

Enclosure No. 2 to Despatch No. 1106 dated June 11, 1947 from the United States Political Adviser for Japan, Tokyo, on the subject: "Japanese Government Estimate of Losses Incurred in Sinking of the Awa Maru".

Annex No. 1 Valuation of S.S. Awa Maru at the Time of Her Sinking.

(Value of the ship at the time of her sinking is estimated at the insured amount, which is her indemnity value.)

(A)	Items	Value	Basis of Computation
Replacement value in 1945	(a)		
	Hull Excluding passenger and Crew Accommodations	¥ 4,866,317	Value of Hull per ton gross... ¥ 420 Increase for Ships with Diesel Engines..... 1.03 Gross Tonnage..... 11.249 ¥ 420 X 1.03 X 11.249
	(b)		
	Passenger and Crew Accommodations	1,527,372	Value per metric ton..... ¥ 2.900 Weight of passenger & Crew Accommodations..... 526.68 ton ¥2.900 X 526.68 526.68 ton == 7.6 ton X 92.4 X 75% (Cf. Table (cf. Table No. 1) No. 2) Per Capita Weight of Passenger & Crew Accommodations..... 7.6 ton.
(c)			
Engine	6,456,400	Value per Horse Power..... ¥ 400 Shaft Horse Power..... 16.141 ¥ 400 X 16.141	
(d)			
Special Equipments	375,295	(1) Refrigerated Cargo Space: ¥ 750 X 329 == ¥ 246,750 Value per ton measurement... ¥ 750 Measurement of Cargo Space.... 329 (2) Cargo Space with Forced Draught: ¥ 7.50 X 11.806 == ¥ 88,545	

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Value per ton measurement.... ¥ 7.50

Measurement of Cargo Space... 11.806

(3) Heavy Derrick:
 ¥ 40.000 X 1 = 40.000

Value per Set of Heavy Derrick with
 a Capacity 50 tons or over... ¥ 40.000

Total 13.225.384 (a) + (b) + (c) + (d)

(B) Initial Value	14.018.907	Replacement Value..... ¥ 13.225.384
		Initial Cost..... 1.06
		¥ 13.225.384 X 1.06

(C) Remaining Book- Value in 1945	13.177.773	Initial Value..... ¥ 14.018.907
		Percentage of Remaining Value... 94%
		¥ 14.018.907 X 94%

94% = 100% - (3% X 2)

Annual Depreciation..... 3%

Age of the Ship..... 2

(D) Indemnity Value (Insured Value)	13.980.000	The ship's indemnity value (value at at the time of her sinking is estimated at the insured amount, which was deter- mined with the government's authoriza- tion on the basis of the remaining book- value as mentioned in (c) above.
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Particulars Required for Computing Per Capita
 Weight of Passenger and Crew Accommodations

Table No. 1 Table for conversion of Passengers and Crew into Equivalents.

Category	Actual Capacity	Capacity in terms of equivalent 1st class passengers	Rate of Conversion
1st class (Cabin with lower berths only)	4	6	1.5
1st class (Cabin with upper and low- er berths)	33	33	1.0
Officers	34	34	1.0
Crew	97	19.4	0.2
Total	168	92.4	

Table No. 2 Cargo and Passenger Ships Classified by their Passenger Capacities

Class	Actual 1st Class Capacity	Rate of Correction to Obtain the Estimated Weight of Accommodations
1st Class Cargo and passenger ship	100 and over	100%
2nd class "	50 and over	87%
3rd class "	25 and over	75%
4th Class "	13 and over	62%
5th Class "	Other than those Classified above	50%

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Annex No. 2

Descriptions and Valuation of Cargo.
Shipped per S. S. Awa Maru

(Loaded at the ports of call)

A. Cargo consigned to Army and Navy.

Description	Quantity (in kg)	Value per 1000kg (in yen)	Value (in yen)
Beeswax	4.857	2.560	12.433
Tin	3.357.600	4.800	16.116.480
Lacquer	14.735	8.500	125.247
Shellac	38.024	9.100	345.818
Mica	28.398	1.800	51.116
Hongay coal	80.000	50	4.000
Rubber, raw	2.800.000	1.760	4.928.000
Quinine sulphate	50.000	93.120	4.656.000
Biological medicine	85.000	2.500	212.500
Active carbon	21.000	500	10.500
Material of active carbon	14.000	200	2.800
Optical glass sheet	13.500	17.000	221.000
Almina	14.000	500	7.000
Aluminium ingots	91.600	4.000	366.400
Round iron	2.700	500	1.350
Well boring materials	56.000	5.000	280.000
Mercury	24.000	72.000	1.728.000
Beryllium	161	500	80
Tantalite	4.118	5.300	21.825
Latex	500.000	1.980	990.000
Heavy Oil (Kilolitre)	1.901	50 (P.kilolitre)	95.000
Fuel oil (kilolitre)	871	50 (P.kilolitre)	43.550
Asbestos (bale)	33	90 (p. bale)	2.970
Total	7.199.693 kg 2.772 Kilolitre 33 bales.		30.222.069 Yen

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B. Cargo consigned to Ministries of Greater East Asiatic Affairs and of Foreign Affairs:

Description:	Quantity (in kg)	Value per 1000 kg (in yen)	Value (in yen)
Sugar	61.400	370	22.718
Rice, cleaned	34,000	200	6.800
Salt	5.000	50	250
Cocconut oil	1.500	400	6.000
Totacco	3.000)		70.000
- " - (bale)	11)		
Provisions and daily utensils	8.000		44.008
Total	112.900 kg) 11 bales)		149.776 yen

Total quantity A & B
 2.772 kilolitre or 7.312.593 kg)
 44 bales or 2.495.000 kg) 9.811.993 kg.
 or 4.400 kg)
 Total Value A & B 30.371.845 Yen.

C. Cargo consigned to French Embassy and Swiss Legation in Tokyo, subsequently revealed (loaded at Saigon). (Reference: The Last Paragraph of the Imperial Japanese Government's note relating to her Concrete Claims on Indemnities dated August 10, 1945.)

Description	Quantity (in kg)	Value (in Yen)
Provisions, wines & spirits and daily utensils (consigned to French Embassy)	2.500	7.730
Provisions, wines & spirits and daily utensils (consigned to Swiss Legation)	1.000	5.000
Total	3.500	12.730

paid by Angres

Total quantity A, B. & C 9.815.493 kg
 Total value A, B & C 30.384.575 yen.

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Annex No. 3

Itemized List of Passengers and
 Ranks and Numbers of the S. S. Awa Maru Crew.

A. Itemized List of Passengers on Board Classified into Four Categories according to their Ranking:

1. Highest Rank:

(1) Government Officials, -	
a. Vice-Minister of the Greater East Asiatic Affairs....	1
b. Director of the Research Bureau of the Ministry of Foreign Affairs.....	1
(2) High-class Civilians attached to the Army.....	8
(3) President of the French Indochina Mining Research Institute.....	1
(4) Directors of Companies.....	<u>7</u>
Total.....	18

2. High Rank:

(1) Government Officials, -	
a. Members of the Staff of the Ministry of Greater East Asiatic Affairs.....	11
b. Member of the Staff of the War Prisoners Information Bureau.....	1
(2) Civil administrators in occupied areas, -	
a. Army administrators.....	2
b. Navy administrators.....	7
(3) Civilians attached to the army, -	
a. Of the General Staff Office.....	1
b. Of the Army Department of the Imperial Headquarters.	1
c. Of the Information Department of the Imperial Headquarters.....	2
d. Engineers.....	2
e. Of the Department for Inspecting Malayan Military Administration.....	9
f. Of the various expeditionary units in the Malayan area.....	102
g. Company clerks.....	6
h. Seamen.....	189

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(4)	Civilians attached to the Navy:	
a.	Engineers.....	27
b.	Clerks and interpreters.....	9
c.	Others, assigned to the various expeditionary units in the Malayan area.....	47
d.	Persons requisitioned.....	6
e.	Clerks of the Japan Iron Manufacturing Company, Ltd..	31
f.	Seamen.....	79
(5)	Naval technical officers (Lieutenants).....	2
(6)	Civilians in general, -	
a.	Engineers.....	3
b.	Communication technicians.....	25
c.	Company clerks, bank clerks, journalists, businessmen, etc.....	103
(7)	Members of the S. S. "Awamaru" crew.....	<u>24</u>
	Total.....	689.

3. Middle Rank:

(1)	Government officials, -	
a.	Members of the staff of the Ministry of Greater East Asiatic Affairs.....	8
b.	Members of the staff of the Ministry of Foreign Affairs.....	2
c.	Member of the staff of the War Prisoners Information Bureau.....	1
(2)	Civilians attached to the army, -	
a.	Of the various expeditionary units in the Malayan area.....	72
b.	Of the Department for Inspecting Malayan Military Administration.....	2
c.	Seamen.....	107

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3. (3) Civilians attached to the navy, -	
a. Clerks and interpreters.....	22
b. Mining, surveying, building, civil engineering and other technicians.....	24
c. Seamen.....	6
(4) Members of the S. S. "Awamaru" crew.....	<u>43</u>
Total.....	287

4. Lower Rank:

(1) Military Employees,	
a. Technicians, interpreters, and other subordinate employees assigned to the various expeditionary units in the Malayan area.....	241
b. Employees of Department for Inspecting Malayan Military Administration.....	4
c. Seamen.....	193
(2) Naval employees, -	
a. Workers (Well-sinkers).....	252
b. Workers (Electric engineers).....	24
c. Workers (Carpenters).....	71
d. Workers (Mechanics).....	42
e. Workers (Drivers).....	20
f. Workers (Miscellaneous).....	34
g. Seamen.....	11
(3) Civilians in general, -	
a. Men.....	3
b. Women & Children.....	34
(4) Members of the S. S. "Awamaru" crew.....	<u>80</u>
Total.....	1,009

B. Ranks and Numbers of the Members of the S. S. "Awamaru" Crew.

Captain.....	1
First Mate.....	1
Second mate.....	1

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Third mates.....	3
Chief engineer.....	1
First engineers.....	2
Second engineers.....	4
Third engineers.....	4
Electric engineers.....	2
Purser.....	1
Clerks.....	4
Ship doctor.....	1
First Wireless operator.....	1
Second wireless operators.....	2
Third wireless operator.....	1
Wireless apprentices.....	2
Deck Master.....	1
Ship carpenter.....	1
Assistant ship carpenter.....	1
Deck storage attendant.....	1
Helmsmen.....	5
Deck attendants.....	21
Chief machine operator.....	1
Machine attendant.....	1
Machine operators.....	19
Engine attendants.....	12
Chief steward.....	1
Assistant stewards.....	2
Cooks.....	3
Assistant cooks.....	13
Waiters.....	32
Laundry-man.....	1
Laundry assistant.....	1

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Assistant-doctor.....	1.
Total.....	148.

(Note) The number of waiters includes the survivor Kantaro Shimoda.

Annex No. 4 Relationship between Government and Ship-Owner regarding the Voyage in Question; Basis of Computation for Estimated Profits; and Actual Profits prior to Sinking.

A. Relationship between Government and Ship-Owner regarding the Voyage in Question:

- (1) The Government controlled the operation of the Awa Maru of the N.Y.K. in accordance with the Wartime Marine Transport Control Ordinance.
- (2) The Government loaned the Awa Maru thus put under Government control to the Shipping Control Board (Civilian Merchant Marine Committee), which took charge of its operations.

(Note) The Shipping Control Board is a Government Agency to take charge of the operation of ships under Government control, and a special juridical person founded in accordance with the Wartime Marine Transport Control Ordinance.

B. Basis of Computation for the Estimated Profits.
 In case of free operation by the owner (Kobe - Singapore).

Items	Monthly Amount	Basis of Computation
		Time required for one round voyage between Kobe and Singapore - 60 days (25/days steaming and 35 days in port). Working months per year - 11 months.
<hr/>		
Earnings (a)		
Freight Earnings	¥258.706	(¥30 X 9.200 tons + ¥30 X 9.615 tons) X $\frac{30}{60}$ X $\frac{11}{12}$ (Outward Voyage) (Homeward Voyage)
<hr/>		
(b)		
Passage Earnings	258.275	(¥642 X 37 persons + ¥172 X 1.500 persons) X $\frac{11}{12}$ (1st class) (3rd class)
<hr/>		
Total	¥ 516.981	
<hr/>		
Expenses (a)		
Wages & Allowances for Personnel	¥58.499	¥20.079 for 31 Officers per month ¥38.420 for 114 Crew per month

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(b) Victualling Cost (for Personnel)	6.835	¥55 X 31 + ¥45 X 114
(c) Victualling Cost (for Passengers)	51.655	20 per cent of Passage Earnings (NYK Standard Rate) ¥258.275 X 20%
(d) Cargo Expenses	24.836	9.6 per cent of Freight Earnings (NYK Standard Rate) ¥258.706 X 9.6%
(e) Cargo Claims	569	0.22 per cent of Freight Earnings (NYK Standard Rate) ¥258.706 X 0.22%
(f) Passenger Expenses	6.044	2.34 per cent of Passage Earnings (NYK Standard Rate) ¥258.275 X 2.34%
(g) Fuel	56.453	Fuel Cost per ton..... 87 yen Fuel Consumption per day Steaming..... 55 tons In Port..... 1 ton Boiler Water per voyage. 1.000 tons (¥87 X (55tons X 25 + 1ton X 35) + (¥0.5 X 1.000tons) $\frac{30}{60} \times \frac{11}{12}$)
(h) Sundry Articles	9.167	Estimated Amount per Voyage..... ¥20.000 ¥20.000 X $\frac{30}{60} \times \frac{11}{12}$
(i) Equipments	2.750	Estimated Amount per voyage..... ¥ 6.000 ¥6.000 X $\frac{30}{60} \times \frac{11}{12}$
(j) Port Dues Charges	1.833	Estimated Amount per voyage..... ¥ 4.000 ¥4.000 X $\frac{30}{60} \times \frac{11}{12}$

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(k)	Insurance Premium-	11.650	Insured Value....¥13,980,000 Premium Rate..... 1% $¥13,980,000 \times 1\% \times \frac{1}{12}$
(l)	Repairing Charges	6.667	Annual Repairing Charges..¥ 80,000 $¥80,000 \times \frac{1}{12}$
(m)	Reserve Fund for Periodical Repairs	6.088	Construction Cost...¥5,844,441 Annual Reserve Rate... 1.25% $¥5,844,441 \times 1.25\% \times \frac{1}{12}$
(n)	Office Operating Expenses	33.748	Per deadweight ton..... ¥ 2 Rate for obtaining e- quivalent of deadweight tonnage for Cargo and Passenger Vessel..... 1.5 $¥2 \times (11.249GT \times 1.5)$
(o)	Depreciation Cost	21.917	Construction Cost...¥5,844,441 Annual Depreciation Rate..... 4.5% $¥5,844,441 \times 4.5\% \times \frac{1}{12}$
(p)	Interest	24.352	$¥5,844,441 \times 5\% \times \frac{1}{12}$
	Total	323.063	
	Profits	¥193.918	

C. Actual Profits Obtained by the Owner during the Period Jan. - Mar. 1945.
 The Vessel was under Government control.

Items:	Monthly Amount	Basis of Computation
Earnings Government Charterage	¥142.596	(a) Basic Charterage per month..... ¥ 6.80
		(b) Addition to cover High Construction Cost... ¥1.428 (21%)
		(c) Addition for High Efficiency.....25%..... ¥1.70
		Total.....¥ 9.928

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Government Charterage per month:
 $¥9.928 \times (11,249 \text{ GT} \times 1.5) =$
 $¥167.525.07$

(Rate for obtaining Equivalent of
 Deadweight Tonnage for Cargo &
 Passenger Vessel..... 1.5)

Charterage per calendar month:
 $¥167.525.07 \times \frac{11}{12} = ¥153.564.64$

Repairing Expenses for Account of
 Shipping Control Board.....
 ¥10.968.10

Profits accruing to the Owner..
 ¥142,596.54

Expenses	(a)		
	Insurance Premium	11.650	Insured value..... ¥13,980,000 Premium rate..... 1% $¥13,980,000 \times 1\% \times \frac{1}{12}$
	(b)		
	Reserve Fund for Periodical Repairs	6.088	Construction Cost.. ¥5,844,441 Annual Reserve Rate... 1.25% $¥5,844,441 \times 1.25\% \times \frac{1}{12}$
	(c)		
	Office Operating Expenses	8.437	¥0.5 x (11,249 GT x 1.5) Equivalent of Deadweight tonnage for calculating Charterage... 16.874
	(d)		
	Depreciation Cost	21.917	$¥5,844,441 \times 4.5\% \times \frac{1}{12}$ Construction cost..... ¥5,844,441 Annual Depreciation Rate..... 4.5%
	st	24.352	$¥5,844,441 \times 5\% \times \frac{1}{12}$
		72.444	
		70.152	

FORM DS-322
7-16-46

OUTGOING TELEGRAM

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Charge Department:

Charge to State

Department of State
Washington
CONFIDENTIAL

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711.94114 SUPPLIES/1-348

SUPREME COMMANDER FOR THE ALLIED POWERS

Control 3571

TOKYO
51

Feb 17, 1948
7 p.m.

INFO: ARMY CHIEF OF STAFF

FOR ACTING POLITICAL ADVISER

Dept appreciates General MacArthur's offer of his good offices to dispose of Awa Maru claim and desires avail itself of his assistance in resolving this issue by means outlined URTEL 22, Jan 31.

It is assumed in discussions with Japanese representatives nothing will be said which would indicate United States does not consider occupation costs a valid debt owed by Japan to United States, reducible only by decision of the United States. Any contrary impression would be in contravention repeated assurances by Army Dept representatives before Congressional committees and would jeopardize U.S. position on relation occupation costs to reparations in FEC.

As stated URTEL, settlement would be considered final and preclusive of any future claims arising out of incident.

General

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CS/V
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7-18-46

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Charge Department:

Department of State

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Charge to

Washington
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-2-

General MacArthur may wish to inquire in course of discussions whether individual claimants have been or will be properly indemnified, but obviously will be in poor position insist on such indemnification in view of position U.S. is taking.

Suggest General MacArthur proceed as outlined your number 22 at earliest date considered propitious by him.

Marshall
MARSHALL
(WWB)

MESSAGE CENTER SECTION
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FEB 17 1948

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FEB 16 1948 P.M.

RAJ
NA:RAFearey/hhc
February 9, 1948

FE WWB
LE

4037
W
A-S
CAA

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Clearing Offices

DATE: February 6, 1948.

FROM : NA - Mr. Bond *JB*

SUBJECT: Analysis of POLAD's Telegram No. 22, Jan. 31, Regarding the Awa Maru Claim; Clearance of Attached Reply.

Inasmuch as General MacArthur's proposal in POLAD's telegram No. 22 is far from clear in some respects, it has been necessary to analyze the proposal before appraising it and determining the proper course of action.

General MacArthur's view seems to be, first, that the Japanese have counted on receiving the dependents housing developments and other projects built during the occupation intact and in full title, without any accounting for the considerable quantities of imported American materials put into the projects. He feels that any attempt by the United States to claim credit for these materials and to negotiate a settlement of the Awa Maru claim on the basis of their depreciated value at the end of the occupation would arouse more resentment on the part of the Japanese ("leave scars") than our willingness to settle the Awa Maru claim would win good will. Probably SCAP headquarters has given the Japanese to understand that dependents housing and other improvements will revert unconditionally to Japan on our departure, with the result that SCAP could not accept our January 28 proposal without going back on this promise or understanding.

General MacArthur therefore advances an alternative proposal which, reading between the lines, it is believed would work out somewhat as follows. General MacArthur would call the Prime Minister or some other high Japanese official to his office and inform him that the United States had considered Japan's Awa Maru claims and that it accepts responsibility for the sinking. He would then go on to point out that the American people are currently spending hundreds of millions of dollars a year to provide essential food, fertilizers and other materials for Japan and that there is little prospect of the United States ever being repaid by Japan for this assistance. Considering Japan's vast debt to the United States, he would state, it would hardly be reasonable to expect the American Congress to appropriate further funds for the settlement of America's incomparably smaller debt to Japan arising out of the sinking of the Awa Maru.

Anal.	<i>mm</i>
Rev.	
Ext.	
Dist.	

General MacArthur would then suggest to Mr. Katayama that a happy way out of the difficulty would be for the Japanese Government publicly to announce that the United

States

311.711414 Supplement 1-348

FEB 26 1948

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- 2 -

States Government had accepted responsibility for the sinking of the Awa Maru and had expressed its regret over the incident, but that in view of the great assistance which the American people were currently rendering Japan, the Japanese Government had voluntarily renounced all claim to indemnification for the sinking. General MacArthur believes, very possibly correctly, that the Japanese would welcome the opportunity thus afforded to provide concrete evidence of their appreciation for American aid, and that the gesture would provide a valuable fillip to Japanese morale and self-respect.

It is believed in the light of all relevant factors that General MacArthur's offer to handle the matter in this way should be accepted. The Department's proposal to set the claim off against the depreciated value of imported American materials was put forward on the theory that the Japanese would be better pleased by such an arrangement than by our merely setting the claim off against Japanese occupation cost obligations to the United States. If General MacArthur, on the basis of his close contact and experience with the Japanese during the occupation, believes to the contrary, and is willing to undertake himself the difficult task of settling this troublesome question, it would seem that the Department should certainly accept his offer. With his tremendous personal popularity and prestige among the Japanese, General MacArthur would seem clearly to be the best person to settle the issue to the satisfaction of all concerned.

There is one difficulty about General MacArthur's proposal. It would appear from the second sentence of the second paragraph of POLAD's wire that in explaining the American position to the Japanese SCAP intends to inform them that the United States does not really expect to receive repayment of occupation costs. Any such statement would almost certainly be seized upon by the Japanese, and if it became known to Congress would be considered in direct contravention to the assurances which the Army Department representatives have made to Congressional committees. It would cause comment also in the FEC, where the U.S. position has been one of insistence on the right to obtain repayment of occupation costs before diversion of Japanese liquid assets for settlement of reparation claims.

It should therefore be made clear to General MacArthur that in accepting his proposal the United States Government assumes that he will say nothing to the Japanese which could be interpreted as indicating that the United States did not consider the occupation costs to be a valid debt owed by

Japan

- 3 -

Japan to the United States, reducible only by decision of the United States. It is believed that General MacArthur can make his point and carry out his proposal by letting the facts as to the chances of repayment speak for themselves, without his making any mention of the matter.

RA
NA: RAFEarey/hhc

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7-18-46

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Charge to State

Department of State

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Control 5181

January 28, 1948
11 a.m.

SUPREME COMMANDER FOR THE ALLIED POWERS,
TOKYO.

INFO: ARMY CHIEF OF STAFF
FOR ACTING POLITICAL ADVISER
24

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AP
711.94114 Supplies / 6-1147

DEPT/ not entirely convinced impracticability proposal
for settlement Awa Maru claim advanced Deptel 476, Dec 12,
and commented on in ~~URTEL~~ ^{URTEL} 316, Dec 17. Army Dept states
equipment valued at 6 million dollars shipped from US to
Japan under engineer development projects 2-J and 4-J for
dependents housing construction. Also estimates 15 million
dollars worth of American equipment provided for same
purpose from other areas Far Eastern theater. If these
figures correct, transfer this equipment to Japanese Govt
at termination of occupation with due allowance depreciation
would seem feasible method provision real US value in
complete or partial satisfaction finally agreed claim.
Fully appreciated here title to construction from indigenous
Japanese materials rests with Japanese Govt but U.S. clearly
has claim to construction from imported U.S. materials.
While Japanese may consider these materials will be left to
them in any event with withdrawal occupation forces, settle-
ment on this basis is believed preferable merely to settling
off claim

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off claim against Japanese occupation cost obligations to U.S., which manifestly will never be met in full, or other possible solutions.

Under above plan Japanese Govt. would be immediately advised proposed basis of settlement, and negotiation agreed amount would be begun between U.S. and Japanese Govt. representatives through SCAP intermediary. Transfer of property would of course not be effected until termination of occupation, though Japanese Govt. might indemnify individual claimants before that time on basis signed agreement comparable US-Japanese surplus property contract. Such indemnification could be in blocked account to extent necessary to avoid inflationary effects noted your radio. Ship replacement not contemplated. Impossibility direct negotiations U.S. and Japanese Govts. not believed serious obstacle if SCAP acts as intermediary, and no other difficulty perceived to desired early settlement this issue in preference postponement until after treaty. Your further comments in light above considerations requested.

Marshall
MARSHALL

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NA:RAFearey/hhc
January 20, 1948.

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[Signature]

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[Signature]

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JAN 28 1948

DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

DEPARTMENT OF STATE INCOMING TELEGRAM

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Reply dictated Feb 6, 1948
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CONFIDENTIAL

DEPARTMENT OF STATE
Control
Rec'd January 31, 1948
2:36 p.m.

FROM: Tokyo
TO: Secretary of State
NO: 22, January 31

Office of FAR EASTERN AFFAIRS
FEB 2 1948
DIRECTOR
Department of State

FROM SCAP TO DEPARTMENT OF ARMY INFO CSUSA CITE CX 58324. PASS TO DEPT OF STATE.

REDEPTEL 24, January 28, settlement of Awa Maru claim.

It is general MacArthur's opinion that any attempt to discharge Awa Maru claim by negotiation and set-off against specific material and equipment furnished, as suggested in reference telegram, would leave scars which cannot be healed by ordinary processes of bargaining and that it would be preferable to attempt settlement along the lines indicated below.

Rather than attempt settlement by negotiation on quid pro quo basis, General MacArthur proposes approaching this problem along broad political lines in consonance with the equities of the situation as they have developed since the occupation of Japan by reason of the direct and indirect assistance already rendered by the US to the Japanese people and economy. The US having poured into Japan many hundreds of millions of dollars' worth of food, equipment, and material of all kinds, has little prospect of receiving repayment from Japan, whether charged to cost of occupation or otherwise and irrespective of any agreement which might conceivably be made at time of conclusion of treaty of peace.

General MacArthur believes that the basis of settlement should be the assistance which has already been rendered to Japan and that in reaching agreement full opportunity should be given to the Japanese to make gesture of appreciation for help given, a gesture which would be of infinite value in boosting Japanese morale and restoring their self-respect.

In accordance

CONFIDENTIAL

PERMANENT RECORD COPY: THIS COPY MUST BE RETURNED TO DC/R CENTRAL FILES WITH NOTATION OF ACTION TAKEN.

711.94114 SUPPLIES/1-3148

FEB 25 1948

FILED

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DEPARTMENT OF STATE
MAR 1 1948
LIAISON OFFICE

CONFIDENTIAL

-2- #22, January 31, from Tokyo

In accordance with above principles, General MacArthur has expressed his readiness to act as intermediary between US and Japanese Governments and to use good offices to effect settlement of this entire matter in such manner that Japanese Government will be thoroughly convinced that settlement is equitable and the result of spontaneous action on its part. In entering upon proposed solution it would of course be understood that US while admitting responsibility and expressing regret for incident would nevertheless be relieved of any further claims on part of Japanese Government and victims.

In any settlement such as envisaged above timing should necessarily be left to SCAP, and approach to Japanese Government preferably made after approval of current Department of Army requests for appropriations for fiscal year 1949 in which, as Department is aware, considerable sums for Japan are being requested. It is not contemplated that settlement would in fact affect book value of obligations between Japanese and US Governments arising out of occupation.

SEBALD

MHD:GOC

CONFIDENTIAL

*File
for*

711.94114 Supplies/1-3148

To : Clearing Offices
From : NA - R Fearey
Subject: Comment on POLAD's Telegram No. 22, Jan. 31, Regarding the Awa Maru Claim; Proposed Reply.

Inasmuch as General MacArthur's proposal in POLAD's No. 22 ~~which was apparently drafted in whole or in part by General MacArthur himself~~, is far from clear in some respects, it has been necessary to ^{analyze} ~~arrive at an understanding of what the proposal actually is~~ before appraising it and ^{determining the proper course of action} ~~drafting a reply~~.

General MacArthur's view seems to be, first, that the Japanese have counted on receiving the dependents housing developments and other projects built during the occupation intact and in full title, without any accounting for the considerable quantities of imported American materials put into the projects. He feels that any attempt by the United States to claim credit for these materials and to negotiate a settlement of the Awa Maru claim on the basis of their depreciated value at the end of the occupation would arouse more resentment on the part of the Japanese ("leave scars") than our willingness to settle the Awa Maru claim would ^{win} ~~insure~~ good will. Probably SCAP headquarters has given the Japanese to understand that dependents housing and other improvements will revert unconditionally to Japan on our departure, with the result that SCAP could not accept our January 28 proposal without going back on this promise or understanding.

*File
711.94114
Supplies/1-3148*

General MacArthur therefore advances an alternative proposal which, reading between the lines, it is believed would work out somewhat as follows. General MacArthur would call the Prime Minister or some other high Japanese official to his office and inform him that the United States had considered Japan's Awa Maru claim and accepts responsibility for the sinking. He would then go on to point out that the American people are currently spending hundreds of millions of dollars a year to provide essential food

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- 2 -

food, fertilizers and other materials for Japan, and there is little prospect of the United States ever being repaid by Japan for this assistance. Considering Japan's vast debt to the United States, he would state, it would hardly be reasonable to expect the American people and Congress to appropriate further funds for the settlement of its incomparably smaller debt to Japan arising from the sinking of the Awa Maru.

General MacArthur would then suggest to Mr. Katayama that a happy way out of the difficulty would be for the Japanese Government publicly to announce that the United States Government had accepted responsibility for the sinking of the Awa Maru and had expressed its regret over the incident, but that in view of the great assistance which the American people were currently rendering Japan, the Japanese Government had voluntarily renounced all claim to indemnification for the sinking. General MacArthur believes, very possibly correctly, that the Japanese would welcome the opportunity thus afforded to provide concrete evidence of their appreciation for American aid, and that the gesture would provide a valuable fillip to Japanese morale and self-respect.

It is believed in the light of all relevant factors that General MacArthur's offer to handle the matter in this way should be accepted. The Department's proposal to set the claim off against the depreciated value of imported American materials was put forward on the theory that the Japanese would be better pleased by such an arrangement than by our merely setting the claim off against Japanese occupation cost obligations to the United States. If General MacArthur, on the basis of his close contact and experience with the Japanese during the occupation, believes to the contrary, and is willing to undertake himself the difficult task of settling this troublesome question, it would seem that the Department should certainly accept his offer. With his tremendous personal popularity and prestige among the Japanese, General MacArthur would seem clearly to be

the best

- 3 -

the best person to settle the issue to the satisfaction of all concerned.

There is one difficulty about General MacArthur's proposal. It would appear from the second sentence of the second paragraph of POLAD's wire that ~~he intends~~ ^{SCAP intends} in explaining the American position to the Japanese to inform them that the United States does not really expect to receive repayment of occupation costs. Any such statement would almost certainly be seized upon by the Japanese, and if it became known to Congress would be considered in direct contravention to the assurances which the Army Department representatives have made to Congressional committees. It would cause comment also in the FEC, where the U.S. position has been one of insistence on the right to obtain repayment of occupation costs before diversion of Japanese liquid assets for settlement of reparation claims.

It should ^{therefore} be made clear to General MacArthur that in accepting his proposal, the United States Government assumes that he will say nothing to the Japanese which could be interpreted as indicating that the United States did not consider the occupation costs to be a valid debt owed by Japan to the United States, ~~and~~ ^{reducible} ~~modifiable~~ only by decision of the United States. It is believed that General MacArthur can make his point and carry ^{out} ~~our~~ his proposal by letting the facts as to the chances of repayment, speak for themselves, without his making any mention of the matter.

DRAFT TELEGRAM TO POLAD

Dept appreciates General MacArthur's offer of his good offices to dispose of Awa Maru claim and desires avail itself of his assistance in resolving this issue by means outlined URTEL 22, Jan 31.

It is assumed in discussions with Japanese representatives nothing will be said which would indicate United States does not consider occupation costs a valid debt owed by Japan to United States, ^{reducible} ~~and modifiable~~ only by decision of the United States. Any contrary impression would be in contravention repeated assurances by Army Dept representatives before Congressional committees and would jeopardize U.S. position on relation occupation costs to reparations in FEC. *Factors as to chances of ~~the~~ repayment could be allowed to speak for themselves.*

This message constitutes General MacArthur's authority for proceeding as outlined your number 22 at earliest time considered propitious by him.

General MacArthur may wish to enquire whether individual claimants have been or will be properly indemnified, but obviously will be in poor position ~~to~~ insist on such indemnification in view of position U.S. is taking.

Dept would consider it appropriate for General MacArthur to proceed as outlined your number 22 at earliest time considered propitious by him.

NA:RAF/hhc

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INCOMING AIRGRAM

DEPARTMENT OF STATE

DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

*Not of action
OE to RA*

DIVISION OF
NORTHEAST ASIAN AFFAIRS

*MYR
RAF*

FEB 27 1948

DEPARTMENT OF STATE

4521

FROM: USPOLAD, Tokyo

Date of Mailing: Feb. 20, 1948

Rec'd: February 26, 1948
8:05 a.m.

Mr. Tolson	
Mr. E.A. Tamm	
Mr. Clegg	
Mr. Glavin	
Mr. Ladd	
Mr. Nichols	
Mr. Rosen	
Mr. Tracy	
Mr. Carson	
Mr. Egan	
Mr. Gurnea	
Mr. Harbo	
Mr. Hendon	
Mr. Pennington	
Mr. Quinn	
Mr. Nease	
Miss Gandy	

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CONFIDENTIAL

Secretary of State,
Washington.

A-30, February 20, 1948.

Office of
FAR EASTERN AFFAIRS
FEB 27 1948
DIRECTOR
Department of State

Reference is made to the Department's telegram no. 51, February 17, 7 p.m. and to previous telegrams concerning the Awa Maru claim. In consultation with General MacArthur it has been decided to withhold action for the time being pending the formation of the new Japanese Cabinet and until the Congress has acted upon the Department of the Army's request for appropriations for Japan. It is not anticipated that any approach will be made to the Japanese Government until these two conditions are satisfied or at the earliest until it becomes reasonably certain that the Congress will favorably act upon the Department of the Army's request for appropriations.

It would be appreciated if the Department were to keep me advised by airgram concerning the progress of the Department of the Army's appropriation request as well as a breakdown in broad categories of such request.

SEBALD

DEPARTMENT OF STATE
MAR 30 1948
LIAISON OFFICE

*Drafted reply
3/12/48
Adwen - OG*

711.7
WJSebald:lh

CONFIDENTIAL

PERMANENT RECORD COPY.—This copy must be returned to DC/R central files with notation of action taken.

711.94114 SUPPLIES/2-2048

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MAR 28 1948

FORM DS-323
7-18-46

OUTGOING AIRGRAM

CLASSIFICATION

Department of State

RESTRICTED

A-34

NO. _____

Washington,

Mar. 24, 1948

2385

2385

SUPREME COMMANDER FOR THE ALLIED POWERS

TOKYO

INFO: ARMY CHIEF OF STAFF

FOR POLITICAL ADVISER

711.94114 Supplies 2-2048

In answer your request for advice of progress Army Department appropriation request (Your A 30 Feb 20) following status March 17:

Deficiency appropriation: Second deficiency appropriation measure would provide about \$20 million additional in fiscal year ending June 30, 1948 for Government and Relief in Occupied Areas other than Germany (mostly Japan). Hearings on this measure have been completed by House Appropriations Subcommittee and Subcommittee report expected any day now. Favorable action anticipated.

Garioa appropriation 1949: Preliminary hearings on this measure were held by House appropriations Subcommittee while General Fox (SCAP) was here. Hearings were then postponed until some time in April. This measure would provide about \$405 million for Japan, including for food \$217, fertilizer \$33, petroleum \$37, medical supplies \$10, transportation of civilian supplies \$75, pay and travel of civilians \$29.

Rehabilitation appropriation: Enabling legislation which would authorize rehabilitation expenditures in occupied areas has been introduced in both Senate and House. A preliminary hearing on this measure has been held by House Foreign Affairs Committee. Hearings were suspended pending passage of ERP legislation. Measure currently before Senate Armed Service Committee. Army sponsored appropriation measure now in Bureau of the Budget and not yet before Congress would provide \$180 million for Japan (in addition to Garioa funds) to meet "industrial economy import requirements. These requirements for fiscal year 1949 have been estimated to total \$452.3. Assumption is, \$272.3 of these requirements can be financed by Japanese exports or credits secured by pledging OJEIRF or otherwise. Appropriation measure presumably would not specify precisely which import requirements were to be obtained by purchase with funds voted by Congress and which were to be obtained in payment for Japanese exports or on deferred payment terms.

711.94114 SUPPLIES/2-2048

CS/A

711.94114 Supplies

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MARSHALL

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CR CLEARANCE

22 MAR 22

OE:RMPaige:bcb
3/18/48

RM

JMA

Sebald's proposed procedures and draft agreement on the Awa Maru seemed OK to me and to DS but I ran into trouble with Fraleigh of the Claims Section of L. His points didn't make sense to me so I went to Snow and Tate who overruled Fraleigh and asked us to disregard his opinion. Meeker also thought the draft agreement was OK though he has never liked the general character of the settlement. As the attachments will show, it was the best we could do, however.

You may want to send Sebald a line in answer to his letter.

RAF

JMA

INCOMING AIRGRAM

DEPARTMENT OF STATE DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

NORTHEAST ASIAN AFFAIRS

AIRGRAM

MAY 3 1948

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DEPARTMENT OF STATE

FROM USPOLAD, Tokyo

Date of Mailing: April 24, 1948

Rec'd: May 3, 1948
8:20 A.M.

Office of FAR EASTERN AFFAIRS
MAY 3 1948
DIRECTOR
Department of State

*copy added
May 11
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Secretary of State,
Washington.

A-78, April 21, 1948.

Reference this Mission's A-30 of February 28, 1948, Department's telegram No. 51 of February 17, 7 p.m., and previous correspondence concerning settlement of the Awa Maru claim. An outline of the four papers as drafted by this Mission for use in presenting the proposal is set forth below:

1. Basis for Settlement: After a summary of the incident and of the representations made by the Japanese Government (see this Mission's despatch No. 801, January 7, 1947), the equities of the situation as they have developed during the occupation period are reviewed, with emphasis on and a brief description of the large amounts of financial aid rendered by the United States to Japan. The suggestion is then made that the good will and assistance as well as the financial aid already rendered the Japanese Government and people by the United States be made the basis for settlement of the Awa Maru claim; it is stated clearly that Japan would not be relieved by such a settlement of its duty to repay the costs of occupation or to discharge other financial obligations which have been created. It is also noted that General MacARTHUR strongly recommends a solution along these lines.

2. Proposal by Japanese Government for Settlement of Awa Maru Claim: (This paper outlines suggestions to proffer orally to the Japanese if and when they inquire as to the form in which their proposal might most effectively be embodied.) After a recital of the facts of the incident and of the acknowledged obligation of the United States to pay an (undetermined) amount of money as compensation, the Japanese Government and people express their gratitude to the United States for the sympathy and assistance it has extended them. The Japanese Government then proposes that, since the United States has acknowledged responsibility for the sinking of the Awa Maru and since the United States has expended

DEPARTMENT OF STATE
MAY 25 1948
DC/L
LIAISON OFFICE

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711.94114 SUPPLIES/4-2148

MAY 21 1948

HH

Tokyo/A-78, April 21, 1948.

- 2 -

vast sums of money in Japan, the Japanese Government in gratitude and appreciation, will waive all claims of any and all description arising from the sinking of the Awa Maru on behalf of itself and/or Japanese nationals against the United States Government or any United States national. The Japanese Government assures the United States that it will endeavor to provide adequate treatment for the families of those lost in the disaster and concedes that its waiver of the right to indemnification does not affect the principle that the costs of the Occupation and other obligations are to be repaid.

3. Acceptance of the Proposal of the Japanese Government by the United States Government: The United States Government accepts the proposal of the Japanese Government for settlement, notes the waiver of all claims of any and all descriptions arising from the sinking of the Awa Maru against the United States Government or any United States national, notes the Japanese Government's assurance that it will attempt to provide adequate treatment for the families of those lost in the disaster, notes the Japanese Government's recognition that the principle that costs of occupation and other obligations are to be paid is not affected, and expresses its regret for the heavy loss of life involved in this disaster.

4. Agreement Between the Government of the United States and the Japanese Government for Settlement of the Awa Maru Claim: The draft text of the proposed agreement is set forth verbatim in our A-79, April 21, 1948.

5. The comments of the Department on the proposal for settlement as outlined and on the draft agreement are urgently requested by telegram.

SEBALD

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CONFIDENTIAL

INCOMING AIRGRAM

DEPARTMENT OF STATE DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH
AIRGRAM NORTHEAST ASIAN AFFAIRS

UMH

MAY - 3 1948

129

DEPARTMENT OF STATE

FROM USPOLAD, Tokyo

SCR file

Date of Mailing: April 24, 1948

Rec'd: May 3, 1948
8:19 A.M.

*Reply to AFE 479
w/ 4/27
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Handwritten notes and initials on a routing slip form.

Secretary of State,

Washington.

A-79, April 21, 1948.

Draft agreement referred to in paragraph 4 of this Mission's A-78, April 21, 1948, is as follows:

file
Office of FAR EASTERN AFFAIRS
MAY 3 1948
DIRECTOR
Department of State

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES and THE JAPANESE GOVERNMENT FOR SETTLEMENT OF THE AWA MARU CLAIM

WHEREAS, the Government of the United States and the Japanese Government reached an agreement during the recent hostilities that the Japanese Government would provide vessels which would transport supplies for the relief of Allied nationals in various areas of the Pacific then under Japanese control and the Government of the United States would guarantee the immunity of vessels on such missions from attack by Allied forces on both the outward and homeward voyages; and

WHEREAS, the Japanese passenger-cargo vessel Awa Maru was sunk on April 1, 1945 while homeward bound from such a mission; and

WHEREAS, the Government of the United States acknowledged responsibility for the sinking of the vessel and assured the Japanese Government that it would be prepared after the termination of hostilities to consider the question of indemnity; and

WHEREAS, the Government of the United States and the Japanese Government sought to reach an equitable and mutually satisfactory solution of this claim; and

WHEREAS, General of the Army Douglas MacArthur has extended his good offices as intermediary between the Government of the United States and the Japanese Government in an effort to facilitate agreement:

DEPARTMENT OF STATE
MAY 25 1948
DC/L
LIAISON OFFICE

711.94114 SUPPLIES/4-2148

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MAY 21 1948
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Tokyo/A-79, April 21, 1948.

- 2 -

The undersigned, being duly authorized by their respective governments for that purpose, have reached the following agreement through the good offices of the Supreme Commander for the Allied Powers.

ARTICLE I The Japanese Government, mindful of the equities of the situation as they have developed since the inception of the Occupation of Japan under General of the Army Douglas MacArthur and in appreciation of the assistance--direct and indirect, in goods and services--received during the post-surrender period from the Government of the United States, waives on behalf of itself and all Japanese nationals all claims of any description against the United States Government or any United States national arising out of the sinking of the Awa Maru.

ARTICLE II The provisions of Article I shall bar, completely and finally, all claims of the nature referred to therein, which will be henceforward extinguished, whoever may be the parties in interest.

ARTICLE III The Japanese Government will endeavor to provide adequate and fair treatment in accordance with Japanese law for the families of those who perished in this disaster as well as for those individuals and/or companies who may have suffered loss thereby.

ARTICLE IV The United States Government expresses its deep regret for the sinking of the Awa Maru and its sympathy with the families of those who perished in the disaster.

ARTICLE V This Agreement shall take effect as from this day's date.

Executed in duplicate, in the English and Japanese languages, at Tokyo, this day of , 1948.

For the United States Government

For the Japanese Government

Attest:

Supreme Commander for
the Allied Powers

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CONFIDENTIAL

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INCOMING AIRGRAM

DEPARTMENT OF STATE DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

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DIVISION OF NORTHEAST ASIAN AFFAIRS

no action necessary AAS.

AIRGRAM MAY - 3 1948

DEPARTMENT OF STATE

FROM: *[Signature]* 130 USPOLAD, Tokyo

Date of Mailing: April 23, 1948

Rec'd: May 3, 1948 8:19 A.M.

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ACTION: FE
INFO:
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CONFIDENTIAL

Secretary of State,
Washington.

A-83, April 22, 1948.

Office of
FAR EASTERN AFFAIRS
MAY 3 1948
DIRECTOR
Department of State

Reference this Mission's A-78 and A-79 April 21, 1948.

In my capacity as Chief of the Diplomatic Section, GHQ, SCAP and on behalf of General MacArthur, and accompanied by FSO Cabot Coville, I called upon Prime Minister ASHIDA Hitoshi and Vice Minister of Foreign Affairs YOSHIZAWA Seihiro by appointment at 3 p.m. today. After reading the prepared statement summarized in paragraph one of A-78, the ensuing discussion indicated a favorable attitude towards the proposed basis for settlement by Dr. Ashida who stated that after further study of the statement he would approach his Cabinet for a decision.

A copy of the suggested agreement set forth in A-79 was also left with Dr. Ashida on the understanding that the negotiations were still in a discussional stage and that the draft might conveniently serve as a basis for agreement.

During the course of the conversation it was made clear to Dr. Ashida and Mr. Yoshizawa that any proposal on the part of the Japanese Government should appropriately contain a paragraph worded as follows:

"The Japanese Government recognizes that Occupation costs and loans and credits extended to Japan by the United States are valid debts owed by Japan to the United States, reducible only by the decision of the United States."

I explained

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DEPARTMENT OF STATE
MAY 25 1948
LIAISON OFFICE
[Signature]

711.94114 SUPPLIES/4-2248

MAY 21 1948

HH

Tokyo's A-83
April 22, 1948

-2-

CONFIDENTIAL

I explained that the insertion of this paragraph would appear to be necessary in order that there might be no misunderstanding on the part of the public at large that the proposed agreement might possibly be misconstrued as a quid pro quo.

SEBALD

350
WJSebald:cs

CONFIDENTIAL

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

DATE: May 14/48
TO : Mr. Allison
FROM : Mr. Lory
SUBJECT : Mr. Spink's assignment to Tokyo

It is agreeable with FP to assign Spink to Tokyo and keep Magistretti in Yokohama.

Budgetary considerations should not interfere with Spink's appointment as I have been informed that funds are available. He should be over all the "hurdles" as for example Senate confirmation etc. in approximately a month.

HL

UNITED STATES POLITICAL ADVISER
FOR JAPANPERSONAL AND
CONFIDENTIAL

Tokyo, April 22, 1948

Dear John:

See 711-94114 Supplies/4-31-48

I am enclosing copies of airgrams 78 and 79 dated April 21, 1948 concerning the Awa Maru case. As you are undoubtedly aware, General MacArthur has delegated me, as Chief of the Diplomatic Section, to carry out all negotiations with Prime Minister Ashida (who is concurrently Foreign Minister) with a view to concluding a settlement of this claim along the lines indicated in the Department's recent telegraphic instruction.

My principal reason for writing you is to ask you to be good enough to coordinate with whichever division or office may be handling this matter to ensure that any telegraphic reply which is sent in response to the request in the last paragraph of A-78 is not critical of the efforts indicated in both airgrams. If it should be decided that some other approach is necessary, or that the proposed agreement should be radically altered, I would prefer that such comments be sent by airgram. In this connection, it would be well to bear in mind the fact that this whole matter has been placed in the hands of General MacArthur; that General MacArthur is not fond of complicated agreements and whenever possible prefers simple statements of fact; and finally, that he is rather impatient of criticism of matters which have been left to his discretion.

My reason for sending the verbatim text of the Agreement (A-79) is merely to ensure that no basic factors have been overlooked, and, of course, any suggestions along this line would be welcomed.

I am calling on Prime Minister Ashida this afternoon, at which time I will make the preliminary approach as indicated in document No. 1 (A-78) and will also leave with him document No. 4 (A-79) as a suggested agreement of settlement. Documents 2 and 3 will, I hope, eventuate during the course of the negotiations. Basically, I might say that what we are trying to achieve is a spontaneous offer from the Japanese side to use these suggested bases for settlement as the proper course of agreement.

I will

John M. Allison, Esquire,
Chief, Division of Northeast Asian Affairs,
Department of State,
Washington 25, D. C.

711-94114
Supplies/4-22-48

-2-

I will do everything possible to keep the Department advised of the progress of the negotiations which it is my intention to push as rapidly as possible in order to arrive at an agreement during the next couple of months. The reason for the urgency is my fear that Prime Minister Ashida's tenure of office, being what it is, may not last much beyond that time and should a general election take place and a new Prime Minister elected it would become necessary to start all over again.

Sincerely yours,

Bill
W. J. Sebald

Enclosures: (2)

Airgrams 79 and 79
dated April 21, 1948.

P.S.

On second thought, I think it would be preferable if the Department doesnot telegraph on this subject, but that any comments which it might have be sent by airgram or written instruction, preferably the former. Will you please contact the people concerned to ensure that no telegram is sent, notwithstanding the request contained in the last paragraph of A-78.

WJ
WJS

64

AIRGRAM SENT

TO BE TRANSMITTED
SECRET
CONFIDENTIAL
RESTRICTED

Department of State

NO. A-64
TIME _____

Washington,
MAY 18, 1948

1517
1517

CONFIDENTIAL

To the
Acting United States Political Adviser for Japan,
Tokyo.

Re your airgrams no. A-78 and 79, April 21, 1948, the interested Offices of the Department have studied the proposal for settlement and draft agreement of settlement of Awa Maru claim and believe proposed procedures well devised and agreement legally sound to dispose of matter in manner previously agreed.

MARSHALL

*711.94114 Supplies Marshall
(FE) 4-21-48
4-21-48 (gma)*

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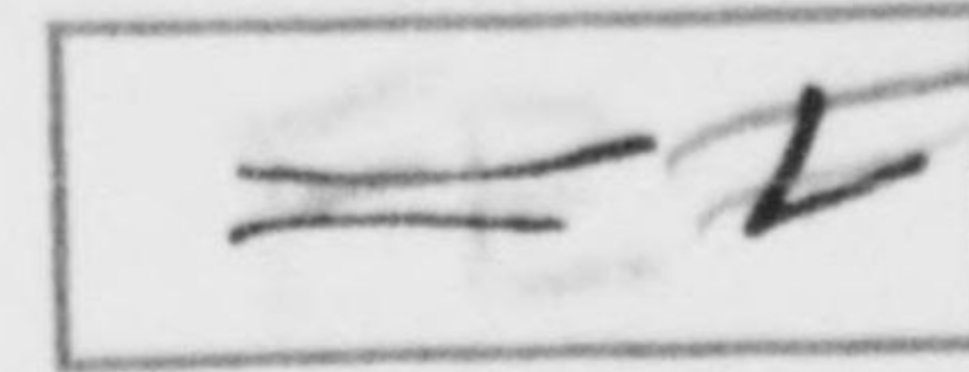
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Cleared with
Mrs. Correll
by phone. RA
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THE FOREIGN SERVICE OF THE UNITED STATES OF AMERICA

ACTION is assigned to



NA ~~for action~~ for action

No. 359

LEGAL ADVISER

Office of the U. S. Political Adviser for Japan

CONFIDENTIAL

transferred to file 7-19-1948

DEPARTMENT OF STATE

Tokyo, June 15, 1948.

DIVISION OF NORTHEAST ASIAN AFFAIRS

Subject: Awa Maru Case.

SEP 10 1948

DEPARTMENT OF STATE

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911-94114 Supplies/4-2-1948

711-94114 SUPPLIES/6-1548

The Honorable
The Secretary of State,
Washington.

Sir:

I have the honor to refer to the Department's airgram No. A-64 dated May 18, 1948, concerning the Awa Maru claim and to enclose a copy of a self-explanatory memorandum of conversation dated June 9, 1948 on this subject.

Respectfully yours,

W. J. Sebald
W. J. Sebald

RECEIVED
DEPARTMENT OF STATE

JUN 23 11 12 45

Enclosure:

Copy of Memorandum of Conversation concerning the Awa Maru case, dated June 9, 1948.

In triplicate to the Department.

copy of des removed for DC/R control

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WJSebald:cs

CONFIDENTIAL

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*711-94114-114
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MW

Enclosure to Despatch No. 359 dated June 15, 1948 from the Office of the U. S. Political Adviser for Japan, Tokyo, entitled "Awa Maru Case".

(COPY)

MEMORANDUM OF CONVERSATION

SUBJECT: Awa Maru Case.

PARTICIPANTS: Vice Minister for Foreign Affairs YOSHIZAWA Seijiro
Mr. Sebald, Acting US Polad.
Mr. Coville, Foreign Service Officer.

This morning I attempted to telephone to Prime Minister ASHIDA Hitoshi who was, however, attending a session of the Diet. I left a message asking Dr. Ashida to return the call.

Immediately upon my return from luncheon, Vice Minister for Foreign Affairs YOSHIZAWA Seijiro telephoned asking if he might call upon me. This was apparently at the request of the Prime Minister, who had correctly guessed that the purpose of my telephone message was to inquire about the Awa Maru case, which I had informally raised with the Prime Minister several days previously. Mr. Yoshizawa came to my office at 3:00 p.m., and we had a lengthy conversation on the Awa Maru case, attended by Foreign Service Officer Cabot Coville.

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CONFIDENTIAL

Mr. Yoshizawa

Encl. to
Tokyo's 359,
June 15, 1948.

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CONFIDENTIAL

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W. J. Sebald

CCoville:cs

CONFIDENTIAL

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for JapanCONFIDENTIAL

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RECEIVED
DEPARTMENT OF STATE
JUN 23 11 12 45
DC/M

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Copy of Memorandum of
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In triplicate to the Department.

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WJSebald:csCONFIDENTIAL

A true copy
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original *ST*

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Mr. Yoshizawa raised the question of the actual legal significance of the participation of the Supreme Commander, which in the draft agreement is put down as attestation. He said that the Japanese Government supposes that in strict legality Japan cannot be a party to an international agreement and that only the Supreme Commander, exercising in his discretion the prerogative of acting for Japan, can be a party to an international agreement on Japan's behalf. I took issue with this interpretation, stating that in my judgment it is within the power of the Supreme Commander to permit the Japanese Government to be party to an international agreement and that by attesting the proposed agreement he would, by direct implication, be giving his consent to the Japanese Government's entering upon it. (It is not clear what thought motivated this suggestion from Mr. Yoshizawa, but it is possible that it stemmed from the same sort of Japanese thinking which in a number of political questions has inclined the Japanese to favor a definitive decision by the Supreme Commander in difficult matters in which the Japanese Government has been reluctant to assume, toward the Japanese public, the responsibility for a particular decision.)

Mr. Yoshizawa also made mention of the idea of equity as included in the draft agreement and pointed out that although the Japanese Government of course has legal experts who are trained in the common law and who are entirely familiar with the concept, it is nevertheless difficult in several ways to fit it to the institutions of Japanese law, which is based on Roman rather than common law.

Mr. Yoshizawa said that it is the opinion of the Japanese Government legal experts that the proposed agreement falls under the terms of Article 73 of the Japanese Constitution which provides that the Cabinet in concluding treaties shall obtain prior or, depending on circumstances, subsequent approval of the Diet. This article in their view means that the agreement would require the prior approval of the Diet, if the Diet is sitting at the time, and that if the Diet is not in session, the subsequent approval of the Diet would be required. He stated that the Prime Minister is opposed to having the question come before the present session of the Diet (which, according to its present life, will continue in session through June). We then entered on discussion of the legal nature of the proposed agreement and informed Mr. Yoshizawa that in American practice it partakes of the nature of an executive agreement and not a treaty. Mr. Yoshizawa admitted that no treaty has so far been presented to the Diet under Article 73, that there are no precedents in the matter under the new Constitution, and that there may be some further view of the Japanese Government as to the applicability in this case of Article 73; but at the same time, he said that the Prime Minister's view is firm that it would be unwise to attempt to conclude the agreement while the present session of the Diet continues. (Mr. Yoshizawa made reference in this respect to the political difficulties which the Opposition is making for the present Cabinet.)

Mr. Yoshizawa asked whether there are any special considerations which ought to be stated as to why the settlement of the Awa Maru case is of immediate urgency. I reviewed the desirability of settlement and mentioned the considerable possibility of a fairly long delay if the present opportunity should be missed, pointing out also that General MacArthur's

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sponsorship

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June 15, 1948

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sponsorship of the agreement can be expected to have weighty beneficial effects upon its reception by the Diet and the Japanese public. I said that I have no information whatever as to when General MacArthur will be returning to the United States if at all, but that it is of course a possibility which we must bear in mind in connection with the Awa Maru case. I also pointed out the practical difficulties which would arise in the possible event that the present Cabinet should resign, making a complete re-start of the negotiations necessary.

We concluded the long and informal discussion of the matter by agreeing that every effort will be made by the Foreign Office experts, in informal consultation with us, to prepare the case, during the weeks that the Diet session continues, so that immediately after the Diet's adjournment it will be possible to proceed to execute the agreement. At Mr. Yoshizawa's request, I undertook to let him know immediately if there should come to my knowledge any information which would make it desirable to attempt to conclude the agreement, in spite of apparent difficulties, while the Diet is still in session.

W. J. Sebald

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in action required
DIVISION OF
NORTHEAST ASIAN AFFAIRS
3430

file
JUL 27 1948
Tokyo

DEPARTMENT OF STATE
Dated: July 17, 1948
Date of filing: July 17, 1948

cc'd: July 26, 1948
8:12 a.m.

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FE
NSA
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Office of
FAR EASTERN AFFAIRS
JUL 27 1948
DIRECTOR
Department of State

Secretary of State,
Washington.

BY
ACTION: FE
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FOR

2-148, July 15, 1948

reference this mission's despatch no. 359, June 15, 1948 and previous correspondence on the subject of the awa haru case.

Approximately one week after the adjournment of the Japanese Diet, a high official of the Japanese Ministry of Foreign Affairs called on an officer of this mission to discuss various details concerning the proposed agreement to be executed in settlement of the awa haru claim. From the various questions discussed in this meeting, we believe that no major difficulties will be raised by the Japanese Government in formulating an agreement closely paralleling the phraseology contained in my 4-79, April 4, 1948. During the course of this conversation the Foreign Office official stated that the prime minister Asahi appears to be strongly inclined to prefer prior submission of the proposed agreement to the Diet for approval, in accordance with Article 73 of the Constitution of Japan. He further said that this was contrary to his own feelings as well as that of Vice Minister Yoshihara's recommendation, but that the prime minister (concurrently also Foreign Minister) would, of course, make the final decision.

Subsequent to the above conversation, I called upon General MacArthur to obtain his views on this matter and to tender my advice as to what we consider to be the most practical course to follow. I stated that in my opinion it would present an anomalous situation for the Japanese Government to present an agreement of this nature to the Diet for its approval prior to itself having executed the agreement. I explained that this procedure would have the appearance of an executive department of the United States Government entering into an agreement with the legislative branch of the Japanese Government. General MacArthur fully agreed with my views and said that in his opinion it would be politically unwise to submit the agreement to the Diet for approval prior to its execution by the Japanese Government, and that public debate on an agreement of this nature might, in fact, be embarrassing to the United States Government.

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Tokyo's -148, July 16, 1948

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I proposed to General MacArthur that when the wording of the agreement has become finalized to a point where it is acceptable to both governments, it would be advisable for him to interview Dr. Ishida and myself with a view to obtaining the former's concurrence in signing the agreement on behalf of the Japanese government. I further proposed that at this meeting, an effort should be made to discourage Dr. Ishida from submitting the agreement to the Diet for approval, but that if the Japanese government should insist on ratification of the agreement by the Diet, this course would be permitted by the Supreme Commander. General MacArthur stated that he would be entirely guided by my recommendations in the premises, but hoped that this matter might be brought to a speedy and successful conclusion.

The Department will be advised of any further progress in these negotiations.

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INCOMING AIRGRAM

DEPARTMENT OF STATE DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

DIVISION OF
NORTHEAST ASIAN AFFAIRS

AUG 12 1948

DEPARTMENT OF STATE

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Secretary of State,
Washington.

A-157, July 27, 1948.

FROM: [Redacted]
 Dated: July 27, 1948
 Date of Mailing: July 31, 1948

AUG 12 1948
 Office of
 FAR EASTERN AFFAIRS
 DIRECTOR
 Department of State

Reference this Mission's A-148, July 16, 1948 and previous correspondence on the subject of the Awa Haru. The following is the agreed text of the agreement between the Government of the United States of America and the Japanese Government for settlement of the Awa Haru Claims.

"WHEREAS the Government of the United States of America and the Japanese Government reached an agreement during the recent hostilities that the Japanese Government would provide vessels which would transport supplies for the relief of Allied nationals in various areas of the Pacific that under Japanese control and the Government of the United States of America would guarantee the immunity of vessels on such missions from attack by Allied forces on both the outward and homeward voyages; and

"WHEREAS the Japanese passenger-cargo vessel Awa Haru was sunk on April 1, 1945 while homeward bound from such a mission; and

"WHEREAS the Government of the United States of America acknowledged responsibility for the sinking of the vessel and assured the Japanese Government that it would be prepared after the termination of hostilities to consider the question of indemnity; and

"WHEREAS the Government of the United States of America and the Japanese Government sought to reach an equitable and mutually satisfactory solution of this claim; and

"WHEREAS General of the Army Douglas MacArthur has extended his good offices as intermediary between the Government of the United States of America and the Japanese Government in an effort to facilitate agreement;

"The undersigned, being duly authorized by their respective governments for that purpose, have reached the following agreement through the good offices of the Supreme Commander for the Allied Powers.

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PERMANENT RECORD COPY.—This copy must be returned to DC/R central files with notation of action taken.

Tokyo's A-157
July 27, 1948

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"ARTICLE I

"The Japanese Government, mindful of the equities of the situation as they have developed since the inception of the Occupation of Japan under General of the Army Douglas MacArthur and in appreciation of the assistance--direct and indirect, in goods and services--received during the post-surrender period from the Government of the United States of America, waives on behalf of itself and all Japanese nationals concerned all claims of any description against the United States Government or any United States national arising out of the sinking of the Awa Maru.

"ARTICLE II

"The provisions of Article I shall bar, completely and finally, all claims of the nature referred to therein, which will be henceforward extinguished, whoever may be the parties in interest.

"ARTICLE III

"The Japanese Government will, in consideration of the special nature of this case, endeavor to provide adequate treatment in way of solatium for the families of those who perished in this disaster as well as for the owner of the vessel.

"ARTICLE IV

"The Government of the United States of America expresses its deep regret for the sinking of the Awa Maru and its sympathy with the families of those who perished in the disaster.

"ARTICLE V

"This agreement shall take effect as from this day's date.

"Executed in duplicate, in the English and Japanese languages, at Tokyo, this day of 1948 (23 Showa).

"For the Government of the United States
of America:

WILLIAM J. SEBALD
Acting United States Political Adviser
for Japan

CONFIDENTIAL

"For the

Tokyo's A-157
July 27, 1948

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"For the Japanese Government:

HITOSHI ASHIDA
Minister for Foreign Affairs

"Attest:

DORRIS MACARTHUR
General of the Army
United States Army
Supreme Commander for the Allied Powers"

At the request of Mr. YOSHIKAWA Seijiro, Vice Minister of Foreign Affairs, a statement similar to that contained in the penultimate paragraph of my A-83, April 22, 1948 is to be contained in an ancillary agreement quoted below. Mr. Yoshizawa, who mirrored the views of Prime Minister ASHIDA Hitoshi, explained that the hands of the Government would be strengthened vis-a-vis the Diet by setting forth the statement in a separate document rather than incorporating the statement in the principal agreement.

"AGREED TERMS OF UNDERSTANDING

"The signatories to the Agreement signed this date for settlement of the wa Maru claim have confirmed on behalf of their respective Governments the following:

"It is understood that Occupation costs and loans and credits extended to Japan by the Government of the United States of America since the time of the former's surrender are valid debts owed by Japan to the Government of the United States, reducible only by the decision of the Government of the United States.

"Executed in duplicate, in the English and Japanese languages, at Tokyo, this day of 1948 (23 Showa).

(Signatures, etc.)"

As intimated in my A-148, I proposed to General MacArthur that he invite Dr. Ashida and myself with a view to discussing the procedure regarding the execution of the Agreement and if possible to execute the Agreement prior to its submission to the Diet. It is my view that this Agreement does not require Diet concurrence although the Diet will necessarily be called upon to appropriate funds in implementation of the Agreement. Dr. Ashida, on the other hand, is said to be convinced that prior approval by the Cabinet as well as by the Diet is necessary. General MacArthur was of the opinion that the

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Agreement

Tokyo's A-157
July 27, 1948

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Agreement does not require Diet approval and agreed to receive Dr. Ishida and myself at a mutually convenient time.

The Department will be kept advised of developments.

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THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

ACTION
is assigned to

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No. 553

DIVISION OF
NORTHEAST ASIAN AFFAIRS

Office of the U.S. Political Adviser
for Japan

CONFIDENTIAL

SEP - 9 1948

Tokyo, August 24, 1948.

DEPARTMENT OF STATE

Subject: Awa Maru Case

RECEIVED
DEPARTMENT OF STATE

PM 4 06

The Honorable
The Secretary of State,
Washington.

Sir:

I have the honor to refer to my A-157 of July 27, 1948, and to previous correspondence on the subject the Awa Maru case, and to report that Prime Minister ASHIDA Hitoshi and I called upon General of the Army Douglas MacArthur today in order, if possible, to arrive at an agreement regarding the procedure to be followed in executing the proposed Agreement of Settlement in this case.

1/ Dr. Ashida read a prepared statement, forwarded herewith as enclosure No. 1, in which he briefly traced the history of this case and proposed a mode of settlement by reason of changed circumstances, "the general sense of equity and fairness", and because he has "come to be convinced that a new approach to the settlement of this question should be made in harmony with the...feeling of the Japanese people". He proposed that the Japanese Government "should decide to waive on behalf of itself and Japanese nationals all claims against the United States arising out of the case...on the sole responsibility of the Government".

His statement further proposed the payment by the Japanese Government of reasonable indemnities in the form of solatia to the families of those who perished in the disaster and the owner of the ship. Lastly, Dr. Ashida took up the question of procedure in view of Item 3 of Article 73 of the Constitution of Japan and stated his inclination to believe it appropriate to refer the Agreement to the Diet in its draft form. He expressed confidence that, apart from "the unpredictable communists", the opposition parties would not disagree and that the Diet would be "pleased to have been consulted beforehand on the important affair which would enhance mutual understanding between the peoples of the United States and Japan...".

2/ In response to the Prime Minister's prepared statement I made an oral statement, the general tenor of which is contained in enclosure No. 2. I expressed the appreciation of the Government of the United States to General MacArthur for his intermediation between the two governments in the settlement of this problem. I then agreed to the mode of settlement as proposed by the Japanese Government and interposed no objection to the Prime Minister's statement regarding the

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Tokyo's 553
August 24, 1948

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Japanese Government's endeavor to pay solatia to the families of the victims and owner of the Awa Maru.

I then endeavored to convince the Prime Minister, as well as General MacArthur, of the proposition that the proposed Agreement is in fact an executive agreement and does not partake of the nature of a treaty. In support of this contention I stated that the proposal to obtain prior approval of the Agreement by the Japanese Diet is not technically feasible and might, in fact, give rise to unwarranted and embarrassing criticism on the part of certain members of the Diet. I further contended that Item 3 of Article 73 of the Constitution is not relevant in the instant case, as the Agreement arises out of prior exchanges on this subject between the Japanese Foreign Office and the Department of State as executive departments of their respective governments, and that there has never been any intention that a treaty would be entered into on this subject between the two governments. (General MacArthur interjected a remark at this point that, if the Agreement were to be considered a treaty he, as the Supreme Commander, would have no authority to permit its execution.)

As a final point, I contended that if and when the Japanese Government should find it necessary to appeal to the Diet for funds in order to carry out the payment of solatia, action by the Diet would not necessarily imply an approval or disapproval of the Agreement, which would nevertheless be valid and binding.

Dr. Ashida strongly maintained his position on the grounds that his Government would be severely criticized by the Diet were it to present the Agreement as a fait accompli, and that such an action might have serious repercussions in public opinion, not only in Japan, but in the United States. He furthermore reiterated his conviction that if properly handled, no opposition or untoward remarks would be raised in the Diet and that the Japanese people as a whole would welcome this opportunity to show their appreciation of the great assistance accorded by the Government and people of the United States.

In order to arrive at a compromise solution, General MacArthur proposed that the Prime Minister should call together the Speaker of the House, the President of the House of Councillors, the Chairmen of the respective Foreign Relations Committees, and the leaders of the principal political parties of the Diet (including the Opposition), to obtain their advice and appropriate approval regarding the proper procedural course to be followed in executing the proposed Agreement.

Further discussion of General MacArthur's proposal resulted in a mutual understanding to the effect that the following successive steps will be taken:

1. At a propitious time when the Diet is in special session, the Prime Minister will undertake to obtain the approval of his Cabinet to the proposed Agreement.

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2. Immediately

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August 24, 1948

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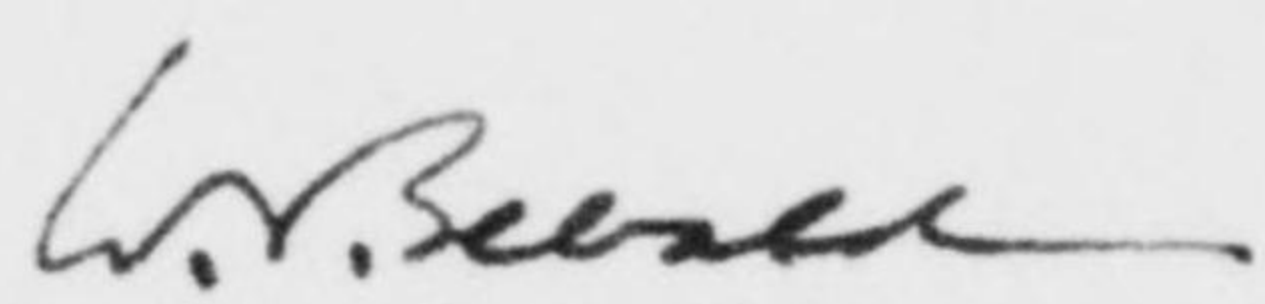
2. Immediately upon obtaining the approval of the Cabinet he will summon the Japanese political leaders mentioned above, to obtain their understanding whether (a) the Foreign Minister would be justified in signing the Agreement prior to its submission to the Diet for approval or, (b) if the consensus is in the negative, whether he can rely on their whole-hearted support of the Agreement upon its introduction into the Diet.

3. Upon obtaining agreements under 1 and 2, the proposed Agreement is to be simultaneously introduced into both Houses of the Diet, covered by a resolution expressing the approval of each House.

4. In the meantime, and pending an agreed upon procedure as above, the entire negotiations, including the agreed text of the Agreement, will be considered confidential by all parties concerned.

In view of the above circumstances, it appears probable that no further progress will be made in the execution of this Agreement until the latter part of the special session of the Diet, which will probably convene late in September, 1948.

Respectfully yours,


W. J. Sebald

Enclosures (2): *att.*

1. Statement prepared by Dr. Ashida Hiteshi.
2. Memorandum prepared by Mr. W. J. Sebald.

In triplicate to the Department.

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Enclosure No. 1 to Despatch No. 553 dated August 24, 1948 from the Office of the U.S. Political Adviser for Japan, Tokyo, entitled "Awa Maru Case".

CONFIDENTIAL

(COPY)

1. I avail myself of this opportunity to express my profound gratitude to you for extending your good offices as intermediary between the United States and Japan in the settlement of the Awa-Maru claim.

As you are aware, the United States Government, in the negotiations which took place on this case between the United States and Japan during the war, acknowledged its responsibility for the sinking of the ship and assured the Japanese Government that it would discuss after the war all phases of the question of indemnity without regard to the political situation then existing (July 5th, 1945). It was pursuant to this understanding that the Japanese Government took up the question with the Supreme Commander for Allied Powers through the Central Liaison Office shortly after the termination of hostilities.

However, the course which events have taken after Japan's surrender is perhaps one which nobody could imagine three years ago. Under the present circumstances where the prospect of an early conclusion of peace is dim with the duration of occupation consequently undecided, Japan still is in a position in which she depends on the United States for considerable amount of relief supply as well as assistance for the rehabilitation of her economy shattered as a result of the war. Moreover, the fact that the occupation policy has been carried out with utmost success and without encountering any obstruction for the past three years is perhaps without precedent in history and has created a profound impression among the Japanese people and elicited a deep sense of gratitude from them.

The insistence of the claim on the Awa-Maru despite this vast change of objective circumstances would somewhat run counter to our present feeling toward the United States and also to the general sense of equity and fairness. In the light of these circumstances careful consideration has been given to the Awa-Maru case from a new angle. Particularly when one thinks of the future relations between the two countries which should be firmly established, after the conclusion of peace treaty, upon the lasting basis of friendship and mutual respect, I have come to be convinced that a new approach to the settlement of this question should be made in harmony with the above stated feeling of the Japanese people.

The Japanese Government, therefore, should, to my mind, decide to waive on behalf of itself and Japanese nationals all claims against the United States arising out of the case and to take appropriate measures, to cope with domestic situations which may ensue, on the sole responsibility of the Government. With a view to arriving at an

understanding

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Encl. No. 1 to
Tokyo's No. 553,
August 24, 1948.

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understanding between the two Governments I have given instructions to officers of the Ministry of Foreign Affairs to seek assistance and advice from the Diplomatic Section, G.H.Q. which were liberally given. The discussion between the two agents reached to fruition in the form of a draft agreement, to which, if approved, your attestation appears to be most appropriate and desirable. In the fear of premature leakage of this draft agreement to the outside which would undoubtedly jeopardize its psychological value and true significance, the content of it has been kept in utmost secrecy and even my Cabinet colleagues have not yet been consulted on this matter. As my new approach to the settlement of the case has at last been crystalized in a draft agreement, I am here to seek your opinion and advice before I refer the whole matter to the Cabinet meeting for consideration.

2. As for the families of those who perished in the disaster as well as the owner of the ship, they may be reasonably assumed to be expecting indemnity of one kind or another since the incident occurred while the ill-fated ship was sailing under the guarantee of the safe conduct and the United States Government subsequently acknowledged its responsibility suggesting that the settlement of the matter of indemnity would be effected after the termination of hostilities. The Japanese Government, however, in considering the treatment to be given to them as a result of the waiving of the claim against the United States, is also obliged to examine carefully firstly the present financial state of the nation and secondly the point of equity and fairness in comparison with the indemnity to be paid to those people who suffered from war damages, reparations removals, repatriation and other causes incident to war. To the families of those perished in the disaster and the owner of the ship, the special nature of the case would be given full cognizance of, not much could perhaps be accorded beyond the payment of solatium the amount of which is to be fixed after consultation with financial authorities and finally to be approved by the Diet. This payment, being of the nature of solatium, will be made in way of the consideration for the fact that their seemingly reasonable expectation was waived in the interest of the nation as a whole in the light of the developments which have taken place since the surrender. I hope you will understand these circumstances and also that my Government would, in this connection, be subjected to various forms of criticism both within and without the Diet when the proposed agreement was submitted to it. I surmise, however, the good offices and the attestation kindly offered by you will make the position of the Government easier.

3. Lastly I may mention a few words on relations between this proposed agreement and the Diet. It may be opined that such an agreement, being of a nature of the so-called executive agreement, may not necessarily be referred to the Diet and suffice to be submitted to it when financial

expenditures

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Encl. No. 1 to
Tokyo's No. 553,
August 24, 1948.

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expenditures are requested. However, in view of the fact that no precedent has yet been established with regard to the Item 3 of Article 73 of our Constitution and that the Diet, when requested to approve the adherence to the Universal Postal Convention shortly before the closing of its Second Session, registered a strong dissatisfaction for not having been consulted with amply beforehand, I am inclined to believe it appropriate to refer this agreement to the Diet in its draft form. As for the apprehension that this procedure may arouse such arguments as are dissonant with the very spirit which motivated this agreement, it is confidently hoped that, apart from the unpredictable communists, the opposition parties would not disagree with this equitable proposition which is blessed by the intermediation and the attestation of the Supreme Commander for Allied Powers. On the contrary the Diet would, I am sure, be pleased to have been consulted beforehand on this important affair which would enhance mutual understanding between the peoples of the United States and Japan and this would undoubtedly render the subsequent action of the Government on financial measures somewhat easier.

CONFIDENTIAL

Enclosure No. 2 to Despatch No. 553
dated August 24, 1948 from the Office
of the United States Political Adviser
for Japan, Tokyo, on the subject "Awa
Maru Case".

CONFIDENTIAL

(COPY)

MEMORANDUM

I also wish to take this opportunity of expressing to General MacArthur the appreciation of the Government of the United States for his intermediation between the Japanese Government and my Government in the settlement of this problem.

The Government of the United States agrees to the mode of settlement of the Awa Maru claim, as proposed by the Japanese Government, and, furthermore, interposes no objection to the Prime Minister's statement regarding the solatia which the Japanese Government will endeavor to pay to the families of the victims and owner of the Awa Maru.

As to the method of procedure in executing the proposed Agreement, however, it is the position of the Government of the United States that a binding Agreement of this nature may freely be executed by the Foreign Minister with the concurrence of the Japanese Cabinet, if this is considered necessary. In so doing, it is felt that the Foreign Minister would, in fact, be executing an executive Agreement on behalf of the Japanese Government and that I, as Representative of the United States Government, would act in a similar capacity on behalf of an executive department of the United States Government. It is furthermore felt that the Prime Minister's proposal to obtain approval of the Agreement by the Japanese Diet prior to executing the Agreement is not technically feasible, as to do so would amount in effect to an Agreement between an executive department of the United States Government and the legislative branch of the Japanese Government.

The only article of the Constitution of Japan (73) which could possibly be relevant in the instant case, in my opinion is not controlling as that article relates solely to treaties. It is not considered that the instant Agreement partakes of the nature of a treaty. It is solely and simply an Executive Agreement. In all prior exchanges on this subject, the parties were the Japanese Foreign Office and the Department of State. There never has been any intimation that a treaty would be entered into between the two governments.

While admittedly it may become necessary for the Japanese Government to appeal to the Diet for funds in order to carry out the payment of solatia as indicated in the proposed Agreement, this does not necessarily imply an approval or disapproval of the Agreement by the Diet. Approval of funds by the Diet would not make the Agreement more binding; disapproval of funds would likewise not vitiate the Agreement.

It is, therefore, my hope that the Prime Minister will concur in the suggestion that he execute the Agreement in his capacity as Foreign Minister and that approval by the Diet be not made a prerequisite to such execution.

CONFIDENTIAL

No. 553

Office of the U.S. Political Adviser
for JapanCONFIDENTIAL

Tokyo, August 24, 1948.

Subject: Awa Maru CaseThe Honorable
The Secretary of State,
Washington.

Sir:

I have the honor to refer to my A-157 of July 27, 1948, and to previous correspondence on the subject the Awa Maru case, and to report that Prime Minister ASHIDA Hitoshi and I called upon General of the Army Douglas MacArthur today in order, if possible, to arrive at an agreement regarding the procedure to be followed in executing the proposed Agreement of Settlement in this case.

1/ Dr. Ashida read a prepared statement, forwarded herewith as enclosure No. 1, in which he briefly traced the history of this case and proposed a mode of settlement by reason of changed circumstances, "the general sense of equity and fairness", and because he has "come to be convinced that a new approach to the settlement of this question should be made in harmony with the...feeling of the Japanese people". He proposed that the Japanese Government "should decide to waive on behalf of itself and Japanese nationals all claims against the United States arising out of the case...on the sole responsibility of the Government".

His statement further proposed the payment by the Japanese Government of reasonable indemnities in the form of solatia to the families of those who perished in the disaster and the owner of the ship. Lastly, Dr. Ashida took up the question of procedure in view of Item 3 of Article 73 of the Constitution of Japan and stated his inclination to believe it appropriate to refer the Agreement to the Diet in its draft form. He expressed confidence that, apart from "the unpredictable communists", the opposition parties would not disagree and that the Diet would be "pleased to have been consulted beforehand on the important affair which would enhance mutual understanding between the peoples of the United States and Japan...".

2/ In response to the Prime Minister's prepared statement I made an oral statement, the general tenor of which is contained in enclosure No. 2. I expressed the appreciation of the Government of the United States to General MacArthur for his intermediation between the two governments in the settlement of this problem. I then agreed to the mode of settlement as proposed by the Japanese Government and interposed no objection to the Prime Minister's statement regarding the

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August 24, 1948

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Japanese Government's endeavor to pay solatia to the families of the victims and owner of the Awa Maru.

I then endeavored to convince the Prime Minister, as well as General MacArthur, of the proposition that the proposed Agreement is in fact an executive agreement and does not partake of the nature of a treaty. In support of this contention I stated that the proposal to obtain prior approval of the Agreement by the Japanese Diet is not technically feasible and might, in fact, give rise to unwarranted and embarrassing criticism on the part of certain members of the Diet. I further contended that Item 3 of Article 73 of the Constitution is not relevant in the instant case, as the Agreement arises out of prior exchanges on this subject between the Japanese Foreign Office and the Department of State as executive departments of their respective governments, and that there has never been any intention that a treaty would be entered into on this subject between the two governments. (General MacArthur interjected a remark at this point that, if the Agreement were to be considered a treaty he, as the Supreme Commander, would have no authority to permit its execution.)

As a final point, I contended that if and when the Japanese Government should find it necessary to appeal to the Diet for funds in order to carry out the payment of solatia, action by the Diet would not necessarily imply an approval or disapproval of the Agreement, which would nevertheless be valid and binding.

Dr. Ashida strongly maintained his position on the grounds that his Government would be severely criticized by the Diet were it to present the Agreement as a fait accompli, and that such an action might have serious repercussions in public opinion, not only in Japan, but in the United States. He furthermore reiterated his conviction that if properly handled, no opposition or untoward remarks would be raised in the Diet and that the Japanese people as a whole would welcome this opportunity to show their appreciation of the great assistance accorded by the Government and people of the United States.

In order to arrive at a compromise solution, General MacArthur proposed that the Prime Minister should call together the Speaker of the House, the President of the House of Councillors, the Chairmen of the respective Foreign Relations Committees, and the leaders of the principal political parties of the Diet (including the Opposition), to obtain their advice and appropriate approval regarding the proper procedural course to be followed in executing the proposed Agreement.

Further discussion of General MacArthur's proposal resulted in a mutual understanding to the effect that the following successive steps will be taken:

1. At a propitious time when the Diet is in special session, the Prime Minister will undertake to obtain the approval of his Cabinet to the proposed Agreement.

CONFIDENTIAL

2. Immediately

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August 24, 1948

CONFIDENTIAL

-3-

2. Immediately upon obtaining the approval of the Cabinet he will summon the Japanese political leaders mentioned above, to obtain their understanding whether (a) the Foreign Minister would be justified in signing the Agreement prior to its submission to the Diet for approval or, (b) if the consensus is in the negative, whether he can rely on their whole-hearted support of the Agreement upon its introduction into the Diet.

3. Upon obtaining agreements under 1 and 2, the proposed Agreement is to be simultaneously introduced into both Houses of the Diet, covered by a resolution expressing the approval of each House.

4. In the meantime, and pending an agreed upon procedure as above, the entire negotiations, including the agreed text of the Agreement, will be considered confidential by all parties concerned.

In view of the above circumstances, it appears probable that no further progress will be made in the execution of this Agreement until the latter part of the special session of the Diet, which will probably convene late in September, 1948.

Respectfully yours,

W. J. Sebald

Enclosures (2):

1. Statement prepared by Dr. Ashida Hiteshi.
2. Memorandum prepared by Mr. W. J. Sebald.

In triplicate to the Department.

350
WJSebald:cs

CONFIDENTIAL

Enclosure No. 1 to Despatch No. 553 dated August 24, 1948 from the Office of the U.S. Political Adviser for Japan, Tokyo, entitled "Awa Maru Case".

CONFIDENTIAL

(COPY)

1. I avail myself of this opportunity to express my profound gratitude to you for extending your good offices as intermediary between the United States and Japan in the settlement of the Awa-Maruk claim.

As you are aware, the United States Government, in the negotiations which took place on this case between the United States and Japan during the war, acknowledged its responsibility for the sinking of the ship and assured the Japanese Government that it would discuss after the war all phases of the question of indemnity without regard to the political situation then existing (July 5th, 1945). It was pursuant to this understanding that the Japanese Government took up the question with the Supreme Commander for Allied Powers through the Central Liaison Office shortly after the termination of hostilities.

However, the course which events have taken after Japan's surrender is perhaps one which nobody could imagine three years ago. Under the present circumstances where the prospect of an early conclusion of peace is dim with the duration of occupation consequently undecided, Japan still is in a position in which she depends on the United States for considerable amount of relief supply as well as assistance for the rehabilitation of her economy shattered as a result of the war. Moreover, the fact that the occupation policy has been carried out with utmost success and without encountering any obstruction for the past three years is perhaps without precedent in history and has created a profound impression among the Japanese people and elicited a deep sense of gratitude from them.

The insistence of the claim on the Awa-Maruk despite this vast change of objective circumstances would somewhat run counter to our present feeling toward the United States and also to the general sense of equity and fairness. In the light of these circumstances careful consideration has been given to the Awa-Maruk case from a new angle. Particularly when one thinks of the future relations between the two countries which should be firmly established, after the conclusion of peace treaty, upon the lasting basis of friendship and mutual respect, I have come to be convinced that a new approach to the settlement of this question should be made in harmony with the above stated feeling of the Japanese people.

The Japanese Government, therefore, should, to my mind, decide to waive on behalf of itself and Japanese nationals all claims against the United States arising out of the case and to take appropriate measures, to cope with domestic situations which may ensue, on the sole responsibility of the Government. With a view to arriving at an

understanding

CONFIDENTIAL

Encl. No. 1 to
Tokyo's No. 553,
August 24, 1948.

- 2 -

understanding between the two Governments I have given instructions to officers of the Ministry of Foreign Affairs to seek assistance and advice from the Diplomatic Section, G.H.Q. which were liberally given. The discussion between the two agents reached to fruition in the form of a draft agreement, to which, if approved, your attestation appears to be most appropriate and desirable. In the fear of premature leakage of this draft agreement to the outside which would undoubtedly jeopardize its psychological value and true significance, the content of it has been kept in utmost secrecy and even my Cabinet colleagues have not yet been consulted on this matter. As my new approach to the settlement of the case has at last been crystalized in a draft agreement, I am here to seek your opinion and advice before I refer the whole matter to the Cabinet meeting for consideration.

2. As for the families of those who perished in the disaster as well as the owner of the ship, they may be reasonably assumed to be expecting indemnity of one kind or another since the incident occurred while the ill-fated ship was sailing under the guarantee of the safe conduct and the United States Government subsequently acknowledged its responsibility suggesting that the settlement of the matter of indemnity would be effected after the termination of hostilities. The Japanese Government, however, in considering the treatment to be given to them as a result of the waiving of the claim against the United States, is also obliged to examine carefully firstly the present financial state of the nation and secondly the point of equity and fairness in comparison with the indemnity to be paid to those people who suffered from war damages, reparations removals, repatriation and other causes incident to war. To the families of those perished in the disaster and the owner of the ship, the special nature of the case would be given full cognizance of, not much could perhaps be accorded beyond the payment of solatium the amount of which is to be fixed after consultation with financial authorities and finally to be approved by the Diet. This payment, being of the nature of solatium, will be made in way of the consideration for the fact that their seemingly reasonable expectation was waived in the interest of the nation as a whole in the light of the developments which have taken place since the surrender. I hope you will understand these circumstances and also that my Government would, in this connection, be subjected to various forms of criticism both within and without the Diet when the proposed agreement was submitted to it. I surmise, however, the good offices and the attestation kindly offered by you will make the position of the Government easier.

3. Lastly I may mention a few words on relations between this proposed agreement and the Diet. It may be opined that such an agreement, being of a nature of the so-called executive agreement, may not necessarily be referred to the Diet and suffice to be submitted to it when financial

expenditures

CONFIDENTIAL

Encl. No. 1 to
Tokyo's No. 553,
August 24, 1948.

- 3 -

expenditures are requested. However, in view of the fact that no precedent has yet been established with regard to the Item 3 of Article 73 of our Constitution and that the Diet, when requested to approve the adherence to the Universal Postal Convention shortly before the closing of its Second Session, registered a strong dissatisfaction for not having been consulted with amply beforehand, I am inclined to believe it appropriate to refer this agreement to the Diet in its draft form. As for the apprehension that this procedure may arouse such arguments as are dissonant with the very spirit which motivated this agreement, it is confidently hoped that, apart from the unpredictable communists, the opposition parties would not disagree with this equitable proposition which is blessed by the intermediation and the attestation of the Supreme Commander for Allied Powers. On the contrary the Diet would, I am sure, be pleased to have been consulted beforehand on this important affair which would enhance mutual understanding between the peoples of the United States and Japan and this would undoubtedly render the subsequent action of the Government on financial measures somewhat easier.

CONFIDENTIAL

Enclosure No. 2 to Despatch No. 553 dated August 24, 1948 from the Office of the United States Political Adviser for Japan, Tokyo, on the subject "Awa Maru Case".

CONFIDENTIAL

(COPY)

MEMORANDUM

I also wish to take this opportunity of expressing to General MacArthur the appreciation of the Government of the United States for his intermediation between the Japanese Government and my Government in the settlement of this problem.

The Government of the United States agrees to the mode of settlement of the Awa Maru claim, as proposed by the Japanese Government, and, furthermore, interposes no objection to the Prime Minister's statement regarding the solatia which the Japanese Government will endeavor to pay to the families of the victims and owner of the Awa Maru.

As to the method of procedure in executing the proposed Agreement, however, it is the position of the Government of the United States that a binding Agreement of this nature may freely be executed by the Foreign Minister with the concurrence of the Japanese Cabinet, if this is considered necessary. In so doing, it is felt that the Foreign Minister would, in fact, be executing an executive Agreement on behalf of the Japanese Government and that I, as Representative of the United States Government, would act in a similar capacity on behalf of an executive department of the United States Government. It is furthermore felt that the Prime Minister's proposal to obtain approval of the Agreement by the Japanese Diet prior to executing the Agreement is not technically feasible, as to do so would amount in effect to an Agreement between an executive department of the United States Government and the legislative branch of the Japanese Government.

The only article of the Constitution of Japan (73) which could possibly be relevant in the instant case, in my opinion is not controlling as that article relates solely to treaties. It is not considered that the instant Agreement partakes of the nature of a treaty. It is solely and simply an Executive Agreement. In all prior exchanges on this subject, the parties were the Japanese Foreign Office and the Department of State. There never has been any intimation that a treaty would be entered into between the two governments.

While admittedly it may become necessary for the Japanese Government to appeal to the Diet for funds in order to carry out the payment of solatia as indicated in the proposed Agreement, this does not necessarily imply an approval or disapproval of the Agreement by the Diet. Approval of funds by the Diet would not make the Agreement more binding; disapproval of funds would likewise not vitiate the Agreement.

It is, therefore, my hope that the Prime Minister will concur in the suggestion that he execute the Agreement in his capacity as Foreign Minister and that approval by the Diet be not made a prerequisite to such execution.

CONFIDENTIAL

Enclosure No. 1 to Despatch No. 553 dated August 24, 1948 from the Office of the U.S. Political Adviser for Japan, Tokyo, entitled "Awa Maru Case".

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CONFIDENTIAL

Encl. No. 1 to
Tokyo's No. 553,
August 24, 1948.

- 2 -

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CONFIDENTIAL

Encl. No. 1 to
Tokyo's No. 553,
August 24, 1948.

- 3 -

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CONFIDENTIAL

Enclosure No. 2 to Despatch No. 553 dated August 24, 1948 from the Office of the United States Political Adviser for Japan, Tokyo, on the subject "Awa Maru Case".

CONFIDENTIAL

(COPY)

MEMORANDUM

I also wish to take this opportunity of expressing to General MacArthur the appreciation of the Government of the United States for his intermediation between the Japanese Government and my Government in the settlement of this problem.

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As to the method of procedure in executing the proposed Agreement, however, it is the position of the Government of the United States that a binding Agreement of this nature may freely be executed by the Foreign Minister with the concurrence of the Japanese Cabinet, if this is considered necessary. In so doing, it is felt that the Foreign Minister would, in fact, be executing an executive Agreement on behalf of the Japanese Government and that I, as Representative of the United States Government, would act in a similar capacity on behalf of an executive department of the United States Government. It is furthermore felt that the Prime Minister's proposal to obtain approval of the Agreement by the Japanese Diet prior to executing the Agreement is not technically feasible, as to do so would amount in effect to an Agreement between an executive department of the United States Government and the legislative branch of the Japanese Government.

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It is, therefore, my hope that the Prime Minister will concur in the suggestion that he execute the Agreement in his capacity as Foreign Minister and that approval by the Diet be not made a prerequisite to such execution.

CONFIDENTIAL

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : NA - Mr. Allison

DATE: Sept. 23, 1948

FROM : NA - Mr. Fearey

SUBJECT: Attached Awa Maru Despatches

711.94 114 Supplies

The two attached despatches, one dated June 15 and the other August 24 but both of which reached NA at the same time, relate in detail recent developments regarding the Awa Maru settlement.

Things have moved along to the point where draft statements on behalf of their respective Governments were read by Mr. Ashida and Mr. Sebald in General MacArthur's presence on August 24. The subsequent discussion revolved as usual about the question of whether the agreement had to be approved by the Diet, Mr. Ashida arguing pro and Sebald contra. A procedure was finally decided upon as set forth on pages 2 and 3 of the August 24 despatch. It is not exactly clear what is to happen if the answer to (a) and (b) in item 2 are both in the negative.

I think you will find the despatches, at least the August 24 one, worth reading in their entirety. I checked with Mr. Snow, who agreed that the problems involved were problems of implementation in the light of Japanese constitutional and legal procedure, and that it would be unnecessary and unwise for the Department to attempt to advise in the matter.

*State Dept Asian
Northwest Office
Affairs Office
from Fearey*

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9-23-48

*Telegram drafted
airgram drafted
Nov 6. A-RAT*

~~TOP SECRET~~

AIRGRAM

Office of
FOR ENGLISH ATTACH
NOV 21 1948
Department of State
4811

FROM: USPOLAD, Tokyo
Dated: November 9, 1948
Date of Mailing: November 10, 1948
Rec'd: *file*
NOV 23 1948 2:37 p.m.

NA
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TO
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CONFIDENTIAL

Secretary of State,
Washington.

A-224, November 9, 1948.

Reference my despatch No. 553 August 24, 1948 on the subject of the settlement of the Awa Maru claim.

Consequent upon the election of Prime Minister YOSHIDA Shigeru, certain changes in the procedure leading to the execution of the proposed Agreement of settlement of the Awa Maru claim have become necessary. These changes are in part dictated by the domestic political situation and in part by Prime Minister Yoshida's belief that his modified procedure would be more palatable to the Japanese people. In brief, Prime Minister Yoshida has proposed that the two Houses of the Diet should adopt a resolution instructing the Government to enter into an agreement with the United States Government to liquidate the Awa Maru claim. As the Agreement to be executed in response to the Diet resolution remains unchanged from the agreed text (my A-157, July 27, 1947), General MacArthur and I concurred in the proposal.

From conferences with various Japanese government officials, I have ascertained that the resolutions and procedures for their adoption have been carefully planned; barring unforeseen circumstances resulting from the unstable political situation here, they should readily be passed by both Houses of the Diet. It is further understood that the Government has already taken into its confidence the Speaker of the House of Representatives and the President of the House of Councilors, who have both agreed to follow the Government's plan.

Upon adoption of the resolutions by the Diet, Prime Minister Yoshida proposes to sign the Agreement in the presence of General MacArthur after the lapse of approximately one week. A statement and the text of the Agreement will then be issued by the Government to the press, and if considered necessary or desirable, the signed Agreement will be submitted to the Diet for its approval in accordance with Article 73 of the Constitution of Japan.

CONFIDENTIAL

The Department
DEC 13 1948

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DEPARTMENT OF STATE

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Tokyo's A-224
November 9, 1948

-2-

CONFIDENTIAL

The Department will be advised by telegram when the Agreement has been signed.

SEBALD

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WSebald:res

CONFIDENTIAL

FORM DS-323
7-18-46

OUTGOING AIRGRAM

CLASSIFICATION

Department of State

CONFIDENTIAL

NO. A-167

Washington, 1039
Dec. 9, 1948

1039

USPOLAD,
TOKYO.

(enc)
71194114 Supplies
11-948

Re your airgram A-224, November 9, 1948, on the matter of the Awa Maru claim, the Department views with some concern the possibility that the signed Agreement may be submitted by the Japanese Government to the Diet for its approval in accordance with Article 73 of the Constitution. There would seem to be danger if the Agreement is handled as a treaty by the Japanese Government that a presumption might be created that the U.S. Gov't also considered the Agreement to be a treaty, involving approval by the Senate. It is possible, moreover, that certain Allied Governments might object to the conclusion by the Japanese Government of a treaty prior to the conclusion of a general peace settlement with Japan, even though that treaty were signed with the permission and under the authority of the Supreme Commander. If there should therefore be real possibility that the Japanese Government will submit the Agreement to the Diet for ratification, it is believed that you, as the representative of the US Government, should reiterate at the appropriate time this Government's understanding that the Agreement takes the character of an executive agreement and is in no sense a treaty between the two Governments requiring ratification by their respective national legislatures.

711.94114 SUPPLIES/11-948

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INCOMING AIRGRAM

DEPARTMENT OF STATE DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

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AIRGRAM

Office of
For Eastern Affairs
3028
Department of State

FROM: USPOLAD, Tokyo
 Dated: December 10, 1948
 Date of Mailing: December 11, 1948
 Rec'd: Dec. 17, 2:37 p.m.

CONFIDENTIAL

2
 DW
 ACTION: FE
 INFO: Secretary of State,
 DC/R Washington.
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A-243, December 10, 1948.

DIVISION OF
NORTHEAST ASIAN AFFAIRS
 DEPT. OF STATE
 DEPARTMENT OF STATE

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summary
file
RMB*

1741.94114 SUPPLIES/12-1048

Reference this Mission's A-224 November 9, 1948 and previous correspondence on the subject of the Awa Maru claim.

In view of the continued hostility of the Opposition parties to the minority YOSHIDA Cabinet and the consequent unstable situation existing in the Diet, it appears highly unlikely that the Government will, at this time, proceed with the resolution referred to in the reference airgram. Consideration of this problem has been postponed from time to time in the hope that some semblance of order in the Diet might be restored. The Yoshida Cabinet continues to maintain its determination regarding an imminent dissolution of the Diet to be followed by a general election. Although the Prime Minister has periodically kept me advised concerning his reasons for delaying consideration of the Awa Maru resolution, the matter has been left to the Prime Minister's decision in order to prevent the Awa Maru claim from becoming a target for Opposition criticism designed to embarrass the Government.

In view of the above circumstances, it appears highly improbable that the Awa Maru resolution will be introduced for discussion by the Diet prior to its dissolution. The settlement of this matter may therefore of necessity be delayed until after the forthcoming general election.

SEBALD

MAR 16 1949

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DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

DEPARTMENT OF STATE INCOMING TELEGRAM

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PLAIN DIVISION OF NORTHEAST ASIAN AFFAIRS

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APR - 6 1949
DEPARTMENT OF STATE

Rec'd April 6, 1949
9:03 a.m.

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Routing slip with checkboxes and handwritten marks.

FROM: Tokyo
TO: Secretary of State
DATE: 105, April 6.

Office of FAR EASTERN AFFAIRS
APR 6 - 1949
DIRECTOR
Department of State

711.94114 SUPPLIES/4-649

This radio in four parts.
Part One. Japanese House of Representatives at 1515 hours 6 April Tokyo time and House of Councillors at 1625 hours 6 April passed a resolution the Foreign Office translation of which follows:

"Resolution regarding the waiving of Japan's claims in the AWA MARU case.

Japan, sensible of the sympathetic understanding of the Allied Powers, is now emerging out of the ravages of war and working for her reconstruction dedicated to peace and to the high principles of freedom and democracy.

And whereas, it is the United States of America who as the principal occupying power, has assumed a major role in the formulation and execution of that policy, and furthermore the Japanese people owe to the American Government and people an incalculable debt of gratitude for their generous aid and assistance toward her recovery and rehabilitation;

Be it resolved, as a means to express our gratitude

That Japan spontaneously and unconditionally waives all her claims arising out of the sinking of the SS AWA MARU by a US Naval craft on April 1, 1945; and

That the Government shall speedily commence a negotiation with the Government of the United States through the good offices of the Supreme Commander for the

the

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PLAIN

-2- 105, April 6, from Tokyo.

the Allied Powers and shall amicably settle the case on the basis of waiving the above claim; and

That, as an internal measure, the Government shall take appropriate steps to provide adequate solatium for the bereaved families; and

That the Government shall speedily report to the House the results of the measures carried out by this resolution.

Adopted by the House of Representatives at the fifth session of the Diet, this sixth day of April, 1949."

Part Two. Foreign Office is releasing to press background material regarding sinking and regarding quantity of American aid to Japan.

Part Three. Approached by the press regarding this resolution I have stated as follows:

"I am deeply impressed by the expression of gratitude towards the United States by the Japanese people through their duly elected representatives in the Diet. The resolution which has been adopted by the Diet clearly demonstrates an awareness on the part of the Japanese people of the unselfish assistance accorded to them by the people of the United States. It further exemplifies a sincere desire to settle along broad lines a matter which arose out of a most unfortunate occurrence."

Part Four. I shall keep the Department informed of progress in arriving at an agreement pursuant to the Diet resolution.

SEBALD

BB:ECW

PLAIN

FORM DS-322
7-1-48

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APR 12 1949

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PRIORITY

SUPREME COMMANDER FOR THE ALLIED POWERS

TOKYO

¹⁴⁰
INFO ARMY CHIEF OF STAFF

FOR ACTING POLITICAL ADVISER

URTEL 115 APR 12. ^{NC}

Last sentence URTEL 108 APR 7 apparently garbled.

Have requested servicing and will reply immed~~ately~~.

ACHESON

Acheson
(H.W.B.)

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PRIORITY
U. S. URGENT

SUPREME COMMANDER FOR THE ALLIED POWERS

APR 13 1949

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TOKYO,

INFO: ARMY CHIEF OF STAFF

FOR ACTING POLITICAL ADVISER.

REURTEL 108 APR 7.

DEPT authorizes you sign Awa Maru agreement. DEPT does not believe any formal powers need be communicated to you for signing. Such full powers provided only in case of treaty, requiring Senate ratification, and sometimes in case of agreement entailing appropriation US funds.

AC: [Signature] (mub)

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1949 APR 13 AM 10 30

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ac

JFE

711-94114 SUPPLIES/4-749

DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

DEPARTMENT OF STATE INCOMING TELEGRAM

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reply sent April 13 1949

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4/13/49 5:30 a.m.
CORRECTIONS UNDERSCORED

DIVISION OF NORTHEAST ASIAN AFFAIRS

APR 13 1949

Control 2543

DEPARTMENT OF STATE

Rec'd April 7, 1949
6:19 a.m.



FROM: Tokyo
TO: Secretary of State
NO: 108, April 7

PRIORITY

CITE C-69084.

711.94114 Supplies/4-649

REMYTEL 105, April 6

Tentative arrangements have been made to sign agreement on April 14 between United States Government and Japanese Government for settlement AWA MARU claim. Text proposed follows that previously discussed. Based on wording of Diet resolution, it is understood that agreement will partake of nature of an executive agreement as suggested by Department. Announcement of signing agreement to be withheld pending Foreign Minister's report to Diet.

Request telegraphic authority sign agreement on behalf United States Government as acting United States Political Adviser for Japan.

SEBALD

EOC:DEC

SECRET

FILED
JUL 14 1952

711.94114 SUPPLIES/4-749

SECRET FILE

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DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

DEPARTMENT OF STATE INCOMING TELEGRAM

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DIVISION OF NORTHEAST ASIAN AFFAIRS

Control 2543

APR - 7 1949

Rec'd April 7, 1949 6:19 a.m.

DEPARTMENT OF STATE

DC/R file

FROM: Tokyo

TO: Secretary of State

NO: 108, April 7



PRIORITY

CITE C-69084.

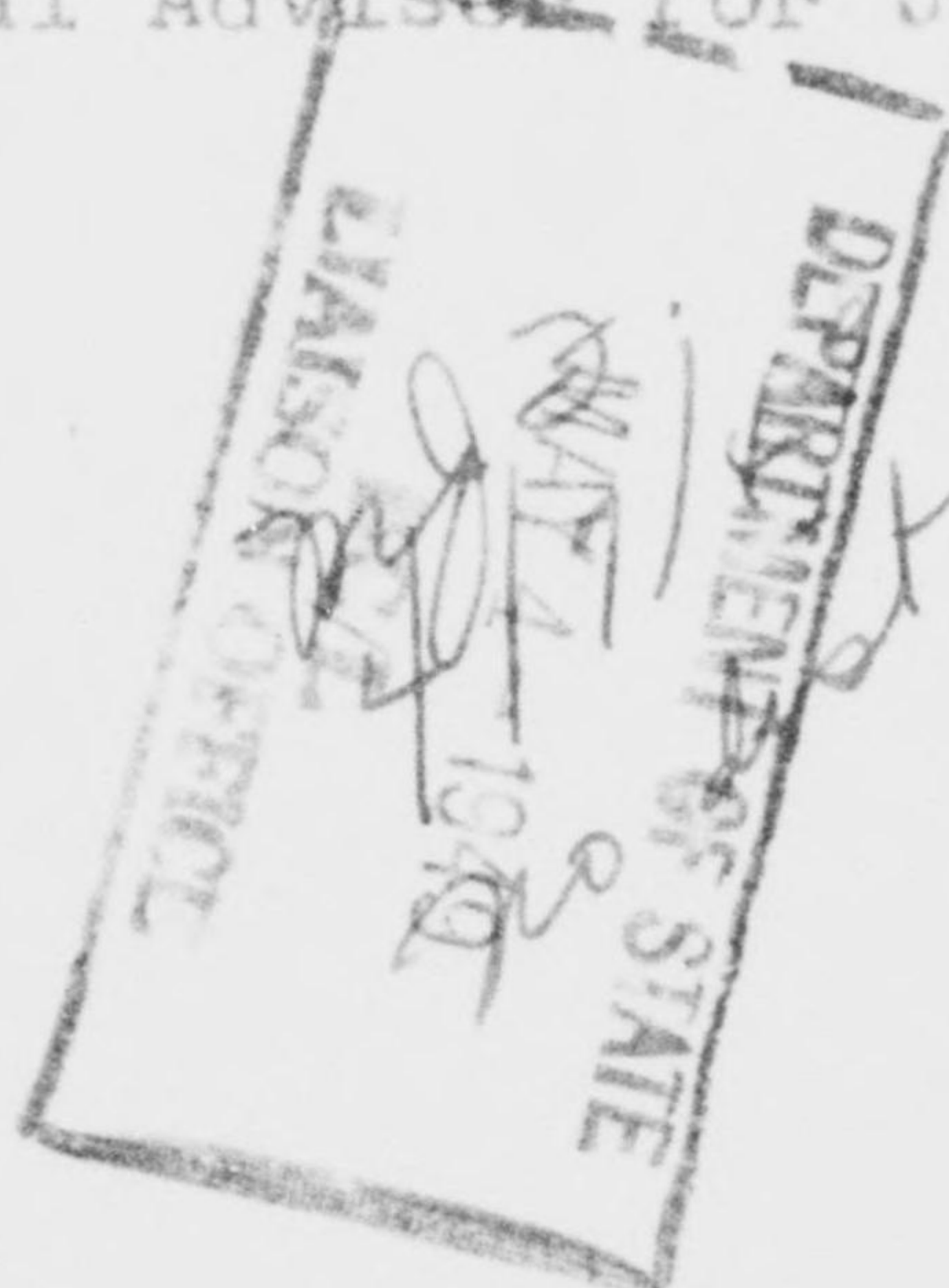
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REMYTEL 105, April 6

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SEBALD

WMH:ME



711.94114 SUPPLIES /4-749

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APR 28 1949

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DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

DEPARTMENT OF STATE INCOMING TELEGRAM

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APR - 8 1949 Rec'd April 8, 1949 7:37 a.m.
DEPARTMENT OF STATE

FROM: Tokyo
TO : Secretary of State
NO : 110, April 8



PRIORITY
REMYTEL 105, April 6. *711.94114 Supplies/4-649*

711.94114 SUPPLIES/4-849

Following is text of letter from Foreign Minister Shigeru Yoshida April 6 regarding waiver of AWA-MARU claim.

"I have the honour to inform you that a resolution on the AWA-MARU case was adopted at the plenary session of both Houses on Wednesday, April 6, 1949 at their own initiative as an expression of the will of the people.

The long pending issue has been deliberated in the National Diet. It is my earnest desire that you will understand the proposed waiving of indemnity claim by the Diet as sincere expression of gratitude for the multitude of generous aid and assistance which America, as the principal occupying power, has been extending to Japan in the post-war era.

I shall greatly appreciate if you would be so kind as to convey this innate feeling of the Japanese people to the American Government and people at the earliest possible moment.

Enclosed herewith are copies of resolution as adopted by both Houses of the National Diet.

I avail, et cetera. (signed) Shigeru Yoshida".

My reply

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JUN 14 1952

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-2- #110, April 8, from Tokyo

My reply April 8 follows: "I have the honor to acknowledge your letter of April 6, 1949 informing me that resolution on the AWA-MARU case was adopted at plenary sessions of both houses of the Diet on that date and enclosing copies of the resolution as adopted by the House of Representatives and the House of Councillors respectively.

It is indeed with much pleasure that I learn of this cordial expression of the will of the Japanese people through their duly elected representatives in the Diet. As I have already commented publicly, these resolutions clearly demonstrate an awareness on the part of the Japanese people of the unselfish assistance accorded to them by the people of the United States. I feel confident that this expression of gratitude will be received by the people of the United States in the same spirit in which it has been offered.

As suggested in your letter under acknowledgment, I am immediately telegraphing the text of your letter and of this reply to my government.

I avail et cetera.

(Signed) William J. Sebald".

SEBALD

DU:RA

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Rec'd April 14, 1949
6:09 a.m.

LEGAL ADVISER

APR 14 1949

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FROM: Tokyo DEPARTMENT OF STATE
TO: Secretary of State
NO: 122, April 14
REDEPTEL 141, April 13

AWA MARU Agreement signed today at 11 a.m. attested by
General MacArthur. As indicated MYTEL 108 April 7, no
publicity pending report to Diet by Foreign Minister.

SEBALD

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MAY 4 1949
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APR 14 1949
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711.94114 SUPPLIES 4-144 SECRET FILE

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APR 26 1949

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NOTATION OF ACTION TAKEN.



THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

AGREEMENT
G DIVISION OF United States Political Adviser
NORTHEAST ASIAN AFFAIRS for Japan

APR 26 1949 Tokyo, April 14, 1949.

DEPARTMENT OF STATE

#8 Dep file

*no action required
May 1, 1949*

REC'D
APR. 21

No. 227.

CONFIDENTIAL

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Subject: Awa Maru Case.

E

The Honorable
The Secretary of State,
Washington.

Sir:

711.94114 Supplement 4-2148
711.94114 Supplement 4-2148
I have the honor to refer to the proposal for settlement of the Awa Maru claim as embodied in this Mission's airgrams A-78 and A-79 of April 21, 1948; to the Department's approval contained in airgram A-64 of May 18, 1948 to this Mission; and to previous and subsequent correspondence on the same subject.

1/ There is enclosed herewith (reference this Mission's telegram no. 105 of April 6, 1949 to the Department) the English translation of the resolution adopted by the Japanese House of Representatives on April 6, 1949 directing the Japanese Government to negotiate with the United States a settlement of the Awa Maru claim. The Japanese text of the resolution is recorded in the files of the Mission.

2/ There is also enclosed the translation in English of the substantially identical resolution passed on the same day by the Japanese House of Councillors. The Japanese text of this resolution is also recorded in the files of the Mission.

In each of the Houses of the Diet the vote was a standing vote which was not contested and therefore was not counted by number of persons voting for and number of persons voting against. The number of persons opposing the passage of the resolution was nevertheless substantial in both Houses. In the House of Representatives the principal opponents of the resolution were the Communists and the Social Democrats. In the House of Councillors,

where the

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FILED
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RETURN TO DC/R FILES WITHIN 14 DAYS, WITH A NOTATION OF ACTION TAKEN.

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711.94114 SUPPLIES/4-1449

Tokyo's Despatch No. 227,
April 14, 1949.

-2-

where the Government party does not possess a majority made up of its own members, the opposition was relatively somewhat more numerous. The Foreign Office has supplied to the Mission, and the Mission has retained in its files, a verbatim report (in Japanese and in English translation) of the debate in both Houses.

- 3/ Under date of April 6, 1949 Mr. Shigeru YOSHIDA, Minister for Foreign Affairs, addressed to me a letter (enclosure 3) duly informing me of the passage of the resolution through the two Houses of the Diet, to which I replied by a letter to the Foreign Minister dated April 8, 1949 (enclosure 4). With my consent, the Japanese Government released to the press this exchange of letters (reference this Mission's telegram no. 110 of April 8, 1949 to the Department).

I also received from Mr. Yoshida a personal note dated April 9, 1949 expressing his regret that his recent illness delayed placing the matter before the Diet and also expressing regret that the resolution was not adopted unanimously.

The Department will note a provision in the resolution that the Government shall report to the respective Houses the results of the measures carried out in accordance with the resolution. This point has been specifically discussed with the Foreign Office, which has assured me that the Diet approval of the resolution is considered to be complete and that, while the Government will duly report the completion of the agreement to the Diet, the agreement will not be submitted to the Diet for the Diet's approval. That is, the agreement will not be viewed by the Japanese Government as a treaty, which under Article 73 of the Constitution of Japan would require approval by the Diet (reference the Department's airgram A-167 of December 9, 1948).

- 5/ The agreement was signed at 11 a.m. today, April 14, 1949 in the office of General of the Army Douglas MacARTHUR, Supreme Commander for the Allied Powers. The signed originals (in English and Japanese languages respectively) are being transmitted to the Department under cover of despatch no. 228 of April 14, 1949. For the Department's convenience a parchment mat of the agreement in the English language is enclosed herewith (enclosure 5).

Mr. Yoshida, who is under obligation to report to the Diet the completion of the agreement, has particularly asked me to withhold any publicity regarding the signing of the agreement

until


CONFIDENTIAL

Tokyo's Despatch No. 227,
April 14, 1949.

-3-

until he is able to select an appropriate time for his report to the Diet and for releasing the text of the agreement to the public. I have consented to his request and am therefore releasing no information on the subject pending further word from Mr. Yoshida in the matter. The Department will be notified by telegram when Mr. Yoshida agrees that the matter may be released.

Respectfully yours,


W. J. Sebald

Enclosures:

1. English translation of resolution adopted by Japanese House of Representatives on April 6, 1949 directing settlement of Awa Maru claim. (UNCLASSIFIED).
2. English translation of resolution adopted by Japanese House of Councillors on April 6, 1949 directing settlement of Awa Maru claim. (UNCLASSIFIED).
3. Copy of letter from Shigeru Yoshida to W.J. Sebald, April 6, 1949. (UNCLASSIFIED).
4. Copy of letter to Shigeru Yoshida from W.J. Sebald, April 8, 1949. (UNCLASSIFIED).
5. Parchment mat copy of agreement for settlement of Awa Maru claim. (UNCLASSIFIED).

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CCoville:hh

Parchment Mat to the Department.

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