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VIEW OF JAPANESE DELEGATION ON LEGAL ARGUMENTS
CONTAINED IN STATEMENT OF AMBASSADOR YANG
DATED APRIL 4, 1952.

1. The statement of Ambassador Yang points out, while repeating the former Korean assertions, the following "inconsistencies" in the Japanese arguments:

(1) Japan, recognizing the validity of dispositions of property of Japan and Japanese nationals made by the United States Military Government in Korea, insists that the transfer of such property by the Military Government did not give "full rights" to the Korean Government, and again admits that the provisions of Article 4 (b) of the Peace Treaty restrict the original Japanese assertion to some extent.

(2) In spite of "pious reference to the principles of international law", the Japanese side is closing its eyes to the Korean "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)".

(3) The provisions of Articles 2 and 4 of the Peace Treaty obviously endorse the Korean standpoints.

2. The Japanese position referred to in (1) above is represented in detail in the two Japanese documents previously forwarded, i.e. the "Gist of Explanation of the Japanese Proposal concerning the Problem of Property and Claims" and "On 'Different View of Korean Side on Japanese Proposal regarding Problem of Property and Claims'". In short, what is meant by Article 4(b) providing that "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" is that Japan recognizes and will not dispute the validity of dispositions of property made by the United States Military Government in the status of occupation forces in accordance with international law. However, the obligation under the provisions of Article 4(b) does not go so far as to recognize as legal a direct and comprehensive confiscation of enemy private property prohibited by the Hague Convention on Land Warfare.

As a matter of fact, there are no provisions in Ordinance No. 33 which may be interpreted as stipulating confiscation of property. The Korean side stresses that the Japanese property has been not only vested in but also owned by the Military Government under the provisions of the said ordinance, presuming thereby that the dispositions constituted confiscation.

Of course, the vesting of property involves a transfer of title _____ this the Japanese Delegation will not deny. Nevertheless, the Japanese Delegation is completely and definitely against the Korean assumption that a transfer of title constitutes ispo facto confiscation of the property.

According to the Japanese opinion, the United States - Korea Financial Agreement has merely transferred the property vested in the Military Government to the Korean Government, authorizing the latter to hold it in custody. In other words, the right of the Military Government to dispose property in the very status of occupation forces was not transferred to the Korean Government together with the property itself.

Therefore, the "inconsistencies" indicated in the Ambassador Yang's statement may seem inconsistencies from the Korean point of view presuming the dispositions by the Military Government as confiscation, but from the standpoint, on the contrary, not regarding the dispositions of the Military Government as direct and comprehensive confiscation, the Japanese argument is consistent.

3. The Japanese Delegation takes the following view as regards (2) in paragraph 1 above:

The Japanese property in Korea was acquired legally in accordance with the municipal laws in force in Korea or other places. The principles of international law in relation to

annexation of a state, separation of territory, independence of a state etc. clearly prohibit an overall nullifying of legal acts effected in conformity with the provisions of legitimate municipal laws on account of a change of the status of territory under international law. International law is a system to prevent such an overthrow of legal order. The true idea of justice should be, so far as the law-abiding nations are concerned, realized within the framework of international law and municipal laws.

4. If people carefully follow the context of the Peace Treaty, it will be easily understood that the provisions of Article 2(a) of the Peace Treaty that "Japan ... renounces all right, title and claim to Korea ..." stipulate the right to territory, and that none of them are related to the property and other claims relative to property. It will be needless to repeat the Japanese views concerning the provisions of Article 4 (a) and (b) here.

5. Finally it must be added that the Japanese Delegation still believes, as it has repeatedly proposed, that a realistic settlement of this matter will be possible despite a seemingly great discrepancy between the legal positions of the two countries.