

琉球大学学術リポジトリ

沖縄関係 沖縄返還交渉Ⅱ-1（対内）

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VII-24
松本-7A
藤野石巻
千良

SECRET

(July 24, 1969)

Joint Communiqué: Comments on the U.S. draft

The present paper sets forth Japanese comments on some of the substantive points contained in the U.S. version of the draft communiqué though the Japanese side wishes to defer until a later occasion its further comments on other subject matters to be dealt with in the communiqué in connection with the question of reversion of Okinawa.

It is our wish that, with a view to finding a mutually satisfactory solution, the U.S. side give further thought to its position by taking into full consideration the basic views of the Japanese Government which are contained in the paper dated July 16, 1969, and on which the present paper is also based.

- 1. Comments on basic issues
- 1. Application of the Security Treaty to Okinawa

Although the U.S. draft simply states that, upon reversion, the Security Treaty and its related arrangements would apply to Okinawa, it is in the view of the Japanese Government a point of considerable importance that the Treaty and its related arrangements would apply "intact" (that is to say, with no modification) to Okinawa, requiring no additional arrangements in their application.

2. Nuclear weapons

The U.S. draft refers to U.S. forces in Okinawa and their "equipment" as making a major contribution to the security of the Far East and to the defense of Japan and goes on to state that the "deterrent capability of the U.S. military forces on the islands should in no way be diminished by reversion." Yet, as has been made clear on a number of occasions, any solution that would recognize the existence of nuclear weapons in Okinawa leaves no room for its being accepted by the Japanese side. In view of the need for effective functioning of U.S. bases in Okinawa and also of the effects the question might have on the overall relations between Japan and the U.S., a clear understanding by the U.S. side of the Japanese position on this matter is essential.

3. Use of facilities and areas

It is stated respectively in the third and fourth paragraphs of the U.S. draft, in similar but not in identical terms, that the Government of Japan will agree, under the Treaty of Mutual Cooperation and Security, to the use by U.S. forces of facilities and areas in Japan for certain specified purposes. Detailed explanation, however, was given in the paper dated July 16, 1969 that the Government

cannot properly renounce the right of final judgement reserved by it through the prior consultation system and, therefore, no prior consent could be given, without a special arrangement requiring Diet approval, to the use of facilities and areas for military combat operations even if the formalities of prior consultation would have to be gone through. On the other hand, it is also to be recalled that precisely because of this difficulty, the Japanese draft meant to express in the clearest possible terms the intention of the Japanese Government by referring to its basic recognition.

Although, in connection with prior consultation, the U.S. draft refers to the purpose of the use of facilities and areas in Japan in such general terms as "to meet an armed attack....." (third paragraph) and "for military measures required to deal with an armed attack" (fourth paragraph), attention may be called to the fact that prior consultation on the operational uses of facilities and areas is required only with respect to "military combat operations" while non-combat operations can be freely undertaken from Japan.

4. Reference to individual countries

Reference to individual countries, as is made in the

third and fourth paragraphs of the U.S. draft, is not considered appropriate in view of the considerations already given in paragraph I.(3) in the paper dated July 16, 1969.

II. Other comments

1. Date for reversion (para. 1 of the U.S. draft)

When the U.S. draft states that "determination of a final date for reversion will not be possible until negotiations are completed on the details," does the word "details" refer to the contents of the agreement on reversion to be concluded?

2. Continued use of facilities and areas in Okinawa (para.2)

It is to be recalled that, as a matter of legal procedure, the continued use by the U.S. of its facilities and areas in Okinawa after reversion is to be authorized in accordance with the Security Treaty and its related arrangements (in particular, the Status of Forces Agreement).

3. The Exchange of Notes of September 8, 1951 (para. 3)

The Exchange of Notes of January 19, 1960, which provides that the Exchange of Notes of September 8, 1951 will continue to be in force, is included among the arrangements when referred to as "the Security Treaty and its related arrangements." Furthermore, under the terms of paragraph 3 of the former Exchange of Notes, the use of facilities and areas

by the U.S. forces under the Unified Command of the United Nations is made subject to prior consultation. Thus, it is difficult to find any significance, within the particular context of the third paragraph of the U.S. draft, in making special reference to the above-mentioned Exchange of Notes.

Another point to be made in this connection is that while the U.S. draft refers to the Exchange of Notes of 1951 as having "particular relevance" to the situation in the Republic of Korea, the said Exchange of Notes is relevant only to the situation in the Republic of Korea. This should be all the more clear if both Exchange of Notes are read together.

4. Taiwan and Southeast Asia (para. 4)

(a) Apart from the basic point already made in paragraph I. 4 above, the meaning of the first sentence in relation to the rest of the paragraph is not clear.

(b) According to the official definition of the term "Far East," "Southeast Asia," aside from the Philippines, is not included in the Far East and, therefore, cannot be treated as a legally meaningful concept in the application of the Security Treaty and its related arrangements.

5. Action for the protection of U.S. forces (para. 4)

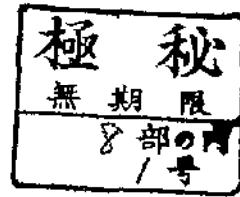
As explained in detail in paragraph V. (2) of the paper dated July 16, 1969, a concept such as military action specifically to deal with an attack on U.S. forces outside Japan does not properly fit in with the basic legal framework of the present Security Treaty.

6. Security Consultative Committee (para. 6)

The suggestion contained in the U.S. draft is basically a useful one. It would be appreciated if the U.S. side could further elaborate its ideas on the subject.

7. U.S. assets and expenditures in Okinawa (para. 7)

Without clear knowledge of the character and contents of "United States assets and expenditures in the Ryukyus," the Japanese Government is not in a position to give its views on the principle to "equitably compensate" the U.S. for such assets and expenditures.



共同声明米案に対する日本側見解

四四・七・二四

共同声明において取り上げるべき事項についての日本側見解は、別途適当な機会に述べることとし、かつ、米案の表現ぶり等細部に關する日本側の立場を留保した上で、米案の考え方に対する日本側見解は、次のとおりである。

なお、わが方コメントの基礎をなす考え方は、既に七月十六日付ペーパーにおいて詳細説明したところであるので、米側がこれら日本側見解に十分の考慮を払い、双方にとり満足しうる解決なきやさらにその立場を再検討されることを切望する。

一 基本的問題に関するコメント

1 沖繩に対する安保条約体制の適用

米案は、安保条約及び関連取極の沖繩への適用を定めているが、日本側は、これら条約及び取極が「そのまま」適用され、適用にあたりなんらの追加的取極を必要とせざるべきことをきわめて重要と考えるものである。

2 核

米案は、米軍及び「その装備」の沖繩における存在が極東の安全及び日本の防衛に貢献すること大なる旨を述べ、米軍の抑止能力が返還によりいささかも削減されざるべきことを述べているが、既にしばしば明らかにしたとおり、核兵器の存在を認

める解決は日本にとり受諾の余地なきことを強調せざるをえず、
沖繩基地の效果的機能の必要性及び今後の日米関係一般に及ぼ
すべき影響に照らし、日本側立場に対する米側の深い理解を期
待してやまない。

3 施設・区域の使用について

米案第三項及び第四項は、「日本政府が安保条約（の条項）
に基づき、
米軍による在日施設・区域の使用に同意
する」旨を定めているところ、たとえ事前協議の手續を踏むこ
とが明記されようとも、かかる事前の同意が国会の承認なくし
て与ええないものであることは、七月十六日付ペーパーにおい
て詳細に説明したところであり、他方かかる困難があるからこ

行政府自身
として土着
ことであるし、

そ日本案においては、基本的認識を述べることによりその意のあるところを表示せんとしたものであることを想起ありたい。

なお、米案は、「武力攻撃に対処するための施設・区域の使用」(第三項)あるいは、「武力攻撃に対処するための必要の軍事措置のための施設・区域の使用」(第四項)一般を事前協議との関係で取り上げているところ、事前協議を要するのは、戦闘作戦行動のみであり、非戦闘作戦行動は自由にとりうることに注意を喚起したい。

4 個々の国に対する言及

米案第三項及び第四項のごとく、個々の国に対する言及を行なうのは、外交上好ましくないと考えられることは、既に七月

十六日付のペーパーの I (3) において述べたとおりである。

二 その他のコメント

(1) 返還の時期（米案第一項）

「詳細」についての交渉が完了するまで、返還時期は確定できな~~い~~とのことであるが、「詳細」とは、返還協定を意味するか。

(2) 在沖繩施設・区域の継続使用（第二項）

沖繩において米軍が現在使用している施設・区域の返還後の継続使用は、安保条約及び関連取極（~~具体的~~に地位協定）に従つて認められるのであつて、現段階において、日本政府として「別段の合意なき限り」という形で包括的承認を与える立場

にない。

(3) 吉田・アチソン交換公文（第三項）

吉田・アチソン交換公文の効力の継続を定めた岸・ハーター交換公文は、「（安保条約に）関連する諸取極」の一としてその中に含まれているものであり、かつ、岸・ハーター交換公文第3項により、国連統一司令部の下にある米軍の日本からの戦闘作戦行動のための施設・区域の使用も事前協議に服することが定められているので、共同声明米案第3項のコンテキストにおいて、前記の両交換公文に言及する意味がないと考えられる。なお、吉田・アチソン交換公文は、とくに韓国についてはまるものとされているところ、同交換公文は、岸・ハーター

交換公文に照らしても、韓。國。に。つ。い。て。の。み。あ。て。は。ま。る。も。の。で。あ。る。こ。と。は。明。ら。か。で。あ。ろ。う。

(4) 台湾及び東南アジア（第四項）

(イ) 米案第四項の「両政府による類似の行動を必要とする平和に対する脅威」の意味するところは明らかでないので、米側の説明を期待する。

(ロ) 「東南アジア」は、「極東」の統一見解上、フィリピンを除いて極東に含まれておらず、安保条約・関連取極の適用上独立の概念として一定の取扱をなしえない。

(5) 米軍支援の行動（第四項）

米軍支援のための行動を独立の概念としてとらえ、一定の取

扱いをなすことは、現行安保条約の基本構造になじまない。

(6) 安保協議委員会（第六項）

今更しく詳細を説明し承りぬ

米案は、基本的には有益を示唆であるが、安保協議委員会の機能は、本件に関する岸・ハーター交換公文により定められており、米案第六項の趣旨が同交換公文との関連においていかなる意味を持つか明らかでない。「安保条約に基づく両政府の義務の遂行を助けるために、、、、」との表現の意図するところも不明である。

(7) 在沖繩米資産等について

米側が補償を求める「在沖繩米國資産及び支出」の性質及び実体についての明確な把握なくしては、日本政府が "equitably,"

“compensate”すべしとの原則に諾否を述べうる立場にない。

7月24日 号 約 内 閣 議 決
大 臣 官 房 記 録

極 秘
無 期 限
防 務 省 内
シ 号

防 務 省 印

SECRET

(July 24, 1969)

Joint Communiqué: Comments on the U.S. draft

The present paper sets forth Japanese comments on some of the ^{substantive points} ideas contained in the U.S. version of the draft communiqué though the Japanese side wishes to defer until a later occasion its further comments on ~~(a)~~ other subject matters to be dealt with in the communiqué in connection with the question of reversion of Okinawa; and ~~(b)~~ the detailed wording of the U.S. draft.

It is ^{our wish} earnestly hoped that, with a view to finding a mutually satisfactory solution, the U.S. side give further thought to its position by taking into full consideration the basic views of the Japanese Government which are contained in the paper dated July 16, 1969, and on which the present paper is also based.

I. Comments on basic issues

1. Application of the Security Treaty to Okinawa

Although the U.S. draft simply states that, upon reversion, the Security Treaty and its related arrangements would apply to Okinawa, it is in the view of the Japanese Government a point of considerable importance that the Treaty and its related arrangements would apply "intact" (that is to say, with

with no modification) to Okinawa, requiring no additional arrangements in their application.

2. Nuclear weapons

The U.S. draft refers to U.S. forces in Okinawa and their "equipment" as making a major contribution to the security of the Far East and to the defense of Japan and goes on to state that the "deterrent capability of the U.S. military forces on the islands should in no way be diminished by reversion." Yet, as has been made clear on a number of occasions, any solution that would recognize the existence of nuclear weapons in Okinawa leaves no room for its being accepted by the Japanese side. In view of the need for effective functioning of U.S. bases in Okinawa and also of the effects the question might have on the overall relations between Japan and the U.S., a clear understanding by the U.S. side of the Japanese position on this matter is essential.

3. Use of facilities and areas

It is stated respectively in the third and fourth paragraphs of the U.S. draft, in similar but not in identical terms, that the Government of Japan will agree, under the Treaty of Mutual Cooperation and Security, to the use by U.S. forces of facilities and areas in Japan for certain specified

specified purposes. Detailed explanation, however, was given in the paper dated July 16, 1969 that without Diet approval, no prior consent could be given to the use of facilities and areas for military combat operations even if the formalities of prior consultation would have to be gone through. On the other hand, it is also to be recalled that precisely because of this difficulty, the Japanese draft meant to express in the clearest possible terms the ~~ultimate~~ intention of the Japanese Government by referring to its basic recognition.

Although, in connection with prior consultation, the U.S. draft refers to the purpose of the use of facilities and areas in Japan in such general terms as "to meet an armed attack...." (third paragraph) and "for military measures required to deal with an armed attack" (fourth paragraph), attention may be called to the fact that prior consultation is required only with respect to the use of facilities and areas for "military combat operations" while non-combat operations can be freely undertaken from Japan.

4. Reference to individual countries

Reference to individual countries, as is made in the third and fourth paragraphs of the U.S. draft, is not considered desirable from a diplomatic point of view. This point has already been made in paragraph I.(3) in the paper dated July 16, 1969.

II. Other comments

1. Date for reversion (para. 1 of the U.S. draft)

When the U.S. draft states that "determination of a final date for reversion will not be possible until negotiations are completed on the details," does the word "details" refer to the contents of the agreement on reversion to be concluded?

2. Continued use of facilities and areas in Okinawa (para. 2)

The continued use by the U.S. of its current facilities and areas in Okinawa after reversion can only be authorized in accordance with the Security Treaty and its related arrangements (in particular, the Status of Forces Agreement). Consequently, the Japanese Government is not in a position at the present stage to grant the U.S. such use in general terms with the only proviso "unless otherwise mutually agreed."

3. The Exchange of Notes signed on September 8, 1951
(para. 3)

The Exchange of Notes signed on January 19, 1950, which provides that the Exchange of Notes signed on September 8, 1951 will continue to be in force, is included among the arrangements when referred to as "the Security Treaty and its related arrangements." Furthermore, under the terms of paragraph 3 of the former Exchange of Notes, the use of facilities and areas by the U.S. forces under the Unified Command of the United Nations is made subject to prior consultation. Thus, within the context of the third paragraph of the U.S. draft, it is difficult to find any significance in referring to the above-mentioned Exchange of Notes.

Another point to be made in this connection is that while the U.S. draft refers to the Exchange of Notes of 1951 as having "particular relevance" to the situation in the Republic of Korea, the said Exchange of Notes is relevant only to the situation in the Republic of Korea. This should be all the more clear if both Exchange of Notes are read together.

4. Taiwan and Southeast Asia (para. 4)

(a) It would be appreciated if the U.S. side could elaborate on the phrase "threats to the peace which would require similar action by the two Governments," the precise meaning of which is not clear.

(b)

(b) According to the official definition of the term "Far East," "Southeast Asia," aside from the Philippines, is not included in the Far East and, therefore, cannot be treated as a legally meaningful concept in the application of the Security Treaty and its related arrangements.

5. Action in support of U.S. forces (para. 4)

A concept such as military action to deal with an attack on U.S. forces outside Japan does not properly fit in with the basic legal framework of the present Security Treaty and, consequently, cannot be treated in a uniform manner without considering the actual circumstances of each individual case.

6. Security Consultative Committee (para. 6)

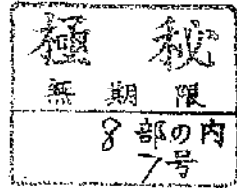
The suggestion contained in the U.S. draft is basically a useful one. The significance, however, of paragraph 6 of the U.S. draft does not seem to be clear in relation to the Exchange of Letters on this matter, signed on January 19, 1950, which sets forth the terms of reference of the Security Consultative Committee. Clarification is also sought with respect to the phrase "to assist both Governments in the discharge of their obligations under the Treaty of Mutual Cooperation and Security."

7. U.S. assets and expenditures in Okinawa (para. 7)

Without clear knowledge of the character and contents

of

of "United States assets and expenditures in the Ryukyus," the Japanese Government is not in a position to give its views on the principle to "equitably compensate" the U.S. for such assets and expenditures.



7月26日
条約内
大凡
修正済

共同声明案案に対する日本側見解

共同声明案案において取り上げるべき事項についての日本側見解は、別途適當な機会に述べることとし、かつ、案案の議題より等語部に關する日本側の立場を留保した上で、案案の考え方に対する日本側見解は、次のとおりである。

案案、おが方ロムン等の建議をなす考え方は、既に七月十六日付ペーパーにおいて詳細説明したところであるので、案案がこれら日本側見解に十分の考慮を払ひ、双方にとり満足しうる解決をなさざるにその立場を再検討せらるゝことを切望する。

一 基本的問題に関するコメント

1 沖縄に対する安保条約体制の適用

米案は、安保条約及び関連取極の沖縄への適用を定めているが、日本側は、これら条約及び取極が「そのまま」適用され、適用にふたりなんらの追加的取極を必要とせざるべきことをきわめて重要と考えるものである。

2 核

米案は、米軍及び「その装備」の沖縄における存在が極東の安全及び日本の防衛に貢献すること大なる旨を述べ、米軍の抑止能力が逐漸によりいささかも削減されるべきことを述べているが、既にしばしば明らかにしたとおり、核兵器の存在を認

十六日付のペーパーのI(9)において述べたとおりである。

二 その他のコメント

(1) 返還の時期（米案第一項）

「詳細」についての交渉が完了するまで、返還時期は確定で
きないとのことであるが、「詳細」とは、返還協定を意味する
か。

(2) 在沖艦施設・区域の継続使用（第二項）

沖縄に於いて米軍が現在使用している施設・区域の返還後の
継続使用は、安保条約及び関連取極（具体的又は地位協定）に
従つて認められるのであつて、現段階に於いて、日本政府とし
て「別段の合意なき限り」という形で包括的承認を与える立場

にならぬ。

(四) 吉田・アチソン交換公文（第三項）

吉田・アチソン交換公文の効力の継続を定めた岸・ハーター交換公文は、「（安保条約に）関連する露取極」の一としてその中に含まれているものであり、かつ、岸・ハーター交換公文第3項により、国連第一司令部の下にある米軍の日本からの職務執行のための施設・区域の使用も事前協議に限ることが定められているので、共同声明米案第3項のコンテクストにおいて、前記の両交換公文に言及する意図がないと考えられる。

なお、吉田・アチソン交換公文は、とくに韓国についてはきまるものとされているところ、両交換公文は、岸・ハーター

交換公文に照らしても、韓。國。に。つ。い。て。の。み。あ。て。は。ま。る。も。の。で。あ。る。こ。と。は。明。ら。か。で。あ。ら。う。

(4) 台湾及び東南アジア（第四項）

(1) 米案第四項の「両政府による類似の行動を必要とする平和に対する脅威」の意味するところは明らかでないので、米側の説明を期待する。

(2) 「東南アジア」は、「極東」の統一見解上、フィリピンを除いて極東に含まれておらず、安撫条約・國連取極の適用上、独立の概念として一定の取極をなしえない。

(5) 米軍支援の行動（第四項）

米軍支援のための行動を独立の概念としてとらえ、一定の取

誤りをなすことは、現行安保条約の基本構造になじまない。

(6) 安保協働委員会（第六項）

米案は、基本的には有益を示唆であるが、安保協働委員会の機能は、本件に関する岸・ハイター交換公文により定められており、米案第六項の趣旨が同交換公文との関連においていかなる意味を持つかわからぬ。「安保条約に基づく両政府の協力の遂行を助けるために、、、、」との表現の意図するところも不明である。

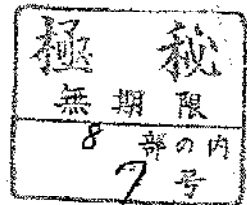
(7) 在沖繩米施設等について

米側が補償を求める「在沖繩米國資産及び支出」の性質及び
実体についての問題を把握をくしては、日本政府が
e-justice

J. 1.

condemned" へのしとの原則に照準を添へたる立憲にあら。

SECRET



Draft Communique

[The President and the Prime Minister reviewed the status of the Ryukyu Islands and agreed that the mutual security interests of the United States and Japan could be accommodated within arrangements for the return of administration of these islands to Japan. They therefore agreed that the two Governments will enter immediately into consultations regarding specific arrangements for accomplishing the early restoration of these islands to Japan without detriment to the security of the area. Although determination of a final date for reversion will not be possible until negotiations are completed on the details, the two leaders agreed that every effort should be made to carry out the transfer of administrative rights in 1972.]

The Prime Minister and the President agreed that upon reversion of the administrative rights over Okinawa [the Ryukyu Islands] to Japan, the Treaty of Mutual Cooperation and Security between Japan and the United States of America and its related arrangements should apply intact to Okinawa, requiring no additional arrangements in their application, that necessary measures to this end, including the removal from Okinawa of nuclear weapons, if any existed, should be taken by the time of the reversion, [would apply to Okinawa.

They were also of the view that the presence of U.S. forces and their equipment in the Ryukyu Islands make a major contribution to the security of the Far East and to the defense of Japan.] and that, after the reversion, United States armed forces should be granted the use of facilities and areas in Okinawa in accordance with the provisions of the said Treaty and arrangements [The Prime Minister stated that the United States would therefore be granted continued use of its current military facilities and areas in the Ryukyu Islands unless otherwise mutually agreed. The Prime Minister also agreed that it was in the interests of Japan that the deterrent capability of the U.S. military forces on the islands should in no way be diminished by reversion.]

In this connection, the Prime Minister affirmed the recognition of his Government [The President and the Prime Minister carefully reviewed the security situation in the Far East. The President and the Prime Minister affirmed the recognition of both their Governments] that the security [The peace and security] of Japan could not be adequately maintained without international peace and security [peace and security] in the Far East and, consequently, the security of countries in the Far East was a matter of serious concern for Japan [both Governments]. The Prime Minister was of the

view that, in the light of such recognition on the part of the Government of Japan, the reversion of the administering powers over Okinawa to Japan in a manner stated in the preceding paragraph should be compatible with effective discharge of the international obligations assumed by the United States for the defence of countries in the Far East, including Japan. The President replied that he shared the Prime Minister's view. [In their review of the security situation in the Far East, the President and the Prime Minister thoroughly considered possible threats to peace in the area. The Prime Minister stated that his Government fully recognizes the continuing obligations of Japan to facilitate the support of United Nations forces engaged in any United Nations actions in the Far East, which it assumed in the Exchange of Notes signed at San Francisco on September 8, 1951 and reaffirmed in the Exchange of Notes signed at Washington on January 19, 1960. It was agreed that this obligation had particular relevance to the situation in the Republic of Korea where United Nations forces are still stationed.]

Separate statement on Korea [Communique] The Prime Minister also made clear the basic recognition of his Government that, in particular, an armed attack against the Republic of Korea, if it occurred, would seriously affect the security of Japan. The Prime Minister further stated that such recognition

would form the basis on which the Government of Japan would determine its position vis-à-vis prior consultation under the exchange of notes concerning the implementation of Article 6 of the Security Treaty on the use by United States armed forces of facilities and areas in Japan as bases for military combat operations from Japan to meet the armed attack against the Republic of Korea /and that on the basis of this recognition and the Exchange of Notes above referred to the GOJ will, under the terms of the Treaty of Mutual Cooperation and Security, agree to the use by U.S. armed forces of facilities and areas in Japan (including Okinawa Prefecture) to meet an armed attack against the Republic of Korea/.

/It was further agreed that threats to the peace which would require similar action by the two Governments could arise in other areas in the Far East, particularly in the area of Taiwan and in Southeast Asia. The Prime Minister made clear the basic recognition of the Government of Japan that an armed attack on United States forces in the Far East or an armed attack in an area of the Far East which would require the United States to carry out its obligations for the protection of its own forces or the defense of countries in the area would also affect the security of Japan. Accordingly, this recognition forms the basis upon which the Government of

Japan will agree, under the Treaty of Mutual Cooperation and Security, to the use of facilities and areas in Japan (including Okinawa Prefecture) for military measures required to deal with such an attack.

The Prime Minister stated the intention of the Government of Japan following reversion gradually to assume the same responsibility for the immediate defense of what will then be the Prefecture of Okinawa as it has for the defense of other areas of Japan.

The Prime Minister and the President agreed that the United States-Japan Security Consultative Committee should expand and deepen its consultative functions in regard to the defense situation in the Far East in order to assist both Governments in the discharge of their obligations under the Treaty of Mutual Cooperation and Security.

The President and the Prime Minister also agreed that with the assumption by the Government of Japan of complete responsibility for the welfare of the people of the Ryukyu Islands and with restoration of full authority over the Ryukyu Islands to the Government of Japan, the Government of Japan will equitably compensate the United States for United States assets and expenditures in the Ryukyus according to formulas of valuation to be agreed upon.]