

3. Re paragraph 3 (a) (ii):

Where a member of the United Nations forces or of the civilian components is charged with an offence, a certificate issued by or on behalf of his commanding officer stating that the alleged offence, if committed by him, arose out of an act or omission done in the performance of official duty, shall, in any judicial proceedings, be sufficient evidence of the fact unless the contrary is proved.

The above statement shall not be interpreted to prejudice in any way Article 318 of the Japanese Code of Criminal Procedure.

4. Re paragraph 3 (c):

(a) Mutual procedures relating to waivers of the primary right to exercise jurisdiction shall be determined by the Joint Board. These procedures shall be similar to those adopted by the Joint Committee under the Administrative Agreement between the Government of Japan and the Government of the United States of America.

(b) Trials of cases in which the Japanese authorities have waived the primary right to exercise jurisdiction, and trials of cases involving offences described in paragraph 3 (a) (ii) committed against the State or nationals of Japan shall be held promptly in Japan within a reasonable distance from the places where the offences are alleged to have taken place unless other arrangements are mutually agreed upon. Representatives of the Japanese authorities may be present at such trials.

5. Re paragraph 4:

Persons with the dual nationality of Japan and a sending State who are subject to the military law of the sending State and who have been brought to Japan by the sending State shall not be considered as nationals of Japan, but shall be considered as nationals of the sending State for the purpose of this paragraph.

6. Re paragraph 5:

(a) In case the Japanese authorities have arrested an offender who is a member of the United Nations forces or of the civilian components, or a dependent subject to the military law of the sending State with respect to a case over which Japan has the primary right to exercise jurisdiction, the Japanese authorities will, unless they deem that there is adequate cause and necessity to retain such offender, release him to the custody of the military authorities of the sending State provided that he shall, on request, be made available to the Japanese authorities, if such be the condition of his release. The authorities of the sending State shall, on request, transfer his custody to the Japanese authorities at the time he is indicted by the latter.

(b) The military authorities of the sending State shall promptly notify the Japanese authorities of the arrest of any member of the United Nations forces, or of the civilian components or a dependent in any case in which Japan has the primary right to exercise jurisdiction.

7. Re paragraph 9:

(a) The rights enumerated in items (a) through (e) of this paragraph are guaranteed to all persons on trial in Japanese courts by the provisions of the Constitution of Japan. In addition to these rights, a member of the United Nations forces or of the civilian components, or a dependent who is prosecuted under the jurisdiction of Japan shall