Ⅲ　平和会議後の対米協議

33　昭和26年9月20日

日米行政協定案の国会説明ぶりに関する対米折衝

極秘

安全保障条約附属行政協定案に関する件

二六、九、二〇、藤崎

九月二十日午後、「サン・フランシスコ会議の解説」[†1]の安全保障条約に関する部分とむすびの部分に対する外交局の意見をききに、フィン書記官をたずねた。先方の修正意見は、ごく軽微のもので、別添(省略)のとおりである。

その際、附属協定の問題について雑談した。要旨次の通り。

フィン「安全保障条約は、国会で相当難航すると考えるか。」

藤崎「衆議院では、絶対多数の威力がものをいうだろう。しかし、参議院の方は、去就定まらざる緑風会のようなものあり、面倒だ。」

フィン「どういう点に困難があるか。」

藤崎「一番の困難は、条約があまり簡単で、行政協定がまだ決っていないことにあると思う。なにもいえないというのでは、なかなか満足すまい。」

フィン「これまでやっている通り、まだ決っていないのだからといって逃げたらどうか。」

藤崎「これまでは、何も案件がなかったのだから、それでも通せた。今度は、しかし、承認してもらわなければならない案件があるから、ギブ・アンド・テイクの関係にある。もっと具体的なことがわからなければ、承認、不承認の態度を決しかねるという言分が立つ。又、あまり政府が何もいわないと、輿論も反対派にくみすることも考えられる。従って、少くとも、どんなことが協定で決められるか位のことは、いわなければなるまい。どういうラインで答弁するかについては、貴方と十分コオーディネイトしたい。」

[†1] 第32文書。

フィン「そうしていただければ、ありがたい。もう余日もないことだから。」
藤崎「協定の方の係官がそのうち東京に来ることをエクスペクトしているか。」
フィン「いや、こちらから、大がかりの一団が近くワシントンに行くことになっている。協定については、ワシントン、東京、国務、国防の間で意見が一致しておらず、ビッグ・ファイトが行われようとしているところだ。その解決を待たなければならないが、それには少くとも一月はかかると見なければなるまい。」

34 昭和26年9月28日[†1]

条文解釈(日米安全保障条約)に関するわが方覚書(6)

Interpretation (6)

28 September, 1951

Re. Administrative Agreements under the Security Treaty

Questions which may be asked in the Diet and answers thereto:

1) Q. What sort of matters will be covered by administrative agreements?

A. "The conditions which shall govern the disposition of armed forces of the United States of America in and about Japan" will include:

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[†1] 同日、藤崎万里条約課長よりフィン書記官へ交付。

5

2) Q. Does the Government intend to submit any or all of these agreements to the Diet for its approval?

A. No. The authority to conclude these greements (agreements カ) is delegated to the Government by virtue of the provisions of Article 3 of the Treaty, and that is the reason that the term 'administrative agreements' is used.

3) Q. According to Article 73 of the Constitution, the Cabinet, in concluding treaties, is to obtain prior or, depending on circumstances, subsequent approval of the Diet. Article 3 of the Security Treaty cannot alter this. If that is what is intended by this article, this Treaty should be deemed unconstitutional.

A. These is no provision in the Constitution against concluding a treaty which delegates to the executive the authority of concluding agreements for the implementation of the said Treaty.

4) Q. There should be certain limit to such delegation of authority, as there is in domestic legislation. The rights of the people guaranteed by the Constitution such as access to the courts can not be denied or restricted by any law or treaty, nor the constitutional authority of the judiciary can be infringed. Therefore, no administrative agreement could provide for any kind of immunity of foreign troops.

A. Armed forces are accorded certain immunities in foreign land according to established laws of nations. And it is stated in Article 98 of the Constitution that 'the treaties concluded by Japan and established laws of nations shall be faithfully observed'. Therefore, so long as such immunities fall within the scope of 'established laws of nations,' they may well be provided for by administrative agreements.

5) Q. Article 83 of the Constitution says, "The power to administer national finances shall be exercised as the Diet shall determine." This

means that the Diet, even if it wished so, can not delegate this authority to the executive without violating constitutional provisions. Therefore, provisions concerning expenses for the garrison troops could not be made by administrative agreements which will not require Diet approval.

A. Such authority is also delegated by Article 3 of the Security Treaty. The Diet of course will have the authority to pass on the budget which will include such expenditures, if any. It may make changes in the amount of appropriation, but it cannot deny such appropriation as a whole or make such drastic changes that will make the treaty itself practically inoperative.

35 昭和26年9月28日[†1]

条文解釈に関するわが方覚書（7）

Interpretation (7)

28 September, 1951

Re. Peace Treaty

1. Article 16

Which nations will fall under the category of "countries which were at war with any of the Allied Powers"? are Siam and Italy to be considered as "countries which were at war with any of the Allied Powers"?

2. Article 17 (b)

Is this paragraph to be interpreted as referring only to civil cases, or to criminal cases as well?

†1 同日午後、藤崎条約課長よりフィン書記官へ交付。

36 昭和26年10月2日

造船制限問題などに関する対米折衝

極秘

造船制限、条約承認見込、行政協定等の問題についてフィン書記官と雑談

二六、十、二、藤崎

十月二日午後、別添[†1]インタープリテイション(7)の1の訂正をもってフィン書記官を往訪した際雑談した。要旨次のとおり。

一、造船制限問題

ちょうどサリヴァン書記官が居合わせており、「造船法（一九五〇年法律第一二九号）の一部改正法律案なるものが、日本政府のあるところから出て来ている由である。それについて質問されたのだが、日米間の平和条約問題に関する話合いにおいて、何等かのアグリーメントが出来ているか知らないか」といった。藤崎から、「五項目の質問に対する回答の中で、若し米英側でそれを要望されるならば、造船を要許可事項とするための立法を考慮してもよいとの趣旨が述べられてあったと記憶するが、それ以上にアグリーメントができたということは知らない。政府部内で、本来自分がやりたがっていたことを、いろんな事情から、外からの圧力でやらされたような恰好をつけてやろうとする場合がある。」といっておいた。

二、行政協定関係

藤崎から、「ESSのギリース氏のところで、DSのアレクサンダー氏も参加して、駐とん軍のための土地建物の接収について日本側でいかなる立

†1 省略。第37文書として採録。

法措置が必要なりや等の問題について、外務省、大蔵省の者に対し意見を求めた趣であるが、これは、司令部として、いよいよ行政協定の問題を正式に日本側とテイク・アップしたことを意味するのか」ときいたところ、フィン書記官は、「そうではないと思う。こちらとしては、米側の内部で協定案について意見の一致を見てから日本側との話を始めることになっているはずである。日本側で立法を必要とする事項としては、裁判管轄権等、外にもあるだろうが、協定ができた上でなければ、日本側として立法措置をとりえないわけだろう。」といっていた。

三、米国議会における条約の承認の時期

藤崎から、「国会における条約の審議を促進するについて、たとえば、かりに米国議会で本年内に承認の見込だというようなことがわかれば、非常に都合がよいわけだと思うが、どういう見込か」ときいたところ、フィン書記官は、「年内ということはないと思う。早くて来年早々だろう。先日日本側の見込をきいて来たのは、ワシントンで諸外国からそういう情報を求められた場合の用意のためであると思う。」といった。

37 昭和26年10月2日[†1]

条文解釈に関するわが方覚書(7)の修正

2 October, 1951

Please substitute the following for 1. Article 16 of Interpretation (7) dated 28 September, 1951:

1. Article 16

Are Siam and Italy to be considered as falling under the category of countries prescribed in Article 16? If so, are they considered as "countries which were at war with any of the Allied Powers"?

38 昭和26年10月6日

日米行政協定案に関する国会説明資料

極秘

日米安全保障条約の行政協定に関する説明

一九五一、一〇、六

一 経緯

安全保障条約第三条は、米国軍隊の日本国内及び附近における配備を規律する条件は、両政府間の行政協定できめることを明らかにする。安全保障条約の実施細目を行政協定で定めようとする趣旨である。

この行政協定は、安全保障条約が九月八日署名されるまでに、両政府間にまとめあげられる時間的余裕がなかつた。行政協定は、これから交渉して作成されるものである。シーボルト大使も、九月二十八日日米協会にお

[†1] 同日の折衝（第36文書）にて、藤崎条約課長よりフィン書記官へ交付。

ける演説で、「条約第三条にいう日本国内及び附近における米国軍の配備の条件を規律する行政協定は、これから両政府間に交渉さるべきものである」と述べている。

もちろん、この行政協定の内容をなすべき事項について、今日まで、両国間に話合が行われたことは皆無だというのではない。本年一、二月ダレス特使訪日の際、平和条約と並んで安全保障条約について話合が行われた。そして、安全保障条約の構想について意見の一致をみるに至つた。その際、行政協定の内容をなすべき事項についても若干意見が交換されたことは、事実である。しかし、協定にまとめあげるまでに結晶しなかつた。じ後、米国政府は、五十余国を相手として平和条約案を作成する大事業に忙殺されたもののごとく、安全保障条約の本文すらサン・フランシスコ会議直前ようやく一応のまとまりをみたほどである。行政協定については、二月の会談の後、ついに、今日まで、交渉することができなかつた実情にある。

二　内容

本年春の会談で、触れられた諸点と、その構想は、大体次に述べるとおりである。

(a)　行政協定の観念

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

(b)　兵力量

日本に駐屯すべき米国の陸、海、空三軍の兵力量は、意見交換の題目となつたことがない。日本側は、これは、主として、米国政府が、平和

の維持に対するその責任と日米安全保障条約の責務の見地から、自ら決定すべき米国軍の配備の問題であると考える。もちろん、日本政府が、要請に応じ、又は、自発的に見解を述べることはありうるかも知れない。

(c)　便益の供与

米国が武力攻撃に対して日本を防衛するために日本の希望に応じて日本国内及び附近にその軍隊を駐屯させる以上、日本側でこれに便益を供与すべきは、当然のことである。現実問題として、米国軍は現に占領軍として日本にあつて日本から土地、建設物、その他諸般の役務の提供をうけつつある。平和条約が発効して占領が終了すると同時に米国軍は、安全保障条約に従つて日本に駐屯する軍隊に性格を一変する。従つて、現に提供されている土地、建設物、その他の役務などの便益が必ずしもそのまま引き続き提供されるということはない。いかなる便益を提供すべきかは、行政協定において、協議して定めようということになつておる。政府としては、予算その他の関係があるので、なるべく早く協議を開始して具体案を得たいと希望しておるけれども、米国側で準備がととのわずとのことで、まだ話合は行われず何も具体的にきまつていない。

(d)　基地

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

(e)　経費

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

(f) 権能

駐屯する軍隊が起居し、又は、使用する土地建設物を自ら管理し得ねばならぬことはいうまでもない。又、駐屯する軍隊がその使命を達成するため必要な施設や建造を自らなしうるようにすることも必要である。これらも、行政協定で、明らかにする必要があると考えられる。

(g) 特権免除

条約に基いて一国の軍隊が外国にあるとき、その軍隊が特権を享有することは、国際法の通念である。国際法で、当然、他国にあつて特権を享有するものは、元首、外務大臣、軍隊（陸、海、空たるを問わず、このうち、軍艦の享有する特権が最も広い。）外交官、国際機関の職員、領事官（但し、後の二者は条約に根拠をもち、その他は、国際法上の確立した慣行に基く点で、相違がある。）である。従つて、安全保障条約に基いて日本に駐屯する米国軍が特権を享有すべきは、理の当然であつて、条約に規定せずとも、そうあるべきものである。特権は、裁判権、課税、警察等に及ぶ。もつとも、国際法の慣行も具体的に微細にわたつて確立しておる訳ではないから、協定において明確に準則を定めておくことが、実際上の紛糾を避ける意味において望ましいと考えられる。行政協定で、規定する方針であるけれども、まだ、十分に意見の交換が行われていない。

(h) 救済

占領下にあつては、占領軍又はその構成員の行為や事故によつて生命財産上の損害をうけた邦人に対する救恤の不十分が問題とされた。けだし占領軍に救恤の責任なく、すべて日本政府の行政的救済にまかされて

いて、日本の財政上、十分の補償が与えられない事情があつたからである。安全保障条約の下においては、事態を改善する必要がある点を日本側でとりあげた。米国側は、自分の方で日本側の請求を考慮すべきことに同意し、救恤事務の敏速な運営のため日本側の協力を希望するとの意向を表明した。

(i) 共同委員会

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

(j) 行政協定の公表

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

（了）

39 昭和26年10月7日

占領の終了に伴う接収解除などに関するわが方対米要請[†1]

CONFIDENTIAL

October 7, 1951.

My dear Ambassador,

The signing of the peace treaty and the Japanese-American Security Pact is a source of profound gratification to the Japanese people. It is with great expectations that our nation is looking forward to their effectuation.

For it means that the Allied occupation of Japan comes to an end and the American forces in Japan will remain as security forces in accordance with the terms of the Security Pact. All Japanese are counting on visible and substantial changes in their immediate surroundings, which sentiment is quite understandable, they having been placed under occupation in the last six years.

These universal expectations among Japanese must not be ignored by the governments or leaders of either Japan or America. To meet the expectations of the Japanese man in the street to the maximum is to consolidate the foundation for permanent friendship between the two countries. And it is, indeed, a prerequisite to the achievement of the objectives of the Japanese-American Security Pact.

How then are these Japanese expectations to be met? It is presumed that the question is being carefully studied by the American authorities in Tokyo and Washington. I am addressing this letter to you believing that a few suggestions may not be out of place, my government being in a position

†1 附表はすべて省略。『日本外交文書　平和条約の締結に関する調書』第5冊、pp.429-469を参照。

to know the sentiments and aspirations of the Japanese people in this respect.

In order to furnish tangible evidence of the transformation of the occupation forces into security forces, it is suggested that the following measures would prove most effective:

(a) To transfer the headquarters of American forces to an appropriate place outside the center of a large city.

(b) To release the wharf and warehouse facilities at such trading ports as Yokohama and Kobe, which are now under requisition, and to release also the business and industrial buildings in urban areas, so as to help Japan achieve economic self support. (Table 1 lists those buildings for the release of which repeated petitions have been submitted to the Japanese Government authorities concerned.)

(c) To release the school buildings now under requisition, so as to alleviate the acute housing shortage for public education. (Refer Table 2.)

(d) To release hospitals and hotels which are now under requisition, with the exception of those absolutely necessary for the security forces, it being considered that current extensive and exclusive use will no longer be necessary in future. (Refer Tables 3 and 4.)

(e) To release the private residences (over 2,000) now in occupation use, provided that they may be continued to be used by the security forces on commercial basis when the owners so desire.

The above-mentioned measures may be under the consideration of the American Government. But at this time of transition, I would like to ask you to extend good offices so that the American authorities would give favourable and sympathetic consideration to these matters insofar as the circumstances may permit. My government officials concerned will be

available at any time you wish for consultation on various matters which will no doubt accrue in the implementation of these measures.

Yours sincerely,

S. Yoshida

His Excellency

William J. Sebald,

United States Ambassador,

Tokyo.

P.S. Tables will be submitted later.

40 昭和26年10月10日[†1]

条文解釈に関するわが方覚書（8）

10 October, 1951

Interpretation (8)

(Questions expected to be asked on the Peace Treaty at the coming session of the Diet)

1. Article 2 (6)(b ホ) and (c):

Please confirm the following interpretation:

The renouncement of all right, title and claim to Formosa, the Pescadores, the Kurile Islands and the South Sakhalin does not have any effect and, accordingly, these territories remain under the sovereignty of Japan so far as it concerns China or U.S.S.R., unless and until China or U.S.S.R. conclude a bilateral peace treaty with Japan. This is the result of

[†1] 10月12日午前の折衝（第41文書）にて、米国側へ交付。

the provisions of Article 25 (the second sentence).

2. Article 4 (b):

Information is requested regarding the manner of dispositions of property of Japan and Japanese nationals in the islands listed in Article 2 (d) (former mandate islands) and Article 3 (southern islands).

3. Article 4 (c):

Please confirm the following interpretation:

The islands listed in Article 3 does(do ホ) not fall under the category of "territory removed from Japanese control pursuant to the present Treaty".

4. Article 9:

Will the MacArthur Line remain in effect, so far as the Soviet Union and China are concerned, even after the coming into force of the Peace Treaty?

5. Article 14 (a) 2:

Would there be any objection to the Government giving out the figures concerning the Japanese assets in the territories of the Allied Powers as they are given in the report prepared on the basis of a study conducted jointly by GHQ, SCAP and the Japanese Government?

6. Article 14 (b):

The question of the Japanese gold might be explained in the following manner:

The gold in question has been impounded by and is under the control of the U.S. Government. According to a decision of the Far Eastern Commission, the United States has claims for costs of occupation which may be charged to Japan with the first priority. And it seems that the gold has been set aside in order to apply to such claims of the United States. Therefore, the final disposition of the gold is up to the decision of the United States government.

7. Article 16:

Mr. Allison told us that Japanese assets in neutral and ex-axis countries are estimated to be approximately $40,000,000. Could we quote this?

41　昭和 26 年 10 月 12 日

条文解釈に関するわが方覚書（8）をめぐる対米折衝

極秘

平和条約に関する質疑に対する答弁に関しフィン書記官と会談の件

二六、十、十二　藤崎

十月十二日午前、別添[†1]インタープリテイション(八)を、フィン書記官あて外交局にとどけた。同日午後、会談の際、同書記官の述べたところ、大要次のとおり。

㈠　第二条(b)(c)について、少し中国等に対して刺戟的だから、実際問題としては、どうにもならぬというような趣旨のオヒレをつけたらどうか。

㈣　第九条、マッカーサー・ラインのことは、本当にどうなるのか自分も知らない。困難な問題だ。

㈤㈦　在外財産に関する数字を発表することの可否については、CPC と直接連絡されたい。自分もブレイク氏に電話しておく。アリソン公使の数字は、あまり正確でないし、イタリーやタイのステイタスのはっきりする前のものだから、それより CPC の数字を使った方がよいと思う。

㈥　金は、日本側に返されたものとばかり思っていたが。フィン書記官の口振り、大分面倒臭そうだった。大使も、国務省も日本側限りで適当にやってもらえというだろうともいっていた。

†1　省略。第 40 文書として採録。

42　昭和 26 年 10 月 12 日

日米安全保障条約の条文解釈に関する対米折衝

極秘

安全保障条約の法律的説明に関しフィン書記官と会談の件

二六、十、十二、藤崎

十月十二日午後、フィン書記官を往訪、別添[†1]の書きもの(のべカ)を提示し、本件に関する米側の所見を求めた。その際、同書記官の述べたところ、大要次のとおり。

「この条約には、武力攻撃の場合日本を防衛することを米国に義務付ける規定がないというのは、少しいい過ぎではないか。少しトーン・ダウンしては如何。（これに対しては、藤崎から、これは、質問者のセリフである。われわれとしては、トーン・ダウンしたいのは、山々である、と述べた）

第一条の may の用法について、貴方から前に出された意見（日本の防衛に寄与することは、will で、極東の平和、安全のためにも使えるというのが may の意味であろうとの趣旨）のとおりでよいと思う。第一条の案文が修正された際、シーボルド大使から井口次官に一応されたはずであるが、その修正の理由を述べた国務省からの訓令によると、朝鮮動乱のような場合に出動できるようにするためである、とだけあって、日本防衛の面をトーン・ダウンする、というようなことは、いってない。（これに対しては、藤崎から、先に出した意見をコンファームしてもらえたら、それが最も望むところであるが、コンファメイションなくしてはいえないことのように思われたので、一歩退却した次第だと述べた。）

第四条の規定を立論の一つの基礎として援用しては如何。また、米国憲法上、用兵の権は議会にあるという建前になっているため、北大西洋条約の場

†1　省略。第 43 文書として採録。

合にも、朝鮮動乱の場合にも非常に問題になった。オーストラリア、ニュー・ジーランドとの条約、フィリピンとの条約でも措辞に注意が払われている。そういうところから、米国としては、正面からのコミットメントができないのだろう、という趣旨のこともいったら、どうだろう。(この点賛成しておいた。)

自分も朝日の社説を見た。世界の十一月号の村川俊之なる外交評論家の「日米安全保障条約の問題点」は、朝日の社説以上によくできていると思う。貴方がこの点を重視しておられる事情はよくわかった。シーボルド大使が病気で休んでいるから、明朝にでも大使に報告して何分の返事をしよう。」

43 昭和26年10月12日[†1]

日米安全保障条約の条文解釈に関するわが方覚書

The Legal Character of the Security Treaty

How to explain the legal character of the Security Treaty is an important question of political significance. Various questions on the point are expected to be put to the Government in the Diet deliberation.

1. There is (are ヵ) no provisions in this Treaty obligating the United States to defend Japan in case of armed attack. Article 1 simply says, "Such forces may be utilized to contribute —— to the security of Japan against armed attack from without." If this point is raised, we would have to admit it. However, we would answer criticism based on this point by stating to the following effect:

As it is apparent in the Preamble, the United States is to maintain its armed forces in and about Japan on our invitation that the United States should do so so as to deter armed attack upon Japan. In the acceptance by the United States of this invitation is implied that the United States would actually utilize its armed forces in case of armed attack. As a matter of fact, through stationing U.S. forces in Japan under the Treaty, Japan becomes an area defended by U.S. forces. Accordingly, we may confidently expect that the United States will defend Japan in such cases.

2. This will lead to the second question: How can the military action to be taken by U.S. forces in case of armed attack on Japan be justified from a legal point of view?

A member nation of the United Nations can take military actions only in two cases: (1) by way of exercise of the right of self-defence under Article 51 of the Charter and (2) as a United Nations action. This means that any military action which is not based on a United Nations action must be justified as an act of self-defence. Therefore, in the present case, the U.S. will be exercising her right of self-defence, because an armed attack on Japan constitutes as well that on the U.S. forces stationed in Japan. In this case Japan also will exercise her right of self-defence. Thus the relationship of "collective" self-defence between U.S. and Japan actually results. Our suggestion that such relationship might be stated explicitly in the Preamble was rejected. But this does not necessarily mean, we feel, that the theory of the de facto relationship of collective self-defence would be unacceptable to the U.S. Government.

[†1] 同日午後の折衝(第42文書)にて、藤崎条約課長よりフィン書記官へ交付。

44　昭和26年10月15日

日米安全保障条約に関する国会説明資料

秘

安全保障条約の法的性質について

二六、一〇、一五

（問一）　この条約には、武力攻撃の場合に、日本を防衛するよう合衆国を義務づける規定がない。第一条は、単に、「この軍隊は、……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。」というのみである。政府の解釈いかん。

（答）　前文に明らかなように、われわれが合衆国に日本国への武力攻撃を阻止するために日本国内及びその附近に合衆国の軍隊を維持するよう招請したことに基いて、合衆国は、その軍隊を維持するのである。合衆国がこの招請を受諾することのうちに、武力攻撃の場合に合衆国がその軍隊を実際に使用するとの意味が含まれているわけである。

また、条約第四条は、この条約は、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その他による措置ができるまで効力を有することになつているが、これは、この条約の目的が日本区域における平和と安全を確保するにあることを意味する。日本に対する武力攻撃を放置して日本区域の平和と安全を確保できるわけがないことは、いうまでもない。

一般に、集団的安全保障取極において、一の締約国が第三国から攻撃を受けた場合に他の締約国が絶対的、自動的に武力をもつて援助すべきことを定めることは、ほとんどない。現在最も本格的な集団的安全保障取極である北大西洋条約においても、このような場合、各締約国が「兵力の使用を含めてその必要と認める行動」を執ることによつて援助することになつている。また、最近、米国とオーストラリア及びニュー・ジーランド、米国とフィリピンの間に署名された相互援助条約でも、各国がその「憲法上の手続に従つて共通の危険に対処するように行動することを宣言する」と定めている。すなわち、一方が他方の安全を保障するために必ず兵力を使用しなければならぬという趣旨にはなつていない。これは、各国の憲法規定との関係あることであると考えられる。米国でも、用兵の権は、大統領にあるか、議会にあるかが問題になつているので、この議会の権限にふれるような国際約束をするわけには行かないわけである。

いずれにしても、この条約に基いて、米国軍が日本に駐屯することになれば、日本は、米国軍によつて防衛される地域に事実上なるわけであるから、日本に対する武力攻撃の場合米国が日本を防衛してくれることは、確信をもつて期待できるわけである。

（問二）　日本への武力攻撃の場合に合衆国軍隊がとるべき軍事行動は、法的にはいかに説明されるのか。

（答）　国際連合加盟国は、次の二の場合に限つて軍事行動をとることができる。すなわち、(1)憲章第五十一条に基く自衛権の行使としての場合及び(2)国際連合の行動としての場合である。すなわち、国際連合の行動に基かない軍事行動は、自衛権の行使の場合に限つて許されるわけである。ところで、日本への武力攻撃は、同時に日本に駐とんする合衆国軍隊への攻撃でもあるから、合衆国は、合衆国の自衛権を行使することになる。米国とオーストラリア及びニュー・ジーランド間の相互防衛条約及び米比間の相互防衛条約の第五条では、太平洋における米国の軍隊に対する武力攻撃が米国に対する武力攻撃と認められていることに留意すべきである。日本もその自衛権を行使する。このようにして、合衆国と日本との間に集団的自衛の関係が実際上生じているわけである。

45 昭和26年12月3日[†1]

条文解釈に関するわが方覚書(7)などへの米国回答

MEMORANDUM RELATING TO INTERPRETATION OF CERTAIN PROVISIONS OF THE PEACE TREATY ABOUT WHICH THE JAPANESE FOREIGN OFFICE RAISED QUESTIONS IN ITS MEMORANDA OF October 2 and 3, 1951

I. Japanese Foreign Office Memorandum of October 2, 1951.

1. Questions are asked whether Siam and Italy are considered as falling under the categories of countries prescribed in Article 16 of the Treaty of Peace with Japan signed at San Francisco on September 8, 1951, and if so, are they considered as "countries which were at war with any of the Allied Powers".

Since "Allied Powers" is defined in Article 25 of the Treaty as States at war with Japan which have "signed and ratified the Treaty", and since no such State as of this date has ratified the Treaty, this technical consideration forbids a direct reply to the query at this moment. However, if a substantial number of those States which signed the Treaty ratify it, both Siam and Italy will fall within the category of countries set out in Article 16 since both Siam and Italy were at war with many States which were at war with Japan, signed the Treaty, and will, in all likelihood, ratify it, i.e., British Commonwealth countries.

2. The question is asked whether Article 17 (b) is to be interpreted as referring only to civil cases or to criminal cases as well.

†1 同日、フィン書記官より藤崎条約局第一課長が受領。

Article 17 (b) refers both to civil and criminal cases. It will be noted that the Japanese Government, under that Article, is obliged to take the necessary measures to submit for review "any judgment" rendered by a Japanese Court between December 7, 1941 and the coming into force of the Treaty in "any proceedings" in which a national of an Allied Power was unable to make adequate presentation of his case, either as plaintiff or defendant. "Any judgment" and "any proceedings" clearly include criminal as well as civil judgments or proceedings.

II. Japanese Foreign Office Memorandum of October 3, 1951.[†1]

1. The Japanese Foreign Office Memorandum sets out a certain number of "the arrangements made for terminating the former League of Nations and Permanent Court of International Justice" referred to in the second sentence of Article 8 (a) of the Treaty, and inquires whether Japan, pursuant to the Treaty, accepts only some of these listed arrangements, all of the listed arrangements, or whether there are any other instruments to be listed. The arrangements referred to in the Treaty include all the resolutions and agreements by which the termination of the League of Nations and the Permanent Court of International Justice was brought about. The list submitted in the Japanese Foreign Office Memorandum is incomplete; it further appears that No. (6) is a combination of two separate General Assembly resolutions. There follows a list of the resolutions of the League of Nations and of the General Assembly of the UN, as disclosed by a search which, while diligent, cannot be considered at this time to be exhaustive or completely definitive, together with certain explanatory material:

League of Nations Resolutions:

Dissolution of the Permanent Court of International Justice, April 18,

†1 同日付のわが方覚書は見当らない。8月21日付わが方覚書(『日本外交文書　サンフランシスコ平和条約　対米交渉』第147文書)を指すと思われる。

1946

The Assumption by the United Nations of Functions and Powers hitherto exercised by the League under International Agreements, April 18, 1946

The assumption by the United Nations of Activities hitherto performed by the League, April 18, 1946

Mandates (ㅋㅋ)

International Bureaus and other Organizations placed under the Direction of the League of Nations or brought into relation therewith, April 18, 1946

International Institute of Intellectual Cooperation, April 18, 1946

Resolution for the Dissolution of the League of Nations, April 18, 1946

General Assembly Resolutions:

23 (I) Registration of Treaties and International Agreements, February 10, 1946

24 (I) Transfer of Certain Functions, Activities and Assets of the League of Nations, February 12, 1946

51 (I) Transfer to the United Nations of certain nonpolitical functions and activities of the League of Nations, other than those pursuant to International Agreements, December 14, 1946

54 (I) Transfer to the United Nations of powers exercised by the League of Nations under the International Agreements, Conventions and Protocols on Narcotic Drugs, November 19, 1946

61 (I) Establishment of the World Health Organization, December 14, 1946 1/

71 (I) Utilization of UNESCO (United Nations Educational, Scientific and Cultural Organization) of the Property Rights of the League

of Nations in the International Institute of Intellectual Cooperation, November 19, 1946

79 (I) Transfer of the Assets of the League of Nations (with Annexes 1 and 2), December 7, 1946

84 (I) Agreement between the United Nations and the Carnegie Foundation concerning the use of the premises of the Peace Palace at the Hague, and concerning the repayment of loans (with Annexes A and B), December 11, 1946

126 (II) Transfer to the United Nations of the functions and powers exercised by the League of Nations under the International Convention of September 30, 1921 on Traffic in Women and Children, the Convention of October 11, 1933 on Traffic in Women of Full Age, and the Convention of September 12, 1923 on Traffic in Obscene Publications, October 20, 1947

129 (II) Transfer to the World Health Organization of certain assets of the United Nations, November 17, 1947 1/

135 (II) Entry into force of the Protocol of December 11, 1946 on Narcotic Drugs, November 17, 1947

250 (III) Transfer of the assets of the League of Nations (with Annexes A and B), December 11, 1948

255 (III) Transfer to the United Nations of functions and powers previously exercised by the League of Nations under the International Convention relating to Economic Statistics, signed at Geneva on December 14, 1928, November 18, 1948

256 (III) Transfer to the United Nations of the functions exercised by the French Government under the International Agreement of May 18, 1904 and the International Convention of May 4, 1910 for the Suppression of the White Slave Traffic, and the

Agreement of May 4, 1910 for the Suppression of the Circulation of Obscene Publications, December 3, 1948

1/ Attention is called to the fact that Japan was admitted to membership in the World Health Organization in May, 1951, at which time Japan agreed to arrangements made for the establishment of that Organization. These included transfer of certain assets of the League of Nations as well as of the International Office of Public Health.

It may be noted that several international agreements to which Japan is a party have been amended by protocols so as to alter their terms to accord with the termination of certain League functions and the assumption of these functions by the United Nations. The obligation of Japan to accept the termination arrangements means that Japan is bound presently to regard the United Nations as substituted for the League of Nations in accordance with these protocols. Treaties to which Japan is a party and which have been amended by such protocols are:

International Opium Convention, January 23, 1912

Agreement concerning the Suppression of the Manufacture of, Internal Trade in, and Use of, Prepared Opium, Protocol and Final Act, February 11, 1925

Opium Convention, February 19, 1925
Protocol, February 19, 1925

Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, with Protocol of Signature, July 13, 1931

Agreement concerning the Suppression of Opium Smoking, November 27, 1931

Convention for the Suppression of the Traffic in Women and Children,

September 30, 1921

International Agreement for the Suppression of the White Slave Traffic, May 18, 1904

International Convention for the Suppression of the White Slave Traffic, May 4, 1910

Convention for the Suppression of the Circulation of and Traffic in Obscene Publications, September 12, 1923

In the Declaration with respect to the Treaty of Peace, Japan has indicated the intention to accede to the Protocol of December 11, 1946 amending agreements on narcotic drugs. This protocol applies to conventions, agreements, and protocols of January 23, 1912, February 11, 1925, February 19, 1925, July 13, 1931 and November 27, 1931 which are mentioned above.

2. The Japanese Foreign Office memorandum raises certain questions with respect to Article 12 (b) 1 (ii) of the Treaty and United States-Japanese Copyright relations.

With respect to the question whether Article 12 (b) 1 (ii) is 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" as provided in Section 9 (b) of the United States Copyright Law (Title 17 U.S.C., Section 9 (b), this quoted clause of Section 9 (b) has not customarily been used by the United States as a basis for a proclamation by the President of the existence of reciprocal conditions under the authority of Section 9 of the Copyright Law.

Officials of the Japanese Government and of the Government of the United States concerned with copyright questions have been discussing, during the recent past, copyright relations between the United States and Japan with a view toward establishing such relations on a permanent basis

in a manner which will afford mutual protection, consistently with the progressively developing copyright relationships which wide areas of the world community have seen fit to establish. Continuance of these discussions, culminating in the conclusion of a mutually satisfactory agreement placing United States-Japanese copyright relations on such a basis will, in the opinion of the Government of the United States, be in the best interests of both the United States and Japan.

3. The Japanese Foreign Office Memorandum states 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."

Article 14 (a) 2 (I) provides:

"Subject to the provisions of sub-paragraph (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 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 sub-paragraph shall include those now blocked, vested or in the possession or under the control of enemy property authorities of 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 times

such assets came under the controls of such authorities."

The United States considers, and has acted upon this consideration in its administration of its Trading with the Enemy legislation, that securities, owned by the categories of persons, institutions, and countries set out in sub-paragraphs (a), (b), and (c) above, issued by the United States Government and by corporations incorporated in the United States, are, wherever located, "subject to its jurisdiction" within the meaning of Article 14 (a) 2 (I) of the Treaty. This has been and remains the consistent and unvarying position of the United States under all treaties of peace which deal with this question, including the treaties of peace with Italy, Bulgaria, Rumania, and Hungary, of 1947.

4. The Japanese Foreign Office memorandum requests illustrations by examples of all the categories of the cases to which Article 19 (d) of the Treaty is applicable.

It is not deemed appropriate at this time to comply with the request. The circumstances of the particular situations and their relationship to Article 19 (d) cannot be foreseen until the facts of each situation are examined. An effort to catalog the situations to which Article 19 (d) would be applicable would involve at this time an exercise too theoretical and academic to be of value in determining the precise situations as they arose, and might prejudice such situations because insufficient facts regarding the particular situations were at hand during the effort to make such a catalog.

吉田・ダレス会談のための総理用準備資料

付記1　朝鮮問題に関する資料[†1]

付記2　賠償問題に関する資料[†2]

付記3　南西諸島問題に関する資料[†3]

極秘

ダレス会談資料

二六、一二、一〇

中国問題

朝鮮問題

賠償問題

行政協定問題

南西諸島問題

平和条約未調印国との国交調整問題

中国問題

一　日本政府は中国との国交を調整し両国の関係をなるべくすみやかに平常化することを熱望する。

二　しかし、サンフランシスコ平和條約を違法としてこれを否認し、且つ、国連憲章に違反して朝鮮において行動しておる中共政府を相手として、中日国交調整をなすが如き意向は、毛頭ない。日本共産党は、近時、北京より指令をうけておる疑がある。だから、日本の内政からみても、中共政府と公的な関係をもつが如きは、なすべからざることである。

三　中国代表問題は、将來いずれの日にか必ず解決される問題であると信じ、

†1　12月13日夕および14日、ダレス大使へ提出。
†2　12月13日夕、シーボルト大使を通じてダレス大使へ提出。
†3　同上。

且つ、その解決の日の速かならんことを希望する。日本政府は、平和條約第二十六條による二国間平和條約の締結は、中国代表問題が国際的に、少くとも米英間に、解決されるまで見送るべきであると考える。

四　しかし、日本政府は、従來台北政府との間に貿易協定を締結し、且つ、先般台北に在外事務所を設置して、同政府と公的交渉を維持してきた。日本政府は、特派使節を派遣して国交調整の下準備をなさしめる用意を進めている。更に、日本政府は、サンフランシスコ條約の効力発生と同時に台北政府との間に国交を回復し大使の交換をなす方針である。

朝鮮問題

朝鮮問題には、ふたつの問題がある。一は朝鮮事変であり、二は日鮮関係である。

一　朝鮮事変

日本政府は、事変が円満に解決されること、少くとも休戦会談が成功して朝鮮における軍事情勢が現在より悪化しないことを希望する。国連が朝鮮において行動を続行する限り日本政府は現在同ようの援助と協力を国連加盟国に提供する。平和条約及び安保条約の発効後におけるこの種の協力継続について、必要があれば、行政協定交渉の際、所要の取極をなすことに異存がない。

二　日鮮関係

日鮮関係については、日本政府は十月二十日以来韓国代表団と交渉を開始したところである。交渉の経緯は、別に報告として差し上げるとおりである。来年二月頃には交渉を再開することとし両国間の基本関係を設定する条約を締結したい意向である。このほか、平和条約の規定するところに従い、両国間の請求権に関する問題（四条）、及び漁業に関する問題（九条）についても交渉を開始し前記条約と同時期に解決に到達し、又、通商関係に関する問題（十二条）についてもそれについで交渉を開始してゆきたいと思つておる。

日鮮関係については、日本政府の最も重視するところのものであつて、近く外務省顧問松本俊一を(首ヵ)主班とする特派使節を派遣して今後の両国国交の樹立に資したいと考えておる。

賠償問題

一　賠償問題については、格別の御配慮によつて条約第十四条(a)の規定によつて役務賠償ということに決定された。日本政府はこの規定に従つて義務履行のため誠意をもつて最善の努力をつくす積りである。賠償問題は、大蔵大臣において、十分考えておるが、問題の重要性にかんがみ、前蔵相津島寿一及び前在(比ヵ)ヒ大使村田省蔵を外務省顧問に任命して、同問題に関し援助を求むることとした。平和条約第十四条(a)の履行については、大蔵その他関係各省の間に研究をさしている。一応の結論は、別添[†1]のとおりである。これに対する御意見を承りたい。

二　賠償交渉のためインドネシアからは最初十一月中旬代表団が来日する予定であつたが、これが延引し十二月中旬交通大臣を首班とする代表団十四名及び議員十一名からなる日本経済視察団がくる予定である。これは、大蔵大臣及び津島顧問をして応接せしむる所存である。

フィリピンについては同国政府からわが国に対し賠償交渉のために使節団派遣を要求してきたので一月中旬に津島顧問を首班とする使節団をマニラに派遣するよう目下フィリピン政府と交渉中である。

三　条約の建前は、賠償を役務に規定しているが、フィリピン及びインドネシアは共に金銭賠償及び実物賠償を希望しており、わが国との交渉に当つては強硬に主張してくるものと考える。

のみならずわが国の賠償負担能力、役務の解釈等についても彼我の間にはなはだしい見解の相違が起るものと考えられ、賠償交渉はきわめて困難で長引くことが予想される。両国は、賠償交渉を条約批准に関連せしめ、

†1　本文書付記2「Basic Principles on Reparations」。

賠償額など具体的の言質を得ようとするに違いないが、わが方は、容易にこれに応ずるを得ない。

交渉が行詰つた場合、(イ)求償国が賠償の権利を放棄すること、及び(ロ)わが国の負担がわが国の財政能力でまかない得る程度に僅少であることを絶対条件として借款供与の方法による経済協力の形式によつて交渉を妥結することを考慮する適否について御意見をもらされたい。

行政協定問題

行政協定については、国会において非常に論議せられた。国民もこれについては重大な関心をもつている。

国会において問題にせられた点は、次の諸点であつた。

(イ)　行政協定によつて規定さるべき事項は、厳に軍の配備の条件に限るべきである。しかもこれらの条件のうち国会の立法事項に属する事項については、国会の立法権を尊重すべきであるとの意見が強かつた。政府は、行政協定によつて国会の立法権が拘束されることがないと答えた。特に国会で問題にされたのは、駐屯軍の法的地位であつた。この事項は従来の話し合いでは行政協定の内容とするということであつたが、これは北大西洋条約諸国の間の条約のように行政協定とは別個の条約としたい。

(ロ)　防衛分担金について非常な関心がもたれた。政府は、国の安全を守つてくれる軍隊の経費についてわが国が分担すべきは当然であると回答した。

本年二月には、経費分担は、英米間に行われているのと同じ原則によりたいとの話しを了承した。しかし最近ドッジ氏は、きわめて高額な分担金を負担すべきであるとの意見を有していられるようであるが、この点については、今年二月の話し合いの後米国政府において何んらか方針の変更があつたものであるか。賠償その他対外関係の考慮からであるのか。真意を承りたい。

(ハ)　行政協定に関する日本の要請については、従来シーボルト大使、又、最近ラスク次官補に詳細提出しておいた。この要請には日米両国国交の大局

上よりして最大限の好意的考慮を払われるよう願いたい。

南西諸島問題

南西諸島に関しては、平和条約で、これを日本領土として残し、住民を日本人として残すことにせられたのはまことに感謝に耐えない。米国が南西諸島を管理せられようとするのは、極東の平和と安全のための軍事上の必要に基くものであると了解する。この軍事的必要の許す範囲内において、できるだけ現地住民の希望に応ずるように措置されるよう切望する。

話し合いの素材として、日本政府の希望をまとめた書き物[†1]を差し上げる。できるだけ早く両政府間に話し合いを開始して、日本国民特にこれら諸島の住民の熱望に応ずるよう処置してもらいたい。

平和条約未調印国との国交調整問題

一　日本政府は、未調印国とも、逐次平和関係を設定してゆきたいと考える。最近、インド及びイタリアとは平和関係設定に関する公文を交換した。ユーゴースラヴィアとも在ワシントン在外事務所とユーゴー大使館との間に話合中である。

二　ソ連代表部のステータスは、条約発効後におけるワシントンにおける極東委員会及び東京における対日理事会のステータスの問題とも関連する問題であるので、この問題が関係連合国で解決されれば、それとにらみ合わせて、日本政府は、処置を考えることとしたい。

（付記１）

CONFIDENTIAL

Korea

We are confronted with two problems concerning Korea: (1) The Korean War and (2) Japanese-Korean relations.

1. The Korean War.

As long as the United Nations continues to operate in Korea we will continue to extend to it the same assistance and cooperation as we are extending today. As regards the continuation of such cooperation after the coming into force of the Peace Treaty and the Security Pact, we are prepared to make a (an ヵ) arrangement, if necessary, at the time when the Administrative Agreement is negotiated.

2. Japanese-Korean Relations.

Negotiations on the adjustment of Japanese-Korean relations have been going on since the 20th of October last. A summary report on these negotiations is being submitted to you. It is our intention to reopen negotiation in February next and conclude a treaty establishing the basic relations between the two countries. Furthermore, under the provisions of the Peace Treaty we hope to negotiate on the question of claims between the two countries (Article 4) and the question of fishery (Article 9), and realize their settlement at the same time. With the conclusion of the above-mentioned settlement, we also hope to open negotiation on a treaty of commerce and navigation (Article 12).

Our government attaches great importance to Japan's relations with Korea. We are soon sending a special mission, headed by Mr. Shunichi Matsumoto, Foreign Office Adviser, with a view to paving the way for the establishment of diplomatic relations between the two countries.

CONFIDENTIAL

Report on Japan-Korean Conversation

†1　本文書付記３「"Practicable Agreement" for the Southern Islands」。

ANNEXES[†1]

I. DS Memorandum Dated 25 Sept. 1951.
(Subject: Legal Status of Koreans Resident in Japan)

II. MFA Memorandum Dated 29 Sept. 1951.
(Subject: Legal Status of Koreans Resident in Japan)

III. DS Memorandum Dated 9 Oct. 1951.
(Subject: Legal Status of Koreans Resident in Japan)

IV. MFA Memorandum Dated 11 Oct. 1951.
(Subject: Legal Status of Koreans Resident in Japan)

V. Opening Statement by Ambassador W. J. Sebald at the Korean-Japanese meeting on October 20, 1951.

VI. Address by Mr. Sadao Iguchi at the Meeting of Korean and Japanese Representatives on October 20, 1951.

VII. Opening Statement by Ambassador You Chan Yang at the Korean-Japanese Conference.

Report on Japan-Korea Conversations

1. The Opening and Development of the Current Conversations.

Representatives of the Japanese and Korean Governments have been meeting since October 20, 1951 to discuss questions relating to

a. the nationality and legal status of Korean residents in Japan,

b. the development of agenda and investigation of ways and means for bilateral negotiation of all outstanding problems, and

c. the disposal of certain vessels.

These discussions were made possible through the good offices of Diplomatic Section, SCAP, whose officers do not participate but are present at plenary sessions in the capacity of observers. A memorandum was received by the Japanese Government on September 25, 1951 offering SCAP's good offices in the opening of negotiations with Korean representatives on the question of the nationality of Korean residents in Japan. This offer the Japanese Government accepted, but subsequently another note was received in which it was made known that the Korean Government desired to include another item for discussion, namely, that of the development of agenda and investigation of ways and means for bilateral negotiation of all outstanding problems between Japan and Korea. Owing to the closeness of the date of commencement and the lack of preparation the Japanese Government declined to enter into negotiation on this item, but agreed to entertain any proposals which the Korean Government might desire to present. With this understanding Japanese representatives met with Korean representatives at the first session which was held in a conference room of the Diplomatic Section on October 20, 1951. Introductory addresses were given at this initial meeting by Mr. William Sebald, Chief of the Diplomatic Section, by Mr. Sadao Iguchi, the Chief Japanese Delegate, and by Dr. You Chan Yang, the Chief Korean Delegate. (Copies of these addresses are appended hereto, together with copies of the correspondence between D.S., SCAP, and the Japanese Government on the inception of the current conversations.)

Business commenced from the 2nd plenary session held on Oct. 22, and up to Dec. 4 ten plenary sessions have been held at which questions of nationality and an agenda for future negotiations were discussed and also questions of certain vessels. The first few sessions were concerned mainly with the determining of the agenda for the current conversations and, after some discussion on the question of legal status in the 3rd and 4th sessions, it was agreed at the 5th session that this matter should be referred to a sub-

[†1] 別添はすべて省略。『日本外交文書　平和条約の締結に関する調書』第１冊、pp.449-459を参照。

committee for detailed study. This study is still being continued and although much ground has been gone over and both sides appear now to be well conversant with the view-points of the other, the solution of the problem remains yet to be worked out.

The second item, that of an agenda for future bilateral negotiations, was discussed in later sessions and agreement was reached at the 9th session on Nov. 28. The third item, that of the disposal of certain vessels, was not contemplated in the original plans for these discussions but was first broached by the Korean representatives at the 2nd session held on Oct. 22. It was agreed at that time that the matter should be taken up, however, at a separate conference at which SCAP's observers would not be present. Commencing Oct. 30 and up to Dec. 5 14 meetings have been held. Considerable effort is still required for an early solution of the problems facing this conference.

2. Developments on the Legal Status of Korean Residents.

Under Article 2 of the Peace Treaty Japan recognizes the independence of Korea. From this arises questions concerning the nationality of Korean residents in Japan. Are they to lose Japanese nationality? If they lose Japanese nationality, when do they do so. Discussions have revealed that both sides are in agreement that Korean residents should uniformly lose Japanese nationality. However, on the question of the effective date of the change there is (some ?) come difference of opinion. Our opinion is that the loss of Japanese nationality will be effective only on the coming into force of the Peace Treaty and that so far as legal processes in Japan are concerned Koreans continuously resident in Japan from before the close of war will remain Japanese nationals until that time. The Korean claim is that Korean nationality was recovered on Sept. 2, 1945. Adjustment of views on this question is yet to be worked out. The Japanese Government is further of the

opinion that the disposition of nationality when finally agreed upon should be formalized in a treaty.

In the discussions on nationality the Korean representatives have raised the question of treatment, stating that this question is inseparable from that of nationality. Their position is that Korean residents who are estimated to number over 600,000 constitute a special case and owing to the circumstances which led to their presence in Japan should on becoming aliens be allowed to remain in Japan as permanent residents without further formality. It is claimed further that they should retain all the rights and privileges they hitherto enjoyed as Japanese excepting political rights, such as suffrage; that if they choose to return to their homeland they should be free to take all their property with them; and furthermore that in their case the provisions for deportation of undesirable aliens in the Immigration Control Ordinance should be waived.

The Japanese stand is that Korean residents should be treated in the same manner as all other aliens and that no discrimination can be allowed. The Japanese Government is, however, willing to consider certain temporary and transitional measures calculated to facilitate the change in nationality and to prevent any undue hardship which may result directly therefrom. The sub-committee dealing with this matter has held twelve meetings so far, but it is felt that some more detailed discussions will have to be held before agreement can be reached. The Korean attitude so far has appeared to lack flexibility. This may be accounted for by the considerable pressure from the Korean community, particularly, that arising from radicalist agitation, which the Korean representatives must contend with.

3. The Development of Agenda and the Investigation of Ways and Means for Bilateral Negotiation of All Outstanding Problems.

This subject was first discussed at the 6th session which was held on

Nov. 8, when the Korean representatives proposed that discussions should be commenced as soon as possible on property and claims, fishing rights, and commerce and navigation, so that these problems would be cleared up by the time of the coming into force of the Peace Treaty. A specific date in November was suggested for commencement of talks on property and claims and dates in January for the other items. The Japanese Government not being prepared to enter into substantial negotiations on these matters at such early dates, countered by offering to meet with Korean representatives next spring in a general conference to cover all problems between Japan and Korea. After several meetings, it was finally agreed that a conference should be held in Tokyo commencing in the early half of February 1952 and that at this conference the items to be discussed should include the following:

a. establishment of diplomatic relations
b. establishing of nationality of residents in Japan of Korean descent
c. settlement of claims between Korea and Japan
d. agreement on fishing rights
e. commencement of negotiations on transfer of marine cables
f. commencement of negotiation of treaty of commerce and navigation, and establishing of relevant principles to be followed pending conclusion of such treaty (such as principles of most-favored-nations treatment, etc.)
g. other items to be agreed upon

The Korean representatives have repeatedly stressed their anxiety that all questions should be settled by the effective date of the Peace Treaty and have asked for preparatory conversations to be held beforehand. The Japanese Government has promised to be fully prepared to enter into negotiations in February and once the negotiations are entered into earnest effort will be made to reach the necessary solutions in time. Where possible,

they will make preliminary studies in concert with Korean representatives. They are of the opinion, however, that, it would not be absolutely necessary nor, in fact, possible to bring all matters to a conclusion before the Peace Treaty comes into effect. They feel that if certain general principles relating to the establishment of amicable relations between the two parties can be formalized in, for instance, a treaty, the more complicated issues might be dealt with at greater length, interim arrangements being made where necessary.

4. Developments on the Disposal of Certain Vessels

A proposal that questions concerning the disposal of certain vessels of Korean registry should be discussed during the present conversations was made by the Korean representatives at the 2nd session held on Oct. 22. After discussion it was finally agreed at the next session on Oct. 25 that the discussions should be extended to include certain claims to be presented by the Japanese Government and that these discussions should be conducted as a separate conference. A separate group of representatives commenced discussions on this subject on Oct. 30 and after several meetings agreed on Nov. 6 on the following agenda of four items:

a. Problems concerning return of Korean registered vessels.
b. Return to Korea of vessels located in Korean waters on or since Aug. 9, 1945.
c. Return to Japan of 5 vessels on loan to Korea.
d. Return to Japan of fishing vessels detained in Korea.

To date 14 meetings have been held, but so far discussions have been confined to items a. and b. The Japanese representatives hope to be able to settle these matters on a practical basis. They are finding, however, that an authoritative interpretation of the Ordinance No. 33 dated Dec. 6, 1945 of the United States Army Headquarters in Korea entitled "Vesting Title to

Japanese Property within Korea" seems to be involved. As any such interpretation may affect future negotiations on claims and property between the two parties, we hope to be able to agree on the disposal of the vessels in question without committing ourselves on the Ordinance.

5. Preparations for Conference in February 1952

The Japanese Government is now considering for proposal at the conference next February some general agreement which would provide for the commencement of diplomatic relations, define principles relating to nationality, and provide for the direct or eventual solution of pending problems. It is hoped that in this treaty it will be possible to include an agreement concerning fishing rights, arrangements for the settlement of claims and interim arrangements on matters which will eventually be covered by a treaty of commerce and navigation. Although the Korean representatives have expressed their eagerness to enter at once into discussion on the substance of all the questions, the Japanese government does not think it will be able meet their wishes until the opening of the conference in February. We would as a matter of course be willing to exchange any information in the meanwhile. It has also been proposed and agreed to by the Korean delegate that an emissary of the Japanese Government should visit Pusan for an exchange of friendly wishes and if possible to work out with Korean leaders a ground of good feeling and mutual understanding which will be necessary for the success of the conversations next spring.

December 5, 1951.

極秘

Report on Japan-Korea Conversations

(Continued)

In out report dated Dec. 5, 1951, it was mentioned that the despatch of an emissary of the Japanese Government was under consideration. The Korean Mission informed us on Dec. 13 that the Korean Government felt that it was yet premature for them to extend an invitation to such an emissary. The existence of infavourable (unfavourable ?) sentiment arising from the failure of the current conversations to arrive as yet at a satisfactory conclusion is cited as one reason.

We feel that there is some misunderstanding on the part of the Korean Government as to the intentions of the Japanese Government. If the current conversations on nationality and shipping are taking more time than was expected, it is because the problems involved have been found to be more complicated and to have wider implications than at first thought. At the sessions where the discussions are held, we have had no complaints from the Korean representatives with reference to any delay. Rather we find that the Korean representatives tend to depend on us to furnish a great part of the material for discussion and then to refer frequently to Pusan for instruction. Admittedly the progress is slow, but substantial progress is being made. On the problem of nationality, the main subject of the present talks, agreement has been reached on questions of principle. As long as the prevailing conciliatory atmosphere is maintained satisfactory agreements will be arrived at before long.

It was with the hope that a contribution would be made to the strengthening of good feeling that the sending of an emissary to Pusan was contemplated. Korea would be the first Asiatic country to which an emissary would be sent. It is our expectation that the importance which the Japanese Government places upon the establishment of firm friendly relations with her next door neighbor would be made clear and also that a

salutary effect would be brought about in impressing our own public with the importance of such relations.

We feel that the Korean Government have been misled by some inaccurate press reports concerning the current conversations. The question of the agenda for the conference next spring has been settled to mutual satisfaction. The discussions on nationality and shipping are being continued in all earnestness. We expect that with concessions on the part of the Korean Government as well as on our part final agreement will be reached at an early date.

December 14, 1951.

(付記２)

CONFIDENTIAL

Reparations

1. It is stipulated under Article 14 (a) of the Peace Treaty that we shall pay reparations in service. Our government will earnestly strive to discharge its obligations in accordance with this provision. In view of the importance of the question, we have appointed Mr. Juichi Tsushima, former Finance Minister, and Mr. Shozo Murata, former Ambassador to the Philippines, as advisers to the Ministry of Foreign Affairs, who will give the Ministry their assistance in this connection. The officials concerned of the Finance and other Ministries have been ordered to study the problem. In fact, these officials have reached a tentative conclusion, as set forth in a separate document.
2. Indonesia was to send us a mission for the discussion of the reparation problem. But this has been postponed. Now a 15-man mission headed, by the Communications Minister, together with 11 parliamentary members

has arrived on 13th December. The Finance Minister Ikeda and Adviser Tsushima are assigned to the task of negotiating with the mission.

The Philippines has asked us to send a mission to discuss reparations. We plan to send one headed by Adviser Tsushima to Manila in the middle of January next, and are now negotiating on the matter with the Philippine government.

3. While the reparation-in-service principle is stipulated in the Treaty both Indonesia and the Philippines want reparations in cash and in kind, and they are expected to press hard their demands.

Moreover, with regard to our capacity for reparations payment and to the interpretation of the term "service", there seems to exist a wide divergency of view between us and these countries. It is feared the reparations negotiations will be difficult and take a long time. Most likely these countries will try to force Japan to commit herself to their figures and terms by threatening to withhold ratification of the Peace Treaty. We can't very well yield to such pressure.

Should negotiations be deadlocked, we might consider the advisability of proposing a solution in the form of economic cooperation in which; (1) the claimant nations renounce their right to reparations; (2) Japan extends them credits strictly within the limits of her capacity.

STRICTRY CONFIDENTIAL

Basic Principles on Reparations

(Tentative)

17 November 1951

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1. Principles on reparations

(1) Formula of reparations

It can be said that the formula of reparations has undergone three stages: first, monetary reparations in connection with the Versailles Peace Treaty after the World War I; second, reparation in kind stipulated in the Italian Peace Treaty after the World War II; third, reparations by services prescribed in the Japanese Peace Treaty.

Under the formula of reparation by services, the main questions will be that what kind of services will be furnished to what extent. This is fundamentally different from the reparation by money where the total reparation sum is determined to begin with as the starting point of the entire deal.

Article 14 of the Japanese Peace Treaty plainly provides that Japan's reparation obligations are limited to the furnishing of services, reparations by money or in kind being precluded.

(2) Pre-requisites of reparations

Article 14 of the Peace Treaty provides four conditions to the furnishing of services:

a. Japan is to maintain a viable economy;

b. Japan should meet other obligations simultaneously with the fulfilment of reparations;

c. Japan should not impose additional liabilities upon other Allied Powers;

d. Japan should not be imposed any foreign exchange burden.

The upshot of these four conditions is:

First, services should be furnished within the financial and economic

abilities of Japan;

Second, there should be a supply latitude in any type of service desired;

Third, the furnishing of any service should not entail any foreign exchange burden upon Japan;

Fourth, no service in production (processing) which will eventually hamper Japan's normal export can be furnished.

Therefore, Japan will have fully met the Peace Treaty obligations by the furnishing of services within the First, Second, Third and Fourth requirements above.

On the other hand, however, it is presumed that the claimant countries will be required, in order to receive services, to raise considerable amount of capital, or to spend foreign exchange to buy materials in the instance of processing. In this connection, a question may arise that to what extent a particular claimant country will be able to prepare for the acceptance of services. It is considered, therefore, that the scope of service reparations will be confined not merely by Japan's, but also by the claimant countries', abilities.

(3) Relationship of service reparations to economic cooperation.

As it is conceivable that the claimant countries are short of domestic capital or foreign exchange fund to obtain materials for the processing purpose, there is foreseen a possibility that they will ask Japan, in conjunction with reparations, for offer of credit or establishment of joint-corporations.

As to such requests, however, Japan should strictly keep to the stand that it is under no obligation to comply with such requests as reparations except meeting the obligation to furnish services under Article 14 of the Peace Treaty.

If, however, a project which a claimant country desires to accomplish by way of reparation is such as to be eventually beneficial to Japan and, for that matter, desirable to accomplish, it may become necessary that Japan will deal with such project as an instance of "economic cooperation," as strictly distinct from reparations excepting the furnishing of services, and exercise good offices in raising necessary capital by way of private investment or otherwise, or, where such is not feasible and yet there exists certain necessity to give political consideration from the over-all and long-range standpoint, it may be that Japan will have to resort to special steps somehow or other.

2. Types of services and criteria for their selection

(1) The services as referred to in Article 14 of the Peace Treaty are construed, to all intents and purposes, to mean the furnishing of technicians and the processing of materials. In some cases, however, it is possible that the combination of the two will participate in a natural resources development undertaking such as opening-up of mineral mines.

In this connection, it is not unlikely that some claimant countries will take the interpretation that common labor, electric power and transportation are also included in the category of "services" in Article 14. Such an interpretation, however, is not acceptable to Japan. It is necessary, therefore, that Japan consider measures beforehand to settle foreseeable conflicts as regards such interpretation.

(2) Japan's criteria for selecting services.

A. Criteria for the furnishing of technicians

Skill and technique as the object of reparations, which will be offered to the claimant countries by the dispatch of technicians, must be those of which there is supply latitude in Japan in the first place. Then, efforts should be made so that the following types may be selected:

a. Skill and technique which will help increase production of minerals, agricultural and forestry products, etc., which Japan desires to import;

b. Skill and technique the subsequent consequence of the furnishing of which will very much likely to increase Japan's normal export;

c. Skill and technique which will help strengthen the relationship between the claimant country and Japan.

B. Criteria for the processing

Subject to the following criteria:

a. No processing should, in its consequence, affect Japan's normal export to the claimant country;

b. No processing should hamstring Japan's normal export capacity;

c. No products should be processed which will foreseeably be re-exported by the claimant country to third countries.

Efforts should be made, as far as possible, for the selection of the following products:

a. Finished products or products of highest possible processing percentage. Primary products such as steel, aluminium ingots, fertilizer, etc., should be avoided;

b. Such products as will be of help to exploit, or increase the production of, materials which Japan desires to import subsequently from the claimant country;

c. Such products as will entail, in the future, increased export of them as replacement or of parts thereof;

d. Such products as of an industry or industries which have production capacity in surplus under normal conditions and which

should be encouraged for future development.

C. Criteria for selecting the combination of the furnishing of technicians and processing.

Since this type is necessarily of relatively large dimensions, it may become necessary that the claimant country and Japan provisionally decide upon the kind to start with and, then, conduct a survey on the spot to ascertain actual dimensions.

It is needless to say that criteria for such provisional selection be, primarily, that there should be furnishing latitude in Japan in regard to the technicians and the processing capacity in question. Based upon this requirement, it is desirable that the following be selected as far as possible:

a. Combination which will help increase production of mineral or agricultural or forestry products, etc., which Japan desires to import;

b. Combination which will very likely increase Japan's normal export in the future;

c. Combination which will contribute to the economic progress of the claimant country.

In this regard, it is considered necessary that, in order to clarify beforehand Japan's abilities and burdens in such combinations, Japan request the claimant country for detailed information on the desired dimension of the project, the situation or conditions of the project site, etc., and check with it upon its fund ability to finance the work, all prior to the actual survey on the spot.

With respect to the actual survey, it is necessary, to preclude any subsequent conflict, that the claimant country should be unmistakably told beforehand of Japan's acceptance of the request for the combination service in question will be pretty much conditional upon the result of such survey: no such service will possibly be rendered in case the survey result shows

that the project desired is not suitable for development or exploitation or Japan lacks the ability to provide necessary skill and technique.

3. Responsibilities of claimant countries

From the purport of the reparation clause (Article 14), provision of the following items should be the responsibilities of the claimant countries:

(1) Responsibilities in connection with furnishing of technicians:

A. Materials to be used or consumed in the claimant countries;

B. Living expenses of dispatched technicians in the claimant countries (such expenses should be such as to befit the status of dispatched Japanese technicians);

C. Travel expenses in foreign exchange of dispatched technicians to and from the claimant countries (such expenses should also be such as to befit their status);

D. Expenses in foreign exchange for the training or education of the nationals of the claimant countries in Japan.

(2) Responsibilities in connection with processing

All materials necessary for the processing (including auxiliary materials, electric power and fuel) should be furnished by the claimant countries prior to the processing.

Therefore:

a. Types of materials which constitute normal Japanese imports should be supplied by the claimant countries. Delivery of such materials should be made on Ex-SHIP Japan basis. In some cases, however, it may be convenient that certain materials be procured in Japan. In such case, the claimant countries, upon agreement of Japan, can purchase them in U.S. dollars and deliver to the Japanese, or pay to the Japan Government U.S. dollars equivalent to the price of such materials;

b. Where indigenous materials (including electric power and fuel) are used, the claimant countries should purchase them in U.S. dollars for delivery to the Japanese, or pay the Japanese Government equivalent U.S. dollars.

(3) Alleviation of responsibilities

There may arise a necessity, depending upon the ups and downs of actual negotiations, to alleviate the responsibilities of the claimant countries as set forth in (1) and (2) above. In such case, Japan might be required to undertake the following burdens as maximum concessions:

A. Travel expenses in foreign exchange in dispatching technicians;

B. Small quantity of auxiliary materials in processing.

4. Restrictions on Reparations

The furnishing of services will be restricted by the following conditions:

(1) Restrictions upon claimant countries

The scope of reparations will be limited by:

A. Whether the claims are reasonable enough when compared with actual damage done during the war;

B. Whether the claimant countries can provide enough fund, by themselves or by the assistance of third countries, to procure thereby necessary materials for processing or efficaciously utilize the Japanese services which will be rendered.

In this connection, there is foreseen a possibility of both parties' arguing over the reasonableness of the estimate of war damages, etc. It is, therefore, necessary to think out, in advance, measures for the settlement of such conflict.

(2) Restrictions upon Japan

A. Japan's fulfilment capacity

Japan's capacity to furnish a particular service must be determined after taking into consideration the requests for the same by other claimant countries;

B. Term of reparation fulfilment

Since it is advantageous and advisable for Japan to carry out reparations in the shortest possible period, it seems that efforts should be made so that the reparation term may be around 5 years.

C. Financial abilities of Japan

Reparation claims, after having been screened by all the restrictions mentioned above, should not exceed Japan's financial and economic abilities, when screened claims of other claimant countries are added up.

5. Effectuation of reparations

(1) Survey in claimant countries

Where actual surveying on the spot is required, such survey should, generally speaking, be conducted, prior to the conclusion of a reparation agreement, in accordance with the following:

A. Items to be surveyed:

a. Type of skill and technique, scale of such skill and technique required and the number of necessary personnel;

b. If materials, machinery or equipment are required in furnishing the service, the kind and quantity thereof be clarified;

c. Detailed estimation of monetary costs to cover a and b above, and estimation of time required to accomplish the project.

B. Selection of surveyors

Surveyors to be sent will be selected by Japanese Government agency after consultation with the claimant country.

C. Term of survey

Term of survey will be decided upon by consultation with the

claimant country.

D. Expenses for survey

Expenses for survey will be taken care of in accordance with 3 (1) above as part of reparations.

(2) Conclusion of reparation agreement

Reparation agreement will be entered into between the claimant country and Japan finally upon the basis of the survey results and so far as Japan can afford the services required. Such reparation agreement will merely provide the type and quantity of the services, the terms in which individual service should be rendered, or the quantity of service annually rendered, and not enter any designation of monetary sum as reparations.

(3) Manner to estimate services rendered

It is not inconceivable that the claimant country will, for internal political considerations, publicly appraise the services rendered by Japan as reparations at a considerably high value. Such appraisal will do no harm to Japan, since it is simply the claimant country's business.

(付記 3)

CONFIDENTIAL

The Nansei Islands

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

2. As materials for conversation the desires of the Japanese government is

set forth in a separate paper. We hope conversation will be opened as soon as possible and a settlement will be reached in accordance with the wishes of the Japanese people—especially the inhabitants of those islands.

CONFIDENTIAL

"Practicable Arrangement" for the Southern Islands

10 December, 1951

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

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

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

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

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

   Moving and travelling between Japan proper and the Southern Islands

   Trade (no custom or duty to be imposed)

   Fiscal transaction

   Fishing

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

   Note: Preparatory steps should be taken at an early date in order to put this into effect.
3. The United States will admit that the Southern Islands are treated by Japan as a part of its territory in any economic, social or cultural treaty or agreement which Japan may conclude with a third country.

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

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

Juridical jurisdiction over civil and criminal cases among the inhabitants themselves

Educational system and its operation

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

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

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

（和文原案）

極秘

二六、一二、一〇

南方諸島に関する「実際的な措置」について

米国政府の了解をえて、本年八月の第十一国会において、私は、次のとおり声明した。

「融通性のある（平和条約）第三条の規定は、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そ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を残すものである。」

平和条約第三条の諸島（以下「南方諸島」という）の問題については、第十二国会における平和条約の審議に際しても、強い関心が示された。相互に

満足すべきアレンヂメントができることは、日米国交のために最も望ましい。南方諸島に関する日米両国間の実際的な措置として、次のような措置について好意ある考慮をわずらわしたい。

一、米国は、南方諸島が日本の主権の下に残り、従つて住民の国籍に変更なきことを確認する。

二、米国は、日本本土と南方諸島間の従前の関係を軍事上の必要なき限り回復させることを容認し、特に、次の諸項については、南方諸島が日本国の一部として取扱われることを承認する。

移住、旅行

交易（関税を課さない）

資金の交流

漁業

日本円を南方諸島の法貨とする。

（注）このためには、すみやかに準備的措置をする必要がある。

三、米国は、日本が第三国と締結する経済、社会及び文化上の条約において南方諸島を日本領土の一部として取扱うことを認める。

日本は、第三国にある南方諸島の住民に対して保護権を行使し、今後第三国に渡航する住民については、南方諸島に設置されるべき日本政府のエイヂェンシイが旅券を発行する。これは、米国政府がこれらの者にトラヴェル・ドキュメントを発給することを妨げない。

四、米国政府は、終局的には自己にサブジェクトではあるが、民政事項については原則としてこれらの諸島の自律（セルフ・ルール）を認めることとし、特に次の諸項については、完全なる自律を認めることを宣言する。

現地住民間の民事及び刑事事件に関する裁判権

教育制度及びその実施

五、米国は、南方諸島にある日本本土在住日本人の私有財産権を確認し、且つ、これらの日本人が従前行つていた経済活動を再開することを容易ならしめるものとする。

六、以上にかかわらず、米国が現在管治することを軍事上必要としない諸島については、米国は、行政、立法及び司法上の権力を行使することを差し控えて、日本によるその行使を認める。

（注）南方諸島のうち、米国の軍事施設の設けられているのは、琉球列島の沖縄本島、伊江島及び小笠原諸島中の硫黄島のみであると了解している。

47 昭和26年12月22日[†1]

日米経済協力に関する吉田よりダレス宛書簡

December 22, 1951

Dear Mr. Dulles,

For fear that I might not have made myself clear enough regarding a possible U.S. loan to Japan, which I mentioned to you when you were in Tokyo, I am writing this letter on the same subject.

As you are aware, my government has been stressing to the people the vital importance of cooperating with America politically and economically to the fullest extent. On the other hand, we have certain elements, not necessarily Communists, who carry on vociferous propaganda to misrepresent U.S. intentions for the purpose of obstructing Japanese-American cooperation.

Actually, there is much to be done to build up a common economic front as well as a common political front between Japan and the United States. For example, we are anxious to supply America with such critical

[†1] 12月24日午後、井口次官よりシーボルト大使へ交付。

materials as copper and aluminum as much as we can, partly as a means of earning dollar exchange for ourselves and partly as our share of contribution to the collective security of the free world. But we are faced with a serious shortage of electric power. Though hydro-electric power sources exist here in plenty, we lack capital which is needed immediately and urgently for the development of these sources. A loan from the United States would kill two birds, one political and the other economic, with one stone. It would demonstrate in a dramatic and unmistakable fashion American intentions and policy toward Japan.

I believe the very news, even unconfirmed, of such a loan being considered in Washington would produce a salutary psychological effect and help consolidate the common front between Japan and the United States.

I earnestly solicit your understanding and your assistance toward the realization of this loan.

Yours sincerely,

Shigeru Yoshida

His Excellency

Mr. John Foster Dulles,

Office of the Secretary of State,

Washington, D.C.,

U.S.A.

平和条約第15条(a)に関する紛争解決のための協定案

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

The Government of the Allied Powers signatory to this Agreement and the Japanese Government desiring, in accordance with Article 22 of the Treaty of Peace with Japan signed at San Francisco on September 8, 1951, to establish procedures for the settlement of disputes concerning the interpretation and execution of Article 15 (a) of the Treaty have agreed as follows:

ARTICLE I

In any case where an application for the return of property, rights, or interests, has been filed in accordance with the provision of Article 15 (a) of the Treaty of Peace, the Japanese Government shall within six months from the date of such application, inform the Government of the Allied Power of the action taken with respect to such application. In any case where a claim for compensation has been submitted by the Government of an Allied Power to the Government of Japan in accordance with the provisions of Article 15 (a) of the Treaty and the Allied Powers Property Compensation Law, enacted by the Japanese Diet on November 26, 1951, the Japanese Government shall inform the Government of the Allied Power of its action with respect to such claim within eighteen months from the date of submission of the claim. If the Government of an Allied Power is

[†1] 同日、バッシン（Jules Bassin）米国法務官より受領。

not satisfied with the action taken by the Japanese Government with respect to an application for the return of property, rights, or interests or with respect to a claim for compensation, the Government of the Allied Power, within six months after it has been advised by the Japanese Government of such action, may refer such claim or application for final determination to a commission appointed as hereinafter provided.

ARTICLE II

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

ARTICLE III

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

Government.

ARTICLE IV

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

ARTICLE V

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

ARTICLE VI

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

ARTICLE VII

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

ARTICLE VIII

This Agreement shall be open for signature by the government of any

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

ARTICLE IX

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

December 29, 1951

49 昭和27年1月14日[†1]

平和条約第15条(a)に関する紛争解決のための協定案へのわが方修正意見

CONFIDENTIAL

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

14 January, 1952

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

Re. Article 1

[†1] 同日、藤崎条約局第一課長よりバッシン法務官へ交付。

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

"—— the Allied Powers Property Compensation Law (Japanese Law No. 264, 1951) ——"

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

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

Re. Article 2

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

Re. Article 3

The proviso of the last sentence be amended as follows:

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

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

Re. Article 7

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

平和条約第15条(a)に関する紛争解決のための協定案の修正に関する米国覚書

付　記　昭和27年1月25日　上記米国覚書に対するわが方回答[†2]

MEMORANDUM

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

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

The Government of the United States and the Government of the United Kingdom through its Mission in Washington plan to circulate the December 29 draft, with the accepted changes, to the Missions in Washington of the Allied Powers signatory to the Treaty of Peace, with the statement that the two Governments intend to conclude such an agreement with the Japanese Governments in Tokyo as soon after February 15, 1952

[†1] 同日午後、バッシン法務官より受領。
[†2] 1月26日、米国側へ送付。

as possible. However, the circulation of the Draft is contingent upon the willingness of the Japanese Government and the British Government to sign an agreement in the terms specified.

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

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

(付　記)

MEMORANDUM

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

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

Tokyo, January 25, 1952.

51　昭和27年6月12日[†1]

平和条約第15条(a)に関する紛争解決のための協定

日本国との平和条約第十五条(a)に基いて生ずる紛争の解決に関する協定

この協定の署名者たる連合国政府及び日本国政府は、千九百五十一年九月八日にサン・フランシスコで署名された日本国との平和条約第二十二条に従つて同条約第十五条(a)の解釈及び実施に関する紛争の解決のための手続を設定することを希望し、次のとおり協定した。

第一条

平和条約第十五条(a)の規定に従つて財産、権利又は利益の返還の申請がされた場合には、日本国政府は、その申請があつた日から六箇月以内に、その申請についてとつた措置を当該連合国政府に通知しなければならない。連合国政府が同条約第十五条(a)及び連合国財産補償法（昭和二十六年法律第二百六十四号）の規定に従つて補償の請求を日本国政府に提出した場合には、日本国政府は、その請求が提出された日から十八箇月以内に、その請求についてとつた措置を当該連合国政府に通知しなければならない。連合国政府が、財産、権利若しくは利益の返還の申請又は補償の請求について日本国政府がとつた措置に満足しなかつたときは、当該連合国政府は、日本国政府からそ

[†1] 日本は同日署名。日本と各署名国との間の協定発効日は以下のとおり。
アルゼンチン1952年10月3日、オーストラリア1952年8月12日、ベルギー1952年8月22日、カンボジア1952年8月13日、カナダ1952年6月13日、セイロン(現スリランカ)1952年6月16日、チリ1954年4月28日、キューバ1952年8月15日、ドミニカ共和国1952年6月12日、フランス1952年7月24日、ギリシャ1953年5月19日、ハイチ1953年5月1日、イラク1955年8月18日、レバノン1954年1月7日、リベリア1952年12月29日、メキシコ1952年8月11日、オランダ1953年9月10日、ニュージーランド1952年6月19日、ノルウェー1952年9月9日、パキスタン1952年7月16日、トルコ1952年7月24日、南アフリカ1953年1月7日、英国1952年7月14日、米国1952年6月19日、ベネズエラ1954年2月3日。

の措置について通知を受けた後六箇月以内に、その申請又は請求を以下に定めるところにより設置される委員会に最終的決定のため付託することができる。

第二条

この協定のための委員会は、日本国政府に対する連合国政府の書面による要請があつたときに設置されるものとし、且つ、当該連合国政府が任命する委員一人、日本国政府が任命する委員一人及び両政府の合意によつて任命される第三の委員の三人の委員からなるものとする。各委員会は、日本国＝（当該連合国名）財産委員会と称する。

第三条

日本国政府は、同一の者を二以上の委員会に勤務するように任命することができる。但し、当該連合国政府が別の一又は二以上の委員会における当該日本委員の勤務のため委員会の業務が不当に遅れると認めるときは、日本国政府は、当該連合国政府の要請に基いて新たな委員を任命しなければならない。連合国政府及び日本国政府は、第三の委員として、他の委員会で第三の委員として勤務している者を任命することに同意することができる。但し、当該連合国政府又は日本国政府が別の一又は二以上の委員会における当該第三の委員の勤務のため委員会の業務が不当に遅れると認めるときは、いずれか一方の政府は、当該連合国政府と日本国政府との合意によつて新たな第三の委員を任命することを要求することができる。

第四条

日本国政府若しくは当該連合国政府が第二条に掲げる要請があつた日から三十日以内に委員を任命しなかつたとき、又は両政府が第二条に掲げる要請があつた日から九十日以内に第三の委員の任命について合意に達しなかつたときは、それぞれ、既に委員を任命した政府又は当該連合国政府若しくは日本国政府は、国際司法裁判所長に前記の委員を任命するように要請することができる。委員会の委員に生ずる欠員は、第二条及び第三条に定める方法で補充するものとする。

第五条

この協定に基いて設置される各委員会は、正義及び衡平に合致する規則を採択して、それぞれの手続を決定しなければならない。

第六条

各政府は、各自が任命する委員の報酬を支払わなければならない。日本国政府は、委員を任命しなかつたときも、同政府のために任命された委員の報酬を支払わなければならない。各委員会の第三の委員の報酬及び各委員会の経費は、当該連合国政府及び日本国政府が決定し、且つ、均分して負担しなければならない。

第七条

委員会の委員の過半数による決定は、委員会の決定とする。当該連合国政府及び日本国政府は、この委員会の決定を最終的であり、且つ、拘束力を有するものとして受諾しなければならない。

第八条

この協定は、平和条約の署名国の政府による署名のために開放されるものとする。この協定は、連合国政府及び日本国政府がこの協定に署名する日又は平和条約がこの協定の署名者たる政府の属する連合国と日本国との間に効力を生ずる日のいずれかおそい方の日に、その連合国政府と日本国政府との間に効力を生ずる。

第九条

この協定は、アメリカ合衆国政府の記録に寄託する。同政府は、その認証謄本を各署名政府に交付する。

以上の証拠として、下名は、正当に委任を受け、その署名に対応して掲げる日に各自の政府のためにこの協定に署名した。

千九百五十二年六月十二日にワシントンで、ひとしく正文である英語、フランス語、スペイン語及び日本語により作成した。(以下署名略)

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

The Governments of the Allied Powers signatory to this Agreement and the Japanese Government desiring, in accordance with Article 22 of the Treaty of Peace with Japan signed at San Francisco on September 8, 1951, to establish procedures for the settlement of disputes concerning the interpretation and execution of Article 15 (a) of the Treaty have agreed as follows:

ARTICLE I

In any case where an application for the return of property, rights, or interests has been filed in accordance with the provisions of Article 15 (a) of the Treaty of Peace, the Japanese Government shall within six months from the date of such application, inform the Government of the Allied Power of the action taken with respect to such application. In any case where a claim for compensation has been submitted by the Government of an Allied Power to the Government of Japan in accordance with the provisions of Article 15 (a) of the Treaty and the Allied Powers Property Compensation Law (Japanese Law No. 264, 1951), the Japanese Government shall inform the Government of the Allied Power of its action with respect to such claim within eighteen months from the date of submission of the claim. If the Government of an Allied Power is not satisfied with the action taken by the Japanese Government with respect to an application for the return of property, rights, or interests, or with respect to a claim for compensation, the Government of the Allied Power, within six months after it has been advised by the Japanese Government of such action, may refer such claim or application for final determination to a commission appointed as hereinafter provided.

ARTICLE II

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

ARTICLE III

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

ARTICLE IV

If the Japanese Government or the Government of the Allied Power fails to appoint a member within thirty days of the request referred to in Article II or, if the two Governments fail to agree on the appointment of a third member within ninety days of the request referred to in Article II, the

Government which has already appointed a member in the first case, and either the Government of the Allied Power or the Japanese Government in the second case may request the President of the International Court of Justice to appoint such member or members. Any vacancy which may occur in the membership of a commission shall be filled in the manner provided in Articles II and III.

ARTICLE V

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

ARTICLE VI

Each Government shall pay the remuneration of the member appointed by it. If the Japanese Government fails to appoint a member, it shall pay the remuneration of the member appointed on its behalf. The remuneration of the third member of each commission and the expenses of each commission shall be fixed by, and borne in equal shares by the Government of the Allied Power and the Japanese Government.

ARTICLE VII

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

ARTICLE VIII

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

Government is a signatory hereto and Japan, whichever is the later.

ARTICLE IX

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

IN WITNESS WHEREOF the undersigned, having been duly authorized, sign this Agreement on behalf of their respective Governments on the dates appearing opposite their signature.

DONE at Washington this twelfth day of June, 1952, in the English, French, Spanish, and Japanese languages, all being equally authentic.(以下署名略)