

No. 12989

**UNITED STATES OF AMERICA
and
JAPAN**

**Exchange of notes constituting an agreement relating to the
production and acquisition of Hawk and Nike Hercules
missile systems. Tokyo, 22 December 1972**

Authentic texts: English and Japanese.

Registered by the United States of America on 23 January 1974.

**ÉTATS-UNIS D'AMÉRIQUE
et
JAPON**

**Échange de notes constituant un accord relatif à la production
et à l'acquisition de systèmes de missiles Hawk et Nike
Hercules. Tokyo, 22 décembre 1972**

Textes authentiques : anglais et japonais.

Enregistré par les États-Unis d'Amérique le 23 janvier 1974.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND JAPAN RELATING TO THE PRODUCTION AND ACQUISITION OF HAWK AND NIKE HERCULES MISSILE SYSTEMS

I

*The American Chargé d'Affaires ad interim to the Japanese Minister
for Foreign Affairs*

EMBASSY OF THE UNITED STATES OF AMERICA
TOKYO

December 22, 1972

No. 804

Excellency,

I have the honor to refer to the Mutual Defense Assistance Agreement between the United States of America and Japan signed at Tokyo on March 8, 1954,² which provides, *inter alia*, that each Government will make available to the other such equipment, materials, services, or other assistance as the Government furnishing such assistance may authorize, in accordance with such detailed arrangements as may be made between them. In pursuance of this provision, an agreement was reached between the Government of the United States of America and the Government of Japan on October 13, 1967³ concerning a program for the production and acquisition in Japan of the Hawk missile system and the Nike Hercules missile system (adapted for nonnuclear warheads) and related control systems (hereinafter jointly referred to as the "Systems") under the terms and provisions of the said Mutual Defense Assistance Agreement. In pursuance of the Agreement, detailed arrangements for the above-mentioned program were made between the representatives of the competent authorities of the two Governments, and the program is now under way.

The representatives of the Government of the United States of America and the Government of Japan have held discussions on a program to be pursued following the above-mentioned program. The following is the understanding by the Government of the United States of America of the results of the above-mentioned discussions:

1. In accordance with the detailed arrangements to be concluded under paragraph 3, the Government of Japan will manufacture or acquire, and the Government of the United States of America will authorize the production of or will sell the Systems.

2. The above-mentioned program will be carried out to the maximum feasible extent through the private industrial capabilities of Japan as supplemented by such capabilities in the United States of America. The program will be further implemented by direct sale by the Government of the United States of America to the Government of Japan.

¹ Came into force on 22 December 1972, the date of the note in reply, in accordance with the provisions of the said notes.

² United Nations, *Treaty Series*, vol. 232, p. 169.

³ *Ibid.*, vol. 701, p. 33.

3. The present understanding will be implemented in accordance with the above-mentioned Mutual Defense Assistance Agreement and arrangements concluded thereunder, including the Agreement between the Government of the United States of America and the Government of Japan to facilitate interchange of patent rights and technical information for purposes of defense signed on March 22, 1956.¹ The detailed arrangements to implement the present understanding will be concluded between representatives of the competent authorities of the two Governments.

4. Financial obligations or expenditures incurred by the Government of Japan under the present understanding and all arrangements to be concluded hereunder will be subject to budget authorization pursuant to the constitutional provisions of Japan.

I have the honor to propose that, if the above understanding is acceptable to the Government of Japan, the present note and Your Excellency's reply of acceptance shall be regarded as constituting an agreement between the two Governments which shall enter into force on the date of Your Excellency's reply.

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

THOMAS P. SHOESMITH

His Excellency Masayoshi Ohira
Minister for Foreign Affairs
Tokyo

¹ United Nations, *Treaty Series*, vol. 275, p. 195.

[TRANSLATION¹ — TRADUCTION²]

Tokyo, December 22, 1972

Sir:

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

[*See note I*]

I have the honor to confirm on behalf of my Government that the foregoing understanding is acceptable to the Government of Japan and to agree that your note and this reply shall be regarded as constituting an agreement between the two Governments which shall enter into force on the date of this reply.

I avail myself of this opportunity to extend to you the assurances of my high consideration.

MASAYOSHI OHIRA
Minister for Foreign Affairs of Japan

Mr. Thomas P. Shoesmith
Chargé d'Affaires ad interim
of the United States of America

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

² Traduction fournie par le Gouvernement des États-Unis d'Amérique.