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本票を含めて (5) 枚

これからメッセージをおくります。

Dear Mr Park,

I am sending you the information about my legislative proposals for the interim payment to the victims. This was sent to Indai Sahor in May. You must know it. But Prof Yun asked me to send it to you again in case. She said that you are going to meet tomorrow. I hope it will arrive in time. As I already sent you another fax, my proposals will be included in the new proposals, which would be made public in Mid-August by a new group. The new group will be represented by Mr Tsuchiya, former President of the JFBA. And some influential lawyers and historians will be members. They need a welcome message from the Korean Council and the Korean Government. E. Totsuka

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Ms Indai Sajor, Malaya Lolas, Fax.632 533 0452

Dear Indai,

This is a good news. Finally, we decided to make our draft bill for state compensation public, of which translation is attached to this. It will be launched within a week or so by prominent dignitaries such as Prof Mushanokoji and Mr Tsuchiya.

At that time, I would like to advise you to send Mr Uesugi Malaya's strong support for the draft bill and campaign. You must receive the kit of information and a copy of facsimile to the NGO representatives in Geneva from Mr Tanaka and Mr Motooka as well as my press release. IFOR strongly supported their proposals in our public statement and they were supported by Prof Heisoo Shin and the ICJ in private.

Mr Uesugi and I, in consultation with some of our friends in the Diet, have just started the plan. We originally thought that the Democratic Party should launch this kind of legislative proposal. But a few persons from the AWF heavily lobbied them and stopped them publication of the draft bill, which some of the AWF must have feared that once this is seen by any victim, then no victims would receive the money from the AWF. Instead, we decided that a group of influential citizens should make it public and start a campaign towards all of the Diet Members for legislation.

We suspect that some from the AWF are spreading a rumor that there is no possibility of any bill for state compensation and that the victims should receive the money from the AWF as soon as possible now before the International Labour Conference. The AWF started the advertisement for the payment in Taiwan in this May. Everywhere the victims will be pushed to receive it harshly by the AWF. We need to have any alternative approach, which can encourage the victims and, at the same time, we can use the draft bill to lobby the Diet Members.

I showed the draft bill to the Korean Council and had a long discussion. And finally they agreed with us to make it public and they promised to support it. However, there were some vitally important questions they made. They were basically three:

1. Why state responsibility cannot be included in the draft bill?

My answer: The Diet does not have legal capacity to override the Cabinet view that the treaties resolved all the legal claims by the victims, as the Constitution gives to the Cabinet the power for diplomacy. The issue of legal responsibilities should be settled by the Supreme Court, of which judgment may not be given for 10 - 20 years. The interpretation, however, of the legal advisors to the both Houses of the Diet have changed since the recommendations made by Ms Coomaraswamy and the ILO Committee of Experts. And they confidentially told me that a legislative measures such as I drafted below may be legally admissible, although they had originally argued even this kind of state interim payment with the humanitarian spirit is unconstitutional in violation of international treaties. Without consent of the legal advisors, no bill may be formally accepted as lawful by the Secretary Generals of the both Houses under the current Japanese Diet system, even if all of the Diet Members agree with the bill. Now we know that the ICJ recommendations for the interim payment of 4 million US dollars is possible, if the bill is successfully submitted and passed by the Diet Members with 20 Members' support at the Upper House or 50 Members' support at the Lower House. This is maximum for the moment.

However, we may argue the legal responsibilities of the State further, even after the legislative measures and payments are finished. We may continue arguments at the courts, the Diet, and international forums as well as academic fields. We should pursuit them for a long time. But we should not say that the old victims should not receive any money from the State, if the State is forced to pay the interim payment recommended by the ICJ by the Diet legislation.

2. Is the humanitarian spirit contradict with state legal responsibility?

My answer: No, it does not contradict with state legal responsibility, although moral responsibility, which was

acknowledged by the Japanese government and the AWF may contradict with state legal responsibility. The humanitarian spirit explains the reason why the state interim payment should be done now, even before the Supreme Court decision. This bill does not settle the issue of the State responsibility. It does not say anything decisive as moral or legal responsibility, which will be pending before the court procedures and international forums. As a result, the whole issue should be settled in two steps, namely at the first stage, the state interim payment should be made by this interim legislation and at the second stage, state legal responsibilities should be settled in future. In this second step, we should push the fact-finding report, which should be made by a state committee for investigation of the facts on the atrocities committed by Japan during WWII including the issue of military sexual slavery. This committee should be established by a separate legislation.

This interim payment should be made by the State of Japan. The Japanese government cannot reject payment, if the legislation is made by the Diet.

3. Is 4 million yen payment from the state different from the AWF's medical and welfare payment?

My answer: Yes, it is different from any of the money from the AWF. It should be strictly separated from the AWF, as the AWF is private payment and the state interim payment of 4 million yen is state one.

Originally, I argued that the budget for the medical and welfare project through the AWF should not be given and it should be paid by the legislation to the victims directly from the State.

However, the most (80%) of the budget for this purpose was already approved by the Diet in last March. And the AWF now has the money. As a result, we had to change our argument and demands. We should not touch the money the AWF obtained. Then, the resistance from the AWF will reduce. Actually, some of the advisors to the AWF told me, they would not oppose any state compensation bill, if the AWF money is not touched. On top of that, the AWF money can be accepted by any victims so wish later, if the state compensation through legislation is become true and 4 million yen is paid to the victims. Then, the victims will be able to get state interim compensation of 4 million yen as well as

the atonement money (2 million yen) and medical and welfare project assistance altogether.

(TRANSLATION OF A DRAFT BILL FOR THE INTERIM MEASURE PAYMENT FOR THE VICTIMS OF FORMER "COMFORT WOMEN" VICTIMS)

1. The interim measure payment

(1) The Government pays the interim measure payment for the former "comfort women" victims on the basis of humanitarian spirit.

(2) The amount of the interim measure payment is JPY 4 million for each of the former "comfort women" victims and it should be paid in the form of National Bond with name.

2. Decisions for payment

(1) The decision as for the right to the payment of the interim measure payment is to be made by Prime Minister responding to the application from those who claim it.

(2) The power for the decision mentioned in (1) above may be delegated to the Japan Red Cross, if it is necessary. The delegation of the power to the said organization is done, provided that the said organization agrees with it.

3. The method of the payment

(1) The interim payment should be paid with the consent of the administrative authorities of countries or areas, which represents the interest of the person who is entitled to the payment.

(2) In case of 2.(2) above, the Japan Red Cross should pay the payment to the victims through a corresponding humanitarian organization, which is operating in the concerned counties or areas.

Please, give my best regards to all of the Loras and supporters of Malaya.

Yours Sincerely,

Etsuro Totsuka (Attorney at law, Japan)

P.S. I am coming to Geneva on 2nd June and will stay there for two weeks to attend the UN WGCFS and to lobby at the ILC. Do you come?