

Appendix (7)

TO : GENERAL HEADQUARTERS OF THE SUPREME COMMANDER FOR THE ALLIED POWERS.
FROM : Central Liaison Office, Tokyo.
SUBJECT : Compensation for Damage Caused by Allied Military Personnel.
C.L.O. No. 2803 (PJ) 15 April 1947

1. Reference : SCAP Memorandum AG 150 (11 SEP 46) GS (SCAPIN--1195.) subject as above.
2. The damages and injuries to Japanese nationals and property caused by the occupation forces or members thereof are not compensated, as stipulated in the reference Memorandum.
3. Meanwhile the Japanese Government continues to receive reports of such cases which may be classified as follows:
 - a. Such acts of members of the occupation forces as are under the provisions of Article 93 of the present American Articles of War.
 - b. Accidental fires or explosions imputable to the occupation forces or members thereof.
 - c. Physical or material injuries by traffic accidents caused by vehicles belonging to the occupation forces or members thereof.
4. The Japanese Government grants in certain circumstances solatia, not exceeding the amount of ¥1,000 each, to such sufferers as mentioned above, although the granting of solatia is not made by way of legal remedies. On the other hand, as the occupation is prolonged, there naturally develops certain relationship between members of the occupation forces and the inhabitants in the occupied areas. As a matter of fact, the Japanese Government receives reports of women wanting to have their children acknowledged, or to have their claims for the cost of sustenance recognized by members of the occupation forces. Under the prevailing circumstances, it is feared that the number of such cases tends to increase, the adjustment of which is difficult unless procedure is provided for affording legal remedies.
5. With respect to the reference Memorandum, the Japanese Government wishes to present its legal view in the Annex hereto. However, if the Japanese Government is finally to assume the financial responsibility for

payment of the compensation to Japanese victims, it is highly desirable to have the responsibility and the extent of damages and injuries in each case clarified without delay in order to assure the sufferers a fair remedy.

6. For this reason, the Japanese Government request that the General Headquarters, Supreme Commander for the Allied Powers be good enough to take such measures as may be deemed necessary in order to facilitate the clarification of responsibility and the extent of damages and injuries for each of such cases and enable the victims to obtain a fair and just remedy.

FOR THE PRESIDENT:

K. ASAKAI
Director of General Affairs,
Central Liaison Office.

Enclosure: The Japanese Government's Legal View as indicated in paragraph 5, above.

ANNEX

1. It is an established principle of international law that a State should bear wide responsibility for acts of members of its military and naval forces. No exception is made even of acts committed by military occupation forces. (Art. 3 of the Hague Convention of 1907, "Regarding the Laws and Customs of Land Warfare" and Art. 43 of the Rules annexed to the said Convention).

2. Moreover, under Article 23 of the Rules regarding the Laws and Customs of Land Warfare, annexed to the same Hague Convention, 1907, it is recognized that the inhabitants of an occupied territory may even as individuals present to the occupation authorities demands for redress in respect to the acts of the occupation forces or of the members thereof.

General George Davis, U.S. plenipotentiary to the Second Peace Conference at the Hague, has the following to say on the above Article of the Convention. (General G. Davis: "Elements of International Law", Fourth Edition.):

"In this article a number of acts are described to which neither belligerent is permitted to resort in the conduct of his military operations.....It is more than probable that this humane and commendable purpose would fail of accomplishment if military commander conceived it to be within his authority to suspend or nullify their operation, or to regard their application, in certain cases as a matter falling within his administrative discretion. Especially is this true where a military officer refuses to receive well-grounded complaints or declines to receive demands for redress, in respect to the acts or conducts of the troops under his command, from persons subject to the jurisdiction of the enemy who finds themselves, for the time being, in the territory which he holds in military occupation. To provide against such a contingency it was deemed wise to add an appropriate declaratory clause to the prohibition of Article 23."

3. The Allied occupation of Japanese territory is obviously a kind of military occupation. But the fact cannot be denied that there are developing what may be called "quasi-peace-time" relationships between members of occupation forces and inhabitants in the occupied areas as the occupation is prolonged.

Precedents are not lacking, in which the military occupation authorities sought to adjust legal questions arising from such a special situation and did not flatly reject the demand of inhabitants in the territories under occupation. (Ref. Article 6 of the Agreements on the Military Occupation on Rheinland at the time of World War I.)

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**JAPANESE NATIONALS IN
DETACHED TERRITORIES
AND THE PEOPLES OF
THOSE TERRITORIES
RESIDING IN JAPAN**

FOREIGN OFFICE
JAPANESE GOVERNMENT

FEBRUARY 1948

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I. INTRODUCTION.

According to the Potsdam Declaration, Japan, with her sovereignty limited to Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as the Allied Powers may determine, is to be stripped of all other territories. As a matter of fact, these territories have already been completely detached from Japanese administration or control. The mode of their ultimate disposition is a matter to be decided by the peace treaty.

Meanwhile, with respect to certain of these detached territories the Japanese government is confronted with problems concerning the Japanese nationals still remaining therein—Korea, Formosa, the Kwantung Leased Territory, Saghalien and the Kurile Islands; and also concerning the peoples thereof—Formosa and Korea—who are residing in Japan.

Here the question of Japanese prisoners of war is left out of consideration. The Potsdam Declaration stipulates that the Japanese military forces "shall be permitted to return to their homes with the opportunity to lead peaceful and productive lives". But the said Declaration makes no mention of the overseas Japanese nationals in general. The attitude of the Allied Headquarters in Tokyo has been indicated in a statement of Ambassador Atcheson who said: "The repatriation of Japanese civilians on a broad scale from various overseas areas was undertaken purely for humanitarian reasons, as no obligation to do so rests upon the Supreme Commander" (Note 1).

It is estimated that when the hostilities ended in August 1945 there were altogether 1,560,000 Japanese civilians in the above-mentioned territories. The circumstances that attended Japan's surrender in these areas were such that there was practically no alternative for Japanese residents but to return to Japan as quickly as possible. Thanks to the assistance and facilities provided by the Allied authorities, a great majority of them have been shipped back

Note 1. Statement dated September 6, 1946 made by Ambassador Atcheson, Director of the SCAP Diplomatic Section.

to the home islands. But there remain still not a few in Korea and Formosa, and many in the areas under Russian occupation namely the Kwantung Leased Territory, the Kuriles, and especially Saghalien. No official confirmation is available as to their exact numbers and whereabouts. There exists but limited means of communication. A deep anxiety is felt by the people of Japan concerning the plight of their relatives and compatriots who are living presumably under difficult conditions. Will they be ever permitted to return? What manner of treatment will be given those who chose to remain after the conclusion of peace? These are the prime question.

On the other hand, there were in Japan proper at the end of hostilities some 1,560,000 Koreans and 30,000 Formosans, who had lived under Japanese law as Japanese territorials. Over one-third of these respective peoples still reside in Japan, and their *de facto* altered status has caused no end of trouble, involving difficult and delicate problems.

These problems concerning the present conditions and the future status of the Japanese nationals in the detached territories on the one hand, and of the former territorials in Japan on the other, require solutions satisfactory all around, which will be essential for the establishment of harmonious international relations in this quarter of the globe. A few pertinent facts are presented below under the head of each territory in the hope that they may be of aid for a realistic consideration and solution of the problems.

II. KOREA.

(1) Japanese Residents.

(A) Korea became Japanese territory in accordance with the Treaty of Annexation of 1910, and was placed under the Government General of Chosen.

It may be recalled that in 1905 Great Britain under the terms of the Anglo-Japanese Treaty of Alliance recognized Japan's paramount political, military and economic interests in Korea and gave her practically a free hand there for advancing those interests, while Russia did likewise by the Portsmouth Treaty of Peace, of which Article II was almost a literal reiteration of the Anglo-Japanese Treaty provision.

Again, in the same year when Japan took over the diplomatic power of Korea, President Theodore Roosevelt promptly endorsed the Japanese move by withdrawing the U.S. Minister from Seoul ahead of any other nation. Britain was next to fall in line.

It may be further recalled that no third Power raised any objection when Japan annexed Korea in 1910, the more recent world opinion notwithstanding.

In the years after the annexation the number of Japanese residents in Korea grew rapidly from 171,000 in 1910 to 752,000 in 1940, which constituted 2.8 per cent of the entire population of Korea.

The following statistical figures indicate these facts about the Japanese population.

- (a) The Japanese increased steadily at an even pace which, it may be noted, was not accelerated to any degree by the outbreak of either the Manchurian Incident (1931) or the China Affair (1937).
- (b) The proportion of the numbers between the male and the female was fairly balanced.
- (c) They were distributed over a wide range of occupations.

Japanese Population in Korea.

Year	Total number	Year	Total number
1910	171,543	1931	514,666
1914	291,217	1934	561,384
1918	336,872	1936	608,989
1922	386,493	1939	650,104
1926	442,326	1942	752,823
1930	501,867	1944	708,448

Classified according to Sex.

Year	Male	Female
1922	204,883	181,610
1935	299,760	283,688

Classified according to Occupation. (1940)

Farming	29,216
Marine product industry	9,093
Mining	23,265
Manufacturing industry	141,063
Commerce	136,801

Communications	53,874
Public service and liberal professions	297,236
Other occupations	32,651
Without occupation	29,661
Total	752,860

(From Annual Report of the Government General of Chosen, 1943.)

Obviously, these Japanese were neither roving adventures nor fortune-hunters, but *bona-fide* settlers, who permanently established themselves in Korea as their new home. In fact, it was they who played a major role in the notable economic development of the peninsula during the decades of Japanese rule.

(B) The Japanese residents sent back under Allied auspices totalled, as at the end of 1947, 658, 665. This figure does not include those who managed to return by using their own means. Repatriation was carried out swiftly without consulting the wishes of the individuals although most of them were, as stated above, only too glad to get out of Korea.

At the time of their departure the repatriates were allowed to take with them each 1,000 yen in cash and small parcels they could carry on their own persons and their bank deposits were also taken. They were obliged to leave all other chattels for which they received no receipt.

They had to face indescribable difficulties on landing in Japan, where they found themselves without home, without employment and without funds. On July 15, 1947 it was announced by the U.S. Military Government in Korea to the effect that former Japanese business holdings and residences would be sold to Koreans and the proceeds of the sales "held in trust" so as to be handed over to a *de jure* government of Korea to be established in future (Note 2).

(C) Some Japanese residents have been compulsorily retained in order to meet local requirements as technical personnel or others, their number at the end of 1947 being 506 in North Korea and 0 in South Korea. It is not known whether these residents would desire to remain there permanently after the conclusion of peace, and how the future Korean Government would treat them. It is presumed, however, that an arrangement

Note 2. Report from Seoul, Korea of International News Service dated July 15, 1947.

(4)

will be made in accordance with such international usage as is embodied in the Italian Peace Treaty (Note 3).

(2) Korean residents in Japan.

(A) The number of the Korean residents before the annexation was negligible. But after the end of World War I, the problem of Korean residents here became acute, as their number increased suddenly by reason of the post-war boom.

The following will show how the Korean residents in Japan have increased in number since the annexation:

Year	Population
1914	3,542
1919	26,065
1924	118,152
1929	275,206
1934	516,795
1939	932,502
1944	1,901,306

(Statistics by Home Ministry.)

Hereunder is given the statistics concerning the Korean population in Japan in 1941 classified by occupation:

Note 3.

Article 19 of Treaty of Peace with Italy.

1. Italian citizens who were domiciled on June 10, 1940, in territory transferred by Italy to another State under the present Treaty, and their children born after that date, shall, except as provided in the following paragraph, become citizens with full civil and political rights of the State to which the territory is transferred, in accordance with legislation to that effect to be introduced by that State within three months from the coming into force of the present Treaty. Upon becoming citizens of the State concerned they shall lose their Italian citizenship.
2. The Government of the State to which the territory is transferred shall, by appropriate legislation within three months from the coming into force of the present Treaty, provide that all persons referred to in paragraph 1 over the age of eighteen years (or married persons whether under or over that age) whose customary language is Italian, shall be entitled to opt for Italian citizenship within a period of one year from the coming into force of the present Treaty. Any person so opting shall retain Italian citizenship and shall not be considered to have acquired the citizenship of the State to which the territory is transferred. The option of the husband shall not constitute an option on the part of the wife. Option on the part of the father, or, if the father is not alive, on the part of the mother, shall, however, automatically include all unmarried children under the age of eighteen years.

(5)

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Intellectual professions	5,116
Commerce	60,430
Farming	8,876
Fishery	604
Mining	94,320
Manufacturing industry	208,338
Public works & building industry	220,969
Communications, traffic & transport	15,753
Stevedores	26,982
Domestic servants	32,830
Other types of laborers	66,084
Public entertainers	4,751
Other occupations	31,630
Others	692,546
Total	1,469,229

(In the Item "Others" are included students, public school children, prisoners, and hangers-on upon householders).

(B) The Korean residents in Japan in August 1945 numbered more than 1,500,000. Upon taking counsel with the Allied Headquarters, it was announced that those who desired to return to their homeland would be provided passage. Immediately there was such a rush of applicants for passage that it was necessary to arrange a schedule for their transportation by rail and ship.

Meanwhile in February 1946 a SCAP Directive was issued to the effect that the Koreans, "who furnished adequate proof of their intention to return to their homeland" were to be given a special judicial status, all court decisions upon their cases being subject to a G.H.Q. review (Note 4).

But as from April 1947 this privilege was withdrawn from the Koreans who still continued to live in Japan, these being considered by the G.H.Q. as not desiring to go home in the immediate future. And there were as many as 542,000 such Koreans. Moreover, there were others, including those once repatriated, who had smuggled themselves into this country.

Note 4. The relevant directives are given in the G.H.Q. Memorandum of 19 February 1946, concerning "Review of Sentences Imposed upon Koreans and Certain Other Nationals", in the Memorandum of 17 February, idem, concerning "Registration of Koreans, Chinese, Ryukyans and Formosans", and in the statement issued by the General Headquarters on the 20th. November, 1946, to the effect.

(6)

Their number at present, though unascertainable, is presumed to be very large in view of the fact that 20,182 of them had been arrested for illegal entry and sent back to Korea prior to September 1947.

It should be noted that the Korean community in Japan embraces certain undesirable elements with criminals proclivities, their malfeasance ranging from mob-violence and extortion to petty thieving and fraud. This tendency was especially marked during those months when they enjoyed a special judicial treatment mentioned above. Again, many Koreans belong politically to the extremist camp and are apt to engage in subversive activities in concert with Japanese extremist organizations.

(C) The questions are yet to be decided whether or not, on the conclusion of the peace treaty, Koreans will have their right of opting for nationality recognized following the examples of the Versailles Treaty and the Italian Peace Treaty (Note 5). In case option is approved the Japanese government would like to see that as many as possible of those Koreans opting for Korean nationality are required to return to their country.

On the other hand, with regard to the treatment of those Koreans who adopt Japanese nationality and remain in this country, Japan is prepared, of course, to afford them every protection to extend a fair and just treatment in accordance with the letter and spirit of the new Constitution.

III. FORMOSA.

(1) Japanese Residents.

(A) Japan took possession of Formosa in 1895 by the Sino-Japanese

Note 5. (a) Article 85 of Treaty of Peace between the Allied and Associated Powers and Germany, 1919.

.....Czecho-Slovaks who are German nationals and are habitually resident in Germany will have a similar right to opt for Czecho-Slovak nationality.....Persons who have exercised the above right to opt must within the succeeding twelve months transfer their place of residence to the State for which they have opted.

(b) Article 20 of Treaty of Peace with Italy.

1. Within a period of one year from the coming into force of the present Treaty, Italian citizens over 18 years of age (or married persons whether under or over that age), whose customary language is one of the Yugoslav languages (Serb, Croat or Slovene), and who are domiciled on Italian territory may, upon filing a request with a Yugoslav diplomatic or consular representative in Italy, acquire Yugoslav nationality if the Yugoslav authorities accept their request.

3. The Italian Government may require such persons to transfer their residence to Yugoslavia within a period of one year from the date of such official communication.

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Treaty of Peace. The subsequent increase of Japanese population there is as follows:—

Year	Population	Male	Female
1897	16,321 (Koreans included)	12,662	3,659
1905	59,618 (")	35,923	23,695
1910	98,048 (")	58,580	39,468
1915	137,229 (")	76,797	60,432
1919	153,330	83,968	69,362
1924	183,317	101,080	82,237
1928	211,202	113,660	97,542
1930	229,179	125,184	103,995
1933	256,327	135,836	120,491
1938	310,777	163,137	147,640
1940	346,663	180,472	166,191

The total population of Formosa in 1940 was 5,872,084, and the Japanese constituted about 6%.

Because of the return of Japanese residents to home islands following the outbreak of the Pacific War, the number of population decreased steadily after 1940.

As in the case of Korea, Japanese nationals were *bona fide* settlers who played a leading role in the social and economic development of the island.

Their vocational classification in 1930 is as follows:—

Farming	4,455
Fishery	1,657
Mining	418
Manufacturing industry	14,835
Commerce	18,523
Communications	9,255
Public service and liberal professions	37,639
Domestic servants	1,560
Other occupations	2,924
Without occupations	137,913
Total	229,179

(Census made on Oct. 1st 1930)

(8)

(B) The Japanese residents in Formosa, like those in Korea, were obliged to evacuate the island on the termination of the hostilities, and the number of civilian repatriates had reached 311,271 by the end of 1947. They were permitted to bring back with them extremely limited quantities of personal effects and currency, but compelled to abandon all other chattels in exchange for the lists handed in acknowledgement of the receipt of those chattels, and their bank deposits were also taken in exchange for receipts in writing.

The Japanese detained in the island as indispensable technicians numbered 526 at the end of 1947.

(2) Formosan Residents in Japan.

(A) The increase in number of the Formosan population in Japan after Japanese possession of the island may be indicated in the following table.

Year	Total	Male	Female
1920	1,703	1,424	279
1930	4,611	3,648	963
1940	22,499		

The number of Formosans in August 1945 was estimated at 34,000, but those who wished to go back have been repatriated, as in the case of Koreans, while those continuing to live in Japan numbered 13,121 in April 1947.

(B) The Chinese Government prescribed in October 1945 that all Formosans living abroad, including those in Japan, should recover their Chinese nationality as from the 25th of the month and the Chinese Mission in Japan is now actually issuing Registration Certificates for Formosans as well as Chinese nationals. The number of such certificates issued has already amounted to more than 30,000. At present the Osaka Branch of the said Mission is issuing "temporary" Registration Certificates with the same effect as the formal Certificates issued by the Tokyo Headquarters.

The attitude adopted by the SCAP Headquarters toward this problem has evolved as follows:

At first all Formosans were termed non-Japanese, and the G.H.Q. Memorandum of 30 July 1946 did not include them in the category of the Chinese nationals. Later, however, in the Memorandum of 25 February 1947, it was directed that the Formosans who had Registration Certificates issued by the Chinese Mission should be excluded from the Japanese criminal jurisdiction.

(9)

Not only are they to enjoy special rations of food on the same terms as Allied Nationals, but they are also exempted, like Allied nationals, from the obligation of paying capital tax. So far as other taxes are concerned, they are liable to pay them, but their manner of meeting this obligation has been unsatisfactory.

(C) Whether or not, by the conclusion of the peace treaty, the Formosans' application for the issue of Chinese nationality certificates, as mentioned before, will be regarded as at once constituting the act of exercising of their right to opt the Chinese nationality, what will be the position of those Formosans who have not made such application; and whether or not Japan may require the repatriation of those who have chosen Chinese nationality are question of future although the Formosans in Japan today, less in number than the Koreans, present many equally delicate problems.

IV. KWANGTUNG LEASED TERRITORY.

(1) Japan leased the Kwangtung Territory under the terms of the Sino-Japanese "Treaty concerning Manchuria" which was concluded on December 22, 1905 following the Portsmouth Treaty of 1905 between Japan and Russia.

The increase in number of Japanese residents there who were also *bona fide* settlers as in the case of those in Korea and Formosa, is as follows:

Year	Total	Male	Female
1905	5,025	3,193	1,832
1913	47,354	25,880	21,474
1923	86,300	45,769	40,531
1928	101,744	52,440	49,304
1933	139,016	72,424	66,592
1938	180,689	95,185	85,504
1943	229,465	120,220	109,245

The vocational classification of Japanese residents in Dairen in 1937 was as follows:—

Farming	382
Fishery	711
Mining	557
Manufacturing industry	32,106
Commerce	29,648
Communications	28,574

(10)

Public service and liberal professions	26,794
Domestic servants	2,604
Other occupations	7,129
Without occupations	5,824
Total	134,329

(The History of Dairen published by Dairen City)

(2) The number of the Japanese civilians repatriated from Kwangtung by the end of 1947 is estimated to be 103,000. The steps taken concerning their assets there at the time of their departure were the same as in the case of Korea. At present about 3,000 Japanese are still compelled to remain and work as indispensable technicians.

V. SAGHALIEN AND THE KURILE ISLANDS.

(1) Saghalien

(A) The southern half of Saghalien was turned over to Japan by Russia in accordance with the terms of the Portsmouth Treaty of 1905. Historically, however, as early as in the 17th century the Matsumaye clan, a feudal lord of Hokkaido, had undertaken the development of Saghalien, and later in the first half of the 19th century the Shogunate placed the island under its direct control. The exact size of the Japanese population there in those days is not known, but the immigration of "samurai" families was encouraged by the Shogunate, and as many as 58 fishing grounds were established by Japanese, from as far north as the Taraika Gulf and down along the east and west coasts and the shore of Aniwa Bay. In the early part of the 19th century Russia commenced the exploitation of Saghalien, backed by her force of arms, with the result that the Japanese influence there was gradually reduced. Russia's control of Saghalien in those days, however, meant little more than an armed occupation of strategic points. After a series of negotiations on boundary demarcation, the Saghalien and Kuriles Exchange Treaty was signed in 1875, and Japan was made to abandon Saghalien in exchange for the northern Kuriles (Note 6).

(B) - On Japan's possession of Southern Saghalien, the economic development of that area made a marked progress within the short period of forty odd years, attended with a rapid increase in the number of Japanese settlers as follows:—

Note. 6 Japanese Government, Nov. 1946: Minor Islands Adjacent to Japan Proper, Part 1, pp. 6-8.

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Year	Total	Male	Female
1906	12,361	8,042	4,319
1916	66,280	37,240	29,040
1926	203,573	117,269	86,304
1931	287,377	161,767	125,610
1936	321,765	174,635	147,130
1940	414,891	239,835	175,056

Of the population tabulated above, an overwhelming majority was composed of people hailing from the interior of Japan, numbering 386,058, which represented 95% of the total, in 1941, while the remainder consisted of aborigines such as Ainos and Gilyaks, who numbered 1,660 in 1940. The Japanese population (in 1938), when classified according to age, shows an almost perfect pyramidal structure with the generation born on the island as its basis;

Age	Total Number	Age	Total Number
0—4	49,093	55—59	8,429
5—9	44,648	60—64	5,753
10—14	37,796	65—69	3,153
15—19	30,402	70—74	1,840
20—24	26,467	75—79	709
25—29	29,000	80—84	297
30—34	28,578	85—89	88
35—39	25,609	90—94	12
40—44	20,993	95—99	1
45—49	15,305	99—100	1
50—54	11,183		

It may thus be found that the Japanese residents in Saghalien were not mere immigrants in quest of work but settled inhabitants with Saghalien as their homeland. This can be proved also from the fact that their vocational classification embraces diverse branches, as are seen hereunder:

Farming	26,503
Forestry	16,979
Fishery	14,263
Mining	28,121
Manufacturing industry	39,180
Public works	8,802
Commerce	26,234

(12)

Communications	10,923
Intellectual professions	12,624
Domestic servants and others	18,573
Without occupations	212,689
Total	414,891

(Statistics for 1940)

South Saghalien was given a status similar to the home island of Japan. From the juridical point of view, too, Saghalien, unlike the cases of Korea and Formosa, received practically the same treatment as the home prefecture of Japan in regard to legislation and administration of Justice.

(3) Treatment of Japanese in Saghalien and the Kuriles.

(A) A part of these Japanese were subjected to repatriation, and up to the end of 1947 those repatriated are estimated to have been about 262,000 from Saghalien and about 10,000 from the Kuriles, inclusive of refugees.

The treatment of these repatriates as to their property was similar to that in Korea. They were allowed to leave the country with very scanty personal belongings and a small amount of cash, all the rest of the property being confiscated without issuance of any receipts. The Japanese in these Soviet-occupied areas are desirous of repatriation. Nevertheless, repatriation has made a slow progress, the estimated numbers of those still remaining at the end of 1947 at Saghalien and the Kuriles being 114,500 and 7,800 respectively.

Note 7. Japanese Government, Nov. 1946: Minor Islands Adjacent to Japan Proper, Part 1, pp. 5-6.

Note 8. Ditto, p. 10.

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According to some repatriates from Saghalien and the Kuriles, the condition of the Japanese detained in those territories is as follows, though the information brought back by these individuals may not be acceptable for generalization.

The Japanese detainees are employed in coal mines, forestry, paper mills, fishery, agriculture and communications work. Food, shelter, and clothing, and other living conditions are generally poor. Under a strict enforcement of the Labor Law many are subjected to heavy labor. Most of these Japanese are naturally anxious to return to their home country as soon as possible. But the Soviet authorities are reluctant to release them in the absence of the manpower for replacing them, and they are offering inducements for long-term contracts. Japanese, who have entered into such contracts, are treated comparatively well, at least, for the first few months.

(B) It is not clear how these unrepatriated Japanese will be treated after the conclusion of the treaty of peace.

But it should be noted that precedents in this respect are provided by the 1875 Saghalien-Kuriles Exchange Treaty (Article V), and the 1905 Portsmouth Peace Treaty (Article X), under which Japan on the basis of reciprocity allowed the freedom of residence or evacuation of Russians in Saghalien and the Kuriles. The same treaties did not make the continued residence of the Russians in these areas contingent on the option of Japanese nationality. Those in continued residence could live in full enjoyment of life on a basis of national treatment; they had also freedom of the exercise of proprietary rights and freedom of faith (Note 9).

Note 9. (a) Article V of the 1875 Saghalien-Kuriles Exchange Treaty.

It is reserved to the Japanese and Russian subjects, inhabitants of the territories ceded to each other, to retain their nationality and return to their respective countries; however, if they prefer to remain in the ceded territories, they will be maintained and protected in the full exercise of their industry, rights of property and religion, on the same footing as the nationals provided that they obey to the laws and jurisdictions of the countries to which the possession of the respective territories will be ceded. (Translated from the French Original).

(b) Article X of the 1905 Portsmouth Treaty.

It is reserved to the Russian subjects, inhabitants of the territory ceded to Japan, to sell their real property and retire to their country; but, if they prefer to remain in the ceded territory, they will be maintained and protected in the full exercise of their industries and rights of property, on condition of submitting to Japanese laws and jurisdiction. Japan shall have full liberty to withdraw the right of residence in, or to deport from, such territory, any inhabitants who labour under political or administrative disability. She engages, however, that the proprietary rights of such inhabitants shall be fully respected.

POLICE SYSTEM
OF
JAPAN

FOREIGN OFFICE
JAPANESE GOVERNMENT

JUNE 1948

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I. NEW POLICE SYSTEM

In the past, the Japanese police was under a centralized national system, with the Home Minister at the top, the prefectural Governor (the Superintendent-General of Metropolitan Police, in the case of Tokyo) in the middle, and the Chief of Police Station at the bottom.

This national police system under centralized control had something to justify itself, when considered from the viewpoint of ensuring the preservation of peace and order on a national basis. But this system was open to the charge that it functioned more as a tool of the Government than as a servant of the people; and that it tended, under the pretext of maintaining order, to put undue restraints upon the freedoms of thought, speech, assembly, publication and religion.

Under the guidance of the Allied authorities, endeavours were made to complete the reform of Japan's police system, by eradicating all vestiges of feudalism and bureaucracy, which culminated in the enactment of the new police law of Dec. 8, 1947.

The new police system under this law came into being on March 7, 1948, replacing the 75 year old bureaucratic police by a police of the people for the people.

The salient features of the new system which has been realized through the said police law and other legislations are shown below.

1) Decentralization of Police System.

The old unitary system has been divided into a national police (National Rural Police) and a local police (Municipal Police), the latter consisting of 1,610 independent units belonging to local autonomous entities;

National Rural Police

The National Rural Police takes charge of peace preservation in the rural communities outside cities and towns. The country is divided into six Police Regions; and each Region has a Regional Police Headquarters which operates and controls the National Rural Police of the prefectures (*Fu* or *Ken*) within its jurisdiction. It is to be noted that the number of the police officers for National Rural Police is not to exceed 30,000. Again, the local-

state police force formerly under the supervision of the prefectural governor is now put under the direction of the Director of the Regional Headquarters, who is responsible for the maintenance of law and order in the rural communities of the prefecture. The elected prefectural governor has theoretically only the authority to appoint the local Safety Commission of his prefecture. Neither he, nor members of the prefectural assembly will have voice *vis-a-vis* the Director of the Regional Police Headquarters. However, it goes without saying that there is to be maintained close liaison and cooperation between the National Police Headquarters and the prefectural government.

Municipal Police

Municipal police was set up in cities and in towns and villages with a population of 5,000 or more, which are specially recognized as being of a municipal character. There are throughout the country 1,610 such municipal police boards, the Metropolitan Police Board with a force of 27,000 topping the list. Each municipal police board is independent of others, and all boards rank equal. The Regional Police Headquarters has no authority over them.

2) Democratization of Police

In parallel with the above-mentioned Police organization, there has been set up under the jurisdiction of the Prime Minister, the National Public Safety Commission consisting of 5 members, to which Messrs. Yonekichi Kanemasa, Jiro Tsuji, Makoto Ubukata, Saburo Kiyose and Mrs. Tamaki Uemura, were nominated by the Government, and approved by the Diet on March 7, 1948. On the other hand under the jurisdiction of the prefectural governors (*To, Do, Fu* and *Ken*), Public Safety Commissions have been respectively organized and the members appointed, for the control and operation of the National Rural Police of their respective *To, Do, Fu* and *Ken*.

Again in each city, town or village, having a municipal police, there has been established a Municipal Public Safety Commission, which appointed under the new legislation the Chief of its Municipal Police.

3) Delimitation of Police Functions

The police functions are limited to control and prevention of crimes and to traffic control, while various lines of general administration including labor and social insurance affairs have been transferred to other Government

organs, and the political police known as "Special High Police" have been put out of existence.

4) Measures for Emergency

In the past 75 years of Japanese police history, there have occurred situations which police alone could not cope with, and martial law was declared or troops were called out. The new Police Law provides for the declaration of a state of emergency in such cases. This declaration is issued by the Prime Minister upon the advice of the National Public Safety Commission, to be effective over the whole or a part of the country. Once the declaration is issued, all the functions of the local Public Safety Commissions are suspended, and all municipal police boards in the affected area are placed under the direction of the Director-General of the Regional Headquarters. A declaration of a state of emergency must be approved by the Diet within 20 days from the day of its issuance.

II. NUMERICAL STRENGTH

1. The numerical strength of the Japanese police which stood at 93,935 at war's end is being increased to 125,000 as approved by the Supreme Commander. The number of 93,000 odd represents the strength to which the police force had been reduced during the war, and which was continued into the postwar period. With this limited police force, Japan has managed to prevent any disturbance of internal order in the midst of serious social unrest following the surrender. For this achievement due credit must be given to the police personnel who have discharged their duties with competence, willingly submitting to long hours and overwork; but the most potent stabilizing factor has been that the whole country is under Allied military occupation. Since with the eventual withdrawal of the Allied troops, the entire responsibility for the preservation of internal peace and order will rest with the Japanese police, the Government cannot but view with deep concern the future of the Japan's police force, in regard to both numerical strength and equipment.

2. The strength of the police in Japan proper from 1897 up to the present is shown in Appendix I. It may be seen that the police in 1897 numbered 29,976 or one to every 1,441 of the population; and in that year the strength of the standing Army and Navy in Japan proper was 162,621.

In 1940, the police numbered 85,580 or one to every 847 of the population, while the number of soldiers and sailors in the regular service in that year was 1,463,173.

3. How does the numerical strength, as given above, of the Japanese police compare with that of other countries? The answer, according to the data on hand, is given in Appendix II. It will be seen that the number of population taken care of by one policeman in Japan is larger than that either in the United States or in Britain.

4. Japanese policemen are generally overworked. This fact is clearly demonstrated by the number of hours they are compelled to work. (See Appendix III.) Policemen are supposed to work, like Government officials in general, for the prescribed number of hours. In the case of police detectives, however, there can be practically no limit to work hours, nor can there virtually be any off-duty day or holiday. In actual practice, they have to work over ten hours a day. Officers serving at police-boxes work on two, three, or four day-shifts, depending on prefectures. For instance, the work hours for the officer of Metropolitan Police Board averaged 12 hours a day as of the end of 1947. Those under the two-shifts system there numbered some 14,600. In order to comply with the work hours prescribed in the newly enacted Labor Standards Law, it is necessary to place them on a three-shift system (which consists of eight hours on the first day, 17 hours on the second day and an off-duty day on the third day). This placement will require an additional force of about 7,300 men.

On the other hand, there has been a steady increase in occurrences of crime. The statistics for the years from 1941 to 1946 show that the number of reported crimes increased from 922,526 in 1941 to 1,387,080 in 1946; and increase is noted in the same interval from 771,653 to 803,264 in the number of arrests made, and from 334,417 to 445,484 in the number of persons arrested. These figures alone will suffice to indicate how Japanese police are overworked. (See Appendix IV.)

5. Peace and order in Japan as in any other country was not maintained solely by police, but on the occasion of serious disturbance troops were called out. Actual instances of such cases which occurred in the past may here be cited.

a. The first instance where, on occasions of natural calamities, troops were dispatched occurred at the time of the earthquake of the Gifu region in October, 1891, when 120 soldiers were mobilized. There

have been 17 such cases, counting only major ones. (See Appendix V.)

b. The principal cases where troops were mobilized for the purpose of quelling and forestalling social disturbances number 20. The first instance is the Chichibu Incident of November, 1884, in which an attempt was made to overthrow the Government of the day. The cases include also the rice riots which broke out in various parts of the country in August, 1918. (See Appendix V.)

In considering the necessary strength of Japanese police force in the future, therefore, the fact should not be lost sight of that Japan of the future will no longer have the guarantee for internal peace and order formerly afforded by the armed services; and that to that extent will be made heavier the burden of responsibility to be shouldered by the police. In other words, the strength now prescribed for the Japanese police cannot be made a criterion for the future police strength of Japan. The criterion should be sought in the combination of the police strength now required and of the strength formerly contributed by the armed services or at present by the Occupation Forces, to guarantee internal peace and order. Since war's end, there have been actually 26 cases where the Occupation Forces gave their assistance in dealing with mob violences and disturbances (as of the end of March, 1948). Again it was the order of the Supreme Commander which prevented the general strike scheduled for February 1, 1947. More recently, in the great floods of the Kanto district of last September, the Occupation Forces played a leading role in giving aid and relief to the stricken area.

III. EQUIPMENT

As the means of criminal acts has changed with the progress of times, so must the equipment of police be modernized. This truism applies to all aspects of the equipment, to the arms, to the means of transportation and even to the clothing. It needs scarcely be mentioned that the Japanese police should be armed with, beside pistols, means to cope with riot situation such as tear-bombs, and equipped with scientific means of communication, including radio appliances and light-armored cars. Nor is it necessary to say that the arms to be used by the Japanese police need not be of Japanese make, but may well be imported from abroad.

The arms formerly carried by the Japanese police consisted mainly of sabers, or short swords, and pistols, and also of a limited number of fire-

arms (which were not much better than hunting-guns). As the equipment was so inefficient, so obsolete and so unscientific, police officers had to suffer the consequences in dealing with criminals. Cases of deaths and injuries caused to police officers in the performance of their duties numbered 10 and 326, respectively, in the year 1938, while the respective figures for the one year from August, 1945 to July, 1946 were 74 and 1,037. (See Appendix VI.) And, as mentioned in the preceding section, an immediate call had to be made to the Allied troops for assistance, if there was any serious menace to peace and order. Furthermore, the means of transportation at the disposal of the Japanese police are still extremely inadequate. It is only through the help of the Allied Headquarters that the Metropolitan Police Board of Tokyo and the Police Departments of Prefectures now have been provided with a total of 475 jeeps.

The SCAP memorandum of 16 January 1946 on "Armament of Police Forces in Japan" made clear the following: a) The Japanese Government is authorized to have its police carry pistols; b) The number of pistols available to the Japanese police shall not exceed the strength of police authorized for Japan; c) All firearms, other than the pistols so authorized, shall be delivered to the Occupation Forces on or before 1 March 1946; d) The Japanese Government is authorized to maintain a supply of 100 rounds of ammunition for each pistol authorized.

It has to be pointed out that, despite the authorization given under a) above, the number of pistols now carried by Japanese police officers totals no more than 24,958 (as of August, 1947) as against the numerical strength of 125,000 authorized for the Japanese police.

Under the Home Office Ordinance of March 12, 1946 relating to the Uniforms Regulations, police officers have since carried "bludgeons", instead of the sabers or short swords they had worn.

In this connection, it may not be out of place here to consider how many crimes are committed with the use of weapons, as may be seen from the following:

Year	Weapons used in Crimes	
	Crimes committed with Weapons	Of them, those committed with Pistols
1937	1,779	11
1943	921	5
1946	6,779	1,906
1947 (first six months)	3,955	851

(6)

It should be noted that, since war's end, the number of crimes committed with the use of pistols has grown in a marked degree. Hunting guns may be cited as another kind of firearms used in crimes since before the war. There is also observable new trend among criminals in these days to use machine-guns. Attention must be paid to the likelihood of these weapons being smuggled from abroad. In addition to this increase in crime perpetrations with the use of weapons, it may be pointed out that there has been a steady increase in crimes in general, before, during and after the war, as shown in Appendix X.

In view of these circumstances, it will be understood that what is imperatively and urgently necessary in connection with the renovation of the Japanese police system is: (1) Adequate strength and equipment, (2) Adoption of scientific methods and principles, (3) Progress and adjustment of police equipment in keeping with the advance in methods of criminal activities.

IV. PRESERVATION OF LAW AND ORDER AT SEA

1. Water Police

The Water Police (Suijo-keisatsu) was established for the purpose of maintaining peace and order, and for keeping watch on the water, principally in ports and on rivers. Thus, with the Imperial Ordinance implementing the Regulations for the Opening of Ports, Water Police Stations were established in 1898 in most of the open ports. Subsequently, many of the Water Police Stations were gradually abolished, for the reason that the seas came to be adequately patrolled by the navy, rendering it unnecessary for the Water Police to extend its vigilance beyond ports and rivers; and that, even in ports and on rivers, the necessary control could be exercised by the ordinary land police.

The termination of the war, however, has introduced a complete change into the situation as is stated in the following chapter and the renovation and strengthening of the Water Police have become a pressing need of the moment.

The statistics relating to the Water Police, as of the end of February, 1947, shows 14 Water Police Stations, 58 Water Police Boxes, 207 boats assigned to the service, and 1,386 police officers. (See Appendix VII.) At the same time, there were 404 Police Stations which, though not called "Water

(7)

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Police Stations", included coastal waters in their jurisdiction. Among them there were sub-offices which were known as "Water Police Boxes", to which officers trained in the water police operation were assigned.*

2. Marine Safety System

The seas along the 4,300 mile coast line of Japan are hazzardous waters owing to the peculiar meteorological and oceanographical conditions. Moreover, with the disappearance of the navy there exists practically no authority for the maintenance of law and order in these waters. The cases of smuggling, illegal entry, piracy, and all kinds of economic offences are on the increase with a tendency toward worsening in character. (See Annex VIII.) Control was exercised only by Government organs such as the Custom Offices, Police Stations, the Marine Transportation Bureau, the Quarantine Office, and the Aquatic Products Bureau independently with their ill-equipped boats.

It was necessary to provide more ships, better communication appliances and other equipment in order to eliminate such dangers and risks from Japanese waters. But it would be both uneconomical and irrational to let the various Government organs to own and operate such costly equipment and installations. It was considered best to have one administrative organ assume a unitary control and operation of the ships and equipment required for the safety of navigation and the maintenance of public peace on sea, while maintaining liaison and collaboration with such other authorities as the police, customs houses, quarantine stations, etc. on the basis of mutual aid and assistance and with due regard to one another's special functions.

With the advice and guidance of the SCAP the Government drew up the Marine Safety Authorities Law, which was passed by the 2nd Diet on April 15, 1948, and which came into effect as from May 1.

The Marine Safety Board set up under the above-mentioned law is an extra-ministerial organ of the Transportation Ministry. It is a large organization, combining in itself the functions formerly under the jurisdiction of the General Maritime Bureau, Maritime Transportation Bureau, Ship Bureau, Marine Casualties Inquiry Commission, Light House Bureau, and Hydrographical Bureau and other administrative authorities. It possesses also wide powers, relating to enforcement at sea of the laws relating to the

* The question of jurisdictional adjustment of the water police following the inauguration of the new police system and the establishment of the Marine Safety Board is being studied by the Government organs concerned.

safety of ships, qualifications and numbers of shipping personnel, rescue work at sea, marine disaster investigation, pilots and prevention and suppression of crimes, search for and arrest of criminals at sea, affairs relating to hydrographical service, beacons, and all other affairs relating to safety at sea.

As for local organs, the country is divided into 9 Regions, each with a Marine Safety Headquarters. Some 50 Marine Safety Stations, Communications Depots, and Port Captain's Offices have been established as subordinate organs. Moreover, in order to facilitate the smooth and satisfactory functioning of the system, the Central and Regional Marine Safety Commissions have been set up.

By taking into consideration the special circumstances of Japan, demilitarized and under military occupation, the Marine Safety Authorities Law contains specific pertinent provisions; for instance, the number of entire personnel in the service is not to exceed 10,000. The ships are limited to 125 in number and to 50,000 gross tons in total tonnage, while each ship is not to exceed 1,500 displacement tons in size, and 15 knots in speed. Of the service personnel, the Marine Safety officers may carry arms but not beyond what the ordinary police are permitted to carry—such as pistols. In this regard, however, it is believed desirable and necessary that the coast guard craft assigned to the duties of patrol and vigilance over the wide waters are permitted to have small calibre cannons and machine-guns. (See Appendix IX.)

Finally, it is clearly stipulated that no provision of the law shall be interpreted as recognizing the Marine Safety Board and its personnel to be organized or trained as an armed force, or to perform the functions thereof.

APPENDICES

APPENDIX I.

Police Strength in Japan Proper since 1897
(By the Police Bureau, Home Ministry, August 30, 1947)

Year	Population	Number of Police Officers (Prescribed Full Number)	Population for Each Police Officer	Army	Navy (in Active Service)	Military Police
1897	43,228,863	29,976	1,441	143,000	19,621	5,070
1902	46,022,476	34,663	1,320	Not available	33,622	1,690
1907	48,260,300	33,670	1,433	216,000	47,243	2,094
1912	51,643,000	36,835	1,402	216,000	54,662	10,673
1916	54,681,700	40,418	1,352	216,000	63,225	6,573
1921	58,673,848	51,432	1,141	216,000	81,386	3,399
1926	59,966,900	59,735	1,003	179,000	76,331	2,837
1930	63,872,496	63,267	1,009	179,000	79,935	3,053
1935	68,668,654	66,578	1,030	229,000	94,661	2,843
1937	70,654,100	72,191	978	229,000	106,757	2,400
1940	72,539,729	85,580	847	(June) 1,240,000	223,173	Not available
1945	71,996,477	93,935	756	(January) 4,100,000 (August) 6,400,000	1,693,223	(September) 8,479
1946	73,114,136	93,935	778	None	None	None

Note: The above list gives figures of the end of each five year interval, except for the periods from 1912 to 1916 and from 1926 to 1930, for which the interval, for the sake of convenience in investigation, has been set at four years.

Population is taken from the "Teikoku Tokei Nenkan" (Imperial Statistics Year Book) compiled by The Cabinet Statistics Bureau.

The number of police officers and the population for each police officer are taken from the "Keisatsu Tokei" (Police Statistics) compiled by the Police Bureau of the Home Ministry.

The Army strength is taken from the "List of Standing Army Strength (Excluding that in Korea, Formosa and Saghalien)" and the "Outline of Army Strength", prepared by the First Demobilization Bureau on August 29, 1947. The statistics indicate standing Army strength for the years up to 1937, and total strength for the years since 1940.

The authority for the Navy strength is the "Imperial Statistics Year Book" and the results of the investigation made by the Second Demobilization Bureau.

The authority for the strength of the Military Police is, up to 1935, the "Imperial Statistics Year Book", and, since 1937, the results of the investigation made by the First Demobilization Bureau.

APPENDIX II.

Comparative List of Present Police Strengths in Various Countries

Country	Population	Number of Police Officers	Population for Each Police Officer	Remarks
Japan	73,114,136	93,935	778	The population given is that ascertained by the National Census of 1946, and the number of Police Officers is the prescribed full number for that year.
Britain	45,183,000	70,460	641	The authority is the "Whitaker's Almanac for 1947". The population is that estimated for 1945. The number of police officers given is the prescribed full number for 1946 in regard to England and Wales, and for 1945 in respect of Scotland and Ireland.
United States	131,669,275	176,988	743	The authority for the population is "The World Almanac, 1946," where the figures of the 1940 national census are given. The number of police officers is taken from the 1940 national census of the United States (See "Law Enforcement", P. 16.)
Urban units, each with a population of 2,500 or over, in the United States	70,000,000 (Approximate)	120,000 (Approximate)	583	The figures are taken from "Police System in the U. S., 1940" by Bruce Smith.
South Korea	19,000,000 (Approximate)	38,000	500	Taken from a Seoul dispatch of July 29, 1947, from U. P. Vice-President E. J. Johnson, published in the Mainichi Shimbun of July 31, 1947. It reported that South Korea had a Korean constabulary of 10,000 men, and 28,000 police officers.
Italy	45,801,000	65,000	704	The population is taken from "The World Almanac, 1946", and the number of Carabinieri from the Peace Treaty with Italy of 1947.

APPENDIX III.

Present Work Hours of Police Officers
(As of the end of October, 1947)

1. At present, principal police officers of the rank of Assistant Police-Inspector or over, as a rule, work in accordance with the number of hours prescribed for Government offices generally. In addition to these hours, however, Police-Inspectors and Assistant Police-Inspectors assume a night-duty under a rotation system.

2. (1) Of Chief Patrolmen and Patrolmen, those assigned to indoor duty or to traffic-control duty, as a rule, work for the number of hours prescribed for Government offices generally. In addition, they assume a night-duty under a rotation system.

(2) As a rule, a police-detective works for the number of hours prescribed for Government offices generally. If any criminal case occurs, however, he has to work day or night, until it is settled so far as he is concerned. Therefore, it is very seldom that a police-detective can go home at the prescribed office-closing time. Even on a holiday or on an off day, a detective has to attend to his duty, if any case occurs. The number of hours a detective has to work depends upon the circumstances of such cases, but on an average he works at least for 10 hours a day.

(3) Of policemen on outside duty, those serving at Police Sub-Stations (Chuzai Sho), as a rule, work for 8 hours. But those serving at Police-Boxes (Hashutsu Sho) work in two, three or four day shifts, depending on the Prefecture concerned.

a. The "two-shifts service system" means to serve for 24 hours every other day (that is to serve for 12 hours a day on an average). Policemen under this service now number above 14,500. In order to revise the work hours for these policemen, in accordance with the Labor Standards Law, it is necessary to change the two-shifts system into one of three-shifts consisting of 8 hours, 17 hours and an off-duty day, as mentioned below. This change requires an additional personnel of about 7,300 men.

b. Of the "three-shifts service system," there are two kinds: the one consists of a day of 8 hours, a day of 24 hours and an off-duty day; the

other, a day of 8 hours, a day of 17 hours and an off-duty day. Policemen under the former system number about 900, and those under the latter system about 2,500. Under the latter system, the service is roughly on an eight-hour day basis, but this is exceeded under the former system. In order to bring the former system into line with the Labor Standards Law, it is necessary to change it into the latter system.

The "four-shifts service system" consists of two consecutive days of 8 hours each, a day of 17 hours and an off-duty day. On the two days of 8 hours each, the service is in the daytime, but one of the two days is given over to "waiting for work" (talki) or to instructions and training. On the day of 17 hours, the service is at night and early in the morning, as is the case on a similar day under the three-shifts system.

Policemen under this system of service number about 6,500.

APPENDIX IV.

Statistics relating to Numbers of Offenses, Arrests
and Persons Arrested

Year	Number of Offenses	Number of Arrests	Number of Persons Arrested
1941	922,526	771,653	334,417
1942	890,331	691,314	299,395
1943	979,336	788,069	346,709
1944	905,836	709,596	510,951
1945	711,596	472,853	242,645
1946	1,387,080	803,264	445,484

APPENDIX V.

Principal Instances where Troops were called out for preserving
Peace and Order or for Rescue Work

A. At times of natural disasters

1. No-bi Earthquake, in Gifu and Aichi Prefectures, October 28, 1891, 6.30 a.m.

The earthquake caused throughout the plains of Gifu and Aichi Prefectures, with Neo-mura, Motosu-gun, Gifu Prefecture, as the epicentre. To assist in the rescue work and for the restoration of order, 120 troops were called out.

2. Sakurajima eruption, in Kagoshima Prefecture, January 12, 1914, 10.05 a.m.

In consequence of the eruption of the island, earthquakes, fires and floods occurred, and great conflagrations broke out in Kagoshima City and several villages. 3,395 troops were called out for rescue work.

3. Floods in Kurume City, Fukuoka Prefecture, June 17, 1921.

Owing to heavy rains, the Chikugo River overflowed its banks, and the embankments collapsed, causing inundations throughout the city.

Troops were called out to the number of 3,170.

4. Floods around Sai and Asano Rivers, Ishikawa Prefecture, August 3, 1921.

Heavy rains caused floods due to the overflowing of the Sai and Asano Rivers, with bridges washed away, embankments destroyed, etc.

300 troops were called out.

5. Great Earthquake of Kanto Region, September 1, 1923, 11.58 a.m.

Violent tremors visited the seven Prefectures of Tokyo, Kanagawa, Chiba, Saitama, Shizuoka, Yamanashi and Ibaragi, causing damage of unparalleled proportions. In the Tokyo area, the quakes were followed by conflagrations, which broke out at over 30 spots. Many parts of the Capital were reduced to ashes, and serious disorders were caused. In order to restore order, the Capital was placed under administrative martial law, and the following troops were called out.

Prefectural Jurisdiction	Number of Troops called out	Number of Police Officers sent by Other Prefectures for Assistance
Tokyo (Metropolitan Police Board)	Number of Troops unavailable; martial law enforced	53,065 (From All Prefectures)
Kanagawa	206,700 (Including Military Police)	31,640 (From Gumma, Aichi and Shiga)
Chiba	4,610 (Composed of Infantry and Military Police)	
Saitama	7,989	
Shizuoka	6,820	
Total	226,119	84,705

6. Great Earthquake in Oku-Tango Districts, Kyoto Prefecture, March 7, 1927, 6.27 p.m.

The earthquake occurred, with the Japan Sea bottom off Tango Promontory as the epicentre, causing extensive damage and disorder in seven towns, including Miyazu-machi, and 51 villages. To restore order and to preserve public peace, Army and Navy units were called out to the strength of about 46,300; 272 police officers also came for assistance from Hyogo Prefecture.

7. Storms and floods in Okayama Prefecture, September 20, 1934.

Owing to heavy storms, many rivers in the Prefecture overflowed their banks, much damage being caused. Troops, 1,400 in number, were called out.

8. Storms and floods, Osaka Prefecture, September 21, 1934.

A typhoon moving from south-east of Shikoku brought on tidal waves, about 10 feet high, along the shores of Osaka Bay, working havoc throughout West Osaka and parts of Sakai City. 5,859 troops were called out for rescue work and for the restoration of order.

9. Rain damage in Kobe City, and between Osaka and Kobe and between Akashi and Himeji, Hyogo Prefecture, July 5, 1938.

Long-continued rains caused the overflowing of rivers and landslides, suspension of traffic, and washing away or destruction of dwelling houses, attended with many casualties.

The troops called out number 500. In addition, 1,440 police officers came from Osaka for assistance.

10. Storms and floods in Kimotsuki-gun district, Kagoshima Prefecture, October 13, 1938.

Storms caused the Kimotsuki River and other rivers to overflow their banks, leading to serious floods and extensive damage throughout Kimotsuki-gun district. Troops were called out to the number of 1,554.

11. Abukuma River floods, Miyagi Prefecture, July 21, 1941.

Continued rains caused the embankments on the northern side of the Abukuma River to collapse, inundating Iwanuma-machi and four villages. 50 troops were called out for rescue work and for the restoration of order.

12. Storms and floods in the western part of Omuda City, Fukuoka Prefecture, August 27, 1942.

Storms, coinciding with the flood-tide, caused the rivers to rise. In Ariake Inlet, Breakwater No. 1, and then the Inner Breakwater, were broken through, with the result that the streets of Omuda City were inundated. Troops were called out to the number of 3,050.

13. Earthquake in Tottori City, Tottori Prefecture, September 10, 1943.

A severe earthquake caused disasters throughout Tottori City and neighborhood. Troops were called out to the number of 2,290, and 577 police officers came for assistance from the Police Departments of Okayama, Hyogo, Hiroshima and Shimane Prefectures.

14. Storms and floods throughout Shimane Prefecture, September 20, 1943.

Storms led to the overflowing of many rivers in Shimo-Iwami district and to landslides and cave-ins at many places. Troops were called out to the number of 300, and 11 police officers despatched from the Police Department of Yamaguchi Prefecture for assistance.

15. Floods in Tsurusaki-machi and neighborhood, Oita Prefecture, September 21, 1943.

Storms caused the Ono River to overflow its banks, bringing about damage in the neighboring six towns and villages, with Tsurusaki-machi as the center. There were called out 300 troops for rescue work.

16. Great earthquake in West Enshu district, Shizuoka Prefecture, December 7, 1944, 11.30 a.m.

The great earthquake occurred in West Enshu district on the Oi River, and 14,856 troops were called out.

17. Earthquake disasters in Hazu-gun, Hekikai-gun, Chita-gun, and the southern part of Nagoya City, all in Aichi Prefecture, January 13, 1945, 2 a.m.

Owing to severe tremors, disasters were caused throughout the above-mentioned areas, and 10,000 troops were called out.

B. At times of rioting and disorders

1. "Chichibu Incident", in Saitama and Nagano Prefectures, November 2, 1884.

This incident broke out in Chichibu-gun, Saitama Prefecture. The rioters, enraged at what they regarded as the tyranny of the so-called "Clan" Government of the day, called for its overthrow. Frustrated in Chichibu, they fled to Gumma and Nagano Prefectures, where they attempted to commit further lawless acts. They were quelled by the troops called out in Nagano and Saitama Prefectures to the number of 3,342.

2. "Otsu Affair", in Shiga Prefecture, May 11, 1891.

This is the case where, on the occasion of a visit to this country of the then Crown Prince of Russia, one of the Japanese policemen assigned to guard duty on the road drew his saber and struck the Prince on the head, causing him an injury. 200 infantrymen were called out to preserve order.

3. "Hibiya Fire Attack", in Tokyo, September 5, 1905.

A large crowd, numbering 40,000 or 50,000, who were dissatisfied with the terms of the Russo-Japanese Peace Treaty, attempted to hold a mass meeting at Hibiya, but the meeting was forbidden. Another meeting at the Shintomi Theater was also banned. The enraged crowds collided with police. They set afire the official residence of the Home Minister. This led, in various parts of the city, to attack on police stations and police-boxes, which were set on fire. The situation was brought under control by the partial enforcement of martial law and the issuance of a Proclamation by the Commander of the Tokyo Garrison.

Units of the Tokyo Garrison and the Military Police were called out, but their number is unavailable.

4. "Disturbance of 1913", Tokyo, February 10, 1913.

In December, 1912, Prime Minister Saionji tendered his resignation. The Elder Statesmen held a conference in the presence of the Emperor to discuss who should be selected to form a new Cabinet. No decision could be reached as to the selection of the next Prime Minister, and the Diet was twice prorogued on that account. On the third prorogation of the Diet, the crowds set fire to the offices of the Miyako Shimbun, and collided with police.

Then they set afire police stations and police-boxes, and attacked the office of the Niroku Shimbun and other places.

Infantry units of the Tokyo Garrison and the Military Police were called out, but their number is unavailable.

5. "Rice riots of August, 1918".

The boom following the World War I raised commodity prices. Especially the price of rice which through the speculations of unscrupulous merchants shot up so high that riots broke out in various parts of the country.

Troops totalling 26,032 were called out in the Prefectures of Tokyo, Osaka, Hyogo, Niigata, Mie, Aichi, Yamanashi, Miyagi, Fukushima, Fukui, Shimane, Okayama, Hiroshima, Yamaguchi and Fukuoka.

6. Anti-Korean Outbreaks, September, 1923.

On the occasion of the Great Earthquake of September 1, 1923, extreme unrest was created in Tokyo. Rumors were circulated in various parts of the devastated areas to the effect that Koreans were rising against Japanese, perpetrating incendiarism, throwing poisons into wells, etc. The fear and hatred thus engendered against Koreans led to acts of violence by Japanese against Koreans mostly in the Kanto region.

The troops called out in Saitama, Gumma and Chiba Prefectures numbered 9,463.

7. Sai River Affair, in Gifu Prefecture, January 7 and 8, 1929.

In order to prevent the overflowing of the Sai River, the prefectural authorities diverted the river water to Anbachi County against a violent opposition of Namori-mura and six other towns and villages, of which all the town officials resigned in protest. This led to a riotous demonstration by the townspeople and villagers, which were quieted by calling out troops—400 on January 7, and 200 on January 8.

8. There are cases where, in labor disputes, such lawless acts as the destruction of houses and incendiarism were committed, and where troops were called out to preserve peace and order, as shown by the following list:

Region	Prefecture	Mines or Shipyards	Date of Occurrence	Number of Troops called out	Number of Police Officers from Elsewhere
Hokkaido	Hokkaido	Sumitomo Mining	Sept. 10, 1945	30	
	"	Utashinai Mining	"	"	
Tohoku	Iwate	Kamaishi Mining	Nov. 10, 1919	300	
	Tochigi	Ashio Mining	Feb. 4, 1907	300	
Kanto	"	" "	Nov. 26, 1919	10	150 from Gumma Police Dept.
	Chiba	Noda Soy Co.	Sept. 16, 1927	1,000	
Kinki	Hyogo	Kawasaki-Mitsubish Shipyard	July. 6, 1921	160	
	Fukuoka	Yawata Ironworks	Feb. 5, 1920	200	
Kyushu	"	Mitsui-Milke Mining	Aug. 2, 1918	2,000	
	Saga	Aichi Colliery	Aug. 25, 1918	180	
	"	Kitakata Colliery	Aug. 29, 1918	150	
	"	Kaijima Colliery	Aug. 29, 1918	300	
	Kumamoto	Manda Colliery	Sept. 4, 1918	100	
Total		13		4,760	150

Note: From the above list are excluded cases where disturbances were caused by troops themselves, such as the so-called "May 15 Incident" of 1932, and the so-called "February 26 Incident" of 1936.

APPENDIX VI.

Statistics relating to Police Officers killed or injured while performing Official Duties

Year	Number killed	Number injured
1938	10	326
1939	6	239
1940	6	244
1941	2	213
One year preceding war's end, August, 1944-August, 1945	549(504)	1,373(928)
August, 1945-July, 1946	74	1,087

Note: The figures in parentheses indicate the numbers of the killed and wounded in air-raids, included in the preceding numbers.

APPENDIX VII.

Statistics relating to Water Police
(Prepared by Police Bureau, Home Ministry, as of the end
of February, 1947)

Prefectures	Water Police Stations	Water Police Boxes	Water Units assigned to Police Stations	Number of Boats	Police Officers	Seamen
Tokyo	1	—	—	(8) 12	396	12
Hokkaido	1	2	5	(3) 8	28	31
Kyoto	—	—	3	3	—	—
Osaka	3	—	—	7	224	65
Kanagawa	—	—	2	(2) 3	—	13
Hyogo	1	—	3	(4) 7	17	14
Nagasaki	1	—	5	(1) 9	50	22
Niigata	—	1	—	1	3	3
Chiba	—	2	—	2	5	1
Ibaragi	—	—	—	—	—	—
Mie	—	1	6	(4) 7	1	4
Aichi	—	7	2	(9) 15	29	15
Shizuoka	—	1	—	1	5	—
Aomori	1	1	1	7	31	5
Fukui	—	—	5	(5) 8	—	—
Ishikawa	—	1	1	2	2	6
Toyama	1	—	4	6	17	24
Tottori	—	2	—	2	8	2
Shimane	—	1	7	12	unavailable	32
Okayama	—	7	—	13	8	17
Hiroshima	1	9	1	(9) 24	76	—
Yamaguchi	1	2	3	(1) 11	34	60
Wakayama	—	4 (Dept.1)	1	5	15	14
Tokushima	—	6	—	4	6	—
Kagawa	—	(Dept.1)4	4	4	11	4
Ehime	—	—	4	4	—	20
Kochi	—	—	2	2	4	6
Fukuoka	2	—	1	(2) 9	330	44
Oita	1	5	—	7	39	19
Saga	—	4	—	7	15	18
Kumamoto	—	—	1	1	1	2
Miyazaki	—	—	1	1	3	1
Kagoshima	—	2 (Dept.1)	2	3	28	19
Total	14	58	64	207	1,386	473

Note: In the above list, the "Dept.", with a figure, enclosed in brackets, indicates the number of the Water Units under the direct jurisdiction of the Prefectural Police Department concerned, while the figures in brackets show the number of boats under repairs.

APPENDIX VIII.

Statistics relating to Offenses committed on Water in 1946

(Prepared by Police Bureau, Home Ministry)

Prefectures	Violations of Criminal Law		Economic Offenses		Clandestine entry of Persons		Smuggling of Goods		Remarks
	Number of Cases	Number of Arrests	Number of Cases	Number of Arrests	Number of Cases	Number of Arrests	Detected by Police	Detected by Customs	
Tokyo	104	50	128	128	—	—	—	—	
Hokkaido	905	762	404	404	2	2	—	—	
Kyoto	23	18	17	17	52	52	—	—	
Osaka	796	635	191	191	4	4	22	10	Cases under jurisdiction of Occupation Courts, 782; goods smuggling 1
Kanagawa	1,136	1,091	282	215	3	3	—	4	
Hyogo	135	98	575	234	4	4	16	—	
Nagasaki	134	107	—	—	1,695	1,339	28	—	
Niigata	204	184	136	135	—	—	—	—	
Chiba	15	3	5	13	—	—	—	—	
Mie	—	—	—	10	—	—	—	—	
Aichi	273	249	4	4	1	1	2	6	
Shizuoka	44	28	6	6	18	18	1	—	
Iwate	8	2	4	4	1	1	—	—	
Aomori	186	174	79	79	—	—	—	—	
Yamagata	—	—	30	30	—	—	—	—	
Akita	43	43	53	53	—	—	—	—	
Toyama	18	18	12	12	—	—	—	—	
Shimane	—	—	—	—	1,708	1,669	—	—	
Okayama	—	—	—	—	—	—	—	—	
Hiroshima	208	154	39	38	104	104	11	—	
Yamaguchi	529	211	40	40	10,470	8,493	17	2	
Wakayama	20	20	6	6	4	4	3	—	
Tokushima	31	26	12	12	27	27	1	—	
Kagawa	77	54	46	46	—	—	—	—	
Ehime	74	39	208	178	4	4	2	—	
Kochi	52	52	22	22	5	5	5	—	
Fukuoka	661	1,007	478	478	554	554	118	11	
Oita	41	40	19	19	41	32	2	—	
Saga	52	42	5	5	3,295	2,582	15	—	
Kumamoto	66	66	93	93	87	87	5	4	
Miyazaki	—	—	4	4	335	332	14	—	
Kagoshima	14	14	66	66	40	98	65	—	
Total	5,849	5,187	2,964	2,542	18,454	15,465	327	37	

APPENDIX IX.

Data relating to the Marine Public Safety Service

1. The requirements, in ships and personnel, for carrying on the Marine Public Safety Service are as follows:

a. Ships of the Marine Public Safety Board (excluding intra-harbor boats).

Number of ships:	125
Total tonnage:	50,000 (displacement tons)
Tonnage per ship:	1,500 (" ")

(The Nissho Maru XVIII, 2,005 gross tons, now employed as a supply ship for lighthouses, and the hydrographical survey ship Soya, 2,224 gross tons, are excluded.)

Speed: 15 Knots

b. Personnel of the Marine Public Safety Board: 10,000 persons.

2. The coastlines of Japan amount to 4,300 miles (excluding small islands). If the waters along these coast-lines are to be guarded by 125 guard-boats in two shifts, the area assigned to one guard-boat work out at 70 miles in coastline.

This area is the maximum over which a guard-boat, with a speed of 10 knots, can barely make one round and a half trip in a day. When allowance is made for repairs needed for guard-boats and for possible cases of emergency, such as disasters and the consequent rescue work at sea, it is desirable that about 20 per cent of the 125 guard-boats should be able to develop a maximum speed of 20 knots. (See the accompanying Table 1 and Table 2 giving statistics of disasters at sea.)

3. For the performance of guard duties over extensive seas, speedy means of communication relating to public safety at sea, including airplanes, are indispensable. As a matter of fact, Allied planes have given vitally needed assistance frequently since the occupation.

Table 1.
Numbers of Marine Disasters at Sea
(For the Years 1933-1940)

Year	Steamers		Sailing Ships		Total	
	Total Loss	Serious Damage	Total Loss	Serious Damage	Total Loss	Serious Damage
1933	20	194	127	171	149	365
1934	19	178	108	154	127	332
1935	20	200	73	184	93	384
1936	26	160	93	200	119	360
1937	26	131	102	233	128	264
1938	33	159	101	218	134	377
1939	33	117	116	193	148	310
1940	21	124	108	232	129	356
Yearly average	24	157	103	198	128	343

Table 2.
Numbers of Casualties in Marine
Disasters
(For the Years 1933-1940)

Year	Those Killed			Those Missing			Damage Sustained		
	Steam-ers	Sailing Ships	Total	Steam-ers	Sailing Ships	Total	Steam-ers	Sailing Ships	Total
1933	159	35	194	69	177	246	14	10	24
1934	26	37	63	64	38	102	15	3	18
1935	116	13	129	78	34	112	52	4	56
1936	36	24	60	84	104	188	10	18	28
1937	122	18	140	117	91	208	54	5	59
1938	58	37	95	34	67	101	86	8	94
1939	41	24	65	434	70	504	28	7	35
1940	18	26	44	9	60	69	10	15	25
Yearly average	72	26	98	111	80	191	33	8	42

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APPENDIX X.

Comparative List of Cases filed and of those prosecuted
by Procurators' Office in 1940, 1942 and 1946

(Prepared by Criminal Bureau, Justice Ministry)

Description of Offenses	1940		1942		1946	
	Filed	Prosecuted	Filed	Prosecuted	Filed	Prosecuted
Arson	810	339	1,267	397	408	216
Currency Counterfeiting	9	2	6	1	552	193
Gambling	95,496	67,754	79,280	59,819	58,580	42,937
Bribery	3,024	1,224	4,274	1,499	2,478	812
Homicide	1,494	726	1,284	556	2,230	1,178
Abortion	609	163	382	80	178	27
Abandonment	209	16	153	117	241	51
Theft	105,846	18,671	97,053	18,018	252,728	75,337
Robbery	838	456	621	355	12,276	6,612
Fraud	45,700	4,377	23,920	3,789	23,392	8,080
Blackmail	3,542	624	2,370	469	7,033	2,285
Misappropriation	24,416	2,012	17,677	1,893	14,284	2,709
Violations of economic regulations	127,761	51,317	142,152	63,362	211,613	87,485
Other Offenses	165,951	46,324	132,524	37,618	103,263	29,432
Total	575,705	194,005	508,463	187,973	689,256	257,354

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STATUS OF FOREIGN NATIONALS
IN JAPAN

(Principally in the Economic Field)

MINISTRY OF FOREIGN AFFAIRS
JAPANESE GOVERNMENT

JUNE 1950

0153

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I. INTRODUCTION

In pre-war days, foreign nationals in Japan were, as in other civilized countries, accorded protection of life and property in accordance with international law. Furthermore, they were given specific guarantees relating to economic activities and private rights under the treaties of commerce and navigation subsisting between Japan and their respective countries, and within the framework of Japanese law. But many of these treaties have been rendered unoperable by the war, while significant changes have taken place in Japanese legislation itself since the war's end.

The present report is intended to provide a survey of these treaty guarantees and to clarify the status of foreign nationals in Japanese law before and after the war.

II. GUARANTEES BY TREATIES OF COMMERCE
AND NAVIGATION

The treaties of commerce and navigation existing between Japan and other countries as of November 1941 are listed in Annex 1.

The guarantees generally accorded to foreign nationals in Japan under those treaties are enumerated below:

(1) Entry, travel and residence

Complete freedom is guaranteed; national treatment is guaranteed in respect of travel and residence.

(2) Activities, economic and otherwise

National treatment is guaranteed in respect of commerce and manufacture; and most-favored-nation treatment in respect of industries, occupation, profession and study.

(3) Property

National treatment is guaranteed in respect of the owning and leasing of houses, etc. and the leasing of land; and most-favored-nation treatment in respect of the acquisition or possession of movable or immovable property.

(4) Judicial protection

National treatment is guaranteed in respect of the protection of person and property, free access to judicial courts, and judicial rights and privileges.

(5) Taxation

National treatment and most-favored-nation treatment are guaranteed in respect of imposts, taxes, fees, etc., and payment or collection thereof.

National treatment is guaranteed in respect of storing in bonded warehouses, subsidies and drawbacks.

(6) Military exemption

Most-favored-nation treatment is guaranteed in respect of exemption from compulsory military service, or contribution in lieu thereof; from subscription to compulsory loans; or from military requisitions or contributions.

(7) Inviolability of premises

Foreign nationals' premises are fully respected; national treatment is accorded in respect of domiciliary visit or search.

(8) Consular officials

There are provisions for the stationing of consular officials, the performance of their functions, their right and privileges including the right to administer deceased nationals' property. In respect of the administration of deceased foreign nationals' property and the privileges of consular officials, most-favored-nation treatment is accorded.

(9) International commerce and navigation

Freedom of international commerce and navigation is provided for, including the most-favored-nation clause.

(10) Customs duties

Most-favored-nation treatment in respect of import duties, and also in respect of the prohibition and restriction of importation, is provided for.

Most-favored-nation treatment is given in regard to export duties, and also concerning the prohibition and restriction of exportation.

(11) Transit

Exemption from the transit tax is provided for.

(12) Excise tax on imported goods

National treatment is guaranteed in respect of the excise tax on imported goods; the excise tax on goods imported for warehousing or in transit is waived.

(13) Traveling merchants

Most-favored-nation treatment is provided for in respect of traveling merchants. The provisional exemption of samples from import duties, and the reciprocal recognition of the marks, stamps, seals and catalogues of samples are provided for.

(14) Ships

National treatment is guaranteed in respect of ships and cargoes; the same treatment is accorded in respect of the mooring of ships and the loading and unloading of cargoes, and the same treatment and most-favored-nation treatment are given in respect of the tonnage and other dues on ships.

(15) Companies and associations

Companies and associations which are established according to the domestic laws of one of the contracting parties, and domiciled therein, can exercise their

rights in the territory of the other party insofar as they do not violate the domestic laws of the latter; and they have also access to judicial courts thereof as plaintiffs or defendants.

(16) Coastal trade

Coastal trade is excluded from the scope of treaties; on the other hand, most-favored-nation treatment is guaranteed in case such trade is permitted to foreign nationals.

(17) Matters excluded from most-favored-nation treatment

The following matters are ordinarily excluded from the application of the most-favored-nation clause:

- (a) Benefits granted to adjacent countries to facilitate frontier trade;
- (b) Treatment granted to the fishery products of Japanese nationals;
- (c) Special tariff favors granted to fish and other aquatic products obtained in foreign waters adjacent to Japan;
- (d) Privileges contractually granted to a third country to avoid double taxation.

The validity is suspended of the treaties of commerce and navigation with those nations which declared war on Japan in the second World War; and their restoration or extinction will depend on the peace treaty. The majority of the nations listed in Annex 1 declared war on Japan; while there were five nations that severed diplomatic relations with Japan, namely Bulgaria, Denmark, Finland, Roumania and Spain. The neutral nations with which treaties have not been affected by the war are Afghanistan, Switzerland, and Sweden. The treaties with the nations which have been on friendly terms during the war remain effective, as in the case of Hungary and Siam (Thailand). As regards Germany, the Treaty of Commerce and Navigation with that country may be considered extinct. It must be added that the treaties with Great Britain, India and Burma are extinct, the notifications of abrogation having already taken effect.

III. STATUS OF FOREIGN NATIONALS, MERCHANDISE AND SHIPS IN JAPANESE LAW

The present chapter deals with the treatment which foreign nationals, merchandise and ships have in practice received in Japanese law.

It should be noted that Japanese law embodies the principle of equality between Japanese and foreign nationals to a broad extent, besides incorporating in itself all the above-mentioned treaty guarantees. In other words, all foreign nationals, merchandise and ships are as a rule treated without discrimination from Japanese nationals, merchandise and ships, except in certain cases where Japanese laws provide for special treatment. Accordingly, the status of foreign nationals, etc. in Japanese law, particularly the extent to which they are accorded national treatment, may be better clarified by citing exceptional cases where foreign nationals, etc. are subject to special treatment by law. Since the status of foreign

merchandise and ships is of special importance with reference to international trade and commerce, the subject is dealt with under separate heads, together with an outline of the related laws, ordinances, etc.

(1) Status of Foreign Nationals

1. Entry, travel and departure of foreign nationals

Under Ministry of Home Affairs Ordinance No. 6, 1939, "Entry, Travel and Departure of Aliens," the Prefectural Governor was empowered to prohibit the entry of a foreign national in special cases, such as where the foreigner did not possess the passport or certificate of nationality or other papers in lieu thereof; and, also to order foreign residents to leave the country in specified cases.

Under Imperial Ordinance No. 352, 1899, a foreign laborer not having the freedom of residence by treaty or usage was required to obtain permission of the administrative organ concerned in order to reside or work outside the former foreign settlements or mixed residence areas. In 1941 there was promulgated Ministry of Home Affairs Ordinance No. 31, entitled, "Ordinance on Provisional Measures concerning Travel, etc. of Aliens," which provided for measures applicable during the war.

The above-mentioned Ministry of Home Affairs Ordinance No. 31, 1941, was abolished upon termination of the War (Ministry of Home Affairs Ordinance No. 20, August 30, 1945). Later, Imperial Ordinance No. 352, 1899, was also abolished on the ground that it involved racial discrimination (Imperial Ordinance No. 575, October 15, 1945). Ministry of Home Affairs Ordinance No. 6, 1939, was also superseded by the Aliens Registration Ordinance (Imperial Ordinance No. 207, 1947, with amendments made subsequently on four different occasions), which was newly enacted with the approval of the General Headquarters of the Supreme Commander for the Allied Powers. Accordingly, the Aliens Registration Ordinance is now the only statute governing the entry, residence, and departure of foreign nationals.

The Aliens Registration Ordinance is purported to regulate the entry of foreign nationals and to ensure their proper treatment in various respects. It provides that those foreigners who have been permitted entry (except those who are connected with the Allied Forces) shall register with mayors of cities or headmen of towns or villages, and carry thereafter a certificate of registration to be shown whenever demanded.

2. Private rights of foreign nationals

Restrictions which are at present, and which were in the past, imposed upon the private rights of foreign nationals in Japanese law are listed in Annexes 2 and 3 respectively. They are classified, for the sake of convenience, into: (1) Rights relating to Various Enterprises and Occupations; (2) Rights relating to Property; (3)

(4)

Prohibition of the Holding of the Stocks of Special Companies; (4) Rights relating to Personal Status.

Restrictions currently in force (Annex 2) are dealt with below.

(1) Relating to various enterprises and occupations: At present, foreign nationals are prohibited from engaging in emigration agency, pilotage, establishment of radio stations, notaryship public, and manufacture of gunpowder. But the prohibition on the manufacture of gunpowder is shortly to be removed. Foreign nationals must obtain the special permission or permission of the competent authorities in order to engage in coastal trade or air transportation, both subject to the restrictions mentioned below. The approval of the Foreign Investment Commission is required for them to engage in mining or placer mining. They can manufacture dyestuffs, but they are not entitled to any subsidy. To practice as lawyers, patent agents or registered accountants, they must go through the procedure for acquiring the necessary qualifications, including examination, selection and recognition. A foreign bank must deposit a specified amount of money for the establishment of a branch in Japan, and is not permitted to engage concurrently in trust business. The deposit of a specified amount of money is also required of a foreign insurer for carrying on business in Japan. Further, there are restrictions of a general character. These relate to banking, insurance, electricity, gas, transportation (local railroads, tramways, transportation on the road, shipping, and other means of transporting passengers and goods; and agency or brokerage for such enterprises), etc. For certain of these enterprises, the license or permission of the State or a local public entity is required by other laws and ordinances. If a foreign national desires to start any such enterprise, the competent authorities, in deciding whether or not to grant him license or permission, must seek the opinion thereof of the Foreign Investment Commission. Again, if a foreign national desires to start any of those of the above-mentioned enterprises which do not require the said license or permission (as in the case of shipping agency), or practice as a lawyer, a patent agent, a registered accountant, a dentist or a pharmacist, or an enterprise intended to make available to other persons his special knowledge concerning architecture, machinery, electricity or other technical matters, in such cases, he must obtain the permission of the Foreign Investment Commission. (Article 3, Cabinet Order relating to the Business Activities of Foreign Nationals, Cabinet Order No. 3, 1950; and Foreign Investment Commission Notification No. 1, 1950.)

(2) Relating to property: Foreign nationals cannot become owners of Japanese ships and aircraft; they are subject to minor restrictions in the enjoyment of rights on land and industrial property. Upon them there are also restrictions of a general character. Thus, they are required to obtain validation from the

(5)

Foreign Investment Commission, in order to acquire title to stocks or shares or an interest in the profits of an enterprise; land and buildings other than those used for their residence; mining rights, placer-mining rights, leasehold rights, superficies, (perpetual)-tenancy rights, liens, mortgages, patent rights, utility-model rights, and design rights; the right of taking over or selling the whole or a part of a quantity of production or a quantity otherwise dealt with; etc. (Article 3, Cabinet Order relating to the Acquisition of Properties and/or Rights by Foreign Nationals, Cabinet Order No. 51, 1949)

- (3) Relating to stocks of special companies: Foreign nationals are prohibited from holding the stocks of four companies, including the Tohoku Kogyo Kabushiki Kaisha (Tohoku Industrial Development Co., Ltd.).

The existence of no foreign juristic person in Japan is recognized, with the exception of State, administrative divisions of State and trading companies; but this does not apply to such foreign juristic persons as are recognized by laws or treaties. Those foreign juristic persons whose existence is recognized enjoy the same private rights as Japanese juristic persons, except as otherwise provided for by laws or treaties (Article 36, Commercial Code of Japan).

- (4) The Japanese legislation concerning the economic activities of foreign nationals and their enjoyment of private rights used to be rather liberal as compared with other countries. However, in the wake of Manchurian Incident a restrictive tendency developed for reasons of security and also for the sake of excluding foreign influences from domestic industries. Such provisions were rapidly, multiplied, restricting the economic activities of foreigners, particularly the holding of the stocks of special companies. However, after the war the majority of those discriminatory provisions have been abolished in line with the SCAP memorandum of October 4, 1945 concerning the removal of restrictions on liberties by reason of race, nationality, creed or political opinion, while some of the special companies concerned have been designated as "closed" (Annex 3).

3. Taxation

The Japanese legislation relating to taxation makes no discrimination between Japanese and foreign nationals in general. At present under the Occupation, armed services men of the Occupation Forces, persons belonging thereto, and the foreign Diplomatic Missions accredited to the SCAP are free from any tax on their salaries and on their other legitimate incomes of all kinds received in currency other than the yen (Paragraph 3, SCAP memorandum of November 29, 1947). Beginning with July 1, 1950, all foreign nationals, excepting Occupation personnel, are to receive their incomes in the yen. Even in the case of yen incomes, however, a special reduction from the taxable amount is to be made for such foreign nationals as are within the scope specified as necessary for the

(6)

induction of foreign capital (Law for the Partial Amendment of the Law relating to Special Measures, etc. for Taxation, Law No. 136, 1950).

4. Judicial status

Foreign nationals cannot become jurors (Article 12, "Jury Law," Law No. 50, 1923); but the enforcement of the Jury Law is now suspended (Law No. 88, 1943).

Beyond this, there is no discrimination between Japanese and foreign nationals in Japanese law. But there are certain special practices to meet the special circumstances arising from the occupation of Japan by the Allied Powers. Thus, Japanese criminal jurisdiction is suspended in respect of Allied nationals and also in regard to specified acts prejudicial to Occupation objectives (Articles 1 and 2, Imperial Ordinance No. 311, 1946). Also suspended is Japanese civil jurisdiction, in respect of Allied nationals attached to or accompanying the Occupation Forces. As regards cases to which other Allied nationals are parties, judicial procedure may be altered, or other steps taken, under the direction of the SCAP (Articles 1 and 2, Imperial Ordinance No. 273, 1946).

5. Political status

Foreign nationals have no franchise; this is the case also under the new Constitution (Articles 9 and 10, and Paragraph 2, Supplementary Provisions, Public Office Election Law, Law No. 100, 1950). As to whether or not foreign nationals can become public service officials, there is no express provision, but the interpretation is adopted that some public offices are open and some are not to them. It may be added that the principle of reciprocity is applicable to compensation for damages resulting from the exercise of public authority (Article 6, State Compensation Law, Law No. 125, 1947).

6. Education

It is understood that foreign nationals cannot elect, or be elected as, members of the Science Council of Japan (Explanations Supplementary to Regulations for the Election of the Science Council of Japan Members, No. 2, 1950). Nor can they become Full Members of the Japanese Academy, but those who have been Associate Members of the now extinct Japanese Academy are regarded as continuing to be Associate Members of the Japanese Academy formed under the Science Council of Japan Law (Article 23, Science Council of Japan Regulations, No. 1).

(2) Status of Foreign Merchandise and Ships

The existing Japanese legislation concerning international trade and commerce is very extensive and complex. In this connection, severe restrictions were imposed during and immediately after the war, but they have since been gradually getting eased. Annex 5 sets forth the numerous laws, classified: 1. Customs Duties; 2.

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Excise Taxes; 3. Monopolies; 4. Foreign Trade and Exchange Control; and 5. Ships. Their salient features are as follows:

1. Customs Duties

(1) No duties are imposed on export goods. In this respect, Japanese and foreign nationals are afforded equal treatment.

(2) In respect of import goods:

(A) Conventional tariff

Where there is a special convention with a foreign Government with respect to the Customs tariff, this conventional tariff is applicable.

(B) National tariffs

In the absence of a conventional tariff, duties are imposed under national tariffs with equality between Japanese and foreign nationals.

(a) General tariff

Generally, duties are imposed on the basis of the rates in the Import Tariff attached to the Customs Tariff Law.

(b) Special tariff

(i) In the case of a foreign country which has no treaty with Japan but which accords to Japan certain benefits in trade, the products of that country can by Imperial Ordinance be accorded benefits within the limits not exceeding those extended to countries having treaties with Japan. To this provision recourse has been had with frequency.

(ii) On the other hand, in the case of a foreign country which accords to Japan less favorable treatment than to a third country, an Imperial Ordinance can designate particular articles and impose on them duties additionally to the general tariff.

(iii) If necessary for making tariff rates fit in with the fluctuations in exchange rates, or for preventing the influx of luxuries, duties are imposed under a special tariff, instead of under the general import tariff.

(iv) On goods imported into Japan with the aid of an export bounty from a foreign Government, or for the purpose of dumping in Japan, Customs duties at special rates are imposed in order to protect domestic industries.

(c) Import duties reduction and exemption

(i) Special items

There are provisions for the exemption from import duties of 22 items, including official-use articles of diplomatic officers, personal effects and household articles of private individuals in transportation due to the change of their places of residence, relief supplies, and merchandise samples.

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(ii) Items of special domestic needs

Exemption from import duties is accorded for the importation of such items as articles of special use for scientific research, necessities of life, and the foodstuffs imported under the Foodstuffs Control Law.

(iii) Materials for key industries, including those manufacturing exports

There are provisions for the reduction of, or exemption from, Customs duties on essential goods such as raw materials for exports, supplies for the construction of ships, and iron plates. The reduction or the exemption has in the past been effected also on many goods for special use imported for the operation of various key industry including the oil industry; but at present this practice is continued only with respect to ammonium sulphate.

2. Excise Taxes

The consumption tax on sugar, the tax on playing cards, the consumption tax on textiles, the commodity tax, the soft drinks tax, the naphtha tax, the wine tax, etc. are all levied without discrimination between domestic and foreign goods, or between Japanese and foreign nationals. It has to be added that, in the case of imported articles of merchandise, the excise taxes referred to above or the transaction tax are imposed, together with Customs duties, at the time they are taken over from the Customs House.

3. Monopolies

Salt, tobacco, camphor and alcohol are Government monopoly goods. The provisions relating to these monopoly goods apply equally to Japanese and foreign nationals. But the fact is that nobody but the Japanese Government can import these goods. The sale of salt, tobacco and camphor is dealt with by the Japan Monopoly Public Corporation (Japan Monopoly Public Corporation Law, Law No. 255, 1948).

4. Foreign Trade and Exchange Control

(1) On December 1, 1949, the Japanese Government promulgated the Foreign Exchange and Foreign Trade Control Law. This law is intended to remove the existing restrictions on foreign exchange and trade as far as possible, with a view to restoring foreign trade to normal conditions, promoting its development and balancing Japan's international accounts. Accordingly, the former "Foreign Exchange Control Law," "Foreign Trade Temporary Measures Ordinance," "Cabinet Order relating to the Control of the Importation and Exportation of Property and Goods," etc. had been abrogated by June 30, 1950. Under the new law, there have also come to be promulgated the "Export Trade Control Order," "Import Trade and Foreign Payment Control Order,"

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and "Foreign Exchange Control Order." In the application of the law and orders mentioned, Japanese and foreign nationals are treated on a footing of equality. Formerly foreign trade could not be carried on except by the Government, but under the new measures it has become possible for private individuals to engage in it under a minimum of restrictions. It is, however, necessary to obtain the approval of the Minister of International Trade and Industry for the exportation of certain lines of merchandise, or for exportation through certain transactions or by certain methods of payment. The approval of that Minister is also required in regard to importation generally. As for exchange transactions, these must conform with the unitary basic rate and the cross rates of exchange, determined by the Minister of Finance, and with the buying and selling rates fixed by the Foreign Exchange Control Board with the approval of the Minister of Finance. Further, invisible trade payments, other than payment for the goods of which importation has been approved, required the permission of the competent Minister.

(2) Besides the measures mentioned in the preceding paragraph, there are trade control measures of a more permanent nature such as prohibition, restriction and control of exportation and importation. These are the measures which have generally been adopted for specific purposes in every country, such as the control of exportation and importation of narcotics, arms and ammunition, the control of importation for reasons of public health or for protection of cattle or useful plants, the control of exportation of national treasures, objects of art, etc., the control of exportation for the improvement of the quality of important export goods, etc. They are not control measures of a general character aimed at restricting trade. In respect of these control measures, too, there is no discrimination between Japanese and foreigners in their application. Nor has any of them been aimed at discriminatory treatment between various foreign countries.

(3) Retaliatory measures may be taken, for the purpose of protecting the Japanese export trade or shipping, or safeguarding importation industries of Japan, against countries which subject Japanese products or ships to discriminatory treatment. Self-protective measures may be taken against dumping. However, there has never been a case where any of these provisions was applied.

(4) There is the law relating to Foreign Investment which is purported to pave the way for the induction of foreign capital. This law is intended to facilitate such investment of foreign capital as may assist in promoting the self-support and healthy development of Japanese economy, and in bettering the condition of Japan's international accounts; to guarantee remittances resulting from such investment; and to take adequate measures for the protection of such foreign capital. Remittances in general to foreign countries

come under the "Foreign Exchange and Foreign Trade Control Law" mentioned in the preceding. But the first-mentioned law contains special guarantee provisions with respect to the outgoing remittance of the principal and yield of the foreign capital invested in Japan. In this respect, foreign investors receive favorable treatment.

5. Ships

There exist no laws and regulations on shipping discriminating against foreign ships, except that they cannot call at a closed port or engage in coastal trade without special permission of the competent Minister. It needs to be added that any ship engaging in foreign trade, without regard to her nationality and to the existence or otherwise of treaty relations, must go through special procedure under the Customs Law when entering a port. Tonnage dues on ships engaging in foreign trade are levied without any discrimination between Japan and foreign ships.

IV. CONCLUSION

The question whether Japan's treaties of commerce and navigation with the Allied Powers that have been rendered unoperable by war will be restored, or whether they will be replaced by new treaties, appears to be a matter to be decided in the final peace settlement to come.

It is presumed that the peace treaty will set up general rules that will govern the relations between Japan and the Allied Powers, and provide for the status of foreign nationals in Japan, pending the re-establishment of treaty relations.

As for domestic law, measures have already been taken by the Government of its own accord, or under the direction of the General Headquarters of the Supreme Commander for the Allied Powers, effecting the revision of a number of laws and ordinances, and thereby gradually abolishing the restrictions upon the activities of foreign nationals or their enjoyment of private rights which were once imposed on account of military necessity or for the purpose of protecting specific domestic industries. And consequently there exists today no undue prohibitory or restrictive provision in Japanese laws in respect of foreign nationals. In fact, we cannot help feeling that Japanese legislation, compared with other countries, has gone too far in the direction of equal treatment for Japanese and foreign nationals in certain respects. In this connection, the Japanese Government submitted on December 10, 1945, a memorandum (Annex 4) to the General Headquarters of the Supreme Commander for the Allied Powers to the effect that in many countries foreigners are subjected to restrictions with regard to land ownership, mining right, ship ownership, coastal trade, holding of the stocks of central banks, membership in exchanges, and certain professions, and that the Japanese Government understands that the Allied memorandum of October 4, 1945

concerning the removal of restrictions on liberties is not intended to apply to these kinds of rights.

In the light of what have been set forth in the preceding pages and also the date listed in Annexes 2 and 5, the following conclusion may be submitted.

In the interim period from the coming into effect of the peace treaty to the conclusion of treaties of commerce and navigation, it is deemed desirable that the principle of most-favored-nation treatment be applied on the basis of reciprocity (a) in respect of matters pertaining to export and import duties and excise taxes on imported goods, and also (b) in respect of matters concerning commerce and navigation other than those pertaining to the above-mentioned duties and taxes. There is no obstacle in Japanese law to its application. As regards the economic activities of foreign nationals within Japan, there is also no obstacle with regard to the concurrent application of national treatment, except in respect of certain cases coming under the prohibitory or restrictive provisions concerning enterprise, occupation, and private rights, which Japanese laws contain in common with the laws of all other countries, and which were recognized in the pre-war treaties of commerce and navigation between Japan and other countries.

ANNEX 1

List of Treaties of Commerce and Navigation between Japan and Other Countries as of November 1941

(1) Treaties of Amity, Commerce and Navigation

Country	Date of Conclusion	Title of Treaty
Afghanistan	November 19, 1930	Treaty of Amity
Albania	June 20, 1930	Treaty of Amity and Commerce
Argentina	February 3, 1898	Treaty of Amity, Commerce and Navigation
Belgium	June 27, 1924	Treaty of Commerce and Navigation
Bolivia	April 13, 1914	Treaty of Commerce
Brazil	November 5, 1895	Treaty of Amity, Commerce and Navigation
British Empire	April 3, 1911	Treaty of Commerce and Navigation
	July 30, 1925	Supplementary Convention to the above Treaty
	July 12, 1934	Convention regarding Commercial Relations between Japan and India
Chile	October 12, 1937	Notes exchanged concerning the prolongation of the duration of the Convention regarding the Commercial Relations between Japan and India
	June 7, 1937	Treaty regarding Commercial Relations between Japan and Burma
	September 25, 1897	Treaty of Amity, Commerce and Navigation
China	October 16, 1899	Additional Article of the above Treaty
	July 21, 1896	Treaty of Commerce and Navigation
Denmark	October 8, 1903	Supplementary Treaty of Commerce and Navigation
	May 6, 1930	Agreement concluded between the Empire of Japan and the Republic of China
	February 12, 1912	Treaty of Commerce and Navigation

	February 12, 1912	Special Reciprocal Customs Convention
Finland	June 7, 1924	Treaty of Commerce and Navigation
France	August 19, 1911	Convention of Commerce and Navigation and the Annexed Protocol
	May 6, 1941	Franco-Japanese Convention of Residence and Navigation relating to French Indo-China
	May 6, 1941	Franco-Japanese Agreement relating to the Tariff System and Commercial Exchanges and their Modalities of Settlement between Japan and Indo-China
Germany	July 20, 1927	Treaty of Commerce and Navigation
Greece	June 1, 1899	Treaty of Amity, Commerce and Navigation
Iran	October 18, 1939	Treaty of Amity
Italy	November 25, 1912	Treaty of Commerce and Navigation
	December 30, 1937	Additional Agreement to the Commerce and Navigation
	July 5, 1938	Trade Agreement between Japan, Manchoukuo and Italy
Mexico	October 8, 1924	Treaty of Commerce and Navigation
The Netherlands	July 6, 1912	Treaty of Commerce and Navigation
	April 27, 1908	Consular Convention concerning the Possessions and Colonies of the Netherlands
Norway	June 16, 1911	Treaty of Commerce and Navigation
	June 16, 1911	Special Reciprocal Tariff Convention
Siam	December 8, 1937	Treaty of Friendship, Commerce and Navigation and the Final Protocol
Spain	March 28, 1900	Special Commercial Convention
	May 15, 1911	Treaty of Amity and General Relations
Sweden	May 19, 1911	Treaty of Commerce and Navigation
	May 19, 1911	Special Reciprocal Tariff Convention
Switzerland	June 21, 1911	Treaty of Residence and Commerce
Turkey	October 11, 1930	Treaty of Commerce and Navigation
	March 20, 1934	Notes exchanged concerning the Amendment to the above Treaty

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Uruguay	May 10, 1934	Treaty of Commerce and Navigation and the Final Protocol
Yugoslavia	November 16, 1923	Treaty of Commerce and Navigation and the Annexed Protocol

(2) Provisional Arrangements

<u>Country</u>	<u>Date of Conclusion</u>	<u>Title of Treaty</u>
Bulgaria	November 1, 1927	Exchange of Notes constituting a Commercial Arrangement
Egypt	March 19, 1930	Exchange of Notes for a Commercial "Modus Vivendi"
Hungary	January 23, 1929	"
Iran	March 30, 1929	"
Liberia	March 9, 1936	Exchange of Notes constituting a Commercial Arrangement
Roumania	October 22, 1930	Exchange of Notes relating to Commerce
Soviet Union	January 20, 1925	Convention Embodying Basic Rules of the Relations between Japan and the Union of Soviet Socialist Republics

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ANNEX 2

List of Restrictions on the Enjoyment of Private Rights by Foreign Nationals
(as of June 30, 1950)

(1) Rights relating to Various Enterprises and Occupations

Kind	Remarks	Legal Basis
Emigration Agency	Prohibited	Law No. 70, 1896 (Law for the Protection of Emigrants), Article 7-(1) No persons or companies can become emigration agents except Japanese nationals, or commercial companies of which members or shareholders are exclusively Japanese nationals and which have the principal place of business in Japan.
Pilotage	Prohibited	Law No. 121, 1949 (Pilotage Law), Article 5. No persons except Japanese nationals can serve as pilots.
Radio Station	Prohibited	Law No. 131, 1949 (Electric Waves Law), Article 5. No persons without Japanese nationality, no foreign Government or its representative, and no foreign juristic person or organization are licensed to open radio stations.
Manufacture of Gunpowder	Prohibited	Law No. 53, 1910 (Law for the Control of Firearms, Gunpowder, etc.), Article 2. No persons or companies, except Japanese nationals or companies, of which members or shareholders are exclusively Japanese nationals, can manufacture gunpowder and explosives. But this does not apply to cases where, at the request and with the permission of the administrative authorities concerned, the experimental manufacture of newly invented gunpowder and explosives is undertaken for a specified period of time. The above-mentioned law, however, is to be abrogated under Paragraph 2, Supplementary Provisions, Law No. 149, 1950 (Gunpowder Control Law), which was promulgated on May 4, 1950, to become effective within six months from the date of its promulgation.