Government requested in April and again in July to the United States Government that the Allied Powers meeting in conference for the signing of the peace treaty with Japan issue a declaration concerning the Japanese nationals detained in the Soviet Union and China. Now with the peace conference drawing close at hand, the fate of these Japanese is causing increasing concern and apprehension to the entire nation, to say nothing of their relatives and friends. The Japanese Government ventures to repeat its request that the United States Government be good enough to give

^{†1} 同日午後 4 時半、井口次官よりシーボルト大使へ交付。

special consideration to the practicability of its proposal. Attached hereto is a suggested draft for such a statement which, the Japanese Government desires, will be issued by the Allied Powers in the form of a voluntary declaration in parallel with one to be made by Japan with regard to the Allied Powers' war graves in its territory.

On the occasion of signing the peace treaty with Japan,

The Governments of the Allied Powers,

Mindful that one of the principal purposes of the United Nations is to achieve international cooperation in solving international problems of a humanitarian character and to promote and encourage respect for human rights and fundamental freedoms for all,

Believing that all prisoners of war and civilian internees, placed originally under the control of the Allied Powers as a consequence of the Second World War, should either have been repatriated long since or have been otherwise accounted for,

Recalling that this is required both by recognized standards of international conduct and the Geneva Convention of 1949 for the protection of war victims, and is expressly promised in the Potsdam Declaration, and stipulated under specific agreements between Allied Powers,

1. Reaffirm our intentions to act in conformity with the recognized standards of international conduct and the above-mentioned international instruments which require, among other things, that, upon the cessation of active hostilities, all prisoners should with the least possible delay be given an unrestricted opportunity to repatriation; and

2. Express our concern over the fate of the Japanese nationals still left unrepatriated or unaccounted for, and declare our resolve to continue (concerted*) concerted effort toward the solution of the long-pending problem.

129. 昭和 26 年 8 月 3 日^{†1}

条文解釈(日米安全保障協定案)に関するわが方覚書(3)
の再修正

Re. Interpretation (3)

3 August, 1951

Please substitute the following three paragraphs for the first paragraph of 3.

It is mentioned in paragraph 4 of the Preamble that “the United States — should maintain armed forces of its own in and about Japan so as to deter armed attack upon Japan.” And in Article 1, it is stated that “Such forces may be utilized to contribute to the maintenance of international peace and security in the Far East and to the security of Japan against armed attack from without —.” This sentence is understood to mean actually that:

Such forces will be utilized to contribute to the security of Japan against armed attack from without — and may be utilized to contribute to the maintenance of international peace and security in the Far East.

Note: In that part of the sentence which says that “Such forces may be utilized to contribute to the maintenance of international peace and security in the Far East”, the word “may” is construed to mean that Japan would have no objection to the United States using its armed forces in Japan for the purpose of contributing to the maintenance of international peace and security in the Far

East.

This interpretation may be justified in view of the above-cited statement in the Preamble. Although it is in a form of statement of Japan’s desire, such desire on the part of Japan is acknowledged by U.S. as a basis for this Agreement.

In other words, in the event such armed attack upon Japan as envisaged in the Preamble and Article 1 did occur, U.S. forces in Japan would naturally retaliate at once. It is granted that U.S. can take military measures without first referring to the U.N. Security Council only by way of exercise of her inherent right of self-defense, as stated in Article 51 of the U.N. Charter. And such is the present case because an attack against Japan will constitute an attack against U.S. forces stationed in Japan. Through exercising their own right of self-defense, they contribute to the defense of Japan.

^{†1} 同日午後、藤崎条約課長よりフィン書記官へ交付。

130 昭和26年8月4日^{f1}

日米安全保障協定修正案に関するわが方意見への米国回答

SECRET

The changes suggested in paragraph 2 of "Observations on the Draft Security Agreement Received on 30 July, 1951", dated July 31, 1951, have been approved by the principally interested Departments.

The latest draft of this Agreement includes as Article 5 the following paragraph:

"The present Treaty shall be ratified by the United States and Japan and will come into force when instruments of ratification have been deposited by them with the Government of the United States."

欄外記入

(欄外記入) 八月四日午前十時
ボンド参事官より受領
その際同参事官は、
(イ)連合国の一部で日米安全保障協定を問題にしておること
(ロ)協定案の公表は、共産陣営に宣傳の材料を供する結果となる懸念あること
により、米国政府は、調印まで公表を希望しない旨を付言してきていると伝えた。

(西村記入)

^{f1} 同日午前10時、ボンド参事官より西村局長が受領。

131 昭和26年8月4日^{f1}

未帰還邦人問題に関する吉田よりダレス宛書簡

付記 昭和26年8月13日^{f2} 上記書簡へのダレス回答

August 4, 1951

My dear Mr. Ambassador:

My Government has already requested the Government of the United States to give special consideration to the issuance of a Declaration by the Allied Powers when they would assemble in San Francisco for signing the Peace Treaty in September this year to the effect that they are deeply concerned with the fate of the Japanese who are still left unrepatriated or unaccounted for in the Soviet Union and China and that they intend to cooperate in the solution of this long pending problem. I feel sure that you will give this matter your most favorable consideration.

As you are perhaps aware from press reports, there has recently been expressed not only by the families of the unrepatriated Japanese, but also by their relatives and friends a deep apprehension lest the problem of repatriation be neglected in relation to the Peace Treaty and their dear ones permanently abandoned to their fate. In this connection, they are particularly concerned about the provisions of Article 26 of the draft treaty with reference to the conclusion of a bilateral Treaty of Peace on the same or substantially the same terms as the present treaty with any State not a signatory of the present treaty. They are apprehensive that if the Soviet Union and Communist China, with both of whom the repatriation question

^{f1} 同日午前11時、井口次官よりシーボルト大使へ交付。

^{f2} 同日午前10時、ボンド参事官より西村局長が受領。

is involved, should propose to conclude a bilateral treaty which is identical with the present treaty with no provision for the repatriation of prisoners of war and civilian detainees, Japan might be obligated to accept it unconditionally, being in no position to insist upon the inclusion of provisions concerning the return of the prisoners of war and civilian detainees still held by these countries.

In my opinion the provisions of Article 26 in the present draft need not be so rigidly construed. I am inclined to take the view that in the event Japan should conclude a bilateral treaty with the countries referred to above the provision of Article 26 does not prevent the inclusion of provisions for the settlement of pending questions not settled by the present treaty.

In view of the very strong interest of the Japanese people in this matter, I beg to take the liberty to request your consideration of the merits of adding to Article 26 a sentence to the effect that the provisions of that article does not preclude the stipulation of an additional provision concerning the repatriation of Japanese prisoners of war and civilian detainees should Japan later conclude a bilateral Treaty of Peace. Should it be found impracticable at the present stage to insert such a provision in Article 26, would you kindly explore the possibility of making clear by a protocol or other appropriate means joined in by the Allied Powers an interpretation of Article 26 that none of its provisions prevents the inclusion of an additional provision for repatriation of Japanese prisoners of war and civilian detainees in a bilateral treaty to be concluded within the period of three years after the coming into force of the present Treaty?

In any event, in view of the strong apprehensions felt by the Japanese people, it is the desire of my government, apart from the issuance of the Declaration mentioned above, to find and have accepted by the signatories at San Francisco some practical arrangement within the framework of the

present peace settlement which would dispel these apprehensions and I will be most grateful if you will be so kind as to give us your valuable assistance in this regard.

Yours sincerely,

Shigeru Yoshida

His Excellency

John Foster Dulles,
Department of State,
Washington, D.C.,
U.S.A.

(付 記)

CONFIDENTIAL

Tokyo, August 13, 1951.

My dear Mr. Prime Minister:

In the absence of Ambassador Sebald, I have been asked to deliver to you the following message from Ambassador Dulles:

“I have carefully considered your letter of August 4, 1951 with reference to the fate of Japanese still unrepatriated or unaccounted for in the Soviet Union and Communist China. I am happy to inform you that in the final text of the Treaty now being composed we hope to incorporate in Article 26 the requirement that the provisions of Article 9 of the Potsdam Proclamation of July 26, 1945 with reference to the return of Japanese military forces to their homes to the extent not already completed will be carried out. Since the status of civilian detainees has not been dealt with in any of the surrender terms it did not seem practical to deal with this problem in the Treaty of Peace, but we believe that a provision as indicated above will put Japan in a

position to negotiate with reference to this whole problem if the Soviet Union were to propose to conclude a bilateral treaty under Article 26. I do not understand that there is any question of an Article 26 treaty with Communist China.”

Sincerely yours,

Niles W. Bond

Acting Counselor of Mission

His Excellency

Shigeru Yoshida,

Prime Minister of Japan.

132 昭和 26 年 8 月 6 日

日米安全保障協定案の修正に関する対米折衝について

極秘

日米安全保障協定案第五條等に関する件

二六、八、六 藤崎

本件に関し、八月六日午前 D S のフィン氏を往訪した。別添の案文を提示したところ、フィン氏は、「発効期日の点については、自分も気が付いたので、シーボルド大使に意見を述べたところ、大使は、本協定の批准（承認）が行われる場合に、平和條約が批准され、効力を生ずることを条件として批准するというに方法もあるだろう、ということで、ワシントンにいてやることは止めになった」といった。

当方から、さらに、第五條について批准書を寄託する代りに交換するのが二国間條約の場合の慣行であることを指摘したところ、それは知らなかったといった。

前文及び第五條に「條約」という文字が使っていることを指摘したところ、これは氣付いていた様子で、「これは、その後安全保障條約と呼ぶことに方針が変ったが、変更されない部分が訂正もれになっているのではないかと思う」と述べた。

第四條の第三国との関係のところ、^(二カ)transit という語のかかり具合については、right にかかるということについてほとんど確信をもっていると述べた。

以上の諸点について、最初から、当方としては、正式にテイクアップするに足らないもので、あまりにテクニカルでトリヴィアルであると思うから、自分からごく informal にお話する次第であると断っておいたのであるが、フィン氏は「貴方としては、これをワシントンに申送ることを希望されるか。そうだとすれば、外務省ないし條約局から非公式にこういう示唆があったとして申送るようにしよう。」と述べた。（当方から、貴方の意見で、日本の外務省も賛成したものとしてやってやることはできないかといったところ、フィン氏は、発効期日の問題の場合のことをあげて、難しいと思うといった。）條約局長にはかってから、お答えするといって辞去したが、フィン氏は、当方から色々サジェストしてくれてありがとうと礼をいっていた。

(別 添)

Re. Security Agreement

6 August, 1951

It is suggested that the latter part of Article 5 of the draft Security Agreement reading “and will come into force when instruments of ratification have been deposited by them with the Government of the United States” might better be changed as follows:

“and will come into force simultaneously with the coming into force of the Treaty of Peace between the United States and Japan. The instruments of ratification will be exchanged at Washington, D.C.”

条文解釈に関するわが方覚書(4)

Interpretation (4)

6 August, 1951

1. Article 7 (a)

At the end of the paragraph, it is said that “All such treaties as to which Japan is not so notified shall be regarded as abrogated”. This is understood to mean that those treaties shall be regarded as abrogated as from the date of the commencement of the war.

2. Article 8 (a)

It is stated: “Japan will recognize the full force of all treaties now or hereafter concluded by the Allied Powers for terminating the state of war initiated on September 1, 1939, as well as any other arrangements by the Allied Powers for in connection with the restoration of peace.” This is deemed to cover, as at present, the following:

- a) Peace Treaties with Italy, Rumania, Hungary, Bulgaria and Finland;
- b) Protocol of the Proceedings of the Berlin Conference of August 1, 1945;
- c) The Agreements reached between the Allied High Commissioners and the Chancellor of the West German Republic at Bonn, released November 24, 1949.

Is there any international instrument other than the above to be listed here?

^{†1} 同日午前、藤崎条約課長よりフィン書記官へ交付。

国際連合の行動に対する協力に関する交換公文来簡案

付記 昭和 26 年 8 月 25 日^{†2} 上記来簡案に対するわが方返簡案

Upon the coming into force of the Treaty of Peace signed today, Japan will assume the obligations expressed in Article 2 of the Charter of the United Nations which requires the giving to the United Nations of “every assistance in any action it takes in accordance with the present Charter”.

As we know, armed aggression has occurred in Korea, against which the United Nations and its Members are taking preventive action. There has been established a Unified Command of the United Nations under the United States pursuant to Security Council Resolution of July 7, 1950, and the General Assembly, by Resolution of February 1, 1951, has called upon all states and authorities to lend every assistance to the United Nations action and to refrain from giving any assistance to the aggressor. With the approval of the Supreme Commander for the Allied Powers, Japan has been and now is rendering important assistance to the United Nations action in the form of facilities and services made available to the Members of the United Nations, the armed forces of which are participating in the United Nations action.

Since the future is unsettled and it may unhappily be that the occasion for facilities and services in Japan in support of United Nations action will continue or recur, I would appreciate confirmation, on behalf of your Government, that if and when the forces of a Member or Members of the

^{†1} 同日午後 3 時、シーボルト大使より井口次官が受領。受領後に日本側が付した「極秘」の印あり。

^{†2} 同日、米国側へ交付。

United Nations are engaged in any United Nations action in the Far East after the Treaty of Peace comes into force, Japan will permit and facilitate the support in and about Japan, by the Member or Members, of the forces engaged in such United Nations actions; the expenses involved in the use of Japanese facilities and services to be borne as at present or as otherwise mutually agreed between Japan and the United Nations Member concerned. In so far as the United States is concerned the use of facilities and services, over and above those provided to the United States pursuant to the Administrative Agreement which will implement the Security Treaty between the United States and Japan, would be at United States expense, as at present.

(付 記)

Excellency

I have the honor to acknowledge the receipt of Your Excellency's Note of to-day's date in which Your Excellency has informed me as follows:

Upon the coming into force of the Treaty of Peace signed today, Japan will assume the obligations expressed in Article 2 of the Charter of the United Nations which requires the giving to the United Nations of "every assistance in any action it takes in accordance with the present Charter".

As we know, armed aggression has occurred in Korea, against which the United Nations and its Members are taking preventive action. There has been established a Unified Command of the United Nations under the United States pursuant to Security Council Resolution of July 7, 1950, and the General Assembly, by Resolution of February 1, 1951, has called upon all states and authorities to lend every assistance to the United Nations action and to refrain from giving

any assistance to the aggressor. With the approval of the Supreme Commander for the Allied Powers, Japan has been and now is rendering important assistance to the United Nations action in the form of facilities and services made available to the Members of the United Nations, the armed forces of which are participating in the United Nations action.

Since the future is unsettled and it may unhappily be that the occasion for facilities and services in Japan in support of United Nations action will continue or recur, I would appreciate confirmation, on behalf of your Government, that if and when the forces of a Member or Members of the United Nations are engaged in any United Nations action in the Far East after the Treaty of Peace comes into force, Japan will permit and facilitate the support in and about Japan, by the Member or Members, of the forces engaged in such United Nations actions; the expenses involved in the use of Japanese facilities and services to be borne as at present or as otherwise mutually agreed between Japan and the United Nations Member concerned. In so far as the United States is concerned the use of facilities and services, over and above those provided to the United States pursuant to the Administrative Agreement which will implement the Security Treaty between the United States and Japan, would be at United States expense, as at present.

With full cognizance of the contents of Your Excellency's Note, I have the honor, on behalf of my Government, to confirm that if and when the forces of a Member or Members of the United Nations are engaged in any United Nations action in the Far East after the Treaty of Peace comes into force, Japan will permit and facilitate the support in and about Japan, by the Member or Members of the forces engaged in such United Nations action,

the expenses involved in the use of Japanese facilities and services to be borne as at present or as otherwise mutually agreed between Japan and the United Nations Member concerned. In so far as the United States is concerned the use of facilities and services, over and above those provided to the United States pursuant to the Administrative Agreement which will implement the Security Agreement between Japan and the United States would be at United States expense, as at present.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(和文原案)

書簡をもって啓上いたします。本大臣は、貴長官が次のように通報された本日付の貴簡を受領することを確認するの光栄を有します。

本日署名された平和条約の効力発生と同時に、日本国は、国際連合に「この憲章に従つてとる行動についてあらゆる援助」を与えることを要求する国際連合憲章の第二条に表明された義務を引き受けることとなります。

われわれの知るとおり、武力侵略が朝鮮に起りました。これに対して、国際連合及びその加盟国は、防止行動をとっています。千九百五十年七月七日の安全保障理事会決議に従つて合衆国の下に国際連合統一司令部が設置され、総会は、千九百五十一年二月一日の決議によつて、すべての国及び当局に対して、国際連合の行動にあらゆる援助を与えるよう且つ侵略者にはいかなる援助をも与えることを慎むように求めました。連合最高司令官の承認を得て、日本国は、国際連合の行動に軍隊が参加している国際連合の加盟国に施設及び役務を提供することによつて、国際連合の行動に重要な援助を従来与えてき、また、現に与えています。

将来は定まっておらず、不幸にして、国際連合の行動を支持するための日本国における施設及び役務の必要は、継続し又は再び生ずることがあり得ますので、私は、平和条約の効力発生後に国際連合の一又は二以上の

加盟国の軍隊が極東における国際連合の行動に従事する場合には、このような国際連合の行動に従事する軍隊を当該の一又は二以上の加盟国が日本国内及びその附近^(近か)において支持することを日本国が許し且つ容易にすることを、貴国政府に代つて確認されれば、幸甚であります。日本の施設及び役務の使用に伴う費用は、現在どおりに又は日本国と関係国際連合加盟国との間で別に合意されるとおりに負担されるものとします。合衆国に関する限りは、合衆国と日本国との間の安全保障条約の実施細目を定める行政協定に従つて合衆国に供与されるところをこえる施設及び役務の使用は、現在どおりに、合衆国の負担においてなされるものであります。

本大臣は、貴簡の内容を十分に了承した上で、政府に代つて平和条約の効力発生後に国際連合の一又は二以上の加盟国の軍隊が極東における国際連合の行動に従事する場合には、このような国際連合の行動に従事する軍隊を当該の一又は二以上の加盟国が日本国内及びその附近において支持することを日本国が許し且つ容易にすることを確認するの光栄を有します。日本の施設及び役務の使用に伴う費用は、現在どおりに又は日本国と関係国際連合加盟国との間で別に合意されるとおりに負担されるものとします。合衆国に関する限りは、日本国と合衆国との間の安全保障条約の実施細目を定める行政協定に従つて合衆国に供与されるところをこえる施設及び役務の使用は、現在どおりに、合衆国の負担においてなされるものであります。

本大臣は、この機会に貴長官に対して重ねて敬意を表します。

135 昭和 26 年 8 月 10 日¹¹

平和条約案第 3 条の解釈に関するダレスより吉田宛伝言¹²

In Chapter II there are provisions concerning the disposition of certain territories. In this connection we must bear in mind that Japan unconditionally accepted the surrender terms which provided that Japanese sovereignty shall be limited to the four main islands “and such minor islands as we determine”. There is, therefore, no room for Japan to seek a change in these terms. However, I would like to draw your attention to the fact that, while Japan is to renounce all right, title and claim to the territories listed in Article 2, it is not specifically so stated in Article 3 which provides for the disposition of the Nansei Islands and other southern islands. This wording of Article 3 is deemed not without significance in that residual Japanese sovereignty remains. The flexible provisions of Article 3 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 the inhabitants of these islands concerning intercourse with the homeland of Japan, nationality status of inhabitants and other matters.

(和訳文)

第二章には、若干の領土の処分に関する規定がある。この点に関して、われわれは、日本国の主権が四つの主要な島「及びわれわれが決定する諸小島」に限定されると規定した降伏の条件をわが国が無条件に受諾したことを、銘

¹¹ 同日午後 2 時半、シーボルト大使より井口次官が受領。

¹² 本文書は、日本側が吉田総理の議会説明振りを米国側に照会したのに対し、ダレス特使がその回答として示したもの。

記しなければならない。従つて、わが国にとっては、これらの条件の変更を求める余地はない。しかしながら、私は、次の事実について諸君の注意を喚起したい。すなわち、日本は、第二条に掲げられた領域に対しては、すべての権利、権原及び請求権を放棄することになっているのに、他面南西諸島その他の南方諸島の処理を規定する第三条は、特にこのように規定してはいないということである。この第三条の字句は、その他のわが主権が残存するという点において、無意味のものとは思われない。融通性のある第三条の規定は、われわれが、国際の平和と安全上の利益のために米国が行う戦略的管理を条件として、本土との交通、住民の国籍上の地位その他の事項について、これら諸島の住民の希望に沿うために実際的な措置が案出されるだろうと希望する余地を残すものである。

136 昭和 26 年 8 月 10 日

日米安全保障協定案の修正に関する米国回答について

極秘

安全保障協定案についてシーボルト大使から内報の件

二六、八、一〇 藤崎

八月十日、西村條約局長（藤崎隨行）、他用でシーボルト大使と面談の際、同大使から、ワシントンからの回訓の内容として、

- (一) タイトルの Agreement は Treaty に改められたこと
- (二) 第五條の効力発生の規定は、前文の第二項とインコンパティブルであるとは認められないこと

の二点を内報された。第二の点について、シーボルト大使は、

「これは、フレキシビリティを與える趣旨であると思う。批准書が寄託された日に発効することにして置けば、この寄託の日を加減することによって、

発効の日を調節できる。前文第二項は、単に日本の願望の表明にすぎないから、この第五項で発効の日が決められるわけである」と説明した。

137 昭和 26 年 8 月 10 日^{†1}

日米安全保障条約案の機密保持に関する米国覚書

SECRET

August 10, 1951

MEMORANDUM FOR: Mr. Iguchi

Washington is taking every precaution to avoid any publication or leak of terms of Security Treaty, it being felt that the terms could be seriously misrepresented by Communist propaganda to the detriment of the fullest adherence to the Peace Treaty.

It is requested that similar precautions be taken at your end.

It is now assumed that the Security Treaty will be signed at San Francisco immediately following the signature of the Peace Treaty.

^{†1} 同日夕の折衝（第136文書）にて、シーボルト大使より西村局長が受領。

138 昭和 26 年 8 月 13 日

平和条約案第15条の条文解釈に関する米国照会について

付 記 昭和 26 年 8 月 16 日 上記解釈に関する折衝について

極秘

平和条約草案第十五條に関する件

二六、八、一三、藤崎

八月十三日午後、大蔵省側からの連絡により、C P Cのブレイク氏を往訪した。会議出席者、先方はブレイク氏外C P C係官、当方、川崎^(河)特殊財産部長、藤崎條約課長、大蔵省佐々木外国財産課長。

ブレイク氏から「平和条約草案第十五條は掠奪財産もカバーするという解釈をワシントンから示された。これに対する日本政府の意見を伺いたい」と述べた。

藤崎から、「文理解釈としては、そういうこともいえるかも知れないが、これまでの日米双方当局者間の話合いで掠奪財産はドロップされることになったと了解している。ワシントンの解釈は、第十五條の返還に関する部分のみならず、補償に関する部分も掠奪財産に適用があるとするものであるか」と述べたところ、

ブレイク氏は、「われわれも第十五條は、掠奪財産を含まないと思っていた。ところが、われわれの方から掠奪財産について規定を設ける必要があることを指摘したところ、ダレス氏か誰か知らないが、ワシントンから、それは第十五條でカバーされているから心配ないと言って来た。われわれとしては、掠奪財産は、何年先になっても、はっきりそうと分った場合には返還されるべきであり、在日連合国財産の場合のように、九箇月というような制限を付さるべきではないと考えている。例えば、オランダは、日本が蘭領印度から莫大なダイヤモンドを掠奪したというクレームを出しているが、それが将来発見された場合には、当然返還されるべきであろう。連合国財産補償法案は、掠奪財産をカバーしているか」と述べた。

当方から、然らざる旨を答えたところ、ブレイク氏は、この第十五條の解釈の問題について日本政府の何分の意見を示してもらいたいと述べた。

なお、キャリントン氏は、掠奪財産の問題は、平和條約に含まれておらず、日本と当該連合国との間の協定に譲られているものと、自分は了解していたと述べた。

(付 記)

極秘

平和條約草案第十五條の解釈問題（掠奪財産）に関し会議の件

二六、八、一六 藤崎

CPCブレイク氏からの申出により、本件に関して、八月十六日午前九時からCPCで会議した。出席者、

先方、CPC デレット大佐、ブレイク氏、キャリントン氏、外

D S フィン氏

当方、外務省 西村條約局長、藤崎條約課長

大蔵省 佐々木外国財産課長

賠償庁 石黒次長、河崎特殊財産部長

西村條約局長から、日本政府としては、従来話合いの経緯もあり、條約案第十五條は、掠奪財産を含まないと解していたが、本條の文言はこれをカバーすると解釈されると考える旨を述べた（前日、西村條約局長から石黒次長に話し、石黒次長もこの立場をとることに同意していた）。

ブレイク氏から、「しからば、第十五條の所定の期間の経過後、五年先、十年先に掠奪財産が発見された場合には、日本政府としては、どうするつもりか」ときいた。

條約局長から、「当該国との外交交渉により處理できると考える」と述べたところ、賠償庁次長から「掠奪財産を返還することについての法令上の根

拠がなければ、どうにもならないではないか」との疑義が提起されたが、條約局長から「正当な所有権に基づかないで物を所持している場合、日本の法令は、その者に所有権者としての保護を與えるものではない。取得時効は二十年である」と説明した。

CPC側は、財産を掠奪された連合国人としては、日本の一般の国内法令により、日本の裁判所で、当該の日本人個人を相手どつて訴訟する外ないということでは、十分にその権利を保護することは到底できないから、その間に日本政府として責任をとるべきことを明かにするために、関係連合国と日本との間に個別的に取極を締結することを希望した。これについては、平和條約案第二十六條末段（この條約で定めるところよりも大きな利益をその国に與える平和處理又は戦争請求權處理を行つたときは、これと同一の利益は、この條約の当事国にも及ぼされなければならない）の関係もあり、かたがた、他の連合国も同じ取極を締結したいといつて来るだろうということで、当方としては、賛成し難い旨を述べた。

後から会議に出席したDSのフィン書記官は、第十五條の期限を延長（現在九ヶ月のところを、例えば十八ヶ月に）してはどうかといった（その後同書記官は、藤崎に「平和條約案の修正をワシントンに提議しても、到底許さないだろうから、本件をあまり重要視する必要はない」、と耳打ちした）。

結局、(一)個別取極の締結、(二)第十五^(條々)の期間延長、(三)外交交渉の三つの方法があるわけであるが、日本側としては、そのいずれをとるかということになり、日本政府としては、第三の方法をとりたいと答えた。先方は、これに対しては不満ながらも、これでこの問題は一應打切りになりそうである。

139 昭和26年8月13日^{f1}

平和条約第15条(a)の新案文および連合国財産補償法案
に関する米国覚書

付記 昭和26年8月14日^{f2} 上記補償法案に関するわが方の対米要請

August 13, 1951

It has been agreed that Article 15-A of the draft treaty should read as follows: "Compensation will be made on terms not less favorable than the terms provided in the draft Allied Powers Property Compensation Law approved by the Japanese Cabinet on July 13, 1951."

Two copies of the Japanese text of this draft law identified by the signatures of the appropriate Japanese officials as the text approved by the cabinet of July 13, as well as two copies of an English translation certified by the appropriate officials of the Japanese Government as a correct translation of the approved text, are requested.

It is also requested that the Japanese Government declassify the text of this draft law so that the text may be made available to interested members of the public.

(付記)

Re. the draft Allied Powers Property Compensation Law

14 August, 1951

The Japanese Government has no objection to the text of the draft

^{f1} 同日午前、フィン書記官より受領。

^{f2} 同日午後、藤崎条約課長よりフィン書記官へ交付。なお、連合国財産補償法案の認証謄本和文・英文各2通は、同日、日本側より米国側へ交付された。

Allied Powers Property Compensation Law being made available to interested members of the public. It is requested, however, that the timing of its release to the press be decided upon further consultation between the U.S. Government and the Japanese Government. It may be some time between the date of closing of the coming session of the Diet which will open on August 16 and the opening of the session which will be convoked after the signing of the Peace Treaty.

140 昭和26年8月14日

日米安全保障条約の修正案受領について

極秘

安全保障条約案に関する件

二六、八、一四 藤崎

- 一、八月十四日午後、他用でフィン書記官を往訪の際、同書記官から、「これがワシントンから送って来た最新の案文である。おそらくオーセンティックなものであると思う」といつて別添の^{f1}条約案文を渡された。その際
- (1) プリアムブルと書いてないが、これでよいのだろうか。
 - (2) 日本政府としては、やはり日本文も正文として作成されることを希望されると思うがどうか。
 - (3) 形式的な点について意見があつたら、申し越されたい。
- と述べた。
- 二、右に関連して、フィン書記官は、交換公文が条約署名と同時に進むべきこと、日本のデレゲーションは、平和条約と共に本条約にも署名すべき全権を委任せらるべきことについてのワシントンからの訓電を読み上げ

^{f1} 省略。第141文書として採録。

(別添^(省略)ペン書きのとおり)、しかるべき方法で総理に伝えられたきこと、伝えられたら、井口次官なり、西村局長がDSに来られる機会にそれを確認していただき^(たきか)ことを述べた。

三、フィン書記官から、藤崎に対し、この問題についての個人的見解を求めた。藤崎から、「この前の日曜日の国会討論会なる放送で、民主党の千葉氏がこの問題をとりあげ岡崎官房長官の説明を求めたが、岡崎氏は、極めて慎重な答え方をしていた。千葉氏は、平和条約の署名と安全保障条約の署名とは、全く別個のことで、従って全く別個に考えられなければならないという趣旨のことをいつていた。安全保障条約の内容をあかさないで、これに署名する全権を受けるように仕向けることは、なかなか困難な問題で、そこに問題の重点があるのではなかろうか」との趣旨を述べた。

これに対して、フィン書記官は、「その困難はよく分る。全権を引受けた人に対して、内密に十分説明したらどうだろうか。その場合には、次のような説明振りも考えられる。

- (1)インド、エジプト等の中間勢力的存在が平和条約の安全に関する規定に反対を唱えているから、平和条約と安全保障条約をミックス・アップさせないようにする必要があること。
- (2)ソ連もサンフランシスコ会議に出て来ることになった以上、なおさらこの条約を秘密にする必要があること。
- (3)民主党の方は、芦田氏その他、集団安全保障の方式には賛成であることをDSでもいつている位だから、この条約に異存はなかるべき次第なること。

ただ、貴方がいわれるように、民主党の方が相談を受けていないということに不満があることが原因になっていることは分る。いずれにしても、米国側としても、平和条約に署名する全権の中から、例えば民主党の人が安全保障条約の署名から脱落するとしたら、具合が悪いだろう。しかし、右のような話で民主党側がこの方の全権を受けることをがえんじない場合には、日本政府からはつきりそういつて来ていただきたい。そしたら、ワ

シントンに轉達して、ワシントンのレアクションを見よう」と述べた。この点も、フィン書記官の私見である。

141 昭和26年8月14日^{f1}

日米安全保障条約の修正案

SECRET

DRAFT

SECURITY TREATY

BETWEEN THE UNITED STATES OF AMERICA AND JAPAN

Japan has this day signed a Treaty of Peace with the Allied Powers. On the coming into force of that Treaty, Japan will not have the effective means to exercise its inherent right of self-defense because it has been disarmed.

There is danger to Japan in this situation because irresponsible militarism has not yet been driven from the world. Therefore Japan desires a Security Treaty with the United States to come into force simultaneously with the Treaty of Peace between Japan and the United States.

The Treaty of Peace recognizes that Japan as a sovereign nation has the right to enter into collective security arrangements and further the Charter of the United Nations recognizes that all nations possess an inherent right of individual and collective self-defense.

In exercise of these rights, Japan desires as a provisional arrangement for its defense, that the United States should maintain armed forces of its

^{f1} 同日午後の折衝（第140文書）にて、フィン書記官より藤崎条約課長が受領。

own in and about Japan so as to deter armed attack upon Japan.

The United States, in the interest of peace and security, is presently willing to maintain certain of its armed forces in and about Japan, in the expectation, however, that Japan will itself increasingly assume responsibility for its own defense against direct and indirect aggression, always avoiding any armament which could be an offensive threat or serve other than to promote peace and security in accordance with the Purposes and Principles of the United Nations Charter.

Accordingly,

1. Japan grants, and the United States accepts the right, upon the coming into force of the Treaty of Peace and of this Treaty, to dispose United States land, air and sea forces in and about Japan. Such forces may be utilized to contribute to the maintenance of international peace and security in the Far East and to the security of Japan against armed attack from without, including assistance given at the express request of the Japanese Government to put down large-scale internal riots and disturbances in Japan, caused through instigation or intervention by any outside Power or Powers.

2. During the exercise of the right referred to in Article 1, Japan will not grant, without the prior consent of the United States, any bases or any rights, powers or authority whatsoever, in or relating to bases or the right of garrison or of maneuver, or transit of ground, air or naval forces to any third Power.

3. The conditions which shall govern the disposition of armed forces of the United States in and about Japan shall be determined by administrative agreements between the two Governments.

4. This Treaty shall expire whenever in the opinion of the Governments of the United States and of Japan there shall have come into

force such United Nations arrangements or such alternative individual or collective security dispositions as will satisfactorily provide for the maintenance by the United Nations or otherwise of international peace and security in the Japan area.

5. The present Treaty shall be ratified by the United States and Japan and will come into force when instruments of ratification have been deposited by them with the Government of the United States.

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142 昭和 26 年 8 月 15 日<sup>†1</sup>

### 日米安全保障条約の修正案に対するわが方修正意見

#### Formalities concerning Security Treaty

15 August, 1951

The following points concerning formalities are suggested to the United States Government for its consideration.

1. After the word "Accordingly," the following words be added:  
the two countries have agreed as follows:
2. Instead of depositing the instruments of ratification, they would be exchanged at Washington. The exchange of ratification is an internationally established practice in case of bilateral treaties.
3. An usual finishing clause reading as follows be added:

IN FAITH WHEREOF the undersigned Plenipotentiaries have signed the present Treaty.

Done at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 1951, in duplicate in

<sup>†1</sup> 同日午前、フィン書記官へ交付。

the English and Japanese languages.

4. The paragraphs 1-5 might better be named Article 1, Article 2, etc., as they are so referred in the text.



143 昭和 26 年 8 月 15 日<sup>†1</sup>

## 平和条約・宣言・議定書の最終案

### TREATY OF PEACE WITH JAPAN

Whereas the Allied Powers and Japan are resolved that henceforth their relations shall be those of nations which, as sovereign equals, cooperate in friendly association to promote their common welfare and to maintain international peace and security, and are therefore desirous of concluding a Treaty of Peace which will settle questions still outstanding as a result of the existence of a state of war between them;

Whereas Japan for its part declares its intention to apply for membership in the United Nations and in all circumstances to conform to the principles of the Charter of the United Nations; to strive to realize the objectives of the Universal Declaration of Human Rights; to seek to create within Japan conditions of stability and well-being as defined in Articles 55 and 56 of the Charter of the United Nations and already initiated by post-surrender Japanese legislation; and in public and private trade and commerce to conform to internationally accepted fair practices;

Whereas the Allied Powers welcome the intentions of Japan set out in

the foregoing paragraph;

The Allied Powers and Japan have therefore determined to conclude the present Treaty of Peace, and have accordingly appointed the undersigned Plenipotentiaries, who, after presentation of their full powers, found in good and due form, have agreed on the following provisions.

### CHAPTER I: PEACE

#### Article 1.

(a) The state of war between Japan and each of the Allied Powers is terminated as from the date on which the present Treaty comes into force between Japan and the Allied Power concerned as provided for in Article 23.

(b) The Allied Powers recognize the full sovereignty of the Japanese people over Japan and its territorial waters.

### CHAPTER II: TERRITORY

#### Article 2.

(a) Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.

(b) Japan renounces all right, title and claim to Formosa and the Pescadores.

(c) Japan renounces all right, title and claim to the Kurile Islands, and to that portion of Sakhalin and the islands adjacent to it over which Japan acquired sovereignty as a consequence of the Treaty of Portsmouth of September 5, 1905.

(d) Japan renounces all right, title and claim in connection with the League of Nations Mandate System, and accepts the action of the United Nations Security Council of April 2, 1947, extending the trusteeship system to the Pacific Islands formerly under mandate to Japan.

<sup>†1</sup> 同日午後 7 時半、フィン書記官より西村局長が受領。

(e) Japan renounces all claim to any right or title to or interest in connection with any part of the Antarctic area, whether deriving from the activities of Japanese nationals or otherwise.

(f) Japan renounces all right, title and claim to the Spratly Islands and the Paracel Islands.

Article 3.

Japan will concur in any proposal of the United States to the United Nations to place under its trusteeship system, with the United States as the sole administering authority, Nansei Shoto south of 29° north latitude (including the Ryukyu Islands and the Daito Islands), the Nanpo Shoto south of Sofu Gan (including the Bonin Islands, Rosario Island and the Volcano Islands) and Parece Vela and Marcus Island. Pending the making of such a proposal and affirmative action thereon, the United States will have the right to exercise all and any powers of administration, legislation, and jurisdiction over the territory and inhabitants of these islands, including their territorial waters.

Article 4.

(a) Subject to the provisions of Paragraph (b) of this Article, the disposition of property of Japan and of its nationals in the areas referred to in Article 2, and their claims, including debts, against the authorities presently administering such areas and the residents (including juridical persons) thereof, and the disposition in Japan of property of such authorities and residents, and claims, including debts, of such authorities and residents against Japan and its nationals, shall be the subject of special arrangements between Japan and such authorities. The property of any of the Allied Powers or its nationals in the areas referred to in <sup>(Article 2)</sup> Articles 2 shall, in so far as this has not already been done, be returned by the administering authority in the condition in which it now exists. (The term nationals whenever used

in the present Treaty includes juridical persons).

(b) Japan recognizes the validity of dispositions of property of Japan and Japanese nationals made by or pursuant to directives of the United States Military Government in any of the areas referred to in Articles 2 and 3.

(c) Japanese owned submarine cables connecting Japan with territory removed from Japanese control pursuant to the present Treaty shall be equally divided, Japan retaining the Japanese terminal and adjoining half of the cable, and the detached territory the remainder of the cable and connecting terminal facilities.

CHAPTER III: SECURITY

Article 5.

(a) Japan accepts the obligations set forth in Article 2 of the Charter of the United Nations, and in particular the obligations

(i) to settle its international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered;

(ii) to refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations;

(iii) to give the United Nations every assistance in any action it takes in accordance with the Charter and to refrain from giving assistance to any state against which the United Nations may take preventive or enforcement action.

(b) The Allied Powers confirm that they will be guided by the principles of Article 2 of the Charter of the United Nations in their relations with Japan.

(c) The Allied Powers for their part recognize that Japan as a

sovereign nation possesses the inherent right of individual or collective self-defense referred to in Article 51 of the Charter of the United Nations and that Japan may voluntarily enter into collective security arrangements.

Article 6.

(a) All occupation forces of the Allied Powers shall be withdrawn from Japan as soon as possible after the coming into force of the present Treaty, and in any case not later than 90 days thereafter. Nothing in this provision shall however prevent the stationing or retention of foreign armed forces in Japanese territory under or in consequence of any bilateral or multilateral agreements which have been or may be made between one or more of the Allied Powers, on the one hand, and Japan on the other.

(b) The provisions of Article 9 of the Potsdam Proclamation of July 26, 1945, dealing with the return of Japanese military forces to their homes, to the extent not already completed, will be carried out.

(c) All Japanese property for which compensation has not already been paid, which was supplied for the use of the occupation forces and which remains in the possession of those forces at the time of the coming into force of the present Treaty, shall be returned to the Japanese Government within the same 90 days unless other arrangements are made by mutual agreement.

CHAPTER IV: POLITICAL AND ECONOMIC CLAUSES

Article 7.

(a) Each of the Allied Powers, within one year after the present Treaty has come into force between it and Japan, will notify Japan which of its prewar bilateral treaties or conventions with Japan it wishes to continue in force or revive, and any treaties or conventions so notified shall continue in force or be revived subject only to such amendments as may be necessary to ensure conformity with the present Treaty. The treaties and conventions

so notified shall be considered as having been continued in force or <sup>(revived.)</sup> revival three months after the date of notification and shall be registered with the Secretariat of the United Nations. All such treaties and conventions as to which Japan is not so notified shall be regarded as abrogated.

(b) Any notification made under paragraph (a) of this Article may except from the operation or revival of a treaty or convention any territory for the international relations of which the notifying Power is responsible, until three months after the date on which notice is given to Japan that such exception shall cease to apply.

Article 8.

(a) Japan will recognize the full force of all treaties now or hereafter concluded by the Allied Powers for terminating the state of war initiated on September 1, 1939, as well as any other arrangements by the Allied Powers for or in connection with the restoration of peace. Japan also accepts the arrangements made for terminating the former League of Nations and Permanent Court of International Justice.

(b) Japan renounces all such rights and interests as it may derive from being a signatory power of the Conventions of St. Germain-en-Laye of September 10, 1919, and the Straits Agreement of Montreux of July 20, 1936, and from Article 16 of the Treaty of Peace with Turkey signed at Lausanne on July 24, 1923.

(c) Japan renounces all rights, title and interests acquired under, and is discharged from all obligations resulting from, the Agreement between Germany and the Creditor Powers of January 20, 1930, and its Annexes, including the Trust Agreement, dated May 17, 1930, the Convention of January 20, 1930, respecting the Bank for International Settlements, and the Statutes of the Bank for International Settlements. Japan will notify to the Ministry of Foreign Affairs in Paris within six months of the first coming

into force of the present Treaty her renunciation of the rights, title and interests referred to in this paragraph.

Article 9.

Japan will enter promptly into negotiations with the Allied Powers so desiring for the conclusion of bilateral and multilateral agreements providing for the regulation or limitation of fishing and the conservation and development of fisheries on the high seas.

Article 10.

Japan renounces all special rights and interests in China, including all benefits and privileges resulting from the provisions of the final Protocol signed at Peking on September 7, 1901, and all annexes, notes and documents supplementary thereto, and agrees to the abrogation in respect to Japan of the said Protocol, annexes, notes and documents.

Article 11.

Japan accepts the judgments of the International Military Tribunal for the Far East and of other Allied War Crimes Courts both within and outside Japan, and will carry out the sentences imposed thereby upon Japanese nationals imprisoned in Japan. The power to grant clemency, to reduce sentences and to parole with respect to such prisoners may not be exercised except on the decision of the Government or Governments which imposed the sentence in each instance, and on the recommendation of Japan. In the case of persons sentenced by the International Military Tribunal for the Far East, such power may not be exercised except on the decision of a majority of the Governments represented on the Tribunal, and on the recommendation of Japan.

Article 12.

(a) Japan declares its readiness promptly to enter into negotiations for the conclusion with each of the Allied Powers of treaties or agreements to

place their trading, maritime and other commercial relations on a stable and friendly basis.

(b) Pending the conclusion of the relevant treaty or agreement, Japan will, during a period of four years from the first coming into force of the present Treaty: —

(1) accord to each of the Allied Powers, its nationals, products and vessels

(i) most-favored-nation treatment with respect to customs duties, charges, restrictions and other regulations on or in connection with the importation and exportation of goods;

(ii) national treatment with respect to shipping, navigation and imported goods and with respect to natural and juridical persons and their interests — such treatment to include all matters pertaining to the levying and collection of taxes, access to the courts, the making and performance of contracts, rights to property (tangible and intangible), participation in juridical entities constituted under Japanese law, and generally the conduct of all kinds of business and professional activities;

(2) ensure that external purchases and sales of Japanese state trading enterprises shall be based solely on commercial considerations.

(c) In respect to any matter, however, Japan shall be obliged to accord to an Allied Power national treatment, or most-favored-nation treatment, only to the extent that the Allied Power concerned accords Japan national treatment or most-favored-nation treatment, as the case may be, in respect of the same matter. The reciprocity envisaged in the foregoing sentence shall be determined, in the case of products, vessels and juridical entities of, and persons domiciled in, any non-metropolitan territory of an Allied Power, and in the case of juridical entities of, and persons domiciled in, any

state or province of an Allied Power having a federal government, by reference to the treatment accorded to Japan in such territory, state or province.

(d) In the application of this Article, a discriminatory measure shall not be considered to derogate from the grant of national or most-favored-nation treatment, as the case may be, if such measure is based on an exception customarily provided for in the commercial treaties of the party applying it, or on the need to safeguard that party's external financial position or balance of payments (except in respect to shipping and navigation), or on the need to maintain its essential security interests, and provided such measure is proportionate to the circumstances and not applied in an arbitrary or unreasonable manner.

(e) Japan's obligations under this Article shall not be affected by the exercise of any Allied rights under Article 14 of the present Treaty; nor shall the provisions of this Article be understood as limiting the undertakings assumed by Japan by virtue of Article 15 of the Treaty.

#### Article 13.

(a) Japan will enter into negotiations with any of the Allied Powers, promptly upon the request of such Power or Powers, for the conclusion of bilateral or multilateral agreements relating to international civil air transport.

(b) Pending the conclusion of such agreement or agreements, Japan will, during a period of four years from the first coming into force of the present Treaty, extend to such Power treatment not less favorable with respect to air-traffic rights and privileges than those exercised by any such Powers at the date of such coming into force, and will accord complete equality of opportunity in respect to the operation and development of air services.

(c) Pending its becoming a party to the Convention on International Civil Aviation in accordance with Article 93 thereof, Japan will give effect to the provisions of that Convention applicable to the international navigation of aircraft, and will give effect to the standards, practices and procedures adopted as annexes to the Convention in accordance with the terms of the Convention.

### CHAPTER V: CLAIMS AND PROPERTY

#### Article 14.

(a) It is recognized that Japan should pay reparations to the Allied Powers for the damage and suffering caused by it during the war. Nevertheless it is also recognized that the resources of Japan are not presently sufficient, if it is to maintain a viable economy, to make complete reparation for all such damage and suffering and at the same time meet its other obligations.

Therefore,

1. Japan will promptly enter into negotiations with Allied Powers so desiring, whose present territories were occupied by Japanese forces and damaged by Japan, with a view to assisting to compensate those countries for the cost of repairing the damage done, by making available the services of the Japanese people in production, salvaging and other work for the Allied Powers in question. Such arrangements shall avoid the imposition of additional liabilities on other Allied Powers, and, where the manufacturing of raw materials is called for, they shall be supplied by the Allied Powers in question, so as not to throw any foreign exchange burden upon Japan.

2. (I) Subject to the provisions of Subparagraph (II) below, each of the Allied Powers shall have the right to seize, retain, liquidate or otherwise dispose of all property, rights and interests of

- (a) Japan and of Japanese nationals
- (b) persons acting for or on behalf of Japan or Japanese nationals, and
- (c) entities owned or controlled by Japan or Japanese nationals

which on the first coming into force of the present Treaty were subject to its jurisdiction. The property, rights and interests specified in this Subparagraph shall include those now blocked, vested or in the possession or under the control of enemy property authorities of the Allied Powers, which belonged to, or were held or managed on behalf of, any of the persons or entities mentioned in (a), (b) or (c) above at the time such assets came under the controls of such authorities.

(II) The following shall be excepted from the rights specified in Sub-paragraph (I) above:

- (i) property of Japanese natural persons who during the war resided with the permission of the Government concerned in the territory of one of the Allied Powers, other than territory occupied by Japan, except property subjected to restrictions during the war and not released from such restrictions as of the date of the first coming into force of the present Treaty;
- (ii) all real property, furniture and fixtures owned by the Government of Japan and used for diplomatic or consular purposes, and all personal furniture and furnishings and other private property not of an investment nature which was normally necessary for the carrying out of diplomatic and consular functions, owned by Japanese diplomatic and consular personnel;
- (iii) property belonging to religious bodies or private charitable institutions and used exclusively for religious or charitable

purposes;

- (iv) property, rights and interests which have come within its jurisdiction in consequence of the resumption of trade and financial relations subsequent to September 2, 1945, between the country concerned and Japan, except such as have resulted from transactions contrary to the laws of the Allied Power concerned;
- (v) obligations of Japan or Japanese nationals, any right, title or interest in tangible property located in Japan, interests in enterprises organized under the laws of Japan, or any paper evidence thereof; provided that this exception shall only apply to obligations of Japan and its nationals expressed in Japanese currency.

(III) Property referred to in exceptions (i) through (v) above shall be returned subject to reasonable expenses for its preservation and administration. If any such property has been liquidated the proceeds shall be returned instead.

(IV) The right to seize, retain, liquidate or otherwise dispose of property as provided in Subparagraph (I) above shall be exercised in accordance with the laws of the Allied Power concerned, and the owner shall have only such rights as may be given him by those laws.

(V) The Allied Powers agree to deal with Japanese trademarks and literary and artistic property rights on a basis as favorable to Japan as circumstances ruling in each country will permit.

(b) Except as otherwise provided in the present Treaty, the Allied Powers waive all reparations claims of the Allied Powers, other claims of the Allied Powers and their nationals arising out of any actions taken by Japan and its nationals in the course of the prosecution of the war, and



claims of the Allied Powers for direct military costs of occupation.

Article 15.

(a) Upon application made within nine months of the coming into force of the present Treaty between Japan and the Allied Power concerned, Japan will, within six months of the date of such application, return the property, tangible and intangible, and all rights or interests of any kind in Japan of each Allied Power and its nationals which was within Japan at any time between December 7, 1941, and September 2, 1945, unless the owner has freely disposed thereof without duress or fraud. Such property shall be returned free of all encumbrances and charges to which it may have become subject because of the war, and without any charges for its return. Property whose return is not applied for by or on behalf of the owner or by his Government within the prescribed period may be disposed of by the Japanese Government as it may determine. In cases where such property was within Japan on December 7, 1941, and cannot be returned, or has suffered injury or damage as a result of the war, compensation will be made on terms not less favorable than the terms provided in the draft Allied Powers Property Compensation Law approved by the Japanese Cabinet on July 13, 1951.

(b) With respect to industrial property rights impaired during the war, Japan will continue to accord to the Allied Powers and their nationals benefits no less than those heretofore accorded by Cabinet Orders No. 309 effective September 1, 1949, No.12 effective January 28, 1950, and No. 9 effective February 1, 1950, all as now amended, provided such nationals have applied for such benefits within the time limits prescribed therein.

(c) (i) Japan acknowledges that the literary and artistic property rights which existed in Japan on December 6, 1941, in respect to the published and unpublished works of the Allied Powers and their nationals

have continued in force since that date, and recognizes those rights which have arisen, or but for the war would have arisen, in Japan since that date, by the operation of any conventions and agreements to which Japan was a party on that date, irrespective of whether or not such conventions or agreements were abrogated or suspended upon or since the outbreak of war by the domestic law of Japan or of the Allied Power concerned.

(ii) Without the need for application by the proprietor of the right and without the payment of any fee or compliance with any other formality, the period from December 7, 1941, until the coming into force of the present Treaty between Japan and the Allied Power concerned shall be excluded from the running of the normal term of such rights; and such period, with an additional period of 6 months, shall be excluded from the time within which a literary work must be translated into Japanese in order to obtain translating rights in Japan.

Article 16.

As an expression of its desire to indemnify those members of the armed forces of the Allied Powers who suffered undue hardships while prisoners of war of Japan, Japan will transfer its assets and those of its nationals in countries which were neutral during the war, or which were at war with any of the Allied Powers, or at its option the equivalent of such assets, to the International Committee of the Red Cross which shall liquidate such assets and distribute the resultant fund to appropriate national agencies for the benefit of former prisoners of war and their families on such basis as it may determine to be equitable. The categories of assets described in Article 14 (a) 2 (II) (ii) through (v) of the present Treaty shall be excepted from transfer, as well as assets of Japanese natural persons not residents of Japan on the first coming into force of the Treaty. It is equally understood that the transfer provision of this Article has no application to the 19,770 shares in

the Bank for International Settlements presently owned by Japanese financial institutions.

Article 17.

(a) Upon the request of any of the Allied Powers, the Japanese Government shall review and revise in conformity with international law any decision or order of the Japanese Prize Courts in cases involving ownership rights of nationals of that Allied Power and shall supply copies of all documents comprising the records of these cases, including the decisions taken and orders issued. In any case in which such review or revision shows that restoration is due, the provisions of Article 15 shall apply to the property concerned.

(b) The Japanese Government shall take the necessary measures to enable nationals of any of the Allied Powers at any time within one year from the coming into force of the present Treaty between Japan and the Allied Power concerned to submit to the appropriate Japanese authorities for review any judgment given by a Japanese court between December 7, 1941, and such coming into force in any proceedings in which any such national was unable to make adequate presentation of his case either as plaintiff or defendant. The Japanese Government shall provide that, where the national has suffered injury by reason of any such judgment, he shall be restored in the position in which he was before the judgment was given or shall be afforded such relief as may be just and equitable in the circumstances.

Article 18.

(a) It is recognized that the intervention of the state of war has not affected the obligation to pay pecuniary debts arising out of obligations and contracts (including those in respect of bonds) which existed and rights which were acquired before the existence of a state of war, and which are

due by the Government or nationals of Japan to the Government or nationals of one of the Allied Powers, or are due by the Government or nationals of one of the Allied Powers to the Government or nationals of Japan. The intervention of a state of war shall equally not be regarded as affecting the obligation to consider on their merits claims for loss or damage to property of <sup>(or of)</sup> for personal injury or death which arose before the existence of a state of war, and which may be presented or re-presented by the Government of one of the Allied Powers to the Government of Japan, or by the Government of Japan to any of the Governments of the Allied Powers. The provisions of this paragraph are without prejudice to the rights conferred by Article 14.

(b) Japan affirms its liability for the prewar external debt of the Japanese State and for debts of corporate bodies subsequently declared to be liabilities of the Japanese State, and expresses its intention to enter into negotiations at an early date with its creditors with respect to the resumption of payments on those debts; to encourage negotiations in respect to other prewar claims and obligations; and to facilitate the transfer of sums accordingly.

Article 19.

(a) Japan waives all claims of Japan and its nationals against the Allied Powers and their nationals arising out of the war or out of actions taken because of the existence of a state of war, and waives all claims arising from the presence, operations or actions of forces or authorities of any of the Allied Powers in Japanese territory prior to the coming into force of the present Treaty.

(b) The foregoing waiver includes any claims arising out of actions taken by any of the Allied Powers with respect to Japanese ships between September 1, 1939, and the coming into force of the present Treaty, as well

as any claims and debts arising in respect to Japanese prisoners of war and civilian internees in the hands of the Allied Powers, but does not include Japanese claims specifically recognized in the laws of any Allied Power enacted since September 2, 1945.

(c) Subject to reciprocal renunciation, the Japanese Government also renounces all claims (including debts) against Germany and German nationals on behalf of the Japanese Government and Japanese nationals, including intergovernmental claims and claims for loss or damage sustained during the war, but excepting (a) claims in respect of contracts entered into and rights acquired before September 1, 1939, and (b) claims arising out of trade and financial relations between Japan and Germany after September 2, 1945. Such renunciation shall not prejudice actions taken in accordance with Articles 16 and 20 of the present Treaty.

(d) Japan recognizes the validity of all acts and omissions done during the period of occupation under or in consequence of directives of the occupation authorities or authorized by Japanese law at that time, and will take no action subjecting Allied nationals to civil or criminal liability arising out of such acts or omissions.

#### Article 20.

Japan will take all necessary measures to ensure such disposition of German assets in Japan as has been or may be determined by those Powers entitled under the Protocol of the proceedings of the Berlin Conference of 1945 to dispose of those assets, and pending the final disposition of such assets will be responsible for the conservation and administration thereof.

#### Article 21.

Notwithstanding the provisions of Article 25 of the present Treaty, China shall be entitled to the benefits of Articles 10 and 14 (a) 2; and Korea to the benefits of Articles 2, 4, 9 and 12 of the present Treaty.

### CHAPTER VI: SETTLEMENT OF DISPUTES

#### Article 22.

If in the opinion of any party to the present Treaty there has arisen a dispute concerning the interpretation or execution of the Treaty, which is not settled by reference to a special claims tribunal or by other agreed means, the dispute shall, at the request of any party thereto, be referred for decision to the International Court of Justice. Japan and those Allied Powers which are not already parties to the Statute of the International Court of Justice will deposit with the Registrar of the Court, at the time of their respective ratifications of the present Treaty, and in conformity with the resolution of the United Nations Security Council, dated October 15, 1946, a general declaration accepting the jurisdiction, without special agreement, of the Court generally in respect to all disputes of the character referred to in this Article.

### CHAPTER VII: FINAL CLAUSES

#### Article 23.

(a) The present Treaty shall be ratified by the States which sign it, including Japan, and will come into force for all the States which have then ratified it, when instruments of ratification have been deposited by Japan and by a majority, including the United States of America as the principal occupying Power, of the following States, [here would appear the names of such of the following States as are signatories to the present Treaty] namely Australia, Burma, Canada, Ceylon, France, India, Indonesia, the Netherlands, New Zealand, Pakistan, the Philippines, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, and the United States of America. The present Treaty shall come into force for each State which subsequently ratifies it, on the date of the deposit of its instrument of ratification.

(b) If the Treaty has not come into force within nine months after the date of the deposit of Japan's ratification, any State which has ratified it may bring the Treaty into force between itself and Japan by a notification to that effect given to the Governments of Japan and of the United States of America not later than three years after the date of deposit of Japan's ratification.

Articles 24.

All instruments of ratification shall be deposited with the Government of the United States of America which will notify all the signatory States of each such deposit, of the date of the coming into force of the Treaty under Paragraph (a) of Article 23, and of any notifications made under Paragraph (b) of Article 23.

Article 25.

For the purposes of the present Treaty the Allied Powers shall be the States at war with Japan, or any State which previously formed a part of the territory of a State named in Article 23, provided that in each case the State concerned has signed and ratified the Treaty. Subject to the provisions of Article 21, the present Treaty shall not confer any rights, titles or benefits on any State which is not an Allied Power as herein defined; nor shall any right, title or interest of Japan be deemed to be diminished or prejudiced by any provision of the Treaty in favor of a State which is not an Allied Power as so defined.

Article 26.

Japan will be prepared to conclude with any State which signed or adhered to the United Nations Declaration of January 1, 1942, and which is at war with Japan or with any State which previously formed a part of the territory of a State named in Article 23, which is not a signatory of the present Treaty, a bilateral Treaty of Peace on the same or substantially the

same terms as are provided for in the present Treaty, but this obligation on the part of Japan will expire three years after the first coming into force of the present Treaty. Should Japan make a peace settlement or war claims settlement with any State granting that State greater advantages than those provided by the present Treaty, those same advantages shall be extended to the parties to the present Treaty.

Article 27.

The present Treaty shall be deposited in the archives of the Government of the United States of America which shall furnish each signatory State with a certified copy thereof and notify each such State of the date of the coming into force of the Treaty under Paragraph (a) of Article 23 of the present Treaty.

IN FAITH WHEREOF the undersigned Plenipotentiaries have signed the present Treaty.

Done at San Francisco this \_\_\_\_\_ day of \_\_\_\_\_ 1951, in the English, French, Russian [if the Soviet Union is signatory] and Spanish languages, all being equally authentic, and in the Japanese language.

DECLARATION

With respect to the Treaty of Peace signed this day, the Government of Japan makes the following Declaration:

1. Except as otherwise provided in the said Treaty of Peace, Japan recognizes the full force of all presently effective multilateral international instruments to which Japan was a party on September 1, 1939, and declares that it will, on the first coming into force of the said Treaty, resume all its rights and obligations under those instruments. Where, however, participation in any instrument involves membership in an international organization of which Japan ceased to be a member on or after September

1, 1939, the provisions of the present paragraph shall be dependent on Japan's readmission to membership in the organization concerned.

2. It is the intention of the Japanese Government formally to accede to the following international instruments within the shortest practicable time, not to exceed one year from the first coming into force of the Treaty of Peace:

- (1) Protocol opened for signature at Lake Success on December 11, 1946 amending the agreements, conventions, and protocols on narcotic drugs of January 23, 1912, February 11, 1925, February 19, 1925, July 13, 1931, November 27, 1931, and June 26, 1936;
- (2) Protocol opened for signature at Paris on November 19, 1948, bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs, as amended by the Protocol signed at Lake Success on December 11, 1946;
- (3) International Convention on the Execution of Foreign Arbitral Awards signed at Geneva on September 26, 1927;
- (4) International Convention relating to Economic Statistics with Protocol signed at Geneva on December 14, 1928 and Protocol amending the International Convention of 1928 relating to Economic Statistics signed at Paris on December 9, 1948;
- (5) International Convention relating to the simplification of Customs Formalities, with Protocol of signature, signed at Geneva on November 3, 1923;
- (6) Agreement of Madrid of April 14, 1891, for the prevention of false indications of origin of goods, as revised at Washington on June 2, 1911, at The Hague on November 6, 1925, and at London on June 2, 1934;

- (7) Convention for the unification of certain rules relating to international transportation by air, and additional Protocol, signed at Warsaw on October 12, 1929;
- (8) Convention on safety of life at sea opened for signature at London <sup>(on 27)</sup> <sup>(10 7)</sup> June 19, 1948;
- (9) Geneva conventions of August 12, 1949 for the protection of war victims.

3. It is equally the intention of the Japanese Government, within six months of the first coming into force of the Treaty of Peace, to apply for Japan's admission to participation in (a) the Convention on International Civil Aviation opened for signature at Chicago on December 7, 1944, and as soon as Japan is itself a party to that Convention, to accept the International Air Services Transit Agreement also opened for signature at Chicago on December 7, 1944, and (b) the Convention of the World Meteorological Organization opened for signature at Washington on October 11, 1947.

#### DECLARATION

With respect to the Treaty of Peace signed this day, the Government of Japan makes the following Declaration:

Japan will recognize any Commission, Delegation or other Organization authorized by any of the Allied Powers to identify, list, maintain or regulate its war graves, cemeteries and memorials in Japanese territory; will facilitate the work of such Organizations, and will, in respect of the above mentioned war graves, cemeteries and memorials, enter into negotiations for the conclusion of such agreements as may prove necessary with the Allied Power concerned, or with any Commission, Delegation or other Organization authorized by it.

Japan trusts that the Allied Powers will enter into discussions with the Japanese Government with a view to arrangements being made for the maintenance of any Japanese war graves or cemeteries which may exist in the territories of the Allied Powers and which it is desired to preserve.

PROTOCOL  
to  
Treaty of Peace with Japan

PROTOCOL

The Undersigned, duly authorised to that effect, have agreed on the following provisions for regulating the question of Contracts, Periods of Prescription and Negotiable Instruments, and the question of Contracts of Insurance, upon the restoration of peace with Japan: —

Contracts, Prescription and  
Negotiable Instruments

A. — Contracts

1. Any contract which required for its execution intercourse between any of the parties thereto having become enemies as defined in part F, shall, subject to the exceptions set out in paragraphs 2 and 3 below, be deemed to have been dissolved as from the time when any of the parties thereto became enemies. Such dissolution, however, is without prejudice to the provisions of Articles 15 and 18 of the Treaty of Peace signed this day, nor shall it relieve any party to the contract from the obligation to repay amounts received as advances or as payments on account and in respect of which such party has not rendered performance in return.

2. Notwithstanding the provisions of paragraph 1 above, there shall be excepted from dissolution and, without prejudice to the rights contained

in Article 14 of the Treaty of Peace signed this day, there shall remain in force such parts of any contract as are severable and did not require for their execution intercourse between any of the parties thereto, having become enemies as defined in part E. Where the provisions of any contract are not so severable, the contract shall be deemed to have been dissolved in its entirety. The foregoing shall be subject to the application of domestic laws, orders or regulations made by a Signatory hereto which is an Allied Power under the said Treaty of Peace and having jurisdiction over the contract or over any of the parties thereto and shall be subject to the terms of the contract.

3. Nothing in part A shall be deemed to invalidate transactions lawfully carried out in accordance with a contract between enemies if they have been carried out with the authorisation of the Government concerned being the Government of a Signatory hereto which is an Allied Power under the said Treaty of Peace.

4. Notwithstanding the foregoing provisions, contracts of insurance and reinsurance shall be dealt with in accordance with the provisions of part D of the present Protocol.

B. — Periods of Prescription

1. All periods of prescription or limitation of right of action or of the right to take conservatory measures in respect of relations affecting persons or property, involving nationals of the Signatories hereto who, by reason of the state of war, were unable to take judicial action or to comply with the formalities necessary to safeguard their rights, irrespective of whether these periods commenced before or after the outbreak of war, shall be regarded as having been suspended, for the duration of the war, in Japanese territory on the one hand, and on the other hand in the territory of the Signatories which grant to Japan, on a reciprocal basis, the benefit of the provisions of

this paragraph. These periods shall begin to run again on the coming into force of the Treaty of Peace signed this day. The provisions of this paragraph shall be applicable in regard to the periods fixed for the presentation of interest or dividend coupons or for the presentation for payment of securities drawn for repayment or repayable on any other ground, provided that in respect of such coupons or securities the period shall begin to run again on the date when money becomes available for payments to the holder of the coupon or security.

2. Where, on account of failure to perform any act or to comply with any formality during the war, measures of execution have been taken in Japanese territory to the prejudice of a national of one of the Signatories being an Allied Power under the said Treaty of Peace, the Japanese Government shall restore the rights which have been detrimentally affected. If such restoration is impossible or would be inequitable the Japanese Government shall provide that the national of the Signatory concerned shall be afforded such relief as may be just and equitable in the circumstances.

#### C. — Negotiable Instruments

1. As between enemies, no negotiable instrument made before the war shall be deemed to have become invalid by reason only of failure within the required time to present the instrument for acceptance or payment, or to give notice of non-acceptance or non-payment to drawers or endorsers, or to protest the instrument, nor by reason of failure to complete any formality during the war.

2. Where the period within which a negotiable instrument should have been presented for acceptance or for payment, or within which notice of non-acceptance or non-payment should have been given to the drawer or endorser, or within which the instrument should have been protested, has elapsed during the war, and the party who should have presented or

protested the instrument or have given notice of non-acceptance or non-payment has failed to do so during the war, a period of not less than three months from the coming into force of the Treaty of Peace signed this day shall be allowed within which presentation, notice of non-acceptance or non-payment, or protest may be made.

3. If a person has, either before or during the war, incurred obligations under a negotiable instrument in consequence of an undertaking given to him by a person who has subsequently become an enemy, the latter shall remain liable to indemnify the former in respect of these obligations, notwithstanding the outbreak of war.

#### D. — Insurance and Reinsurance Contracts (other than Life) which had not terminated before the date at which the parties became enemies

1. Contracts of Insurance shall be deemed not to have been dissolved by the fact of the parties becoming enemies, provided that the risk had attached before the date at which the parties became enemies, and the Insured had paid, before that date, all moneys owed by way of premium or consideration for effecting or keeping effective the Insurance in accordance with the Contract.

2. Contracts of Insurance other than those remaining in force under the preceding clause shall be deemed not to have come into existence, and any moneys paid thereunder shall be returnable.

3. Treaties and other Contracts of Reinsurance, save as hereinafter expressly provided, shall be deemed to have been determined as at the date the parties became enemies, and all cessions thereunder shall be cancelled with effect from that date. Provided that cessions in respect of voyage policies which had attached under a Treaty of Marine Reinsurance shall be deemed to have remained in full effect until their natural expiry in

accordance with the terms and conditions on which the risk had been ceded.

4. Contracts of Facultative Reinsurance, where the risk had attached and all moneys owed by way of premium or consideration for effecting or keeping effective the Reinsurance had been paid or set off in the customary manner, shall unless the reinsurance contract otherwise provides be deemed to have remained in full effect until the date at which the parties became enemies and to have been determined on that date.

Provided that such Facultative Reinsurances in respect of voyage policies shall be deemed to have remained in full effect until their natural expiry in accordance with the terms and conditions on which the risk had been ceded.

Provided further that Facultative Reinsurances in respect of a Contract of Insurance remaining in force under clause 1 above shall be deemed to have remained in full effect until the expiry of the original Insurance.

5. Contracts of Facultative Reinsurance other than those dealt with in the preceding clause, and all Contracts of Excess of Loss Reinsurance on an "Excess of Loss Ratio" basis and of Hail Reinsurance (whether facultative or not), shall be deemed not to have come into existence, and any moneys paid thereunder shall be returnable.

6. Unless the Treaty or other Contract of Reinsurance otherwise provides, premiums shall be adjusted on a pro rata temporis basis.

7. Contracts of Insurance or Reinsurance (including cessions under Treaties of Reinsurance) shall be deemed not to cover losses or claims caused by belligerent action by either Power of which any of the parties was a national or by the Allies or Associates of such Power.

8. Where an insurance has been transferred during the war from the original to another Insurer, or has been wholly reinsured, the transfer or

reinsurance shall, whether effected voluntarily or by administrative or legislative action, be recognised and the liability of the original Insurer shall be deemed to have ceased as from the date of the transfer or reinsurance.

9. Where there was more than one Treaty or other Contract of Reinsurance between the same two parties, there shall be an adjustment of accounts between them, and in order to establish a resulting balance there shall be brought into the accounts all balances (which shall include an agreed reserve for losses still outstanding) and all moneys which may be due from one party to the other under all such contracts or which may be returnable by virtue of any of the foregoing provisions.

10. No interest shall be payable by any of the parties for any delay which, owing to the parties having become enemies, has occurred or may occur in the settlement of premiums or claims or balances of account.

11. Nothing in this part of the present Protocol shall in any way prejudice or affect the rights given by Article 14 of the Treaty of Peace signed this day.

#### E. — Life Insurance Contracts

Where an insurance has been transferred during the war from the original to another insurer or has been wholly re-insured, the transfer of <sup>(or re-)</sup> reinsurance shall, if effected at the instance of the Japanese administrative or legislative authorities, be recognized, and the liability of the original <sup>(or re-)</sup> insurer shall be deemed to have ceased as from the date of the transfer of reinsurance.

#### F. — Special Provision

For the purposes of this Protocol, natural or juridical persons shall be regarded as enemies from the date when trading between them shall have become unlawful under laws, orders, or regulations to which such persons or the contracts were subject.



### Final Article

The present Protocol is open for signature by Japan and any State signatory to the Treaty of Peace with Japan signed this day, and shall, in respect of the matters with which it deals, govern the relations between Japan and each of the other States signatory to the present Protocol as from the date when Japan and that State are both bound by the said Treaty of Peace.

The present Protocol shall be deposited in the archives of the Government of the United States of America which shall furnish each signatory State with a certified copy thereof.

IN FAITH WHEREOF the undersigned plenipotentiaries have signed the present Protocol.

Done at the City of San Francisco this \_\_\_\_\_ day of \_\_\_\_\_ 1951, in the English, French, Russian [if the Soviet Union is signatory] and Spanish languages, all being equally authentic, and in the Japanese language.

144 昭和 26 年 8 月 16 日

### 平和条約および宣言の最終案公表に際しての発表文

FOR RELEASE AT 0700 HOURS 16 AUGUST 1951

Ambassador William J. Sebald, United States Political Adviser for Japan, and Minister George L. Clutton, Acting Chief of the United Kingdom Liaison Mission, today jointly released the final texts of the Japanese Peace Treaty and two Declarations. These texts incorporate revisions to the draft texts made public on 20 July 1951. The text of the

(accompanying 2)

accompany Protocol will be released separately.

The final text has already been made available to the Japanese Government.

145 昭和 26 年 8 月 17 日<sup>†1</sup>

### 条文解釈に関するわが方覚書(4)への米国回答

August 17, 1951

In reference to the Foreign Office's interpretation (4) of August 6, 1951:

1. Article 7 (a). It cannot be said categorically that treaties which are not notified will be regarded as abrogated as from December 7, 1941. Those treaties which were "political" in character or which called for continued intercourse might be considered abrogated as from the time of the outbreak of war. However, treaties or parts thereof which do not fall generally into such categories (for example, the right to inherit real or personal property in the other country) are ordinarily not considered to be abrogated by the outbreak of war but rather to be suspended in their operation at the time of outbreak of war. In regard to this latter category the abrogation provision of Article 7 (a) would ordinarily take effect as of the coming into force of the treaty between the Power (concerned 2) and Japan.

2. Article 8 (a). Subparagraph c of the Foreign Office's interpretation should be altered to read as follows:

"Declaration regarding defeat of Germany as assumption of

<sup>†1</sup> 同日午前、フィン書記官より藤崎条約課長が受領。

supreme authority by the Allied Powers, July 5, 1945.” Recognition of this instrument would mean that the Japanese Government accepts the Allied position in general and the consequent right of the Allies to take any action in the course of Occupation which may affect Japanese interests. It is not considered necessary for Japan to recognize the Agreement of 1949 referred to in the Foreign Office’s interpretation since this Agreement is specialized in content and local in application. There should also be added to the three Agreements already listed, the Four Power Control Agreement (United States-United Kingdom-U.S.S.R-France) regarding Austria of 1946.

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146 昭和 26 年 8 月 20 日^{†1}

日米安全保障条約案の最終修正に関する米国覚書

付 記 昭和 26 年 8 月 25 日^{†2} 日米安全保障条約の最終案(日本文)

August 20, 1951

1. Title is now “Security Treaty Between the United States of America and Japan.”
2. The term “United States” should be changed throughout to read “United States of America.”
3. Text of Article 5 of the Security Treaty now reads “This treaty shall be ratified by the United States of America and Japan and will come into force when the instruments of ratification thereof have been exchanged by them at Washington.”

^{†1} 同日午前、フィン書記官より藤崎条約課長が受領。

^{†2} 同日、米国側へ交付。

4. Final clause has been added as follows: “In witness whereof the undersigned plenipotentiaries have signed this treaty. Done in duplicate at the city of San Francisco, in the English and Japanese languages, this blank day of blank 1951.”

(付 記)

極秘

日本国とアメリカ合衆国との間の安全保障条約

日本国は、本日連合国との平和条約に署名した。日本国は、武装を解除されているので、平和条約の効力発生の際において固有の自衛権を行使する有効な手段をもたない。

無責任な軍国主義がまだ世界から駆逐されていないので、前記の状態にある日本国には危険がある。よつて、日本国は、平和条約が日本国とアメリカ合衆国の間に効力を生ずると同時に効力を生ずべきアメリカ合衆国との安全保障条約を希望する。

平和条約は、日本国が主権国として集団的安全保障取極を締結する権利を有することを承認し、さらに、国際連合憲章は、すべての国が個別的及び集団的自衛の固有の権利を有することを承認している。

これらの権利の行使として、日本国は、その防衛のための暫定措置として、日本国に対する武力攻撃を阻止するため日本国内及びその附近にアメリカ合衆国がその軍隊を維持することを希望する。

アメリカ合衆国は、平和と安全のために、現在、若干の自国軍隊を日本国内及びその附近に維持する意思がある。但し、アメリカ合衆国は、日本国が、攻撃的な脅威となり又は国際連合憲章の目的及び原則に従つて平和と安全を増進すること以外に用いられべき軍備をもつことを常に避けつつ、直接及び間接の侵略に対する自国の防衛のため漸増的に自ら責任を負うことを期待する。

よつて、両国は、次のとおり協定した。

第一条 平和条約及びこの条約の効力発生と同時に、アメリカ合衆国の陸軍、空軍及び海軍を日本国内及びその附近に配備する権利を、日本国は、許与し、アメリカ合衆国は、これを受諾する。この軍隊は、極東における国際の平和と安全の維持に寄与し、並びに、一又は二以上の外部の国による教唆又は干渉によつて引き起された日本国における大規模の内乱及び騒じょうを鎮圧するため日本国政府の明示の要請に応じて与えられる援助を含めて、外部からの武力攻撃に対する日本国の安全に寄与するために使用することができる。

第二条 第一条に掲げる権利が行使される間は、日本国は、アメリカ合衆国の事前の同意なくして、基地、基地における若しくは基地に関する権利、権力若しくは権能、駐兵若しくは演習の権利又は陸軍、空軍若しくは海軍の通過の権利を第三国に許与しない。

第三条 アメリカ合衆国の軍隊の日本国内及びその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決定する。

第四条 この条約は、国際連合又はその他による日本区域における国際の平和と安全の維持のため充分な定をする国際連合の措置又はこれに代る個別的若しくは集団的の安全保障措置が効力を生じたとき日本国及びアメリカ合衆国の政府が認めた時はいつでも効力を失うものとする。

第五条 この条約は、日本国及びアメリカ合衆国によつて批准されなければならない。この条約は、批准書が両国によつてワシントンで交換された時に効力を生ずる。

以上の証拠として、下名の全権委員は、この条約に署名した。

千九百五十一年 月 日にサン・フランシスコ市で、日本語及び英語により、本書二通を作成した。

147 昭和26年8月21日^{t1}

条文解釈に関するわが方覚書(5)

Interpretation (5)

21 August, 1951

1. Article 8 (a), the second sentence

So far as we are aware of, “the arrangements made for terminating the former League of Nations and Permanent Court of International Justice” are as follows:

(1) Resolution for the Dissolution of the League of Nations.

Adopted by the Assembly of the League of Nations on April 18, 1946.

(2) Resolution for the Dissolution of the Permanent Court of International Justice. (French Text)

Adopted by the Assembly of the League of Nations on April 18, 1946.

(3) Resolution for the Transfer of Functions, Activities and Assets of the League of Nations.

Adopted by the General Assembly of the United Nations on February 12, 1946.

(4) Resolution for the Transfer of the Assets of the League of Nations. Adopted by the General Assembly of the United Nations on December 7, 1946.

Annex 1 : Agreement concerning the execution of the transfer to the United Nations of certain Assets of the League of Nations,

^{t1} 同日、藤崎条約課長よりフィン書記官へ交付。

signed on 19 July 1946.

Annex 2 : Protocol concerning the execution of various operations in the transfer to the United Nations of certain Assets of the League of Nations, signed ^(on 22) 1 August 1946.

- (5) Agreement between the United Nations and the Carnegie Foundation concerning the use of the premises of the Peace Palace of the Hague, and concerning the repayment of loans.

Approved by the General Assembly of the United Nations on December 11, 1946.

- (6) Resolution for the Transfer to the United Nations of certain non-political Functions and Activities of the League of Nations, other than those pursuant to International Agreements.

Adopted by the General Assembly of the United Nations on December 14, 1946.

- (7) Resolution for the Transfer of the assets of the League of Nations. Adopted by the General Assembly of the United Nations on December 11, 1948.

Annex A : List prepared by the Secretary-General of the League of Nations showing credits of United Nations Members arising from the transfer of assets of the League of Nations.

Annex B : Statement showing the credits established by the League of Nations and the adjustment required to make credits available to nine additional participants.

However, (1) seems rather irrelevant because Japan had ^(withdrawn *) withdrew from the League of Nations prior to their dissolution. The instruments from (3) through (6) are all related to such dissolution. Only (2) seems to have significance legally and (7) seems to have some significance financially.

Under the provisions of Article 8 (a), the second sentence,

- (1) Does Japan accept only Nos. 2 and 7; or
- (2) Does Japan accept all the instruments listed above;
- (3) Is there any other instrument to be listed here?

2. Article 12 ^{(b) *} (6) (1) (ii)

It is provided that Japan will, during a period of four years from the first coming into force of the Treaty, accord to each of the Allied Powers and its nationals, national treatment with respect to all matters pertaining to rights to property (tangible and intangible). However Japan shall be obliged, in accordance with paragraph (c) of the same article, to accord this national treatment only to the extent that the Allied Power concerned accords Japan national treatment in respect of the same rights to property. These rights to property would include copyrights.

Should the above provision of the Treaty of Peace be considered as an "international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto" provided in the last sentence of subparagraph (b), paragraph 1 of Section 9 of United States Copyright Law (Act of July 30, 1947 as amended, Title 17)? If so, the United States will be able to accord by a Presidential Proclamation under the above Section 9 the national treatment in respect to copyright to Japanese nationals. And when this treatment is accorded to Japanese nationals, Japan will be obliged to accord to the United States nationals, during the above period of four years, national treatment in respect to copyrights.

3. Article 14 (a) 2.

It is considered that the public bonds issued by foreign governments and shares of foreign companies and their debentures which are owned by Japanese nationals in Japan, if there is any, do not fall under any of the provisions of the Peace Treaty. They are deemed as movable property in

Japan, because it is a principle common to the domestic laws of all countries that 'obligation to bearer' be regarded as a kind of movable property.

4. Article 19 (d)

Is this paragraph to be interpreted as follows?

Japan shall not question, after the coming into force of the peace treaty, the validity of all acts or omissions done by Allied nationals or Japanese during the period of occupation under or in consequence of directives of the occupation authorities or in accordance with Japanese law. Also, Japan shall not subject Allied nationals to civil or criminal liabilities on account of such acts or omissions. The 'omissions' here refer, for instance, to such fact that Allied nationals have been exempted from taxation or application of police regulations by virtue of a kind of extraterritorial right enjoyed by them under occupation directives.

Illustration by examples of all the categories of the cases to which this provision is applicable is requested.

148 昭和26年8月23日

平和条約案第12条(d)の条文解釈について

極秘

平和条約第十二條(d)の（海運及び航海に関するものを除く。）の意味について。

二六、八、二三 藤崎

平和条約第十二條(d)の（海運及び航海に関するものを除く。）は、「国際收支」だけにかゝるものか、又は「対外的財政状態」にもかゝるものか、訳文作成上確かめる必要があつたので、フィン書記官にきいて見たところ「われわれのメモランダムでは、はつきり両方にかかることが示されている」とのことであつた。

よつて、（海運及び航海に関するものを除く。）を「保護する必要に基くもの」の下にもつて来ることにした。こうすれば、両方にかかることになる外、「もの」は、前の「差別的措置」を受けることになり（原案では「国際收支」を受ける）、意味が變つて来る。しかし、この括弧書き挿入に関する会談の経緯にかんがみ、この方が正しい。

平和条約第15条(a)に関する紛争解決のための協定案

付 記 昭和 26 年 8 月 28 日^{†2} 上記協定案へのわが方意見

CONFIDENTIAL

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

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

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

^{†1} 同日、フィン書記官より受領。

^{†2} 同日午前、藤崎条約課長よりフィン書記官へ交付。

appointment.

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

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

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

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

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

(付 記)

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

28 August 1951

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

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

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

150 昭和 26 年 8 月 27 日^{†1}

吉田総理内奏資料

米英共同草案の原案と最終案との相違点

平和条約の米英共同草案として七月十三日にはじめて発表されたものと、八月十五日に最終案として発表されたものとの間には、左程本質的な相違はありません。めぼしい点を挙げますと、次のとおりであります。

第六条に、「日本国軍隊の各自の家庭への復帰に関する一九四五年七月二十六日のポッドム宣言の第九項の規定は、まだその実施が完了されていない限り、実行されるものとする」との一項が入りました。この未帰還同胞の問題については、政府としては、前々から、講和会議に際して連合国として引き続き関心をもつものであることを明らかにされたいと申し入れてあつた次第であります。

第十四条の賠償に関する規定に修正が加えられました。これは、フィリピン等の強い要求によるものであることは、申し上げるまでもありません。アメリカとしても、フィリピンを講和会議に参加させるためには、その要求を無下に断るわけに行かなかつた次第であろうと存じます。そういうわけで、表現の上では、日本に対してきつくなつた感がありますが、実質においては、前の案となんら変りなきものであることを、特にダレス特使から私に対して念をおして参つております。

次に、これは修正が行われたわけではありませんが、南方諸島の帰属の問題であります。この点については、前々からマッカーサー元帥はあきらめるようにいつていたのでありますが、政府としては、信託統治はやむを得ないとしても、そのわく内で、国籍上の地位とか本土との交通等について、できる限り従前に近い取扱いが行われるように要請して参つた次第であります。

^{†1} 同日、内奏。

先般の国会で、「国際平和と安全上の利益のために合衆国が行う戦略的管理を条件として、本土との交通、住民の国籍上の地位その他の事項について、これら諸島の住民の希望に添うために実際的な措置が案出されることを希望する余地」が残っていると申しましたが、これは、米国政府とも協議の上申したものであります。米国がこの南方諸島を管理するのは戦略的な目的に出るわけでありますから、それに支障を来さない範囲で、日本側の要望を実現するようにしようという趣旨であります。

日米安全保障条約

日米安全保障条約の案は、大体固まりました。前文と五箇条から成る簡単な内容のものであります。根本の趣旨は、日本には軍備がないからその自衛権を行使するための有効な手段がない、しかるに軍国主義はまだ世界から跡を絶っていない、そこで、日本としては、その国防のために米軍の駐とんを希望し、駐兵の権利を米国に与える、米国はこれを受諾するというにあります。この条約には、批准条項がつくことになっています。有効期間については、国際連合その他による有効な安全保障措置ができたとき日米両国政府が認める時までということになっています。細目の規定は、すべて政府間の行政協定に譲られておりますが、この方は、本年一月から二月にかけてダレス特使が来た時に相当具体的な話を致しましたが、その後は交渉が行われておりません。

サン・フランシスコ会議の議事日程

サン・フランシスコ会議の議事日程につきましては、政府は、まだ公式の通知に接しておりません。新聞報道によつて、米国国務省が八月十八日頃決定したと伝えられるところによりますれば、会議の場所は、サン・フランシスコ市のオペラ・ハウスでありまして、その次第は、^(見当らず)別添の表のとおりとなっております。そのうち主な事項を次に御説明申し上げます。

講和会議は、九月四日午後六時ないし六時四十五分頃（日本時間で九月五

日午前十一時ないし十一時四十五分頃）に開会され、この日にトルーマン米大統領の演説が行われます。

翌九月五日には、午前十時頃から正式の議長その他の役員を選挙が行われます。次いで議事日程が審議されます。これについて米英両国の全権からそれぞれ平和条約及び日本の二宣言と、議定書とにつきまして説明が行われます。

その後九月五日、六日、七日はいずれも各国全権の意見の開陳にあてられ、わが国の全権は、この最後に演説を行うことになる模様であります。

平和条約の署名調印は、この演説の終了後、九月八日に取り行われることになっております。なお同日午後には、日米安全保障協定の署名調印も取り行われると伝えられております。