Korean Attitudes toward International Law after the Open-Door to the West (I)

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Introduction

China insisted that the tributary relationship between China and Korea should be provided in the 1882 Korean-American treaty of friendship, commerce and navigation. Although the controversy was apparently settled by sending a letter from the King of Korea to the United States and other treaty powers explaining the curious tributary relationship instead of providing it in the treaty, the status of Korea became frequently questioned thereafter owing to the tenacious Chinese intervention policy, which became aggravated after her loss of Vietnam as a result of the Sino-French War (1884~85). The purpose of this article is to investigate how the confusing concept of the tributary relationship between China and Korea was understood by the United States and other treaty powers at the time of the open-door to the west, and how they responded to the Chinese intervention and the assertion of the suzerainty, and how Korea made efforts to get out of the tributary system to enter into the family of nations.

I. Open-Door of Korea to the West and the Tributary Ties to China

It was difficult for Commodore Robert W. Shufelt to understand the tributary relationship between China and Korea, when he first approached Korean officials at Pusan for a possible open-door. They advised him to go to China for a consultation, because Korea being a tributary state was under the suzerainty of China. The Chinese government was at first reluctant to intervene into the matter of the open-door of Korea in the sense that Korea had always been independent in internal administration as well as external affairs. Commodore Shufelt was unable to understand why the apparently independent Korea should consult China

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on the matter of the conclusion of a treaty. At that time, however, China was in fact advising Korea to open-door to the United States and other Western powers to deter the possible threat to Korea from Russia. Although the decision to conclude a treaty with the United States was made by Korea independently of China, the latter was eager to assist Korea for a successful negotiation. As a matter of fact most of the negotiations were conducted by the Chinese Superintendent of Northern Trade Li Hung-chang and Commodore Shufelt. (1)

Li’s aim was to provide the Sino-Korean tributary relationship in the treaty. Article I of the Korean draft prepared by Li stated that “Korea being a tributary state of the Chinese Empire has nevertheless hitherto exercised her own sovereignty in all matters of internal administration and foreign relations.” Shufelt flatly rejected this proposal, because it was unnecessary to provide such a confusing concept for the interest of the United States. Instead it was agreed that the King of Korea should send a letter to the President of the United States stating the tributary relationship with China upon the conclusion of the treaty. The King’s letter of May 15, 1882, which was given to Shufelt on May 24, 1882, two days after the conclusion of the treaty is as follows:

“His Majesty, the King of Chosen (Korea), herewith makes a communication. Chosen has been, from ancient times, a state tributary to China; yet hitherto full sovereignty has been exercised by the Kings of Chosen in all matters of internal administration and foreign relations. Chosen and the United States, in establishing now by mutual consent a treaty, are dealing with each other upon a basis of equality. The King of Chosen distinctly pledges his own sovereign powers for the complete enforcement in good faith of all the stipulations of the treaty in accordance with international law. As regards the various duties which devolve upon Chosen as a tributary state to China, with these the U.S. has no concern whatever. Having appointed envoys to negotiate a treaty, it appears to be my duty, in addition thereto, to make this preliminary declaration.” (2)


(2) See the Chinese text at Kukhoe-tosogwan, Kuhanmal-choyak-huich’an(摘譯英語的彙纂) chung kwon(Ippöp-ch’ango-charyo No. 26), at 287 (1965). See also the English translation, in O.N. Denny, China and Korea (1888), at 18-19. Compare the Chinese draft by Ma Chien-chung,
The tributary relationship, whatever it may be, was not a matter of concern to the United States, as far as the King of Korea exercised “full sovereignty in all matters of internal administration and foreign relations” as stated in the letter. According to Wharton’s *Digest of International Law of the U.S.*, “[t]he existence of international relations between the two countries (the U.S. and Korea) as equal contracting parties” was “simply as an accepted fact,” and “the independence of Korea of China” was “to be regarded by the U.S. as now established.” (3) Notwithstanding the alleged Sino-Korean tributary relationship, Korea and the U.S. were simply to deal with each other on the basis of equality. The first sentence of Article I of the 1876 Treaty between Korea and Japan also stated that “Korea being an independent state enjoys the same sovereign rights as does Japan.” (4) For China, the nominal recognition of her as “a superior state” by Korea was significant. For the United States, the tributary status of Korea was quite different from that of a vassal in the West. According to international law, a vassal could not conclude a treaty whereas Korea did with independent Japan on the equal footing. The traditional Sino-Korean relations also showed that no such thing like suzerain-vassal relationship ever existed. However, China worried about the possible loss of the traditional monopolistic advantages over Korea as a big brother. When the U.S. Senate was reviewing the treaty for an approval, they were informed of the tributary relationship stated in the letter. The curious tributary relationship was not a matter of concern since the letter clearly stated that the King of Korea exercised full sovereignty in internal administration and foreign relations.

Germany and the Great Britain, however, were very much suspicious of the statement of the tributary relations in the letters from the King of Korea sent after the conclusion of the treaties. The British Parliament and the German National Assembly were strongly against the ratification because of the strange statement from the King. Both countries renegotiated the treaties with Korea directly. The purpose of the direct contact was to get rid of the nasty statement which is somewhat different from the letter of the King of Korea. See also Kim Ki-sam, “Cho-Mi Suho-choyak ch’egyol-si yangidoen Chungsuk-e daehan Chosŏn-ŭi sŏkbangmunje (The Issue of the Tributary Status of Korea Raised by Ch’ing China at the Time of the Conclusion of the Korean-American Treaty of Amity and Commerce).” *Kuksayŏn-gu*, at 35, note 20, at 42 (1978).


of the tributary relationship urged by China and to get advantageous provisions relating to trade. They successfully provided an article which allowed their subjects to sell goods in the interior of Korea. Despite the direct negotiation Li Hung-chang advised again that the Korean King had to send letters again to the Great Britain and Germany restating the tributary relationship. However, the King flatly refused to do so, saying that he had already done so in the previous year. (5)

II. Chinese Efforts to Strengthen the Tributary Ties with Korea

Since Korean ports had already been opened to Japan and would be opened to the United States soon, it was necessary for China to open Korean ports, so that Chinese subjects could enjoy trade with Koreans. Traditionally, the border between the two countries were completely sealed off. No ports were ever opened for trade due to the “closed sea policy.” The only possible trade in addition to the exchange of the tributes was the periodical “open-market” (開市) at the Korean towns of Ŭijŏo, Hoeryong and Kyŏngwŏn near the border. Chinese traders from Fung-hwang-ch' eng, Ning-k' u-t'a and K'u-er-k'e visited the three Korean towns periodically to exchange goods. The markets were opened only for twenty days at a time. At Ŭijŏo, the markets were opened in the second and eighth months of the year. At Hoeryong, the trade was allowed only once a year whereas at Kyŏngwŏn once in every two years. Trade was conducted under the strict supervision of the officials dispatched from both governments. Only designated goods were allowed to be exchanged. Chinese brought hides and horses to exchange them with Korean papers, salt, bulls, and farming equipments. With this periodical trades in the “open-markets” alone, it was impossible for China to compete with Japan, whose traders had already monopolized the trade business at the open-ports in Korea. Wu Ta-ching memorialized that China should trade with Korea to block the Russian expansion. Hwang Tsun-hsien’s Ch’ao-hsien ts’e-lueh (朝鮮策略), through which China proposed to Korea to conclude a treaty with the United

States, aptly pointed out the possibilities for expanding trade at the borders and for opening Korean ports such as Pusan, Wonsan and Inchon to China to block the Japanese monopoly.\(^6\) A Korean envoy to China Yi Yong-suk also proposed in early 1881 the idea particularly to counter against the ever-increasing Japanese traders in Korean ports.\(^7\) After being informed that China wanted to expand trade with Korea, the Korean government dispatched an envoy Ő Yun-jung to China in the fall of 1881 to Tientsin to discuss the issue of the possible Sino-Korean trade at the open-ports. He boldly suggested a total revision of the Sino-Korean relationship. As a first step he proposed to abolish the old fashioned "open-maket" system and to conclude a treaty of commerce to open certain ports in each country. As soon as he found that Li Hung-chang was willing, he then boldly proposed the mutual exchange of permanent embassies after abolishing of the traditional tributary system.\(^8\)

Li Hung-chang was very much astonished at the proposal, but he suggested to discuss the issue in the future, when Korea officially proposed it by submitting a memorial to the Emperor of China. Upon the report of the envoy, Korean government thought that it could be a high time to modernize the traditional Sino-Korean relations. In the spring of 1882 the Korean government dispatched Ő Yun-jung again to Tientsin to discuss the trade matters. His original mission was to negotiate the Korean-American treaty together with the revision of the Sino-Korean relationship. When he arrived in Tientsin, however, he found that Shufelt had already left for Inchon to conclude a treaty with Korea. Ő Yun-jung then negotiated the matter with Chu Fu during the absence of Li Hung-chang who was then moaning at his home town for his deceased parent.\(^9\)

As was suggested in the previous year Ő Yun-jung first of all proposed to abolish the traditional official trade system of the periodical "open-markets" at the three towns on the Korean side of the border. The system of the "open-

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\(^{6}\) See Kim Hong-jip, Sushinsa-ilgi (Hanguk-saryo-ch’ongsö, No. 9, Sushinsa-kirok) Vol. 2 Ch’ao-
hsien-ts‘e-liech (朝鮮策略).

\(^{7}\) See Ta-fu-Ch’ao-Hsien-uo-wen-shi-i-che (答覆朝鮮所問事宜措), in Li-Wen-Chung-Kung-ch’u-
nchih, i-shu-tsou-hao (李文忠公全集, 譯書奏稿) Vol. 40, the 2nd of the 2nd month of the 7th year of Kuangshu (1881).

\(^{8}\) Kim Yoon-Shik, Ŭmch’ongsa (除靖史), sang kwon, 29th of the 3rd month, the 19th year of Kojong.

\(^{9}\) See Tsin-hai-kuan-tao-Chu-Fu-yu-Ch’ao-Hsien-peih-hsin-Ŏ-Yun-jung-Yi-Cho-yǒn-wen-ta-pi-
t’an-chie-lieh (津海關道周復與朝鮮信使魚允中，李德測筆記簡略), in Chao-Hsien-yu-Mei-Kuo-
huan-yüeh-an (朝鮮與美國換約案), the 2nd ts‘e, the 3rd of the 4th month of the 8th year of Kuangshu in Shou-tsin-kuan-tao-Chu-Fu-hsin (收津海關道周復信), the 22nd of the 4th month of the 8th year of Kuangshu (1882).
markets” was disadvantageous to Korea, because traditionally Koreans had paid the expenses to treat Chinese officials and traders during their stay in the “open-market” towns. Chu Fu was strongly against the Korean proposal, maintaining that the traditional official trade system which had continued over two hundred years should continue considering the local needs. Confronted with the strong assertion of the Korean envoy, Chu Fu reluctantly agreed to abolish the “open-market” at Kyŏngwŏn, where the amount of trade was not significant. However he strongly urged to maintain the “open-markets” at Üijoo and Hoeryong, which was accepted by Ŭ Yŏn-jung in the end.\(^{(10)}\)

Ŭ Yŏn-jung then boldly asserted that the old fashioned tributary system should also be abolished, and that by concluding a treaty China and Korea should exchange permanent missions in each capital, assuring that even in this modern system Korea would still treat China as a superior state.\(^{(11)}\) Although Chu Fu was not happy with the bold proposal, he cautiously advised the Korean envoy that it would not be impossible to discuss the matter in the future.\(^{(12)}\) As soon as the news of the Korean proposal to abolish the tributary system spread, many Chinese regarded this revolutionary idea of the inferior Korea as a betrayal against the superior China. They worried that such a permanent mission of Korea in Peking would be harmful to China in maintaining the traditional superiority over Korea.\(^{(13)}\)

Ŭ Yŏn-jung maintained that the trade should be conducted at the openports to check the Japanese and that the old fashioned “closed sea policy” should be abolished. Under the “closed seas” system since the Emperor Kang-hsi, no trade was allowed between the two subjects by sea; no fishermen from one country were allowed to fish off the coasts of the other. Chu Fu also thought that a new trade system would be inevitable to check the Japanese monopoly in the trade with Korea since the enforcement of the 1876 Treaty. Chu Fu finally agreed in principle to conclude a treaty of commerce, but warned that the treaty between China and Korea should be different from the other treaties of friendship, commerce and navigation concluded between China and the Western powers because of the traditional tributary relationship. He main-

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\(^{(10)}\) See idem, at Fu-Hamgyŏngdo-k‘ai-shi-shi-liuch (附咸鏡道開市事略).

\(^{(11)}\) See note 9 supra.

\(^{(12)}\) Ibid.

\(^{(13)}\) See Li-pu-hsi-lang-Pao-Ting-tsou-ch’en-yu-Ch’ao-Hsien-t’ong-shang-kuan-chien-che (禮部侍郎寶廷奏陳與朝鮮通商官見裁), the 29th of 4th month of the 8th year of Kuangshu in Kuangshu-Ch’ao-Chung-Jih-chiao-shi-shih-liao (光緒朝中日交涉史料).
tained first of all that the most-favored-nation clause should be unnecessary between China and Korea because of the tributary relationship. He said that Vietnam recently fell under the French domination without having stipulated the tributary relationship in the French-Vietnamese treaty.\(^{(14)}\) Chu Fu further advised О Yun-jung that a provision of the tributary relationship in the treaty would protect Korea in the future against a possible domination by other foreign powers. At that moment the hallucinated Korean negotiator mentioned his disfavor against the strange word of tongnip (獨立; independence) in Article I of 1876 treaty with Japan. He added that the word of charip (自立, autonomy) might have been better. Probably he preferred charip to tongnip because he might have thought that under tongnip Korea would be alone without the help of the big brother, because the word tongnip connotes isolation (孤立), whereas the word charip connotes “self-standing” nationalism. It seems that he suspected that the word of tongnip was provided intentionally in the Korea-Japan treaty by the cunning Japanese to take Korea apart from the Chinese commonwealth. For this reason, the Korean negotiator did not mind providing the words of the tributary relationship in the Chinese-Korean agreement.\(^{(15)}\)

Then the matter of the Sino-Korean trade could be dealt with either at the Ministry of Courtesy (li-pu) or at the newly established Tsung-li-ya-men. In case the matter should be handled at Tsung-li-ya-men, Korea should naturally be treated equally with other treaty powers. Pao Ting, the Deputy Minister of the Ministry of Courtesy, worried that in such a case Korea might look down upon China and that Korea would no longer treat China as a big brother.\(^{(16)}\) He stated that, if China rejected the Korean proposal, Korea might fall under Japanese suzerainty after being exploited by the Western powers, and that, if China allowed Korea to conclude a treaty of commerce and navigation with China, Korea would establish a permanent legation in Peking on the equal footing along with the other treaty powers.

For these reasons he humbly memorialized to the throne that the trade matter with Korea should not be dealt with at Tsung-li-ya-men, but at the Ministry of Courtesy. He further stated that a future Korean mission should never be allowed to have a permanent legation building in Peking, and that they should

\(^{(14)}\) See note 9 supra.  
\(^{(15)}\) Ibid.  
\(^{(16)}\) See note 13 supra.
stay at Si-i-kuan (四諧院) where the tributary missions were supposed to stay. Pao Ting's memorial was not wholly accepted by the Emperor Kuangshu, who ordered that the trade matter should be dealt with at Tsung-li-ya-men while the Ministry of Courtesy should continuously handle the tributary matter with Korea. However, he still worried that Korean envoys at Tsung-li-ya-men would behave equally with the ministers from the other powers. In such case, it may be harmful to the maintenance of the traditional tributary relationship. China would not be in a position to discriminate Korean envoys at Tsung-li-ya-men, because the powers which had diplomatic relationship with Korea would certainly make protests. In the end, Chu Fu stated to Kim Yun-shik, a Korean envoy who was in Peking with Ō Yun-jung, that "Although the current situation has been changed greatly, (the status of) your country is different from other Western powers. They dispatched ministers solely to protect their traders and to investigate the mutual relations. Since your country is within the compound of the Chinese commonwealth, you need not follow the precedents of other powers. If you would establish a legation in Peking in accordance with international law, this would be against the courtesy to the Minister of Tsung-li-ya-men. He is the elder brother of the Emperor and is on the same level as the King of Korea. Your envoys should not behave against the courtesy, even if other treaty powers mind in case you would not be treated equally. The old traditional rules maintained for hundreds of years should not be changed at once." (17)

The negotiation was interrupted due to the military uprising in Seoul during the summer of 1882. The Korean negotiator Ō Yun-jung accompanied the Chinese troops, which was immediately dispatched to crush down the military uprising. They returned to Peking along with Taewŏn-gun, who was under captivity because of his alleged involvement with the uprising. Upon arrival in Peking both sides resumed negotiation. Now the Chinese negotiators became more eager to strengthen the tributary ties with Korea in order to check the increasing Japanese influence in Korea. After a protracted negotiation, the trade agreement under the title of the Regulations for Maritime and Overland Trade between Chinese and Korean Subjects was concluded in late September. (18) In

(17) Kim Yun-shik, Ōme'h'ŏngsa (陰晴史) ha kwon, the 14th day of the 5th month of the 19th year of Kojong (1882).
(18) Ō Yun-jung, Chongjŏngnyŏnpyŏ (從政年表), 3rd kwon, the 12th, 18th, 19th, 21st, 22nd of the 8th month of the 19th year of Kojong (1882).
order to emphasize the tributary relationship, the agreement was not labeled as a treaty (條約) but merely as a “regulation” (章程). \(^{(19)}\)

The preamble firmly stated that the agreement should be applied to “the relations between China and Korea only, the former country granting to the latter certain advantages as a tributary kingdom,” and therefore that other powers were not allowed to participate in the arrangement by the most-favored-nations clause. However, there was in fact no place in the agreement wherein any favor to Korea was provided. On the contrary, certain Chinese advantages over Korea were provided. It was an unequal treaty. Ma Chien-chung and Chu Fu, however, insisted that such advantageous provisions to China was natural because of the unequal relationship between China and Korea. They asserted that rules of public international law restricted trade to a certain extent with vassal states. In spite of the provision of perfect equality between Chinese officials and Korean officials, only the Chinese Superintendent of Northern Trade had the right to communicate with the King of Korea as to the removal of certain Korean officials at the open-ports in China, who would “cause disagreement by insisting to act on his own authority.” No such a right could be exercised by the King of Korea. \(^{(20)}\) Consular jurisdiction was given to the Chinese authority in Korea. In all actions brought by a Chinese against another at a Korean port, the Chinese Commercial Government Agent was to perform the duties as a judge. In all torts and criminal cases, particularly relating to property, where a Korean plaintiff sued against a Chinese defendant, the Chinese Commercial Government Agent was to arrest the accused and act as a judge. In contrast, however, if a Chinese plaintiff sued a Korean defendant at a Korean port, the Korean authorities were to hand over the accused to the Chinese Commercial Government Agent for joint investigation. On the other hand, all such torts and criminal cases with Korean traders either as a plaintiff or as a defendant vis-a-vis any person of any nationality at any of the open-ports in China were to be tried according to Chinese law by the Chinese local authorities. \(^{(21)}\)

The other six articles carried more or less equal provisions. Article 3 provided rules concerning maritime traffic and mutual fishing rights along the coasts of Hwanghae-do and P’yöng’an-do in Korea and off the coasts of Shantung and

\(^{(19)}\) See the text of the agreement, Kukhoe-tosogwan, Kuhanmal-choyak-huich’ an, ha kwon (Ippöpch’ amgo-charyo, No. 27), at 392–406 (1965).

\(^{(20)}\) Ibid.

\(^{(21)}\) Ibid.
Liaotung Provinces in China. Article 4 stipulated with respect to dues and entry permits for trades in internal areas. The traditional “open-market” trade system on the border was revised. Unlike the previous system, wherein only Korean towns near the border were opened as a yearly, semi-yearly or bi-yearly event, according to article 5 the trade was now to be conducted freely at any time of the year both at Üiju in Korea and Ts'e-men in China on the two sides of the Amnok (Ya-lu) River, while another set of towns, namely Hoe-ryong in Korea and Hun-ch'un in China on the two sides of the Tuman (T'u-men) River, were also opened for trades. The charges formerly borne by Korea for board and lodging, supply of provisions, reception and escort, were to be discontinued in the new system. Officials and traders of both sides could exchange goods now on equal terms. China thought this sort of mutual trade was a favor given to the tributary state. In theory, the Chinese were partially right in the sense that in the old system the prohibition of trade by sealing off the border and by closing the maritime traffic could make the smaller country weaker. China traditionally regarded the Sino-Korean relations as those of “lips and teeth.” This means that once the neighboring state Korea would become weak, Chinese eastern provinces would also become in danger. For this reason the new Chinese policy was to revive Korea to some extent while strengthening the traditional ties. One year after the conclusion of the 1882 Regulations, China dispatched Ch'en Shu-t'ang as a Commercial Government Agent to Seoul. Korea in turn also sent Kim Sŏn-gŭn as a Government Agent for Trade to Tien-tsin. Japan was faster than China in the matter of economic interests in Korea. Japan established a Japanese concession area at Inchŏn in early 1883. By concluding a Trade Agreement with Korea on July 25, 1883, Japan also acquired almost the same advantage over the trade matter which China had established by the 1882 Regulations by the most-favored-nations clause. Other Western powers like Germany and the United Kingdom were also active in seeking interests in Korea. They acquired the right to sell goods in the interior of Korea. All that China had to do in the circumstances was to fasten Korea by ever-strengthening the nominal tributary ties. Such a policy

(22) The official title of Ch’en Shu-t’ang 陳樹棠 was Tsung-pan-Ch’ao-Hsien-shang-mu 鄭辦朝鮮商務 and that of Kim Sŏn-gŭn 金善模 was Tongni-tongsang-samu 景理通商事務. See Il’hangnom日省錄, the 3rd of the 10th month of the year of Kyem(癸未) (1883).

(23) See Regulations under which Japanese Trade is to be Conducted in Korea, and Import and Export Tariffs of Korea (1883), ibid., sang kwŏn, at 152-174.
was an old-fashioned one, which would not fit into the newly established international order in East Asia.

III. Korean Struggle to Enter into the Family of Nations

The newly adopted intervention policy of China ran against Japanese interests in Korea. It appeared that the Chinese policy became effective when she dispatched troops in the summer of 1882 and successfully crushed down the military uprising of the “old-system” Korean soldiers against the “new-system” soldiers, trained by Japan. As a result of the successful claim for the damages incurred at the uprising, Japan gained a treaty right to station a troop to guard her legation in Seoul. Korean progressive reformers executed a coup d'état in December 1884, allegedly sponsored by the Japanese. The numerically superior Chinese forces drove out the Japanese troops including the minister and the members of the mission to Japan. Korean progressive reformers also fled to Japan. For some months, the Chinese troops apparently were in control of the security in Seoul. However, backed up with the newly increased forces Japan concluded the Treaty of Tientsin with China on April 3, 1885. (24)

According to the treaty both governments withdrew the respective forces from Korea. They also agreed that at any event when one of the parties should dispatch troops to Korea the other should be informed in advance. Japan now were on the equal footing with China in the competition for interests in Korea.

Under the apparent balance of power between China and Japan in Korea, some suggested that Korea should become a neutral state. In February 1885 German Vice Consul to Korea H. Buddler proposed for a possible neutrality of Korea. (25) He successfully persuaded Japanese Minister of Foreign Affairs Inoue Kaoru who was then visiting Seoul to negotiate the Treaty of Seoul. The proposal was transmitted to Kim Yun-shik the then Minister of Foreign Affairs. Upon being informed of the suggestion Kim instantly rejected it. It was also rejected by Li Hung-chang, who was brooding over an effective intervention policy into Korea.

Another proposal for neutrality was made by Yu Kil-jun, who had recently

(24) See the text of the treaty in Kukhoe-tosŏgwan, Kuhannal-choyok-huich' an, sang kwŏn, at 142.
(25) Ch'ing-Kuang-shu-Chung Jih-chiao-she-shih-liao (清光緒中日交涉史料), shang ts'e, No. 369, at 152.
studied for a year in Boston as the first Korean student in the United States. (26) He returned in November 1885 after the long journey of more than two years since he had left for the United States in the summer of 1883 as a member of the first Korean mission to the U.S. He maintained in his essay, On Neutrality (中立論) that “neutrality is the only way that we can preserve our country. It should be done by China not by Korea alone. We should persuade China by all means that a treaty to that effect should be concluded between interested powers like Great Britain, France, Japan and Russia under the leadership of China. Indeed, the neutrality of Korea is not only good for Korea but also for the benefit of China. Certainly this idea will preserve interests of other powers too. There would be no reason not to adopt it.” (27) A similar proposal was made in 1886 by Kim Ok-kyun, who was then in exile in Japan. He published a letter to Li Hung-chang at Tokyo Nichi Nichi Shinbun, criticizing Li’s advice to the Korean government to assassinate him. In his open letter, Kim Ok-kyun admonished Li to make Korea a neutral state to preserve the security in East Asia.

He asserted that the neutrality of Korea would be not only good for Korea but also beneficial for China. (28) China however would not listen to the idea of neutrality of Korea. China instead decided to strengthen its imperialistic control over Korea under the disguise of the tributary relationship. In November 1885 China replaced the Chinese Commercial Government Agent Ch’en Shu-t’ang with General Yüan Shin-k’ai who had participated in the expeditionary forces to Korea in 1882, and who had also played an active role in driving out the Japanese in 1884. China gave the twenty-seven year old Yüan a new title of Chu-ch’a-Ch’ao-Hsien-tsung-li-chiao-she-t’ung-shang-shi-i (駐箚朝鮮總理交涉通商事宜). (29) The long title was controversial in English translation. Yüan carried cards printed as “H.I.C.M. Resident.” American Chargé d’Affaires Ensign George C. Fouk called Yüan as “Commissioner with Diplomatic Powers.” British Consul General E. Colborne Baber labelled Yüan as “Resident Commissioner.” Yüan’s assistant asserted that “China cannot give the title of minister to its representative in Seoul, for that would be for China to admit the independence

(26) Yu Kil-jun, Yu Kil-jun chŏnsŏ(畑吉濟全書), Chongch’i-kyongje-p’yon(政治經濟續), at 319–328.
(27) Ibid.
(28) Kim Ok-kyun, Kim Ok-kyun chŏnjip(金玉均全集), at 151–152.
(29) See generally Jerome Ch’en, Yüan Shih-k’ai(Stanford University Press, California, 1961).
of Korea.” *(30) Yüan behaved in Korea almost like a Resident General in any colony. The question over his title and function was a grave one in the diplomatic circles in view of the conditions and understandings of the recent treaties of friendship, commerce and navigation which Korea had concluded with Japan and the other Western powers.

In June 1887 the Korean government decided to dispatch permanent diplomatic missions to the United States and Europe. Pak Chōng-yang was appointed to the Minister Plenipotentiary to the U.S., whereas Shim Sang-hak, who was later replaced with Cho Shin-hi, was appointed to the Minister Plenipotentiary to the Great Britain, Germany, Russia, Italy and France. China did not concern about the dispatch of Min Yong-jun to Japan as Minister Resident. Yüan Shih-k’ai however strongly urged the Korean government to give up the idea of sending a permanent mission to the United States and Europe. Yüan instantly reported the Korean intention to Li Hung-chang. On September 23, 1887, China sent a telegram to the Korean government under the name of the Emperor to the effect that Korea should ask Chinese sanction when she would send a diplomatic mission to Western countries. *(31) Notwithstanding the telegram, the Korean government decided to send the missions to the United States and Europe first and to report it later. Upon the information that the Korean envoy Minister Pak had left for the U.S., Yüan became furious. He instantly sent his associates to the South Gate of Seoul to stop Pak’s departure. Thus Pak had to enter into Seoul again. All that Korea could do at that time was to dispatch a special envoy Yun Kyu-sŏp to get an approval from the Chinese Emperor by submitting a humble memorial from the King of Korea.

“As a dependent state Korea reverently maintains and observes the proper rules of courtesy and respect, but as regards equality and mutual reciprocity with foreign nations, governmental prestige, and international relations, each has full powers. Later, other western nations negotiated treaties with Korea, all after the terms in general of the United States treaty, and after their provisions were agreed upon by the negotiators a memorial was presented to your majesty asking your sanction and approval. After the United States treaty


*(31) See Memorial from the King of Korea to the Emperor of China, in Enclosure No. 521. A dispatch from Mr. Denby at the U.S. legation in Peking to Mr. Bayard on December 9, 1887, compiled as Document No. 151 in *Foreign Relations of the United States*, at 236–238 (1888).
was ratified, the United States Government, in accordance with the provisions of treaty, sent a minister plenipotentiary to reside at Seoul. Your memorialist in turn sent an embassy of congratulation to the President of the United States, which in due time returned to Korea. But no mission has ever been sent to the other treaty powers. These powers, in consequence, have frequently represented to the Government of Korea that, as they are represented by accredited agents at Seoul, they invited Korea to send ministers to their courts. Your majesty's dependent state was not unmindful of the urgency of the times, at the same time it was desirous of carrying out the provisions of the treaties. Your memorialist has now appointed his minister Pak Ch'ông-yang as envoy extraordinary and minister plenipotentiary, and proposes to send him to the United States; also his minister Cho Shin-hi as envoy extraordinary and minister plenipotentiary, and proposes to depute him to represent Korea at the courts of Great Britain, France, Germany, Italy, and Russia, to be clothed with power to attend to international questions arising in those countries. Your memorialist, in presenting the foregoing fact, begs that as an extra act of grace your majesty will condescend to give your sanction and approval to the sending abroad of the ministers named, to the end that the question regarding envoys may be settled in conformity with the stipulations of treaty.” (32)

The Secretary of State Bayard instructed the U.S. Minister to China Charles Denby to send a protest to the effect that it was a deep regret that the Chinese officials interfered with the domestic matter of Korea in dispatching missions. The Secretary Bayard subsequently instructed to Denby as follows:

“...The reciprocal sending and receiving of diplomatic and consular officers is provided for in the treaty between the United States and Korea. No act of national sovereignty is more express and decided than this, and it is necessarily an attribute of the power to manage her own affairs, domestic and foreign, which, as the United States were assured when the treaty with Korea was negotiated, belonged to Korea, notwithstanding her tributary relation to China. That treaty sprang, logically, from the announcement of the Chinese Government that its treaties with foreign powers did not extend to Korea, and that it was in no way internationally responsible for any acts

(32) Ibid. This English translation of the memorial was by the U.S. legation based on the Chinese text published in the Shi-Pao (時報).
of Korea toward foreigners. By treaty Korea assumes that responsibility.

It seems, now, from your telegram, that the accepted sovereignty of Korea in her foreign relations is not absolute. It seems to be claimed by China that one of the simplest and most ordinary provisions of the treaty can not be executed without the King of Korea memorializing the Emperor of China and being accorded permission to do so. The right to accord permission necessarily involves the right to refuse it, but the exercise of the latter right suggests a responsibility which has not heretofore been admitted and is expressly disclaimed. What would have been the consequence if the Emperor of China, in the exercise of a sovereign claim of right, had refused to allow Korea to maintain a diplomatic mission in the United States?

I do not think the advisers of His Majesty the Emperor have considered the necessary inference from the premises on which they act. For if the treaties of Korea with sovereign States can not be executed without the authority and consent of China, they can not be violated without the responsibility of China.”

The U.S. Minister to Korea Dinsmore also lodged a protest to Yiian to the effect that the 1882 Korean-American treaty was concluded by the mediation of Li Hung-chang, and that it was well known that permanent embassies should be mutually dispatched according to the treaty. Li Hung-chang insisted that the rank of the Korean envoy should be chargé d'affaires instead of minister plenipotentiary because China had already sent a minister resident to the United States and to the powers in Europe. However, Korea still insisted that she should send ministers plenipotentiary because her government had already notified to the United States and other treaty powers to the effect. China in the end stated that Korea might send ministers plenipotentiary on conditions, which the Korean mission should follow:

that Korean minister abroad must first present himself to the Chinese minister and be introduced by him at the foreign office; that in all official and social assemblies the Korean minister shall yield precedence to the

(33) A dispatch of the U.S. Department of State from Mr. Bayard to Denby, as Document No. 247, on November 4, 1887, U.S. Foreign Relations, Document No. 135, at 224.
(34) The Executive Documents, Inclosure 3 in No. 53, Mr. Dinsmore to Mr. Yuan Shih-k'ai, Legation of the United States, Seoul, Korea, September 27, 1887.
(35) Paik Il-gun, Kandae-Han-Mi-oegyosa, at 430(1968).
Chinese Minister; and that upon affairs of importance touching the business of the service, the Korean Minister shall always advise with the Chinese Minister secretly before taking action.\(^{(36)}\)

The Korean mission, composed of the Minister Plenipotentiary Pak Chông-yang, Councillor Yi Wan-yong, Secretaries Yi Ha-yŏng, and Yi Sang-jae, Translator Yi Shi-yŏn, and an American Councillor H.N. Allen, finally departed for Washington on September 27, 1887. Upon their landing at San Francisco on January 1, 1888, the Chinese Minister to the U.S. Chang Yen-hoon sent a note to the Department of State that the Korean mission would follow above the three items. However the Korean mission completely ignored the three items which had been demanded by China. Pak Chông-yang presented the credential to President Crover Cleveland at the White House on January 17, 1888. \(^{(37)}\)

China lodged a strong protest to the Korean court concerning the matter of the three items that Pak Chông-yang had not followed. The Korean government made all kinds of excuses, assuring that they would investigate the matter. They stated that Pak himself did not follow the government instruction, for probably Pak was deeply concerned about the Korean disgrace and the possibility that the U.S. government would not receive his credential if he visited the White House led by the Chinese Minister. Li Hung-chang said finally that he was willing to give up the first item which required the Korean mission to be guided by the Chinese Minister upon arrival at the Chinese legation first. \(^{(38)}\)

Due to the unremitting criticism from China, Pak Chông-yang had to return from Washington in November 1889 after two year service. Thereafter the Korean legation was managed by Councillors and Secretaries. Pak spent almost four months in Japan and arrived in Pusan in the late third month. Even after his arrival in Seoul, he delayed his presentation to the King because of the Chinese demand for his punishment. Yüan asserted that Pak was a criminal

\(^{(36)}\) See a dispatch from Mr. Denby to Mr. Bayard as Document No. 551 on January 21, 1888 in *Foreign Relations of the United States*, at 249 (1889). See also Li-Wen-Chung-Kung-ch'uan-chih, 〈李文忠公全集〉tien-kao (電稿) 9, 24th of the 9th month of the 24th year of Kuangshu (1887).

\(^{(37)}\) See the address made by Mr. Pak Chông-yang when he presented his credentials to the President on January 17, 1888, in *The Executive Documents*: No. 63, Mr. Bayard to Mr. Dinsmore (Inclosure 1 in No. 63 Translation). See also the reply of the President to the address of Mr. Pak Chông-yang, Korean Minister, on the occasion of presenting his credentials, in inclosure in No. 63, *ibid.*

\(^{(38)}\) Li-Wen-Chung-Kung-ch'uan-chih (李文忠公全集) tien-kao (電稿), chi-i-shu (寄譯署), the 2nd of the 12th month of the 13th year of Kuangshu.
who violated the Chinese law as well as the Korean law. As late as the
twenty-fourth of the sixth month, Pak presented himself to the throne. He
presented a report, stating that no international practices had ever shown
such an example that a minister of an independent state visited a third state’s
legation first and then guided by the minister of the third state to the Presi-
dent.  
Yüan tenaciously urged the Korean government to punish Pak. The
Korean government would not listen to the Chinese advice. The next year of his
return, he was appointed to Minister of Justice and later to Minister of Finance.
China was unhappy with his promotion, but had to accept his appointment as
a fact on condition that he should not be appointed again as an envoy.

China further attempted to tighten up its alleged suzerainty over Korea.
Owing to the strong pressure from China Minister Pak Ch'ong-yang was
finally summoned from Washington. China also successfully blocked the Korean
envoy Minister Cho Shin-hi from departing for his posts in Europe. Cho
departed from Seoul via Hong Kong for Europe sometime after Pak Ch'ong-
yang’s departure for the U.S., but he could not go farther than Hong Kong
due to the Chinese pressure. He returned to Korea without the order of the
King in early 1890 on the pretext of his illness. Upon his landing at Inchon
the King ordered him to go to his place of exile directly, ignoring the request
of Yüan Shih-k'ai not to punish him. Due to the Chinese intervention, some
diplomats regarded Korean independence gloomy. American Minister to China
Denby dispatched to Washington a copy of the memorial of the King of Korea
to the Emperor, published in the Chinese newspaper Shih Pao, wherein the
King used all the humble words as a tributary state. It appeared to Denby
that it was a complete recognition of the status as a vassal state. The Secretary
of State Bayard then reminded him of the letter from the King of Korea to the
President, wherein it was clearly stated that “Korea has been from ancient
times a state tributary to China, yet hitherto full sovereignty has been exercised
by the Kings of Korea in all the matters of internal administration and foreign

(39) Ibid., tien-kao(電稿) 11, chi-i-shu(寄譯書), the 5th of the 7th month of the 15th year of
Kuangshu.
(40) Ibid., tien-kao, chüan 13, Fu-t'ang-ch'eng-shao-i(復唐山紹義) Fu-Ch'ao-Hsien-t'ang-ch'eng(復
朝鮮唐移), hu-an(華案) 23, the 19th and 24th of the 9th month, the 21st of the 10th
month, and the 11th of the 11th month of the 17th year of Kuangshu.
(41) Ibid., tien-kao, chüan 12, chi-i-shu(寄譯書), the 13th of the 1st month of the 16th year of
Kuangshu.
(42) See note 32 supra.
relations. He asserted that the best interests for the United States was the sincere observance of the treaty instead of any attempt to intervene into the controversial tributary issues between China and Korea. German Consul General to Korea Baber, and Eduard Zappe who later replaced Baber, on the other hand, advised Yüan Shih-kai to have Korea not to dispatch any permanent missions to the West, for it would be a disgrace to China. British Consul General also advised Yüan Shih-kai to the same effect, for once Korea would dispatch a permanent mission to the West, no one there would believe that Korea was now a vassal to China.

Many foreigners sympathized with the Korean situation, apparently seized by the Chinese imperialistic control. Probably Judge O.N. Denny, an American who was an Advisor to the King and the Director of Foreign Affairs, was the first that clarified the legal status of Korea vis-à-vis China. In his monograph China and Korea, published in Shanghai in 1888, he asserted that the concept of the tributary was merely nominal in the Sino-Korean relations. He pointed out that despite the arguable capitulation of Korea in 1636 China had never asked Korea to send troops to defend Chinese borders as a duty of a vassal. He also asserted that Korea had a right of negotiation whereas a vassal state had not, and that Korea concluded treaties of friendship, commerce and navigation with other sovereign states without reference to China which a vassal state could not do.

He further maintained that Korea sent ministers plenipotentiary to the treaty powers, while a vassal could only appoint a consul, and that Korea had a right to declare war or peace. Furthermore, according to him China was represented by a diplomatic officer and consuls at all the open-ports in Korea. Denny then cited a letter written by “a fearless and impartial correspondent” concerning the contemporary matter of Korean independence.

“The present action of China in this instance is an attempt to crush out the liberty of Korea, and comes within the scope of Art. 1st of the United States Treaty, which provides that if other powers (including of course China) deal unjustly or oppressively with Korea, America will use its good

(43) See note 2 supra.
(44) See tien-kao (雲橋), supra note 38. Chi-Ch'ao-Hsien-Yüan-tao (富朝鮮袁濤), the 2nd of the 8th month of the 13th year of Kuang-hsu.
(45) See Denny at supra note 1, passim.
offices in her behalf. What Great Britain would do in the similar case of an envoy being appointed by the King of Korea to the court of St. James being stopped by China from going there, may be safely inferred by its treaty stipulations with Korea, which in Art. 2nd provide that Korea as a high contracting party (no mention being made of the high suzerainty of China or of Korea being a vassal state) may appoint a diplomatic representative to reside permanently in England with all the privileges and immunities that are enjoyed by the diplomatic functionaries in other countries. Great Britain could not legally refuse to receive an envoy from Korea under her treaty. France, Germany, Italy and Russia have no doubt similar clauses in their treaties with Korea, and it remains to be seen how they will suffer and resent such preposterous interference on the part of China with Korea's right of Embassy after those powers have recognised it, should China presume to claim any pretext for limiting such right when Korean envoys are appointed to them.\(^{(46)}\)

U.S. Minister Augustine Heard, who succeeded Dinsmore on May 8, 1890, was particularly interested in the Korean independence. Not long after assuming his post, he wrote to the Secretary of Department of State that “a league between China, Russia and Japan to guarantee the neutrality and integrity of Korea would conduce enormously to her advancement, politically, financially, and morally.”\(^{(47)}\) Minister Heard further maintained in his later dispatch that:

“Briefly, Korea can never become prosperous, so long as she is held down and expansion prohibited by China. With that oppression removed she would have a chance of reform and progress. She is naturally a rich country, and, if she fails, she would fail by her own fault. Her development should be conducted under the benevolent auspices of China, who would find her account in it by the creation of a prosperous and gratefully, and thereby add to her own strength. I fear this is too much to hope for, but at all events she has no right to impede it.\(^{(48)}\)”

China who started Korean trade in 1883 seven years later than Japan had steadily increased her trade with Korea closely rivaling with Japan within a decade. In 1892 the amount of Chinese export to Korea was 149,661 won,
which was 14 times more than that of her import from Korea⁴⁹. Korea was a treasure box of China, which could moderately fill up their empty treasury when it would become vacant due to the trade with the imperialists with the gold earned from the trade with Korea. Korea was then suffering from similar exploitation by Japan and other treaty powers. The increasing misgovernment brought about the first rebellions in 1893 in Cholla province, which in turn caused Chinese and Japanese warships to assemble at the Bay of Kanghwa. In 1894 the rebellion spread through the country, bearing an anti-foreign turn.

(This article will be continued in the next issue of this Journal)

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