

No. 7490

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**JAPAN  
and  
BURMA**

**Agreement on economic and technical co-operation (with Protocol concerning the Union of Burma's claim based on article V, paragraph 1 (a) (III) of the Treaty of Peace between Japan and the Union of Burma, signed at Rangoon on 5 November 1954, and with agreed minutes and exchange of notes relating to the Agreement). Signed at Rangoon, on 29 March 1963**

*Official text: English.*

*Registered by Japan on 25 November 1964.*

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**JAPON  
et  
BIRMANIE**

**Accord de coopération économique et technique (avec Protocole concernant la demande présentée par l'Union birmane, au titre de l'article V, paragraphe 1, a, III, du Traité de paix entre le Japon et l'Union birmane, signé à Rangoon le 5 novembre 1954, et avec procès-verbal agréé et échange de notes relatifs à l'Accord). Signé à Rangoon, le 29 mars 1963**

*Texte officiel anglais.*

*Enregistré par le Japon le 25 novembre 1964.*

No. 7490. AGREEMENT<sup>1</sup> BETWEEN JAPAN AND THE UNION OF BURMA ON ECONOMIC AND TECHNICAL CO-OPERATION. SIGNED AT RANGOON, ON 29 MARCH 1963

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Japan and the Union of Burma,

Desiring to co-operate for the economic and social development of the Union of Burma and to strengthen the friendly relations between the two countries,

Have decided to conclude the present Agreement and have accordingly appointed as their Plenipotentiaries :

Japan :

Mr. Sadasuke Iizuka, Parliamentary Vice-Minister for Foreign Affairs,

Mr. Kenichi Otabe, Ambassador Extraordinary and Plenipotentiary to the Union of Burma, and

The Union of Burma :

U Thi Han, Minister for Foreign Affairs,

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

*Article I*

1. Japan shall extend to the Union of Burma assistance on a grant basis for the purpose of contributing to the economic and social development of the Union of Burma, composed of the products of Japan and the services of Japanese people, the total value of which will be so much in yen as shall be equivalent to one hundred and forty million United States dollars (\$ 140,000,000) at present computed at fifty thousand four hundred million yen (¥ 50,400,000,000), within the period of twelve years as from April 16, 1965.

2. The supply of such products and services shall be made at an annual average of so much in yen as shall be equivalent to eleven million seven hundred thousand United States dollars (\$ 11,700,000) at present computed at four thousand two hundred and twelve million yen (¥ 4,212,000,000) during the period of the first eleven years, the outstanding balance to be settled on the twelfth year.

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<sup>1</sup> Came into force on 25 October 1963, the date of exchange of the instruments of ratification at Tokyo, in accordance with article XI.

*Article II*

1. The products and services to be supplied under the present Agreement shall be those requested by the Government of the Union of Burma and agreed upon between the two Governments.

2. The two Governments shall fix through consultation a schedule (hereinafter referred to as the "Schedule") specifying the products and services to be supplied by Japan each year.

*Article III*

1. The products to be supplied under the present Agreement shall be mainly capital goods.

2. The supply of products under the present Agreement shall be carried out in such manner as may not prejudice the normal trade between Japan and the Union of Burma, nor impose additional foreign exchange burden upon Japan.

*Article IV*

1. The Mission mentioned in Article VI of the present Agreement shall conclude, in behalf of the Government of the Union of Burma, contracts directly with any Japanese national or any Japanese juridical person, in order to have the products and services supplied under the present Agreement.

2. The contracts mentioned in paragraph 1 above (including modifications thereof, shall conform with (a) the provisions of the present Agreement, (b) the provisions of such arrangements as may be made by the two Governments for the implementation of the present Agreement and (c) the Schedule applicable. These contracts shall be forwarded by the Mission to the designated authority of the Government of Japan for verification as to the conformity of the same with the above-mentioned criteria. This verification will as a rule be effected within fourteen days. In case of failure in verification within the stipulated time, such contract shall be referred to the Joint Committee mentioned in Article VIII of the present Agreement and acted upon in accordance with the recommendation of the Joint Committee. Such recommendation shall be made within a period of thirty days following the receipt of the contract by the Joint Committee. A contract which has been verified in pursuance of this paragraph shall hereinafter be referred to as a "Verified Contract".

3. Notwithstanding the provisions of paragraph 1 above, the supply of products and services under the present Agreement may be made without Verified Contracts, but only by agreement between the two Governments.

*Article V*

1. The Government of Japan shall, through procedures to be determined under Article IX of the present Agreement, make payments to cover the obligations incurred

by the Mission mentioned in Article VI of the present Agreement under Verified Contracts and the expenses for the supply of products and services referred to in Article IV, paragraph 3 of the present Agreement. These payments shall be made in Japanese yen.

2. By and upon making a payment in yen under the preceding paragraph, Japan shall be deemed to have supplied the Union of Burma with the products and services thus paid for.

#### *Article VI*

1. The Government of the Union of Burma will establish in Japan a Mission of the Government of the Union of Burma as its sole and exclusive agent to be charged with the implementation of the present Agreement, including the conclusion of contracts referred to in Article IV, paragraph 1 of the present Agreement and the performance of Verified Contracts.

2. Such office or offices of the Mission in Japan as are necessary for the effective performance of its functions and used exclusively for that purpose may be established at Tokyo and other places to be agreed upon between the two Governments.

3. The premises of the office or offices, 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 taxation in Japan. The property imported for the official use of the Mission shall be exempt from customs duties and any other charges imposed on or in connection with importation.

4. The Mission shall be accorded such administrative assistance by the Government of Japan as other foreign missions usually enjoy and as may be required for the effective performance of its functions.

5. The Chief and two senior officials of the Mission as well as the chiefs of such offices as may be established in pursuance of paragraph 2 above, who are nationals of the Union of Burma, shall be accorded diplomatic privileges and immunities generally recognized under international law and usage. If it is deemed necessary for the effective performance of the functions of the Mission, the number of such senior officials may be increased by agreement between the two Governments.

6. Other members of the staff of the Mission who are nationals of the Union of Burma 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 connection with importation of property for their personal use.

7. In respect of those disputes arising out of or in connection with Verified Contracts which, failing other methods of settlement, are brought to the Japanese courts, the person who holds the post of Chief of the Legal Section of the Mission may sue or be sued and accordingly he may be served with process and other pleadings at his office in the Mission. However, he shall be exempt from the obligation to give security for the cost of legal proceedings. While the Mission enjoys inviolability and immunity as provided for in paragraphs 3 and 5 above, the final decision rendered by the competent courts in such cases will be accepted by the Mission as binding upon it.

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

#### *Article VII*

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

2. The Union of Burma shall provide such local labour, materials and equipment as may be available in order to enable Japan to supply the products and services under the present Agreement.

3. Japanese nationals who may be needed in the Union of Burma in connection with the supply of products or services under the present Agreement shall be accorded such facilities as may be necessary for their entry into and stay in the Union of Burma for the performance of their work.

4. With respect to the income derived in connection with the supply of products or services under the present Agreement, Japanese nationals and juridical persons shall not be liable for taxation in the Union of Burma.

5. The Union of Burma undertakes that the products of Japan supplied under the present Agreement shall not be re-exported from the territories of the Union of Burma except as otherwise agreed upon between the two Governments.

#### *Article VIII*

There shall be established at Tokyo a Joint Committee to be composed of representatives of the two Governments as an organ for consultation between them and for recommendation to their respective Governments, on matters concerning the implementation of the present Agreement.

#### *Article IX*

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

*Article X*

Any dispute between the two Governments concerning the interpretation and implementation of the present Agreement shall be settled primarily through diplomatic channels. If the two Governments fail to reach a settlement, 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 and the third arbitrator shall be agreed upon 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, the President of the International Court of Justice may be requested by either Government to 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 XI*

The present Agreement shall be ratified. The Agreement shall enter into force upon the date of exchange of the instruments of ratification. The instruments of ratification shall be exchanged as soon as possible.

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

DONE in duplicate, in the English language, at Rangoon, this twenty-ninth day of March of the year one thousand nine hundred and sixty-three.

For Japan :  
Sadasuke IIZUKA  
Kenichi OTABE

For the Union of Burma :  
THI HAN

PROTOCOL CONCERNING THE UNION OF BURMA'S CLAIM BASED ON ARTICLE V, PARAGRAPH 1 (a) (III) OF THE TREATY OF PEACE BETWEEN JAPAN AND THE UNION OF BURMA SIGNED AT RANGOON ON NOVEMBER 5, 1954<sup>1</sup>

At the moment of signing this day the Agreement between Japan and the Union of Burma on Economic and Technical Co-operation, the undersigned Plenipotentiaries have agreed upon the following :

<sup>1</sup> United Nations, *Treaty Series*, Vol. 251, p. 201.

The Union of Burma shall not present any claim based on the provisions of Article V, paragraph 1 (a) (III) of the Treaty of Peace between Japan and the Union of Burma signed at Rangoon on November 5, 1954,<sup>1</sup> after the date of coming into force of the Agreement between Japan and the Union of Burma on Economic and Technical Co-operation.

This Protocol shall be ratified and, after the instruments of ratification shall have been exchanged, shall enter into force on the date of coming into force of the Agreement between Japan and the Union of Burma on Economic and Technical Co-operation.<sup>2</sup>

DONE in duplicate, in the English language, at Rangoon this twenty-ninth day of March of the year one thousand nine hundred and sixty-three.

For Japan :  
Sadasuke IZUKA  
Kenichi OTABE

For the Union of Burma :  
THI HAN

Rangoon, March 29, 1963

#### AGREED MINUTES

The Plenipotentiaries of Japan and of the Union of Burma wish to record the following understanding which they have reached during the negotiations for the Agreement between Japan and the Union of Burma on Economic and Technical Co-operation signed today :

1. *Re Article I of the Agreement :*

With regard to the amount of yen and that of United States dollars mentioned in Article I, the United States dollar shall be the basis of calculation and the then prevailing basic exchange rate officially fixed by the Government of Japan and agreed to by the International Monetary Fund shall be used for the calculation.

2. *Re Article III, paragraph 2 of the Agreement :*

In implementing the provision of Article III, paragraph 2, the Government of Japan has no intention of changing the practices at present followed under the Agreement for Reparations and Economic Co-operation between Japan and the Union of Burma signed at Rangoon on November 5, 1954 (hereinafter referred to as "the Reparations Agreement").<sup>3</sup> In case any problem arises in connection with the application of the said paragraph, the two Governments will consult with each other.

<sup>1</sup> United Nations, *Treaty Series*, Vol. 251, p. 201.

<sup>2</sup> The exchange of the instruments of ratification of the Protocol and the Agreement took place at Rangoon on 25 October 1963, and both the Protocol and the Agreement entered into force on that date.

<sup>3</sup> United Nations, *Treaty Series*, Vol. 251, p. 215.

3. Re *Article IV, paragraph 1 of the Agreement* :

For the purpose of Article IV, paragraph 1, "Japanese juridical person" means Japanese juridical person controlled by Japanese nationals, and, with respect to the qualifications of the Japanese juridical persons, the Government of Japan has no intention of changing the practices at present followed under the Reparations Agreement.

4. Re *Article VI, paragraph 5 of the Agreement* :

The Government of Japan is prepared to agree that the number of such senior officials as mentioned in Article VI, paragraph 5 be increased up to so many as are notified to the Government of Japan under the Reparations Agreement.

5. Re *Article VII, paragraph 3 of the Agreement* :

The provision of Article VII, paragraph 3 will not be so construed as to affect the right of the Government of the Union of Burma with respect to the permission on the entry into and stay in the Union of Burma of such Japanese nationals as are referred to in the said paragraph.

For Japan :  
Sadasuke IIZUKA

For the Union of Burma :  
THI HAN

## EXCHANGE OF NOTES

### I

Rangoon, March 29, 1963

Excellency,

I have the honour to refer to the Agreement between Japan and the Union of Burma on Economic and Technical Co-operation signed today.<sup>1</sup> The Government of Japan proposes that under Article IX of the Agreement the two Governments agree as follows :

#### I. SCHEDULE

A draft for the Schedule mentioned in Article II, paragraph 2 of the Agreement shall be presented each year by the Government of the Union of Burma with a reasonable allowance of time so that it may be agreed upon between the two Governments prior to the beginning of the year concerned.

<sup>1</sup> See p. 4 of this volume.



## II. CONTRACTS AND VERIFIED CONTRACTS

1. The contracts mentioned in Article IV, paragraph 1 of the Agreement (hereinafter referred to as the "contracts") shall be concluded in terms of Japanese yen on commercial terms and conditions.

2. The responsibility for the performance of Verified Contracts mentioned in Article IV, paragraph 2 of the Agreement, shall rest solely with the Mission of the Union of Burma to be established in Japan pursuant to Article VI of the Agreement (hereinafter referred to as "the Mission") and with the Japanese nationals or the Japanese juridical persons mentioned in Article IV, paragraph 1 of the Agreement (hereinafter referred to as the "Japanese juridical persons"), who are the parties to such Verified Contracts.

3. Every Verified Contract under which such incidental and supporting services as transportation, insurance or inspection are to be supplied and paid for pursuant to the Agreement shall contain provisions to the effect that such services should be effected by Japanese nationals or Japanese juridical persons.

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

## III. PAYMENT

1. The Mission shall enter into arrangements with Japanese banks which are approved as authorized foreign exchange banks under Japanese Law and controlled by Japanese nationals (hereinafter referred to as "the Banks") and open Special Accounts in its own name, authorizing the Banks, *inter alia*, to receive payments from the Government of Japan, and shall notify the Government of Japan of the contents of such arrangements. The Special Accounts shall not bear interest.

2. Well in advance of the date on which any payment falls due under the terms of a Verified Contract, the Mission shall forward to the Government of Japan a Payment Request stating the amount of such payment, the name of the Bank to which the payment should be made 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 before the date of payment by the Mission to the contractor concerned.

4. The Government of Japan shall, by agreement to be made between the two Governments in accordance with Article IV, paragraph 3 of the Agreement, also pay, in the same way as provided for in the preceding paragraph, the expenditures of the Mission, the expenses for the education and training in Japan of Burmese technicians and students, and for such other purposes as may be agreed upon between the two Governments.

5. The amounts paid by the Government of Japan under paragraphs 3 and 4 above shall be credited to the Special Accounts, and no other funds shall be credited to the Special Accounts. The Special Accounts shall be debited only for the purposes indicated in paragraphs 2 and 4 above.

6. In case the whole or a part of the funds credited to a Special Account has not been drawn by the Mission because of cancellation of Verified Contracts, etc., the unpaid amount shall be applied for the purposes indicated in paragraphs 2 and 4 above after consultation between the two Governments.

7. In case the whole or a part of the amounts paid out of a Special Account has been refunded to the Mission, the amounts so refunded shall be credited to the Special Account, notwithstanding the provision of paragraphs 5 above. The amounts refunded shall be applied for the purposes indicated in paragraph 2 and 4 above after consultation between the two Governments.

8. For the purpose of Article V, paragraph 2 of the Agreement, "upon making a payment" means "at the time when a payment is made by the Government of Japan to the Bank".

9. In determining the amount of the products and services by which Japan is deemed to have supplied the Union of Burma, the equivalent amount in United States dollar converted from the amount paid in yen referred to in Article V, paragraph 2 of the Agreement shall be the basis of calculation. The rate of exchange employed in the above conversion shall be the par value of Japanese yen to United States dollar officially fixed by the Government of Japan and agreed to by the International Monetary Fund, which is prevailing on the following date :

- (a) In the case of payment for a Verified Contract, the date of the verification thereof 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 the Payment Request is received by the Government of Japan shall apply.

#### IV. MISSION

The Government of the Union of Burma shall inform the Government of Japan from time to time of the names of the Chief, the Chief of the Legal Section and the other members of the Mission as well as the Chiefs of such offices as may be established pursuant to Article VI, paragraph 2 of the Agreement who are authorized to act for and in behalf of the Mission in connection with the conclusion of contracts and execution of Verified Contracts, and the Government of Japan shall have the aforesaid names published in the Official Gazette of Japan. The authority of such Chief(s), Chief of the Legal Section and other members of the Mission shall be deemed to continue until such time as the notice to the contrary is published in the said Gazette.

#### V. JOINT COMMITTEE

1. The two Governments shall respectively appoint one representative and a certain number of deputies for the Joint Committee.

2. The Joint Committee shall meet at the request of the representative of either Government.

3. The functions of the Joint Committee shall be consultation between the two Governments and recommendation to the respective Governments on the following matters :

- (a) procedure concerning verification of contracts between the Government of the Union of Burma and Japanese nationals or Japanese juridical persons for the supply to the Union of Burma of the products and services as referred to in Article I of the Agreement ;
- (b) criteria for verification by the Government of Japan of the contracts as referred to in Article IV, paragraph 2 of the Agreement ;
- (c) procedure for payment, in respect of the supply to the Union of Burma of the products and services, as referred to in Article V, paragraph 1 of the Agreement ;
- (d) matters concerning preparation and modification of the Schedules in accordance with which Japan shall supply the products and services as referred to in Article II, paragraph 2 of the Agreement ;
- (e) preparation from time to time of remuneration lists for the services of Japanese people as referred to in Article I of the Agreement ;
- (f) review from time to time of the progress of implementation of the Agreement including the calculation of the total amount of disbursement by the Government of Japan for the supply of the products and services under Article I of the Agreement ;
- (g) matters concerning the settlement of disputes provided for in Article X of the Agreement ; and
- (h) such other matters concerning the implementation of the Agreement as the parties may by consent refer to the Joint Committee.

I have further the honour to propose that the present note and Your Excellency's 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 Agreement between Japan and the Union of Burma on Economic and Technical Co-operation under Article IX thereof with the understanding that further details of the said Agreement will be agreed upon between the appropriate authorities of the two Governments.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

Sadasuke IZUKA  
Plenipotentiary of Japan

His Excellency U Thi Han  
Plenipotentiary of the Union of Burma

## II

Rangoon, March 29, 1963

Excellency,

I have the honour to acknowledge receipt of your note of today's date, which reads as follows :

[See note I]

I have the honour to agree on behalf of my Government to the proposal embodied in the note under acknowledgement and to further agree that the same, together with this note, shall be regarded as constituting an agreement between the two Governments on the details for the implementation of the Agreement between the Union of Burma and Japan on Economic and Technical Co-operation.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

THI HAN

Plenipotentiary of the Union of Burma

His Excellency Mr. Sadasuke Iizuka  
Plenipotentiary of Japan

## III

Rangoon, March 29, 1963

Excellency,

I have the honour to confirm the following arrangement which embodies the understanding reached between the representatives of the two Governments concerning the extension of commercial loans for the purpose of assisting in the further economic development of the Union of Burma :

The Government of Japan shall facilitate and expedite, within the scope of pertinent laws and regulations, the extension, by private firms or nationals of Japan to the Government, private firms or nationals of the Union of Burma, of loans on a commercial basis which will include those to be financed by the Export-Import Bank of Japan and other Japanese banking institutions, during the period of six years from the date of coming into force of the Agreement between Japan and the Union of Burma on Economic and Technical Co-operation signed today.

The amount of the above-mentioned loans is expected to aggregate so much in yen as shall be equivalent to thirty million United States dollars (\$30,000,000) at present computed at ten thousand eight hundred million yen (¥10,800,000,000), within the period mentioned above.

I have the honour to propose that the present note and Your Excellency's reply confirming the contents of arrangement as stated therein shall be regarded as constituting an agreement between the two Governments.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

Sadasuke IIZUKA  
Plenipotentiary of Japan

His Excellency U Thi Han  
Plenipotentiary of the Union of Burma

IV

Rangoon, March 29, 1963

Excellency,

I have the honour to acknowledge receipt of your note of today's date, which reads as follows :

[See note III]

I have the honour to confirm the contents of the arrangements as stated in your note under acknowledgement, and to agree that the same and the present reply shall be regarded as constituting an agreement between the two Governments.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

U THI HAN  
Plenipotentiary of the Union of Burma

His Excellency Mr. Sadasuke Iizuka  
Plenipotentiary of Japan