

CONFIDENTIAL 47

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Statement of Dr. You Chan Yang,  
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and Chief Delegate to the Korea-Japan Conference

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I am issuing this statement in the earnest hope that the Japanese Delegation will reconsider its position, as set forth orally on several recent occasions and as stated for the record in a paper entitled "BASIC PRINCIPLES OF THE AGREEMENT TO BE CONCLUDED BETWEEN JAPAN AND THE REPUBLIC OF KOREA CONCERNING THE DISPOSITION OF PROPERTY AND CLAIMS (The Japanese Delegation's Proposal)" contained in the Summary Record of the Fifth Session of the Claims Committee, March 6, 1952.

I quote from a section of that paper entitled "GIST OF EXPLANATION OF THE JAPANESE PROPOSAL CONCERNING THE PROBLEM OF PROPERTY AND CLAIMS":

"1.....The disposition of property and claims between Japan and the Republic of Korea must be bilateral, not unilateral. However, by the provisions of Article 4 (b), Japan recognizes the validity of dispositions of property of Japan and Japanese nationals made by or pursuant to directives of the U.S. Military Government in Korea. This restricts the original Japanese assertion to some extent.

"The U.S. Military Government in Korea effected the de facto transfer of Japanese property to the Korean Government. This does not mean, however, that the U.S. Military Government transferred to the Korean Government full rights over the said property. If the

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legal right of disposal held by the U.S. Forces as belligerent or occupation forces is construed as having been transferred to a third party which was neither a belligerent nor an occupation army, it would be following a logic which is quite against the principles of international law.

"In conclusion, Japan recognizes the validity of dispositions of property of Japan and Japanese nationals made by or pursuant to directives of the U.S. Military Government in Korea under Article 4 (b) of the Peace Treaty, but does not waive her original rights and claims to property in Korea. These original rights and claims are properly the subject of the special arrangements expected under Article 4 of the Peace Treaty. Unless Japan waives such rights and claims in this special arrangement, they continue to (sic) exist, as a matter of course....."

My delegation fully realizes the purport of the foregoing Japanese statement: that despite everything, Japan is insisting that she has property rights in Korea!

And yet the uncertainty in the minds of the authors (of the summary just quoted) as to the legality of the Japanese position is reflected in their inconsistent, and indeed conflicting assertions. For example, in the few paragraphs just cited we are assured twice that "Japan recognizes the validity of dispositions of property of Japan and Japanese nationals made by or pursuant to directives of the U.S. Military Government in Korea." And yet we are told that

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the transfer of such property by USAMGIK did not give "full rights" to the Korean Government, and again that Article 4 (b) of the Japanese Peace Treaty "restricts the original Japanese assertion to some extent."

It is also interesting, in view of our people's long and intimate knowledge of how the Japanese acquired some of this property (by duress, bribery, the terror and other standard methods of the police state) to find a pious reference in your statement to "the principles of international law."

Since you rely on law, our understanding of the legality of the Military Government's official acts in Korea as to property is clear: the words of Ordinance No.33 (6 December 1945) and of the property settlement of 11 September 1948 mean what they say, and emanate from sources of proper authority.

I invite your attention again to Section 2 of the USAMGIK Ordinance:

"The title to all gold, silver, platinum, currency, securities accounts in financial institutions, credits, valuable papers, and any other property located within the jurisdiction of this Command of any type and description, and the proceeds thereof, owned or controlled, directly or indirectly, in whole or part, on or since 9 August 1945, by the Government of Japan, or any agency thereof, or by any of its nationals, corporations, societies, associations, or any other organizations of such government or incorporated or regulated by it is

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hereby vested in the Military Government of Korea as of 25 September 1945, and all such property is owned by the Military Government of Korea."

I refer you to the entire text of the "Initial Financial and Property Settlement between the Government of the United States of America and the Government of the Republic of Korea" (signed at Seoul, September 11, 1948) and a brief quotation from Article V is sufficient to indicate its intent and legal authority:

"The Government of the Republic of Korea recognizes and ratifies such disposition of former Japanese public and private property vested under Ordinance No.33 of the United States Army Military Government in Korea as has already been effected by the United States Army Military Government in Korea..."

As for the Japan Peace Treaty itself, Article 2 (a) in which Japan recognizes the independence of Korea and renounces all right, title and claim to Korea, and Article 4 (a) and (b) are most pertinent. Our Republic takes the stand that Japan cannot interpret either (a) or (b) to suit itself, thus giving lip-service to the "validity" of Military Government directives while denying their full legitimacy under international law.

In the matter of shipping, as in this entire property matter, my Government is taking a fully realistic and legitimate stand. After careful consideration we put in the extremely reasonable claim against Japan of roughly only seventy-four thousand tons. And yet Japan has countered

countered with an offer of a ridiculously low five thousand tons! I cannot in good conscience recommend that my Government even consider such a fantastically low amount.

In all of this I must remind you that not only the Republic of Korea but the entire free world are critically watching Japan's performance, especially in the period when Japan again assumes sovereignty as the result of an extremely generous Peace Treaty with the victors.

Remember, it is not Korea that is on trial in the court of world opinion! To the contrary, the world including my own sovereign nation, is anxiously awaiting proof that Japan has changed; that your country is really ready to assume her responsibilities as a member of the family of nations; and, in this case, that she is ready to treat her Asian neighbors fairly.

My Republic is convinced that unless we and the Japanese Government solve all existing issues between us in this Treaty now being negotiated, it is fruitless to proceed with any Treaty.

If the Japanese persist in their unwarranted and legally unsound position, especially in property claims, my Delegation will have no choice but to tell the world who is responsible for the failure to consummate a Korean-Japanese Treaty.

The United States and our other UN allies expect much of us in Asia in the crucial fight for the survival of all freedom-loving nations, of which our people would like to believe Japan is one.

Unity

Unity with the other Asian nations in this struggle is impossible unless Japan takes realistic recognition of the situation and drops her transparently obvious attempts to "bargain" on matters in which your Delegation has no legal or moral foundation for "bargaining".

My Delegation awaits your decision with the hope that you will realize the issues at stake, that you will take the long-range view and not insist on maintaining a position which is inimical not only to your own interests and to Asian unity against the Communist monster, but to world peace.

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