

琉球大学学術リポジトリ

1960年1月の安保条約改定時の核持ち込みに関する 「密約」に係る調査の関連文書No.2

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程抄

大臣
次官
局長
次長
事務次長

事務次長

事務次長

事務次長

三月二十日 務大臣在官事務使令記録(其一)



得 昭和二十一年三月二十日午後一時より三時十分迄於事務次長官邸

出席者 務大臣 林 事務次長 米保長

欠席者 事務次長 米保長

大臣 本日は前回申上り(専ら)日本國の善後事務を整理するに付、

行政協定に付て之を申上り申上り

(修訂草案を呈上)

行政協定に於ては、第一條は、二十一年三月二十日以前に於ける

と、その他之を整理するに付、今後調整を行ふに付て、之に付て

外務省

米保 672

假に有様にして、書面は是に付て、

此より後に同様の事務を整理するに付て、

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外務省

一、本報告の「修正」は、(一) 附則の「修正」
 (二) 正文の「修正」を意味する。
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外務省

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外務省

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外務省

知ることが技術的知識の差を知らせてほしい。米國政府内
 へ送るべき者は専ら米國政府に送るべきではない。
 此の如く自らは他人の命を奪取する性質に持つ。格闘士として
 送る判断をすべき。或は米國政府に送るべきではない。
 持主は合符の用紙に送るべき。或は米國政府に送るべき。
 一寸留置しておくべき。その後は送るべきではない。
 米國政府への判断をお手下さす。勿論軍政府に送るべきではない。先づ

格闘士が格闘家
 送るべきは専ら米國政府に送るべきではない。
 此の如く自らは他人の命を奪取する性質に持つ。格闘士として
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 米國政府への判断をお手下さす。勿論軍政府に送るべきではない。先づ

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あり、其、理、に、よ、り、採、り、た、事、の、形、式、を、採、り、て、前、記、の、全、部、の、原、を、
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外務省

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外務省

自らはそのは徳理及び外務上凡の御事には殆ど専断力する所と
答へ置らん

大臣 貴族院の議事は早は外に致し、未だ中より大臣の議
事の整理は何時かおしんかへらるるに

大臣 貴族院の議事は早は外に致し、未だ中より大臣の議

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外務省

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外務省

極秘 8/10

CONFIDENTIAL

March 19, 1959

三田千代子大使の筆名

TREATY OF MUTUAL COOPERATION AND SECURITY
BETWEEN JAPAN AND THE UNITED STATES OF AMERICA

Japan and the United States of America,

Desiring to strengthen the bonds of peace and friendship
traditionally existing between them, and to uphold the prin-
ciples of democracy, individual liberty, and the rule of law,

Desiring further to encourage closer economic cooperation
between them and to promote conditions of stability and well
being in their countries,

Affirming their faith in the purposes and principles
of the Charter of the United Nations, and their desire to live
in peace with all peoples and all governments,

Considering that they have the inherent right of individual
or collective self-defense as affirmed in the Charter of the
United Nations,

Considering that they have common concern in the maintenance
of international peace and security in the Far East and that the
maintenance of security of Japan is essential to international
peace and security in the Far East,

Having resolved to conclude a treaty of mutual cooperation
and security,

Therefore agree as follows:

ARTICLE I

- 2 -

ARTICLE I

The Parties undertake, as set forth in the Charter of
United Nations, to settle any international disputes in
which they may be involved by peaceful means in such a manner
that international peace and security and justice are not
endangered and to refrain in their international relations from
threat or use of force against the territorial integrity
political independence of any state, or in any other manner
consistent with the purposes of the United Nations.

The Parties will endeavor in concert with other peace-
loving countries to strengthen the United Nations so that its
mission of maintaining international peace and security be
discharged more effectively.

ARTICLE II

The Parties will contribute toward the further development
of peaceful and friendly international relations by strengthening
their free institutions, by bringing about a better under-
standing of the principles upon which these institutions
are founded, and by promoting conditions of stability and
well being. They will seek to eliminate conflict in their
international economic policies, and will encourage economic
collaboration between them.

ARTICLE III

ARTICLE III

The Parties, by means of continuous and effective self-help and mutual aid, will maintain and develop their capacities to resist armed attack.

ARTICLE IV

The Parties will consult together regarding the implementation of this Treaty, including measures to be taken under Article V thereof, and whenever in the opinion of either of them international peace and security in the Far East is threatened.

ARTICLE V

Each Party recognizes that an armed attack against either Party in the areas under the administration of Japan would be dangerous to its own peace and security and declares that it would act to meet the common danger in accordance with its constitutional processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations in accordance with the provisions of Article 51 of the Charter. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

ARTICLE VI

ARTICLE VI

For the purpose of contributing to the security of Japan and in consideration of the common concern that the two Parties have in the maintenance of international peace and security in the Far East, the United States of America will be granted the use by its land, air and naval forces of facilities and areas in Japan.

The use of these facilities and areas as well as the status of United States armed forces in Japan shall be governed by separate agreements.

ARTICLE VII

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

ARTICLE VIII

Nothing in this Treaty shall be interpreted as imposing on either Party any obligation that is conflicting with its constitutional provisions.

ARTICLE IX

- 5 -

ARTICLE IX

This Treaty shall be ratified by Japan and the United States of America in accordance with their respective constitutional procedures and will enter into force on the date on which the instruments of ratification thereof have been exchanged by them in Washington.

ARTICLE X

The Security Treaty between Japan and the United States of America signed at the city of San Francisco on September 8, 1951 shall expire upon the entering into force of this Treaty.

ARTICLE XI

This Treaty shall remain in force until in the opinion of the Governments of Japan and the United States of America there shall have come into force such United Nations arrangements as will satisfactorily provide for the maintenance of international peace and security in the Japan area.

However, after the lapse of a period of ten years with no such United Nations arrangements coming into force, this Treaty may, in spite of the provisions of the preceding paragraph, be terminated at the end of the above period or at any time thereafter by either Party by giving one year's written notice to the other Party.

IN

- 6 -

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

DONE in duplicate at Tokyo in the Japanese and English languages, both equally authentic, this day of

FOR JAPAN:

FOR THE UNITED STATES OF AMERICA:

PROTOCOL

At the time of signing the Treaty of Mutual Cooperation and Security between Japan and the United States of America, the undersigned Plenipotentiaries, duly authorized by their respective Governments, have further agreed on the following provisions concerning the implementation of Article VI, which shall be considered integral parts of the aforesaid Treaty:

Major changes in the disposition in Japan of United States armed forces, including those in their equipment, and the use of facilities and areas as the bases of military operations other than those conducted under Article IV of the Treaty shall be effected upon prior consultation with the Government of Japan.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed this Protocol.

DONE in duplicate at Tokyo in the Japanese and English languages, both equally authentic, this day of .

FOR JAPAN:

FOR THE UNITED STATES OF AMERICA:

(仮訳)

(一九五九・三・一九)

日本国とアメリカ合衆国との間の相互協力及び安全保障条約

(案)

日本国及びアメリカ合衆国は、

両国の間に伝統的に存在する平和及び友好の関係を強化し、並びに民主主義、個人の自由及び法の支配の原則を擁護することを希冀し、

また、両国の間の一層緊密な経済的協力を促進し、及び両国に於ける安定と福祉の条件を助長することを希冀し、

国際連合憲章の目的及び原則に対する両国の信念並びにすべての国民及びすべての政府とともに平和のうちに生きようとするその願

極秘 8/10

望を再確認し、

両国が国際連合憲章に定める個別的及び集団的自衛の固有の権利を有していることを考慮し、

両国が極東における国際の平和及び安全の維持に共通の関心を有すること並びに日本国の安全の維持が極東における国際の平和及び安全に不可欠であることを考慮し、

相互協力及び安全保障の条約を締結することを決意し、
よつて、次のとおり協定する。

第一条

締約国は、国際連合憲章に定めるところに従ひ、その關係するところある国際紛争を平和的手段によつて国際の平和及び安全並びに

正論を危くしないように解決し、並びにその国際関係において、武力による威嚇又は武力の行使を、いかなる国の領土保全又は政治的独立に対するものも、また、国際連合の目的と両立しない他のいかなる方法によるものも、行使することを約束する。

締約国は、他の平和愛好国と協同して、國際の平和及び安全を維持する國際連合の任務が一層効果的に達成されるように國際連合を強化することに努力する。

第二条

締約国は、その自由な制度を強固にすることにより、その制度の基礎をなす原則の理解を促進することにより、及び安定と福祉の条件を助長することによつて、平和的かつ友好的な國際關係の一層の

發展を奨励する。締約国は、その國際經濟政策上の争因を除去することによつて、また締約国の間の經濟的協力を促進する。

第三条

締約国は、組織的かつ効果的な自助及び相互援助により、武力攻撃に抵抗するそれぞれの能力を維持し、かつ、發展させる。

第四条

締約国は、第五条に違反せられる措置を含めてこの条約の実施に關して協議し、また、いづれか一方の締約国が極東における國際の平和と安全が脅かされてゐると認めるときはいつても協議する。

第五条

各締約国は、日本國の憲政の下である地域におけるいづれか一方

締結国に対する武力攻撃が自国の平和及び安全を危くするものと認め、自国の憲法上の手続に従つて共通の危険に対処するよりに行動することを宣言する。

前記の武力攻撃及びその結果として執つたすべての措置は、国際連合憲章第五十一条の規定に従つて直ちに国際連合安全保障理事会に報告しなければならない。その措置は、安全保障理事会が国際の平和及び安全を回復し及び維持するために必要な措置を執つたときは、終止しなければならない。

第六条

日本国の安全に脅与するため、並びに極東における国際の平和及び安全の維持につき両締約国が有する共通の関心を考慮して、ア、

リ合衆国は、その陸軍、空軍及び海軍による日本国内の施設及び区域の使用を許与される。

前記の施設及び区域の使用並びに日本国における合衆国軍隊の地位は、別個の協定により規律されるものとする。

第七条

この条約は、国際連合憲章に基く締約国の権利及び義務又は国際の平和及び安全を維持する国際連合の責任に対しては、いかなる影響も及ぼすものではなく、また、及ぼすものと解してはならない。

第八条

この条約におけるいかなる規定も、いずれの締約国に対しても自国の憲法上の規定に反する義務を課するものと解してはならない。

第九條

この条約は、日本国及びアメリカ合衆国により各自の憲法上の手續に従つて批准されなければならず、兩國がワシントンでその批准書を交換した日に効力を生ずる。

第十條

千九百五十一年九月八日にサン・フランシスコ市で署名された日本国とアメリカ合衆国との間に、安全保障条約は、この条約の効力発生の時に効力を失ふものとする。

第十一條

この条約は、日本区域における國際の平和及び安全の維持のため十分な定をする國際連合の措置が効力を生じたとき日本国及びアメリカ

カ合衆国の政府が認める時まで効力を有する。

もつとも、前記の國際連合の措置が効力を生じないまま十年の期間が経過した後は、この条約は、前項の規定にかかわらず、いずれの一方の締約国も他方の締約国に対し一年の文書による予告を与えることにより前記の期間の満了の際又はその後いつでも終了させることができる。

以上の証文として、下名の全權委員は、この条約に署名した。

千九百 年 月 日に東京で、ひとしく正文である日本国及び英國により本書二通を作成した。

日本国のため

アメリカ合衆国のため

協定書

日本国とアメリカ合衆国との間の相互協力及び安全保障条約を署名するに當つて、下名の全権委員は、各自の政府により正當に委任を受け、さらに、第六條の實施に關する次の規定を協定した。この規定は、同条約の不可分の一部と認められるものとする。

合衆国軍隊の日本国に於ける配備の重要な変更（同軍隊の配備の重要な変更を含む。）並びに相互協力及び安全保障条約第四條に基き執られる作戦行動以外の作戦行動の基地としての施設及び区域の使用は、日本国政府との事前の協議によつて行わなければならない。

以上の証書として、各全權委員は、この証書に署名した。

千九百 年 月 日に東京で、ひとしく正文である日
本語及び英語により本誓二通を作成した。

日本国のため

アメリカ合衆国のため

CONFIDENTIAL

Document title "Problems Raised" contains points which various Ministries concerned have raised in the inter-ministerial studies of the adjustment of the Administrative Agreement.

Documents titled "Modifications" and "Adjustments" represent those points which the Ministry of Foreign Affairs would wish to discuss with the American side. Those contained in "Adjustments" are, in the opinion of the Ministry, more or less self-explanatory, while those in "Modifications" are more complicated.

Document titled "Pending Questions and Interpretation" enumerates those issues, either involving financial settlement or in the nature of interpretation, which have been pending at the Joint Committee in the implementation of the Administrative Agreement.

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CONFIDENTIAL

March 18, 1959

ADMINISTRATIVE AGREEMENT

PROBLEMS RAISED

Article I

1. "Members" shall be defined as "personnel on active duty belonging to the land, sea or air armed services of the United States 'disposed in Japan under the Security Treaty' when in the territory of Japan 'in connection with official duties'."

2. "Civilian component" shall be defined as "civilian persons of the United States nationality who are in the employ of and accompanying the United States armed forces in Japan . . .".

3. The inclusion of highly skilled technicians of third state nationality in the civilian component shall be abolished. (Official Minutes)

Article II paragraph 1

4. "Furnishings, equipment and fixtures" shall be defined as those existing within the facilities and areas.

5. "Furnishings, equipment or fixtures" shall not be moved from one facility to another without the consent of the Japanese Government.

6. The telecommunication installations located outside the "facilities and areas" should not be considered as "furnishings, equipment and fixtures."

Article II paragraph 4

7. The provisions relating to joint use of the facilities and

areas shall be revised to lay down basic rules of joint use of United States facilities and areas by the Self Defense Forces and vice versa.

8. The reference to "target ranges and maneuver ground" shall be deleted.

9. "Interim use may be made by Japanese authorities and nationals" shall read "the Japanese Government may make, or permit Japanese nationals to make, interim use".

Article III paragraph 1

10. The United States shall have the right to use the facilities and areas "on terms to be agreed upon between the two Governments."

11. The Japanese Government shall take necessary measures within its power to facilitate the effective operation of facilities and areas, instead of the United States having rights outside facilities and areas.

Article III paragraph 2

12. Delete the transitional provisions relating to frequencies, power and like matters.

Article IV

13. The United States shall be obliged to restore or compensate unless changes in conditions had been agreed to in advance.

14. The United States shall not, upon returning the facilities and areas to Japan, unilaterally remove furnishings, equipment and fixtures.

15. The provisions of paragraph 3 shall be rewritten so that they work both ways.

Article V paragraph 1

16. The toll and landing charges shall be imposed on public vessels with respect to open ports which are not "facilities".

17. The last sentence shall cover not only entering but also exit of "such cargo or passengers".

Article VI paragraph 1

18. All civil and military air traffic control and communications systems shall be coordinated for air traffic safety and security interests.

Article VII

19. Delete "priorities".

Article VIII

20. Rewrite the whole Article.

Article IX paragraphs 1 and 5

21. "The Japanese Government grants permission to enter into and depart from" instead of "the United States have the right to bring into".

22. The United States authorities shall appropriately notify the Japanese Government of the number of persons entering into and departing from Japan.

Article IX paragraphs 3 and 4

23. Members of the forces shall present their identity cards on demand.

24. Civilian component and dependents shall be in possession of passports on entry and departure, and present passports or identity cards on demand.

Article XI paragraph 2

25. Delete "the authorized procurement agencies of the United States armed forces".

26. Delete "materials, supplies and equipment which are to be used exclusively by the United States armed forces or are ultimately to be incorporated into articles or facilities used by such forces".

Article XI paragraph 3

27. Customs exemption shall not be granted to:

- a. import from other than the United States;
- b. personal property through United States military postal channels.

Article XI paragraph 5

28. Exemption from customs examination shall not be granted to:

- a. Mail in United States military postal channels;
- b. Military cargo shipped on a United States Government

bill of lading except "arms and equipment".

29. The United States shall have Japanese customs officials stationed in the facilities and areas when requested by the Japanese Government.

Article XI paragraph 6, Article XII paragraph 8, Article XV paragraph 3

30. The authorization shall be given by the Japanese authorities, instead of the Japanese and United States authorities upon mutually agreed conditions.

Article XII paragraphs 1 and 4

29. "Members" (but not "units") shall be subject to customs examination.

³²
31. All procurement shall in principle be made through, or upon coordination with, the competent authorities of the Japanese Government.

Article XII paragraph 2

³³
32. This paragraph should be given broader interpretation by adding "social welfare" or "local Japanese economy".

Article XII paragraph 5, Article XV paragraph 4

³⁴
33. The United States shall produce witness and evidence to assist in the proceedings of Japanese court or Labor Commission.

³⁵
34. The United States shall assist the Japanese Government in carrying out court or Labor Commission decisions.

³⁶
35. A joint standing committee shall be established, as already established actually, whose objective is to contribute to amicable settlement of claims of individual workers.

³⁷
36. Add "local inhabitant tax".

Article XIII paragraph 2

³⁸
37. Delete "their dependents".

Article XIII paragraph 3

³⁹
38. Delete "tangible or intangible".

Article XIV

⁴⁰
39. Delete the whole Article.

Article XV

⁴¹
40. The establishment of these organizations, and the kind and amount of materials and supplies which they import for sale shall be subject to the consent of the Japanese Government.

⁴² Such organizations may use military payment certificates, and may not hold deposit accounts in foreign currency with foreign exchange banks in Japan.

Article XVIII paragraph 1

⁴³ Claims shall be waived only when the damage was suffered when the victim was engaged in official duties in connection with the purposes of the Security Treaty; or mutually between members of the United States armed forces and members of Japan Self Defense Forces.

// Article XVIII paragraph 2

⁴⁴ Claims shall be waived only when the properties concerned were being used for the purposes of the Treaty; or when the damage was caused by members of the United States armed forces or members of Japan Self Defense Forces. An arrangement should be made separately in the Article to dispose of other damages.

Article XVIII paragraph 3

⁴⁵ The United States shall give favourable consideration to refund a portion (75%) of the compensation which the Japanese Government has paid for damages which do not strictly fall under this paragraph but for which it is not fair to leave the parties concerned without compensation.

Article XVIII paragraph 4

⁴⁶ Delete the paragraph so that Japan shall have the right to determine whether the personnel concerned were engaged in the performance of official duty; or leave the determination to an arbitrator of the Japanese nationality.

Article XVIII paragraph 5

⁴⁷ The United States shall give due consideration to the report and consult with the Japanese authorities concerned before making the decision.

⁴⁸ The United States shall make ex gratia payment when its personnel concerned are no longer in Japan or are incapable of making payment.

⁴⁹ Provisions shall be made to dispose of claims against the United States Forces employees of the Japanese nationality.

// Article XVIII paragraph 6(a)

⁵⁰ "Civilian employees" shall read "civilian component".

Article XVIII paragraph 6(b)

⁵¹ The United States authorities shall have the Japanese authorities take possession of such private movable property in case they have no such legal authority.

Article XVIII paragraph 7

⁵² Establish a neutral arbitration commission instead of the Joint Committee.

Article XX

⁵³ Add "in accordance with an agreement to be made between the two Governments" after "authorized by the United States."

⁵⁴ The United States shall refund with dollars for military payment certificates acquired bona fide by Japanese nationals.

⁵⁵ The United States shall consult in advance with the Japanese Government on the establishment or changes in location of

military banking facilities.

Article XXII

56. Delete unless absolutely necessary.

Article XXIII

57. Delete the whole Article; or the first sentence shall be deleted and the second sentence transferred to Article XVII.

極
秘

行政協定改訂問題点 (Problems Raised) (in English)

才一条

- 1、構成員は、「条約に基き配備された米軍に属する人員で服役中のもの、公務に関連して日本国にあるもの」と定義する。
- 2、軍属の定義は、「軍隊に随伴し且つ雇用されているもの」とする。
- 3、公式議事録の「高級熟練技術者」を軍属より除外する。

才二条 1項

- 4、「設備、備品、定着物」を「施設・区域」内に現存するものと定義する。
- 5、日本政府の同意なくして「設備、備品、定着物」の他の「施設・区域」への移転を禁ずる。
- 6、「施設・区域」外にある電気通信設備は「設備、備品、定着物」と見做さず。

才二条 4項

- 7、「施設・区域」及び自衛隊施設を米軍と自衛隊とが共同使用しうる様原則的規定を設ける。
- 8、「討撃場、演習場」の例示を削除する。
- 9、「日本当局及び国民が使用する」は「日本国は自ら使用し又は国民に使用させる」と改める。

才三条 1項

- 10、「施設・区域」管理権は、「両政府の合意により定める条件で使用する権利」と改める。
- 11、「施設・区域」外における権利は、米側の権利とせず、「日本政府はその権限内で施設区域の運営に必要な措置をとる」と改める。

才三条 2項

- 12、電波等に関する経過規定を削除する。

才四條

13、あらかじめ合意された現状変更以外は米側は回復又は補償義務を負うべし。

14、「施設・区域」の返還に当り米軍は設備、備品、定着物を一方的に撤去・解体せざること。

15、5項の規定は1項2項双方にかかるよう規定を明確化する。

才五條 1項

16、「施設」に非ざる開港については入港料、着陸料を課すべし。

17、後段につき、非免除貨物、旅客の「出国」も規定すべし。

才六條 1項

18、すべての民間・軍用航空交通管理及び通信の体系は航空交通の安全及び安全保障の利益のため調整される。

才七條

19、「優先権」を削除する。

才八條

20、全文修正。

才九條 1項、5項

21、「合衆国は：：入れる権利を有する」の代りに「日本政府は、：：入国及び出国の許可を与える」とする。

22、合衆国は出入国者数を日本当局に通知する。

才九條 3項、4項

23、構成員は要求を受けた場合は身分証明書を提示する。

24、軍属、家族は出入国に際して旅券を携帯し、要求あつた場合は旅券又は身分証明書を提示する。

才十一條 2項

25、「軍隊の公認調査機関」を削除する。

26、「合衆国軍隊が専用すべき資材、需品及び備品又は合衆国軍隊が使用する物品若しくは施設に最終的には合体されるべき資

材、器具及び備品」を削除する。

才十一條 3 項

27、(イ)合衆国以外からの輸入品及び(ロ)軍事郵便局を通じて輸入される私用財産については関税の免除を与えず。

才十一條 5 項

28、(イ)軍事郵便路線上の郵便物、(ロ)武器弾薬その他の装備品を除く米政府船荷証券により船積される軍事貨物、につき税関検査の免除を与えず。

29、構成員は税関検査に服する。

30、日本政府の要求ある場合は施設・区域内に税関職員の駐在を認める。

才十一條 6 項、才十二條 8 項、才十五條 3 項

31、免税品の国内処分は、兩國の合意する条件ではなく、日本当局の課する条件による。

才十三條 1 項、4 項

32、調達は原則としてすべて日本政府当局を通じて又は日本政府当局との調整の下に行われることとすべし。

才十二條 2 項

33、"social welfare" 又は "local Japanese economy" の如き字句を加えて本項の適用範囲を拡大する。

才十二條 5 項、才十五條 4 項

34、合衆国は、日本の裁判所の裁判手続、労働委員会における調査、審問に協力して証人、証拠を提供する。

35、合衆国は日本裁判所の判決、労働委員会の決定を日本政府が実施し得る様協力する。

36、労働者の請求権の友好的解決に資するために、既に設置されている如き調停委員会を常設する。

37、「地主住民税」を追加する。

才十三条 2 項

38、「家族」を削除する。

才十三条 3 項

39、「有体又は無体の」を削除する。

才十四条

40、全条削除する。

才十五条

41、十五条機関の設置、販売のために輸入する資材・需品の種類及び量は日本国政府の同意を要する。

42、十五条機関は軍票を使用し得、また、日本にある外国為替銀行に外貨予金勘定を設けることを得ず。

才十八条 1 項

43、請求権の抛棄は被害者が安保条約の目的に關連して公務に従事していた時に限り、また、米軍と自衛隊相互間とする。

才十八条 2 項

44、請求権抛棄は、当該財産が安保条約の目的のために使用されていた時、並びに、損害が米軍構成員又は自衛隊員による時に限る。右以外の損害に基く請求権の処理については別途規定を設ける。

才十八条 3 項

45、厳密には本項に該当しないが関係当事者に対して補償を行うことが正当である如き損害につき、合衆国は日本政府が支払つた補償額の七五%償還を行うことにつき好意的考慮を払う。

才十八条 4 項

46、本項を削除して公務執行中か否かの決定権は日本にありとする。または、決定権を日本国籍を有する仲裁人に委ねる。

才十八条 5 項

47、合衆国は報告書に対して正当な考慮を払い、決定を行う前に日本当局と協議する。

48、加害者が既に帰国しあるいは支払能力を欠く等の場合は米軍において慰藉料を払う。

49、日本国籍の米軍被用者に対する請求権処理の規定を設ける。

才十八条6項(a)

50、「文民たる被用者」を「軍属」と改める。

才十八条6項(b)

51、米軍が強制執行権なき場合は、日本当局をして強制執行せしめる。

才十八条7項

52、合同委員会の代りに中立的な裁定機関を設ける。

才二十条

53、軍票使用を許される者の範囲は両国政府の合意に従つて合衆国が定める。

54、日本人が善意で取得した軍票は米軍がドルで補償する。

55、軍用銀行施設の新設、移動は事前に日本側と協議する。

才二十二条

56、本条は必要不可欠でない限り削除する。

才二十三条

57、全条削除する。または、前段を削除し、後段を才十七条に移す。

CONFIDENTIAL

March 20, 1959

ADMINISTRATIVE AGREEMENT

ADJUSTMENTS

1. Article I

"Civilian component" shall be defined as "civilian persons of the United States nationality who are in the employ of and accompanying the United States armed forces in Japan . . .".

2. Article II paragraph 4

a. The reference to "target ranges and maneuver grounds" shall be deleted.

b. "Interim use may be made by Japanese authorities and nationals" shall read "the Japanese Government may make, or permit Japanese nationals to make, interim use".

3. Article III paragraph 2

Delete the transitional provisions relating to frequencies, power and like matters.

4. Article V paragraph 1

The last sentence shall cover not only entering but also exit of "such cargo or passengers".

5. Article VI paragraph 1

All civil and military air traffic control and communications systems shall be coordinated to ensure air traffic safety and security interests.

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6. Article VIII

The whole Article should be rewritten so that it will conform to the prevailing situation.

7. Article IX paragraphs 1 and 5

"The Japanese Government grants permission to enter into and depart from" instead of "the United States shall have the right to bring into".

8. Article IX paragraphs 3 and 4

Members of the forces shall present their identity cards on demand, and civilian component and dependents shall present passports or identity cards on demand.

9. Article XI paragraph 2

Delete "the authorized procurement agencies of the United States armed forces", and "materials, supplies and equipment which are to be used exclusively by the United States armed forces or are ultimately to be incorporated into articles or facilities used by such forces".

10. Article XI paragraph 6, Article XII paragraph 8, Article XV paragraph 3

The authorization shall be given by the Japanese authorities, instead of the Japanese and United States authorities upon mutually agreed conditions.

11. Article XII paragraph 1

The procurement shall be undertaken either directly by the United States authorities, or, upon agreement between the two Governments, by the Japanese authorities.

12. Article XII paragraph 5, Article XV paragraph 4

Add "local inhabitant tax".

13. Article XIII paragraph 3

Delete "tangible or intangible".

14. Article XV

Add new paragraph to the effect that the organizations referred to in Article XV may use military payment certificates in their transactions with persons authorized to use such certificates, but may not hold deposit account in foreign currency with foreign exchange banks in Japan unless otherwise agreed.

15. Article XVIII paragraph 6(a)

"civilian employees" shall read "civilian component".

16. Article XVIII paragraph 6(b)

The United States authorities shall have the Japanese authorities take possession of such private movable property in case they have no such legal authority.

17. Article XX paragraph 1(a)

Add "in accordance with an agreement to be made between the two Governments" after "authorized by the United States."

18. Article XX paragraph 3

The United States shall consult in advance with the Japanese Government on the establishment or changes in location of military banking facilities.

19. Article XXII

Delete unless absolutely necessary.

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March 20, 1959

ADMINISTRATIVE AGREEMENT

MODIFICATIONS

1. Article I

a. Provisions:

The "members" are defined as "personnel on active duty when in the territory of Japan".

b. Propositions:

Add "in connection with their official duties". (Article IX, 3(a) provides that the members shall, upon entry into or departure from Japan, be in possession of individual or collective travel order certifying to the travel ordered.)

2. Article III paragraph 1

a. Provisions:

Under Article III paragraph 1, the United States has such rights outside facilities and areas as are necessary to provide access to them for their support, defense and control. Article XIV paragraph 2(a) further provides that Japan will furnish rights of way without cost to the United States. However, Article III paragraph 1 further provides that the United States may exercise the rights pertaining to facilities and areas granted under that Article outside facilities and areas upon consultation, as the occasion requires, with the Japanese Government through the Joint Committee.

b. Proposition:

Instead of stipulating the United States rights outside facilities and areas, it is proposed to stipulate obligations of the Japanese Government to assist in the effective operation of facilities and areas.

c. Problems:

(1) What is intended by the present provisions seems to be best achieved by ensuring cooperation and assistance on the part of the Japanese Government rather than by stipulating certain rights for the United States.

(2) Actually the United States does not itself exercise its rights outside facilities and areas, but the Japanese Government takes measures for the United States.

3. Article IV paragraph 3

a. Provisions:

Paragraph 1 relieves the United States from the obligation to restore or compensate, and Paragraph 2 relieves Japan from the obligation to compensate. Paragraph 3 stipulates exceptions from Paragraph 2 only.

b. Proposition:

It is proposed to stipulate that Paragraphs 1 and 2 do not preclude the two Governments from agreeing otherwise in specific cases.

4. Article V paragraph 3

a. Provisions:

United States public vessels shall, upon entering Japanese ports, make appropriate notification to Japanese authorities under normal conditions.

b. Proposition:

Add "aircraft", and delete "under normal conditions".

5. Article VII

a. Provisions:

The United States armed forces has the right to use public utilities and services and to enjoy priorities in such use, under conditions no less favourable than those applicable to the Japanese Government agencies.

b. Proposition:

Replace "to enjoy priorities in such use, under conditions . . ." by ". . . shall be accorded treatment".

6. Article IX paragraph 1

Add "the United States authorities shall appropriately notify the Japanese Government of the number of persons entering into and departing from Japan".

7. Article IX paragraph 4

It is proposed that the civilian component and dependents shall carry passports upon entry into and departing from Japan. (They are not exempt from passport and visa laws and regulations.)

8. ^X Article XI paragraph 5

Add: "if Japan, for good cause, has requested the removal from its territory of a member, civilian component, or dependent, the United States authorities shall be responsible for causing the said person to leave Japan without delay".

9. Article XI paragraphs 3 and 5

a. Provisions:

Personal properties through United States military postal channels are exempt from customs duties and examination.

b. Proposition:

They shall be subject to customs examination and to customs duties in accordance with Japanese laws.

10. Article XI paragraph 5(a)

a. Provisions:

Units and members of the United States armed forces under orders entering Japan are exempt from customs examination.

b. Proposition:

Delete "members".

11. Article XII paragraph 2

a. Provisions:

When the procurement by the United States may have an adverse effect on the economy of Japan, such procurement shall be made in coordination with the competent authorities of Japan.

b. Proposition:

It is proposed to stipulate that the procurement shall be made in coordination with the competent authorities of Japan when

it may have adverse effect on the economy or social welfare in Japan (or, on the local economy in Japan).

c. Problems:

Whereas this provision is interpreted to apply to the procurement of scarcity materials, there is a strong desire in Japan to extend the scope of application of this provision so that it may cover the case, for example, of consultation now actually conducted in connection with the transfer of MLC workers services to private contractors.

12. Article XII paragraph 5 and Article XV paragraph 4

a. Provisions:

The conditions of employment and work, the conditions, for the protection of workers, and the rights of workers concerning labor relations shall be those laid down by the legislation of Japan.

b. Proposition:

It is proposed to establish a joint standing committee, as already established actually, whose objective is to contribute to amicable settlement of claims of individual workers.

c. Problems:

The problem of "security discharge" is a very difficult one in the labor relations. There are other labor problems such as union activities within facilities.

13. Article XIII paragraph 3

It is proposed that "dependents" be deleted, because if they

receive income from the United States armed forces, they should be either "members" or "civilian component".

14. Article XIV

a. Provisions:

The United States companies being in Japan exclusively to engage in the contracts with the United States Forces are granted privileges concerning the entry into Japan, tax and customs exemption, access to FX, use of military payment certificates, etc.

b. Proposition:

The status of such companies should be granted only when the United States requirements cannot be met by Japanese companies, and with the consent of the Japanese Government. The extent of privileges should also be limited to a justifiable extent.

c. Problems:

It is doubtful whether Japan has to grant such privileges to these companies when the United States requirements can be met by Japanese companies, and whether such companies, when their services are actually needed, should have such privileges as they now enjoy.

15. Article XV, Article XI paragraph 2

a. Provisions:

These organizations may import duty-free materials and supplies for the use of the members of the United States armed forces, civilian components and their dependents.

b. Proposition:

It is proposed to stipulate that the United States undertakes to ensure that the quantity of goods imported by these organizations shall be limited to the extent reasonably required for such use, and to take all necessary measures to this and in constant cooperation with the Japanese Government.

16. Article XVIII paragraphs 1 and 2

It is proposed that claims shall be mutually waived between the Japanese Self Defense Forces and the United States Forces in Japan, and provisions shall be added dealing with compensation for damage to Japanese Government-owned properties other than those used by Self Defense Forces.

17. Article XVIII paragraph 4

a. Provisions:

Each party has the primary right to determine on the official duty status involved in civil claims. Disagreement shall be brought to the Joint Committee for consultation.

b. Proposition:

The determination on the official duty status shall be made by Japan; (or by an arbitration commission.)

18. Article XVIII paragraph 6(c)

a. Provisions:

The United States authorities shall cooperate with the Japanese authorities in making available witnesses and evidence for civil proceedings in Japanese tribunals.

b. Proposition:

Add "or investigation and hearing in Japanese Labor Commissions".

19. Article XXIII

Delete the whole Article; or delete the first sentence and shift the second sentence into Article XVII as its eleventh paragraph.

CONFIDENTIAL

March 20, 1959

ADMINISTRATIVE AGREEMENT

Pending Questions and Interpretation

1. Definition of Existing Furnishing, Equipment and Fixtures
(Article II paragraph 1)

As to the term "existing furnishings, equipment and fixtures necessary to the operation of such facilities and areas", a conflict of interpretation exists in connection with the service charges for the utilization of telecommunication installations and privately-owned former reparation machineries and equipments.

(a) Payment of service charges by USFJ for the past utilization of telecommunication installations has not been settled due to the U.S. contention that telecommunication installations, including some of those existing outside the facilities and areas, constitute the properties referred to in Article II. The Japanese side maintains that telecommunication service is within the realm of Article VII and service charges should be determined accordingly.

(b) USFJ has continued to use privately-owned former reparation machineries and equipments since the occupation period. USFJ contends that, regardless of their location, they constitute the properties referred to in Article II.

The Japanese Government maintains that USFJ is responsible for the payment of the compensation, at least for those existing outside the facilities and areas, which it has paid to the owners of such machineries and equipments, since they ^{do not} fall under the category of the provisions concerned in Article II.

2. Facilities and Areas under Rusk-Okazaki Exchange of Notes

Rusk-Okazaki Exchange of Notes of 28 February 1952 grants to the United States the continued use of those facilities and areas on which agreements had not been completed by the expiration of ninety days after the effective date of the Treaty of Peace with Japan. There presently exist thirteen of these facilities and areas, and negotiations are being conducted at the Facilities Subcommittee towards completion of agreements on each case through formal designation as U.S. facility or termination of its use by USFJ.

3. Status of the Public Corporation (Article XVIII paragraphs 1, 2 and 3)

In connection with interpretation of "a civilian governmental employee" and "property owned by each party" in paragraphs 1 and 2 of this Article, a dispute has arisen as to whether or not property owned by a Japanese public corporation and an employee of such a corporation constitute respectively property owned by the Japanese Government and a civilian governmental employee.

The Japanese Government holds that a public corporation is not a Government organ and, accordingly, an employee of such an organ is not a civilian governmental employee, but falls under the category of "third parties" in paragraph 3 of the Article. This position leads to the contention that any damage or injury suffered by a public corporation or its employee caused by a member of U.S. Forces during his performance of official duties should be dealt with according to paragraph 3, while a public corporation should be held responsible to pay compensation for any damage or injury caused by it or its employee against USFJ property or a U.S. Government employee. The contention of USFJ is contrary to the above position of Japan.

4. Problems of Labor Relations

(a) Concerning interpretation of the phrase "as may otherwise be mutually agreed" in Paragraph 5 of Article XII, the Japanese Government holds that Master Labor Contract does not fall under this scope, since it was not formally agreed upon through the same procedures as the Administrative Agreement.

(b) Labor union activities inside the U.S. facilities and areas should be treated with due respect to labor practices and the spirit of labor legislation in Japan. The Japanese Government holds, in this connection, that some of the U.S. policy letters intend to restrict such activities to the extreme, and become sources of unnecessary frictions.

(c) The Japanese Government maintains that direct hired personnel at the non-appropriated fund organizations should be entitled to have collective talk with the employers.

(d) It is required under the Japanese law that the private contractor should pay to its employee an equivalent to his 30 days' average wages as discharge allowance if discharge notice is not given 30 days in advance. Due to practical difficulties to fulfil necessary procedures, the private contractor is not usually able to inform each individual of discharge measure in time, even if USFJ gives the notice to the contractor beforehand. Furthermore, it is an established practice in Japan to afford discharge allowance to a dismissed worker regardless of when the notice is given. In view of the above, the Japanese Government contends that the amount of the allowances should be included in the cost price in contracts between USFJ and private contractors.

(e) Maids at the U.S. barracks and bachelor officers' quarters should be hired under collective employment, thus enabling them to take benefit of the social security system.

5. Payment of Toll (Article V)

(a) USFJ has requested for reimbursement of toll charges in the amount of some \$30,000 which local agencies of the Japanese Government allegedly collected from U.S. time-chartered

vessels against the provision of Article V and its official minutes.

(b) There exists divergence of views on interpretation of the term "toll" as provided for in Paragraph 1 and "toll and other charges" as used in the official minutes.

6. Claims against Damages Caused by Gasoline Contamination of Well-Water in Tachikawa City and Showa-machi

Despite joint investigations and scientific tests, a dispute has not been solved as to whether the subject gasoline is of USFJ and whether the contamination took place prior to the effective date of the Peace Treaty.

7. Claims against Damages Caused by Firing Exercises at U.S. Maneuver Area, Toyoumi-machi, Chiba

Damages are caused to houses in the vicinity of the maneuver area by firing exercises inside the facility. A question still remains as to whether the USFJ is legally responsible for such damages under paragraph 3 of this Article.