

No. 2817

UNITED STATES OF AMERICA
and
JAPAN

Administrative Agreement under article III of the Security Treaty (with exchange of notes). Signed at Tokyo, on 28 February 1952

Protocol (with agreed official minutes) to amend article XVII of the above-mentioned Agreement. Signed at Tokyo, on 29 September 1953

Official texts: English and Japanese.

Registered by the United States of America on 11 April 1955.

ÉTATS-UNIS D'AMÉRIQUE
et
JAPON

Accord administratif conclu conformément aux dispositions de l'article III du Traité de sécurité (avec échange de notes). Signé à Tokyo, le 28 février 1952

Protocole (avec procès-verbal officiel) modifiant l'article XVII de l'Accord susmentionné. Signé à Tokyo, le 29 septembre 1953

Textes officiels anglais et japonais.

Enregistrés par les États-Unis d'Amérique le 11 avril 1955.

No. 2817. ADMINISTRATIVE AGREEMENT¹ UNDER ARTICLE III OF THE SECURITY TREATY² BETWEEN THE UNITED STATES OF AMERICA AND JAPAN. SIGNED AT TOKYO, ON 28 FEBRUARY 1952

PREAMBLE

Whereas the United States of America and Japan on September 8, 1951, signed a Security Treaty² which contains provisions for the disposition of United States land, air and sea forces in and about Japan ;

And whereas article III of that Treaty states that the conditions which shall govern the disposition of the armed forces of the United States in and about Japan shall be determined by administrative agreements between the two Governments ;

And whereas the United States of America and Japan are desirous of concluding practical administrative arrangements which will give effect to their respective obligations under the Security Treaty and will strengthen the close bonds of mutual interest and regard between their two peoples ;

Therefore, the Governments of the United States of America and of Japan have entered into this Agreement in terms as set forth below :

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, serving with, or accompanying the United States armed forces in Japan, but excludes persons who are ordinarily resident in Japan or who are mentioned in paragraph 1 of article XIV. For the purposes of this Agreement only, dual nationals, United States and Japanese, who are brought to Japan by the United States shall be considered as United States nationals.

(c) "Dependents" means

¹ Came into force on 28 April 1952, the date of entry into force of the Security Treaty between the United States and Japan, in accordance with article XXVII.

² United Nations, *Treaty Series*, Vol. 136, p. 211.

- (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. Japan agrees to grant to the United States the use of the facilities and areas necessary to carry out the purposes stated in article I of the Security Treaty. 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.

2. At the request of either party, the United States and Japan 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 such as target ranges and manœuver grounds are temporarily not being used by the United States armed forces, interim use may be made by Japanese authorities and nationals provided that it is agreed 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 such facilities and areas as target ranges and maneuver grounds 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. 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 United States may undertake under special arrangements with 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 such cargo or passengers shall be entered 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 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.

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 right to use all public utilities and services belonging to, or controlled or regulated by the Government of Japan, and to 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 Japanese Government undertakes to furnish the United States armed forces with the following meteorological services under present procedures, subject to such modifications as may from time to time be agreed between the two Governments or as may result from Japan's becoming a member of the International Civil Aviation Organization or the World Meteorological Organization :

(a) Meteorological observations from land and ocean areas including observations from weather ships assigned to positions known as "X" and "T".

(b) Climatological information including periodic summaries and the historical data of the Central Meteorological Observatory.

(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 earthquakes and areas that might be affected thereby.

Article IX

1. The United States shall have the right to bring into Japan for purposes of this Agreement persons who are members of the United States armed forces, the civilian component, and their dependents.

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.

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 Japanese Government.

Article X

1. Japan shall accept as valid, without a driving test or fee, the driving permit or license or 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, 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 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 mutually agreed conditions, 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 re-exported free from customs duties and other such charges.

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 Japanese Government, 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 Japanese Government 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 Japanese Government 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 shall have the right to 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.

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, 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 or civilian component shall be satisfied with the assistance of the Japanese authorities.

5. The obligations for the withholding and payment of income tax and of social security contributions, and, except as may otherwise be mutually agreed, 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. Members of the civilian component shall not be subject to Japanese laws or regulations with respect to terms and conditions of employment.

7. 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.

8. Except as such disposal may be authorized by the Japanese and United States authorities in accordance with mutually agreed conditions, 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 Japanese Government 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) 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, 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 Japanese Government 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 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 United States and Japanese authorities in accordance with mutually agreed conditions, 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 and of social security contributions, and, except as may otherwise be mutually agreed, 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. Upon the coming into force with respect to the United States of the "Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces", signed at London on June 19, 1951,¹ the United States will immediately conclude with Japan, at the option of Japan, an agreement on criminal jurisdiction similar to the corresponding provisions of that Agreement.

2. Pending the coming into force with respect to the United States of the North Atlantic Treaty Agreement referred to in paragraph 1, the United States service courts and authorities shall have the right to exercise within Japan exclusive jurisdiction over all offenses which may be committed in Japan by members of the United States armed forces, the civilian component, and their dependents, excluding their dependents who have only Japanese nationality. Such jurisdiction may in any case be waived by the United States.

3. While the jurisdiction provided in paragraph 2 is effective, the following provisions shall apply :

¹ United Nations, *Treaty Series*, Vol. 199, p. 67, and Vol. 200, p. 346.

(a) Japanese authorities may arrest members of the United States armed forces, the civilian component, or their dependents outside facilities and areas in use by United States armed forces for the commission or attempted commission of an offense, but in the event of such an arrest, the individual or individuals shall be immediately turned over to the United States armed forces. Any person fleeing from the jurisdiction of the United States armed forces and found in any place outside the facilities and areas may on request be arrested by the Japanese authorities and turned over to the United States authorities.

(b) The United States authorities shall have the exclusive right to arrest within facilities and areas in use by United States armed forces. Any person subject to the jurisdiction of Japan and found in any such facility or area will, on request, be turned over to the Japanese authorities.

(c) The United States authorities may, under due process of law, arrest, in the vicinity of such a facility or area, any person in the commission or attempted commission of an offense against the security of that facility or area. Any such person not subject to the jurisdiction of the United States armed forces shall be immediately turned over to Japanese authorities.

(d) Subject to the provisions of paragraph 3 (c), the activities outside the facilities and areas of military police of the United States armed forces shall be limited to the extent necessary for maintaining order and discipline of and arresting members of the United States armed forces, the civilian component, and their dependents.

(e) The authorities of the United States and Japan shall cooperate in making available witnesses and evidence for criminal investigations and other criminal proceedings in their respective tribunals and shall assist each other in the making of investigations. In the event of a criminal contempt, perjury, or an obstruction of justice before a tribunal which does not have criminal jurisdiction over the individual committing the offense, he shall be tried by a tribunal which has jurisdiction over him as if he had committed the offense before it.

(f) The United States armed forces shall have the exclusive right of removing from Japan members of the United States armed forces, the civilian component, and their dependents. The United States will give sympathetic consideration to a request by the Government of Japan for the removal of any such person for good cause.

(g) Japanese authorities shall have no right of search or seizure, with respect to any persons or property, within facilities and areas in use by the United States armed forces, or with respect to property of the United States armed forces wherever situated. At the request of the Japanese authorities, the United States authorities undertake, within the limits of their authority, to make such search and seizure and inform the Japanese authorities as to the results thereof. In the event of a judgment concerning such property, except property owned or utilized by the

United States Government, the United States will turn over such property to the Japanese authorities for disposition in accordance with the judgment. Japanese authorities shall have no right of search or seizure outside facilities and areas in use by the United States armed forces with respect to the persons or property of members of the United States armed forces, the civilian component, or their dependents, except as to such persons as may be arrested in accordance with paragraph 3 (a) of this article, and except as to cases where such search is required for the purpose of arresting offenders under the jurisdiction of Japan.

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

4. The United States undertakes that the United States service courts and authorities shall be willing and able to try and, on conviction, to punish all offenses against the laws of Japan which members of the United States armed forces, civilian component, and their dependents may be alleged on sufficient evidence to have committed in Japan, and to investigate and deal appropriately with any alleged offense committed by members of the United States armed forces, the civilian component, and their dependents, which may be brought to their notice by Japanese authorities or which they may find to have taken place. The United States further undertakes to notify the Japanese authorities of the disposition made by United States service courts of all cases arising under this paragraph. The United States shall give sympathetic consideration to a request from Japanese authorities for a waiver of its jurisdiction in cases arising under this paragraph where the Japanese Government considers such waiver to be of particular importance. Upon such waiver, Japan may exercise its own jurisdiction.

5. In the event the option referred to in paragraph 1 is not exercised by Japan, the jurisdiction provided for in paragraph 2 and the following paragraphs shall continue in effect. In the event the said North Atlantic Treaty Agreement has not come into effect within one year from the effective date of this Agreement, the United States will, at the request of the Japanese Government, reconsider the subject of jurisdiction over offenses committed in Japan by members of the United States armed forces, the civilian component, and their dependents.

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 on terms to be agreed by the two Governments.

(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 and civilian employees of the United States armed forces, excluding those employees who have only Japanese nationality, 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 Japanese Government.

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 Japanese Government 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 Japanese Government 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 shall have the right to 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 shall have the right to 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 shall have the right to enroll and train all eligible United States citizens, residing in Japan, in the reserve organizations of the armed forces of the United States, except that the prior consent of the Japanese Government shall be obtained in the case of persons employed by the Japanese Government.

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 Japanese Government 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

In the event of hostilities, or imminently threatened hostilities, in the Japan area, the Governments of the United States and Japan shall immediately consult together with a view to taking necessary joint measures for the defense of that area and to carrying out the purposes of article I of the Security Treaty.

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) Make available without cost to the United States, until the effective date of any new arrangement reached as a result of periodic reexamination, an amount of Japanese currency equivalent to \$155 million per annum for the purpose of procurement by the United States of transportation and other requisite services and supplies in Japan. The rate of exchange at which yen payments will be credited shall be the official par value, or that rate considered most favorable by the United States which on the day of payment is available to any party, authorized by the Japanese Government or used in any transaction with any party by the Japanese Government or its agencies or by Japanese banks authorized to deal in foreign exchange, and which, if both countries have agreed par values with the International Monetary Fund, is not prohibited by the articles of Agreement of the Fund.¹

3. It is agreed that arrangements will be effected between the Governments of the United States and Japan 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 United States and Japan on all 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 stated in article I of the Security Treaty.

2. The Joint Committee shall be composed of a representative of the United States and of Japan, 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 United States or Japan.

¹ United Nations, *Treaty Series*, Vol. 2, p. 39 ; Vol. 19, p. 280 ; Vol. 141, p. 355, and Vol. 199, p. 308.

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 come into force on the date on which the Security Treaty between the United States and Japan enters into force.

2. 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 party 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 Security Treaty remains in force unless earlier terminated by agreement between the parties.

IN WITNESS whereof the representatives of the two Governments, duly authorized for the purpose, have signed this Agreement.

DONE at Tokyo, in duplicate, in the English and Japanese languages, both texts authentic, this twenty-eighth day of February 1952.

For the Government of the United States of America:

Dean RUSK

Earl JOHNSON

[SEAL]

For the Government of Japan :

K. OKAZAKI

[SEAL]

EXCHANGE OF NOTES

I

*The Special Representative of the President of the United States to the Japanese
Minister of State*

OFFICE OF THE SPECIAL REPRESENTATIVE OF THE
PRESIDENT OF THE UNITED STATES

Tokyo, February 28, 1952

Excellency :

I have the honor to refer to our discussion on the terms of the Administrative Agreement signed today, in which Your Excellency stated as the opinion of the Japanese Government that, as the occupation of Japan by the Allied Powers comes to an end on the coming into force for the Treaty of Peace with Japan,¹ the use of facilities and areas by United States forces on the basis of occupation requisition also comes to an end on the same date ; thereafter, the use of facilities and areas by United States forces must be based upon agreement between the two Governments, subject to the rights which each might have under the Treaty of Peace with Japan, the Security Treaty,² and the Administrative Agreement.³ I hereby confirm that such is also the opinion of the United States Government.

In article II, paragraph 1, of the Administrative Agreement it is stipulated that, "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." The United States Government is confident that our two Governments are agreed that consultation shall be on an urgent basis in order to complete such arrangements at the earliest possible date. With this in mind, the United States Government is prepared to join with the Japanese Government in constituting a Preliminary Working Group, consisting of a representative and the necessary staff from each Government, to begin such consultations immediately, with the understanding that the arrangements made by the Preliminary Working Group shall be put into effect as agreed and that the task of the Preliminary Working Group would be taken over by the Joint Committee upon the effective date of the Administrative Agreement.

However, unavoidable delays may arise in the determination and preparation of facilities and areas necessary to carry out the purposes stated in article I of the Security Treaty. It would be much appreciated, therefore, if Japan would grant

¹ United Nations, *Treaty Series*, Vol. 136, p. 45 ; Vol. 163, p. 385 ; Vol. 184, p. 358, and Vol. 199, p. 344.

² United Nations, *Treaty Series*, Vol. 136, p. 211.

³ See p. 255 of this volume.

the continued use of those particular facilities and areas, with respect to which agreements and arrangements have not been completed by the expiration of ninety days after the effective date of the Treaty of Peace with Japan, pending the completion of such agreements and arrangements.

Accept, Excellency, the assurances of my highest consideration.

Dean Rusk

His Excellency Katsuo Okazaki
Minister of State
Tokyo

II

The Japanese Minister of State to the Special Representative of the President of the United States

[JAPANESE TEXT — TEXTE JAPONAIS]

を受領したことを確認する光栄を有します。

本代表は、本日署名された行政協定の諸条項に関する審議に言及する光栄を有します。

この審議において、閣下は、日本国政府の見解として、連合国による日本国の占領が日

本国との平和条約の効力発生とともに終了するので、占領に基づく徴発による施設及び区

域の合衆国軍隊による使用もまた同時に終了し、従つて、その後は、合衆国軍隊による

施設及び区域の使用が、それぞれの政府が日本国との平和条約、安全保障条約及び行政

協定に基いて有する権利を条件として、両政府間の合意に基かなければならないと陳述

されました。本代表は、ここに、合衆国政府の見解もまた同じであることを確認します。

行政協定第二条1には、「個々の施設及び区域に関する協定は、この協定の効力発生

の日までになお両政府が合意に達していないときは、この協定の第二十六条に定める合

書簡をもつて啓上いたします。本大臣は、貴代表が次のように通報された本日付の書簡

[TRANSLATION¹ — TRADUCTION²]

THE GAIMUSHO

February 28, 1952

Excellency :

I have the honor to acknowledge the receipt of Your Excellency's note of today's date in which Your Excellency has informed me as follows :

[See note I]

The Japanese Government fully shares the desire of the United States Government to initiate consultations on an urgent basis in order to complete arrangements for the use of facilities and areas at the earliest possible date. The Japanese Government agrees, therefore, to the immediate constitution of the Preliminary Working Group referred to in Your Excellency's Note, with the understanding that the arrangements made by the Preliminary Working Group shall be put into effect as agreed and that the task of the Preliminary Working Group would be taken over by the Joint Committee upon the effective date of the Administrative Agreement.

With full appreciation of the contents of Your Excellency's note, I have the honor, on behalf of the Japanese Government, to confirm that the Japanese Government will grant to the United States the continued use of those particular facilities and areas, with respect to which agreements and arrangements have not been completed by the expiration of ninety days after the effective date of the Treaty of Peace with Japan, pending the completion of such agreements and arrangements.

Accept, Excellency, the assurances of my highest consideration.

Katsuo OKAZAKI

His Excellency Dean Rusk
Office of the Special Representative
of the President of the United States
Tokyo

¹ Translation by the Government of the United States of America.

² Traduction du Gouvernement des États-Unis d'Amérique.

PROTOCOL¹ TO AMEND ARTICLE XVII OF THE ADMINISTRATIVE AGREEMENT² UNDER ARTICLE III OF THE SECURITY TREATY³ BETWEEN THE UNITED STATES OF AMERICA AND JAPAN. SIGNED AT TOKYO, ON 29 SEPTEMBER 1953

Whereas the "Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces", signed at London on June 19, 1951,⁴ came into force on August 23, 1953 with respect to the United States of America ; and

Whereas Japan desires to conclude with the United States of America an agreement on criminal jurisdiction similar to the corresponding provisions of the said Agreement in accordance with the provisions of paragraph 1 of article XVII of the Administrative Agreement, signed at Tokyo on February 28, 1952,² under article III of the Security Treaty³ between the United States of America and Japan ;

Now the Governments of the United States of America and Japan have agreed that the existing provisions of article XVII of the said Administrative Agreement shall be abrogated and the following provisions shall be substituted ;

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.

¹ Came into force on 29 October 1953, thirty days after the date of signature, in accordance with paragraph 11.

² See p. 255 of this volume.

³ United Nations, *Treaty Series*, Vol. 136, p. 211.

⁴ United Nations, *Treaty Series*, Vol. 199, p. 67, and Vol. 200, p. 346..

(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 military authorities of the United States and the authorities of Japan 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 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 military authorities of the United States and the authorities of Japan 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 military authorities of the United States and the authorities of Japan 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 XXIV of this Agreement apply, either the United States or Japan 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 United States and Japan shall immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

The present Protocol shall come into effect thirty days after the date of its signing.

IN WITNESS WHEREOF the representatives of the two Governments, duly authorized for the purpose, have signed the present Protocol.

DONE at Tokyo, in duplicate, in the English and Japanese languages, both texts being equally authentic, this twenty-ninth day of September, 1953.

For the Government of the United States of America :

John M. ALLISON

For the Government of Japan :

Katsuo OKAZAKI

Takeshi INUKAI

AGREED OFFICIAL MINUTES REGARDING PROTOCOL TO AMEND ARTICLE
XVII OF THE ADMINISTRATIVE AGREEMENT BETWEEN THE UNITED
STATES OF AMERICA AND JAPAN

Re paragraph 1 (a) and paragraph 2 (a)

The scope of persons subject to the military law of the United States shall be communicated, through the Joint Committee, to the Government of Japan by the Government of the United States.

Re paragraph 2 (c)

Both Governments shall inform each other of the details of all the security offenses mentioned in this subparagraph and the provisions governing such offenses in the existing laws of their respective countries.

Re paragraph 3 (a) (ii)

Where a member of the United States armed forces or the civilian component is charged with an offense, a certificate issued by or on behalf of his commanding officer stating that the alleged offense, if committed by him, arose out of an act or omission done in the performance of official duty, shall, in any judicial proceedings, be sufficient evidence of the fact unless the contrary is proved.

The above statement shall not be interpreted to prejudice in any way article 318 of the Japanese Code of Criminal Procedure.

Re paragraph 3 (c)

1. Mutual procedures relating to waivers of the primary right to exercise jurisdiction shall be determined by the Joint Committee.

2. Trials of cases in which the Japanese authorities have waived the primary right to exercise jurisdiction, and trials of cases involving offenses described in paragraph 3 (a) (ii) committed against the State or nationals of Japan shall be held promptly in Japan within a reasonable distance from the places where the offenses are alleged to have taken place unless other arrangements are mutually agreed upon. Representatives of the Japanese authorities may be present at such trials.

Re paragraph 4

^{256.vi} Dual nationals, United States and Japanese, who are subject to the military law of the United States and are brought to Japan by the United States shall not be considered as nationals of Japan, but shall be considered as United States nationals for the purposes of this paragraph.

Re paragraph 5

1. In case the Japanese authorities have arrested an offender who is a member of the United States armed forces, the civilian component, or a dependent subject to the military law of the United States with respect to a case over which Japan has the primary right to exercise jurisdiction, the Japanese authorities will, unless they deem that there is adequate cause and necessity to retain such offender, release him to the custody of the United States military authorities provided that he shall, on request, be made available to the Japanese authorities, if such be the condition of his release. The United States

authorities shall, on request, transfer his custody to the Japanese authorities at the time he is indicted by the latter.

2. The United States military authorities shall promptly notify the Japanese authorities of the arrest of any member of the United States armed forces, the civilian component or a dependent in any case in which Japan has the primary right to exercise jurisdiction.

Re paragraph 9

1. The rights enumerated in items (a) through (e) of this paragraph are guaranteed to all persons on trial in Japanese courts by the provisions of the Japanese Constitution. In addition to these rights, a member of the United States armed forces, the civilian component or a dependent who is prosecuted under the jurisdiction of Japan shall have such other rights as are guaranteed under the laws of Japan to all persons on trial in Japanese courts. Such additional rights include the following which are guaranteed under the Japanese Constitution :

- (a) He shall not be arrested or detained without being at once informed of the charge against him or without the immediate privilege of counsel ; nor shall he be detained without adequate cause ; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel ;
- (b) He shall enjoy the right to a public trial by an impartial tribunal ;
- (c) He shall not be compelled to testify against himself ;
- (d) He shall be permitted full opportunity to examine all witnesses ;
- (e) No cruel punishments shall be imposed upon him.

2. The United States authorities shall have the right upon request to have access at any time to members of the United States armed forces, the civilian component, or their dependents who are confined or detained under Japanese authority.

3. Nothing in the provisions of paragraph 9 (g) concerning the presence of a representative of the United States Government at the trial of a member of the United States armed forces, the civilian component or a dependent prosecuted under the jurisdiction of Japan, shall be so construed as to prejudice the provisions of the Japanese Constitution with respect to public trials.

Re paragraphs 10 (a) and 10 (b)

1. The United States military authorities will normally make all arrests within facilities and areas in use by and guarded under the authority of the United States armed forces. This shall not preclude the Japanese authorities from making arrests within facilities and areas in cases where the competent authorities of the United States armed forces have given consent, or in cases of pursuit of a flagrant offender who has committed a serious crime.

Where persons whose arrest is desired by the Japanese authorities and who are not subject to the jurisdiction of the United States armed forces are within facilities and areas in use by the United States armed forces, the United States military authorities will undertake, upon request, to arrest such persons. All persons arrested by the United States military authorities, who are not subject to the jurisdiction of the United States armed forces, shall immediately be turned over to the Japanese authorities.

The United States military authorities may, under due process of law, arrest in the vicinity of a facility or area any person in the commission or attempted commission of an offense against the security of that facility or area. Any such person not subject to the jurisdiction of the United States armed forces shall immediately be turned over to the Japanese authorities.

2. The Japanese authorities will normally not exercise the right of search, seizure, or inspection with respect to any persons or property within facilities and areas in use by and guarded under the authority of the United States armed forces or with respect to property of the United States armed forces wherever situated, except in cases where the competent authorities of the United States armed forces consent to such search, seizure, or inspection by the Japanese authorities of such persons or property.

Where search, seizure, or inspection with respect to persons or property within facilities and areas in use by the United States armed forces or with respect to property of the United States armed forces in Japan is desired by the Japanese authorities, the United States military authorities will undertake, upon request, to make such search, seizure, or inspection. In the event of a judgment concerning such property, except property owned or utilized by the United States Government or its instrumentalities, the United States will turn over such property to the Japanese authorities for disposition in accordance with the judgment.

Re application of the Protocol

The provisions of the Protocol shall not apply to any offenses committed before the coming into effect of the Protocol. Such cases shall be governed by the provisions of article XVII of the Administrative Agreement as it existed prior to the coming into effect of the Protocol.

Tokyo, September 29, 1953

John M. ALLISON
Ambassador Extraordinary and Plenipotentiary
of the United States of America

Katsuo OKAZAKI
Minister for Foreign Affairs of Japan

Takeshi INUKAI
Minister of Justice of Japan
