

No. 5317

**JAPAN
and
REPUBLIC OF VIET-NAM**

**Reparations Agreement (with annex and exchange of notes).
Signed at Saigon, on 13 May 1959**

Official texts of the Agreement and annex: Japanese, Viet-Nameese and French.

Official text of the notes: French.

Registered by Japan on 19 August 1960.

**JAPON
et
RÉPUBLIQUE DU VIET-NAM**

**Accord de réparations (avec annexe et échange de notes).
Signé à Saïgon, le 13 mai 1959**

Textes officiels de l'Accord et de l'annexe: japonais, vietnamien et français.

Texte officiel des notes: français.

Enregistré par le Japon le 19 août 1960.

[TRANSLATION — TRADUCTION]

No. 5317. REPARATIONS AGREEMENT¹ BETWEEN JAPAN
AND THE REPUBLIC OF VIET-NAM. SIGNED AT
SAIGON, ON 13 MAY 1959

Japan and the Republic of Viet-Nam,

Desiring to act on the basis of the provisions of the Treaty of Peace with Japan signed at the City of San Francisco on 8 September 1951,²

Have decided to conclude this Reparations Agreement and have accordingly appointed as their Plenipotentiaries :

Japan :

Aiichiro Fujiyama, Minister for Foreign Affairs

Kanichiro Kubota, Ambassador Extraordinary and Plenipotentiary to the
Republic of Viet-Nam

Kogoro Uemura, Counsellor, Ministry of Foreign Affairs

The Republic of Viet-Nam :

Vu Van Mau, Secretary of State, Ministry of Foreign Affairs

Bui Van Thinh, Ambassador Extraordinary and Plenipotentiary to Japan

Pham Dang Lam, Secretary-General of the Ministry of Foreign Affairs

Who, having communicated to each other their full powers recognized to be in good and due form, have agreed upon the following Articles :

Article 1

1. Japan shall supply the Republic of Viet-Nam by way of reparations with products of Japan and the services of the Japanese people, the total value of which will be so much in yen as shall be equivalent to thirty-nine million United States dollars (\$ U.S.39,000,000), at present computed at fourteen thousand and forty million yen (¥14,040,000,000), within the period of five years from the date of coming into force of this Agreement, in the manner hereinafter prescribed.

2. The supply of the products and services referred to in the preceding paragraph shall be made, for the first three years, at an annual average of so much in yen as shall be equivalent to ten million United States dollars (\$ U.S.10,000,000), at present computed at three thousand six hundred million yen (¥3,600,000,000), and, for the

¹ Came into force on 12 January 1960, the date of the exchange of the instruments of ratification at Tokyo, in accordance with article 11.

² United Nations, *Treaty Series*, Vol. 136, p. 45 ; Vol. 163, p. 385 ; Vol. 184, p. 358 ; Vol. 199, p. 344 ; Vol. 243, p. 326, and Vol. 260, p. 450.

last two years, at an annual average of so much in yen as shall be equivalent to four million five hundred thousand United States dollars (\$ U.S.4,500,000), at present computed at one thousand six hundred and twenty million yen (¥1,620,000,000).

Article 2

1. The products and services to be supplied by way of reparations shall be those requested by the Government of the Republic of Viet-Nam and agreed upon between the two Governments. These products and services shall consist of items needed for projects chosen from among those enumerated in the Annex¹ to this Agreement.

2. The products to be supplied by way of reparations shall be capital goods. However, products other than capital goods may, by agreement between the two Governments, be supplied by Japan at the request of the Government of the Republic of Viet-Nam.

3. The reparations under this Agreement shall be carried out in such manner as will not prejudice the normal flow of trade between Japan and the Republic of Viet-Nam, nor impose any additional foreign exchange burden upon Japan.

Article 3

The two Governments shall fix, through consultation and by agreement between them, an annual execution schedule (hereinafter referred to as the "Execution Schedule") specifying the products and services which Japan shall supply each year.

Article 4

1. The Mission mentioned in article 6, paragraph 1, of this Agreement shall conclude, on behalf of the Government of the Republic of Viet-Nam, contracts directly with Japanese nationals or Japanese bodies corporate controlled by Japanese nationals, in order to have the products and services supplied in accordance with the Execution Schedule for each year.

2. All such contracts (including modifications thereof) shall conform with (a) the provisions of this Agreement, (b) the provisions of such arrangements as may be made by the two Governments for the implementation of this Agreement and (c) the Execution Schedule then applicable. The conformity of the contracts with the above-mentioned criteria shall be verified and the contracts shall be viséd by the Government of Japan. A contract which has been verified and viséd in accordance with the provisions of this paragraph shall hereinafter be referred to as a "Reparations Contract".

¹ See p. 139 of this volume.

3. Every Reparations Contract shall contain a provision to the effect that disputes arising out of or in connexion with such Contract shall, at the request of either party thereto, be referred to an arbitration board of commerce in accordance with such arrangement as may be made between the two Governments. The two Governments will take the measures necessary to make final and enforceable all arbitration awards duly rendered.

4. Notwithstanding the provisions of paragraph 1 of this article, the supply of products and services as reparations may be made without Reparations Contracts, whenever it is so agreed between the two Governments.

Article 5

1. In the discharge of the reparations obligation under article 1 of this Agreement, the Government of Japan shall, through procedures to be determined in accordance with the provisions of article 9 of this Agreement, make payments to cover the obligations incurred by the Mission mentioned in article 6, paragraph 1, of this Agreement under the terms of Reparations Contracts and the expenses for the supply of products and services in accordance with the provisions of paragraph 4 of the preceding article. These payments shall be made in Japanese yen.

2. By and upon making a payment in yen under the provisions of the preceding paragraph, Japan shall be deemed to have supplied the Republic of Viet-Nam with the products and services thus paid for and to have fulfilled its reparations obligation to the extent of the equivalent value in United States dollars of such yen payment in accordance with the provisions of article 1 of this Agreement.

Article 6

1. Japan agrees to the establishment in Japan of a Mission of the Government of the Republic of Viet-Nam (hereinafter referred to as "the Mission") as its sole and exclusive agent charged with the implementation of this Agreement, including the conclusion and performance of Reparations Contracts.

2. The Office of the Mission in Japan shall be established at Tokyo. The Office shall be used exclusively for the performance of the functions of the Mission.

3. The premises of the office, including the archives, of the Mission in Japan shall be inviolable. The Mission shall be entitled to use cipher. The real estate which is owned by the Mission and used directly for the performance of its functions shall be exempt from the Tax on Acquisition of Real Property and the Property Tax. The income of the Mission which may be derived from the performance of its functions shall be exempt from all taxation in Japan. Property imported for the official use of the Mission shall be exempt from customs duties and any other charges imposed on or in connexion with importation.

4. The Chief and two senior officials of the Mission, who are nationals of the Republic of Viet-Nam, shall be accorded the diplomatic privileges and immunities generally recognized under international law and usage.

5. Other members of the staff of the Mission who are nationals of the Republic of Viet-Nam and who are not ordinarily resident in Japan shall be exempt from taxation in Japan upon emoluments which they may receive in the discharge of their duties, and, in accordance with Japanese laws and regulations, from customs duties and any other charges imposed on or in connexion with importation of property for their personal use.

6. If any dispute arising out of or in connexion with a Reparations Contract has not been settled by arbitration or the arbitration award rendered has not been complied with, the matter may be taken, as a last resort, to the appropriate Japanese court. In such cases and solely for the purpose of such judicial proceedings as may be necessary, the Chief of Mission and the senior officials mentioned in paragraph 4 of this article may sue or be sued and accordingly may be served with process and other pleadings at their office in the Mission. However, they shall be exempt from the obligation to give security for the costs of legal proceedings. While the Mission enjoys inviolability and immunity as provided for in paragraphs 3 and 4 of this article, the final decision rendered by the appropriate court in such cases shall be accepted by the Mission as binding upon it.

7. In the enforcement of any final decision of the court, the land and buildings, as well as the moveable property therein, owned by the Mission and used directly for the performance of its functions shall in no case be subjected to any measure of execution.

Article 7

1. The two Governments shall take measures necessary for the smooth and effective implementation of this Agreement.

2. The Republic of Viet-Nam shall provide such labour, materials and equipment as may be available locally in order to enable Japan to supply the products and services referred to in article 1 of this Agreement.

3. Japanese nationals who may be needed in Viet-Nam in connexion with the supply of products or services under this Agreement shall, during the required period of their stay in Viet-Nam, be accorded such facilities as may be necessary for the performance of their work.

4. With respect to income derived from the supply of products or services under this Agreement, Japanese nationals and bodies corporate shall be exempt from taxation in Viet-Nam.

5. The Republic of Viet-Nam undertakes to ensure that the products of Japan supplied in accordance with the provisions of this Agreement shall not be re-exported from the territory of the Republic of Viet-Nam.

Article 8

There shall be established a Joint Committee to be composed of representatives of the two Governments as an organ of consultation between them, with powers to recommend on matters relating to the implementation of this Agreement.

Article 9

Details including procedures for the implementation of this Agreement shall be agreed upon through consultation between the two Governments.

Article 10

Any dispute between the two Governments concerning the interpretation and implementation of this Agreement shall be settled primarily through diplomatic channels. If the two Governments fail to reach a settlement through these channels, the dispute shall be referred for decision to a tribunal of three arbitrators, one to be appointed by each Government and the third to be agreed upon by the two arbitrators so chosen, provided that such third arbitrator shall not be a national of either country. Each Government shall appoint an arbitrator within a period of thirty days from the date of receipt by either Government from the other Government of a note requesting arbitration of the dispute. The third arbitrator shall be appointed by agreement within a further period of thirty days. If, within the periods respectively referred to, either Government fails to appoint an arbitrator or the third arbitrator is not agreed upon, either Government may submit the matter to the President of the International Court of Justice who shall appoint such arbitrator or the third arbitrator, as the case may be. The two Governments agree to abide by any award given under this article.

Article 11

The present Agreement shall be ratified and shall enter into force on the date of exchange of the instruments of ratification which shall take place at Tokyo as soon as possible.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed the present Agreement and have affixed hereunto their seals.

DONE at Saigon, this thirteenth day of May 1959, in duplicate, in Japanese, Vietnamese and French. In the event of any difference of interpretation, the French text shall be deemed authentic.

For Japan :
Aiiichiro FUJIYAMA
KUBOTA
K. UEMURA

For the Republic of Viet-Nam :
VU VAN MAU
BUI VAN THINH
PHAM DANG LAM

ANNEX

1. Construction of a hydro-electric plant
2. Equipment of an industrial engineering centre
3. Supply of other products and services agreed upon by the two Governments

EXCHANGE OF NOTES

I

Saigon, 13 May 1959

Excellency,

I have the honour to refer to the Reparations Agreement between Japan and the Republic of Viet-Nam signed today.¹ The Government of Japan proposes that under article 9 of the said Agreement the two Governments agree as follows :

I. REPARATIONS CONTRACTS

1. The Contracts shall be submitted to the competent Japanese authorities for verification and visa as provided in article 4, paragraph 2, of the said Agreement. The verification and visa procedure shall normally be completed within fourteen days.
2. Reparations Contracts shall be concluded in terms of Japanese yen through normal commercial procedure.
3. The responsibility for the performance of Reparations Contracts shall rest solely with the Mission and the Japanese nationals or bodies corporate who are parties thereto.
4. The Government of Japan may recommend to the Mission Japanese nationals and bodies corporate qualified to enter into Reparations Contracts. However, the Mission shall not be bound to enter into Reparations Contracts only with the nationals or bodies corporate so recommended.
5. Every Reparations Contract under which such incidental and supporting services as transportation, insurance or inspection are to be supplied and paid for by way of reparations should contain provisions to the effect that all such services should be effected by Japanese nationals or Japanese bodies corporate controlled by Japanese nationals.

II. PAYMENT

1. The Mission shall enter into an arrangement with a Japanese approved intermediary bank of its choice and open a Reparations Account in its own name, authorizing such bank, among others, to receive payments from the Government of Japan and shall notify

¹ See p. 129 of this volume.

the Government of Japan of the contents of such an arrangement. It is understood that the Reparations Account shall not bear interest. The Mission may, if it deems it necessary, designate additional foreign exchange banks for the same purpose.

2. Within a reasonable period before any payment falls due under the terms of a Reparations Contract, the Mission shall forward a Payment Request to the Government of Japan stating the amount of such payment and the date on which the Mission has to make the payment to the contractor concerned.

3. Upon receipt of the Payment Request, the Government of Japan shall pay the requested amount to the bank referred to in paragraph 1 above before the said date of payment by the Mission.

4. Upon agreement between the two Governments, the Government of Japan shall pay, in the same way as provided for in paragraph 3 above, the expenses of the Mission, the expenses for the training of Viet-Nameese technicians and craftsmen and such other expenses as may be agreed upon between the two Governments.

5. The amounts paid in accordance with the provisions of paragraphs 3 and 4 above shall be credited to the Reparations Account, and no other funds shall be credited to that account. The said Account shall be debited only for the purposes mentioned in paragraphs 2 and 4 above.

6. In case the whole or a part of the funds paid into the Reparations Account has not been drawn by the Mission because of a cancellation of contracts, etc., the unpaid amount shall be applied for the purposes mentioned in paragraphs 2 and 4 above, after appropriate arrangements are made with the Government of Japan.

7. In case the whole or a part of the amounts paid out of the Reparations Account has been refunded to the Mission, the amount so refunded shall be credited to the Reparations Account, notwithstanding the provisions of paragraph 5 above. The provisions of paragraph 6 shall apply to these amounts.

8. For the purposes of article 5, paragraph 2, of the said Agreement, the expression "upon making a payment" means "at the time when a payment is made by the Government of Japan to the bank referred to in paragraph 1 above".

9. The computation of the amount to the extent of which the Government of Japan shall be released from the reparations obligation under Article 1 of the said Agreement shall, pursuant to article 5, paragraph 2 of the said Agreement be made by determining the equivalent value in terms of United States dollars of the yen payment at the par value of Japanese yen to the United States dollar, officially fixed by the Government of Japan and agreed to by the International Monetary Fund, prevailing on the following dates :

(a) In the case of payment for a Reparations Contract, the date of verification and visa of the contract by the Government of Japan.

(b) In other cases, the date to be agreed upon between the two Governments in each case ; however, if there is no agreement on the date, the date on which the Payment Request is received by the Government of Japan shall apply.

III. MISSION

1. The Mission shall be accorded such administrative assistance by the Government of Japan as is enjoyed by other foreign missions and is necessary for the effective performance of its functions.
2. Only those Viet-Nameese nationals who enter and reside in Japan solely for the purposes of working with the Mission shall benefit from the provision of article 6, paragraph 5, of the said Agreement and shall be exempt from taxation in Japan.
3. The Government of the Republic of Viet-Nam shall keep the Government of Japan informed of the names of the Chief and other members of the Mission who are authorized to act on behalf of the Mission in connexion with the conclusion or execution of Reparations Contracts, and the Government of Japan shall have the aforesaid names published in the official Gazette of Japan. The authority of such Chief and other members of the Mission shall be deemed to continue until such time as notice to the contrary is published in the said Gazette.

I have further the honour to propose that this note and your reply confirming the acceptance by your Government of the above proposal shall be regarded as constituting an agreement between the two Governments on details for the implementation of the Reparations Agreement under article 9 thereof and that it shall enter into force on the date of entry into force of the Reparations Agreement.

I have the honour to be, etc.

Aiichiro FUJIYAMA
Plenipotentiary of Japan

His Excellency Vu Van Mau
Plenipotentiary of the Republic of Viet-Nam

II

Saigon, 13 May 1959

Excellency,

I have the honour to acknowledge receipt of your note of today's date concerning details for the implementation of the Reparations Agreement, which reads as follows :

[See note I]

I have the honour to agree, on behalf of my Government, to the proposal made in your note and to agree that the said note together with this note shall be regarded as constituting an agreement between the two Governments on the details for the

implementation of the Reparations Agreement, under article 9 thereof, and shall enter into force on the date of entry into force of the Reparation Agreement.

I have the honour to be, etc.

VU VAN MAU
Plenipotentiary of the Republic of Viet-Nam

His Excellency Aichiro Fujiyama
Plenipotentiary of Japan

III

Saigon, 13 May 1959

Excellency,

With reference to the provisions of article 2, paragraph 2, of the Reparations Agreement between Japan and the Republic of Viet-Nam signed today, I have the honour to confirm the understanding reached by our two Governments on the following :

If products other than capital goods are supplied in accordance with the provisions of the said paragraph, the total value of such products shall not exceed the equivalent in yen of seven million five hundred thousand United States dollars (\$U.S.7,500,000), that is to say, at the present rate of exchange, two thousand seven hundred million yen (¥2,700,000,000).

I should be grateful if you could confirm the above understanding on behalf of the Government of the Republic of Viet-Nam.

I have the honour to be, etc.

Aiichiro FUJIYAMA
Plenipotentiary of Japan

His Excellency Vu Van Mau
Plenipotentiary of the Republic of Viet-Nam

IV

Saigon, 13 May 1959

Excellency,

I have the honour to acknowledge receipt of your note of today's date in which you were good enough to inform me as follows :

[*See note III*]

I am pleased to confirm on behalf of my Government the understanding contained in your above-mentioned note.

I have the honour to be, etc.

VU VAN MAU
Plenipotentiary of the Republic of Viet-Nam

His Excellency Aiichiro Fujiyama
Plenipotentiary of Japan