

No. 4390

**UNITED STATES OF AMERICA
and
JAPAN**

**Exchange of notes (with enclosed memorandum) constituting
an agreement relating to the establishment of the
United States Educational Commission in Japan. Tokyo,
11 January 1958**

Official texts: English and Japanese.

Registered by the United States of America on 1 July 1958.

**ÉTATS-UNIS D'AMÉRIQUE
et
JAPON**

**Échange de notes (avec mémorandum joint) constituant
un accord relatif à la création d'une Commission édu-
cative des États-Unis au Japon. Tokyo, 11 janvier 1958**

Textes officiels anglais et japonais.

Enregistré par les États-Unis d'Amérique le 1^{er} juillet 1958.

No. 4390. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND JAPAN RELATING TO THE ESTABLISHMENT OF THE UNITED STATES EDUCATIONAL COMMISSION IN JAPAN. TOKYO, 11 JANUARY 1958

I

The American Ambassador to the Japanese Minister for Foreign Affairs

No. 1050

Tokyo, January 11, 1958

Excellency :

I have the honor to inform Your Excellency that the Government of the United States of America, desiring further to promote mutual understanding between the peoples of the United States of America and of Japan by a wide exchange of knowledge and professional talents through educational contacts, proposes a program of educational exchange to be conducted in accordance with the Agreements on Agricultural Commodities signed at Tokyo on May 31, 1955,² and February 10, 1956,³ and within the terms of the United States Surplus Property Act of 1944, as amended by Public Law No. 584, 79th Congress, the details of which program are as provided for in the attached Memorandum.

If the foregoing proposal is acceptable to the Government of Japan, I propose that this Note and Your Excellency's reply be considered as constituting an agreement between the two Governments on this subject.

Accept, Excellency, the renewed assurances of my highest consideration.

Douglas MACARTHUR II

Enclosure :

Memorandum.

His Excellency Aiichiro Fujiyama
Minister for Foreign Affairs
Tokyo

¹ Came into force on 11 January 1958 by the exchange of the said notes.

² United Nations, *Treaty Series*, Vol. 241, p. 243.

³ United Nations, *Treaty Series*, Vol. 275, p. 105, and Vol. 278, p. 314.

MEMORANDUM CONCERNING A PROGRAM OF EDUCATIONAL EXCHANGE BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAPAN

Section 1

There shall be established a Commission to be known as the United States Educational Commission in Japan (hereinafter designated "the Commission"), which shall be recognized by the Government of the United States of America and the Government of Japan as an organization created and established to facilitate the administration of an educational exchange program to be financed by funds made available to the Commission by the Government of the United States of America from currency of Japan held or available for expenditure by the United States for such purpose in accordance with the terms of the present memorandum. Except as provided herein the Commission shall be exempt from the domestic and local laws of the United States of America as they relate to the use and expenditure of currencies and credits for currencies for the purposes set forth herein. The funds and property shall be regarded in Japan as property of a foreign government.

The funds made available under the present memorandum, within the conditions and limitations hereinafter set forth, shall be used by the Commission or such other instrumentality as may be agreed upon by the Government of the United States of America and the Government of Japan, for the purpose, as set forth in Section 32 (b) of the United States Surplus Property Act of 1944, as amended, of

- (1) financing studies, research, instruction, and other educational activities of or for citizens of the United States of America in schools and institutions of higher learning located in Japan, or of the citizens of Japan in United States schools and institutions of higher learning located outside the continental United States, Hawaii, Alaska (including the Aleutian Islands), Puerto Rico, and the Virgin Islands, including payment for transportation, tuition, maintenance, and other expenses incident to scholastic activities; or
- (2) furnishing transportation for citizens of Japan who desire to attend United States schools and institutions of higher learning in the continental United States, Hawaii, Alaska (including the Aleutian Islands), Puerto Rico, and the Virgin Islands and whose attendance will not deprive citizens of the United States of America of an opportunity to attend such schools and institutions.

Section 2

In furtherance of the aforementioned purposes, the Commission may, subject to the provisions of the present memorandum, exercise all powers necessary to the carrying out of the purposes of the present memorandum including the following :

- (1) Plan, adopt, and carry out programs, in accordance with the purposes of Section 32 (b) of the United States Surplus Property Act of 1944, as amended, and the purposes of the present memorandum;
- (2) Recommend to the Board of Foreign Scholarships, provided for in the United States Surplus Property Act of 1944, as amended, students, professors, research

- scholars, teachers resident in Japan, and institutions of Japan qualified to participate in the program in accordance with the aforesaid Act;
- (3) Recommend to the aforesaid Board of Foreign Scholarships such qualifications for the selection of participants in the programs as it may deem necessary for achieving the purposes and objectives of the present memorandum;
 - (4) Authorize the Treasurer of the Commission or such other person as the Commission may designate to receive funds to be deposited in bank accounts in the name of the Treasurer of the Commission or such other person as may be designated. The appointment of the Treasurer or such designee shall be approved by the Secretary of State and he shall deposit funds received in a depository or depositories designated by the Secretary of State of the United States of America;
 - (5) Authorize the disbursement of funds and the making of grants and advances of funds for the authorized purposes of the present memorandum;
 - (6) Provide for periodic audits of the accounts of the Treasurer of the Commission as directed by auditors selected by the Secretary of State of the United States of America;
 - (7) Engage an Executive Officer, administrative and clerical staff and fix and pay the salaries and wages thereof out of funds made available under the present memorandum.

Section 3

All commitments, obligations and expenditures authorized by the Commission shall be made pursuant to an annual budget to be approved by the Secretary of State of the United States of America pursuant to such regulations as he may prescribe.

Section 4

The Commission shall consist of eight members, four of whom shall be citizens of the United States of America and four of whom shall be citizens of Japan. In addition, the principal officer in charge of the Diplomatic Mission of the United States of America to Japan (hereinafter designated "Chief of Mission") shall be Honorary Chairman of the Commission. He shall cast the deciding vote in the event of a tie vote by the Commission and shall appoint the Chairman of the Commission. The Chairman as a regular member of the Commission shall have the right to vote. The Chief of Mission shall have the power to designate and remove the citizens of the United States of America on the Commission. The Japanese members shall be designated and may be removed by the Government of Japan.

The members shall serve from the time of their designation until the following December 31 and shall be eligible for redesignation. Vacancies by reason of resignation, transfer of residence outside Japan, expiration of service or otherwise, shall be filled in accordance with the procedure set forth herein.

The members shall serve without compensation but the Commission is authorized to pay the necessary expenses of the members in attending the meetings of the Commission and in performing other official duties assigned by the Commission.

Section 5

The Commission shall adopt such by-laws and appoint such committees as it shall deem necessary for the conduct of the affairs of the Commission.

Section 6

Reports acceptable in form and content to the Secretary of State of the United States of America shall be made annually on the activities of the Commission to the Secretary of State of the United States of America and the Government of Japan.

Section 7

The principal office of the Commission shall be in the capital city of Japan, but meetings of the Commission and any of its committees may be held in such other places as the Commission may from time to time determine, and the activities of any of the Commission's officers or staff may be carried on at such places as may be approved by the Commission.

Section 8

The currency of Japan accruing to the Government of the United States of America as a consequence of sales made pursuant to the Agreements on Agricultural Commodities between the United States of America and Japan signed at Tokyo on May 31, 1955, and February 10, 1956, which is to be used for the purpose of financing international educational exchange activities in accordance with the provisions of paragraph 1 (4) of Articles V and IV of the respective Agreements, is to be used for the purposes of the present memorandum, up to an aggregate amount of 743,760,000 yen but in any case not to exceed the amount of funds actually generated under the said Agreements and available under the above mentioned provisions thereof. It is understood and agreed that any unused balance in the funds made available under the memorandum attached to the exchange of Notes of August 28, 1951,¹ may also be used for the purposes of the present memorandum.

The performance of the present memorandum shall be subject to the availability of appropriations to the Secretary of State of the United States of America when required by the laws of the United States, for reimbursement to the Treasury of the United States for currency of Japan held or available for expenditure by the United States.

The Secretary of State of the United States of America will make available for expenditure as authorized by the Commission currency of Japan in such amounts as may be required for the purposes of the present memorandum but in no event in excess of the budgetary limitations established pursuant to Section 3 of the present memorandum.

Section 9

The Government of the United States of America and the Government of Japan shall make every effort to facilitate the exchange of persons programs authorized in the present memorandum and to resolve problems which may arise in the operations thereof.

Section 10

Wherever, in the present memorandum the term "Secretary of State of the United States of America" is used, it shall be understood to mean the Secretary of State of the United States of America or any officer or employee of the Government of the United States of America designated by him to act in his behalf.

¹ United Nations, *Treaty Series*, Vol. 147, p. 81.

[TRANSLATION¹ — TRADUCTION²]

Tokyo, January 11, 1958

Mr. Ambassador :

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*]

I have the further honor to inform Your Excellency that the Government of Japan accepts the above proposal of the Government of the United States of America and to confirm that Your Excellency's note and this reply are considered as constituting an agreement between the two Governments on this subject.

I avail myself of this opportunity to renew to Your Excellency, Mr. Ambassador, the assurance of my highest consideration.

Aiichiro FUJIYAMA
Minister for Foreign Affairs of Japan

His Excellency Douglas MacArthur II
Ambassador Extraordinary and Plenipotentiary
of the United States of America to Japan

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

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