

Attachment

to

Promoting Effective Measures on Various Issues

Deriving from Military Installations

(Concerning Japan-U.S. Status of Forces Agreement)

November 2020

The Okinawa Municipal Council

for

Military Land Conversion and Base Problems

(Gunttenkyo Council)

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1. Provisions Related to Article I (Definition of SOFA Status Personnel)

1. Outline

- (1) "Members of the United States armed forces" means the personnel on active duty belonging to the land, sea or air armed services of the United States of America when in the territory of Japan.
- (2) "Civilian component" means the civilian persons of United States nationality who are in the employ of, serving with, or accompanying the United States armed forces in Japan, but excludes persons who are ordinarily resident in Japan or who are mentioned in paragraph 1 of Article XIV.
- (3) "Dependents" means
 - a. Spouse, and children under 21;
 - b. Parents, and children over 21, if dependent for over half their support upon a member of the United States armed forces or civilian component.

2. Current Situation and Issues

- (1) In January 2017, Supplementary Agreement regarding the Civilian Component of the United States Armed Forces was concluded. The primary components are as follows.
 - A) Clarification of the scope of the Civilian Component
 - a. Appropriated fund civilian employees of the United States armed forces in Japan;
 - b. Non-appropriated fund organization civilian employees under the supervision of the United States armed forces in Japan;
 - c. Civilian employees on United States armed forces operated vessels and aircraft;
 - d. Personnel of service organizations accompanying and providing direct support to the United States armed forces in Japan whose presence in Japan is solely for official purposes in connection with the United States armed forces;
 - e. The United States Government employees not employed by the United States armed forces, whose presence in Japan is solely for official purposes in connection with the United States armed forces;
 - f. Contractor employees
 - g. Employees operating the military banking facilities

- h. Such persons as may be specifically authorized by the Joint Committee.
- B) Development of criteria to evaluate contractor employee aforementioned in f of A).
- a. The contractor employee's presence in Japan is at the official invitation of the United States Government and solely for official purposes in connection with the United States armed forces.
 - b. The contractor employee is essential to the mission of the United States armed forces and has a high degree of skill or knowledge for the accomplishment of mission requirements by fulfilling one of the followings:
 - b-1. Acquiring the skill and knowledge through a process of higher education or specialized training and experience; or
 - b-2. Possessing a security clearance recognized by the United States to perform his or her duties; or
 - b-3. Possessing a license or certification issued by a U.S. Federal Department or Agency, U.S. State, U.S. Territory, or the District of Columbia to perform his or her duties; or
 - b-4. Identified by the United States armed forces as necessary in an emergent situation and will remain in Japan for less than 91 days to fulfill specialized duties; or
 - b-5. Specifically authorized by the Joint Committee.
- C) Notification and review of Contractor Employees
- a. Notification of the name of the contractor employee, the company employing the contractor employee, and an assessment of which criterion is met by the contractor employee.
 - b. Initiation of the process to terminate his or her status as a member of the Civilian Component when a contractor employee who wish to renew the existing contract is determined not to meet such criteria. The progress of the review shall be shared semi-annually, and its final results shall be reported within two years.
 - c. Annual confirmation of whether all newly hired contractor employees are in fact eligible to receive such designation.
 - d. Annual report of the total number of members of the Civilian Component
- D) Exclusion of persons ordinarily resident in Japan from members of the Civilian Component.
- E) Establishment of a Working Group

- (2) Conclusion of the Supplementary Agreement is considered to contribute to improvement of transparency through notification and review of the Civilian Component. However, it is not clear if the contents of the review on Contractor Employee which are agreed in Joint Committee and the regular reports regarding Civilian Components will be disclosed or not.
- (3) The United States Government shall report annually the total number of members of the Civilian Component and others to the Japanese Government. However, it is not clear whether the United States Government plans to provide such information to local municipalities as well.
- (4) Conclusion of the Supplementary Agreement shall contribute to the clarification of the scope of the Civilian Components subject to the Status of Forces Agreement. However, it remains questionable if an arrest or a transfer of apprehended or detained person would be appropriately implemented even when the person, who is not in the scope of the Civilian Components but works in a company within the U.S. Forces facilities and areas, runs into the U.S Forces' facilities and areas after causing an accident.
- (5) The information such as the total number of the U.S forces members, civilian components and their dependents is critical for local municipalities which consists basis of administrative policies including measures for military base affairs. Nevertheless, there is no mechanism in place for local municipalities to acquire those information.

3. Logic Behind

- (1) It is important that the United States Government and the Japanese Government make public the working status of the review of Contractor Employees and the contents of the regular report of the Civilian Components which are stipulated in the Article 5 of Supplementary Agreement and also agreed in the Joint Committee
- (2) The information such as the total number of the U.S forces members, civilian components and their dependents is critical for local municipalities which consists basis of administrative policies including measures for military base affairs. Therefore, detailed information such the total number of the U.S forces members, civilian components and their dependents, as well as those classifications by each military and municipality, names of those who reside outside of the provided residential areas and family structure should be provided to local municipalities.

- (3) Arrest of a person who is out of the scope of SOFA within facilities and areas of U.S forces shall be implemented without fail.

4. Petitions

- (1) With respect to the Supplementary Agreement on Civilian Components concluded between the Japanese Government and the United States Government, information related to the content of the notification stipulated in Article 5 and the periodical report on civilian component should be made public in order to secure transparency of operation of the agreement.
- (2) Clearly stipulate that detailed information including the total number of the U.S forces members, employees and their dependents, as well as those classifications by each military and municipalities (including residential information of each facility and that of both inside and outside of the provided residential area), shall be provided for local governmental bodies.
- (3) Clearly stipulate that consideration shall be given so that the clarification of the definition of civilian employees does not affect arrest of a person inside the U.S Forces facilities and areas who is not within the scope of SOFA.

5. References

- (1) Contractor means corporate entities in contract with the U.S Forces or those who provide services to the U.S forces in Japan based on a contract with the U.S Forces. (Those who are in direct employment contract with U.S Forces or U.S Government such as a judge advocate working for U.F Forces Japan are not included)
- (2) Contractor employees means those who are employed by the contractor in the preceding paragraph (employees, etc.).

2. Provisions Related to Article II (Permission, Determination, Return, and Special Usage of Facilities and Areas)

1. Outline

- (1) The United States is granted the use of facilities and areas in Japan.
- (2) Agreement as to specific facilities and areas shall be concluded by the two Governments through the Joint Committee provided for in Article 25 of this Agreement.
- (3) Upon request by either government, the Japanese Government and the United States Government shall review aforementioned arrangements and may agree that such facilities and areas shall be returned to Japan or that additional facilities and areas may be provided.
- (4) The facilities and areas used by the United States armed forces shall be returned to Japan whenever they are no longer needed for purposes of this Agreement.
- (5) The United States agrees to keep the needs for facilities and areas under continual observation with a view toward such return.

2. Current Situation and Issues

- (1) As shown in the construction of a new base at Henoko which has forcibly begun against the will of local municipalities, there is no system in place for reflecting the will of residents of surrounding areas and local municipalities who will be most affected by provision, operation and return of new facilities and areas.
- (2) Kadena Town established the town meeting concerning an agreement on the use of Kadena Base, and together with the Tripartite Liaison Committee, they call for conclusion of a base use agreement between Japan and the United States for removal and abbreviation of damages frequently deriving from bases.

3. Logic Behind

In order to solve the issues deriving from the U.S military bases, it is critical to acquire understanding and cooperation from resident of surrounding areas and local municipalities who live adjacent to the U.S military bases.

4. Petitions

- (1) Clearly stipulate that the governments of Japan and United States shall confer with relevant municipalities and take their opinions into consideration when

both governments have plans such as providing new facilities and areas to the U.S. Forces, changing its intended usages, reclaiming facilities and areas, extensively alternating land shape and newly constructing or repairing structures on a large-scale.

- (2) Clearly stipulate that if request is made by the concerned local governing bodies to maintain security of local citizens' lives and improve welfare, regarding the content of agreement on each facility and area which is to be concluded by the Japan-U.S Joint Committee, the Japanese Government and the United States Government shall examine this request.
- (3) Clearly stipulate that the Japanese Government and the United States Government shall hear the opinion of the concerned local governing bodies and shall respect their intentions when conducting the examination mentioned above. Further, it shall specify that the Japanese Government and the United States Government shall hear the opinion of the concerned local governing bodies and shall respect their intentions when examining the return of the facilities and areas as well.
- (4) Clearly stipulate that the agreement concerning each facility and area, which is to be concluded by the Japan-U.S Joint Committee, shall state detailed description such as the scope of facilities and areas as well as the purpose of use and the conditions of use for the facilities and area. Article 2 shall also specify that the Japanese Government examines these contents on a regular basis.

5. References

- (1) Items and contents of the agreement on the use of military bases that Kadena Town and others call for.
 - a. Noise (Aircraft) [Limitation of the number of take-off and landing]
 - b. Noise caused by night flights and early-morning flights [Not to conduct aircraft activities at night and early morning]
 - c. Flight path [Setting appropriate traffic patterns]
 - d. Training [Consideration to local residents in readiness training]
 - e. Foreign aircrafts flying to/returned to Kadena Air Base [Prohibition of foreign aircraft in general]
 - f. Environment (odor)[Implementation of engine adjustment at an appropriate area, access for environmental inspection]
 - g. Incidents and Accidents [Prompt investigation and announcement of the cause of accident, implementation of thorough maintenance]

- (2) Use Agreement of North Fuji Maneuver Area (Yamanashi Prefecture) and East Fuji Maneuver Area (Shizuoka Prefecture).

This is the agreement between the government and the concerned local municipalities which stipulates conditions when Japan Self-Defense Force use the areas. The agreement applies the same conditions to the U.S Forces when they use the areas.

3. Provisions Related to Article III (Safeguarding and Control Within and Outside of the Facilities and Areas)

1. Outline

- (1) Within the facilities and areas, the United States may take all the measures necessary.
- (2) In order to provide access for the United States armed forces to the facilities and their areas for their support, safeguarding the control, the Government of Japan shall, at the request of the United States armed forces and upon consultation between the two Governments through the Joint committee, take necessary measures within the scope of applicable laws and regulations over land, territorial waters and airspace adjacent to or in the vicinities of the facilities and areas. The United States may also take necessary measures for such purposes upon consultation between the two Governments through the Joint Committee.
- (3) Operations in the facilities and areas in use by the United States armed forces shall be carried on with due regard for the public safety.

2. Current Situation and Issues

- (1) Access to the inside of U.S Forces' facilities and areas by municipalities (1973 and December 1996)
 - a. Approval procedures for access to U.S Forces' facilities and areas has been established and implemented.
 - b. However, prompt access that Okinawa Prefecture Government has requested has not been realized as described in the environmental investigation request of the crash site of HH-60 helicopter which occurred Camp Hansen in August 2013. The request had not been approved until March 2014.
 - c. In January 2016, concentrated Perfluorooctanesulfonic acid (PFOS) was detected at the rivers including Hija River running near the Kadena Air Base. Okinawa Prefecture Government requested an access to the Kadena Air Base in order to conduct sampling research based on Okinawa Prefectural Ordinance on Conservation of the Living Environment. However, the request has not been approved yet as of April 2020.
 - d. Since a relatively high level of PFOS, etc. was detected in the groundwater around Futenma Air Station in JFY 2016, the following three requests have been made; "the appropriate use of PFOS, etc. at Futenma Air Station", "sharing of information regarding the use of PFOS, etc. at Futenma Air Station", and "holding tripartite talks to investigate the cause." However, there has not been any progress.
 - e. In February and June 2019, a permission request for an on-site inspection of the groundwater around Futenma Air Station was made to determine the source of pollution. As of March 2020, it has not been approved.

- (2) Reporting Procedures in occurrence of accidents/incidents (March, 1997)
- a. Reporting procedures in occurrence of accidents and incidents which would likely affect public safety and environment has been established and implemented.
 - b. Although approximately the number of 206 incidents occurred in U.S Forces' facilities and areas from 2010 to 2014 including oil leaks, it was reported that only about 23 incidents were reported to the Japanese government. The decision of reporting depends on discretion of U.S Forces.
 - c. In the accident of approximately 950 liter diesel leakage in Futenma Airbase in September 2015, the report was made two days after the accident. A prompt reporting has not been realized.
- (3) Application of domestic laws
- Regarding implementation of the U.S Forces' activities, there has been a concern among the prefectural residence against accident risks and environmental pollution that would be caused by exemption of the domestic laws on treatment of waste including PCB in the facilities and the areas of U.S Forces.
- (4) Regarding implementation of exercises and trainings by the U.S Forces, the prior document reporting has been made through Okinawa Defense Bureau. However detailed information of trainings and exercises such as contents and time are not included, which raises serious concerns among residents.
- Reporting on environmental pollution at Makiminato Service Area
- It was reported that highly concentrated PCB was detected from habu snakes inhabiting the surrounding area. Also the U.S Forces' document which was disclosed in September 2015, revealed the oil leakage of oil and toxic substances which occurred from 1972 to 1986. Since the facts and its relevance have not been confirmed, a proactive information disclosure is needed.
- (5) Agreement to supplement the Japan-U.S. Status of Forces Agreement (SOFA) on environmental stewardship (September 2015)
- a. It was determined that procedures would be established and maintained for Japanese authorities to have appropriate access to U.S. facilities and areas in the following cases;
 - When a contemporaneous environmental incident, i.e. a spill occurs
 - When site surveys, including cultural asset surveys, associated with land returns are conducted .
 - b. The realization of onsite survey at least three years or more prior to the return that Okinawa Prefecture Government has requested is not included. Since the access procedures in accordance with the supplementary agreement is not clear, onsite survey including cultural asset surveys at U.S facilities and areas has not been conducted.
 - c. The cultural asset surveys which was conducted in Futenma Air Station which was agreed to be returned to the Japanese government has been suspended due to the procedures shall be implemented in accordance with the supplementary agreement.

- d. On-site investigations were granted for the first time in accordance with the Agreement to Supplement the Japan-U.S Status of Forces Agreement on Environmental Stewardship after PFOS-containing firefighting foam leaked from MCAS Futenma in April of this year. Although the representatives were able to collect water and soil samples, the terms of the on-site investigations were decided by governments of Japan and the U.S. The manner in which the Government of Japan arranged the on-site survey was one-sided and extremely limited in time to get our consent. It gave the local authorities no opportunity to negotiate. Hence, we recognize that there were issues where some of sample surveys the OPG requested were not allowed. Furthermore, OPG was not able to grasp a holistic picture of the contamination since the decision to grant on-site surveys and sampling in accordance with the Agreement to Supplement the Japan-U.S Status of Forces Agreement on Environmental Stewardship was made at the government level and it required a certain amount of time.

3. Logic Behind

- (1) From the stand point to protect safety of residents, when the concerned governmental bodies request access to U.S facilities and areas, it is necessary that the request is promptly handled.
- (2) Regarding incidents and accidents which could cause damages to public safety or environment, it is necessary to promptly provide appropriate information as well as to clearly state implementation of appropriate measures. Moreover, further consideration is necessary for the incidents and accidents which are out of the scope of reporting in the current reporting procedures.
- (3) It is necessary to apply the Japanese domestic laws to U.S Forces aircraft, following examples of Germany, NATO and other European countries in order to alleviate aircraft noise and risks of accidents.
- (4) Regarding implementation of exercise and trainings, the specific content of them should be announced in advance in order to alleviate anxiety of residents.
- (5) From the stand point to prevent occurrence of serious environmental damages, the Japanese domestic laws on environmental preservation should be applied. Also the U.S government should take appropriate restoration measures in the occurrence of environmental pollutions
- (6) Regarding the environment supplementary agreement, it is important that the request from the concerned local governmental bodies hosting U.S military bases is realized and effective operation should be implemented.

4. Petitions

- (1) Clearly stipulate that the U.S forces shall provide the local governing bodies with any necessary and appropriate support for performance of duties, which includes entering the facilities and areas by reporting in advance. Furthermore, it shall specify that in case of emergency, immediate access can be made by the

local governing bodies without advance notice.

- (2) Clearly stipulate that information on incidents or accidents stemming from activities by U.S Forces, such as aircraft accidents, mountain forest fires and oil leakage that may impact public safety or environment shall be promptly provided to the concerned local governmental bodies and local residents, even in cases when they occur inside the facilities and areas. IT shall also specify that appropriate measures shall be taken for prevention of disaster from spreading.
- (3) Clearly stipulate that that Japanese law such as Air Navigation Law, shall be applied when activities, including exercises, training as well as maintenance and construction of facilities by U.S forces are carried out.
- (4) Clearly stipulate that detailed and concrete information pertaining to U.S Forces trainings and exercises shall be swiftly provided to concerned local governmental bodies and local residents in advance.
- (5) Article 3 A shall stipulate that the following environmental items be newly established.
 - a. The United States shall be responsible for preventing any kind of pollution, arising from activities by the U.S forces, such as soot and smoke, polluted water, red soil, waste disposal and PCB. Further, the United States shall be responsible for taking necessary measures for properly preserving the natural environment.

In addition, for all activities of U.S forces in Japan, Japanese Law concerning environmental preservation shall be applied.
 - b. When developing plans for the facilities and areas, the U.S Forces shall minimize an impact the plans may have on people, plant and animals, soil, water, air and cultural assets. Further, before and after implementing projects base on the concerned plan, the impact of the concerned projects shall be surveyed, predicted and measured and evaluated regularly. The survey results shall also be released. Moreover, both the movements of Japan and the United States, on the basis of the concerned survey results, shall discuss measures for environmental preservation.
 - c. In regards to environmental pollution stemming from U.S Forcers' activities, the United States shall be responsible for taking appropriate restorative measures. Responsibility for the expenses arising from such measures shall be discussed between the governments of Japan and the United States.
- (6) With regard to the "Agreement to Supplement the Japan-S Status of Forces Agreement on Environmental Stewardship," concluded by the governments of Japan and United States, the following items shall be taken into consideration.
 - a. In the event of incidence or environmental pollution, the agreement shall enable concerned local governmental bodies to swiftly access the site and conduct joint surveys such as sampling in a manner that reflects opinions of local authorities. Furthermore, the process of environmental surveys and decontamination shall be explained to the relevant local municipalities in advance. Confirmation surveys and fixed period monitoring shall be

conducted after decontamination when concerned local government bodies require such.

- b. Pertaining to the access to facilities and areas before land return, an on-site survey shall be permitted at least three (3) years or more before the return in order to promote smooth reutilization of returned land. The access shall be allowed as soon as it is practical after the Japan-U.S Security Consultative Committee of Japan-U.S committee agree on land return. Furthermore, procedures pursuant to the agreement to supplement the Japan-U.S SOFA on Environmental Stewardship have been interrupting surveys on cultural assets. Therefore, Article 3 shall also specify procedures for access to facilities and areas so that surveys on cultural assets shall be smoothly conducted by the concerned local governmental bodies.
- c. Decisions on applicability of the supplement the Japan-U.S SOFA on Environmental Stewardship to certain on-site surveys required to conduct public works take time, and it has caused some public works to stall. Hence, clarify the applicability of the supplement the Japan-U.S SOFA on Environmental Stewardship on on-site surveys.
- d. Along with cultural asset excavation, surveys shall be conducted based on the above item a when environmental pollutions and abandoned articles are detected. In addition, investigations shall be carried out in order to ensure safety of excavation.

5. References

- (1) U.S Forces' internal standard regarding leakage accidents including oil leak
In House of Representatives Foreign Affairs Committee held on June 8th 2007, a government informant made the following answers.
 - a. The Japanese government received the explanation from U.S Forces that there are 4 categories regarding oil leak accident from Category 1 to Category 4 as an internal standard of U.S Forces.
 - b. Category 1: The volume of flowing liquid more than 10,000 gallon which affects environment or causes serious threat to public health or safety.
 - c. Category 2: The volume of flowing liquid more than 1,000 gallon or 10,000 gallon which affects environment or causes serious threat to public health or safety.
 - d. Category 3: The volume of flowing liquid from 100 gallon to 10,000 gallon which does not cause any danger or damage.
 - e. Category 4: The volume of flowing liquid less than 100 gallon.
 - f. Reporting procedures in occurrence of incidents and accidents are implemented when accidents or incidents which could affect public safety or environment occur. The U.S Forces reports based on their decision primarily based on the standard whether the incident/accidents affect public safety or environment.
- (2) Regulations in NATO Status of Forces Agreement Supplementary Agreement

Article 45 (Omitted)

2 The conduct of maneuvers and other training exercises, in accordance with paragraph 1 of this Article, shall be governed by the relevant provisions of German law, in particular the Federal Requisitioning Law of September 27, 1961, as amended. (Omitted)

Article 46 (Omitted)

2. The conduct of maneuvers and other training exercises, in accordance with paragraph 1 of this Article, shall be governed by German regulations on the entry into and use of German air space and the utilization of aviation installations and facilities which fall within the scope of the Standards and Recommended Practices of the International Civil Aviation Organization, as well as applicable notification, approval and coordination procedures contained in relevant laws, regulations and publications. The competent German authorities shall discuss with the authorities of the sending States in good time prospective amendments to German regulations or administrative provisions concerning the entry into and use of German air space and the utilization of aviation installations and facilities. The Contracting Parties shall make use of competent organizations in this field to discuss such amendments.

4. Provisions Related to Article IV (Return, Restoration and Compensation of Facilities)

1. Outline

- (1) The United States is not obliged, when it returns facilities and areas to Japan, to restore them to the condition in which they were at the time they became available to the United States armed forces, or to compensate Japan in lieu of such restoration.
- (2) Japan is not obliged to make any compensation to the United States for any improvements made in the facilities and areas or for the buildings or structures left thereon on the earlier return of the facilities and areas.

2. Current Situation and Issues

- (1) Elimination of Artifacts
 - a. Discovery of contaminated soils and others from the former U.S base site
 - ♦ In March 2003, soils including specified toxic substances exceeding the environmental standards and old machine guns were discovered from the area in Camp Kuwae, former U.S base site.
 - ♦ In June 2013, disposal wastes including drums containing toxic substances exceeding the environmental standards were discovered at the Okinawa City's soccer field, which is former U.S military land.
 - ♦ In November 2015, a housing area in Chatan Town, former U.S base site dioxins exceeding the environmental standards were discovered.
 - b. Removal Measures of artifacts based on Redevelopment of Military Base Conversion Sites
 - ♦ In March 2012, "Act on Special Measures Concerning Promotion of Effective and Appropriate Use of the Lands in Okinawa Prefecture Previously Provided for Use by the Stationed Forces" (Reversion Special Measures Act) was revised.
- (2) Reporting on environmental pollution at Makiminato Service Area (aforementioned)

Regarding Makiminato Service Area which was agreed to be returned to Japan, it was reported that highly concentrated PCB was detected from habu snakes inhabiting the surrounding area. Also the U.S Forces' document was disclosed in September 2015 which revealed the leakage of oil and toxic substances which occurred from 1972 to 1986. Proactive information disclosure is needed.

- (3) Agreement to supplement the Japan-U.S. Status of Forces Agreement (SOFA) on environmental stewardship (September 2015)) (aforementioned)
 - a. It was determined that procedures would be established and maintained for Japanese authorities to have appropriate access to U.S. facilities and areas (in principle no more than 150 working days prior to the return date) for site investigation (including culturally based surveys)in the following cases;
 - b. The realization of onsite survey at least three years or more before the return that Okinawa Prefecture Government has requested was not included.
 - c. The cultural asset surveys which was conducted in Futenma Air Station which was agreed to be returned to the Japanese government in the security consultative committee has been suspended due to the procedures shall be implemented in accordance with the supplementary agreement.

3. Logic Behind

- (1) Elimination of artifacts at the land to be returned
 - a. Particularly, in Okinawa prefecture, approximately 65.4% of the land area of the U.S. Forces installations is owned by public and private owned land. Therefore, it is necessary to facilitate the smooth development of these areas so that the landowners may use their returned land without concerns.
 - b. It is also necessary to clearly establish procedures concerning environmental surveys and cleanups as well as to implement measures for elimination of artifacts.
- (2) Use log of the land
 - a. To do so, cooperation from the U.S., which has been using the facilities and areas, is indispensable.
 - b. Further, in order to fulfill the responsibility as the party responsible for the pollution, we think it is necessary for the U.S. government to jointly address the issues with the Japanese government, which is the provider of the facilities and areas.
- (3) Agreement to Supplement the Japan-U.S Status of Forces Agreement on Environmental Stewardship (aforementioned)

Regarding the Agreement to Supplement the Japan-U.S Status of Forces Agreement on Environmental Stewardship, it is important that the request from

the concerned local governmental bodies hosting U.S military bases is realized and effective operation should be implemented.

4. Petitions

- (1) In regard to the return of the facility (ies) and area(s) in use by the U.S forces, the governments of Japan and the United States shall conduct joint surveys in advance on items such as environmental pollution, environmental destruction and disposal of unexploded shells etc. caused by U.S forces activities, Further, when such things as environmental pollution are confirmed, necessary measures shall be taken by the governments of Japan and Untied States for developing and implementing restorative plans, such as environmental clean-up/ Responsibility for bearing the expenses of these shall be discussed between both the governments of Japan and the United States.
- (2) With respect to land planned to be returned, Article 4 shall stipulate that the governments of Japan and the United States shall provide concerned local governmental bodies with all information on the land including usage history such as modification, construction of buildings and waste disposal.
- (3) With regard to agreement to supplement the Japan-.S Status of Forces Agreement on Environmental Stewardship, concluded by the governments of Japan and U.S., following items shall be taken into consideration.
 - a. In the event of confirming incidents or environmental pollution, the agreement shall enable concerned local governmental bodies to swiftly access the site and conduct joint survey such as sampling. Furthermore process of environmental surveys and decontamination shall be explained for the relevant local municipalities in advance. When concerned local governmental bodies require, confirmation survey and fixed period monitoring shall be conducted after decontamination.
 - b. As to access to facilities and areas before land return, onsite survey shall be permitted at least three years or more before the return in order to promote smooth reutilization of returned land. The access shall be allowed as soon as practical after Japan-.S Security Consultative Committee or Japan-U.S Joint Committee agree on land return. Furthermore, procedures pursuant to agreement to supplement the Japan-U.S SOFA on Environmental Stewardship have been interrupting survey on cultural assets. Therefore, Article 3 shall also specify procedures for admission to facilities and areas so that survey on cultural assets shall be smoothly conducted by the

concerned local governmental bodies.

- c. Along with cultural asset evacuation, surveys shall be conducted based on the above items when environmental pollutions and lost articles are detected. In addition, investigations shall be carried out in order to confirm safety of evacuation.

5. References

Outline of the Act on Special Measures Concerning Promotion of Effective and Appropriate Use of the Lands in Okinawa Prefecture Previously Provided for Use by the Stationed Forces (Act 102, 1995) (Revised in March 2012)

- (1) The Japanese government must before for access to conduct investigate and measure the area before the return
- (2) The Japanese government must implement measures for elimination of artifacts for the whole area of the land including soil contamination and removal of unexploded bomb before the retune of the land to the land owner.

5. Provisions Related to Article V (Access to Ships and Aircrafts as well as Movement)

1. Outline

- (1) United States and foreign vessels and aircraft operated by, for or under the control of the United States for official purposes shall be accorded access to any port or airport of Japan free from toll or landing charges.
- (2) The vessels and aircraft mentioned in the paragraph (1), United States Government-owned vehicles including armor, and members of the United States armed forces, the civilian component, and their dependents shall be accorded access and movement between facilities and areas in use by the United States armed forces between such facilities and areas and the ports or airports of Japan.
- (3) The port and aircraft mentioned in the paragraph (1), such access to and movement between facilities and areas by United States military vehicles shall be free from toll and other charges.

2. Current Situation and Issues

- (1) Use of civil airports and ports by aircrafts and vessels of U.S Forces
Article 5 accords vessels and aircraft of U.S Forces (including civil vessels and aircrafts requisitioned by U.S forces) to have the right to access to airports and ports in Japan.
 - a. Use of civil airport by aircrafts of U.S Forces
 - ◆ U.S Forces used Shimoji Airport for military exercises in Philippine and others until 2006. (Total 62 days, 323times)
 - ◆ In March 2012, U.S Forces used Ishigaki Airport for personnel transportation to U.S Forces' vessel.
 - b. Use of civil ports by vessels of U.S Forces
 - ◆ In June 2007, two minesweeping ships of U.S Forces made a goodwill visit to Sonae Port in Yonaguni Town.(The first use of civil port after Okinawa's reversion to Japan)
 - ◆ In January, February and October in 2016, a landing ship of U.S Army used Ie port for the purpose of cargo shipment.
- (2) Transfer associated with any activity that is considered in essence as exercise and/or training.
 - a. In August 2005, a traffic accident occurred due to a driving training on Okinawa Expressway conducted by U.S Marine.

- b. In July 2016, approximately 10 U.S Marines used a public road across the northern training area carrying a gun.

3. Logic Behind

- (1) In order to ensure safe and smooth operation of aircraft and vessels, the use of civil airport and port by U.S Forces should be prohibited except in case of emergency. Furthermore, for the sake of safe and smooth management of facilities, not only aviation laws including ordinances on management of ports, but also other domestic laws should be applied to the use of civil airport and port by U.S Forces as well.
- (2) With regard to excises and training of U.S Forces, they should be conducted within the provided facilities and areas.

4. Petitions

- (1) Clearly stipulate that except in cases of emergency, U.S Forces shall be prohibited from the use of civilian airports and ports in order to secure smooth routine operation of commercial aircrafts and commercial ships as well as maintain their safety. Article 5 shall also stipulate that domestic law shall be applied to U.S Forces in the event of using airports or ports.
- (2) Clearly stipulate that "access to" and "movement" written under this article shall not include any activity that is considered, in essence, as exercise and/or training.

5. References

Rules and regulations regarding the use of airports and ports

- (1) Okinawa Prefectural Ordinance on establishment and management of airports in Okinawa. (Okinawa Prefectural Ordinance No. 20, 1972)

(Use of airport facilities by aircrafts)

Article 4: Anyone who wishes to use airport facilities for take-off and landing or parking of aircrafts (hereinafter referred to as "the users") shall obtain permission from the Governor in advance. The same shall apply when the operators intend to alter such permission.

2. The governor may require necessary instructions to the Users on parking of aircrafts and others.

- (2) Okinawa Prefectural Ordinance on Management of Port and Harbor (Okinawa Prefectural Ordinance No. 55, 1972)

(Submission of Notice of Enter/Departure of Ports)

Article 6: When vessels entering and departing the port zone set forth in the regulation, a prior notice should be submitted to the Governor. However, that this does not apply to vessels that are specifically designated by the Governor.

(Use Permit of Facilities)

Article 7: Anyone who wishes to use ports should obtain permission from the Governor in advance (excluding for Ginowan Marina, Yonabaru Marina and Nishihara/Yonabaru Marine Park, hereinafter the same shall apply in this paragraph). The same shall apply when approved organizations intend to alter such permission.

2. The governor may impose necessary conditions when approving applications in the preceding paragraph.

6. Provisions Related to Article IX (Entry into or Departure from Japan by Members of the United States Military Service Members, the Civilian Component, and Their Dependents)

1. Outline

- (1) The United States may bring into Japan persons who are members of the United States armed forces, the civilian component, and their dependents.
- (2) Members of the United States armed forces shall be exempt from Japanese passport and visa laws and regulations. Members of the United States armed forces, the civilian component, and their dependents shall be exempt from Japanese laws and regulations on the registration and control of aliens.
- (3) The Government of Japan will be notified at regular intervals, in accordance with procedures to be agreed between the two Governments, of numbers and categories of persons entering and departing. (Agreed Minutes)

2. Current Situation and Issues

- (1) In December 1996, the Japan-U.S. Joint Committee reached an agreed on the inspection of humans, animals and plants and the inspection procedures has been applied ever since. However, the current SOFA does not have any provision on the inspection of humans, animals and plants.
- (2) In October 2000, 60 black widow spiders, a poisonous spider not found in Japan, were discovered inside the Air Station Iwakuni in Yamaguchi Prefecture. In July 2006, they were found again near the Air Station Iwakuni.
- (3) In July 2020, an explosive spread of the novel coronavirus occurred aboard camps such as MCAS Futenma and Camp Hansen. There were more than 100 infections in just a matter of few days. Japanese quarantine laws are not applicable to the U.S. Forces when military personnel come into the country directly through U.S. Military bases such as Kadena Air Base. Although the U.S Forces are responsible for imposing quarantine, the PCR testing which the Government of Japan require upon entry to the country was not done, and it is thought to be a factor of the spread.

3. Logic Behind

In order to address concerns of the residents living near the bases over the invasion of infectious diseases from abroad, it is necessary to apply the Japanese laws on the inspection of humans, animals and plants, as well as on the public health and hygiene, to the United States armed forces and execute inspections by the Japanese authorities.

4. Petition

Article 9 shall specify that Japanese law shall apply to inspection of persons,

animals and plants as well as to the public health.

5. References

NATO SOFA Supplementary Agreement

Article 54

1. Except as otherwise provided in this paragraph, the German regulations and procedures for the prevention and control of infectious diseases of humans, animals and plants as well as for the prevention and control of plant pests shall apply to a force and a civilian component. A force may apply its own regulations and procedures in the fields referred to in the preceding sentence within accommodation made available for its use as well as to its members, members of its civilian component and dependents provided that neither public health nor the cultivation of plants is endangered thereby.

2. The authorities of a force and the German authorities shall promptly inform each other of the outbreak, or suspected outbreak, development and elimination of an infectious disease, as well as of the measures taken.

3. If the authorities of a force deem it necessary to take health protection measures in the vicinity of accommodation made available for its use, they shall reach agreement with the German authorities regarding the execution of such measures.

4. Where German law prohibits the importation of certain articles, these articles may, with the approval of the German authorities, and provided that neither public health nor the cultivation of plants is endangered thereby, be imported by the authorities of a force. The German authorities and the authorities of the force shall agree on categories of articles the import of which is approved by the German authorities under this provision.

5. The authorities of a force may, with the approval of the German authorities, carry out the examination and control of articles imported by them. They shall ensure that neither public health nor the cultivation of plants is endangered as a result of the importation of such articles.

7. Provisions Related to Article XIII (Taxation)

1. Outline

- (1) The United States armed forces shall not be subject to taxes or similar charges on property held, used or transferred by such forces in Japan.
- (2) Members of the United States armed forces, the civilian component, and their dependents shall be exempt from taxation in Japan on the holding, use, transfer interest, or transfer by death of movable property, tangible or intangible, the presence of which in Japan is due solely to the temporary presence of these persons in Japan.
- (3) There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

2. Current Situation and Issues

- (1) In March 1954, the Japan-U.S Joint Committee agreed to levy tax on the use of roads by private vehicles of the United States armed forces members, civilian components, and their dependents and that the local municipalities to receive such tax as automobile tax the owners of such vehicles, namely, the United States armed forces members, civilian components, and their dependents.
- (2) In February 1999, the tax rate was revised at the Japan-U.S. Joint Committee.
- (3) The automobile tax on the private vehicles of the United States armed forces members, civilian components, and their dependents is lower than that of the local private vehicles.

Tax type	Engine size, etc.	U.S. members etc.	Locals
Automobile tax	Over 4.5 l	JPY 22,000	JPY 88,000 or more
	4.5 l or less	JPY 19,000	JPY 76,500 or less
	Trucks	JPY 32,000	JPY 40,500 or less
Light vehicle tax	4 wheeled	JPY 3,000	JPY 10,800
	Motorized bicycle	JPY 500	JPY 2,000 or more

※ The light vehicle tax rate for the locals was revised in JFY 2016

- (4) If the same rates as the local private vehicles were applied, the tax revenue is expected to increase by JPY 690 million per year.

3. Logic Behind

The burden on the Okinawa Prefectural Government incurred by the use of roads by private vehicles of the United States armed forces members, civilian components, and their dependents is not negligible in terms of administration and budget.

4. Petition

Article 13 shall specify that private vehicles and light-weight vehicles of members of the U.S. armed forces, civilian component, and their dependents shall be taxed at the same rate as private vehicles of Japanese people.

5. References

- (1) Viewpoint of the Japanese Government on the taxation on the private vehicles of the United States armed forces members, civilian components, and their dependents.
 - a. The members, civilian components, and their dependents of the United States armed forces are exempt from Japanese tax on the holding of movable property as stipulated in SOFA; however, the SOFA does not grant exemption from taxes payable in respect of the use of roads.
 - b. The automobile tax and the light vehicle tax can be understood both as the property tax and the road damage contribution.
 - c. Among those, the amount equivalent to the road damage contribution is imposed on the private vehicles of the United States armed forces members, civilian components, and their dependents.
- (2) Substitution of the difference of the tax between the local private vehicles and that of the United States armed forces members, civilian components, and their dependents

The substitution for the difference is reflected on the base fiscal balance as stipulated in the Local Allocation Tax Act. However, such alternative system creates confusion that the preferential treatment is given due to the existence of the bases.

8. Provisions Related to Article XV (Non-Appropriated Fund Organizations)

1. Outline

- (1) Navy exchanges, post exchanges, messes and other organizations authorized and regulated by the United States military authorities may be established in the facilities and areas for the use of members of such forces, the civilian component, and their dependents.
- (2) Except as otherwise provided in this Agreement, such organizations shall not be subject to Japanese regulations, license, fees, taxes or similar controls.
- (3) No Japanese tax shall be imposed on sales of merchandise and services by such organizations, but purchases within Japan of merchandise and supplies by such organizations shall be subject to Japanese taxes.
- (4) Except as such disposal may be authorized by the Japanese and United States authorities in accordance with mutually agreed conditions, goods which are sold by such organizations shall not be disposed of in Japan to persons not authorized to make purchases from such organizations.
(Provision 3)

2. Current Situation and Issues

- (1) The use of the services and facilities provided by such organizations, including playing golf and boarding Cessna planes, by the Japanese is not clearly regulated with regards to its contents and procedures, etc.
- (2) There is a request from the Okinawa Golf Business Council Association to ban the use of U.S. armed forces golf courses by the Japanese and make such courses exclusive to the U.S. armed forces welfare facilities in order to mitigate the impact on the private sector activities. According to the Association, the use of such golf courses by the Japanese is large in number.
<Reference> Golf course fee
 - ① Taiyo Golf JPY 6,000
 - ② Chibana Golf Course (short) JPY 800~1,000
- (3) In December 1999, a Cessna plane belonging to the Kadena Aero Club made an emergency landing at Kadena Munitions Storage Area revealing the fact that the sightseeing flights with Japanese aboard were regularly operated.

3. Logic Behind

Such organizations are exempt from the Japanese tax. When the Japanese are

to use the services and facilities provided by such organizations, concrete limitations and procedures etc. needs to be defined in light of the equitability of tax levy. The same goes for the sales and disposal of merchandise; clear regulations need to be established.

4. Petitions

[Article 15 shall specify that its Paragraph 3 of the Article 15 needs to be revised so that services, provided by organizations within the facility(ies) and area(s), shall be restricted in the same way with the sales of merchandise, when they are provided to the Japanese.

5. References

Golf Course Utilization Tax

- (1) Tax payer: users of the golf course
- (2) Utilization tax rates:

Classification	1	2	3	4	5	6	7
Tax (yen)	960	800	720	640	560	480	400

- (3) Allocation to local municipalities: 7/10 of the tax collected is allocated to the municipalities where the golf course is located.
 - (4) Exception: The golf courses within the United States armed forces facilities are exempt from the golf course utilization tax based on the Act on Temporary Special Provisions of the Local Tax Act Attendant upon the Enforcement of the "Agreement under Article VI of the Treaty of Mutual Cooperation and Security between Japan and the United States of America regarding Facilities and Areas and the Status of United States Armed Forces in Japan".
- ※ If Taiyo Golf were to be assumed taxable, the Golf Course Utilization Tax to be levied on the users is provisionally estimated to be JPY 800 (classification 2).
 - ※ Chibana Golf Course is exempt from the Golf Course Utilization Tax.

9. Provisions Related to Article XVII (Criminal Jurisdiction)

1. Outline

(1) Right to exercise exclusive jurisdiction

- a. The military authorities of the United States shall have the right to exercise exclusive jurisdiction over:
 - persons subject to the military law of the United States with respect to offenses, including offenses relating to its security, punishable by the law of the United States, but not by the law of Japan.
- b. The authorities of Japan shall have the right to exercise exclusive jurisdiction over:
 - members of the United States armed forces, the civilian component, and their dependents with respect to offenses, including offenses relating to the security of Japan, punishable by its law but not by the law of the United States.

(2) Primary right to exercise jurisdiction

- a. The military authorities of the United States shall have the primary right to exercise jurisdiction over members of the United States armed forces or the civilian component in relation to:
 - (i) offenses solely against the property or security of the United States, or offenses solely against the person or property of another member of the United States armed forces or the civilian component or of a dependent;
 - (ii) offenses arising out of any act or omission done in the performance of official duty.
- b. In the case of any other offense than (2)a above, the authorities of Japan shall have the primary right to exercise jurisdiction.

(3) Transfer of custody of an accused

- a. The authorities of Japan shall notify promptly the military authorities of the United States of the arrest of any member of the United States armed forces, the civilian component, or a dependent.
- b. The custody of an accused member of the United States armed forces or the civilian component over whom Japan is to exercise jurisdiction shall, if he is in the hands of the United States, remain with the United States until he is charged by Japan.

(4) Cooperation in investigations

The authorities of Japan and the military authorities of the United States shall

assist each other in the carrying out of all necessary investigations into offences, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offence.

- (5) Search, seizure, or inspection of the property of the United States armed forces
 - a. The Japanese authorities will normally not exercise the right of search, seizure, or inspection with respect to any persons or property within facilities and areas, or with respect to property of the United States armed forces wherever situated, except in cases where the authorities of the United States armed forces consent to such search, seizure, or inspection by the Japanese authorities. (Agreed Minutes)
 - b. Where search, seizure, or inspection with respect to persons or property within facilities and areas, or with respect to property of the United States armed forces in Japan is desired by the Japanese authorities, the United States military authorities will undertake, upon request, to make such search, seizure, or inspection. (Agreed Minutes)

2. Current situation and Issues

- (1) Custody of the accused over whom the Japanese authorities have the jurisdiction
 - a. In cases where the accused is in the hands of the United States
 - (i) Concerns over possible impact on the investigation
In 2009, the suspect of the fatal hit-and-run accident in Yomitan Village who was detained within the base, did not submit to an investigation.
 - (ii) Possibility of escape to the United States
In 1993, an army who was detained as a rape suspect within the base escaped to the United States by civil aircraft, using a falsified military order.
 - b. Improvements to the procedures on the transfer of custody prior to indictment (October 1995)
 - (i) It was agreed that the United States will give sympathetic consideration to any request for the transfer of custody prior to indictment of the accused of heinous crimes of murder or rape.
 - (ii) However, the transfer of the custody took 4 days after the request was made for the rape case in June 2001, and 2 days for the rape and injury case in May 2003.
 - (iii) For the attempted rape case of November 2002, the request for the transfer of custody prior to the indictment made by the Japanese authorities was refused without clear justifications.

(iv) The decision on the transfer of custody prior to the indictment still depends on the discretion of the United States.

※ Reference 1: Crimes where the Japanese authority requested for the transfer of custody prior to the indictment

Date of Crime	Crime site (prefecture)	Crime (Transferred or not)
July 1996	Nagano	Attempted robbery homicide (transferred)
June 2001	Okinawa	Rape (transferred)
November 2002	Okinawa	Attempted rape etc. (not transferred)
May 2003	Okinawa	Rape and injury (transferred)
January 2006	Kanagawa	Robbery homicide (transferred)
March 2008	Kanagawa	Robbery homicide (transferred)

Source: Ministry of Foreign Affairs Japan website

※ Reference 2

With regard to the serial arson in Chatan Town by a U.S. service member in 2001, it was reported that the transfer of custody was denied. However, according to the police, the denial was over the request for the consent to arrest stipulated in the Article 10 of the Special Criminal Act.

(2) Investigation of the property of the United States armed forces outside the facilities and areas

In the case of a Cessna plane crash in Nago City, outside the facilities and areas (October, 2008), the police requested the consent of the U.S. armed forces to seize the crashed plane as stipulated in the Article 13 of the Special Criminal Act, which was denied. The crashed plane was recovered by the U.S. side in accordance with the Agreed Minutes to the Japan-U.S. SOFA.

(3) Off-base US military aircraft accident site control

a. In August 2004, a CH-53 helicopter crashed into the campus of Okinawa International University. The U.S. marines controlled the site immediately after the crash, upsetting the people of Okinawa.

b. This has led to the adoption of the “Guidelines Regarding Off-Base U.S. Military Aircraft Accidents in Japan” at the Japan-U.S. Joint Committee in April, 2005.

c. The Guideline states that:

(i) authorities of the Government of Japan and of the U.S. armed forces will exercise necessary joint control over the off-base U.S. military aircraft accident site;

(ii) “inner cordon” and “outer cordon” shall be established around the U.S. military aircraft accident site; the site/access control authority of the “inner cordon” will be jointly assumed and that of the “outer cordon” by the Japanese authorities.

(iii) the U.S. side will retain control over all wreckage, parts pieces and debris.

3. Logic Behind

- (1) The repeated crimes and accidents inevitably derives from the perception that the U.S. military service members, civilian components and their dependents are protected by the Japan-U.S. SOFA. The Agreement (at the Japan-U.S Joint Committee) that reserves the right of final decision to the U.S. military authorities is deficient. In all crime cases, the detention prior to the indictment of a suspect over whom the Japanese authorities has the jurisdiction needs to be promptly carried out by the Japanese authorities.
- (2) When the property of the U.S. armed forces is found outside the facilities and areas, the Japanese authorities shall conduct necessary investigations etc., as it is in principle outside the control of the U.S. armed forces.
- (3) Site control outside the facilities and areas needs to be assumed and managed by the Japanese authorities.

4. Petitions

- (1) Clearly stipulate that when there is a request from the Japanese authorities for transfer of the suspect's custody before indictment, U.S. military authorities shall swiftly respond.
- (2) Clearly stipulate that Japanese authorities shall exercise rights to investigate, seize and examine the properties of the U.S. armed forces outside the facilities and areas.
- (3) Clearly stipulate that the off-base accident sites outside the facilities and areas shall be controlled under the initiative of the Japanese authorities.

5. References

- (1) Special Criminal Act Attendant upon the Enforcement of the “Agreement under Article VI of the Treaty of Mutual Cooperation and Security between Japan and the United States of America regarding Facilities and Areas and the Status of United States Armed Forces in Japan” (Act No. 138 of 1952)

(Arrests within the facilities and areas)

Article 10 Decision to detention including the arrest, execution of a bench or detention warrant within the facilities and areas guarded under the authority of the United States armed forces shall be made upon the consent of the competent authorities of the United States armed forces or shall be made by the competent authorities of the United States armed forces commissioned by the Japanese authorities.

2 Where an arrest is to be made within the facilities and areas after the pursuit of the offender of crimes corresponding to a death penalty, life term or imprisonment longer than 3 years, the consent under this article is not required.

(Seizure, search, etc. within the facilities and areas)

Article 13 Search, including the execution of a search warrant, seizure, including the execution of a seizure warrant, or inspection within facilities and areas in use by and guarded under the authority of the United States armed forces or with respect to the property of the United States armed forces shall be made upon the consent of the competent authorities of the United States armed forces or shall be made by the competent authorities of the United States armed forces commissioned by the public prosecutor or the judicial police officer. In case of the commission of inspection requested by a court or a judge, such commission shall be made by such a court or a judge.

(2) Provisions of the NATO SOFA Supplementary Agreement

Article 22

2 (a) Where the arrest has been made by the German authorities, the arrested person shall be handed over to the authorities of the sending State concerned if such authorities so request.

(b) Where the arrest has been made by the authorities of a sending State, or where the arrested person has been handed over to them under subparagraph

(a) of this paragraph, they

(i) may transfer custody to the German authorities at any time;

(ii) shall give sympathetic consideration to any request for the transfer of custody which may be made by the German authorities in specific cases.

10. Provisions Related to Article XVIII (Civil Claims)

1. Outline

- (1) Damages arising out of acts or omissions of members or employees of the United States armed forces done in the performance of official duty shall be dealt with by Japan in accordance with the following provisions :
 - a. Claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of Japan with respect to claims arising from the activities of its Self-Defense Forces.
 - b. Japan may make the payment of the amount agreed upon or determined by adjudication in Japanese yen.
 - c. Such payment or the final adjudication by such a tribunal denying payment, shall be binding and conclusive upon the Parties.
 - d. Where the United States alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 25 percent chargeable to Japan and 75 percent chargeable to the United States.
 - e. Where Japan and the United States are responsible, the amount awarded or adjudged shall be distributed equally between them.
- (2) Claims against members or employees of the United States armed forces arising out of tortious acts or omissions not done in the performance of official duty shall be dealt with in the following manner.
 - a. The authorities of Japan shall consider the claim and assess compensation to the claimant in a fair and just manner, and shall prepare a report on the matter.
 - b. The report shall be delivered to the appropriate United States authorities, who shall then decide without delay whether they will offer an ex gratia payment, and if so, of what amount.
 - c. If an ex gratia payment is made, and accepted by the claimant, the United States authorities shall make the payment themselves and inform the authorities of Japan of their decision and of the sum paid.
- (3) In case any private movable property which is subject to compulsory execution under Japanese law is within the facilities and areas, the United States authorities shall, upon the request of Japanese courts, possess and turn over such property to the Japanese authorities.

2. Current Situation and Issues

- (1) Improving the operational procedures of the Agreement of December 1996
 - a. With regard to the compensation for the damage caused by crimes and accidents not done in the performance of official duty, improvements have been made in terms of: the ex gratia payment; the consolation payment; the advance payment request; and the no-interest loans system, as defined in the SACO Final Report of December 1996.
 - b. Nevertheless, none of the above bear legal obligations nor were established as formal legal system.
- (2) Seizure of benefits including salaries of members or employees of the United States armed forces
 - a. There are cases where a mother of a child whose father is a member or an employee of the United States armed forces is forced to endure poverty as the appropriate child support is not provided by the father.
 - b. Even though it is so stipulated in the SOFA that in case any private movable property which is subject to compulsory execution under Japanese law is within the facilities and areas, the United States authorities shall possess and turn over such property to the Japanese authorities, a provision concerning the attachment or garnishment against benefits including salaries does not exist.

3. Logic Behind

- (1) In order to secure prompt and adequate compensation for the victim, it is imperative to establish a system to swiftly compensate for the damage, including enacting relevant domestic laws, under the responsibilities of both Japan and the U.S. Governments, and to clearly stipulate the legal right of victims for the compensation.
- (2) It is necessary to clearly stipulate that, as is the case with the NATO SOFA Supplementary Agreement (Germany), a payment due to members or employees of the United States armed forces shall be subject to attachment, garnishment or other form of compulsory execution by a Japanese court.

4. Petitions

- (1) Clearly stipulate that when such damage arises from acts or omissions of the members, employees, or their dependents of the United States armed forces not done in the performance of official duty, and whose compensation to be paid to the victim is less than the amount adjudged, both the governments of Japan and

the United States shall be responsible for covering the difference and that the distribution of the proportion for such expense shall be discussed between the two governments.

- (2) Clearly stipulate that the United States authorities shall, upon the request of Japanese courts, possess and turn over the benefits such as salaries to be paid to the members or employees of the U.S. armed forces, to the Japanese authorities.

5. References

- (1) Provisions of the NATO SOFA Supplementary Agreement

Article 34

3. A payment due to a member of a force or of a civilian component from his Government shall be subject to attachment, garnishment or other form of execution ordered by a German court or authority to the extent permitted by the law applicable in the territory of the sending State. Assistance under paragraph 1 of this Article shall also include providing information on possible execution against pay already disbursed.

- (2) Seizure of salaries for the child support

Up to one half of the net salary (all taxes deducted) could be seized as the child support, in accordance with the provisions of the Civil Code and the Civil Execution Act (Article 776 of the Civil Code, Article 151(2) and 152 of the Civil Execution Act).

11. Provisions Related to Article XXV (Joint Committee)

1. Outline

- (1) A Joint Committee shall be established as the means for consultation between the Government of Japan and the Government of the United States on all matters requiring mutual consultation regarding the implementation of the Status of United States Armed Forces in Japan.
- (2) The Joint Committee shall be composed of a representative of the Government of Japan and a representative of the Government of the United States. The Joint Committee shall be so organized that it may meet immediately at any time at the request of the representative of either the Government of Japan or a representative of the Government of the United States.

2. Current Situation and Issues

- (1) Publishing the Agreements of the Japan-U.S. Joint Committee
 - a. On May 15, 1972, the Japan-U.S. Joint Committee agreed on the Use of United States Military Bases in Okinawa. This Agreement (known as 5/15 memo) was not made public until March 1997, despite the repeated requests by the Okinawa Prefectural Government.
 - b. In the SACO Final Report of December 1996, it was agreed to “seek greater public exposure of the Japan-U.S. Joint Committee agreements” to improve the SOFA operational procedures. However, the implementation status of the public exposure of the Japan-U.S. Joint Committee Agreements is not totally satisfactory.
- (2) Reflecting the opinions of the concerned local municipalities

The Japan-U.S. Joint Committee is composed of a representative of the Government of Japan and a representative of the Government of the United States. There does not exist a system that enables to reflect the opinions of residents living in the vicinity and the local municipalities that are most affected by the provision, operation and return of the facilities and areas.

3. Logic Behind

- (1) In Okinawa, majority of the U.S. bases are adjacent to residential areas so that the operation of the U.S. military bases under the SOFA and/or the Japan-U.S. Joint Committee agreements significantly impacts the (living environment of) local residents living in the vicinity as well as the local municipalities, making

such agreements important to all those concerned. Thus, promptly announcing the agreements of the Japan-U.S. Joint Committee is fundamental to building trust among the U.S. forces, neighboring population and the local municipalities.

- (2) With regard to the operation of the U.S. military bases, it is necessary to create opportunities within the Japan-U.S. Joint Committee, to hear the opinions of the concerned local municipalities, as well as the system to reflect such opinions to the agreement of the Joint Committee.

4. Petitions

- (1) Clearly stipulate that the agreements made by the Japan-U.S. Joint Committee shall be promptly made available to the public.
- (2) Clearly stipulate that in the event where matters that impact residents living in the vicinity of facilities and areas are discussed at the Japan-U.S. Joint Committee, the governments of Japan and the United States shall hear opinions from concerned local municipalities and respect their opinions. Furthermore, Article 25 shall specify that the Local Special Committee shall be established within the Joint Committee. Also, the representatives of the local authorities who hosts facilities and areas shall be the members of the Special Committee.

5. References

Memorandums/Agreements made public so far (main agreements)

- (1) Article II
 - a. Facilities and Areas in Okinawa (5/15 memo) (May 1972)
 - b. Transfer of artillery live-fire trainings over Prefectural Road 104 at Camp Hansen (June 1997)
 - c. Expansion of training relocations through the Realignment of the U.S. Forces (January and October, 2011)
- (2) Article III
 - a. Aircraft Noise Abatement Countermeasures at Kadena Air Base and Futenma Air Station (March, 1996)
 - b. Disaster Preparedness / Response Access to the USFJ Facilities and Areas (April, 2007)
- (3) Article VI
Air Traffic Control in Okinawa (May 1972)
- (4) Article VIII
Entry into or departure from Japan of the members of the United States armed

forces, the civilian component and their dependents (May 1952)

(5) Article X

Measures concerning markings on US forces official vehicles (March 1996)

(6) Article XVI

a. Procedures pertaining to the transport of explosives (December 1960)

b. Low altitude flight training by the United States Forces Japan (January 1999)

c. Agreement of the Joint Committee on New Aircraft in Japan (MV-22) (September 2012)

(7) Article XVII

a. Guidelines Regarding Off-Base US Military Aircraft Accidents in Japan

b. System of notification to Japanese side on the deserters from the United States Forces Japan (May 2008)

c. Revision of the Japan-U.S. Joint Committee Agreement on the scope of “official duty” as set forth in the SOFA provisions related to criminal jurisdiction (December 2011)

(8) Article XXV

Procedures to provide investigation reports on US military aircraft accidents (December 1996)

