

CRIMINAL JURISDICTION SUBCOMMITTEE

MEMORANDUM FOR: The Joint Committee

SUBJECT: Jurisdiction over Members of the Civilian  
Component

1. References:

- a. Agreement under Article VI of the Treaty of Mutual Cooperation and Security between the United States of America and Japan Regarding Facilities and Areas and the Status of United States Armed Forces in Japan
- b. Agreed Minutes to the Agreement under Article VI of the Treaty of Mutual Cooperation and Security between the United States of America and Japan Regarding Facilities and Areas and the Status of United States Armed Forces in Japan
- c. Agreed Views on Criminal Jurisdiction, approved by the Joint Committee established by Article XXVI of the Administrative Agreement, October 28, 1953.

2. The Government of Japan (GOJ) and the Government of the United States of America (USG) (hereinafter collectively referred to as "both Governments") establish the following arrangements for the implementation of Article XVII of reference 1.a.:

- a. (i) When the United States has the primary right to exercise jurisdiction over a member of the civilian component for an offense arising out of any act or omission done in the performance of official duty, except for that provided for in paragraph 3.(a)(i) of Article XVII of reference 1.a., and, after a general officer has approved the issuance of an official duty certificate, and has advised it will exercise jurisdiction over that member in accordance with the same procedure as provided for in reference 1.c., the military authorities of the United States will expeditiously determine whether to seek a criminal prosecution and will, within ten days of making such a determination, notify the authorities of Japan whether the military authorities are seeking such criminal prosecution.
- (ii) If the military authorities of the United States seek a criminal prosecution, they will, within twenty days of an indictment being issued, notify the authorities of Japan of that result.
- (iii) If a decision is made not to commence or continue with the criminal prosecution requested by the military authorities of the United States, those authorities will notify the authorities of Japan of that decision within ten days from the date the military authorities of the United States learned of that decision.
- (iv) Within twenty days of the disposition(s) of the disciplinary and/or criminal action(s), the military authorities of the United States will notify the authorities of Japan whether the U.S. authorities took action and what action was taken.

- b.
  - (i) In the case where the alleged offense caused death, a life-threatening injury, or permanent disability and no criminal prosecution was conducted, the GOJ may request the USG, in the Joint Committee, within thirty days after the notification mentioned in subparagraph a. above, that no criminal prosecution would be conducted, to give consent to the exercise of jurisdiction by the authorities of Japan. The USG will give sympathetic consideration to such request.
  - (ii) In the case where the alleged offense did not cause death, a life-threatening injury, or permanent disability and no criminal prosecution was conducted, the GOJ may request the USG, in the Joint Committee, within thirty days after the notification mentioned in subparagraph a. above, that no criminal prosecution would be conducted, to give consent to the exercise of jurisdiction by the authorities of Japan. The USG will take full account of any special views put forward by the GOJ with respect to such request.
- c. Both Governments confirmed that, in the cases mentioned in subparagraphs a. and b. above, the authorities of Japan and the military authorities of the United States will assist each other in accordance with the provisions of paragraph 6.(a) of Article XVII of reference 1.a., including furnishing by each government to the other all relevant evidence and assisting with the production of witnesses and evidence for use before and at trial. The USG intends to provide the GOJ all relevant information and reasonable explanation on the law of the United States.

- d. In exercising jurisdiction following the advice referred to in subparagraph a. above, the military authorities of the United States may, in accordance with paragraph 2 of "Re paragraph 3(c)" of Article XVII of reference 1.b., arrange for that member of the civilian component to be tried in a Federal Court of the United States within the territory of the United States pursuant to the law of the United States. With regard to trials to be conducted within the territory of the United States pursuant to this memorandum, both Governments recognize that this memorandum provides for the arrangements referred to in the said paragraph.
- e. Both Governments also confirmed that representatives of the Japanese authorities may be present at the trials in a Federal Court of the United States mentioned in subparagraph d. above in accordance with the provisions of paragraph 2 of "Re paragraph 3(c)" of Article XVII of reference 1.b. The victims of the alleged offense and their family members may also be present at those trials. If permitted in accordance with the law of the United States, including the Federal Rules of Criminal Procedure, victims' and their family members' traveling cost may be borne by the USG. Entry to the United States will be governed by the law of the United States.

3. Where the United States exercised jurisdiction over a member of the civilian component pursuant to paragraph 2. above, Japan will not exercise jurisdiction over that member for the same offense, except for the cases where the consent referred to in subparagraph 2.b. was given.

4. This memorandum may be revised by the Joint Committee at any time after the date of its approval by the Joint Committee, taking into consideration the review of the implementation of this memorandum.

5. This memorandum applies only to cases which arise after the date of its approval by the Joint Committee with the exception of the case of a traffic accident which caused death in Okinawa City on January 12, 2011.

6. It is recommended that this matter be approved.

Accepted and referred to the Joint Committee on November 23, 2011.

TOSHIYA NATORI  
Japanese Co-Chairman

W. W. PISCHNOTTE  
Colonel, USAF  
United States Co-Chairman

Accepted by, approved by, and public release of the contents of this memorandum authorized by, the Joint Committee on November 23, 2011.

JUNICHI IHARA  
Japanese Representative

W. BLAKE CROWE  
Brigadier General, US Marine Corps  
US Representative, Joint Committee