

琉球大学学術リポジトリ

1960年1月の安保条約改定時の朝鮮半島有事の際の 戦闘作戦行動に関する「密約」に係る調査関連文書 No.2

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修約条(勸告)を提示す

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指紙に入らぬこと

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(昭和四年)

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外務省

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外務省

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外務省

CONFIDENTIAL

April 23, 1959

DRAFT 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 principles of democracy, individual liberty, and the rule of law,

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

Reaffirming 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,

Recognizing 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 a common concern in the maintenance of international peace and security in the Far East and that the maintenance of the 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:

CONFIDENTIAL

April 23, 1959

DRAFT 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 principles of democracy, individual liberty, and the rule of law,

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

Reaffirming 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,

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

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

Therefore agree as follows:

ARTICLE I

ARTICLE I

The Parties undertake, as set forth in the Charter of the 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 the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.

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 may 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 understanding 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, individually and in cooperation with each other, 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 and whenever the security of Japan or 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 safety 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 is 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 in conflict with its constitutional provisions.

ARTICLE IX

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

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 Treaty has been in force for ten years, either party may terminate it at any time thereafter by giving one year's written notice to the other Party.

IN WITNESS WHEREOF the undersigned Plenipotentiaries
have signed this Treaty.

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

FOR JAPAN:

FOR THE UNITED STATES OF AMERICA:

(Draft)

(Japanese Note)

I have the honour to refer to the Treaty of Mutual
Cooperation and Security between Japan and the United States
of America signed today, and to inform Your Excellency
that the following is the understanding of the Government
of Japan concerning the implementation of Article VI thereof:

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 V of the said Treaty, shall be effected
upon prior consultation with the Government of Japan.

I should be appreciative, if Your Excellency would
confirm on behalf of your Government that this is also the
understanding of the Government of the United States of
America.

I avail myself

(U. S. Note)

I have the honor to acknowledge the receipt of Your Excellency's Note of today's date, which reads as follows:

"(Japanese Note)"

I have further the honor to confirm on behalf of my Government that the foregoing is also the understanding of the Government of the United States of America.

Accept, Excellency,

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However, after the Treaty has been in force for ten years, either party may give notice to the other party of its intention to terminate the Treaty, in which case the Treaty shall terminate one year after such notice had been given.

(Draft U.S. Note)

I have the honor to refer to the Treaty of Mutual Cooperation and Security between the United States of America and Japan signed today.

It is the understanding of my Government that any territories of Japan presently not under its administration shall as a matter of course come within the purview of Article V as they are restored to the administrative control of Japan.

In this connection I wish to reaffirm the United States position that Japan possesses residual sovereignty over the islands mentioned in Article 3 of the Treaty of Peace with Japan which have not yet been restored to the administrative control of Japan.

(Draft Japanese Note)

I have the honour to acknowledge the receipt of your note of to-day's date concerning the Treaty of Mutual Cooperation and Security between Japan and the United States of America, which reads as follows:

I appreciate the reaffirmation of the United States position that Japan possesses residual sovereignty over the islands mentioned in the above and have the honour to confirm that the understanding of the United States Government concerning the territories presently not under the administration of Japan is also the understanding of my Government.

(April 23, 1959)

(DRAFT)

AGREEMENT REGARDING FACILITIES AND AREAS IN JAPAN FOR USE
BY UNITED STATES ARMED FORCES AND THEIR STATUS IN JAPAN

Japan and the United States of America, pursuant to Article VI of the Treaty of Mutual Cooperation and Security between Japan and the United States of America signed at Tokyo on _____, have entered into this Agreement in terms as set forth below:

- 2 -

ARTICLE I

In this Agreement the expression -

(a) "members of the United States armed forces" means the personnel on active duty belonging to the land, sea or air armed services of the United States of America when in the territory of Japan.

(b) "civilian component" means the civilian persons of United States nationality who are in the employ of and accompanying the United States armed forces in Japan, but excludes persons who are ordinarily resident in Japan. For the purposes of this Agreement only, dual nationals, Japanese and United States, who are brought to Japan by the United States shall be considered as United States nationals.

(c) "dependents" means

- (1) Spouse, and children under 21;
- (2) Parents, and children over 21, if dependent for over half their support upon a member of the United States armed forces or civilian component.

ARTICLE II

1. (a) Japan agrees to grant to the United States the use of the facilities and areas necessary to carry out the purposes of the Treaty of Mutual Cooperation and Security. Agreements as to specific facilities and areas, not already reached by the two Governments by the effective date of this Agreement, shall be concluded by the two Governments through the Joint Committee provided for in Article XXVI of this Agreement. "Facilities and areas" include existing furnishings, equipment and fixtures necessary to the operation of such facilities and areas.

(b) The facilities and areas, the use of which Japan has granted to the United States of America under Article II of the Administrative Agreement under Article III of the Security Treaty between Japan and the United States of America, signed at Tokyo on February 28, 1952, as amended, shall be considered as the facilities and areas agreed upon between the two Governments in accordance with the provisions of subparagraph (a) above.]

2. At the request of either Government, the Governments of Japan and the United States shall review such arrangements and may agree that such facilities and areas shall be returned to Japan or that additional facilities and areas may be provided.]

3. The facilities and areas used by the United States armed forces shall be returned to Japan whenever they are no longer needed for purposes of this Agreement, and the United States agrees to keep the needs for facilities and areas under continual observation with a view toward such return.

4. (a) When facilities and areas are temporarily not being used by the United States armed forces, the Government of Japan may make, or permit Japanese nationals to make, interim use of such facilities and areas provided that it is agreed between the two Governments that such use would not be harmful to the purposes for which the facilities and areas are normally used by the United States armed forces.

(b) With respect to the facilities and areas which are to be used by United States armed forces for limited periods of time, the Joint Committee shall specify in the agreements covering such facilities and areas the extent to which the provisions of this Agreement shall apply.

ARTICLE III

1. The United States shall have the rights, power and authority within the facilities and areas which are necessary or appropriate for their establishment, use, operation, defense or control. The United States shall also have such rights, power and authority over land, territorial waters and airspace adjacent to, or in the vicinities of such facilities and areas, as are necessary to provide access to such facilities and areas for their support, defense and control. In the exercise outside the facilities and areas of the rights, power and authority granted in this Article, there should be, as the occasion requires, consultation between the two Governments through the Joint Committee.]

2. The United States agrees that the above-mentioned rights, power and authority] will not be exercised in such a manner as to interfere unnecessarily with navigation, aviation, communication, or land travel to or from or within the territories of Japan. All questions relating to frequencies, power and like matters used by apparatus employed by the United States designed to emit electric radiation shall be settled by mutual arrangement between the two Governments. [As a temporary measure the United States armed forces shall be entitled to use, without radiation interference from Japanese sources, electronic

devices of such power, design, type of emission, and frequencies as are reserved for such forces at the time this Agreement becomes effective.]

3. Operations in the facilities and areas in use by the United States armed forces shall be carried on with due regard for the public safety.

ARTICLE IV

1. The United States is not obliged, when it returns facilities and areas to Japan on the expiration of this Agreement or at an earlier date, to restore the facilities and areas to the condition in which they were at the time they became available to the United States armed forces, or to compensate Japan in lieu of such restoration.

2. Japan is not obliged to make any compensation to the United States for any improvements made in the facilities and areas or for the buildings or structures left thereon on the expiration of this Agreement or the earlier return of the facilities and areas.

3. The foregoing provisions shall not apply to any construction which the Government of United States may undertake under special arrangements with the Government of Japan.

ARTICLE V

1. United States and foreign vessels and aircraft operated by, for, or under the control of the United States for official purposes shall be accorded access to any port or airport of Japan free from toll or landing charges. When cargo or passengers not accorded the exemptions of this Agreement are carried on such vessels and aircraft, notification shall be given to the appropriate Japanese authorities, and their entry into or departure from Japan shall be according to the laws and regulations of Japan.

2. The vessels and aircraft mentioned in paragraph 1, United States Government-owned vehicles including armor, and members of the United States armed forces, the civilian component, and their dependents shall be accorded access to and movement between facilities and areas in use by the United States armed forces and between such facilities and areas and the ports or airports of Japan.

3. When the vessels mentioned in paragraph 1 enter Japanese ports, appropriate notification shall, under normal conditions, be made to the proper Japanese authorities. Such vessels shall have freedom from compulsory pilotage, but if a pilot is taken pilotage shall be paid for at appropriate rates.

ARTICLE VI

1. All civil and military air traffic control and communications systems shall be developed in close coordination and shall be integrated to the extent necessary for fulfillment of collective security interests. Procedures, and any subsequent changes thereto, necessary to effect this coordination and integration will be established by mutual arrangement between the two Governments.

2. Lights and other aids to navigation of vessels and aircraft placed or established in the facilities and areas in use by United States armed forces and in territorial waters adjacent thereto or in the vicinity thereof shall conform to the system in use in Japan. The United States and Japanese authorities which have established such navigation aids shall notify each other of their positions and characteristics and shall give advance notification before making any changes in them or establishing additional navigation aids.

ARTICLE VII

The United States armed forces shall have the use of all public utilities and services belonging to, or controlled or regulated by the Government of Japan, and shall enjoy priorities in such use, under conditions no less favorable than those that may be applicable from time to time to the ministries and agencies of the Government of Japan.

ARTICLE VIII

The Government of Japan undertakes to furnish the United States armed forces with the following meteorological services in accordance with arrangements between the two Governments:

- (a) Meteorological observations from land and ocean areas including observations from weather ships.
- (b) Climatological information including periodic summaries and the historical data of the Meteorological Agency.
- (c) Telecommunications service to disseminate meteorological information required for the safe and regular operation of aircraft.
- (d) Seismographic data including forecasts of the estimated size of tidal waves resulting from earth quakes and areas that might be affected thereby.

ARTICLE IX

1. The Government of Japan grants permission to members of the United States armed forces, the civilian component, and their dependents to enter into and depart from Japan. The United States authorities shall appropriately notify the Government of Japan of the number of persons entering and departing, the date of entry and departure, the object of entry, and the expected duration of stay.
2. Members of the United States armed forces shall be exempt from Japanese passport and visa laws and regulations. Members of the United States armed forces, the civilian component, and their dependents shall be exempt from Japanese laws and regulations on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territories of Japan.
3. Upon entry into or departure from Japan members of the United States armed forces shall be in possession of the following documents:
 - (a) Personal identity card showing name, date of birth, rank and number, service, and photograph; and
 - (b) Individual or collective travel order certifying to the status of the individual or group as a member or members of the United States armed forces and to the travel ordered.

For purposes of their identification while in Japan, members of the United States armed forces shall be in possession of the foregoing personal identity card, which must be presented on demand of the appropriate Japanese authorities.

4. Members of the civilian component, their dependents, and the dependents of members of the United States armed forces shall be in possession of appropriate documentation issued by the United States authorities so that their status may be verified by Japanese authorities upon their entry into or departure from Japan, or while in Japan.

5. If the status of any person brought into Japan under paragraph 1 of this Article is altered so that he would no longer be entitled to such admission, the United States authorities shall notify the Japanese authorities and shall, if such person be required by the Japanese authorities to leave Japan, assure that transportation from Japan will be provided within a reasonable time at no cost to the Government of Japan. If the Government of Japan, for good cause, has requested the removal from its territory of a member of the United States armed forces or the civilian component, or a dependent, the United States authorities shall be responsible for causing the said person to leave Japan without delay.

ARTICLE X

1. Japan shall accept as valid, without a driving test or fee, the driving permit or license of military driving permit issued by the United States to a member of the United States armed forces, the civilian component, and their dependents.

2. Official vehicles of the United States armed forces and the civilian component shall carry distinctive numbered plates or individual markings which will readily identify them.

3. Privately owned vehicles of members of the United States armed forces, the civilian component, and their dependents shall carry Japanese number plates to be acquired under the same conditions as those applicable to Japanese nationals.

ARTICLE XI

1. Save as provided in this Agreement, members of the United States armed forces, the civilian component, and their dependents shall be subject to the laws and regulations administered by the customs authorities of Japan.
2. All materials, supplies and equipment imported by the United States armed forces, the authorized procurement agencies of the United States armed forces, or by the organizations provided for in Article XV, for the official use of the United States armed forces or for the use of the members of the United States armed forces, the civilian component, and their dependents, 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, shall be permitted entry into Japan; such entry shall be free from customs duties and other such charges. Appropriate certification shall be made that such materials, supplies and equipment are being imported by the United States armed forces, the authorized procurement agencies of the United States armed forces, or by the organizations provided for in Article XV, or, in the case of materials, supplies and equipment to be used exclusively by the United States armed forces or ultimately to be incorporated into articles or facilities used by such forces.

forces, that delivery thereof is to be taken by the United States armed forces for the purposes specified above.

3. Property consigned to and for the personal use of members of the United States armed forces, the civilian component, and their dependents, shall be subject to customs duties and other such charges, except that no duties or charges shall be paid with respect to:

(a) Furniture and household goods for their private use imported by the members of the United States armed forces or civilian component when they first arrive to serve in Japan or by their dependents when they first arrive for reunion with members of such forces or civilian component, and personal effects for private use brought by the said persons upon entrance.

(b) Vehicles and parts imported by members of the United States armed forces or civilian component for the private use of themselves or their dependents.

(c) Reasonable quantities of clothing and household goods of a type which would ordinarily be purchased in the United States for everyday use for the private use of members of the United States armed forces, civilian component, and their dependents, which are mailed into

Japan

Japan through United States military post offices.

4. The exemptions granted in paragraphs 2 and 3 shall apply only to cases of importation of goods and shall not be interpreted as refunding customs duties and domestic excises collected by the customs authorities at the time of entry in cases of purchases of goods on which such duties and excises have already been collected.

5. Customs examination shall not be made in the following cases:

- (a) Units and members of the United States armed forces under orders entering or leaving Japan;
- (b) Official documents under official seal;
- (c) Mail in United States military postal channels and military cargo shipped on a United States Government bill of landing.

6. Except as such disposal may be authorized by the Japanese and United States authorities in accordance with conditions agreed upon between the two Governments, goods imported into Japan free of duty shall not be disposed of in Japan to persons not entitled to import such goods free of duty.

7. Goods imported into Japan free from customs duties and other such charges pursuant to paragraphs 2 and 3 may be reexported free from customs duties and other such charges.

8.

8. The United States armed forces, in cooperation with Japanese authorities, shall take such steps as are necessary to prevent abuse of privileges granted to the United States armed forces, members of such forces, the civilian component, and their dependents in accordance with this Article.

9. (a) In order to prevent offenses against laws and regulations administered by the customs authorities of the Government of Japan, the Japanese authorities and the United States armed forces shall assist each other in the conduct of inquiries and the collection of evidence.

(b) The United States armed forces shall render all assistance within their power to ensure that articles liable to seizure by, or on behalf of, the customs authorities of the Government of Japan are handed to those authorities.

(c) The United States armed forces shall render all assistance within their power to ensure the payment of duties, taxes, and penalties payable by members of such forces or of the civilian component, or their dependents.

(d) Vehicles and articles belonging to the United States armed forces seized by the customs authorities of

the

the Government of Japan in connection with an offense against its customs or fiscal laws or regulations shall be handed over to the appropriate authorities of the force concerned.

ARTICLE XII

1. The United States may contract for any supplies or construction work to be furnished or undertaken in Japan for purposes of, or authorized by, this Agreement, without restriction as to choice of supplier or person who does the construction work. Such supplies or construction work may, upon agreement between the two Governments, be procured through the Government of Japan.

2. Materials, supplies, equipment and services which are required from local sources for the maintenance of the United States armed forces and the procurement of which may have an adverse effect on the economy of Japan shall be procured in coordination with, and, when desirable, through or with the assistance of, the competent authorities of Japan.

3. Materials, supplies, equipment and services procured for official purposes in Japan by the United States armed forces, or by authorized procurement agencies of the United States armed forces upon appropriate certification shall be exempt from the following Japanese taxes:

- (a) Commodity tax
- (b) Travelling tax
- (c) Gasoline tax
- (d) Electricity and gas tax.

Materials.

Materials, supplies, equipment and services procured for ultimate use by the United States armed forces shall be exempt from commodity and gasoline taxes upon appropriate certification by the United States armed forces. With respect to any present or future Japanese taxes not specifically referred to in this Article which might be found to constitute a significant and readily identifiable part of the gross purchase price of materials, supplies, equipment and services procured by the United States armed forces, or for ultimate use by such forces, the two Governments will agree upon a procedure for granting such exemption or relief therefrom as is consistent with the purposes of this Article.

4. Local labor requirements of the United States armed forces of civilian component shall be satisfied with the assistance of the Japanese authorities.

5. The obligations for the withholding and payment of income tax, local inhabitant tax and social security contributions, and, except as may otherwise be agreed between the two Governments, the conditions of employment and work, such as those relating to wages and supplementary payments, 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.

6.

6. The Governments of Japan and the United States will cooperate with each other with a view to facilitating amicable settlement of claims of individual workers arising out of work with the United States armed forces or with the organizations provided for in Article XV in connection with the application of the preceding paragraph and paragraph 4 of Article XV.

7. Members of the civilian component shall not be subject to Japanese laws or regulations with respect to terms and conditions of employment.

8. Neither members of the United States armed forces, civilian component, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or similar charges relating to personal purchases of goods and services in Japan chargeable under Japanese legislation.

9. Except as such disposal may be authorized by the Japanese and United States authorities in accordance with conditions agreed upon between the two Governments, goods purchased in Japan exempt from the taxes referred to in paragraph 3 shall not be disposed of in Japan to persons not entitled to purchase such goods exempt from such tax.

ARTICLE XIII

1. The United States armed forces shall not be subject to taxes or similar charges on property held, used or transferred by such forces in Japan.

2. Members of the United States armed forces, the civilian component, and their dependents shall not be liable to pay any Japanese taxes to the Government of Japan or to any other taxing agency in Japan on income received as a result of their service with or employment by the United States armed forces, or by the organizations provided for in Article XV. The provisions of this Article do not exempt such persons from payment of Japanese taxes on income derived from Japanese sources, nor do they exempt United States citizens who for United States income tax purposes claim Japanese residence from payment of Japanese taxes on income. Periods during which such persons are in Japan solely by reason of being members of the United States armed forces, the civilian component, or their dependents shall not be considered as periods of residence or domicile in Japan for the purpose of Japanese taxation.

3. Members of the United States armed forces, the civilian component, and their dependents shall be exempt from taxation in Japan on the holding, use, transfer inter se, or transfer by death of movable property [tangible or intangible] the presence of which in Japan is due solely to the temporary presence of these persons in Japan, provided that such exemption shall not apply to property held for the purpose of investment or the conduct of business in Japan [or to any intangible property registered in Japan]. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

ARTICLE XIV

1. Persons, including corporations organized under the laws of the United States, and their employees who are ordinarily resident in the United States and whose presence in Japan is solely for the purpose of executing contracts with the United States for the benefit of the United States armed forces shall, except as provided in this Article, be subject to the laws and regulations of Japan.

2. Upon certification by appropriate United States authorities as to their identity, such persons and their employees shall be accorded the following benefits of this Agreement:

(a) Rights of accession and movement, as provided for in Article V, paragraph 2;

(b) Entry into Japan in accordance with the provisions of Article IX;

(c) The exemption from customs duties, and other such charges provided for in Article XI, paragraph 3, for members of the United States armed forces, the civilian component, and their dependents;

(d)

(d) If authorized by the United States Government, the right to use the services of the organizations provided for in Article XV;

(e) Those provided for in Article XIX, paragraph 2, for members of the armed forces of the United States and of the civilian component, and their dependents;

(f) If authorized by the United States Government, the right to use military payment certificates, as provided for in Article XX;

(g) The use of postal facilities provided for in Article XXI;

(h) Exemption from the laws and regulations of Japan with respect to terms and conditions of employment.

3. Such persons and their employees shall be so described in their passports and their arrival, departure and their residence while in Japan shall from time to time be notified by the United States armed forces to the Japanese authorities.

4. Upon certification by an authorized officer of the United States armed forces depreciable assets except houses, held, used, or transferred, by such persons and their employees exclusively for the execution of contracts referred to in paragraph 1 shall not be subject to taxes or similar charges of Japan.

5. Upon certification by an authorized officer of the United States armed forces, such persons and their employees shall be exempt from taxation in Japan on the holding, use, transfer by death, or transfer to persons or agencies entitled to tax exemption under this Agreement, of movable property, [tangible or intangible,] the presence of which in Japan is due solely to the temporary presence of these persons in Japan, provided that such exemption shall not apply to property held for the purpose of investment or the conduct of other business in Japan [or to any intangible property registered in Japan.] There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

6. The persons and their employees referred to in paragraph 1 shall not be liable to pay income or corporation taxes to the Government of Japan or to any other taxing agency in Japan on any income derived under a contract made in the United States with the United States Government in connection with the construction, maintenance or operation of any of the facilities or areas covered by this Agreement. The provisions of this paragraph do not exempt such persons from payment of income or corporation taxes on income derived

from

from Japanese sources, nor do they exempt such persons and their employees who, for United States income tax purposes, claim Japanese residence, from payment of Japanese taxes on income. Periods during which such persons are in Japan solely in connection with the execution of a contract with the United States Government shall not be considered periods of residence or domicile in Japan for the purposes of such taxation.

7. Japanese authorities shall have the primary right to exercise jurisdiction over the persons and their employees referred to in paragraph 1 of this Article in relation to offenses committed in Japan and punishable by the law of Japan. In those cases in which the Japanese authorities decide not to exercise such jurisdiction they shall notify the military authorities of the United States as soon as possible. Upon such notification the military authorities of the United States shall have the right to exercise such jurisdiction over the persons referred to as is conferred on them by the law of the United States.

ARTICLE XV

1. (a) Navy exchanges, post exchanges, messes, social clubs, theaters, newspapers and other non-appropriated fund organizations authorized and regulated by the United States military authorities may be established in the facilities and areas in use by the United States armed forces for the use of members of such forces, the civilian component, and their dependents. Except as otherwise provided in this Agreement, such organizations shall not be subject to Japanese regulations, license, fees, taxes or similar controls.

(b) When a newspaper authorized and regulated by the United States military authorities is sold to the general public, it shall be subject to Japanese regulations, license, fees, taxes or similar controls so far as such circulation is concerned.

2. No Japanese tax shall be imposed on sales of merchandise and services by such organizations, except as provided in paragraph 1(b), but purchases within Japan of merchandise and supplies by such organizations shall be subject to Japanese taxes.

3. Except as such disposal may be authorized by the Japanese and United States authorities in accordance with

conditions

conditions agreed upon between the two Governments, goods which are sold by such organizations shall not be disposed of in Japan to persons not authorized to make purchases from such organizations.

4. The obligations for the withholding and payment of income tax, local inhabitant tax and social security contributions, and, except as may otherwise be agreed between the two Governments, the conditions of employment and work, such as those relating to wages and supplementary payments, 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.

5. The organizations referred to in this Article shall provide such information to the Japanese authorities as is required by Japanese tax legislation.

ARTICLE XVI

It is the duty of members of the United States armed forces, the civilian component, and their dependents to respect the law of Japan and to abstain from any activity inconsistent with the spirit of this Agreement, and, in particular, from any political activity in Japan.

ARTICLE XVII

1. Subject to the provisions of this Article,

(a) the military authorities of the United States shall have the right to exercise within Japan all criminal and disciplinary jurisdiction conferred on them by the law of the United States over all persons subject to the military law of the United States;

(b) the authorities of Japan shall have jurisdiction over the members of the United States armed forces, the civilian component, and their dependents with respect to offenses committed within the territory of Japan and punishable by the law of Japan.

2. (a) The military authorities of the United States shall have the right to exercise exclusive jurisdiction over persons subject to the military law of the United States with respect to offenses, including offenses relating to its security, punishable by the law of the United States, but not by the law of Japan.

(b) The authorities of Japan shall have the right to exercise exclusive jurisdiction over members of the United States armed forces, the civilian component, and their dependents with respect to offenses, including offenses relating to the security of Japan, punishable by its law

but not by the law of the United States.

(c) For the purposes of this paragraph and of paragraph 3 of this Article a security offense against a State shall include

- (i) treason against the State;
- (ii) sabotage, espionage or violation of any law relating to official secrets of that State, or secrets relating to the national defense of that State.

3. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:

(a) The military authorities of the United States shall have the primary right to exercise jurisdiction over members of the United States armed forces or the civilian component in relation to

- (i) offenses solely against the property or security of the United States, or offenses solely against the person or property of another member of the United States armed forces or the civilian component or of a dependent;
- (ii) offenses arising out of any act or omission done in the performance of official duty.

(b) In the case of any other offense the authorities of Japan shall have the primary right to exercise jurisdiction.

(c) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance.

4. The foregoing provisions of this Article shall not imply any right for the military authorities of the United States to exercise jurisdiction over persons who are nationals of or ordinarily resident in Japan, unless they are members of the United States armed forces.

5. (a) The authorities of Japan and the military authorities of the United States shall assist each other in the arrest of members of the United States armed forces, the civilian component, or their dependents in the territory of Japan and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.

(b) The authorities of Japan shall notify promptly the military authorities of the United States of the arrest of any member of the United States armed forces, the civilian component, or a dependent.

(c) The custody of an accused member of the United States armed forces or of the civilian component over whom Japan is to exercise jurisdiction shall, if he is in the hands of the United States, remain with the United States until he is charged by Japan.

6. (a) The authorities of Japan and the military authorities of the United States shall assist each other in the carrying out of all necessary investigations into offenses, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offense. The handing over of such objects may, however, be made subject to their return within the time specified by the authority delivering them.

(b) The authorities of Japan and the military authorities of the United States shall notify each other of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

7. (a) A death sentence shall not be carried out in Japan by the military authorities of the United States if the legislation of Japan does not provide for such punishment in a similar case.

(b) The authorities of Japan shall give sympathetic consideration to a request from the military authorities of the United States for assistance in carrying out a sentence of imprisonment pronounced by the military authorities of the United States under the provisions of this Article within the territory of Japan.

8. Where an accused has been tried in accordance with the provisions of this Article either by the military authorities of the United States or the authorities of Japan and has been acquitted, or has been convicted and is serving, or has served, his sentence or has been pardoned, he may not be tried again for the same offense within the territory of Japan by the authorities of the other State. However, nothing in this paragraph shall prevent the military authorities of the United States from trying a member of its armed forces for any violation of rules of discipline arising from an act or omission which constituted an offense for which he was tried by the authorities of Japan.

9. Whenever a member of the United States armed forces, the civilian component or a dependent is prosecuted under the jurisdiction of Japan he shall be entitled:

- (a) to a prompt and speedy trial;
- (b) to be informed, in advance of trial, of the specific charge or charges made against him;
- (c) to be confronted with the witnesses against him;
- (d) to have compulsory process for obtaining witnesses in his favor, if they are within the jurisdiction of Japan;
- (e) to have legal representation of his own choice for his defense or to have free or assisted legal representation under the conditions prevailing for the time being in Japan;
- (f) if he considers it necessary, to have the services of a competent interpreter; and
- (g) to communicate with a representative of the Government of the United States and to have such a representative present at his trial.

10. (a) Regularly constituted military units or formations of the United States armed forces shall have

the right to police any facilities or areas which they use under Article II of this Agreement. The military police of such forces may take all appropriate measures to ensure the maintenance of order and security within such facilities and areas.

(b) Outside these facilities and areas, such military police shall be employed only subject to arrangements with the authorities of Japan and in liaison with those authorities, and in so far as such employment is necessary to maintain discipline and order among the members of the United States armed forces.

11. In the event of hostilities to which the provisions of Article V of the Treaty of Mutual Cooperation and Security apply, either the Government of Japan or the Government of the United States shall have the right, by giving sixty days' notice to the other, to suspend the application of any of the provisions of this Article. If this right is exercised, the Governments of Japan and the United States shall immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

ARTICLE XVIII

1. Each Party waives all its claims against the other Party for injury or death suffered in Japan by a member of its armed forces, or a civilian governmental employee while such member or employee was engaged in the performance of his official duties in cases where such injury or death was caused by a member of the armed forces, or a civilian employee of the other Party acting in the performance of his official duties.

2. Each Party waives all its claims against the other Party for damage to any property in Japan owned by it, if such damage was caused by a member of the armed forces or a civilian governmental employee of the other Party in the performance of his official duties.

3. Claims, other than contractual, arising out of acts or omissions of members of, or employees of the United States armed forces in the performance of official duty, or out of any other act, omission or occurrence for which the United States armed forces is legally responsible, arising incident to non-combat activities and causing injury, death or property damage in Japan to third parties shall be dealt with by Japan in accordance with the following provisions:

(a) Claims shall be filed within one year from the date on which they arise and shall be considered and settled or adjudicated in accordance with the laws and regulations of Japan with respect to claims arising from the activities of its own employees.

(b) Japan may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by Japan in yen.

(c) Such payment, whether made pursuant to a settlement or to adjudication of the case by a competent tribunal of Japan, or the final adjudication by such a tribunal denying payment, shall be binding and conclusive.

(d) The cost incurred in satisfying claims pursuant to the preceding subparagraphs shall be shared in the proportion of 75% chargeable to the United States and 25% chargeable to Japan.

(e) In accordance with procedures to be established, a statement of all claims approved or disapproved by Japan pursuant to this paragraph, together with the findings in each case, and a statement of the sums paid by Japan, shall be sent to the United States periodically, with a request for reimbursement of the share to be paid by the United States. Such reimbursement shall be made within the shortest possible time in yen.

4. Each Party shall have the primary right, in the execution of the foregoing paragraphs, to determine whether its personnel were engaged in the performance of official duty. Such determination shall be made as soon as possible after the arising of the claim concerned. When the other Party disagrees with the results of such determination, that Party may bring the matter before the Joint Committee for consultation under the provisions of Article XXVI of this Agreement.

5. Claims against members of or employees of the United States armed forces arising out of tortious acts or omissions in Japan not done in the performance of official duty shall be dealt with in the following manner:

(a) The Japanese authorities shall consider the claim and assess compensation to the claimant in a fair and just manner, taking into account all the circumstances of the case, including the conduct of the injured person, and shall prepare a report on the matter.

(b) The report shall be delivered to the United States authorities, who shall then decide without delay whether they will offer an ex gratia payment, and if so, of what amount.

(c) If an offer of ex gratia payment is made, and accepted by the claimant in full satisfaction of his

claim, the United States authorities shall make the payment themselves and inform the Japanese authorities of their decision and of the sum paid.

(d) Nothing in this paragraph shall affect the jurisdiction of the Japanese courts to entertain an action against a member or employee of the United States armed forces, unless and until there has been payment in full satisfaction of the claim.

6. (a) Members of the United States armed forces and of the civilian component, shall not be subject to suit in Japan with respect to claims specified in paragraph 3, but shall be subject to the civil jurisdiction of Japanese courts with respect to all other types of cases.

(b) In case any private movable property, excluding that in use by the United States armed forces, which is subject to compulsory execution under Japanese law, is within the facilities and areas in use by the United States armed forces, the United States authorities shall upon the request of Japanese courts, possess and turn over such property to the Japanese authorities.

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

7. Disputes arising out of contracts concerning the procurement of materials, supplies, equipment, services, and labor by or for the United States armed forces, which are not resolved by the parties to the contract concerned, may be submitted to the Joint Committee for conciliation, provided that the provisions of this paragraph shall not prejudice any right which the parties to the contract may have to file a civil suit.

ARTICLE XIX

1. Members of the United States armed forces, the civilian component, and their dependents, shall be subject to the foreign exchange controls of the Government of Japan.
2. The preceding paragraph shall not be construed to preclude the transmission into or outside of Japan of United States dollars or dollar instruments representing the official funds of the United States or realized as a result of service or employment in connection with this Agreement by members of the United States armed forces and the civilian component, or realized by such persons and their dependents from sources outside of Japan.
3. The United States authorities shall take suitable measures to preclude the abuse of the privileges stipulated in the preceding paragraph or circumvention of the Japanese foreign exchange controls.

ARTICLE XX

1. (a) United States military payment certificates denominated in dollars may be used by persons authorized by the United States for internal transactions within the facilities and areas in use by the United States armed forces. The United States Government will take appropriate action to insure that authorized personnel are prohibited from engaging in transactions involving military payment certificates except as authorized by United States regulations. The Government of Japan will take necessary action to prohibit unauthorized persons from engaging in transactions involving military payment certificates and with the aid of United States authorities will undertake to apprehend and punish any person or persons under its jurisdiction involved in the counterfeiting or uttering of counterfeit military payment certificates.

(b) It is agreed that the United States authorities will apprehend and punish members of the United States armed forces, the civilian component, or their dependents, who tender military payment certificates to unauthorized persons and that no obligation will be due to such unauthorized persons or to the Government of Japan or its agencies from the United States or any of its agencies as a result of any unauthorized use of military payment certificates within Japan.

2. In order to exercise control of military payment certificates the United States may designate certain American financial institutions to maintain and operate, under United States supervision, facilities for the use of persons authorized by the United States to use military payment certificates. Institutions authorized to maintain military banking facilities will establish and maintain such facilities physically separated from their Japanese commercial banking business, with personnel whose sole duty is to maintain and operate such facilities. Such facilities shall be permitted to maintain United States currency bank accounts and to perform all financial transactions in connection therewith including receipt and remission of funds to the extent provided by Article XIX, paragraph 2, of this Agreement.

ARTICLE XXI

The United States may establish and operate, within the facilities and areas in use by the United States armed forces, United States military post offices for the use of members of the United States armed forces, the civilian component, and their dependents, for the transmission of mail between United States military post offices in Japan and between such military post offices and other United States post offices.

ARTICLE XXII

The United States may enroll and train eligible United States citizens, residing in Japan, who apply for such enrollment, in the reserve organizations of the armed forces of the United States.

ARTICLE XXIII

The United States and Japan will cooperate in taking such steps as may from time to time be necessary to ensure the security of the United States armed forces, the members thereof, the civilian component, their dependents, and their property. The Government of Japan agrees to seek such legislation and to take such other action as may be necessary to ensure the adequate security and protection within its territory of installations, equipment, property, records and official information of the United States, and for the punishment of offenders under the applicable laws of Japan.

ARTICLE XXIV

(to be deleted)

ARTICLE XXV

1. It is agreed that the United States will bear for the duration of this Agreement without cost to Japan all expenditures incident to the maintenance of the United States armed forces in Japan except those to be borne by Japan as provided in paragraph 2.

2. It is agreed that Japan will:

(a) Furnish for the duration of this Agreement without cost to the United States and make compensation where appropriate to the owners and suppliers thereof all facilities, areas and rights of way, including facilities and areas jointly used such as those at airfields and ports, as provided in Articles II and III.

(b) (proposed to be deleted)

3. It is agreed that arrangements will be effected between the Government of Japan and the Government of the United States for accounting applicable to financial transactions arising out of this Agreement.

ARTICLE XXVI

1. A Joint Committee shall be established as the means for consultation between the Government of Japan and the Government of the United States on matters requiring mutual consultation regarding the implementation of this Agreement. In particular, the Joint Committee shall serve as the means for consultation in determining the facilities and areas in Japan which are required for the use of the United States in carrying out the purposes of the Treaty of Mutual Cooperation and Security.

2. The Joint Committee shall be composed of a representative of the Government of Japan and a representative of the Government of the United States, each of whom shall have one or more deputies and a staff. The Joint Committee shall determine its own procedures, and arrange for such auxiliary organs and administrative services as may be required. The Joint Committee shall be so organized that it may meet immediately at any time at the request of the representative of either the Government of Japan or the Government of the United States.

3. If the Joint Committee is unable to resolve any matter, it shall refer that matter to the respective Governments for further consideration through appropriate channels.

ARTICLE XXVII

1. This Agreement shall be approved by Japan and the United States of America in accordance with their legal procedures and notes indicating such approval shall be exchanged.

After the procedure set forth in the preceding paragraph has been followed, this Agreement will enter into force on the date of coming into force of the Treaty of Mutual Cooperation and Security.

2. The Government of each Party to this Agreement undertakes to seek from its legislature necessary budgetary and legislative action with respect to provisions of this Agreement which require such action for their execution.

ARTICLE XXVIII

Either Government may at any time request the revision of any Article of this Agreement, in which case the two Governments shall enter into negotiation through appropriate channels.

ARTICLE XXIX

This Agreement, and agreed revisions thereof, shall remain in force while the Treaty of Mutual Cooperation and Security remains in force unless earlier terminated by agreement between the two Governments.

In witness whereof the undersigned Plenipotentiaries have signed this Agreement,

Done at _____, in duplicate, in the Japanese and English languages, both texts equally authentic, this _____ day of _____.

FOR JAPAN:

FOR THE UNITED STATES OF AMERICA:

Article II

1. (a) The United States armed forces may use facilities and areas in Japan, inclusive of existing furnishings, equipment and fixtures necessary for the operation thereof, as may be agreed upon between the two Governments.
- (b) The facilities and areas, the use of which Japan has granted to the United States of America under Article II of the Administrative Agreement under Article III of the Security Treaty between Japan and the United States of America, signed at Tokyo on February 28, 1952, as amended, shall be considered as the facilities and areas agreed upon between the two Governments in accordance with the provisions of subparagraph (a) above.
2. Existing arrangements under this Article shall be reviewed by the two Governments at any time when either Government so requests.

CONFIDENTIAL

REMARKS ON THE AGREEMENT

1. The proposed modifications to the text of the Administrative Agreement including and in addition to those contained in the United States proposal handed by Ambassador MacArthur to Foreign Minister Fujiyama on 6 March 1959 are incorporated in the Japanese draft dated 23 April 1959.
2. Following are comments relating to those parts of the Japanese draft which are in brackets.
 - a. Article II, 1 and 2
It is understood that these paragraphs be reviewed for necessary conforming upon the disposing one way or the other of the Okazaki-Rusk facilities and areas.
 - b. Article III
A Japanese paper describing the problems relating to this Article was presented to the Ambassador. It is hoped that the United States Government will consider them with a view to finding a solution that will make this article more palatable to Japan without prejudicing the position of United States armed forces under the present Agreement.
 - c. Article VI; Article V, 3
It is understood that the existing text of the Administrative Agreement will be reviewed for necessary conforming upon the return of the air traffic control to the Japanese Government.

d. Article XI, 2

It is understood that the United States will give explanations to certain languages used therein and, if possible, simplify the text containing them.

e. Article XIII, 3; Article XIV 5

Same as d above.

f. Article XIV

Same as b above

g. Article XVIII, 1, 2

Same as b above.

h. Article XXII

It is understood that the United States will indicate whether the proposed insertion is acceptable.

3. There is in the Administrative Agreement considerable room for drafting improvements which, not being matters of substance and because of the limitation in time, are not presented at this time.

With reference to the Agreement signed today, I would appreciate confirmation that the decisions, procedures, interpretations, agreed views, arrangements and all other agreements recorded in the Minutes of the Joint Committee established by Article XXVI of the Administrative Agreement of February 28, 1952 shall be taken over by the Joint Committee to be established by Article XXVI of the new Agreement, so that they will remain in effect unless altered by that Committee.

Observations on the Official Agreed Minutes
of the Administrative Agreement

1. Re Article I

The problem of highly skilled technicians of third State nationality has been solved by an agreement in the Joint Committee whereby such persons are in practice given certain of the privileges which members of the civilian component are entitled to enjoy under the Administrative Agreement, and such agreement will be taken over by the new Joint Committee. (See also the observations re Article VIII.)

Furthermore, the expression "inclusion of such technicians in the civilian component" as appearing in the Minutes is incompatible with the definition of the "civilian component" made in Article I (b).

2. Re Article III

It is obvious that inside the facilities and areas the United States can take all the measures enumerated in the Agreed Minutes. In cases where such measures need be taken outside the facilities and areas it has been the practice that the Japanese Government should take such measures in accordance with mutual arrangements made in specific cases. It is hoped that these minutes will be studied with a view to making them more palatable to Japan without prejudicing the position of the United States armed forces under the present Agreement.

3. Re Article V

The understanding on exemption of toll and other charges goes beyond the scope of paragraph 2 of Article V and is not covered by any other provisions of the Agreement.

4. Re Article VII

Since the National Police Reserve has been absorbed into the Self Defense Forces which receive the same treatment as those applicable to the other Government ministries and agencies, the statements made on this Article have become obsolete.

5. Re Article VIII

With regard to the statements in the Agreed Minutes that certain matters shall be for study, recommendation or agreement by the Joint Committee, necessary and appropriate agreements on such matters have already been reached at the Joint Committee. These agreements will remain effective under the new Agreement.

Accordingly, it is not only unnecessary, to provide the aforementioned statements again in the Minutes, but also misleading since such provision may be interpreted to mean that the Joint Committee had not yet reached any agreement on those matters which are already under agreement and smooth operation.

6. Re Article XII

See observations re Article VIII. (As to the last part of Mr. Busk's statement, attention is drawn to the fact that the Mutual Defense Assistance Agreement was concluded in 1954 which contains the provisions covering the problems mentioned in that part of the statement.)

7. Re Article XV

The understanding set forth in the Minutes goes beyond the scope of the provisions of the Agreement.

8. Re Article XVII

The provisions of the Agreed Official Minutes regarding the Protocol of 1953, except the last one under the heading "Re application of the Protocol", will be incorporated into the new Agreed Minutes.

9. Re Article XXI

The understanding set forth in the Minutes goes beyond the scope of the provisions of the Agreement.

10. Re Article XXV

The statements made on this Article need to be considered together with Article XXIV itself.

11. Re Article XXVIII

So far as Article XVII is concerned, the statement is obsolete. The rest of the statement seems unnecessary.

12. The understandings contained in the Official Agreed Minutes which are not commented upon in the above could be incorporated in the new Agreed Minutes.

13. Re Articles V, XV and XXI

The Japanese Government is prepared to explore the ways by which the treatment accorded under these Minutes will be continued.

It is proposed that the following be stipulated in the Agreed Minutes to the Agreement

1. Re Article I(a):

Members of the United States armed forces being required by Article IX paragraph 3(b) to carry travel order when entering into Japan, it is understood that those personnel on active duty belonging to the United States armed forces, whose entry into Japan is not under travel order, shall not be treated as "members of the United States armed forces" for the purpose of this Agreement.

2. Re Article XI:

1. Re paragraph 2:

The United States Government undertakes to ensure that the quantity of goods imported under paragraph 2 of this Article for the use of the members of the United States armed forces and of the civilian component, and their dependents shall be limited to the extent reasonably required for such use, and to take all necessary measures to this end.

2. Re paragraph 3(c):

The United States armed forces will take every possible measure to ensure that the duty-free importation of clothing and household goods as provided for in paragraph 3(c) shall not exceed reasonable quantities.

(Note: There shall be set forth here additional provisions either (i) requiring the United States armed forces to provide the Japanese Government with adequate information on such importation, or (ii) enumerating actual measures to be taken by such forces for the above purpose.)

3. Re paragraph 5:

The United States armed forces will take every possible measure to ensure that goods will not be imported into Japan

in violation of Japanese customs laws and regulations.

They will promptly notify the Japanese customs authorities whenever violations are discovered.

3. Re Article XII, paragraph 1:

The United States armed forces undertake to furnish the Japanese authorities with appropriate information, as far in advance as possible, on their procurement programs in Japan.