3. This Order may be cited as the Patents Etc. (Indonesia) (Convention) Order, 1952.

F. J. Fernau.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order declares Indonesia to be a Convention country for the purposes of the Acts governing Patents, Designs and Trade Marks.

PEACE TREATIES

1952 No. 862

The Japanese Treaty of Peace Order, 1952

Made - - - -	29*th April*, 1952
Laid before Parliament	30*th April*, 1952
Coming into Operation	7*th May*, 1952

At the Court at Windsor Castle, the 29th day of April, 1952

Present,

The Queen's Most Excellent Majesty in Council

Whereas at San Francisco on the eighth day of September, nineteen hundred and fifty-one, a Treaty of Peace with Japan (hereinafter referred to as " the Treaty ") and a Protocol thereto (hereinafter referred to as " the Protocol ") were signed on behalf of His late Majesty:

And Whereas by Section 1 of the Japanese Treaty of Peace Act, 1951(**a**), (hereinafter referred to as " the Act ") it was provided that His late Majesty might make such appointments, establish such offices, make such Orders in Council and do such things as should appear to Him to be necessary for carrying out the Treaty and Protocol, and for giving effect to any of the provisions thereof, and that any Order in Council made under the Act might provide that persons contravening or failing to comply with the provisions of the Order should be guilty of offences against that Section, and that (except in so far as any such Order might provide for lesser penalties) any person guilty of an offence against that Section should be liable to such penalties as were therein mentioned:

And Whereas the Treaty and Protocol contain the provisions set out in the First Schedule to this Order, and it is expedient for giving effect to the aforesaid provisions of the Treaty and Protocol that the provisions herein contained should have effect:

And Whereas by treaty, grant, usage, sufferance or other lawful means Her Majesty has jurisdiction in the territories specified in the Second Schedule hereto, which territories are in this Order together referred to as " the Protected Territories ", and is pleased by virtue and in exercise of the power vested in Her by the Foreign Jurisdiction Act, 1890(**b**), or otherwise to extend the provisions of this Order to the Protected Territories.

(**a**) 15 & 15 Geo. 6 & 1 Eliz. 2. c. 6. (**b**) 53 & 54 Vict. c. 37.

Now, therefore, Her Majesty, in pursuance of the said Section and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) In this Order

(i) " The Dominions " means Canada, Australia, New Zealand, the Union of South Africa, Pakistan and Ceylon and also includes any territory administered by the Government of any of those Dominions.

(ii) " Japanese person " means

(*a*) the Japanese State and the Sovereign of Japan ;

(*b*) a Japanese national, that is to say, a subject or citizen of Japan or any body of persons (whether corporate or unincorporate) constituted or incorporated according to the laws of Japan or any of its dependent territories ;

(*c*) any person acting for or on behalf of the Japanese State, the Sovereign of Japan or a Japanese national ; or

(*d*) any body of persons (whether corporate or unincorporate) owned or controlled by the Japanese State, the Sovereign of Japan or a Japanese national.

(iii) " Japanese property " means any property, rights or interests within Her Majesty's dominions (except the Dominions) and the Protected Territories, belonging to a Japanese person and shall include any property, rights or interests which belonged to or were held or managed on behalf of a Japanese person at the time such property, rights or interests became vested in or payable to a Custodian of Enemy Property or otherwise became subject to control by the Board of Trade under the Trading with the Enemy Act, 1939(**a**), together with the net proceeds of the sale, liquidation or other dealings by a Custodian of Enemy Property with any such property, rights or interests and any income derived by any such Custodian directly therefrom but shall not include

(*a*) any property, rights or interests specified in sub-paragraph 2 (II) of paragraph (*a*) of Article 14 of the Treaty or

(*b*) any property, rights or interests which are the subject of proceedings in any British Prize Court or

(*c*) any moneys received by a Custodian of Enemy Property by virtue of any investment made by him in pursuance of the powers conferred upon him by the Trading with the Enemy Investment Order, 1940(**b**).

(iv) " Property, rights and interests " means real and personal property, and any estate or interest in real or personal property, any negotiable instrument, any debt or other chose in action, and any other right or interest, whether in possession or not.

(2) Any reference to the Trading with the Enemy Act, 1939, shall be construed as a reference to that Act as amended by or under any other Act.

(3) The Interpretation Act, 1889(**c**), applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

2. So far as they are by their nature capable of so doing the provisions of the Treaty and Protocol set out in the First Schedule hereto shall be and have effect as law.

(**a**) 2 & 3 Geo. 6. c. 89. (**b**) S.R. & O. 1940/1113; Rev. XXIII, p. 187; 1940 I, p. 1052.
(**c**) 52 & 53 Vict. c. 63.

3.—(1) The Board of Trade may, subject to the consent of the Treasury, appoint on such terms as they may specify an Administrator who shall be a corporation sole under the name of the Administrator of Japanese Property and is in this Order referred to as " the Administrator ".

(2) The Administrator shall be assisted by such officers and servants as the Board of Trade, subject to the consent of the Treasury, determine and there shall be paid by the Board of Trade to the Administrator and to such officers and servants such salaries or other remuneration as the Treasury may determine.

4.—(1) The Administrator shall act under the general direction of the Board and shall have the powers conferred upon him and the duties imposed upon him by this Order and by any other Order in Council made under the Act and may do all such things as he may consider necessary or desirable for carrying out the powers and duties so conferred and imposed.

(2) The Administrator may sue or be sued in the name of the Administrator of Japanese Property.

(3) The Administrator shall have an official seal and power to hold land without licence in mortmain.

(4) The seal of the Administrator shall be authenticated by the signature of the Administrator or some other person authorised by the Administrator to act in that behalf.

(5) Any contract or instrument which, being entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Administrator by any person generally or specially authorised by him for that purpose.

(6) Any document purporting to be a document duly executed or issued under the seal of the Administrator authenticated as aforesaid or purporting to be signed by the Administrator or any person authorised to act on his behalf, unless the contrary be proved, shall be deemed to be a document so executed or issued or so signed, as the case may be.

5.—(1) Where any right or interest in the estate of a deceased person is Japanese property, the Administrator may act in the administration of the estate, and the Court having jurisdiction to grant letters of administration of the estate may grant such letters to the Administrator by the name of the Administrator of Japanese Property, and, for that purpose, the Court shall consider the Administrator as in law entitled equally with any other person or class of persons to obtain the grant of letters of administration.

(2) The Administrator shall be treated as, and shall have the powers of, a trust corporation for the purposes of the Law of Property Act, 1925(**a**), the Settled Land Act, 1925(**b**), the Trustee Act, 1925(**c**), the Administration of Estates Act, 1925(**d**), and the Supreme Court of Judicature (Consolidation) Act, 1925(**e**).

6.—(1) If any person, other than a Custodian of Enemy Property, without the consent of the Administrator transfers, disposes of, or otherwise deals with any Japanese property, he shall be guilty of an offence under Section 1 of the Act, and any such transfer, disposal or dealing shall be void ; provided that it shall be a defence for any person charged with an offence under this paragraph to prove that he did not know and had reasonable cause for not knowing that such property was Japanese property or that he had reasonable cause for believing that any necessary consents had been obtained.

(a) 15 & 16 Geo. 5. c. 20. (b) 15 & 16 Geo. 5. c. 18. (c) 15 & 16 Geo. 5. c. 19.
(d) 15 & 16 Geo. 5. c. 23. (e) 15 & 16 Geo. 5. c. 49.

(2) No Japanese property shall be liable to be attached or taken in execution.

7. Every person holding or having the control or management of any Japanese property or owing any debt which is Japanese property (including, when the Japanese property consists of shares, stock or other securities issued by a company, municipal authority or other body, or any right or interest therein, such company, authority or body) shall, unless particulars thereof have already been furnished to a Custodian of Enemy Property in accordance with the Trading with the Enemy Act, 1939, or Orders made thereunder, within three months from the date upon which this Order comes into operation by notice in writing communicate the fact to the Administrator and shall furnish the Administrator with such particulars in relation thereto as the Administrator may require.

8.—(1) If it appears to the Administrator expedient so to do for the purpose of collecting Japanese property or discharging any of his other functions, the Administrator may, by notice in writing—

(*a*) require any person to produce, at a time and place specified in the notice, to the Administrator, or to any person nominated by him for the purpose, any books or documents specified or described in the notice being books or documents which are in his custody or under his control or

(*b*) require any person to furnish to the Administrator such returns, accounts or other information as may be specified or described in the notice, and specify the time, the manner and the form in which any such returns, accounts or information are to be furnished.

(2) The Administrator may take copies of any books or documents produced under sub-paragraph (*a*) of the foregoing paragraph.

9.—(1) Any person having the possession, control or management of any Japanese property transferable by delivery shall, on being so required by the Administrator, deliver the property to him and the Administrator shall have power to sell or otherwise deal with the property so delivered to him.

(2) When Japanese property consists of any sum of money due to a Japanese person it shall be paid to the Administrator who shall have power to enforce payment thereof, and for that purpose shall have all such rights and powers as if he were the creditor.

(3) When Japanese property consists of any property, rights or interests in the possession of a Custodian of Enemy Property, that Custodian shall, on being so required by the Administrator, either sell the property and pay the proceeds thereof to the Administrator or deliver, transfer or pay the property to the Administrator and the Administrator shall have power to sell or otherwise deal with the property so delivered, transferred or paid to him.

(4) A certificate by the Administrator that any property, rights or interests are Japanese property shall be prima facie evidence of the facts stated in the certificate, and where any requirement or demand for payment by the Administrator as aforesaid is accompanied by such a certificate, a Custodian, or any other person in possession of property transferable by delivery, or the person by whom a sum of money is due, shall comply with the requirement or demand and shall not be liable to any action or legal proceeding in respect of such compliance, but if it is subsequently proved that the property, rights or interests are not Japanese property, the owner thereof shall be entitled to recover the same from the Administrator, or if it has been sold the proceeds of sale, but not to any other remedy.

10.—(1) The Board of Trade may by Order vest in the Administrator any Japanese property, or the right to transfer the same. Any Order so made by the Board is hereinafter referred to as a "Vesting Order".

(2) The Administrator shall have such rights, powers, duties and liabilities with regard to the Japanese property, or the right to transfer the same, vested in him by a Vesting Order as are prescribed by the Vesting Order.

(3) A Vesting Order as respects property of any description shall be of the like purport and effect as a vesting order as respects property of the same description made by the High Court under the Trustee Act, 1925, and shall be sufficient to vest in the Administrator any property or the right to transfer any property as provided by the Vesting Order without the necessity for any further conveyance, assurance or document.

(4) Any power conferred by this Order to make a Vesting Order shall be construed as including a power, exercisable in the like manner, to vary or revoke the Order.

11.—(1) The Administrator shall not be bound by any provision in any article of association, bye-law or other rule governing a company or other body which restricts the right to transfer shares, stock or other securities or imposes any conditions as to the price at which, or the person to whom, shares, stock or other securities are to be offered or sold.

(2) Where in exercise of the powers conferred on him the Administrator executes a transfer of any shares, stock or securities the company or other body in whose book the shares, stock or securities are registered shall, upon the receipt of the transfer so executed by the Administrator and upon being required by him so to do, register the shares, stock or securities in the name of the Administrator or other transferee notwithstanding any regulation or stipulation of the company or other body, and notwithstanding that the Administrator is not in possession of the certificate, scrip or other document of title relating to the shares, stock or securities transferred, but such registration shall be without prejudice to any lien or charge in favour of the company or other body, or to any other lien or charge of which the Administrator or a Custodian of Enemy Property has notice.

12. If any person called upon to pay any money or to transfer or otherwise deal with any property, rights or interests has reason to suspect that the same are Japanese property he shall before paying, transferring or dealing with the same report the matter to the Administrator and shall comply with any directions that the Administrator may give in respect thereto.

13. In any proceedings by the Administrator to recover a debt, a statement of facts verified by an affidavit made by the Administrator or any other person authorised by him shall be prima facie evidence of the facts therein stated.

14. The Administrator shall, subject as hereinafter provided, retain out of the Japanese property or the proceeds thereof vested in or collected or received by him under this Order such sum as, subject to the consent of the Treasury, he may consider necessary to cover expenses and the amount for which he may be liable in respect of any proceedings or claims and to enable him to repay to the Board of Trade the salaries and other remuneration paid by the Board under Article 3 (2) hereof, and subject thereto shall hold and deal with the said Japanese property and the proceeds thereof in such manner as the Treasury shall direct.

15. Any Japanese property or the proceeds thereof may

(*a*) on the direction of the Treasury be transferred by the Administrator in accordance with any arrangements that have been made by or on behalf of Her Majesty's Government in the United Kingdom with the Government of any other country or any person acting on their behalf for the resolution of conflicting claims to Japanese property; and

(*b*) on the direction of the Board of Trade be released from the provisions of this Order.

16. The time at which the periods of prescription or limitation of right of action or of the right to take conservatory measures in respect of relations affecting persons or property referred to in Paragraph 1 of Part B of the Protocol shall begin again to run, shall be the date of the coming into force of the Treaty, subject, in the case of any period of limitation of right of action, to any provision of the Limitation (Enemies and War Prisoners) Act, 1945(**a**), fixing a later date; except that in the case of the periods fixed for the presentation of interest or dividend coupons or for the presentation for payment of securities drawn for repayment or repayable on any other ground, the period shall begin to run again on the date when money becomes available for payment to the holder of the coupon or security.

17. The period to be allowed within which presentation of negotiable instruments for acceptance or payment and notice of non-acceptance or non-payment or protest may be made under Paragraph 2 of Part C of the Protocol shall be the period ending the 31st day of December, 1952.

18. Any person who

(*a*) without reasonable excuse fails to comply with any requirement made by or under this Order to furnish information or to produce books or documents; or

(*b*) knowingly or recklessly makes a statement which is false in a material particular in giving information for the purpose of this Order or any Vesting Order or for the purposes of obtaining any authority or sanction under this Order;

shall be guilty of an offence under Section 1 of the Act.

19.—(1) Accounts shall be prepared by the Administrator, in such form and manner and at such time as the Treasury may direct, of the sums received and the sums paid by him in pursuance of this Order or any direction given thereunder and the Comptroller and Auditor-General shall examine and certify every such account.

(2) The Comptroller and Auditor-General shall lay copies of every such certified account, together with his report thereon, before both Houses of Parliament.

20.—(1) This Order shall apply to the whole of Her Majesty's dominions (except the Dominions) and to the Protected Territories.

(2) In its application to any part of Her Majesty's dominions which is outside the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man, and in its application to the Protected Territories, this Order shall be subject to such modifications as may be made by the legislatures of those parts or the Protected Territories for adapting to the circumstances thereof the provisions of this Order.

(**a**) 8 & 9 Geo. 6. c. 16.

(3) In the application of this Order to any part of Her Majesty's dominions which is outside the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man, or to any of the Protected Territories,

(i) any reference to " the Administrator " shall be construed as a reference to the Administrator appointed for the territory in question ;

(ii) any reference to " the Board of Trade " or to " the Treasury " shall be construed as a reference to the Governor or Officer administering the Government of the territory in question ;

(iii) any reference to " Japanese property " shall be construed as a reference to such Japanese property as is situate within the territory in question ;

(iv) any reference to the Trading with the Enemy Act, 1939, to the Trading with the Enemy Investment Order, 1940, or to the Limitation (Enemies and War Prisoners) Act, 1945, shall be construed as a reference to the corresponding legislation (if any) in force in the territory in question.

21. In the application of this Order to Scotland—

(*a*) for any reference to the granting of letters of administration of an estate there shall be substituted a reference to the granting of confirmation as executor on the estate ;

(*b*) for any reference in Paragraph (3) of Article 10 to a Vesting Order made by the High Court under the Trustee Act, 1925, there shall be substituted a reference to a warrant to complete title granted under section twenty-two of the Trusts (Scotland) Act, 1921(**a**) ; and

(*c*) the expression " real and personal property " means heritable and moveable property and the expression " attached or taken in execution " means arrested in execution or in security or otherwise affected by diligence.

22. In the application of this Order to Northern Ireland—

(*a*) for any reference to the Trustee Act, 1925, there shall be substituted a reference to the Trustee Act, 1893(**b**) ;

(*b*) any reference to a company shall be construed as including a company incorporated under the law of Northern Ireland ;

(*c*) for Paragraph (2) of Article 5 there shall be substituted the following Paragraph :—

" (2) The Administrator shall be treated as, and shall have the powers of, a trust corporation within the meaning of the Probate and Letters of Administration Act (Northern Ireland), 1933(**c**)." ;

(*d*) the reference in Paragraph (3) of Article 10 to the High Court shall be construed as a reference to the High Court of Justice in Northern Ireland.

23. In the application of this Order to the Channel Islands—

(*a*) in Article 26 for the reference to the 7th day of May, 1952, there shall be substituted a reference to the day on which the Order is registered in the appropriate Court ;

(*b*) any reference to the Trading with the Enemy Act, 1939, shall be construed as a reference to that Act as extended to the Channel Islands by the Trading with the Enemy (Channel Islands) Order in Council, 1940(**d**) ;

(a) 11 & 12 Geo. 5. c. 58.
(b) 56 & 57 Vict. c. 53.
(c) 23 & 24 Geo. 5. c. 16 (N.I.)
(d) S.R. & O. 1940/87; Rev. XXIII, p. 130; 1940 I, p. 1045.

(*c*) no transfer under this Order of any real property situate in the Channel Islands shall have effect until registered in the Public Registry of Deeds of the Island in which the property is situate, by order of the Court thereof;

(*d*) for Paragraph (3) of Article 10 there shall be substituted the following Paragraph:—

"(3) A Vesting Order as respects property of any description shall upon registration by the Royal Court be sufficient to vest in the Administrator any property or the right to transfer any property as provided by the Vesting Order without the necessity for any further conveyance, assurance or document.";

and all Orders made by the Board of Trade under this Order shall be communicated to the Bailiff of Jersey or Guernsey, as the case may be, and shall be presented by him to the Royal Court of Jersey or the Royal Court of the Bailiwick of Guernsey, as the case may be, for registration and no such Order shall come into force until so registered;

(*e*) any proceedings under Paragraph (4) of Article 9 for the recovery of any property situate in the Channel Islands shall be brought in the appropriate Court and process against the Administrator in any such proceedings shall be sufficiently served if addressed to the Administrator and served at the Offices of the Law Officers of the Crown for Jersey or Guernsey, as the case may be;

(*f*) for Article 5 there shall be substituted the following Article:—

"5. Where any right or interest in the personal estate of a deceased person is Japanese property, the Court having jurisdiction to grant letters of administration of the estate shall, at the request in writing of the Administrator and upon the production of the certificate of the Administrator specifying the right or interest which is Japanese property and whether or not a previous grant of such letters has been made in respect of that estate, grant such letters as respects such Japanese property to the Administrator by the name of the Administrator of Japanese Property without requiring the Administrator or any sureties to enter into an administration bond and thereupon the Administrator shall be exclusively entitled to act in the administration of that estate in so far as such Japanese property is concerned.".

In this Article "Guernsey" means the Bailiwick of Guernsey and "the appropriate Court" means, in relation to Jersey, the Royal Court of Jersey and, in relation to Guernsey, the Royal Court of Guernsey.

24. In the application of this Order to the Isle of Man—

(*a*) any reference to the Trading with the Enemy Act, 1939, shall be construed as a reference to that Act as it extends to the Isle of Man;

(*b*) in Paragraph (3) of Article 10 for the words "the High Court under the Trustee Act, 1925" there shall be substituted the words "the High Court, Chancery Division, under the Trustee Act, 1937 (being an Act of Tynwald)";

(*c*) for Paragraph (2) of Article 5 there shall be substituted the following Paragraph:—

"(2) The Administrator shall be treated as, and shall have the powers of, an approved Corporation for the purposes of the Judicature Amendment Act, 1935 (being an Act of Tynwald).".

25. Anything required or authorised under this Order to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President of the Board.

26. This Order shall come into operation on the 7th day of May, 1952.

27. This Order may be cited as the Japanese Treaty of Peace Order, 1952.

F. J. Fernau.

FIRST SCHEDULE

TREATY OF PEACE WITH JAPAN

CHAPTER II.—TERRITORY

ARTICLE 4

(*a*) Subject to the provisions of paragraph (*b*) of this Article, the disposition of property of Japan and of its nationals in the areas referred to in Article 2, and their claims, including debts, against the authorities presently administering such areas and the residents (including juridical persons) thereof, and the disposition in Japan of property of such authorities and residents, and of claims, including debts, of such authorities and residents against Japan and its nationals, shall be the subject of special arrangements between Japan and such authorities. The property of any of the Allied Powers or its nationals in the areas referred to in Article 2 shall, insofar as this has not already been done, be returned by the administering authority in the condition in which it now exists. (The term nationals whenever used in the present Treaty includes juridical persons.)

(*b*) Japan recognizes the validity of dispositions of property of Japan and Japanese nationals made by or pursuant to directives of the United States Military Government in any of the areas referred to in Articles 2 and 3.

(*c*) Japanese owned submarine cables connecting Japan with territory removed from Japanese control pursuant to the present Treaty shall be equally divided, Japan retaining the Japanese terminal and adjoining half of the cable, and the detached territory the remainder of the cable and connecting terminal facilities.

CHAPTER V.—CLAIMS AND PROPERTY

ARTICLE 14

(*a*) It is recognized that Japan should pay reparations to the Allied Powers for the damage and suffering caused by it during the war. Nevertheless it is also recognized that the resources of Japan are not presently sufficient, if it is to maintain a viable economy, to make complete reparation for all such damage and suffering and at the same time meet its other obligations.

Therefore,

1. Japan will promptly enter into negotiations with Allied Powers so desiring, whose present territories were occupied by Japanese forces and damaged by Japan, with a view to assisting to compensate those countries for the cost of repairing the damage done, by making available the services of the Japanese people in production, salvaging and other work for the Allied Powers in question. Such arrangements shall avoid the imposition of additional liabilities on other Allied Powers, and, where the manufacturing of raw materials is called for, they shall be supplied by the Allied Powers in question, so as not to throw any foreign exchange burden upon Japan.

2.—(I) Subject to the provisions of sub-paragraph (II) below, each of the Allied Powers shall have the right to seize, retain, liquidate or otherwise dispose of all property, rights and interests of—

(*a*) Japan and Japanese nationals,

(*b*) persons acting for or on behalf of Japan or Japanese nationals, and

(*c*) entities owned or controlled by Japan or Japanese nationals,

which on the first coming into force of the present Treaty were subject to its jurisdiction. The property, rights and interests specified in this sub-paragraph shall include those now blocked, vested or in the possession or under the control of enemy property authorities of Allied Powers, which belonged to, or were held or managed on behalf of, any of the persons or entities mentioned in (*a*), (*b*) or (*c*) above at the time such assets came under the controls of such authorities.

(II) The following shall be excepted from the right specified in sub-paragraph (I) above:

(i) property of Japanese natural persons who during the war resided with the permission of the Government concerned in the territory of one of the Allied Powers, other than territory occupied by Japan, except property subjected to restrictions during the war and not released from such restrictions as of the date of the first coming into force of the present Treaty;

(ii) all real property, furniture and fixtures owned by the Government of Japan and used for diplomatic or consular purposes, and all personal furniture and furnishings and other private property not of an investment nature which was normally necessary for the carrying out of diplomatic and consular functions, owned by Japanese diplomatic and consular personnel;

(iii) property belonging to religious bodies or private charitable institutions and used exclusively for religious or charitable purposes;

(iv) property, rights and interests which have come within its jurisdiction in consequence of the resumption of trade and financial relations subsequent to September 2, 1945, between the country concerned and Japan, except such as have resulted from transactions contrary to the laws of the Allied Power concerned;

(v) obligations of Japan or Japanese nationals, any right, title or interest in tangible property located in Japan, interests in enterprises organized under the laws of Japan, or any paper evidence thereof; provided that this exception shall only apply to obligations of Japan and its nationals expressed in Japanese currency.

(III) Property referred to in exceptions (i) through (v) above shall be returned subject to reasonable expenses for its preservation and administration. If any such property has been liquidated the proceeds shall be returned instead.

(IV) The right to seize, retain, liquidate or otherwise dispose of property as provided in sub-paragraph (I) above shall be exercised in accordance with the laws of the Allied Power concerned, and the owner shall have only such rights as may be given him by those laws.

(V) The Allied Powers agree to deal with Japanese trademarks and literary and artistic property rights on a basis as favorable to Japan as circumstances ruling in each country will permit.

(*b*) Except as otherwise provided in the present Treaty, the Allied Powers waive all reparations claims of the Allied Powers, other claims of the Allied Powers and their nationals arising out of any actions taken by Japan and its nationals in the course of the prosecution of the war, and claims of the Allied Powers for direct military costs of occupation.

Article 15

(*a*) Upon application made within nine months of the coming into force of the present Treaty between Japan and the Allied Power concerned, Japan will, within six months of the date of such application, return the property, tangible and intangible, and all rights or interests of any kind in Japan of each Allied Power and its nationals which was within Japan at any time between December 7, 1941, and September 2, 1945, unless the owner has freely disposed thereof without duress or fraud. Such property shall be returned free of all encumbrances and charges to which it may have become subject because of the war, and without any charges for its return. Property whose return is not applied for

by or on behalf of the owner or by his Government within the prescribed period may be disposed of by the Japanese Government as it may determine. In cases where such property was within Japan on December 7, 1941, and cannot be returned or has suffered injury or damage as a result of the war, compensation will be made on terms not less favorable than the terms provided in the draft Allied Powers Property Compensation Law approved by the Japanese Cabinet on July 13, 1951.

(*b*) With respect to industrial property rights impaired during the war, Japan will continue to accord to the Allied Powers and their nationals benefits no less than those heretofore accorded by Cabinet Orders No. 309 effective September 1, 1949, No. 12 effective January 28, 1950, and No. 9 effective February 1, 1950, all as now amended, provided such nationals have applied for such benefits within the time limits prescribed therein.

(*c*)—(i) Japan acknowledges that the literary and artistic property rights which existed in Japan on December 6, 1941, in respect to the published and unpublished works of the Allied Powers and their nationals have continued in force since that date, and recognizes those rights which have arisen, or but for the war would have arisen, in Japan since that date, by the operation of any conventions and agreements to which Japan was a party on that date, irrespective of whether or not such conventions or agreements were abrogated or suspended upon or since the outbreak of war by the domestic law of Japan or of the Allied Power concerned.

(ii) Without the need for application by the proprietor of the right and without the payment of any fee or compliance with any other formality, the period from December 7, 1941, until the coming into force of the present Treaty between Japan and the Allied Power concerned shall be excluded from the running of the normal term of such rights; and such period, with an additional period of six months, shall be excluded from the time within which a literary work must be translated into Japanese in order to obtain translating rights in Japan.

ARTICLE 18

(*a*) It is recognized that the intervention of the state of war has not affected the obligation to pay pecuniary debts arising out of obligations and contracts (including those in respect of bonds) which existed and rights which were acquired before the existence of a state of war, and which are due by the Government or nationals of Japan to the Government or nationals of one of the Allied Powers, or are due by the Government or nationals of one of the Allied Powers to the Government or nationals of Japan. The intervention of a state of war shall equally not be regarded as affecting the obligation to consider on their merits claims for loss or damage to property or for personal injury or death which arose before the existence of a state of war, and which may be presented or re-presented by the Government of one of the Allied Powers to the Government of Japan, or by the Government of Japan to any of the Governments of the Allied Powers. The provisions of this paragraph are without prejudice to the rights conferred by Article 14.

(*b*) Japan affirms its liability for the prewar external debt of the Japanese State and for debts of corporate bodies subsequently declared to be liabilities of the Japanese State, and expresses its intention to enter into negotiations at an early date with its creditors with respect to the resumption of payments on those debts; to encourage negotiations in respect of other prewar claims and obligations; and to facilitate the transfer of sums accordingly.

ARTICLE 19

(*a*) Japan waives all claims of Japan and its nationals against the Allied Powers and their nationals arising out of the war or out of actions taken because of the existence of a state of war, and waives all claims arising from the presence, operations or actions of forces or authorities of any of the Allied Powers in Japanese territory prior to the coming into force of the present Treaty.

(*b*) The foregoing waiver includes any claims arising out of actions taken by any of the Allied Powers with respect to Japanese ships between September 1,

1939, and the coming into force of the present Treaty, as well as any claims and debts arising in respect to Japanese prisoners of war and civilian internees in the hands of the Allied Powers, but does not include Japanese claims specifically recognized in the laws of any Allied Power enacted since September 2, 1945.

(*c*) Subject to reciprocal renunciation, the Japanese Government also renounces all claims (including debts) against Germany and German nationals on behalf of the Japanese Government and Japanese nationals, including intergovernmental claims and claims for loss or damage sustained during the war, but excepting (*a*) claims in respect of contracts entered into and rights acquired before September 1, 1939, and (*b*) claims arising out of trade and financial relations between Japan and Germany after September 2, 1945. Such renunciation shall not prejudice actions taken in accordance with Articles 16 and 20 of the present Treaty.

(*d*) Japan recognizes the validity of all acts and omissions done during the period of occupation under or in consequence of directives of the occupation authorities or authorized by Japanese law at that time, and will take no action subjecting Allied nationals to civil or criminal liability arising out of such acts or omissions.

PROTOCOL

CONTRACTS, PRESCRIPTION AND NEGOTIABLE INSTRUMENTS

A.—*Contracts*

1. Any contract which required for its execution intercourse between any of the parties thereto having become enemies as defined in part F shall, subject to the exceptions set out in paragraphs 2 and 3 below, be deemed to have been dissolved as from the time when any of the parties thereto became enemies. Such dissolution, however, is without prejudice to the provisions of Articles 15 and 18 of the Treaty of Peace signed this day, nor shall it relieve any party to the contract from the obligation to repay amounts received as advances or as payments on account and in respect of which such party has not rendered performance in return.

2. Notwithstanding the provisions of paragraph 1 above, there shall be excepted from dissolution and, without prejudice to the rights contained in Article 14 of the Treaty of Peace signed this day, there shall remain in force such parts of any contract as are severable and did not require for their execution intercourse between any of the parties thereto, having become enemies as defined in part F. Where the provisions of any contract are not so severable, the contract shall be deemed to have been dissolved in its entirety. The foregoing shall be subject to the application of domestic laws, orders or regulations made by a signatory hereto which is an Allied Power under the said Treaty of Peace and having jurisdiction over the contract or over any of the parties thereto and shall be subject to the terms of the contract.

3. Nothing in part A shall be deemed to invalidate transactions lawfully carried out in accordance with a contract between enemies if they have been carried out with the authorization of the Government concerned being the Government of a signatory hereto which is an Allied Power under the said Treaty of Peace.

4. Notwithstanding the foregoing provisions, contracts of insurance and reinsurance shall be dealt with in accordance with the provisions of parts D and E of the present Protocol.

B.—*Periods of Prescription*

1. All periods of prescription or limitation of right of action or of the right to take conservatory measures in respect of relations affecting persons or property, involving nationals of the signatories hereto who, by reason of the state of war, were unable to take judicial action or to comply with the formalities necessary to safeguard their rights, irrespective of whether these periods commenced before or after the outbreak of war, shall be regarded as having been suspended for the duration of the war in Japanese territory on the one hand, and on the other hand in the territory of those signatories which grant to Japan,

on a reciprocal basis, the benefit of the provisions of this paragraph. These periods shall begin to run again on the coming into force of the Treaty of Peace signed this day. The provisions of this paragraph shall be applicable in regard to the periods fixed for the presentation of interest or dividend coupons or for the presentation for payment of securities drawn for repayment or repayable on any other ground, provided that in respect of such coupons or securities the period shall begin to run again on the date when money becomes available for payments to the holder of the coupon or security.

2. Where, on account of failure to perform any act or to comply with any formality during the war, measures of execution have been taken in Japanese territory to the prejudice of a national of one of the signatories being an Allied Power under the said Treaty of Peace, the Japanese Government shall restore the rights which have been detrimentally affected. If such restoration is impossible or would be inequitable the Japanese Government shall provide that the national of the signatory concerned shall be afforded such relief as may be just and equitable in the circumstances.

C.—*Negotiable instruments*

1. As between enemies, no negotiable instrument made before the war shall be deemed to have become invalid by reason only of failure within the required time to present the instrument for acceptance or payment, or to give notice of non-acceptance or non-payment to drawers or endorsers, or to protest the instrument, nor by reason of failure to complete any formality during the war.

2. Where the period within which a negotiable instrument should have been presented for acceptance or for payment, or within which notice of non-acceptance or non-payment should have been given to the drawer or endorser, or within which the instrument should have been protested, has elapsed during the war, and the party who should have presented or protested the instrument or have given notice of non-acceptance or non-payment has failed to do so during the war, a period of not less than three months from the coming into force of the Treaty of Peace signed this day shall be allowed within which presentation, notice of non-acceptance or non-payment, or protest may be made.

3. If a person has, either before or during the war, incurred obligations under a negotiable instrument in consequence of an undertaking given to him by a person who has subsequently become an enemy, the latter shall remain liable to indemnify the former in respect of these obligations, notwithstanding the outbreak of war.

D.—*Insurance and Reinsurance Contracts (other than Life) which had not terminated before the date at which the parties became enemies*

1. Contracts of Insurance shall be deemed not to have been dissolved by the fact of the parties becoming enemies, provided that the risk had attached before the date at which the parties became enemies, and the Insured had paid, before that date, all moneys owed by way of premium or consideration for effecting or keeping effective the Insurance in accordance with the Contract.

2. Contracts of Insurance other than those remaining in force under the preceding clause shall be deemed not to have come into existence, and any moneys paid thereunder shall be returnable.

3. Treaties and other Contracts of Reinsurance, save as hereinafter expressly provided, shall be deemed to have been determined as at the date the parties became enemies, and all cessions thereunder shall be cancelled with effect from that date. Provided that cessions in respect of voyage policies which had attached under a Treaty of Marine Reinsurance shall be deemed to have remained in full effect until their natural expiry in accordance with the terms and conditions on which the risk had been ceded.

4. Contracts of Facultative Reinsurance, where the risk had attached and all moneys owed by way of premium or consideration for effecting or keeping effective the Reinsurance had been paid or set off in the customary manner, shall unless the Reinsurance contract otherwise provides, be deemed to have remained in full effect until the date at which the parties became enemies and to have been determined on that date.

Provided that such Facultative Reinsurances in respect of voyage policies shall be deemed to have remained in full effect until their natural expiry in accordance with the terms and conditions on which the risk had been ceded.

Provided further that Facultative Reinsurances in respect of a Contract of Insurance remaining in force under clause 1 above shall be deemed to have remained in full effect until the expiry of the original Insurance.

5. Contracts of Facultative Reinsurance other than those dealt with in the preceding clause, and all Contracts of Excess of Loss Reinsurance on an "Excess of Loss Ratio" basis and of Hail Reinsurance (whether facultative or not), shall be deemed not to have come into existence, and any moneys paid thereunder shall be returnable.

6. Unless the Treaty or other Contract of Reinsurance otherwise provides, premiums shall be adjusted on a *pro rata temporis* basis.

7. Contracts of Insurance or Reinsurance (including cessions under Treaties of Reinsurance) shall be deemed not to cover losses or claims caused by belligerent action by either Power of which any of the parties was a national or by the Allies or Associates of such Power.

8. Where an insurance has been transferred during the war from the original to another Insurer, or has been wholly reinsured, the transfer or reinsurance shall, whether effected voluntarily or by administrative or legislative action, be recognized and the liability of the original Insurer shall be deemed to have ceased as from the date of the transfer or reinsurance.

9. Where there was more than one Treaty or other Contract of Reinsurance between the same two parties, there shall be an adjustment of accounts between them, and in order to establish a resulting balance there shall be brought into the accounts all balances (which shall include an agreed reserve for losses still outstanding) and all moneys which may be due from one party to the other under all such contracts or which may be returnable by virtue of any of the foregoing provisions.

10. No interest shall be payable by any of the parties for any delay which, owing to the parties having become enemies, has occurred or may occur in the settlement of premiums or claims or balances of account.

11. Nothing in this part of the present Protocol shall in any way prejudice or affect the rights given by Article 14 of the Treaty of Peace signed this day.

E.—*Life Insurance Contracts*

Where an insurance has been transferred during the war from the original to another Insurer or has been wholly reinsured, the transfer or reinsurance shall, if effected at the instance of the Japanese administrative or legislative authorities, be recognized, and the liability of the original Insurer shall be deemed to have ceased as from the date of the transfer or reinsurance.

F.—*Special provision*

For the purposes of the present Protocol, natural or juridical persons shall be regarded as enemies from the date when trading between them shall have become unlawful under laws, orders, or regulations to which such persons or the contracts were subject.

SECOND SCHEDULE

(i) British protectorates.

(ii) Territories administered under the trusteeship system of the United Nations being territories under the sole administration of Her Majesty's Government in the United Kingdom.

(iii) British protected states except Brunei and Tonga.

(iv) Other places in which by treaty, grant, usage, sufferance or other lawful means, Her Majesty has jurisdiction over British subjects except the Condominium of the New Hebrides.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

Article 14 of the Treaty of Peace with Japan gave the United Kingdom, as one of the Allied Powers, the right to seize all property, rights and interests, with certain exceptions, of—

(*a*) Japan and Japanese nationals,

(*b*) persons acting for or on behalf of Japan or Japanese nationals, and

(*c*) entities owned or controlled by Japan or Japanese nationals

which on the coming into force of the Treaty (28th April, 1952) were subject to its jurisdiction. The present Order in Council provides for the collection and realisation of the property, rights and interests in question and for the appointment by the Board of Trade of an Administrator of Japanese Property who will have certain powers and duties for those purposes, and will deal with the proceeds as the Treasury shall direct. The Order in Council also gives effect, as far as this is possible, to certain other Articles of the Treaty and of the Protocol thereto.

PENSION

INCREASE OF PENSIONS

1952 No. 1535

The Increase of Pensions (Calculation of Income) Regulations, 1952

Made - - - -	20*th August*, 1952
Laid before Parliament	21*st August*, 1952
Coming into Operation	25*th August*, 1952

The Lords Commissioners of Her Majesty's Treasury, in exercise of the powers conferred on Them by subsection (1) of section 3 of the Pensions (Increase) Act, 1944(**a**), and by that subsection as applied to the Pensions (Increase) Act, 1952(**b**), by subsection (4) of section 4 thereof, and of all other powers enabling Them in that behalf, hereby make the following Regulations:—

1.—(1) These Regulations may be cited as the Increase of Pensions (Calculation of Income) Regulations, 1952.

(2) The Interpretation Act, 1889(**c**), shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(3) These Regulations shall come into operation on the twenty-fifth day of August, 1952.

(a) 7 & 8 Geo. 6. c. 21. (b) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 45.
(c) 52 & 53 Vict. c. 63.