



DEPARTMENT OF DEFENSE
UNITED STATES FORCES, JAPAN
APO AP 96328-5068

14 Mar 19

MEMORANDUM FOR MINISTRY OF FOREIGN AFFAIRS (ATTN: Mr. KAIHARA)

FROM: U.S.Co-Chair Civil Jurisdiction Subcommittee

SUBJECT: Potential *In Camera* Review of Joint Committee Documents

1. The United States has reviewed the request to permit an *in camera* review of documents prepared within the Joint Committee framework. The U.S. strongly requests the Government of Japan refuse any such request as doing so without the consent of both governments would violate an agreement reached at the first Joint Committee in 1960 and would cause damage to the relationship of mutual trust with another country, in this case with the United States of America. Furthermore, such a release to the court for an *in camera* review, with the potential that the court could subsequently order its release, would cause damage to negotiations with the U.S. In fact, when a similar situation arose with respect to a request to conduct an *in camera* review within a case in the United States' federal court system, we were unable to release the matters to the court without the consent of both governments.
2. The stable stationing of the U.S. Forces in Japan relies heavily on frank and open discussions between the United States Government (USG) and relevant GOJ ministries and agencies. Most of these discussions are undertaken as strictly confidential communications based on a mutual understanding between the USG and the GOJ that the discussions will not be publically released without the mutual agreement of both Governments, regardless of whether the contents of the exchanges of views and discussions are publically known or regardless of their importance. This is an important element to firmly consolidate the relationship of trust between the two governments. Furthermore, it is also important to indicate that the premise of such frank communications, depending upon their contents, entails the right to access on a need-to-know basis.
3. Without such exchanges of views based on the above-mentioned aspect, it would be impossible for the two governments to discuss difficult issues and reach solutions that may, sometimes, involve a compromise between two co-equal sovereigns. Clearly, such a result would jeopardize the ability of the two governments to negotiate agreements regarding the stable stationing of the U.S. Forces in Japan. This could foreseeably result in a decrease in the response capabilities of the two governments and eventually would have deleterious effects on the regional security environment.
4. As delineated above, even given the trust and respect the United States has for the Japanese legal system, we cannot help contending that inspections of the process of discussions between the USG and GOJ, including emails, without the consent of both governments by a third party would jeopardize the stable stationing of U.S. Forces in Japan by inducing a chilling effect on the future internal coordination between the USG and relevant GOJ agencies. If made public, including

through an *in camera* review, it would risk unjustly harming the frank exchange of opinions or the neutrality of decision making. In line with this, the U.S. strongly opposes any organization or individual conducting inspections of any and all communications between the USG and the GOJ within the framework of the Joint Committee, including those with the Ministry of Foreign Affairs of Japan (MOFA).

5. Point of Contact: If there are any questions, please contact Mr. Sonnenberg at



A handwritten signature in black ink, appearing to read 'C. E. Wiedie, Jr.' with a stylized flourish at the end.

CHARLES E. WIEDIE, JR., Col, USAF
U.S.Co-Chair
Civil Jurisdiction Subcommittee