

Article 2 of the Treaty of San Francisco and Takeshima –With a Focus on the Negotiation Process in 1951–*

Kenji Fujii**

Abstract

Prior studies have already made it amply clear that the Treaty of Peace with Japan (Treaty of San Francisco or San Francisco Peace Treaty) signed on September 8, 1951, officially confirmed that Japan retains Takeshima. Nevertheless, as expressed in a public relations booklet titled “Dokdo, Beautiful Island of Korea” which was published by the Ministry of Foreign Affairs of the Republic of Korea, the ROK Government has a different view. With respect to Treaty’s Chapter II Territory, Article 2(a), which provides that “Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet,” South Korean government insisted that “the mere fact that Dokdo [Korean name of Takeshima] is not explicitly mentioned in the said article does not suggest that Dokdo is not included among those territories of Korea that have been separated from Japan.” Furthermore, the South Korean government continued to argue, “In consideration of the Allied Powers’ stance, . . . it should be understood that Dokdo is included among the territories of Korea separated from Japan.”

It was during the working-level consultations between the United States and the United Kingdom in April through May 1951 that the wording of this article was de facto finalized. Therefore, in Part I of this paper, the author reviewed the working-level consultations in order to verify the South Korean argument, the outcome of which follows below.

As a result of the author’s review, it was reconfirmed that, at the U.S.-U.K. working-level consultations, accepting British emphasis on the “desirability of disposing of islands between Japan and Korea by specific mention,” the U.S. agreed to clearly specify the islands that belong to “Korea” which would be renounced by Japan. In return, the British government withdrew its proposal to enclose Japan with a territorial demarcation line and place Takeshima out of the line. Thus, Takeshima is not included in the term “Korea (including Quelpart, Port Hamilton and Dagelet)” in the U.S.-U.K. joint draft made after the above-mentioned working-level consultations. Consequently, the U.S. government’s position that Takeshima should be retained by Japan was shared with Britain, making it the Allied Powers’ common understanding.

In Part II of the attached article, the author draws attention to the U.S. and Australian repudiation of ROK’s 1951 demand for Takeshima. The U.S. government understood that Japan’s territorial title over Takeshima was based on “continuous and peaceful display of national authority.” By the same token, in July 1951, the U.S. turned down the ROK government’s demand for Tsushima that had been made in May the same year; the United States did not subscribe to the South Korean argument that Korea was a member of the Allied Powers and deserved to get a portion of victor’s booty.

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** Kenji Fujii is Advisor on the Takeshima Island Issue at Shimane Prefecture.

Then, the Republic of Korea requested Australia to support its alternative requests for demilitarization of Tsushima and the ownership of Takeshima. South Korean lobbying to the U.S. for Takeshima and South Korean *démarche* for Australian support was conducted almost simultaneously. In both cases, South Korea cited the security need to counter the threat of Japan as the grounds for its demands. Here, it is likely that South Korea had intention to convince the Allied Powers countries Tsushima's importance for Korea's security in the face of the threat of Japan and to argue that the same reasoning could be applied to its claims to Takeshima.

The South Korean demand for Takeshima was decided on very short notice after its request for the ownership of Tsushima had been turned down by the U.S.. This probably explains the reasons why the South Korean side referred to Takeshima only as Dokdo in its request to the U.S. and Australia and even provided false information on the location of the island. Bewildered by the sudden and unclear requests from South Korea, neither the U.S. nor Australia responded affirmatively. Australia could not understand which island South Korea was referring to. After South Korea had provided the precise coordinate of Dokdo, the U.S. finally realized that the island that ROK was requesting was, as a matter of fact, Takeshima. Immediately after that, the U.S. government notified South Korea of the Allied Powers' common understanding that Japan was to retain Takeshima in an official letter by Assistant Secretary for State Dean Rusk in August 1951. Korea did not show any legal grounds for its territorial rights over Takeshima and could not supersede the Allied Powers' common understanding. And nothing indicates that Korea's argument for sovereignty over Takeshima for security reasons was considered among the Allies.

Nevertheless, even when it was notified by the U.S. that Takeshima would be retained by Japan and even though it could not find any legal grounds for its sovereignty over the island, South Korea could not stop its greed for unlawful occupation of Takeshima. One cannot but suspect that at the core of South Korea's demand for Takeshima was the same irresistible craving for obtaining a territory from Japan as a victorious member of the Allied Powers that the ROK did not hide in its earlier demand for Tsushima.

Introduction

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Introduction

Prior studies¹ have already made it amply clear that the Treaty of Peace with Japan (Treaty of San Francisco or San Francisco Peace Treaty hereafter) signed on September 8, 1951, and taking effect on April 28 the following year, officially confirmed that Japan retains Takeshima. Nevertheless, the Republic of Korea claims otherwise.

For instance, on page 30 of “Dokdo, Beautiful Island of Korea,” a public relations booklet of the Ministry of Foreign Affairs of the Republic of Korea, it is stated:

Article 2(a) of the Treaty of Peace with Japan of 1951 provides, “Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.” Of Korea’s some 3,000 islands, the said article refers to only Jejudo (Quelpart), Geomundo (Port Hamilton), and Ulleungdo (Dagelet) as examples. Therefore, the mere fact that Dokdo is not explicitly mentioned in the said article does not suggest that Dokdo is not included among those territories of Korea separated from Japan.

It was during the working-level consultations between the United States and the United Kingdom in 1951 that the wording of this article was de facto finalized. Therefore, in Part I of this paper, the author reviews discussions on Takeshima during the U.S.-U.K. working-level consultations in April and May 1951 for the purpose of reconfirming that the argument in “Dokdo, Beautiful Island of Korea” is inconsistent with the relevant facts. The author corroborates his argument with materials and documents he found in his recent overseas surveys.

Furthermore, “Dokdo, Beautiful Island of Korea” argues that, “in consideration of the Allied Powers’ stance reflected in the Cairo Declaration of 1943 and SCAPIN-677 of 1946, it is evident that Dokdo is included among the territories of Korea separated from Japan.” With this South Korean argument as backdrop, the author reviews in Part II on the discussions on Takeshima in the drafting process of the treaty in 1951, in which the U.S. and Australia repudiated South Korean demand. In contradiction to the South Korean assertion otherwise, it is clear that “the Allied Powers’ stance” on Takeshima was not consistent with South Korea’s argument that “Dokdo is included among the territories of Korea separated from Japan.” Part II is devoted to the reconfirmation of this historical fact. In particular, the author will focus on the shift in South Korea’s territorial claim from Tsushima to Takeshima.

¹ They include: Tsukamoto Takashi, “San Furansisuko Jōyaku to Takeshima—Bei gaikō bunshoshū yori” [Treaty of San Francisco and Takeshima—as depicted from the compilation of U.S. diplomatic documents], *Reference* no. 389 (June 1983) compiled by the Research and Legislative Reference Bureau, National Diet Library; Tsukamoto Takashi, “Heiwa Jōyaku to Takeshima sairon” [Peace Treaty and Takeshima revisited], *Reference* no. 518 (March 1994); Tsukamoto Takashi, “Tainichi Heiwa Jōyaku to Takeshima no hōteki chii” [Treaty of San Francisco and Takeshima’s legal status], *Tōsho Kenkyū Jānaru* 2 no.1 (October 2012) compiled by the OPRI Center for Island Studies; Tsukamoto Takashi, “Takeshima ni kansuru eibun setsumeishi shiryō (1947-nen Gaimushō sakusei) wo megutte” [On briefing material on Takeshima in the English language prepared in 1947 by the Ministry of Foreign Affairs], *Tōsho Kenkyū Jānaru* 4 no.1 (November 2014); Yamasaki Yoshiko, “Kankoku seifu ni yoru Takeshima ryōyū konkyo no sōsaku” [The invention of a basis for the possession of Takeshima by the South Korean government], *Dai 2-ki Takeshima mondai ni Kansuru chōsa kenkyū saishū hōkokusho* [Final report of the survey and research on the Takeshima issue phase 2], March 2012 compiled by General Affairs Division, Shimane Prefecture; Fujii Kenji, “Tainichi Kōwa Jōyaku to Takeshima—Eikoku kokuritsu kōbunshokan shozō shiryō no kentō” [Treaty of San Francisco and Takeshima—examination of documents collected by the National Archives (United Kingdom)], *Tōsho Kenkyū Jānaru* 8 no.2 (March 2019); and Fujii Kenji, “San Furansisuko Heiwa Jōyaku ni okeru Takeshima no toriatsukai ni tsuite” [On how Takeshima is treated in the Treaty of San Francisco], *Tōsho Kenkyū Jānaru* 10 no.1 (October 2020).

It should be pointed out at the outset that many of the documents quoted were found in overseas archives and collected by the author in the course of field research commissioned by the Japan Institute of International Affairs.²

Part I: Discussions on Takeshima during the U.S.-U.K. Working-level Consultations

1. Discussions on Takeshima during the Peace Treaty Drafting Process

The drafts of the peace treaty with Japan, which the U.S. Department of State had been preparing since 1947, proposed to take Takeshima away from Japan and to include it in a part of “Korea” that Japan should renounce. This policy on Takeshima, however, was reversed in 1949. In the treaty draft on the December 29, 1949, Article 3 of Chapter II “Territory” clauses included Takeshima in the list of islands that Japan would retain, while in Article 6, a provision on the renunciation of Korea, Takeshima was deleted from the list of islands belonging to Korea.

The Commentary made in July 1950 on the Draft Treaty of Peace with Japan on December 29, 1949 prepared by the U.S. Department of State contains the following statement with respect to Article 3 (territorial clause) of the draft:

Takeshima (Liancourt Rocks)—the two uninhabited islets of Takeshima, almost equidistant from Japan and Korea in the Japan Sea—were formally claimed by Japan in 1905, apparently without protest by Korea, and placed under the jurisdiction of the Oki Islands Branch Office of Shimane Prefecture. They are a breeding ground for sea lions, and records show that for a long time Japanese fishermen migrated there during certain seasons. Unlike Dagelet Island a short distance to the west, Takeshima has no Korean name and does not appear ever to have been claimed by Korea.³

The U.S. government’s position that Japan was to retain Takeshima was based on the understanding that Japan has territorial title of “continuous and peaceful display of national authority,” or “effective occupation” over the island. The “Continuous and peaceful display of national authority” has functioned as one of the criteria for judgment in international adjudications. “Display of national authority” signifies that “a state actually treats a particular region as its own territory,” including imposing taxes and providing approvals and licenses. One can say the display is “continuous and peaceful” when this state can demonstrate its power and authority in the said region repeatedly in a certain duration of time without protestations from others.⁴

Under the leadership of John Foster Dulles, who had been appointed Advisor to the Secretary

² The author conducted research in The National Archives United Kingdom (TNA henceforth), the National Archives of Australia (NAA henceforth), the National Archives and Records Administration, USA (NARA henceforth), and the Archives New Zealand (ANZ henceforth). Quoted in the text with * were documents obtained as images by Streamgraph Inc., commissioned by the Office of Policy Planning and Coordination on Territory and Sovereignty, Cabinet Secretariat, from which the author benefitted. It should be stressed, however, that this paper is based on the author’s personal view and does not necessarily reflect views of the Japan Institute of International Affairs, the Office of Policy Planning and Coordination on Territory and Sovereignty, Cabinet Secretariat, or Streamgraph Inc.

³ “COMMENTARY ON DRAFT OF PEACE WITH JAPAN” (NARA, RG59, Central Decimal File 1950–54 Box3006, 694.001/7-1750) and Tsukamoto Takashi (1994), *supra* note 1, p. 44.

⁴ Tsukamoto Takashi, “Kokusaiho teki kenchi kara mita Takeshima mondai” [The Takeshima issue seen from the viewpoint of international laws], *Fujōri to tatakau* [Fighting the unreasonable] (Bungei Shunju Kikaku Shuppanbu, August 2017), pp. 124–125.

of State of the U.S. government in April 1950, the text of the draft peace treaty prepared became much simpler in comparison with previous versions. For instance, no longer did the draft include an article defining Japan's territory or an enumeration of islands belonging to Japan or attached maps. The article stipulating Japan's renouncement of Korean territory did not include which islands Japan was to abandon as a part of Korea. As shown in the October 1950 reply to Australia on the Seven Principles of the Peace Treaty with Japan, however, the U.S. position that Takeshima belonged to Japan remained unchanged.⁵

Meanwhile, the U.K. government was also in consultation with the Commonwealth members on the peace treaty with Japan. It was during the U.S.-U.K. working-level consultations in April through May 1951 that the two countries coordinated the texts of their respective treaty drafts. In the consultations, both the U.S. draft peace treaty, which was made on March 23, 1951 (U.S. March draft henceforth), as well as the U.K. draft peace treaty of April 7, 1951 (U.K. April draft henceforth) were out on the table and a U.S.-U.K. joint draft of May 3, 1951 was made. The joint draft treaty was further revised when Dulles visited London for U.S.-U.K. discussions in June 1951 to become the joint draft treaty of June 14, 1951 (revised U.S.-U.K. joint draft henceforth). In the course of revisions, the wording of articles related to the renouncement of Korea has been somewhat modified, but, after the draft of June 14, 1951, the relevant text stayed the same when the Treaty of San Francisco was finalized.

2. Discussions on Takeshima during the U.S.-U.K. Working-level Consultations

In the U.S.-U.K. working-level consultations⁶ convened on April 25 through May 4, 1951, the U.S. and U.K. governments submitted their respective draft peace treaties.

In the U.S. March draft, Article 2 of Chapter 2 on sovereignty provided that "the Allied Powers recognise the full sovereignty of the Japanese people over Japan and its territorial waters." Article 3 of Chapter 3 on territory provided that "Japan renounces all rights, titles, and claims to Korea, Formosa and the Pescadores."⁷ Article 1 of Part 1 on territorial clauses of the U.K. April draft, on the other hand, carried a map of Japan surrounded by a line within which Japan's sovereignty would be retained. With respect to the Sea of Japan, the line was drawn from a point between Korea and the island of Tsushima in the direction "with the islands of Oki-Retto to the south-east and Take Shima to the north-west," thereby putting Takeshima out of the areas that Japan would retain territorial sovereignty. Article 2 of the same section called for Japan to renounce "any claim

⁵ For details, see Saitō Kōhei, "Shiryōgun (1): Beikoku tainichi kōwa 7 gensoku ni taisuru Gōshū no shitsumonsho oyobi soren ni taisuru Beikoku no kaitōsho" [Document Group (1) Questions Submitted by Australia to the United States Regarding the Seven Principles for a Peace Treaty with Japan, and the U.S. Response] in the "Press Release on Collecting of Archive Materials on Territory and Sovereignty (Results to date with Relation to Takeshima)" on the webpage of the Japan Institute of International Affairs on September 10, 2019 (https://www2.jiia.or.jp/pdf/JIC/10910-press_release_takeshima_attached.pdf).

⁶ On the U.S.-U.K. working-level consultations, see "Shiryōgun 2: Bei-Ei jimu reberu kyōgi oyobi 1951-nen 5-gatsu 3-nichi zuke Bei-Ei kyōdō sōan" [Document Group (2) Anglo-American Working-level Meetings and the Joint U.S.-U.K. Draft of May 3, 1951] included in the earlier quoted "Press Release on Collecting of Archive Materials on Territory and Sovereignty (Results to date with Relation to Takeshima)" on the webpage of the Japan Institute of International Affairs on September 10, 2019 (https://www2.jiia.or.jp/pdf/JIC/10910-press_release_takeshima_attached.pdf).

⁷ "Japanese Peace Treaty: Attaches Provisional draft which is to be sent to H. M. Ambassador at Washington, intended to serve as preliminary working document" (TNA, FO371/92538, FJ1022/222) p. 16 & p. 18.

to sovereignty over, and all right, title, and interest in Korea.”⁸

The U.S.-U.K. joint draft produced as the result of the bilateral working-level consultations provided, in its Article 2, Chapter 2 on “Territory,” that “Japan renounces all rights, titles, and claims in connection with Korea (including Quelpart, Port Hamilton, and Dagelet). Tsukamoto Takashi points out that, “in the process of completing the U.S.-U.K. joint draft, not only the U.K. idea of surrounding Japan with a line but also putting Takeshima out of this line were dropped, thus retaining Takeshima as a part of Japanese territory.”⁹

Tsukamoto based his interpretation on the following two grounds. The first was the comments on the bilateral joint draft provided by the U.S. government, which said:

In the discussions at Washington the U.K. agreed to drop this proposal when the U.S. pointed to the psychological disadvantages of seeming to fence Japan in by a continuous line around Japan.... U.S. willingness to specify in the treaty that Korean territory included Quelpart, Port Hamilton and Dagelet also helped to persuade the British.¹⁰

⁸ Tsukamoto Takashi (1994), *supra* note 1, p. 46, which was originally taken from the earlier quoted “Japanese Peace Treaty: Attaches Provisional draft which is to be sent to H. M. Ambassador at Washington, intended to serve as preliminary working document” (FO371/92538, FJ1022/222), p. 15 & p. 17. In Chapter 6, Section 1, “Completion of the map attached to U.K. draft peace treaty with Japan in March 1951 and reconfirmation of Korea’s territorial right over Dokdo” in his book titled *독도 1947: 전후 독도문제와 한미일 관계* [Dokdo 1947: The Postwar Dokdo Issue and Tripartite Relations of Korea, the U.S. and Japan] (Paju: Dolbaege, August 2010) Jung Byung-Joon states that the attached map to the U.K. April draft had six meanings. Of these six meanings, the third signified that this map was not only a view of Britain, a major member of the Allies, alone but also a collective view held by members of the Commonwealth including Canada, Australia, New Zealand, South Africa, India, Pakistan, and Ceylon. In other words, Jung insists that the said map depicted the content of consensus reached at least among eight Commonwealth member countries as of March–April 1951, indicating that all of these countries had a common view that Dokdo was released from Japan to become a Korean territory (p. 579). Nevertheless, Jung failed to present grounds for his argument. Although the present author also conducted research of the literature to find what could endorse Jung’s conclusion, the search proved to be futile. For instance, the New Zealand government expressed a view on the U.S. March draft that, in light of the need to assure that there would be no territorial dispute in the future over any island in the vicinity of Japan, it would be desirable to accurately confirm Japan’s territory with the aid of a latitude-longitude location as proposed by the first article of the U.K. draft peace treaty. In my judgment, this merely indicated that the New Zealand government was in support of the British argument that it would be desirable to ascribe islands located between Japan and Korea to either country in a clear-cut fashion. It by no means argued that Takeshima should be taken out of Japan’s territory. (While the aforementioned Tsukamoto Takashi (1994) claimed that this New Zealand government’s view was attributed to FRUS (Foreign Relations of the United States) 1951 Vol. VI Part1 p. 1060, it was discovered that the original document was actually included in NAA, Item ID: 217102 Japanese Peace Settlement 1st May–31st May 1951.) (It is also recorded in Treaty, Draft, 23 Mar. 1951 (NARA, RG59, Lot File 56 D 527 Records of the Office of Northeast Asian Affairs, Relating to the Treaty of Peace with Japan - Subject File, 1945–51, Box No.6).) It should be pointed out that the text of Jung Byung-Joon’s other work, “영국 외무성의 대일평화조약 초안·부속지도의 성립 (1951.3) 과 한국독도영유권의 재확인” [A Draft of Peace Treaty with Japan by British Ministry of Foreign Affairs, the Formation of the Map attached to it (March, 1951) and Reconfirmation of Korean Possession of Dokdo], *한국독립운동사연구* [Journal of Korean Independence Movement Studies] 24 (Institute of Korean Independence Movement Studies, August 2005) is almost identical with Chapter 6, Section 1 of aforementioned *Dokuto 1947-sengo Dokuto mondai to Kan-Bei-Nichi kankei*, but this treatise does not include the above-quoted argument (p. 153).

⁹ Tsukamoto Takashi (1994), *supra* note 1, p. 47. The quoted portion of the U.S.-U.K. joint draft is found in FRUS (Foreign Relations of the United States) 1951 Vol. VI Part1, p. 1025. It is also recorded in Parts I – II : Peace Treaty (TNA, PREM8/1404).

¹⁰ FRUS (Foreign Relations of the United States) 1951 Vol. VI Part1, p. 1061.

The other was the summary report of the seventh bilateral discussion on May 2, 1951, prepared by the U.K. government. The report stated:

Both Delegations agreed that it would be preferable to specify only the territory over which Japan was renouncing sovereignty. In this connection, United States Article 3 would require the insertion of the three islands: Quelpart, Port Hamilton and Dagelet.¹¹

A record of the discussion with a party of Dutch officials on the draft Japan peace treaty on May 29, 1951,¹² whose presence was recently confirmed by the author, endorses the above view of Tsukamoto. In the course of briefings on the U.S.-U.K. working-level consultations, the British side made the following explanation regarding the handling of Articles 2 and 3 of the U.S. March draft:

Mr. Johnston [the Head of Japan and the Pacific Affairs, British Foreign Office] said that the United States representatives had agreed to drop this article. He added that United Kingdom representatives had not insisted on Article 1 of the United Kingdom draft in view of the American preference for and expanded version of Article 3 of the United States draft.

With this newly discovered document, it has been reconfirmed that, at the U.S.-U.K. working-level consultations, the United States agreed to drop Article 2 of its U.S. March draft in return for which the British side agreed to withdraw Article 1 of its U.K. April draft. The two sides agreed to further articulating Article 3 of the U.S. March draft by specifying the islands to be returned to Korea.

Additionally, the following record of discussions also endorses the view that Article 3 of the U.S. March draft was revised to specify names of islands to be returned to Korea: “[The] British mentioned the desirability of disposing of islands between Japan and Korea by specific mention. (This might be done by inserting ‘(including Quelpart)’ after ‘Korea’ in U. S. article 3).”¹³

This “desirability of disposing of islands between Japan and Korea by specific mention” had been a consistent argument for Britain throughout the drafting process of the peace treaty with Japan. On August 26 through September 2, 1947, a Commonwealth conference was convened in Canberra with the aim of exchanging views on drafting a peace treaty with Japan. The “Territorial, Political and General Clauses of the Treaty of Peace with Japan”¹⁴ of August 27, 1947, prepared by the U.K. delegates pointed out that “(a) a large number of islands in waters immediately adjacent to Japan which should clearly remain under Japanese sovereignty; and (b) a number of islands between Hokkaido and Sakhalin, between Hokkaido and the Kuriles, and between Japan proper and Korea in regard to the disposal of which some dispute may be expected.” Therefore, this document stressed, “[v]ery careful drafting of this section will be necessary in order to ensure

¹¹ “Anglo-American meetings on Japanese Peace Treaty. Summary record of seventh meeting” (TNA, FO371/92547, FJ1022/376) p. 66. Also, “Anglo-American meetings on Japanese Peace Treaty” (Japanese Peace Treaty (TNA, CO537/7103)), p. 240.

¹² “Discussion with a party of Dutch officials of the draft J.P.T. at the FO on 29th May” (TNA, FO 371/92553, FJ 1022/478) p. 21. Also, “Summary record of meetings held at the foreign office on 29th May with the representatives of the Netherlands Government” (Japanese Peace Treaty (TNA, CO537/7104)), p. 134.

¹³ “Check List of Positions Stated by U.S. and U.K. at April 25–27 meetings” (NARA, RG59, Central Decimal File 1950–54, BOX 3008, 694.001/4-2751).*

¹⁴ “Territorial, Political and General Clauses of the Treaty of Peace with Japan” (NAA, Item ID: 140452 Pacific affairs – Canberra Conference Agenda – [Commonwealth Conference on Japanese Peace Settlement, Canberra, 1947]).

that no islands are left in disputed sovereignty.”

On November 20, 1950, the United Kingdom Liaison Mission in Japan (de facto U.K. Embassy to the occupied Japan) sent a document titled “Certain matters affecting the present and future disposition of Japan’s former island territories”¹⁵ to the British Foreign Office in London. This document was prepared in response to the Dulles-led drafting of the peace treaty and influenced the drafting process of the British side. It should be noted that, in the section on “His Majesty’s Government’s policy,” this document referred to the above-mentioned part of the document prepared for the 1947 Commonwealth Conference: “very careful drafting of this section will be necessary in order to ensure that no islands are left in disputed sovereignty.”

In a document prepared on April 23, 1951, on the eve of the U.S.-U.K. working-level consultations,¹⁶ the British Foreign Office deliberated the U.S. March draft. On Article 2 of this U.S. draft, which provided, “[t]he Allied Powers recognise the full sovereignty of the Japanese people over Japan and its territorial waters,” the April 23 document stated, “Very careful drafting of this Section is essential in order to ensure that no islands near Japan are left in disputed sovereignty,” and pointed out that “this Article [of the U.S. March draft] in its present form is too imprecise to meet the criterion set out above.” The British Foreign Office was concerned that disputes over sovereignty of islands near Japan “might benefit the Soviet Union or other Communist States in Asia.” One can detect in this document in 1951 a stronger sense of urgency compared to the document prepared for the abovementioned Commonwealth Canberra Conference in 1947.

In addition, in the same April 23 document, the British Foreign Office criticized that Article 2 and Article 3 (“Japan renounces all rights, titles and claims to Korea, Formosa, and the Pescadores”) of the U.S. March draft, when combined, could lead to a sovereignty dispute over Quelpart and Takeshima as the draft failed to clarify who owned territorial rights to these islands. The British Foreign Office noted that while the Japanese people themselves had perceived Quelpart and Ulleungdo islands to be a part of Korea, “[i]f it is desirable to prevent future Korean acquisition of the Hornet Islands which are uninhabited, they might be retained by Japan.” This statement reveals that, while the U.K. had put Takeshima outside of Japan’s territorial line in its April draft, the position of the line in relation to Takeshima was arbitrary and the British side did not have any concrete reason to put the island outside of it.

From this it can be conjectured that the U.K. government was concerned with clarifying national boundaries, in hope of preventing sovereignty disputes over the islands. In other words, it was not much concerned with the attribution of each island situated between Japan and Korea itself. As soon as its concern of the boundary clarification was addressed, therefore, the U.K. government withdrew Article 1 of its draft, thereby dropping its proposal to enclose Japan with a line and place Takeshima out of Japan’s territorial line. Consequently, the U.S. government’s position that Takeshima should be retained by Japan was shared with Britain, making it the “Allied Powers’ stance.”

From the above process, it is obvious that, when Article 2 of Chapter 2 on “Territory” of the U.S.-U.K. joint draft proposed that “Japan renounces all rights, titles and claims to Korea (including Quelpart, Port Hamilton and Dagelet,)” the two governments meant “Korea” did not include Takeshima. Thus, the fact that, in Article 2 (a), Chapter II on “Territory” of the Treaty of San Francisco, which stipulates, “Japan, recognizing the independence of Korea, renounces all right, title, and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet,” “Dokdo

¹⁵ “Certain matters affecting the present and future disposition of Japan’s former island territories” (TNA, FO371/83825 J10114/5), p. 86.

¹⁶ “Attaches new edition of draft brief on U.S. provisional draft peace treaty with Japan on which discussion will be held in Washington” (TNA, FO371/92543, FJ1022/302), p. 63.

is not explicitly mentioned” means Takeshima is not a Korean but a Japanese territory under the Treaty.

Part II: South Korea’s Failed Attempt to Demand Takeshima through Negotiations

1. South Korea’s Demand for Tsushima and Its Rejection by the United States and Britain

In May 1951, the South Korean government requested the United States to revise the U.S. March draft; in July of the same year, it requested that the U.S.-U.K. joint draft be revised.¹⁷ It should be pointed out that, as far as the “Territory” chapter of the San Francisco Peace Treaty was concerned, South Korea had not demanded Takeshima from the beginning. Indeed, it was Tsushima that the South Korean government demanded first.

On May 7, 1951, Kim Sae-Sun, acting South Korean Ambassador to the United States sent a letter to the U.S. Secretary of State Dean Gooderham Acheson. In this letter, he attached South Korean government’s request dated April 27, 1951 concerning the U.S. March draft.¹⁸ In this attachment, the South Korean government, in relation to Article 3 (on Japan’s renouncement of Korean territories), Chapter 3 on “Territory” of the draft, requested that Japan “return” Tsushima to Korea (p. 3).

The “Comments on Korean Note Regarding U. S. Treaty Draft”¹⁹ with a handwritten “May 9” in the margin, which was found in the NARA, would be comments of the U.S. government to the South Korean requests on April 27, 1951. The South Korean requests were organized into eleven items,²⁰ of which the fifth was the request to return Tsushima to Korea. The U.S. government’s comment to this fifth item was that the ground of the request was “extremely weak.” In his meeting with Yang Yu-Chan, South Korean Ambassador to Washington, D.C., on July 9, 1951, Dulles rejected the South Korean request to “return” Tsushima, upon which Yang acknowledged

¹⁷ The U.S. March draft was circulated in March 1951 to the South Korean government, while the revised U.S.-U.K. joint draft was circulated to the South Korean government on July 3 in the same year. See “Japanese Peace Treaty Negotiations – Alleged Cavalier Treatment of Other Allies by the United States” (NAA, Item ID: 140426 Japanese Peace Treaty – Drafts).

¹⁸ A letter from Kim Sae-Sun chargé d’affaires a.i. to Dean Acheson, the Secretary of State May 7, 1951 (NARA, RG59, Central Decimal File 1950–54, BOX 3008, 694.001/5-751). * The portion on the demand for Tsushima is found on page 2 of the request letter. See also Jung Byung-Joon, *Dokuto 1947-sengo Dokuto mondai to Kan-Bei-Nichi kankei* [Dokdo 1947-postwar Dokdo dispute and Korea-U.S.-Japan relations] (in Korean language), pp. 709–726.

¹⁹ “Comments on Korean Note Regarding U. S. Treaty Draft” (NARA, RG59, Lot54 JAPANESE PEACE TREATY FILES OF JOHN FOSTER DULLES, Box 8, Korea). *

²⁰ According to Tsukamoto Takashi, “Kankoku no tai-Nichi heiwa jōyaku shomei mondai—Nicchō kōshō, sengo hoshō mondai ni kanren shite” [The issue of Korea’s signing of the Peace Treaty with Japan—in relation to Japan-Korea negotiations and postwar compensation], *Reference* no. 494 (March 1992), p. 97–98, South Korea made the following demands: (1) Korea should be specifically designated as Allied Powers; (2) Korea should be permitted to sign the treaty, as Poland was [a signee of] the Versailles Treaty; (3) Japan’s admission to the UN should be tied to Korea’s; (4) Koreans in Japan should be accorded the status of the Allied nationals; (5) Tsushima should be “returned” to Korea; (6) Korea should be included in any Pacific security system; (7) The “MacArthur (fishing) Line” between Korea and Japan should be reserved in the treaty; (8) Korea should be permitted to seize all Japanese properties in Korea without regard to the exceptions listed in our draft; (9) Korea should have the same right as the Allied Powers to the restoration of Korean property in Japan; (10) Korea requests that it be made a party to the International Court of Justice; and (11) Korea should be specifically included as an Allied Power. These eleven items are almost identical to the contents of requests from (1) through (11) handwritten in the South Korean request documents on April 27.

in a meeting on July 19 that South Korea withdrew its request for Tsushima.²¹

In the letter of I Myo-Mook, South Korean Minister to Britain, to U.K. Foreign Minister Herbert Morrison dated July 20, 1951, the South Korean government conveyed its requests regarding the peace treaty draft. The British Foreign Office reorganized the requests into the following nine items²² (see table 1).

Table 1. South Korean government's requests submitted to the U.K. government on July 20, 1951

1. The term “Allied Power” should be defined specifically include Korea. (Preamble)
2. Any future status which may be acquired by Japan in connection with an application for membership in the United Nations should be limited to a status equivalent to that enjoyed by South Korea. (Preamble)
3. Korean residents in Japan should be treated as citizens of an Allied Powers member. (Preamble)
4. The island of Tsushima should be transferred from Japan to Korea. (Chapter 3: Territory)
5. Special consideration should be given to the importance of Korea in the maintenance of peace and security in the Pacific. (Chapter 4: Security)
6. The MacArthur Line should be maintained. (Chapter 5: Political and Economic Clauses)
7. While Allied Powers can protect their rights through bilateral agreements, Korea does not have such agreements due to forty years of the Japanese occupation. The relevant article should be revised so that Korean rights are equally protected with other countries having bilateral agreements with Japan. (Chapter 5: Politics and Economy)
8. It should be recognized that Japanese properties in Korea and Korean properties in Japan belong to Korea. (Chapter 6: Claims and Property)
9. South Korea should be made a party to the International Court of Justice. (Chapter 7: Settlement of Disputes)

These requests to Britain were almost identical to South Korea's requests to the U.S. government on April 27, 1951. As can be detected from the South Korean reference to “Territory” as Chapter 3, these requests were based not on the revised U.S.-U.K. joint draft but on the U.S. March draft. (In the former, “Territory” constituted Chapter 2, instead.) Even though the revised U.S.-U.K. joint draft of June 14, 1951, had already been shared with South Korea, South Korea did not base its requests on that draft.

On August 2, 1951, the British Foreign Office tabulated requests regarding the peace treaty with Japan submitted from various countries concerned and comments on them.²³ In response to South Korea's demand for the return of Tsushima, the comment said, “This is unacceptable because Tsushima has been Japanese since the dawn of Japanese history and inhabitants are

²¹ “Memorandum of Conversation on July 9 & 19, 1951” (NARA, RG59, Lot54 JAPANESE PEACE TREATY FILES OF JOHN FOSTER DULLES, Box 8, Korea), FRUS (Foreign Relations of the United States) 1951 Vol. VI Part 1, pp. 1183–1184 and pp. 1202–1206, Tsukamoto Takashi (1983), *supra* note 1, pp. 58–63, and Tsukamoto Takashi (1994), *supra* note 1, pp. 48–49.

²² “Encloses Korean comments and suggestions on J.P.T.” (TNA, FO371/92570, FJ1022/799), pp. 27–28. See pp. 33–39 for the South Korean request.

²³ “State Department would still like Mr. Fitzmaurice to go the U States” (TNA, FO371/92574, FJ1022/876), pp. 56–68 (see p. 56). An identical document is found in “JAPANESE PEACE TREATY: PROPOSED AMENDMENTS WITH COMMENTS” (TNA, CO 537/7106), pp. 269–283 and pp. 375–387 (see p. 271 & p. 375). This document was produced for the benefit of Gerald Gray Fitzmaurice, legal counsel to the British Foreign Office, who was on his way to the United States to assist finalization of the peace treaty.

Japanese by speech, race, and choice.” Subsequently on August 17, in a letter from the British Foreign Office to Minister I Myo-Mook²⁴ responding to the South Korean requests, the U.K. government turned down South Korea’s demand for Tsushima, pointing out that “the island is Japanese and should remain part of Japan.”

2. Logic behind South Korea’s Demand for Tsushima and Its Inconsistency with International Law

Well-known incidents surrounding South Korea’s demand for Tsushima occurred on August 17, 1948, and January 7, 1949, in the form of remarks made by I Seung-Man, the first president of South Korea, immediately following the founding of the Republic of Korea government. It was, however, Chung Moon-Kee that had demanded the return of Tsushima earlier. Appointed as Fisheries Bureau Chief of the Ministry of Agriculture, the United States Army Military Government in Korea, in July 1947, Chung was an expert in fisheries administration. In his treatise entitled “the attribution of Tsushima to Korea and Perpetuation of Peace in the Orient,” which was dated “October 15, 1945, National Fisheries University of Busan,” Chung stressed, “[i]n order to secure peace in East Asia in days to come, we must deprive Japan of a base for its political and military conspiracies and schemes by confirming that Tsushima belongs to Korea.”²⁵

Chung contributed a memoir to the daily *Hankook Ilbo* on December 10, 1977, in which he reminisced that, having read MacArthur’s “statement on the range of Japanese territory” issued immediately after Japan’s defeat, he thought that Japan’s territory would be limited to four main islands and Tsushima would not be included in it. It is conjectured that Chung was referring to the U. S. Initial Post-Surrender Policy for Japan issued on September 6, 1945, which stipulated, “Japan’s sovereignty will be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor outlying islands as may be determined, in accordance with the Cairo Declaration and other agreements to which the United States is or may be a party.” This, however, did not at all include a decision that Tsushima would be excluded from Japanese territory.

In a February 19, 1948, daily *Dong-A Ilbo* article titled “the Attribution of Tsushima to Korea Proposed at Legislature,” it was reported that a member of the legislature Heo Gan-yong had proposed that the issue of reinstating Tsushima as a Korean territory should be submitted to the peace conference with Japan lest an aggressive Japan might rise again, using Tsushima as a base for invading the Asian continent and disturbing the peace in East Asia. It was also reported that fifty-nine of Ho’s colleagues supported his proposal and that it had been submitted to the general assembly of the legislature on February 17.²⁶

The daily *Chosun Ilbo* issued on January 8, 1949, reported that, at a press conference on January 7, 1949, a reporter asked how far back President I Seung-Man intended to demand reparations from Japan. In reply, President I said, “While, personally, I wish to go back some 350 years to the Japanese invasions of Korea of 1592–1598 (Imjin War), I should first demand reparations at least for the past forty years as well as the return of Tsushima.”

²⁴ “Encloses a confidential communication on Korea’s wish to participate in the JPT and request immediate attention” (TNA, FO371/92572, FJ1022/847), pp. 130–135 (see p. 133).

²⁵ Korea Fisheries Technology Association ed., *한국수산기술협회* [Treatises and essays of the *Tosan* Dr. Chung Moon-Kee in commemoration of his 70th birthday] (in Korean language, April 1968), p. 170. In an article in *Hankook Ilbo* on December 11 and 13, 1977, however, Chung complained that all the influencers of the time were uninterested in the appeal for the “return” of Tsushima. He also complained that President I Seung-Man’s 1948 statement was issued far too late.

²⁶ “The Stenographic Records of the Provisional Legislature of the Republic of Korea, No. 208” (February 17, 1948) in Volume 5 of *the Stenographic Records of the Provisional Legislature of the Republic of Korea* compiled by the National Assembly of the Republic of Korea (May 1999) does not, for reasons unknown, contain the record of deliberation on the demand to recover Tsushima (see pp. 371–393).

All these arguments heard inside Korea based their demands for Tsushima either on the security need to prevent another attempt by Japan at invasion or on the right to reparations from Japan. A different argument for the “return” of Tsushima was included in the April 27, 1951 requests submitted to the U.S. government (which were almost identical to the July 20 requests presented to the U.K. government):

In the firm belief that justice is the only basis for a lasting peace, the Government of the Republic of Korea requests that a thorough study be given to the territorial status of the Islands of Tsushima. Historically, the two islands called Tsushima were Korean territory until forcibly and unlawfully taken over by Japan. In paragraph number 5 [of the U.S. March draft], Japan is ordered to hand over to the Union of Soviet Socialist Republics the southern half of Sakhalin, all adjacent islands and, in addition, the Kurile Islands. In the belief that Korea should be accorded full and equal justice and equality of treatment, the Republic of Korea requests that Japan specifically renounce all right, title and claim to the Islands of Tsushima and return them to the Republic of Korea.

As this quote shows, the Republic of Korea argued that it had the same right as the Soviet Union had and demanded the “return” of Tsushima. It argued that it was entitled to similar treatment as the Soviet Union, which was proposed to be the recipient of “the southern half of Sakhalin, all adjacent islands and, in addition, the Kurile Islands” by Article 5 of Chapter 3 on “Territory” of the U.S. March draft.²⁷

Article 2(c) of Chapter 2 on “Territory” of the revised U.S.-U.K. draft, however, merely stipulated that Japan should abandon these territories.²⁸ And this might be a key to understanding South Korea’s mysterious choice of the U.S. March draft instead of the revised U.S.-U.K. joint draft as the basis of its request made to the U.K. government on July 20, 1951. In any event, South Korea’s demand for Tsushima was premised on its argument that it should be recognized as a member of the Allied Powers.

Thus, it can be said that South Korea did not base its demand for Tsushima on the ground that it has the territorial title of “continuous and peaceful display of territorial sovereignty.” Both the United States and Britain, however, attached great importance to whether territorial claims are based on the above-mentioned territorial title. A March 30, 1950, report produced by the U.S. Department of State also concluded as follows: “Although Korea apparently held a dominant position on the island before 500AD, its claim to control in subsequent periods is not supported by the facts available. On the contrary, there is little doubt that during at least 350 years Japan has

²⁷ In the April 26, 1951, request regarding the U.S. March draft from Yim Byung-Jick, South Korea’s Ambassador to the United Nations, addressed to John Foster Dulles (National Institute of Korean History ed., *이 승만 관계 서간 자료집* [Compilation of I Seung-Man-related letters and documents] Vol. 3 (1951), pp. 333–336), which is believed to be the draft of the request on April 27, 1951, the phrase, “In the belief that Korea should be accorded full and equal justice and equality of treatment” was used in place of “In view of this fact.” The South Korean side might have hesitated to equate itself to the Soviet Union.

²⁸ Hosoya Chihiro, in his *San Furansisuko kōwa eno michi* [Road to the San Francisco Peace Treaty] (Tokyo: Chūō Kōronsha, 1984), attributed this to: (1) the original proposal would give direct benefits to the Soviet Union, which was feared to provoke heated arguments at the U.S. Senate, and (2) Dulles explained to Morrison that, had Japan not openly abandoned sovereignty over these territories, it was feared that the United States, which was to conclude a security pact with Japan, might be entangled in an unintended dispute (see pp. 239–240).

exercised complete and effective control of Tsushima.”²⁹ South Korea had no grounds on which to override this conclusion.

3. South Korea’s Request for Status as a Member of the Allied Powers and Its Rejection by the U.S. and Britain

To begin with, both the United States and Britain had rejected South Korea’s request to be a signee of the Treaty of San Francisco as a member of the Allied Powers (the war winners), which underlay its demand for Tsushima. Although South Korea tenaciously repeated this request, it was turned down for good in the following way.

On August 17, 1951, in a letter on from the British Foreign Office addressed to I Myo-Mook, South Korean Minister to Britain, the U.K. government conveyed the reason for the rejection of South Korea’s request as follows: “This decision is a necessary consequence of the fact that Korea is not at war with Japan, having been part of the Japanese Empire throughout the war with Japan.”³⁰ Furthermore, the British Foreign Office pointed out that Article 21 of the revised U.S.-U.K. draft stated that Korea would benefit from Article 2 (renouncement of Korea by Japan), Article 9 (fisheries), and Article 12 (conclusion of trade relations). In light of this, the U.K. government turned down other requests from South Korea dated July 20.

On August 21, 1951, South Korean Foreign Minister Pyun Yung-tae issued a statement that said, “As Japan’s closest neighbor and victim of 40 years suffering Korea should participate [in the peace conference].”³¹ The next day, Yang Yu-Chan, South Korean Ambassador to the United States, told Dulles that South Korea’s signing of the peace treaty with Japan would “terminate the state of war with Japan which had been declared by the Korean Provisional Government” and stressed that it would “have the most important effect raising the morale” of the South Korean people in the midst of the destruction and confusion caused by the Korean War.³² Nevertheless, Dulles rejected Yang’s pleas, putting an end to South Korea’s quest to become a signatory of the Treaty of San Francisco as a war victor.

As described, South Korea had pursued its wish to be recognized as a member of the Allied Powers until only half a month before the San Francisco peace conference. South Korea had not given up on this request despite repeated rejections by the United States and Britain because its status as a member of the Allied Powers had been the premise of many of its requests regarding the draft peace treaty. This can also be found from the following two incidents.

On July 25, 1951, regarding the South Korean request on the issue of claims, which later became the thorniest issue in the bilateral Japan–South Korea Talks for the normalization of diplomatic relations between the two countries, the British Foreign Office made the following comment rejecting South Korea’s request:

The comments on Claims and Property are based on the assumption that Korea will be an Allied Power and will be entitled to seize Japanese property under Article 14. This is not so. Japanese property in Korea will be regulated by the special agreement between Japan and

²⁹ “KOREA’S RECENT CLAIM TO THE ISLAND OF TSUSHIMA” (NARA, RG84, Records of the Foreign Service Posts of State, Entry 2846, Korea, Seoul Embassy, Classified General Records, 1953–55, Box,12) * p. 6.

³⁰ TNA document, *supra* note 24, pp. 130–135. (See p. 130.) This letter was also a reply of the British government to the letter by I Myo-Mook dated July 25, 1951, in which South Korea had requested its participation in the peace conference as a signee of the peace treaty.

³¹ A telegram from the U.S. Ambassador to Korea to the U.S. Secretary of State, Aug. 22, 1951 (NARA, RG59, Central Decimal File 1950–54, BOX3011 694.001/8-2251). *

³² “Memorandum of conversation dated August 22, 1951” (NARA, RG59, Central Decimal File 1950–54, BOX3011 694.001/8-2251). *

Korea provided for under Article 4. It is hardly possible at this stage to include in the Treaty any detailed provisions for Korean property claims.³³

Article 14 was about reparations to the Allied Powers both in the U.S. March draft and the revised U.S.-U.K. draft. In addition, on August 2, 1951, the British Foreign Office pointed out that “this request is based upon the false assumption that Korea is an Allied Power.”³⁴

Another incident was related to the request for continuation of the MacArthur Line (line instituted in the sea around Japan while Japan was occupied by the Allied forces beyond which Japanese fishing boats were not allowed to operate.) South Korea obstinately insisted on the line’s continuation in conjunction with its argument for membership in the Allied Powers as follows.³⁵

During the forty years in which Korea was under the domination of Japan, the Japanese monopolized every means of livelihood, including the Korean fishing waters. Although unable to enter into a bilateral treaty under these circumstances, Koreans living in and outside of their own country maintained a status of belligerency with Japan which continued until 1945.

Therefore, the South Korean government argued that Article 10 of the U.S. March draft (“Each of the Allied Powers within a year after the present treaty has come into force between it and Japan, will notify Japan which of its pre-war bilateral treaties with Japan it wishes to keep in for or revive, and such treaties shall continue in force or be revived except for any provisions thereof not in conformity with the present treaty, which provisions shall be deemed deleted. All such treaties not so notified shall be regarded as abrogated.”) had to be revised. This was, according to the South Korean side, because “[a]ny so-called ‘treaties’ between Japan and Korea, entered into prior to 1945 while Korea was under the Imperialistic domination of Japan, are not in fact treaties and the Republic of Korea considers any or all such ‘treaties’ to be null, void and of not effect whatever.”

It was South Korea’s position that only a treaty that South Korea concluded with Japan as a member of the Allied Powers deserved to be regarded as a genuine treaty and that all existing treaties, including the Japan-Korea Treaty of 1910 (Japan-Korea Annexation Treaty), should be regarded as null and void from the beginning. This kind of argument from the South Korean side later became a point of contention as the issue of the validities of pre-annexation treaties in the Japan–South Korean negotiations toward diplomatic normalizations (the Japan–South Korea Talks). On the other hand, the South Korean side insisted that the MacArthur Line was something that should never be null and void. It argued that the MacArthur Line represented a “historic division line” between Japan and Korea and as such was tantamount to a “prewar bilateral treaty.”

This was why South Korea demanded continuation of the MacArthur Line. The MacArthur Line was characterized as an “arbitrary line” in the August 1947 activity report of the United

³³ TNA document, *supra* note 22, p. 28.

³⁴ TNA document (FO371/92574), *supra* note 23, p. 62, and TNA document (CO 537/7106), *supra* note 23, p. 277 & p. 381. It should be pointed out that, in response to the South Korean request, the United States added an additional stipulation to Article 4 which satisfied the South Korean request. The U.K. government, on the other hand, informed the South Korean government that the handling of Japanese assets would be addressed by Article 4 in its letter on August 17, 1951. (“Encloses a confidential communication on Korea’s wish to participate in the JPT and request immediate attention” (TNA, FO371/92572, FJ1022/847), p. 134.) An Article 4 was added to items which Korea would benefit in the final draft of the peace treaty.

³⁵ NARA document, *supra* note 18, pp. 3–4 for South Korea’s request to the United States and, TNA document, *supra* note 22, pp. 35–36 for the South Korean request to Britain.

States Army Military Government in Korea³⁶ (which governed the southern half of the Korean peninsula after the end of Japanese rule), meaning it is simply not a fact that the MacArthur Line was instituted in compliance with a “historic division line.” The South Korean argument was so far-fetched as to be beyond comprehension. South Korea’s request on April 27, 1951, that Article 10 should be revised to something befitting Korea as a member of the Allied Powers was not included in the eleven items summarizing South Korea’s comments on the U.S. draft of May 9. The United States government simply ignored it.

4. South Korea’s Sloppy Demand for Takeshima

In a letter dated July 19, 1951, Ambassador Yang Yu-Chan requested U.S. Secretary of State Dean Acheson to revise the following wording in Article 2(a) of the revised U.S.-U.K. joint draft:

Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.

The South Korean government, through Ambassador Yang, proposed the following revised wording instead:³⁷

Japan, recognizing the independence of Korea, confirms that it renounced on August 9, 1945, all right, title and claim to Korea and the islands which were part of Korea prior to its annexation by Japan, including the islands of Quelpart, Port Hamilton, Dagelet, Dokdo and Parangdo.

On the other hand, according to a telegram of John Joseph Muccio, U.S. Ambassador to South Korea addressed to the U.S. State Department, dated July 17, 1951,³⁸ South Korean Foreign Minister Byun Young-tae had requested Muccio to replace “Korea, including the islands of Quelpart, Port Hamilton and Dagelet” in Article 2(a) of the revised U.S.-U.K. joint draft with “Korea and all islands which were part of Korea prior to its annexation by Japan, including Kuelpart, Port Hamilton, Dagelet, Dokdo and Prangdo.”

On the July 20, 1951, in the telegram No. 38 sent from Busan to the Australian Department of External Affairs³⁹, James Plimsoll (an Australian diplomat who, at that time, was served as the Australian representative to the UN Commission for the Unification and Rehabilitation of Korea) wrote that the South Korean Foreign Minister had asked the support of the Australian government for four proposed amendments to the peace treaty draft. One of these four was a request to insert “and all islands which were part of Korea prior to its annexation by Japan” before

³⁶ “U.S. Army Military Government–South Korea: Interim Government Activities, No.1, August 1947” (NARA, RG331 GHQ/SCAP Records, Adjutant General’s Section Administration Division; Mail and Records Branch— Miscellaneous File, 1945–52 Box 762, Folder #6).

³⁷ Tsukamoto Takashi (1994), *supra* note 1, p. 48.

³⁸ A telegram from John Joseph Muccio, U.S. Ambassador to Korea, to the U.S. Secretary of State, July 17, 1951 (NARA, RG59, Central Decimal File 1950–54, BOX3010, 694.001/7-1751). * In addition to Article 2, Byun Young-tae also made requests on the handling of the Japanese properties in Korea (Article 4) and the MacArthur Line (Article 9).

³⁹ “Amendments to Draft Japanese Peace Treaty 27th July, 1951” (NAA, Item ID: 140412, Japanese peace settlement). The second of the four was dissatisfaction with Article 4 which could endorse Japan’s claims on the Japanese properties in Korea, the third was about demilitarization of Tsushima, and the fourth was a request to add continuation of the MacArthur Line to Article 9 until conclusion of fisheries treaties between Japan and various countries. See Fujii Kenji (2020), *supra* note 1, pp. 60–62. Plimsoll also wrote that Korea wished to be a signee of the peace treaty with Japan.

“including” in Article 2(a) of the revised U.S.-U.K. joint draft. The South Korean Foreign Minister also insisted that the islands of “DOK DO and PRANG DO” should be specifically mentioned in the treaty text.

In summary, Byun Young-tae requested the U.S. and Australian governments to accept the following revision:

Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea, and all islands which were part of Korea prior to its annexation by Japan, including Kuelpart, Port Hamilton, Dagelet, Dokdo and Prangdo. (Note that in the request to the Australian government “Dokdo and Prangdo” was rendered as “DOK DO and PRANG DO.”)

While Yang Yu-Chan requested the return of “Dokdo and Parangdo,” Byun Young-tae demanded “Dokdo and Prangdo.” Parangdo is the Korean pronunciation of what is called Harōtō in Japanese. Having heard of Socotra Rock located in the East China Sea, the Koreans mistook it for an island. In actuality, it is a submerged rock located in the East China Sea. Thus, the South Korean government claimed sovereignty over a nonexistent “island.”⁴⁰ Moreover, the name of this “island” was not even consistent within the South Korean government.

Neither was the wording for the proposed revision consistent. It is not known whether the insertion of “it renounced on August 9, 1945,” one of differences between Yang’s text and Byun’s text, was instructed by the home government or was based on Yang’s own decision. August 9, 1945, was the day Japan notified the Allied Powers of its decision to accept the Potsdam Declaration.⁴¹ Article 8 of the Potsdam Declaration stipulated that the Cairo Declaration—which said, “The aforesaid three great powers [the United States, Britain, and the Republic of China] . . . are determined that in due course Korea shall become free and independent.”—shall be carried out. The insertion of this wording must have represented an outburst of emotion by South Koreans rejoicing Japan’s acceptance of the Potsdam Declaration, which was tantamount to Korea’s liberation from Japan.

In a diplomatic note dated August 10, 1951 (The Rusk documents, also known as the Rusk-Yang correspondence, which was the official diplomatic correspondence sent by Dean Rusk, the United States Assistant Secretary of State for Far Eastern Affairs, to Yang Yu-Chan, South Korean

⁴⁰ For the details of this process, see Yu Jin-O, “한일회담이열리기까지 (상)” [Process toward convening of the Korea-Japan Talks Part 1], *Sasanggye* no.156 (Sasanggyesa, February 1966) p. 96. After this incident, Parangdo became in the minds of Koreans so synonymous with the image of Jeodo, an imaginary island that existed only in folk songs and folklore among Quelpart islanders, that, today, Socotra Rock is called Jeodo in South Korea. It is known as Suyan Islet in Chinese. In 2003, the South Korean government built the Jeodo Ocean Research Station, triggering a protest from China.

⁴¹ According to “Bei-Ei-Ka sangoku sengen judaku ni kansuru wagakuni no mōshiire” [The Japanese government’s announcement of acceptance of the U.S.–Britain–Republic of China declaration] in *Nippon gaikō nenpyō narabini shuyō bunsho gekan* [Chronological tables and major documents of Japan’s diplomacy: part 2] compiled by Ministry of Foreign Affairs (Nippon Kokusai Rengō Kyōkai, March 1955), the acceptance telegram was sent at 7:15 in the morning of August 10 (p. 631). Thus, the telegram was likely to have reached the United States on August 9 at the latest. Since the United States Army Military Government in Korea’s ordinance #33 on December 6, 1945, recorded that properties that existed within the jurisdiction of United States Army Military Government in Korea as of September 25, 1945 and owned or controlled by the Japanese government and people in Korea on or since August 9, 1945 would be confiscated by the Military Government. Thus, August 9, 1945 might have been a familiar date to the South Korean people.

Ambassador to the United States)⁴², the U.S. government stated, “The United States Government regrets that it is unable to concur in this proposed amendment. The United States Government does not feel that the Treaty should adopt the theory that Japan’s acceptance of the Potsdam Declaration on August 9, 1945, constituted a formal or final renunciation of sovereignty by Japan over the areas dealt with in the Declaration.” It was the U.S. intention to stress that it would be only the peace treaty with Japan that would determine the handling of Japan’s former territories.

The Rusk documents show that the U.S. government rejected South Korea’s demand for Takeshima and that it understood that South Korea had withdrawn the claim to Parangdo. As for the grounds for Japan to keep its sovereignty over Takeshima, the documents cite the following:

As regards (1) the island of Dokdo, otherwise known as Takeshima or Liancourt Rocks, this normally uninhabited rock formation was (2) according to our information never treated as part of Korea and, since about 1905, has been under the jurisdiction of the Oki Islands Branch Office of Shimane Prefecture of Japan. The island does not appear ever before to have been claimed by Korea. (underscores applied by the author)

The reference to “the island of Dokdo, otherwise known as Takeshima or Liancourt Rocks” itself reveals how the Rusk documents came about on the U.S. side. When South Korea demanded Takeshima, it only referred to it as Dokdo, and, therefore, the U.S. side had a hard time locating the island.

When, in a meeting on July 19, 1951, Ambassador John Foster Dulles asked about where Dokdo and Parangdo were located, Han Pyo-wook, First Secretary of the South Korean Embassy in the United States, replied that “these were two small islands lying in the Sea of Japan, he believed in the general vicinity of Ulleungdo.”⁴³ The record of the U.S. Government dated August 3, 1951, shows that, even though a Mr. Boggs, an expert on geography in the U.S. State Department, “had tried all resources in Washington, he has been unable to identify Dokdo or Parangdo.” Another State Department official in charge of Korea, “Frelinghuysen later reported that an Embassy officer had told him they believed Dokdo was near Ulleungdo, or Takeshima Rock, and suspected that Parangdo was too.”⁴⁴

In a telegram sent to the U.S. Ambassador to South Korea in the name of Secretary of State Dean Acheson on August 7, 1951, Dulles stated:

“Neither our geographers nor Korean Embassy have been able locate Dokdo and Parangdo Islands. Therefore unless we hear immediately cannot consider this Korean proposal to

⁴² A note from Dean Rusk, the United States Assistant Secretary of State for Far Eastern Affairs, to Yang Yu-Chan, South Korean Ambassador to the United States (NARA, RG59, Lot54 JAPANESE PEACE TREATY FILES OF JOHN FOSTER DULLES, Box 8, Korea). *

⁴³ “Memorandum of conversation dated July 19, 1951” (NARA, RG59, Lot54 JAPANESE PEACE TREATY FILES OF JOHN FOSTER DULLES, Box 8, Korea) * and Tsukamoto Takashi (1994), *supra* note 1, p. 49.

⁴⁴ “Office Memorandum, To: Allison From: Fearey, Date: August 3, 1951” (NARA, RG59, Lot54 JAPANESE PEACE TREATY FILES OF JOHN FOSTER DULLES, Box 8, Korea)* and Tsukamoto Takashi, “Takeshima ni kansuru eibun setsumeishiiryō (1947-nen Gaimushō sakusei) wo megutte” [On briefing materials on Takeshima in the English language prepared in 1947 by the Ministry of Foreign Affairs] in *Tōsho Kenkyū Jānaru* 4 no.1 (November 2014) p. 63.

confirm their sovereignty over these islands.”⁴⁵

It is conjectured that it was through a telegram of August 8 from the U.S. Embassy in South Korea that the U.S. government learned that Dokdo was Takeshima. The State Department's record⁴⁶ contains the summary of a telegram that said, “Dokto (Jpn. name Takeshima) situated at 37° 15' N, 131° 53' East.” It was also written in the same record that the South Korean Foreign Ministry had withdrawn the claim to Parangdo.

A document dated December 2, 1953, compiled by the New Zealand Department of External Affairs titled “Japanese-Korean Relations with Special Reference to the Dispute Concerning Takeshima Island” had a section on “The Takeshima dispute,” which contained a record of the South Korean Foreign Minister's request of the Australian government.⁴⁷ The South Korean Foreign Minister requested that Dokdo and Parangdo should become Korean territories, explaining, “these two islands were some distance to the south of the mainland.”

Telegram No. 32 of the Australian Department of External Affairs dated July 25, 1951, addressed to James Plimsoll in Busan⁴⁸ stated, “We are unable to locate the two islands you mentioned on any maps of Korea in our possession.” The South Korean side could not even provide precise coordinates for these islands. It was only natural that the United States and Australia decided to turn down South Korea's request.

5. Shift of South Korea's Demand from Tsushima to Takeshima

Although it remains unknown precisely when the South Korean government decided to take up the issue of Takeshima in the peace treaty draft, one can make an educated guess. A telegram of Ambassador Muccio to the Department of State, dated July 17, 1951, is the very first record of South Korea's demand for Takeshima. In this telegram, it was reported that South Korean Foreign Minister Byun Young-tae had criticized the peace treaty draft when asked about it at the

⁴⁵ “Confidential Telegram Received: From Department of State, Washington, D.C., Date: August 7, 1951, NR:111” (NARA, RG84, Records of the Foreign Service Posts of State, Entry 2846, Korea, Seoul Embassy, Classified General Records, 1953–55, Box,12) * and Tsukamoto Takashi (2014), *supra* note 1, p. 64.

⁴⁶ “Correspondence regarding Tokto, island claimed by Japan” (NARA, RG84, Records of the Foreign Service Posts of State, Entry 2846, Korea, Seoul Embassy, Classified General Records, 1953–55, Box,12). * This document is handwritten with the date of October 14, 1952, and it contains summaries of (1) John Joseph Muccio's telegram dated July 17, 1951; (2) Yang Yu-Chan's letter dated July 19, 1951; (3) dialogue between John Foster Dulles and Yang Yu-Chan on July 19, 1951; (4) Dulles' telegram dated August 7, 1951; and (5) a telegram dated August 8, 1951 from the American ambassador to South Korea. This document was also introduced in Jung Byung-Joon (2010), *supra* note 8, p. 776.

⁴⁷ “JAPANESE - KOREAN RELATIONS WITH SPECIAL REFERENCE TO THE DISPUTE CONCERNING TAKESHIMA ISLAND” (ANZ, Post-war settlement – Japanese peace settlement – Territorial (Code: R20107058)) p. 9. It is recorded that this summary is contained in a July 21, 1951, telegram from South Korea to Australia, it must have been a telegram sent by an Australian diplomat residing in South Korea to Australia.

⁴⁸ NAA document, *supra* note 39. It was also reported in telegram No. 38 from Plimsoll in Busan to the Australian Department of External Affairs that there was no “adequate information” about Dokdo and Parangdo. Incidentally, a copy of telegram No. 32, which was sent to the Australian Embassy in the United States on July 27, was attached to “Amendments to Draft Japanese Peace Treaty” (NAA, Item ID: 217103 Japanese Peace Treaty – Japanese Peace Treaty 1st June–31 July 1951). In this telegram, the Australian Department of External Affairs warned Ambassador to the United States Percy Spender of South Korea's approach.

national assembly the previous day.⁴⁹

After it was rejected by the United States on July 9, 1951, South Korea's demand for Tsushima had disappeared from Byun Young-tae's July 17 telegram and Yang Yu-Chan's letter dated July 19. It was under these circumstances that the South Korean government demanded Dokdo and Parangdo in its letter to the United States on July 19 and the telegram sent to Australia on July 20. It is inconceivable that South Korea had had ample time to prepare for this demand for Dokdo and Parangdo, which was made immediately after its demand for Tsushima was rejected by the United States. It was as if South Korea sought to quickly replace the target territory. As a matter of fact, South Korea was unable even to specify the precise coordinates of these two islands.

In his telegram on July 17, 1951, Muccio disclosed that Byun Young-tae had stated that it would be imperative for South Korea to own Dokdo and Parangdo because, the "two islands claimed [are] important as they lie in an exposed and dangerous position if in unfriendly hands." The aforementioned document, "Japanese-Korean Relations with Special Reference to the Dispute Concerning Takeshima Island" compiled by the New Zealand Department of External Affairs recorded that Byun Young-tae had stated, "These two islands, . . . were of no economic value, but they were of strategic importance to Korea."⁵⁰

Byun Young-tae cited security needs as the grounds for the demand for Takeshima. One can find a commonality between this argument and the following request that South Korea made to Australia around the same time.

According to the telegram No. 38⁵¹ of Plimsoll in Busan addressed to the Australian Department of External Affairs, dated the July 20, 1951, Byun Young-tae asked Australian support for four revisions to the revised U.S.-U.K. draft. Of the four requests, the third was prohibition of rearmament of Tsushima without the United Nations' consent. On July 25, 1951, in the telegram No. 32 addressed to Plimsoll,⁵² the Australian Department of External Affairs pointed out that it was not in a position to express its view on demilitarization of Tsushima until the agreement on the U.S. military's use of bases in Japan was disclosed. The Australian government turned down this request along with the other three.

There must have been some calculation of its own on the part of South Korea to choose Australia as the target of its request regarding the demilitarization of Tsushima. For one thing, Australia had not been happy with a benevolent peace treaty pursued by Dulles, and it remained apprehensive about the possible remilitarization of Japan.⁵³ The Australian government kept the record in a telegram dated the August 2, 1951 from Seoul, which said, "Foreign Minister stated yesterday that demilitarization of Tsushima Island would be demanded. Korean claims for the island would however not be Pressed."⁵⁴ This fact in itself reveals the considerable interest the Australian government had in this issue.

When its demand for Tsushima was rejected by the United States, the South Korean government requested the Australian government to support its proposal on demilitarization

⁴⁹ NARA document, *supra* note 38. * The stenographic record of the extraordinary session of 11th National Assembly session No. 27 compiled on July 16, 1951, by secretariat of the National Assembly includes a report on Byun Young-tae's request regarding the peace treaty draft, but there is no record of discussions on the Takeshima issue. It may be noteworthy that the daily *Dong-A Ilbo* on July 17, 1951, reported that deliberations at the National Assembly on July 16 were a closed-door session.

⁵⁰ ANZ document, *supra* note 47, p. 9.

⁵¹ NAA document, *supra* note 39.

⁵² *Ibid.*

⁵³ Hosoya Chihiro, *supra* note 28, pp. 114–117 and pp. 192–196.

⁵⁴ SUMMARY OF SHORTWAVE RADIO NEWS (NAA, Item ID: 584264 Japanese Peace Treaty–London Working Party).

of Tsushima, stressing security needs. This reminds us of Chung Moon-Kee's aforementioned comment—"We must deprive Japan of a base for its political and military conspiracies and schemes"—as well as the proposal in the daily *Dong-A Ilbo* issued on the February 19, 1948, that the issue of reinstating Tsushima as a Korean territory should be submitted to the peace conference lest the aggressive Japan might rise again.

On the other hand, the following South Korean request to Australia regarding Tsushima is found in "Japanese-Korean Relations with Special Reference to the Dispute Concerning Takeshima Island" compiled by the New Zealand Department of External Affairs:⁵⁵

The South Korean Foreign Minister did not suggest that Tsushima should be Korean, stating that while Korea would like sovereignty over the island he realized this was unlikely, particularly since the majority of the island's inhabitants were Japanese. He said that the Korean Government had suggested to the United States that Tsushima become an American trust territory, but the United States had declined.

It appears that South Korea took a cue from Article 3 of the revised U.S.-U.K. draft, which proposed the Ryukyu and Bonin (Ogasawara) islands to be placed under a trusteeship system with the United States as the sole administering authority. Japan was expected to agree with this proposal in relation to these islands.

There is, however, no record to endorse South Korean claim that Yang Yu-Chan proposed that Tsushima should be put under U.S. trusteeship in his meeting with Dulles on July 19, 1951. On the other hand, South Korea made the request for Tsushima to Britain, even though it had already notified the United States and Australia of its withdrawal of the same request. Had the United States, Britain, and Australia compared notes on South Korea's request for Tsushima, it would have revealed the lack of coordination within the South Korean government concerning its demand for Tsushima. The request to Britain was, thus, a risky act on the part of the South Korean government that could have jeopardized trustworthiness of its diplomacy among the Allied Powers.

Behind the proposal to make Tsushima a U.S. trust territory there seemed to be South Korea's wish to secure the country's security by establishing a buffer zone between Japan and itself. If South Korea had succeeded in convincing the United States and Australia of the security importance of Tsushima to counter the threat of Japan, it could have made it an excuse for the demand for Dokdo and Parangdo. In the midst of its solicitations for deprivation of territories of Japan with countries of the Allied Powers, it was not altogether unnatural for the South Korean government to come up with this fancy idea.

There is, however, no trace of the United States having deliberated the sovereignty of "Dokdo and Parangdo" from the viewpoint of security. In the meeting with Ambassador Yang Yu-Chan on July 19, 1951, Dulles asked Yang whether "Dokdo and Parangdo" "had been Korean before the Japanese annexation.... If that were the case, Mr. Dulles saw no particular problem in including these islands in the pertinent part of the treaty which related to the renunciation of Japanese territorial claims to Korean territory."⁵⁶

To Dulles' question on whether "Dokdo and Parangdo" had been Korean territories before Korea's annexation by Japan, Yang "replied in the affirmative." Nevertheless, the Korean government failed to follow up with concrete evidence.

On the other hand, the Rusk documents said:

⁵⁵ ANZ document, *supra* note 47, p. 9.

⁵⁶ Tsukamoto Takashi (1994), *supra* note 1, p. 49, and NARA document, *supra* note 43. *

As regards the island of Dokdo, otherwise known as Takeshima or Liancourt Rocks, this normally uninhabited rock formation was according to our information never treated as part of Korea and, since about 1905, has been under the jurisdiction of the Oki Islands Branch Office of Shimane Prefecture of Japan. The island does not appear ever before to have been claimed by Korea.

As can be detected from this quote, the U.S. government had had an accumulation of information on Takeshima and, as a matter of fact, by December 1949 the U.S. government had already decided on the policy to allow Japan to retain Takeshima. Furthermore, this policy was shared with Britain during the U.S.-U.K. working-level consultations in April–May 1951. Again, the South Korean government failed to present information that could overturn the “our information” of the U.S. side. Thus, as soon as it was known on August 8, 1951, that Dokdo was Takeshima or Liancourt Rocks, the U.S. government drafted the Rusk documents, which were sent immediately to the South Korean government on August 10 as a reply.

6. South Korea’s Moves toward Unlawful Occupation of Takeshima

In the document compiled by the New Zealand Department of External Affairs titled “Japanese-Korean Relations with Special Reference to the Dispute Concerning Takeshima Island” the section titled “The Takeshima Dispute” concludes with the statement, “Despite this indication of Korean dissatisfaction, the Peace Treaty was finally signed without amendment of Article 2(a) in the sense desired by Korea.”⁵⁷ The U.S. government conveyed to South Korea through the Rusk documents the “Allied Powers’ stance” that Japan should retain Takeshima. This should have settled the issue for good.

As hard as it is to believe, though, the South Korean government launched a new search for evidence to prove that Takeshima had been Korea’s territory before annexation by Japan in spite of the U.S. rejection. On August 31, 1951, the Interior Department of the Korean government instructed the North Gyeongsang province government to urgently search for evidences that could confirm Dokdo as Korean territory. It was explained in a South Korean government document that, in conjunction with the second draft peace treaty (i.e., the revised U.S.-U.K. joint draft), although the South Korean government claimed sovereignty over Dokdo (Jukdo) in the vicinity of Ulleungdo under jurisdiction of North Gyeongsang province, it wished to urge the provincial government to look into the issue further because Japan, too, made a similar claim.⁵⁸

In response, the governor of North Gyeongsang province submitted “독도 (죽도) 에 관한 조사의 건” [On the investigation in the Dokdo (Jukdo) issue], drafted on September 1, 1951, which contained no document to indicate that “Dokdo” had been Korea’s territory before annexation by Japan.⁵⁹ While it might be noteworthy that the governor’s reply refers to a report in 1906 by a Shim Heung-Taeg, the head of Ul-do county, which reported Japanese officials who had visited the island had notified that Japan had incorporated Takeshima into Shimane Prefecture in 1905, this report was not about the Korean Empire’s protest against the Japanese government’s annexation of Takeshima in the previous year nor was it to confirm grounds to Korea’s territorial claim derived from the peaceful and continuous display of national sovereignty.

Although Foreign Minister Byun Young-tae insisted in his September 21, 1951, letter to

⁵⁷ ANZ document, *supra* note 47, p. 9.

⁵⁸ “독도 (죽도) 에 관한 조사의 건” [On the investigation in the Dokdo (Jukdo) issue] compiled by Local Administration Division, Local Administration Bureau, Ministry of Interior and Safety in 1951 (National Archives of Korea register number BA0182403). The instruction from the Ministry of Interior and Safety is found on p. 27. Since it is described to be “in the vicinity of Ulleungdo,” there is a possibility that the ministry confused Jukdo, a small island adjacent to Ulleungdo, with Dokdo.

⁵⁹ *Ibid.* Copy of Shim Heung-Taeg’s report is found on p. 14.

Muccio⁶⁰ that “we have substantial documented evidence to prove that the isle has been in the Korean procession for many hundred years,” he failed to present said “documented evidence.” Instead, Byun called attention to two directives issued by General Headquarters, the Supreme Commander for the Allied Powers (GHQ/SCAP). One was SCAPIN-677, which had suspended Japan’s administrative authority over Takeshima. The other was SCAPIN-1033, which had instituted the MacArthur Line and prohibited Japanese access to or contact with Takeshima. In particular, Byun claimed that SCAPIN-677 was a “conclusive factor” to determine sovereignty over Takeshima. It should be recalled, however, that it was clearly stipulated in these directives themselves that they were by no means the ultimate determination about Japan’s territory. Therefore, Byun’s claim was, simply, void.

In a letter from the U.S. Embassy in Seoul to the State Department, dated the October 3, 1951,⁶¹ it is stated as follows, in regard to “substantial documented evidence” as Byun had boasted:

[A]n officer of the Embassy was orally informed by the Minister of Foreign Affairs that such evidence appears throughout Korean and Japanese historical archives. The implication was that the Ministry of Foreign Affairs did not possess a compliment of such “evidence” at this time. Although it was pointed out to the Minister that the Embassy would welcome the submission of such “evidence” for transmittal to the Department, it appears doubtful that such information will be forthcoming.

And this conjecture of the U.S. Embassy that South Korea did not possess “a compilation of such evidence” was proven to be correct. In the exchange of views on the grounds for sovereignty over Takeshima between the Japanese and South Korean governments launched in 1953, the

⁶⁰ A letter from Yung Tai PYUN, South Korean Foreign Minister to Muccio, the U.S. Ambassador to South Korea, on September 21, 1951 (NARA, RG59, Records of the U.S. Department of State relating to the Internal Affairs of Korea, 1950–54 Department of State Decimal File 795.022/10-351). * The present author had once referred to the possibility that the South Korean government had not obtained the Rusk documents or the documents had not been shared inside the government. (Fuji Kenji, “Takeshima mondai ni kansuru Nichi-Kan ryōkoku seifu no kenkai no kōkan ni tsuite (Ge)” [On exchange of views on the Takeshima issue between the Japanese and Korean governments: Part 2], *Tōsho Kenkyū Jānaru* 7, no.2 (March 2018) pp. 59–60). As of today, the latter seems more plausible. Byun referred to “Dokdo, known as ‘Liancourt Rocks’ and also as ‘Takeshima’ in Japanese” in his letter, which is quite similar to “the island of Dokdo, otherwise known as Takeshima or Liancourt Rocks” in the Rusk documents, hinting that at least Byun must have read the Rusk documents.

⁶¹ A letter from the U.S. Embassy in Seoul to the State Department (NARA, RG59, Records of the U.S. Department of State relating to the Internal Affairs of Korea, 1950–54 Department of State Decimal File 795.022/10-351). * At this point, the U.S. Embassy in South Korea was not aware that Korea’s request for Takeshima had been rejected. Thus, it is stated, “the Embassy would welcome the submission of such ‘evidence.’” It was in November 1952 that the Embassy was notified of this fact. See Tsukamoto Takashi. “Takeshima ryōyūken funsō ni kanrensuru Beikoku Kokumushō bunsho (tsuiho)-shiryō” [U.S. Department of State document related to the Takeshima territorial dispute (supplement) references], *Takeshima mondai ni kansuru chōsa kenkyū saishū hōkokusho* [Final report of the research on the Takeshima issue] compiled by Takeshima Mondai Kenkyūkai (General Affairs Division, General Affairs Department, Shimane Prefecture, March 2007), pp. 82–83. The aforementioned NARA, RG84, Records of the Foreign Service Posts of State, Entry 2846, Korea, Seoul Embassy, Classified General Records, 1953–55, Box 12 also contains the same document.

South Korean side was unable to refute the Japanese argument.⁶²

Thus, the South Korean side could not discover grounds to support its sovereignty over Takeshima and it was confirmed by the Treaty of San Francisco that Takeshima would remain a Japanese territory. These unfavorable circumstances notwithstanding, at the 98th session of the State Council of the Republic of Korea on September 7, 1951, the South Korean government passed a bill to institute a fishery protection zone, in which Japanese fishing boats were not allowed to operate, and included Takeshima within this zone.⁶³ On January 18, 1952, President I Seung-Man issued the Presidential Proclamation of Sovereignty over Adjacent Seas covering a vast sea area, including Takeshima at the east end of this sea zone.⁶⁴ This was South Korea's attempt to obtain with a unilateral declaration what it had failed to gain diplomatically.

Closing Remarks

As it went through the drafting process of the Treaty of San Francisco, the U.S. government had decided by 1950 on the policy to recognize Japan's sovereignty over Takeshima. Recognition was given on the grounds to territorial claim derived from the "peaceful and continuous display of national sovereignty." Accepting the U.K. argument during the U.S.-U.K. working-level consultations in April–May 1951 that it would be desirable to dispose islands between Japan and Korea by specific mention in order to prevent future disputes, the U.S. government agreed to explicitly enumerate Korean island territories that Japan was to renounce. In return, the U.K. government agreed to drop the idea of enclosing Japan's territory with a line and withdraw the proposal to put Takeshima out of Japan's territory. Consequently, the Korean territories that the U.S.-U.K. joint draft proposed Japan renounce encompassed the islands of Quelpart, Port Hamilton, and Dagelet but did not include Takeshima. The policy of the United States that Japan should retain Takeshima was shared by the U.K. government, and this formed the "Allied Powers' stance."

In May 1951, the South Korean government demanded Tsushima. In July, the United States turned down this demand to take away the island from Japan. The South Korean demand had made from the fictitious position of itself as a member of the Allied Powers, the war victors. After this U.S. rejection, South Korea requested Australia to support its quest for demilitarization of Tsushima. The same month of July, when South Korea lobbied the United States for Takeshima and requested Australia's support, South Korea again cited the security need to counter the threat of Japan as its grounds for its demand. Here, one can detect South Korea's hidden agenda

⁶² Fujii Kenji, "Takeshima mondai ni kansuru Nichi-Kan ryōkoku seifu no kenkai no kōkan ni tsuite (Jo)" [On exchange of views on the Takeshima issue between the Japanese and Korean governments: Part 1], *Tōsho Kenkyū Jānaru* 7, no.1 (October 2017), "Takeshima mondai ni kansuru Nichi-Kan ryōkoku seifu no kenkai no kōkan ni tsuite (Ge)" [On exchange of views on the Takeshima issue between the Japanese and Korean governments: Part 2], *Tōsho Kenkyū Jānaru* 7, no.2 (March 2018); Fujii Kenji, "Takeshima gyorō to 1970-nendai no Takeshima mondai: horon—Kankoku no Takeshima mondai eno ninshiki" [Takeshima fishery and the Takeshima issue in the 1970s: addendum—Korea's perception of the Takeshima issue], Dai 4-ki Shimaneken Takeshima Mondai Kenkyūkai ed., *Dai 4-ki Takeshima mondai ni kansuru chōsa kenkyū saishū hōkokusho* [Final report of the study on the Takeshima issue phase 4], General Affairs Division, General Affairs Department, Shimane Prefecture (March 2020).

⁶³ *한국의 어업보호정책 : 평화선 선포, 1949-52* [Fishery protection policy of Republic of Korea: proclamation of peace line 1949–52] 1952. pp. 1485–93 (Collection of South Korean Diplomatic Archives catalogue number 743.4, register number 458).

⁶⁴ The Presidential Proclamation did not include the grounds for Korea's territorial claim on Takeshima. Although it proclaimed that welfare and defense of the state had to be eternally guaranteed (Extra issue of official bulletin on January 18, 1952, collection of official archives of Republic of Korea), the United States had not approved Korea's sovereignty over Takeshima on the grounds of security need, as previously stated.

to make the Allied Powers countries recognize Tsushima's importance for Korea's security in the face of the threat of Japan, so as to set a precedent which could be used as leverage to convince them of the importance of Takeshima for Korea's security.

The demand for Takeshima having been decided on very short notice might be why the South Korean side referred to Takeshima only as Dokdo and was, in fact, even unable to provide precise coordinates for the island. Bewildered by these unfathomable requests from South Korea, neither the United States nor Australia responded affirmatively. And once Dokdo was found to be Takeshima, the U.S. government notified South Korea in August 1951 through the Rusk documents of the "Allied Powers' stance" that Japan was to retain Takeshima. Thus notified, South Korea no longer possessed grounds for territorial rights over Takeshima that could supersede the "Allied Powers' stance." And there is no trace of South Korea's argument for sovereignty over Takeshima for security reasons being considered among the Allies.

Nevertheless, even when it was notified by the United States that Takeshima would be retained by Japan and even though it could not produce grounds for its sovereignty over the island, South Korea would not stop its drive for unlawful occupation of Takeshima. One cannot but suspect that at the core of South Korea's demand for Takeshima was the same irresistible craving for acquiring a territory from Japan as a member of the Allied Powers (a war victor) as was detected in its earlier demand for Tsushima.