

No. 5321

JAPAN
and
UNITED STATES OF AMERICA

**Agreement (with agreed minutes and exchange of notes)
under article VI of the Treaty of Mutual Co-operation
and Security between Japan and the United States of
America, regarding facilities and areas and the status
of United States armed forces in Japan. Signed at
Washington, on 19 January 1960**

Official texts of the Agreement: English and Japanese.

Official text of the agreed minutes and notes: English.

Registered by Japan on 19 August 1960.

JAPON
et
ÉTATS-UNIS D'AMÉRIQUE

**Accord (avec procès-verbal approuvé et échange de notes)
sur les zones et installations et le statut des forces
armées américaines au Japon, conclu entre le Japon et
les États-Unis d'Amérique conformément à l'article VI
du Traité de coopération et de sécurité mutuelles. Signé
à Washington, le 19 janvier 1960**

Textes officiels de l'Accord: anglais et japonais.

Texte officiel du procès-verbal approuvé et des notes: anglais.

Enregistré par le Japon le 19 août 1960.

No. 5321. AGREEMENT¹ UNDER ARTICLE VI OF THE
TREATY OF MUTUAL CO-OPERATION AND SECURITY²
BETWEEN JAPAN AND THE UNITED STATES OF
AMERICA, REGARDING FACILITIES AND AREAS AND
THE STATUS OF UNITED STATES ARMED FORCES IN
JAPAN. SIGNED AT WASHINGTON, ON 19 JANUARY
1960

Japan and the United States of America, pursuant to Article VI of the Treaty of Mutual Cooperation and Security between Japan and the United States of America signed at Washington on January 19, 1960,² 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, Japanese and United States, who are brought to Japan by the United States shall be considered as United States nationals.

(c) "dependents" means

(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. (a) The United States is granted, under Article VI of the Treaty of Mutual Cooperation and Security, the use of facilities and areas in Japan. Agreements as to specific facilities and areas shall be concluded by the two Governments through

¹ Came into force on 23 June 1960, the date of coming into force of the Treaty of Mutual Co-operation and Security, in accordance with article XXVI (2).

² See p. 179 of this volume.

the Joint Committee provided for in Article XXV of this Agreement. "Facilities and areas" include existing furnishings, equipment and fixtures necessary to the operation of such facilities and areas.

(b) The facilities and areas of which the United States has the use at the time of expiration of the Administrative Agreement¹ under Article III of the Security Treaty² between Japan and the United States of America, shall be considered as facilities and areas agreed upon between the two Governments in accordance with sub-paragraph (a) above.

2. At the request of either Government, the Governments of Japan and the United States 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 are temporarily not being used by the United States armed forces, the Government of Japan may make, or permit Japanese nationals to make, interim use of such facilities and areas provided that it is agreed between the two Governments through the Joint Committee 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 facilities and areas 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. Within the facilities and areas, the United States may take all the measures necessary for their establishment, operation, safeguarding and control. In order to provide access for the United States armed forces to the facilities and areas for their support, safeguarding and control, the Government of Japan shall, at the request of the United States armed forces and upon consultation between the two Governments through the Joint Committee, take necessary measures within the scope of applicable laws and regulations over land, territorial waters and airspace adjacent to, or in the vicinities of the facilities and areas. The United States may

¹ United Nations, *Treaty Series*, Vol. 208, p. 255 ; Vol. 268, p. 360 ; Vol. 273, p. 265 ; Vol. 290, p. 316 ; Vol. 336, p. 351 ; Vol. 344, p. 332, and Vol. 368.

² United Nations, *Treaty Series*, Vol. 136, p. 211, and Vol. 247, p. 392.

also take necessary measures for such purposes upon consultation between the two Governments through the Joint Committee.

2. The United States agrees not to take the measures referred to in paragraph 1 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 arrangement between the appropriate authorities of the two Governments. The Government of Japan shall, within the scope of applicable laws and regulations, take all reasonable measures to avoid or eliminate interference with telecommunications electronics required by the United States armed forces.

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 Government of the United States may undertake under special arrangements with the Government of 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 their entry into and departure from Japan shall be 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 or airports of Japan. Such access to and movement between facilities and areas by United States military vehicles shall be free from toll and other charges.

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 arrangement between the appropriate authorities of the two Governments.

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 Japanese and United States 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 use of all public utilities and services belonging to, or controlled or regulated by the Government of Japan, and shall 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 Government of Japan undertakes to furnish the United States armed forces with the following meteorological services in accordance with arrangements between the appropriate authorities of the two Governments :

- (a) Meteorological observations from land and ocean areas including observations from weather ships.
- (b) Climatological information including periodic summaries and the historical data of the Meteorological Agency.

- (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 may bring into Japan persons who are members of the United States armed forces, the civilian component, and their dependents, subject to the provisions of this Article.

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 which must be presented on request to the appropriate Japanese authorities.

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 Government of Japan.

6. If the Government of Japan has requested the removal from its territory of a member of the United States armed forces or civilian component or has made an expulsion order against an ex-member of the United States armed forces or the civilian component or against a dependent of a member or ex-member, the authorities of the United States shall be responsible for receiving the person concerned within its own territory or otherwise disposing of him outside Japan. This paragraph shall apply only to persons who are not nationals of Japan and have entered Japan as members of the United States armed forces or civilian component or for the purpose of becoming such members, and to the dependents of such persons.

Article X

1. Japan shall accept as valid, without a driving test or fee, the driving permit or licence 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 incor-

porated 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 every day 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 of the United States armed forces under orders entering or leaving Japan ;
- (b) Official documents under official seal and official mail in United States military postal channels ;
- (c) Military cargo shipped on a United States Government bill of lading.

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 Government of Japan, 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 Government of Japan 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 Government of Japan 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 may 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. Such supplies or construction work may, upon agreement between the appropriate authorities of the two Governments, also be procured through the Government of Japan.

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 United States armed forces and of the organizations provided for in Article XV shall be satisfied with the assistance of the Japanese authorities.

5. The obligations for the withholding and payment of income tax, local inhabitant tax and 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. Should the United States armed forces or as appropriate an organization provided for in Article XV dismiss a worker and a decision of a court or a Labor Relations Commission of Japan to the effect that the contract of employment has not terminated become final, the following procedures shall apply :

- (a) The United States armed forces or the said organization shall be informed by the Government of Japan of the decision of the court or Commission ;
- (b) Should the United States armed forces or the said organization not desire to return the worker to duty, they shall so notify the Government of Japan within seven days after being informed by the latter of the decision of the court or Commission, and may temporarily withhold the worker from duty ;
- (c) Upon such notification, the Government of Japan and the United States armed forces or the said organization shall consult together without delay with a view to finding a practical solution of the case ;
- (d) Should such a solution not be reached within a period of thirty days from the date of commencement of the consultations under (c) above, the worker will not be entitled to return to duty. In such case, the Government of the United States shall pay to the Government of Japan an amount equal to the cost of employment of the worker for a period of time to be agreed between the two Governments.

7. Members of the civilian component shall not be subject to Japanese laws or regulations with respect to terms and conditions of employment.

8. 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.

9. 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 Government of Japan 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, and who are designated by the Government of the United States in accordance with the provisions of paragraph 2 below, shall, except as provided in this Article, be subject to the laws and regulations of Japan.

2. The designation referred to in paragraph 1 above shall be made upon consultation with the Government of Japan and shall be restricted to cases where open competitive bidding is not practicable due to security considerations, to the technical qualifications of the contractors involved, or to the unavailability of materials or services required by United States standards, or to limitations of United States law.

The designation shall be withdrawn by the Government of the United States :

- (a) upon completion of contracts with the United States for the United States armed forces ;
- (b) upon proof that such persons are engaged in business activities in Japan other than those pertaining to the United States armed forces ; or
- (c) when such persons are engaged in practices illegal in Japan.

3. 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 Government of the United States, 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 Government of the United States, 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.

4. 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.

5. 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.

6. 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.

7. The persons and their employees referred to in paragraph 1 shall not be liable to pay income or corporation taxes to the Government of Japan or to any other taxing agency in Japan on any income derived under a contract made in the United States with the Government of the United States 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 Government of the United States shall not be considered periods of residence or domicile in Japan for the purposes of such taxation.

8. 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 Japanese and United States 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 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. 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.

(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 authorities of Japan and the military authorities of the United States 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 authorities of Japan and the military authorities of the United States 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 authorities of Japan and the military authorities of the United States 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 authorities of Japan or the military authorities of the United States 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 V of the Treaty of Mutual Cooperation and Security apply, either the Government of Japan or the Government of the United States 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 Governments of Japan and the United States shall immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

12. The provisions of this Article shall not apply to any offences committed before the entry into force of this Agreement. Such cases shall be governed by the provisions of Article XVII of the Administrative Agreement under Article III of the Security Treaty between Japan and the United States of America, as it existed at the relevant time.

Article XVIII

1. Each Party waives all its claims against the other Party for damage to any property owned by it and used by its land, sea or air defense services, if such damage—

- (a) was caused by a member or an employee of the defense services of the other Party in the performance of his official duties ; or
- (b) arose from the use of any vehicle, vessel or aircraft owned by the other Party and used by its defense services, provided either that the vehicle, vessel or aircraft causing the damage was being used for official purposes, or that the damage was caused to property being so used.

Claims for maritime salvage by one Party against the other Party shall be waived, provided that the vessel or cargo salvaged was owned by a Party and being used by its defense services for official purposes.

2. (a) In the case of damage caused or arising as stated in paragraph 1 to other property owned by either Party and located in Japan, the issue of the liability

of the other Party shall be determined and the amount of damage shall be assessed, unless the two Governments agree otherwise, by a sole arbitrator selected in accordance with subparagraph (b) of this paragraph. The arbitrator shall also decide any counter-claims arising out of the same incident.

(b) The arbitrator referred to in subparagraph (a) above shall be selected by agreement between the two Governments from amongst the nationals of Japan who hold or have held high judicial office.

(c) Any decision taken by the arbitrator shall be binding and conclusive upon the Parties.

(d) The amount of any compensation awarded by the arbitrator shall be distributed in accordance with the provisions of paragraph 5 (e) (i), (ii) and (iii) of this Article.

(e) The compensation of the arbitrator shall be fixed by agreement between the two Governments and shall, together with the necessary expenses incidental to the performance of his duties, be defrayed in equal proportions by them.

(f) Nevertheless, each Party waives its claim in any such case up to the amount of 1,400 United States dollars or 504,000 yen. In the case of considerable variation in the rate of exchange between these currencies the two Governments shall agree on the appropriate adjustments of these amounts.

3. For the purposes of paragraphs 1 and 2 of this Article the expression "owned by a Party" in the case of a vessel includes a vessel on bare boat charter to that Party or requisitioned by it on bare boat terms or seized by it in prize (except to the extent that the risk of loss or liability is borne by some person other than such Party).

4. Each Party waives all its claims against the other Party for injury or death suffered by any member of its defense services while such member was engaged in the performance of his official duties.

5. Claims (other than contractual claims and those to which paragraphs 6 or 7 of this Article apply) arising out of acts or omissions of members or employees of the United States armed forces done in the performance of official duty, or out of any other act, omission or occurrence for which the United States armed forces are legally responsible, and causing damage in Japan to third parties, other than the Government of Japan, shall be dealt with by Japan in accordance with the following provisions :

(a) Claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of Japan with respect to claims arising from the activities of its Self-Defense Forces.

(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 upon the Parties.

(d) Every claim paid by Japan shall be communicated to the appropriate United States authorities together with full particulars and a proposed distribution in conformity with subparagraphs (e) (i) and (ii) below. In default of a reply within two months, the proposed distribution shall be regarded as accepted.

(e) The cost incurred in satisfying claims pursuant to the preceding subparagraphs and paragraph 2 of this Article shall be distributed between the Parties as follows :

- (i) Where the United States alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 25 percent chargeable to Japan and 75 percent chargeable to the United States.
- (ii) Where Japan and the United States are responsible for the damage, the amount awarded or adjudged shall be distributed equally between them. Where the damage was caused by the defense services of Japan or the United States and it is not possible to attribute it specifically to one or both of those defense services, the amount awarded or adjudged shall be distributed equally between Japan and the United States.
- (iii) Every half-year, a statement of the sums paid by Japan in the course of the half-yearly period in respect of every case regarding which the proposed distribution on a percentage basis has been accepted, shall be sent to the appropriate United States authorities, together with a request for reimbursement. Such reimbursement shall be made, in yen, within the shortest possible time.

(f) Members or employees of the United States armed forces, excluding those employees who have only Japanese nationality, shall not be subject to any proceedings for the enforcement of any judgment given against them in Japan in a matter arising from the performance of their official duties.

(g) Except in so far as subparagraph (e) of this paragraph applies to claims covered by paragraph 2 of this Article, the provisions of this paragraph shall not apply to any claim arising out of or in connection with the navigation or operation of a ship or the loading, carriage, or discharge of a cargo, other than claims for death or personal injury to which paragraph 4 of this Article does not apply.

6. Claims against members or employees of the United States armed forces (except employees who are nationals of or ordinarily resident in Japan) 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 authorities of Japan 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 appropriate 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 authorities of Japan of their decision and of the sum paid.
- (d) Nothing in this paragraph shall affect the jurisdiction of the courts of Japan to entertain an action against a member or an employee of the United States armed forces unless and until there has been payment in full satisfaction of the claim.

7. Claims arising out of the unauthorized use of any vehicle of the United States armed forces shall be dealt with in accordance with paragraph 6 of this Article, except in so far as the United States armed forces are legally responsible.

8. If a dispute arises as to whether a tortious act or omission of a member or an employee of the United States armed forces was done in the performance of official duty or as to whether the use of any vehicle of the United States armed forces was unauthorized, the question shall be submitted to an arbitrator appointed in accordance with paragraph 2 (b) of this Article, whose decision on this point shall be final and conclusive.

9. (a) The United States shall not claim immunity from the jurisdiction of the courts of Japan for members or employees of the United States armed forces in respect of the civil jurisdiction of the courts of Japan except to the extent provided in paragraph 5 (f) of this Article.

(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 authorities of Japan and the United States shall cooperate in the procurement of evidence for a fair hearing and disposal of claims under this Article.

10. 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.

11. The term "defense services" used in this Article is understood to mean for Japan its Self-Defense Forces and for the United States its armed forces.

12. Paragraphs 2 and 5 of this Article shall apply only to claims arising incident to non-combat activities.

13. The provisions of this Article shall not apply to any claims which arose before the entry into force of this Agreement. Such claims shall be dealt with by the provisions of Article XVIII of the Administrative Agreement under Article III of the Security Treaty between Japan and the United States of America.

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 Government of Japan.

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 Government of the United States 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 Government of Japan 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 Government of Japan 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 may 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 transaction 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 may 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 may enroll and train eligible United States citizens residing in Japan, who apply for such enrollment, in the reserve organizations of the armed forces of the United States.

Article XXIII

Japan and the United States 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 Government of Japan 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

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 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 and 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.

3. It is agreed that arrangements will be effected between the Governments of Japan and the United States for accounting applicable to financial transactions arising out of this Agreement.

Article XXV

1. A Joint Committee shall be established as the means for consultation between the Government of Japan and the Government of the United States 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 of the Treaty of Mutual Cooperation and Security.

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

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 XXVI

1. This Agreement shall be approved by Japan and the United States in accordance with their legal procedures, and notes indicating such approval shall be exchanged.

2. After the procedure set forth in the preceding paragraph has been followed, this Agreement will enter into force on the date of coming into force of the Treaty of Mutual Cooperation and Security, at which time the Administrative Agreement

under Article III of the Security Treaty between Japan and the United States of America, signed at Tokyo on February 28, 1952, as amended, shall expire.

3. The Government of 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 XXVII

Either Government 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 XXVIII

This Agreement, and agreed revisions thereof, shall remain in force while the Treaty of Mutual Cooperation and Security remains in force unless earlier terminated by agreement between the two Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Agreement.

DONE at Washington, in duplicate, in the Japanese and English languages, both texts equally authentic, this 19th day of January, 1960.

For Japan :

Nobusuke KISHI
Aiichiro FUJIYAMA
Mitsujiro ISHII
Tadashi ADACHI
Koichiro ASAKAI

For the United States of America :

Christian A. HERTER
Douglas MACARTHUR 2nd
J. Graham PARSONS

AGREED MINUTES TO THE AGREEMENT UNDER ARTICLE VI OF THE
TREATY OF MUTUAL COOPERATION AND SECURITY¹ BETWEEN
JAPAN AND THE UNITED STATES OF AMERICA, REGARDING FACIL-
ITIES AND AREAS AND THE STATUS OF UNITED STATES ARMED
FORCES IN JAPAN²

The Plenipotentiaries of Japan and the United States of America wish to record the following understanding which they have reached during the negotiations for the Agreement under Article VI of the Treaty of Mutual Cooperation and Security¹ between Japan and the United States of America, Regarding Facilities and Areas and the Status of United States Armed Forces in Japan, signed today :²

Article III

The measures that may be taken by the United States under paragraph 1 shall, to the extent necessary to accomplish the purposes of this Agreement, include, *inter alia*, the following :

1. To construct (including dredging and filling), operate, maintain, utilize, occupy, garrison and control the facilities and areas ;
2. To remove buildings or structures, make alterations, attach fixtures, or erect additions thereto and to construct any additional buildings or structures together with auxiliary facilities ;
3. To improve and deepen the harbors, channels, entrances and anchorages, and to construct or maintain necessary roads and bridges affording access to such facilities and areas ;
4. To control (including measures to prohibit) in so far as may be required by military necessity for the efficient operation and safety of the facilities and areas, anchorages, moorings, landings, takeoffs and operation of ships and water-borne craft, aircraft and other vehicles on water, in the air or on land comprising, or in the vicinity of, the facilities and areas ;
5. To construct on rights of way utilized by the United States such wire and radio communications facilities, including submarine and subterranean cables, pipe lines and spur tracks from railroads, as may be required for military purposes ; and
6. To construct, install, maintain and employ in any facility or area any type of installation, weapon, substance, device, vessel or vehicle on or under the ground, in the air or on or under the water that may be requisite or appropriate, including meteorological systems, aerial and water navigation lights, radio and radar apparatus and electronic devices.

¹ See p. 179 of this volume.

² See p. 248 of this volume.

Article V

1. "United States and foreign vessels... operated by, for, or under the control of the United States for official purposes" mean United States public vessels and chartered vessels (bare boat charter, voyage charter and time charter). Space charter is not included. Commercial cargo and private passengers are carried by them only in exceptional cases.

2. The Japanese ports mentioned herein will ordinarily mean "open ports".

3. The exemption from making "appropriate notification" will be applicable only to exceptional cases where such is required for security of the United States armed forces or similar reasons.

4. The laws and regulations of Japan will be applicable except as specifically provided otherwise in this Article.

Article VII

The problem of telecommunications rates applicable to the United States armed forces will continue to be studied in the light of, *inter alia*, the statements concerning Article VII recorded in the official minutes of the Tenth Joint Meeting for the Negotiation of the Administrative Agreement signed on February 28, 1952,¹ which are hereby incorporated by reference.

Article IX

The Government of Japan will be notified at regular intervals, in accordance with procedures to be agreed between the two Governments, of numbers and categories of persons entering and departing.

Article XI

1. The quantity of goods imported under paragraph 2 by the organizations provided for in Article XV for the use of the members of the United States armed forces, the civilian component, and their dependents shall be limited to the extent reasonably required for such use.

2. Paragraph 3 (a) does not require concurrent shipment of goods with travel of owner nor does it require single loading or shipment.

3. The term "military cargo" as used in paragraph 5 (c) is not confined to arms and equipment but refers to all cargo shipped to the United States armed forces on a United States Government bill of lading, the term "military cargo" being used to distinguish cargo shipped to the United States armed forces from cargo shipped to other agencies of the United States Government.

4. The United States armed forces will take every practicable measure to ensure that goods will not be imported into Japan by or for the members of the United

¹ United Nations, *Treaty Series*, Vol. 208, p. 255 ; Vol. 268, p. 360 ; Vol. 273, p. 265 ; Vol. 290, p. 316 ; Vol. 336, p. 351 ; Vol. 344, p. 332, and Vol. 368.

States armed forces, the civilian component, or their dependents, the entry of which would be in violation of Japanese customs laws and regulations. The United States armed forces will promptly notify the Japanese customs authorities whenever the entry of such goods is discovered.

5. The Japanese customs authorities may, if they consider that there has been an abuse or infringement in connection with the entry of goods under Article XI, take up the matter with the appropriate authorities of the United States armed forces.

6. The words "The United States armed forces shall render all assistance within their power etc." in paragraph 9 (*b*) and (*c*) refer to reasonable and practicable measures by the United States armed forces.

Article XII

1. The United States armed forces will furnish the Japanese authorities with appropriate information as far in advance as practicable on anticipated major changes in their procurement program in Japan.

2. The problem of a satisfactory settlement of difficulties with respect to procurement contracts arising out of differences between Japanese and United States economic laws and business practices will be studied by the Joint Committee or other appropriate persons.

3. The procedures for securing exemptions from taxation on purchases of goods for ultimate use by the United States armed forces will be as follows :

a. Upon appropriate certification by the United States armed forces that materials, supplies and equipment consigned to or destined for such forces, are to be used, or wholly or partially used up, under the supervision of such forces, exclusively in the execution of contracts for the construction, maintenance or operation of the facilities and areas referred to in Article II or for the support of the forces therein, or are ultimately to be incorporated into articles or facilities used by such forces, an authorized representative of such forces shall take delivery of such materials, supplies and equipment directly from manufacturers thereof. In such circumstances the collection of commodity and gasoline taxes shall be held in abeyance.

b. The receipt of such materials, supplies and equipment in the facilities and areas shall be confirmed by an authorized officer of the United States armed forces to the Japanese authorities.

c. Collection of commodity and gasoline taxes shall be held in abeyance until

(1) The United States armed forces confirm and certify the quantity or degree of consumption of the above referred to materials, supplies and equipment, or

(2) The United States armed forces confirm and certify the amount of the above referred to materials, supplies, and equipment which have been incorporated into articles or facilities used by United States armed forces.

d. Materials, supplies, and equipment certified under *c* (1) or (2) shall be exempt from commodity and gasoline taxes in so far as the price thereof is paid out of United States Government appropriations or out of funds contributed by the Japanese Government for disbursement by the United States.

4. The Government of the United States shall ensure that the Government of Japan is reimbursed for costs incurred under relevant contracts between appropriate authorities of the Government of Japan and the organizations provided for in Article XV in connection with the employment of workers to be provided for such organizations.

5. It is understood that the term "the legislation of Japan" mentioned in paragraph 5, Article XII includes decisions of the courts and the Labor Relations Commissions of Japan, subject to the provisions of paragraph 6, Article XII.

6. It is understood that the provisions of Article XII, paragraph 6 shall apply only to discharges for security reasons including disturbing the maintenance of military discipline within the facilities and areas used by the United States armed forces.

7. It is understood that the organizations referred to in Article XV will be subject to the procedures of paragraph 6 on the basis of mutual agreement between the appropriate authorities.

Article XIII

With respect to Article XIII, paragraph 2 and Article XIV, paragraph 7, income payable in Japan as a result of service with or employment by the United States armed forces or by the organizations provided for in Article XV, or under contract made in the United States with the United States Government, shall not be treated or considered as income derived from Japanese sources.

Article XV

The facilities referred to in paragraph 1 may be used by other officers and personnel of the United States Government ordinarily accorded such privileges abroad.

Article XVII

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

The scope of persons subject to the military laws 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 :

Dual nationals, Japanese and United States, 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.

Article XIX

Payment in Japan by the United States armed forces and by those organizations provided in Article XV to persons other than members of the United States armed forces, civilian component, their dependents and those persons referred to in Article XIV shall be effected in accordance with the Japanese Foreign Exchange Control Law and regulations. In these transactions the basic rate of exchange shall be used.

Article XXI

United States military post offices may be used by other officers and personnel of the United States Government ordinarily accorded such privileges abroad.

Article XXIV

It is understood that nothing in this Agreement shall prevent the United States from utilizing, for the defrayment of expenses which are to be borne by the United States under this Agreement, dollar or yen funds lawfully acquired by the United States.

Washington, January 19, 1960

N. K.

C. A. H.

EXCHANGE OF NOTES

I

January 19, 1960

Excellency :

I have the honor to refer to paragraph 6 (*d*) of Article XII of the Agreement under Article VI of the Treaty of Mutual Cooperation and Security¹ between the United States of America and Japan, Regarding Facilities and Areas and the Status of United States Armed Forces in Japan, signed today.² The second sentence of the said paragraph provides that "in such case the Government of the United States shall pay to the Government of Japan an amount equal to the cost of employment of the worker for a period of time to be agreed between the two Governments."

I wish to propose on behalf of the Government of the United States that the period of time mentioned above shall not exceed one year after the notification provided for in paragraph 6 (*b*) of Article XII of the above-cited Agreement, and may be determined in the consultations under paragraph 6 (*c*) of Article XII above on the basis of mutually agreeable criteria.

If the proposal made herein is acceptable to the Government of Japan, this Note and Your Excellency's reply to that effect shall be considered as constituting an agreement between the two Governments.

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

Christian A. HERTER

Secretary of State of the United States of America

His Excellency Nobusuke Kishi
Prime Minister of Japan

¹ See p. 179 of this volume.

² See p. 248 of this volume.

II

Washington, January 19, 1960

Excellency :

I have the honour to acknowledge the receipt of Your Excellency's Note of today's date, which reads as follows :

[See note I]

I have the honour to inform Your Excellency that the Government of Japan accepts the above proposal of the Government of the United States, and to confirm that your Note and this reply are considered as constituting an agreement between the two Governments.

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

Nobusuke KISHI

His Excellency Christian A. Herter
Secretary of State of the United States of America