

Japan's False Arguments

Concerning Reparations Claims and Its Unwarranted Restriction of Exports to Korea

1 The Japanese Government is imposing export restrictions in violation of WTO agreements based on a false argument that Korea's Supreme Court breached the Agreement on the Settlement of Problems Concerning Property and Claims and on Economic Cooperation between the Republic of Korea and Japan signed on June 22, 1965 (henceforth: the 1965 Claims Agreement).

2 The 2018 rulings by the Supreme Court of Korea were by no means in violation of the 1965 Claims Agreement.

* Korea's Supreme Court ruled that 'the forced labor victims' rights to claim reparations arising out of illegal activities of Japanese companies that constitute crimes against humanity that are directly related to Japan's illegal colonial rule and its war of aggression' had not been waived, as they had not been included within the scope of the 1965 Claims Agreement.

3 Individual victims still retain the right to claim damages with regard to unlawful acts of forced mobilization.

* The 1965 Claims Agreement was concluded in accordance with Article 4 of the 1951 Treaty of Peace with Japan (San Francisco Peace Treaty), which provides that the disposition of property, claims and debts between the Republic of Korea and Japan shall be subject of a special arrangement between the two countries.

* Even though Chapter IV, Article 14 of 1951 San Francisco Peace Treaty stipulates that "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," the Republic of Korea was an occupied country rather than a member of the Allied Powers at the time and thus did not sign this Treaty.

4 Japan's argument that all reparations were settled is false. In the aftermath of World War II, the Japanese Government's stance has been that the individual right to claim damages had not been waived.

* On November 5, 1965, Etsusaburo Shiina, a former Minister of Foreign Affairs testified before the House of Representatives in the Diet that it was inappropriate to posit that individuals' rights to claim reparations had been waived. On August 27, 1991, Shunji Yanai, a former Director General of the Treaties Bureau of the Foreign Ministry testified before the House of Councillors that the so-called individual right to claim damages itself had not been waived in the context of domestic laws.

5 Japan's assertion that its export restrictions are unrelated to the issue of forced labor is not true, and its related statements keep shifting:

* Japan's flip-flopping : "Korea's abandonment of its duty to honor an international agreement" (referring to the alleged breach of the 1965 Claims Agreement)"

⇒ when its violation of WTO agreements became clear, Japan raised " security issues regarding unauthorized shipment of strategic materials to North Korea" ⇒ claiming that such action forms "a part of the Japanese Government's export control policy"

6 The Japanese Government is threatening the global economic order based upon free trade by unreasonably interfering in and putting pressure on a legitimate ruling by Korea's judiciary.

7 The Japanese Government must immediately revoke its measures that run counter to the spirit of free trade and waste no time in taking responsible actions to address the illegal act of forced mobilization.

* Germany established its "Remembrance, Responsibility and Future Foundation" in 2000 and issued apologies to the victims of forced labor and took appropriate measures.