

N° 1387.

ALLEMAGNE ET JAPON

Echange de notes comportant un accord relatif à la levée de séquestre sur les produits de la liquidation des biens allemands au Japon. Tokio, le 12 septembre 1924.

GERMANY AND JAPAN

Exchange of Notes constituting an Agreement with regard to the Removal of the Sequestration over the Proceeds from the Liquidation of German Property in Japan. Tokio, September 12, 1924.

ANNEXE A LA NOTE DU 12 SEPTEMBRE
1924 DU MINISTRE DES AFFAIRES
ÉTRANGÈRES DU JAPON.

ANNEX TO THE NOTE OF SEPTEMBER
12, 1924, FROM THE JAPANESE MINIS-
TER FOR FOREIGN AFFAIRS.

PROJET DE RÈGLEMENT DES DEMANDES D'IN-
DEMNITÉ ET CRÉANCES, AINSI QUE DE LA
DÉLIBÉRATION DES BIENS SÉQUESTRÉS.

PROPOSAL FOR A SETTLEMENT OF THE CLAIMS
FOR COMPENSATION FOR THE PAYMENT OF
DEBTS AND THE RELEASE OF SEQUESTERED
PROPERTY.

損害賠償并金銭債權ノ處理及特殊

財産ノ解除ニ關スル提案

(甲) 損害賠償

(一) 日本國政府ハ「ワ」エルサイ「ユ」平和條約第十編第四款並同款附
屬書ニ依ル日本國民ノ損害賠償ニ付當事者間ニ爲シタル和
解ニ依リ確定シタル金額ヲ特殊管理財産中ヨリ支拂フコト
但シ其ノ總額ハ大正十三年九月三十日ヲ基礎トシ大約金四
十五萬圓ヲ上ラサルコト

(二) 日本國政府ハ日本請求者カ前項(一)記載ノ金額ノ支拂ヲ受ケ
満足シ爾餘ノ請求ハ之ヲ拋棄スル様充分盡力スルコト

(三) 和解ハ當事者各自ニ於テ之ヲ爲シ大体左記ノ趣旨ニ從ヒ成
立セシムヘキコト

日本國政府ハ各請求者カ此ノ種和解ヲ爲ス様充分盡力スル
コト

(イ) 請求者ハ其ノ請求額金 圓中特殊管理財産ヨリ支拂ハル

N° 1387.

TEXTE JAPONAIS. — JAPANESE TEXT.

German and Japanese official texts communicated by the German-Consul General at Geneva. The registration of this Exchange of Notes took place December 14, 1926.

和ニ機密第六一號

以書翰致啟上候陳者本年四月十四日附松井前外務大臣宛貫翰第三十八號ヲ以テ「ウ」エルサイ「ユ」平和條約第二百九十七條ニ基ク日本國民ノ損害賠償請求及金錢債權ノ支拂並特殊管理財産解除ノ件ヲ日獨兩國政府間ノ總括的和解ニ依リ決濟シタキ旨御提議ノ次第致敬承候

前記「ウ」エルサイ「ユ」條約第十編第四款並同款附屬書ニ掲クル日本國民ノ損害賠償請求及貴國國民ニ對スル金錢債權請求ハ元來「ウ」エルサイ「ユ」條約ノ規定ニ依リ當該裁判所ノ判決ニ依リ最終決定ヲ見ルヘキ筋合ノモノニ有之若シ總括的和解ノ方法ニ依リ彼我兩國國民ニ和解ヲ強制セムカ爲ニハ貴我兩國政府間ニ之カ爲新ニ條約ヲ締結スルノ外ナキ次第ニ有之候然ルニ此ノ種ノ條約ヲ締結シ之カ規定ヲ日本國民ニ強制スルコトハ其ノ手續ニ於テ多大ノ困難ヲ伴フノミナラス之カ爲種種ノ物議ヲ醸スヘキ虞アルモノト思考セラレ候

TEXTE ALLEMAND. — GERMAN TEXT.

No. 1387. — NOTENWECHSEL ZWISCHEN DER DEUTSCHEN UND DER JAPANISCHEN REGIERUNG BETREFFEND EIN ABKOMMEN ÜBER DIE FREIGABE DER DEUTSCHEN LIQUIDATIONSERLÖSE IN JAPAN. TOKIO, DEN 12. SEPTEMBER 1924.

Textes officiels allemand et japonais communiqués par le consul général d'Allemagne à Genève. L'enregistrement de cet échange de notes a eu lieu le 14 décembre 1926.

DEUTSCHE BOTSCHAFT.

TOKIO.

Nr. 93.

TOKIO, den 12. September 1924.

HERR MINISTER !

Euerer Exzellenz beehre ich mich den Empfang der sehr gefälligen Note (Frieden II Geheim) Nr. 61 vom heutigen Tage ergebenst zu bestätigen, in der Sie folgendes ausführen :

« Euerer Exzellenz beehre ich mich den Empfang der gefälligen an den früheren Minister der Auswärtigen Angelegenheiten Matsui, gerichteten Note Nr. 38 vom 14. April d. J. zu bestätigen, in der der Vorschlag gemacht wird, die Befriedigung der in Artikel 297 des Versailler Vertrags vorgesehenen Ersatzansprüche und Forderungen japanischer Staatsangehöriger sowie die Freigabe der Kontrollvermögen durch einen Gesamtvergleich zwischen der Deutschen und Japanischen Regierung endgültig zu regeln.

Die im Versailler Vertrag Teil X Abschnitt IV und der Anlage zu diesem Abschnitt erwähnten Ersatzansprüche japanischer Staatsangehöriger und ihrer Forderungen gegen deutsche Reichsangehörige wären nach diesen Vertragsbestimmungen eigentlich durch Urteil der zuständigen Gerichte endgültig festzusetzen. Wollte man die Regelung durch einen Gesamtvergleich zu einer für die beiderseitigen Staatsangehörigen obligatorischen machen, so könnte dies nur durch den Abschluss eines neuen Vertrages zwischen unsern beiden Regierungen geschehen.

Der Abschluss eines solchen Vertrages aber, dessen Vorschriften für die japanischen Staatsangehörigen zwingend wären, würde nicht nur an sich zu erheblichen Schwierigkeiten führen, sondern könnte auch wie zu befürchten wäre, zu mannigfachen Auseinandersetzungen Anlass geben.

Die Japanische Regierung hat daher den Wunsch, die Angelegenheit in der in der Anlage angegebenen Weise zu regeln. Diese Art der Regelung bedeutet die grundsätzliche Anerkennung des Vorschlages Ihrer Regierung, betreffend Gesamtvergleich und Freigabe der Kontrollvermögen, zugleich aber kann sie völlig im Rahmen der bestehenden Bestimmungen ausgeführt werden, und zwar sowohl hinsichtlich ihres Verfahrens als auch ihrer Bedingungen. Zwar kann hiernach der Vergleich den beiderseitigen Staatsangehörigen nicht aufgezwungen werden ; was japanische Staatsangehörige indessen betrifft, so rechtfertigen die eifriger Bemühungen der zuständigen Behörden, sie zu der Regelung im Wege des Vergleichs zu veranlassen, die bestimmte Erwartung, dass alle Fälle auf

TRADUCTIONS — TRANSLATIONS

¹ TRANSLATION.

No. 1387. — EXCHANGE OF NOTES BETWEEN THE GERMAN AND JAPANESE GOVERNMENTS, CONSTITUTING AN AGREEMENT WITH REGARD TO THE REMOVAL OF THE SEQUESTRATION OVER THE PROCEEDS FROM THE LIQUIDATION OF GERMAN PROPERTY IN JAPAN. TOKIO, SEPTEMBER 12, 1924.

GERMAN EMBASSY,
TOKIO.

No. 93.

TOKIO, *September 12, 1924.*

YOUR EXCELLENCY,

I have the honour to acknowledge receipt of your Note² No. 61 (Peace II Secret) of to-day's date, in which you make the following statement :

" I have the honour to acknowledge receipt of your Note No. 38 of April 14, 1924, to the former Minister for Foreign Affairs, M. Matsui. In that Note, you propose that a general agreement should be concluded between the German and Japanese Governments for a final settlement of the claims for compensation and payment of debts due to Japanese nationals under Article 297 of the Treaty of Versailles and for the release of sequestrated property.

" In point of fact, the claims for compensation of Japanese nationals, mentioned in Part X, Section IV, and the Annex thereto, of the Treaty of Versailles and their claims for debts due from German nationals should, according to the stipulations of the Treaty, be finally settled by the competent Courts of law. Were it desired to make such a settlement binding upon the nationals of either State by means of a general agreement, this could only be effected by the conclusion of a new treaty between the two Governments.

" The conclusion of a treaty of this kind the stipulations of which would be binding upon Japanese nationals, would, however, not only involve considerable difficulties in itself, but might, it is feared, give rise to innumerable discussions.

" The Japanese Government accordingly desires to settle the matter in the manner indicated in the Annex. This method of settlement involves the recognition in principle of your Government's proposal regarding a general agreement and the release of sequestrated property, but at the same time it can, as regards both procedure and conditions, be carried out in all respects within the ambit of the existing provisions. True, the agreement cannot be forced upon the nationals of either State ; as regards Japanese nationals, in view of the efforts which the competent authorities have made to induce them to accept a settlement by way of agreement, we are justified in confidently anticipating that all cases will be finally settled on the basis of the provisions contained in the Annex. It is assumed that your Government too will have no difficulty in securing the conclusion or the agreements desired, if it will exert its influence in the same manner on its own nationals.

¹ Translated by the Secretariat of the League of Nations.

² The note dated September 12, 1924 (and its annex), from the Imperial Japanese Ministry for Foreign Affairs being reproduced in the note of the same date from the German Embassy at Tokio, it did not seem necessary to give a translation of the former and of its annex.

" I am convinced that the acceptance of this proposal will provide as happy a solution as that suggested in your Government's proposal of all matters pending between the two Governments and arising out of Part X, Section IV, and the Annex thereto, of the Treaty of Versailles. As this proposal is based on the principle of a voluntary agreement, it is entirely without prejudice to the attitude hitherto maintained by the two Governments as regards the legal aspects of the questions connected with this matter.

" I venture to request as early a reply as possible to the question whether your Government is willing to promote the conclusion of agreements on the basis of the proposal made in the Annex. Upon receipt of a reply to the effect that you agree thereto, the Imperial Government will immediately release the great bulk of the property shown in the Annex under C II (a), and the entire amount shown in the Annex under C II (b). It is moreover proposed to release the sums mentioned under (c) and the balances remaining under (a) at the earliest possible moment *pari passu* with the progress made in the conclusion of separate agreements."

On behalf of my Government I have the honour to inform Your Excellency that the German Government is in agreement with all the proposals made in your Note and the Annex thereto, a German version of which is attached to the present Note, and is prepared to promote the conclusion of agreements between German debtors and Japanese creditors by every means in its power. I venture at the same time to express my satisfaction at the fact that the questions pending between the two Governments with regard to the liquidation of German property and its release have now at last been finally settled.

I have the honour to be, etc.

(Signed) SOLF.

His Excellency Baron Shidehara,
Imperial Japanese Minister for Foreign Affairs.

ANNEX TO THE NOTE OF SEPTEMBER 12, 1924, FROM THE GERMAN EMBASSY IN TOKIO.

PROPOSAL FOR A SETTLEMENT OF THE CLAIMS FOR COMPENSATION FOR THE PAYMENT OF DEBTS AND THE RELEASE OF SEQUESTERED PROPERTY.

A. *Claims for Compensation.*

I. The Japanese Government will pay, from sequestered property, to Japanese nationals, as compensation in conformity with Part X, Section IV, and the Annex thereto, of the Treaty of Versailles the amounts to be jointly determined by the parties. Having regard to the position on September 30, 1924, the total amount must not exceed 450,000 yen or thereabouts.

II. The Japanese Government will make every endeavour to induce Japanese creditors who accept the amount specified in A I, to declare that they are satisfied therewith, and to waive all further claims.

III. The agreements will be concluded by the parties themselves, and will be substantially on the lines indicated below.

The Japanese Government will make every endeavour to ensure that all creditors conclude agreements of the following kind:

(a) Out of his claim for yen, the creditor receives yen from sequestered property; he waives the balance of his claim.

(b) The parties recognise the agreement as final and binding. No further disputes will be admissible on this subject.

(c) Upon receiving the payment mentioned above, the creditor will notify in writing the German-Japanese Mixed Arbitral Tribunal of the withdrawal of his claim pending before the said Tribunal.

(d) Each party will bear its own share of the costs of the proceedings.

B. Debts.

I. With a view to settling the debts (capital and interest) indicated in Part X, Section IV, and the Annex thereto, of the Treaty of Versailles as liabilities incumbent upon German nationals, for the amounts fixed by the Clearing Office, the Japanese Government will pay from sequestrated property, having regard to the proposition on September 30, 1924, the sum of 5,200,000 yen or thereabouts.

The amount will be distributed among the Japanese creditors as soon as agreements have been concluded between creditors and debtors in accordance with the formality prescribed in III.

The German Government will make every endeavour to ensure acceptance of the agreements by debtors.

II. The Japanese Government will make every endeavour to induce creditors to declare that they are satisfied with the sums specified in B I, and to waive all further claims.

III. The agreements between creditors and debtors shall be drawn substantially on the following lines :

(a) The creditor will receive out of the sum (capital and interest) determined by the Clearing Office the amount of yen, paid from sequestrated property. He waives all claim to the balance of the debt.

(b) The parties recognise the agreement as final and binding. No further disputes will be admissible upon this subject.

(c) Each party will bear its own share of the costs of the proceedings.

(d) Following the conclusion of an agreement drawn on the foregoing lines the parties will withdraw any suits pending before the Japanese Courts or the German-Japanese Mixed Arbitral Tribunal.

C. Release of Sequestrated Property.

I. The Japanese Government will, in conformity with the Imperial Ordinance (No. 398 of 1923), retain the following sums from the property (including interest) at present under sequestration :

The amounts mentioned in A I and B I of this Annex ; further, such amount as the Japanese Government may consider necessary to cover any claims for compensation and the payment of debts arising under Part X, Section IV, and the Annex thereto, of the Treaty of Versailles, in respect of which a settlement should not have been or should not hereafter be reached in accordance with A III and B III of the present Annex. The Japanese Government will release, in favour of the owners and in accordance with the principles indicated in II, the resultant balance of the sequestrated property amounting to 6,400,000 yen or thereabouts.

II. The release of the sequestrated property, in accordance with paragraph I above, shall be effected on the following lines :

(a) In cases which are pending, and which are regarded as being governed by special circumstances, the balance remaining at the present time under sequestration shall, after examination, be released either *in toto* or in part. A list of the said special cases and a statement of the amounts released will be submitted by the Imperial Government.

(b) In respect of the sequestrated property in Tsing-tao and in the South Sea Islands, the Imperial Government will release an additional sum amounting to 30 per cent, in order that owners in those places may be placed on an equal footing with owners in Japan proper.

(c) In addition to the sums released as above, the Imperial Government will, as a general rule, release in favour of all owners as high a percentage as possible, not less than 18 to 20 per cent. of the original proceeds of liquidation (after deduction of 10,000 yen).

In addition, the Imperial Government will release the same percentage of the amounts due as interest up to the date on which the release is actually effected.

(d) Owners who are at the same time debtors in respect of sums to be paid from sequestrated property will not share in the payments falling under *b*) and *c*), unless the part of their property to be finally retained by the Imperial Government covers the amount of the said debts.

III. The use to be made of the last balance remaining over from the sequestrated property after the measures prescribed in the two foregoing paragraphs have been carried out, will be the subject of further careful consideration by the Japanese Government.

D. *Miscellaneous.*

The settlement of any cases in which the parties fail to reach an agreement will form the subject of further negotiations between the German and Japanese Governments ; the Governments will make every endeavour to abolish the German-Japanese Mixed Arbitral Tribunal as soon as possible.