

Agreed Views on Criminal Jurisdiction

No.1: (a) The identity card mentioned in paragraph 3 of Article IX of the Administrative Agreement will be the standard English language Department of Defense identity card issued only to active duty members of the United States Armed Forces.

(b) The identity card mentioned in paragraph 4 of Article IX will be the standard English language identity card issued by the United States Armed Forces. This card will contain the name, signature, date of birth, date of issue, date of expiration, nationality, United States Forces Identity card number and will contain the bearer's picture. No identification card will be required for children under twelve years old.

No 2: It is desirable that United States Armed Forces law enforcement personnel (such as MP, SP, AP, CID, and CIS), who engage in military police activities in Japan, carry a bi-lingual identity card containing the bearer's name, position, and the fact that he is a member of a law enforcement agency. This card would be shown upon request to persons concerned when the bearer is in the performance of duty.

No 3: The United States Armed Forces will furnish, upon request, to Japanese authorities the form of the identification cards of the members of the United States Armed Forces, the civilian component, and their dependents and descriptions of the various uniforms of the United States Armed Forces in Japan.

No 4: Instructions have been issued and will be reissued periodically to members of the United States Armed Forces, the civilian component and their dependents, which emphatically direct United States personnel to obey the laws of Japan and the instructions and signals of the Japanese police.

No 5: (a) The maintenance of order and discipline among members of the United States Armed Forces outside facilities or areas utilized by such forces is a function of the United States Forces law enforcement agencies. The United States Forces law enforcement agencies may exercise their function of maintaining order and discipline among the civilian component and dependents outside such facilities or areas, subject to the conditions which may be proposed by the Japanese authorities and promulgated by the Joint Committee. The above statement shall not be interpreted to prejudice in any way the functions of either the Japanese or the United States law enforcement agencies.

(b) When both United States Armed Forces and Japanese law enforcement personnel are present on the scene where any violation of law occurs, the arrest of the members of United States Armed Forces, the civilian component or their dependents should be made by the United States law enforcement personnel and such arrested persons should be brought to the nearest Japanese Police Station. After preliminary interrogation by the Japanese authorities, the arrested person will remain with the United States authorities, and if it is a case over which Japan has the primary right to exercise jurisdiction, such arrested person will be made available for joint United States - Japanese investigations as provided for in No 24 following. If, however, the Japanese authorities determine that the case is of material importance to Japan and that there is adequate cause and necessity for Japan to assume custody over such arrested persons, custody may thereafter be transferred upon request to the Japanese authorities.

(c) The United States Armed Forces law enforcement personnel, after coordination with Japanese authorities, will patrol trains utilized solely by United States Armed Forces. There will be close cooperation and liaison between Japanese law enforcement agencies and United States Armed Forces law enforcement personnel and, where practicable, joint Japanese Police and United States Armed Forces law enforcement patrols will be utilized. It is desirable that Japanese Police authorities provide limited accommodations, where available, for United States Armed Forces law enforcement personnel for liaison and patrol activities, at Japanese Police Stations in areas where considerable members of United States Armed Forces are present.

No 6: Local Provost Marshals will notify Japanese Police agencies of areas or establishments which have been declared "Off Limits" for United States Armed Forces personnel, the civilian component, and their dependents.

No 7: (a) Pursuant to the provisions of the Official Minutes referring to para 10 of the Protocol, arrests may be made without warrant by United States law enforcement personnel in the vicinity of facilities or areas in use by the United States Armed Forces of any person in the commission or attempted commission of an offense against the security of that facility or area.

(b) The United States law enforcement personnel may, in the vicinity of vital military property, such as vessels, aircraft, major weapons, ammunition and classified material, wherever situated in Japan, arrest without warrant any person in the commission or attempted commission of an offense against the security of that property or check him from the commission of such offense, when they have no time to request the action of Japanese law enforcement authorities. In such cases, the United States law enforcement personnel shall abide by the regulations of the Forces and shall not use any weapon, except when such cases come under paragraph 1 of Article 36 or paragraph 1 of Article 37 of the Penal Code of Japan.

No 8: Bounds of facilities and areas which are in use by the United States Armed Forces under Article II of the Administrative Agreement and into which unauthorized entry is prohibited shall be clearly marked with bi-lingual signs or markers stating substantially the following:

"United States area (facility)

United States Forces Japan

Unauthorized entry punishable by Japanese law".

A list and legal description of areas and facilities will be published in the Official Gazette of Japan, and also in an official publication of the United States Armed Forces. However, certain facilities and areas, because of their military nature, will not be included in the lists made public.

No 9: (a) When members of the United States Armed Forces, the civilian component or their dependents are arrested by the Japanese authorities, the arresting officers will immediately notify the nearest Provost Marshal of the United States Armed Forces that such arrest has been made and will turn the prisoner over to him when the primary right to exercise jurisdiction rests with the United States or when it is questionable whether the alleged offense arose out of the performance of official duty. Immediate notification will be made by the United States authorities of the determination as to the official duty status of the offender. When the primary right to exercise jurisdiction over such arrested person rests with Japan, an immediate determination shall be made by the Japanese authorities as to whether there is adequate cause and necessity to retain such offender, and if not, such person will be released to the custody of the United States authorities, subject to the provisions of paragraph 11 (a), following. Thereafter the United States authorities shall, upon request, transfer the custody of such person to the Japanese authorities at the time he is indicted by the latter.

(b) Notification under paragraph 2 of the Official Minutes relating to paragraph 5 of the Protocol shall be immediately made to the nearest Japanese Police officer by the local Provost Marshal who made the arrest. The persons referred to in para 2 of the Official Minutes relating to para 5 of the Protocol, when arrested by the U.S. authorities, will be made available upon request to the Japanese authorities for joint United States - Japanese investigations as provided for in paragraph 24, following.

No 10: Persons subject solely to the jurisdiction of Japan who have been arrested by United States authorities will be turned over immediately to Japanese authorities by the local Provost Marshal making the arrest. Japanese authorities will be informed of the reasons for such arrests in advance of the turning over of the prisoner to the Japanese.

No 11: (a) When Japanese authorities turn over arrested members of the United States Armed Forces, the civilian component, or their dependents subject to the military law of the United States, the Japanese authorities shall prepare a standard form for turning over the person wherein date of turning over, the name of the office of the United States Armed Forces receiving the person, the rank and name of the officer who receives the person shall be entered. The standard form shall be signed by such officer and kept on file by both United States and Japanese authorities. If the condition of the release is that the arrested person shall be made available to Japanese authorities, as provided in paragraph 1 of the Official Minutes relating to paragraph 5 of the Protocol of 29 September 1953, the United States military authorities shall give such assurance to the Japanese authorities in the form mentioned above.

(b) When the police authorities of the United States Armed Forces have arrested persons who are subject to the primary jurisdiction of Japan within or in the vicinity of the facilities or areas in use by the United States Armed Forces and turn them over to the authorities of Japan, such police authorities shall prepare a document entering in it the date and place of arrest, the name of office, rank and name of the person who was arrested and a description of the alleged offense and deliver it to the Japanese authorities.

(c) One standard bi-lingual form shall be used to make the reports set forth in (a) and (b) above.

No 12: Any request to the Japanese authorities for the arrest of any person in Japan will be made by the local Provost Marshal of the United States Armed Forces nearest to the contemplated place thereof. An official directive of the United States Armed Forces will specify the exact form of such request and, in addition to the reasons therefor, any other information to be included thereon. This form will be bi-lingual.

No 13: When transfer of custody of arrested persons is to be effected, all means of expediting such transfer will be taken by both United States and Japanese authorities.

No 14: When the police authorities of the United States Armed Forces have arrested members of the United States Armed Forces, the civilian component or their dependents, and there is suspicion that such persons have violated a Japanese law or Ordinance, such authorities shall in appropriate cases deliver to the Japanese authorities the photographs and fingerprints of such suspects.

No 15: When the authorities of Japan have arrested members of the United States Armed Forces, the civilian component, or their dependents, such authorities may take the fingerprints and photographs of such arrested persons. Suspects shall not, however, be fingerprinted or photographed with respect to such minor offenses as fall under Article 217 of the Code of Criminal Procedure of Japan, since arrests for such offenses are not made unless the residence or identity of the suspect are unknown or the suspect attempts flight.

No 16: The term "with the aid of the United States", as used in paragraph 1 (a) of Article XX of the Administrative Agreement, is interpreted to refer to the mutual cooperation and assistance that is contemplated within the meaning of paragraph 6 (a) of the Protocol. In this respect, United States Armed Forces law enforcement personnel are prepared to cooperate fully with the Japanese police authorities in all investigations pertaining to the unauthorized use or possession of Military Payment Certificates as set forth in Article XX of the Administrative Agreement.

No 17: (a) United States Armed Forces law enforcement personnel may enter any dwelling house, guarded premise, building or vessel outside facilities or areas in use by the United States Armed Forces and make searches without warrant when necessary as an incident to "hot pursuit" to arrest a member of the United States Armed Forces, civilian component or their dependents if such person is a flagrant offender as defined in Article 212 of the Code of Criminal Procedure of Japan and the crime allegedly committed is serious.

(b) In incidents not covered by (a) above and when the United States authorities deem it necessary to make searches or seizures outside facilities or areas in use by the United States Armed Forces with respect to crimes allegedly committed by United States Armed Forces personnel, they should request Japanese law enforcement agencies to make such dispositions and United States law enforcement personnel may be present as observers at such searches or seizures conducted by Japanese law enforcement agencies. In any case United States Armed Forces law enforcement personnel may make searches and seizures of places occupied exclusively by persons described in Article I of the Administrative Agreement.

(c) The United States Armed Forces law enforcement personnel, in the course of maintaining order and discipline during routine patrols, shall have access to such public areas as railway stations, public entertainment buildings and areas and public recreation areas, provided that they shall not interfere substantially with the performance of business of any individual.

No 18: When death results to a member of the United States Armed Forces, the civilian component, or a dependent outside of facilities or areas in use by the United States Armed Forces, the scene of the incident must be preserved pending the arrival of Japanese authorities or United States Armed Forces law enforcement personnel. The United States authorities will conduct autopsies of the remains of members of the United States Armed Forces, the civilian component or their dependents when it is evident that the death was caused by a member of the United States Armed Forces, the civilian component, or their dependents. In all the other cases, autopsies will be conducted by Japanese authorities in conjunction with the appropriate United States authorities. In the event the arrival of United States Armed Forces law enforcement personnel is delayed, it is considered appropriate that the remains of the deceased should be removed to the police morgue, mortuary, or other suitable place.

No 19: Individual cases of a trial and investigation of an offense concerning the security information of the United States Armed Forces will be referred by the Japanese authorities to the United States Armed Forces for their opinion as to whether the items in question are classed as security information. The reply to such inquiry will establish the nature of such items in this respect.

No 20: In those instances where United States military aircraft crash or are forced to land on public or private property outside facilities and areas in use by the United States Armed Forces, appropriate representatives of the United States Armed Forces shall be permitted to enter private or public property without prior authority to perform necessary rescue services and/or secure United States property, provided that every effort shall be made to avoid unnecessary damage to such private and public property. Japanese public authorities will take necessary measures within their capabilities to secure the property and prevent danger until the arrival of United States authorities. The Japanese and United States authorities shall exercise necessary joint control to restrict unauthorized personnel from the immediate vicinity of the accident scene.

No 21: Requests by Japanese authorities for searches, seizures or inspections to be effected in facilities or areas in use by the United States Armed Forces or with respect to the property of the United States Armed Forces, wherever situated, will be made to the nearest Provost Marshal or Commanding Officer concerned. Prior notification by Japanese authorities of intended searches, seizures or inspections of a person or

property of members of the United States Armed Forces, the civilian component or their dependents, which are located outside facilities and areas in use by the United States Armed Forces, shall be given whenever possible to the nearest Provost Marshal or Commanding Officer concerned. This view does not limit in any manner the authority of Japanese law enforcement personnel to make searches, seizures or inspections of persons or property of members of the United States Armed Forces, the civilian component or their dependents outside of United States facilities or areas in accordance with applicable laws and regulations.

No 22: With respect to searches, seizures or inspections in criminal cases involving persons who are subject solely to the jurisdiction of Japan within the facilities or areas in use by the United States Armed Forces, the United States authorities will give due consideration to requests for attendance thereat by Japanese law enforcement agencies which are conducted in accordance with paragraph 10 of the Protocol and Official Minutes of 29 September 1953, amending Article 17 of the Administrative Agreement, and Articles 10 and 13, Japanese Law No. 138, 1952. In such instances personnel of Japanese law enforcement agencies will act as observers. This view does not limit in any manner the authority of the United States law enforcement personnel to make searches, seizures or inspections of persons or property within United States facilities or areas in accordance with applicable United States laws and regulations.

No 23: When members of the United States Armed Forces, the civilian component, or their dependents are detained by Japanese authorities, Japan shall pay due consideration to the differences in language and customs between Japan and the United States, and, shall not impose conditions of detention which because of those differences in customs might be prejudicial to the health of such detained persons. Account shall be taken of the habitual diet of such detained persons and adequate provision shall be made for visitation by their counsel and United States military authorities. The use of restraining devices will be limited to instances where force is required to prevent a detained person from causing bodily harm to himself or to others, or reasonably to prevent escape. Every effort will be made to avoid public display of restraint of such persons.

No 24: In incidents occurring outside United States facilities or areas wherein the initial facts, evidence, data or information indicate that a member of the United States Armed Forces, civilian component or their dependents has committed a violation of Japanese law, or of United States Armed Forces law or regulation, the United States Armed Forces law enforcement personnel are prepared to assume responsibility to investigate such incident immediately upon receipt of notification thereof. Joint United States-Japanese investigations are desirable whenever the offense involves concurrent jurisdiction of both the United States and

Japan. United States Forces authorities are prepared to cooperate with and solicit the assistance of the Japanese Police authorities in all such incidents occurring outside United States facilities or areas when appropriate.

No 25: It is highly desirable to have Japanese Police personnel assigned on a full time basis to United States Armed Forces law enforcement offices located in facilities and areas in use by the United States in order to facilitate law enforcement.

No 26: (a) All officers and agencies of the United States Armed Forces desiring the presence of Japanese witnesses or evidence before courts, boards, or for the purpose of official investigations, should submit a written request upon a form to the specified by an official United States Armed Forces directive, to the local Provost Marshal. That officer will in turn submit the request to the nearest Procurator's office or judicial police official or Judge, so that a summons may be issued. Such request for personal appearance of a Japanese witness will be made only after due consideration has been given to the utilization of a deposition. The rates and pay scales for witnesses set out in directives of the United States Armed Forces, or the pay scales used by Japanese courts for witnesses will be utilized.

(b) When Japanese authorities desire members of the United States Armed Forces, the civilian component, or their dependents as witnesses, they should make their requests through the Japanese Judge, Procurator, or judicial police officer to the local Provost Marshal, and such requests will be forwarded to the Commanding Officer of the desired witness, whose responsibility it shall be to have the request complied with. Rates and pay scales for such witnesses shall be those used by Japanese courts for witnesses.

No 27: (a) All expenses incident to the arrest, detention, or custody of an accused shall be defrayed by the government exercising such control over the accused.

(b) All expenses incident to the production of a witness shall be defrayed by the government calling the witness.

No 28: The provisions of paragraph 6 of the Protocol are interpreted to mean that property or matter needed as evidence shall be turned over to either Japanese or United States authorities, as appropriate, so as to be of benefit both prior to and during the trial. Any such property or matter shall be turned over upon request by either government prior to trial for laboratory analysis and examination by experts whether the requesting government is to conduct the trial or not. The handing over of such objects may, however, be made subject to their return within the time specified by the government delivering them.

No 29: When the police authorities of the United States Armed Forces have arrested personnel of the United States Armed Forces who have committed, by use of pistols, offenses over which Japan has the primary right to exercise jurisdiction, such authorities shall, in cases of material interest to Japan, upon request, test the pistols and deliver to the Scientific Investigation Laboratory of Japan exemplars from the suspect weapon.

No 30: The term "offense", as used in paragraph 1 of the Official Minutes relating to paragraphs 10 (a) and 10 (b) of the Protocol, is interpreted to mean an offense against the security of vital military property of the United States, such as vessels, aircraft, major weapons, ammunition, and classified material, or of a United States facility or area, as defined in Japanese Law No. 138, 1952, on the subject and also any act not so defined which immediately imperils life or endangers property. The term "vicinity", as used in the above cited paragraph of the Official Minutes, is interpreted to mean a place so near to such United States property, facilities, or areas as to make possible the commission or attempted commission of a security offense.

No 31: The following matters of interpretation with respect to Law No. 138 of 1952 of Japan entitled "Law for Special Measures Concerning Criminal Cases to Implement the Administrative Agreement" are agreed upon:

(a) The definition of "civilian component" set forth in Article 1, paragraph 4 of the Law, includes all members of the crews of vessels under time charter to the United States Government or its agencies, but not members of crews of vessels under voyage or space charter to the United States Government or its agencies.

(b) The reference in the last sentence of Article 2 of the Law, to the "Penal Code (Law No 45 of 1907)" is interpreted to mean that the punishment stated in Article 130 of the Japanese Penal Code will apply for offenses under the said Article 2 only if an offense thereunder also comes within the provisions of Article 130 of the Penal Code.

No 32: The Japanese Government will inform its customs and police officials of the nature of marking classified United States material in order to help prevent espionage and the removal of such material from Japan.

No 33: United States and Japanese authorities will furnish each other on a reciprocal basis through the Joint Committee the punitive laws of each country which frequently may apply to cases where there is concurrent jurisdiction under the Protocol, in both the Japanese and English languages.

No 34: Licenses for the possession by United States Armed Forces personnel, the civilian component, or their dependents of hunting guns are issued in accordance with Japanese law. If applications for the issuance of these licenses are collected by local Provost Marshals and other suitable agencies who will turn over such applications to the Japanese authorities, the Japanese authorities will pay favorable consideration to the issuance of licenses.

No 35: In compliance with Article X of the Administrative Agreement, the words "Driving Permit" in Japanese language shall be inscribed on the driving permits and driving licenses issued by the United States to members of the United States Armed Forces, civilian component, and their dependents, and the military driving permits.

No 36: Under the authority of the Official Minutes relating to paragraphs 10 (a) and (b) of the Protocol, when a valid judgment of a Japanese court is given concerning property situated within a facility or area in use by the United States Forces, Japan (which property is not owned or utilized by the United States Government), a written request for such property, accompanied by a valid writ of execution issued in accordance with the judgment, will be presented to the Commanding Officer of the area or facility wherein the property is located. Thereafter the Japanese authorities will be permitted to levy upon or seize the specific property covered by the court judgment.

No. 37: The governments of the United States and Japan will furnish to each other through the Joint Committee, the details of all the security offenses mentioned in subparagraph 2(c) of the Protocol, and the provisions governing such offenses in the existing laws of their respective countries.

No. 38: The term "commanding officer" as used in the Official Minutes relating to paragraph 3(a)(ii) of the Protocol, is deemed to include an "officer in charge" in the United States Navy.

No. 39: The term "official duty" as referred to in paragraph 3(a)(ii) of the Protocol and Official Minutes relating thereto is understood to be any duty or service required or authorized to be done by statute, regulation, the order of a superior or military usage.

No. 40: When written notification has been made to either United States or Japanese authorities by the authorities of the other State of the commission of an alleged offense by a member of the United States Armed Forces, the civilian component, or a dependent, over which Japan has the primary right to exercise jurisdiction, Japan shall, through the Ministry of Justice, advise the Legal Office of the Headquarters in Japan of the branch of the armed forces of which the accused is a member, whether it will exercise jurisdiction by bringing an indictment in the case. If the above advice is not received by the Legal Office concerned within the periods set out below, or if notice is received that Japan will not bring an indictment, the United States may exercise jurisdiction in any such case. The periods within which advice shall be given by Japan of the exercise of its jurisdiction by bringing an indictment in any such case are as follows:

A. For offenses punishable under Japanese law by confinement for 6 months or less, and for the following offenses ** 10 days after date of original notification of alleged offense.

- (1) Trespass (Art. 130, except when accomplished by force, physical opposition or violence);
- (2) Indecent Exposure and/or committing an obscene act (Art. 174);
- (3) Assault (Art. 208);
- (4) Assault and Battery (Art. 204, except when bodily injury requiring 7 days or more of medical treatment is involved);
- (5) Larceny of ¥5,000 or less (Art. 235, 246, 252 and 254 involving an amount of ¥5,000 or less);
- (6) Receiving Stolen Property (Art. 256, involving an amount of ¥5,000 or less);
- (7) Damaging or Destroying Private Property, involving an amount of ¥5,000 or less (Art. 260 and 261 involving an amount of ¥5,000 or less);
- (8) Driving while Drunk (Art. 118 Para. 1 Item 2 of Road Traffic Law);
- (9) Disorderly Conduct (Art. 1, Minor Offense Law);
- (10) Wrongful Failure to Pay a Debt of an amount of ¥5,000 or less (Art. 246 involving an amount of ¥5,000 or less);

** (References to Articles are to the Articles of the Penal Code of Japan except as otherwise stated).

- (11) Attempts to commit any of the offenses listed above where such attempts are listed as offenses under Japanese law.

- B. For offenses punishable under Japanese law by confinement for more than 6 months, except the offenses listed above 20 days after date of original notification of alleged offense

If the Ministry of Justice, during the periods set out above, notifies the Legal Office concerned that for special reasons it is desired to reserve decision with respect to Japan's exercise of jurisdiction by bringing an indictment over an offense for which it has primary jurisdiction, the United States will not exercise its jurisdiction until the expiration of 5 days beyond the 10 day period specified above for cases relating thereto and ten days beyond the 20 day period specified above for cases relating thereto, or until earlier notice is received that Japan will not bring an indictment in the case.

When written notification has been made to either United States or Japanese authorities by the authorities of the other State of the commission of an alleged offense by a member of the United States Armed Forces, or the civilian component, over which the United States has the primary right to exercise jurisdiction under paragraph 3(a)(ii) of the Protocol committed against the State or nationals of Japan, the United States shall, through the commanding officer of the alleged offender, advise the Chief Procurator of the District in which the alleged offense occurred whether it will exercise jurisdiction. When the Chief Procurator concerned does not receive the advice mentioned above within 10 days, counting from the day after the date of the original notification of the alleged offense, Japan may exercise jurisdiction in any such case.

In those cases in which notification of the intention to exercise jurisdiction by bringing an indictment has been given by Japan, and the United States considers a waiver to be of particular importance, a written request therefor will be made to the Ministry of Justice within 10 days of the date of such notification. The response to a request by the United States for a waiver will be made by the Ministry of Justice within 10 days of the date of such request and trial will not proceed until such response is made. Nothing in the foregoing shall be construed as preventing the United States authorities from accomplishing all of the pre-trial procedures in the case required by military law pending the expiration of the time periods set out above.

In those cases in which the United States has the primary right to exercise jurisdiction and in which Japan considers a waiver to be of particular importance, a written request therefor will be made by the Ministry of Justice to the Legal Office of the branch of the United States Armed Forces of which the accused is a member. The response to a request by

Japan for a waiver will be made by the Legal Office concerned within 10 days of the date of such request and trial will not proceed until such response is made.

No. 41: In accordance with the provisions of paragraph 2 of the official minutes relating to paragraph 3(c) of the Protocol, it is mutually agreed that whenever, by reason of military necessity, it is not feasible to conduct summary or special court-martial trials of offenses over which Japan has waived primary jurisdiction within a reasonable distance from the places at which the alleged offenses were committed, such offenses may be tried at any place consistent with practices of the military service.

No. 42: If a member of the United States Armed Forces, the civilian component or a dependent is detained in the custody of the Japanese authorities at any time, such detained person shall have all of the rights and privileges provided in the Japanese Code of Criminal Procedure with respect to release from detention on bail.

No. 43: The certificate referred to in the Official Minutes relating to par 3(a)(ii) of the Protocol will be forwarded, upon request, by the commanding officer of the alleged offender to the Chief Procurator of the district in which an offense arises. Ordinarily such request will be made immediately upon notification of arrest, and only in the uncommon case in which the question of official duty status becomes an issue. The foregoing will not preclude the forwarding of such certificate in any event. This certificate will be sufficient evidence of the fact of official duty status unless the contrary is proved. Any proof to the contrary shall be presented to the Joint Committee for consideration. Where it is considered by the Chief Procurator that such proof exists, immediate notification thereof will be given to the Commanding Officer who issued the certificate. Thereafter, notification will be given to the Commanding Officer within ten days as to whether or not the issue will be submitted to the Joint Committee, in order that final disposition of the case may not be unduly delayed. Any submission of such matters to the Joint Committee will be made expeditiously in every case.

No. 44: In consideration of the military disciplinary requirements for expeditious trial of offenses by persons subject to military law, and the fact that military witnesses and personnel of courts-martial are subject to movement without prior notice, it is agreed that when a member of the United States Armed Forces, the civilian component or their dependents is accused of several different offenses, some of which are under the exclusive or primary jurisdiction of the United States and some of which are under the exclusive or primary jurisdiction of Japan and for which no waiver has been granted, the commanding officer of the accused shall notify the chief District Procurator of all the offenses under the exclusive or primary jurisdiction of the United States which are involved, and the United States shall first proceed to trial, except when the Japanese authorities notify the United States Authorities that Japan desires to proceed to trial first, in view of the particular importance to Japan to first proceed to trial. After such notification, if the United States authorities believe it to be of particular importance to the United States to proceed to trial first, negotiations shall be entered into between the Ministry of Justice and the Chief Legal Office of the Armed Force of which the accused is a member for a determination as to which State shall first proceed to trial.

In the event the United States court-martial tries first, upon the completion of trial and at the request of the Ministry of Justice, the United States shall deliver the accused to Japanese authorities for trial of any offenses for which Japan has brought an indictment. In such cases, the sentence adjudged by the Japanese courts, unless suspended, shall first be served and shall be deemed to interrupt the sentence adjudged by the United States military court. Upon completion of the sentence adjudged by its court, or its remission, or suspension, or for which the prisoner is pardoned, Japan shall make inquiry of the United States Authorities as to whether delivery of the prisoner to the United States is desired. If notice is given that delivery of the prisoner to the United States is desired, the prisoner will be released to United States Authorities. The converse shall

apply when Japan tries such an accused first. The State immediately desiring the presence of the accused either for the purpose of trial or of confinement shall receive him at the place where he then is and transport him to the place of trial or confinement.

No. 45: (a) In all trials by general courts-martial in which the Japanese authorities have given notice of non-exercise of jurisdiction, or have waived the primary right to exercise jurisdiction, and those trials of offenses described in par 3(a)(ii) of the Protocol committed against the state or nationals of Japan, the Chief Procurator of the District in which such trial is to be held shall be notified in writing by the Trial Counsel of the court in which such trial is to be held, within a reasonable time before trial, of the date, place and time the trial is to be held. The Chief Procurator will inform the Trial Counsel in writing prior to the date of trial of the name or names of the Japanese representatives designated to attend such trials. No more than two such representatives will attend any one trial. The foregoing shall not preclude the attendance by Japanese representatives at trials of such cases in summary and special courts-martial upon the request of Chief Procurators of the Districts, wherever they may be held on the land mass of Japan.

(b) In all trials in Japanese courts of members of the United States Armed Forces, the civilian component, or their dependents, the Chief Procurator of the District in which such trial is to be held will notify in writing the Legal Office of the Headquarters in Japan of the branch of the United States Armed Forces of which the accused is a member, within a reasonable time before trial, of the date, place and time the trial is to be held. The Chief Procurator concerned will be notified in writing by such Legal Office prior to the date of trial, of the name or names of the United States representatives designated to attend such trials. No more than two such representatives will attend any one such trial.

No. 46: The notification required by paragraph 6(b) of Article XVII of the Status of Force Agreement shall be deemed satisfied by the following:

(a) Reciprocal monthly reports through the Joint Committee by the United States Armed Forces authority and the Japanese authority of the judicial dispositions of all cases over which the State not having the primary right to exercise jurisdiction exercised jurisdiction in accordance with Article XVII of the Status of Force Agreement; and

(b) Reciprocal monthly reports through the Joint Committee by the

United States Armed Forces authority and the Japanese authority of any of judicial dispositions, and of non-judicial and disciplinary dispositions in relation to the United States Armed Forces authority, of all cases over which either State exercised the primary right to exercise jurisdiction which involved offenses allegedly committed against the other State or nationals of the other State. Said reports will also include cases which involved offenses allegedly committed against the other State or nationals of the other State and where the State which has the primary right to exercise jurisdiction advised the authority of the other State that it would exercise its jurisdiction in accordance with the procedure as provided for in No.40, but made decisions not to bring indictment, not to refer to the U.S. court-martial, and not to make any of non-judicial and disciplinary dispositions in relation to the United States Armed Forces authority.

(c) The reports mentioned in paragraphs (a) and (b) above shall contain the name and organization of the person who was determined or alleged to have committed an offense, nature of offense, substance and date of dispositions, and title of the authority which made such dispositions. The reports mentioned in paragraph (b) above shall also contain the fact and date of decisions mentioned in paragraph (b) above, and title of the authority which made such decisions.

(d) Nothing herein shall prohibit provision of informal reports at the local level by the United States Armed Forces authority or the Japanese authority to the authority of the other State, upon request, of any of judicial dispositions, and of non-judicial and disciplinary dispositions in relation to the United States Armed Forces authority, of any cases over which either State exercised jurisdiction in accordance with Article XVII of the Status of Force Agreement. Said reports may also include decisions made by either State of not to bring indictment, or decisions made by the United States Armed Forces authority of not to refer to the U.S. court-martial or not to make non-judicial or disciplinary dispositions in relation to the United States Armed Forces authority.

(e) (i) Upon the receipt of the reports mentioned in paragraphs (a), (b) and (d) above from the authority of either State, the authority of the other State may release to the public the following contents therein:

judicial dispositions of any case;

the fact that non-judicial and/or disciplinary dispositions were made for any case; and,

the number of cases for which judicial dispositions, non-judicial dispositions and/or disciplinary dispositions, or decisions mentioned in paragraph (b) above were made.

(ii) Upon the receipt of the reports mentioned in paragraphs (b) and (d) above from the authority of either State, the authority of the other State may release to the victim of any case, or the victim's family if the victim is incapable

of receiving the information, the fact that decisions not to bring indictment, not to refer to the U.S. court-martial, and not to make any of non-judicial and disciplinary dispositions were made for that case.

- (iii) Upon the receipt of the reports mentioned in paragraphs (b) and (d) above from the United States Armed Forces authority, and provided that it was informed by that authority that the consent has been given in accordance with subparagraph below, the Japanese authority may release to the victim of any case, or the victim's family if the victim is incapable of receiving the information, non-judicial and/or disciplinary dispositions of that case, consistent with the consent given.

Upon request of the victim of any case, or the victim's family if the victim is incapable of making such a request, conveyed by the Japanese authority, the United States Armed Forces authority intends to ask the person who was alleged to have committed an offense for consent to release non-judicial and/or disciplinary dispositions to the victim or the victim's family, and to inform the Japanese authority whether or not the consent has been given and the extent of the consent given.

(The shared understanding on the terms used in No.46 above is as follows:

- (a) the term "judicial dispositions" means any of the results of criminal procedures determined by the Japanese court, the U.S. court-martial or the U.S. court;*
- (b) the term "non-judicial dispositions" means the imposition of punishment which may be imposed upon an alleged offender by U.S. commanding officer or other U.S. authorized officer as a result of procedures without the intervention of a court-martial, under Subchapter III., Chapter 47 – Uniform Code of Military Justice, of the United States Code; and,*
- (c) the term "disciplinary dispositions" means any of the results of the disciplinary procedures determined by the military authorities of the United States, which exclude the aforementioned dispositions.)*

*(*Agreed View No.46 above will apply to the offences alleged to have been committed on or after January 1, 2014.)*

No. 47: (a) It is mutually agreed that because of the nature of their duties, all authorized couriers and other persons of any of the armed services who are charged with the duty of carrying or delivering classified documents or material, will not be detained for any purpose longer than necessary to obtain the person's name and organization, and the documents and/or material in his possession will not be removed from his possession, nor opened, nor inspected. However, if an offense has been committed, and if so requested by Japanese law enforcement personnel, such courier or other person shall report to Japanese law enforcement authorities immediately upon completion of his mission. In the event such persons are totally incapacitated, United States authorities will be notified immediately and documents and/or material in the possession of such persons will not be opened, nor inspected but will be turned over to appropriate United States military authorities immediately.

(b) Persons referred to in paragraph (a), above, will be provided with a special bi-lingual identification card which will include a legend substantially as follows:

"The bearer of this identification is on official business and is charged with the custody of official classified documents or material. He will not be detained for any purpose longer than necessary to obtain his name and organization. Documents and/or material in his possession will not be removed from his possession, nor opened, nor inspected."

(c) The appropriate authorities of Japan and the United States will inform their respective law enforcement agencies of the existence and content of the identification card referred to in subparagraph (b) above, and of the necessity for compliance with the mutual agreement contained herein

No. 48: The scope of persons subject to the military law of the United States includes all persons referred to in Articles 2 and 3 of the Uniform Code of Military Justice of the United States, PL 506, 81st Cong., 5 May 1950.

Q No. 49. If, in those cases in which notification has been made under the provisions of No. 40 above of the commission of several different offenses by a member of the United States Armed Forces, the civilian component or a dependent over all of which Japan has the primary right to exercise jurisdiction, some of the offenses come under No. 40 A, and the rest come under No. 40 B, the period within which advice shall be given by Japan of the exercise of its jurisdiction by bringing an indictment in such case shall be the period set forth in No. 40 B, notwithstanding that some offenses involved come under No. 40 A.

(No.) 50. When the competent Japanese administrative agency has received information that a violation of any law of Japan which authorizes the imposition of a fine for violations of such law without recourse to criminal process, such as the Liquor Tax Law, the Customs Law, The Tobacco Monopoly Law, the Salt Monopoly Law, the Camphor Monopoly Law, the Alcohol Monopoly Law, etc., has been committed by a member of the United States armed forces, the civilian component or a dependent, over which Japan has the primary right to exercise jurisdiction, such agency shall immediately report the commission of such violation in writing to the nearest Provost Marshal, including the law violated, the amount and value of the property involved in the violation.

A. In cases in which the value of the property involved is ¥9000 or less, the United States may exercise its jurisdiction 30 days after such report is made, unless Japan has during such period, through the Ministry of Justice, advised the Legal Office of the headquarters in Japan of the branch of the armed forces of which the accused is a member, that it will exercise jurisdiction by bringing an indictment in the case.

B. In cases in which the value of the property involved is more than ¥9000, the United States may exercise its jurisdiction 38 days after such report is made, unless Japan has during such period, through the Ministry of Justice, advised the Legal Office of the headquarters in Japan of the branch of the armed forces of which the accused is a member, that it will exercise jurisdiction by bringing an indictment in the case.

If the Ministry of Justice, during the period set out in B, above, notifies the Legal Office concerned that for special reasons it is desired to reserve decision with respect to Japan's exercise of jurisdiction by bringing an indictment in any such case, the United States will not exercise its jurisdiction until the expiration of ten (10) days beyond the 38-day period specified in B, above, or until earlier notice is received that Japan will not bring an indictment in the case.

Japanese authorities will inform the United States authorities as soon as possible when Japan has determined that no indictment will be brought in any case by Japan. In the event such notice is given prior to the expiration of the periods set out above, the United States may exercise its jurisdiction in such case without further delay.

When the alleged violator is within facilities and areas in use by and guarded under the authority of the United States armed forces, the competent agency shall, after obtaining the consent of the Commanding Officer of such facilities or areas having supervisory power over him, enter such facilities and areas and give notice of administrative action directly to the alleged violator. In this case, the Commanding Officer shall have personnel of the Japanese agency escorted under guard. When the Commanding Officer of the facility or area cannot grant consent for special reasons, he will effect, as soon as possible, the delivery of the notice of the administrative action and will obtain a receipt thereof which will be transmitted to the agency concerned.

No. 51. In consideration of the military necessity and policy that persons subject to the military law of the United States shall be subject to movement without prior notice, it is agreed that such persons who are serving sentences in Japanese places of confinement as a result of a conviction by a Japanese court pursuant to trial in accordance with amended Article XVII of the Administrative Agreement and who are eligible for parole under the laws of Japan shall be released to the custody of the military authorities of the United States at the Japanese confinement facility subject to the following conditions: United States authorities will transport such persons to his parole supervisor, appointed by Japanese authorities so that such person may register; during the time such person remains in Japan under military jurisdiction, his parole supervisor may interview him and his immediate commanding officer at his place of duty not more than once every thirty (30) days and correspond with him through his immediate commanding officer, for the purpose of ascertaining his behavior, other than military,

during his parole; and when the transfer of such person from Japan is directed by the United States authorities, the Japanese authorities will be informed of the date of departure. No objection is interposed to such person voluntarily agreeing to make periodic reports of his conduct to the Japanese authorities after his departure from Japan.

No. 52: When written notification has been made to either United States or Japanese authorities by the authorities of the other State of the commission of the alleged offense by a member of the United States Armed Forces, the civilian component, or a dependent, over which Japan has the primary right to exercise jurisdiction, and which may be disposed of pursuant to the procedures prescribed in Chapter 9 of the Road Traffic Law, and if Japan determines to exercise jurisdiction by bringing an indictment in the case, it shall, through the Ministry of Justice, advise the Legal Office of the competent headquarters in Japan of the Army, Navy, or Air Force to which the suspect is assigned to that effect. Notwithstanding the provisions of Agreed View Number 40, the period within which advice shall be given by Japan of the exercise of its jurisdiction by bringing an indictment in any such cases will be fifty (50) days, counting from the day after the date of the original notification of the alleged offense.

Japanese authorities will inform the United States authorities as promptly as possible when Japan has determined that no indictment will be brought in any such case by Japan. If the above advice is not received by the Legal Office concerned within the period set forth above that Japan will exercise its jurisdiction by bringing an indictment, or if notice is received that Japan will not bring an indictment, the United States may exercise jurisdiction in any such case.

If the Ministry of Justice, during the period set out above, notifies the Legal office concerned that for special reasons it is desired to reserve decision with respect to Japan's exercise of jurisdiction by bringing an indictment in any such case, the United States will not exercise its jurisdiction until the expiration of five (5) days beyond the period set out above, or until earlier notice is received that Japan will not bring an indictment in the case.