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U.S. Department of State Documents regarding the Dispute over Territorial Sovereignty over Takeshima (Addendum) = Documents = *

Takashi Tsukamoto

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Introduction

(The Treaty of Peace with Japan and Takeshima)

One point at issue in the dispute over territorial sovereignty over Takeshima between Japan and the Republic of Korea is how Takeshima is addressed by the Treaty of Peace with Japan (San Francisco Treaty) of September 8, 1951. Specifically, there is the issue of whether Takeshima was designated as part of Korea to be renounced by Japan or conversely the Treaty finally confirmed its retention by Japan. Regarding this point, I, the author, have translated and introduced U.S. diplomatic documents in the [Japanese] magazine *Reference* twice in the past, and clarified the fact that in the final stages of drafting the peace treaty while the Government of the Republic of Korea requested that "Dokdo" (the Korean name for Takeshima) be added to the provision on Korean territory to be renounced by Japan in the draft treaty, the U.S. Government refused this amendment to the draft treaty because Takeshima is Japanese territory.¹

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Reviewing the key points, on July 19, 1951 Yang You-chan, the Republic of Korea Ambassador to the United States, presented an official letter requesting to replace the text which reads, “Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet,” in the provision in the draft treaty as of June 1951 (the revised U.S.-UK draft) on Japan’s renunciation of Korea with “... 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.” The U.S. Government responded in an official letter to the Ambassador of the Republic of Korea dated August 10, 1951 from Dean Rusk, Assistant Secretary of State, on behalf of the Secretary of State, which reads as follows. “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 a result, this provision was not amended and the legal status of Takeshima as Japan’s territory was confirmed.

In recent years, however, there have been claims on the Internet that new secret U.S. diplomatic documents have been discovered showing the U.S. subsequently changed its position and recognized that Takeshima is Korean territory.² While I did not mention this in particular during my report at the 3rd meeting of the Takeshima Issue Research Group on September 27, 2005, the Internet has gained great power as new form of publishing, so to contribute to an accurate understanding of the facts, here I would like to introduce a few U.S. diplomatic records additionally that I did not introduce in my previous articles (and the report to the research group).

(Report by the U.S. Embassy in Japan Dated October 3, 1952)

The document being introduced on the Internet as the change of the U.S. position is the report entitled “Koreans on Liancourt Rocks” dated October 3, 1952 cabled by John M. Steeves, the First Secretary of the U.S. Embassy in Japan, to the United States (the Department of State).³

At that time, the U.S. Navy Authority stationed in the Republic of Korea was not aware that Takeshima was being used as a bombing range for the U.S. forces stationed in Japan, so after the Authority approved a request from the Government of the Republic of Korea to dispatch a scientific expedition to Ulleungdo (Dagelet) and Dokdo (Takeshima, Liancourt Rocks), the expedition was bombed. (More precisely, the head of the scientific expedition reported that fishermen from Ulleungdo who were fishing at Dokdo encountered bomb dropping by U.S. military planes, and scarcely escaped into caves). This incident was reported in the *Dong-a Ilbo*, an ROK newspaper, on September 21, 1952, and this induced the U.S. Embassy in Japan to send this report to the U.S. Department of State.

¹ Takashi Tsukamoto, “San Furanshisuko Joyaku to Takeshima” [“The San Francisco Peace Treaty and Takeshima”], *Reference*, No. 389 (June 1983), pp. 51-68; Takashi Tsukamoto, “Heiwa Joyaku to Takeshima (Sairon)” [“The Peace Treaty and Takeshima (Revisited)”], *Reference*, No. 518 (March 1994), pp. 31-56.

² *Hangetsujo Tsushin* No. 111 (June 1, 2005; Table of Contents 12), <http://www.han.org/a/half-moon/hm111.html#No.822>

³ <http://dokdo-research.com/temp8.html>.

The first half of the report has a passage which reads:

The rocks [...] were at one time part of the Kingdom of Korea. They were, of course, annexed together with the remaining territory of Korea when Japan extended its Empire over the former Korean State. However, during the course of this imperial control, the Japanese Government formally incorporated this territory into the metropolitan area of Japan and placed it administratively under the control of one of the Japanese prefectures. Therefore, when Japan agreed in Article II of the peace treaty to renounce "all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet," the drafters of the treaty did not include these islands within the area to be renounced. Japan has, and with reason, assumed that its sovereignty still extends over these islands. For obvious reasons, the Koreans have disputed this assumption.

Viewed in its entirety, this passage says that the drafters of the peace treaty did not include Takeshima within the area to be renounced, so Takeshima has not been renounced and remains under Japanese sovereignty, but those who are arguing that the U.S. changed its position seem to want to claim that the U.S. position had changed and that this was then the final stance of the United States, indicating the comment in the text from the First Secretary of the U.S. Embassy in Japan, that the rocks were part of the Kingdom of Korea and were annexed when Japan extended its empire.

There are, however, the following types of questions about that understanding. In general, reports from diplomatic missions to their home countries are just reports, and what is written there is not necessarily the official position of the home country government. Diplomatic missions report information to their home countries, which they collect by reading newspapers, contacting government officials and citizens of the host countries, and communicating with their own embassies in nearby countries. They make policy proposals, and ask for instructions about which actions they should take. It is only when the government of the home country takes some sort of action after receiving such reports that it becomes important as the action and view of that government.

In this case, in his report, the First Secretary of the U.S. Embassy in Japan says that, because the information that the Liancourt Rocks had been designated as a bombing range and were dangerous had already been disseminated throughout the U.S. military, when the U.S. Embassy in Japan learned the information that the U.S. Navy Authority in Pusan had granted permission for the scientific expedition to travel to Dokdo, the U.S. Embassy in Japan asked the Far East Command to inform the Navy Authority in Pusan not to grant permission. He called the attention of the U.S. Government (Department of State) with the following conclusion (the final paragraph).

It is considered that the recent reassertion of the danger zone on these rocks should suffice to prevent the complicity of any American or United Nations Commanders in any further expeditions to the rocks which might result in injury or death to Koreans. However, owing to the crude implementation of Government controls in Korea, it is questionable that all independent Korean fishermen can be dissuaded from continuing their expeditions into these rocks. There therefore exists a fair chance that sometime in the near future American

bombs may cause loss of life or other incidents which will bring the Korean efforts to recapture these islands into more prominent play, and may involve the United States unhappily in the implications of that effort.

(Memorandum from the U.S. Embassy in South Korea dated October 15, 1952)

Meanwhile, E. Allan Lightner, the Chargé d’Affaires ad interim of the U.S. Embassy in the Republic of Korea, sent a letter with an attached memorandum entitled “Use of Disputed Territory (Tokto Island) as Live Bombing Area” to Robert Murphy, the U.S. Ambassador to Japan, and sent the same report to the U.S. State Department.⁴ The memorandum states:

Although this Embassy is not in possession of complete information regarding the Department’s views on the ownership of Tokto Island (also called Dokdo, Takeshima, or the Liancourt Rocks), it appears that its status is unsettled. Despite the Korean Government’s request in July 1951 that the Japanese renounce any claim to this island in the Peace Treaty, no action was taken to insert such a provision in the treaty draft.

The memorandum then mentions SCAPIN and other reasons for the Republic of Korea territorial assertions,⁵ and says:

It seems doubtful that the United States would wish to become involved in the controversy by taking a position as to whether Japan or Korea has sovereignty over this island. However, it appears from Tokyo’s despatch... [dated] October 3 [the above-stated report “Koreans on Liancourt Rocks”] ... that the Joint Committee implementing Japanese-American security arrangements has ... “agreed that these Rocks would be designated as a facility of the Japanese Government” where unexpended bomb loads might be dumped. The implication of agreeing with the Japanese on such an arrangement is that the United States recognizes Japanese sovereignty over Tokto.

In conclusion, the Chargé d’Affaires ad interim of the U.S. Embassy in Korea writes:

It appears that continued usage of the Island as a live bombing area may involve the United States in a territorial dispute as well as adverse publicity and/or legal action in the event that fishermen, who use the Island occasionally, are killed or injured by bombs.

(Response from the U.S. Department of State)

Upon receiving the report from Tokyo and the memorandum from Pusan, how did the U.S. Department of State respond? That is the U.S. diplomatic record translated and introduced in this paper.

⁴ <http://dokdo-research.com/temp9/html>.

⁵ Supreme Commander for the Allied Powers Instruction Notes (SCAPIN) were orders issued by the occupying forces (Supreme Commander of the Allied Powers). SCAPIN No. 677 of January 29, 1952 prohibited Japan from exercising governmental or administrative authority over Takeshima. (For details, see the articles cited in Footnote 1). However, the disposition of territory is fundamentally outside the authority of the occupying forces (it should be determined by peace treaty) and SCAPIN No. 677 includes a provision stating “nothing in this directive shall be construed as an indication of Allied policy relating to the ultimate determination of Japanese territory.

I would like to state the conclusion first. Kenneth T. Young Jr., Director of the Department of State Office of Northeast Asian Affairs, sent a letter dated November 5, 1952 to Pusan (the U.S. Embassy in Korea was in Pusan at that time because of the Korean War), which included the following points. (1) The Department of State has taken the position that these rocks belong to Japan and has so informed the Korean Ambassador to Washington. (2) During the course of drafting the Japanese Peace Treaty, the Korean Ambassador requested the Secretary of State in a letter of July 19, 1951 to amend Article 2(a) of the draft treaty so as to include the islands of Dokdo (Liancourt Rocks) and Parangdo as well as Chejudo (Quelpart), Geomundo (Port Hamilton) and Ulleungdo (Dagelet) among those islands Japan would renounce along with Korea's independence. (3) In his reply to the Korean Ambassador, the Secretary of State stated in a letter dated August 10, 1951 that the United States could not concur with the proposed amendment as it applied to Takeshima. (4) As a result, Article 2(a) of the Treaty of Peace with Japan makes no mention of the Liancourt Rocks. (5) The action of the United States-Japan Joint Committee in designating these rocks as a facility of the Japanese Government is therefore justified. (Note: based on the Administrative Agreement of the Japan-U.S. Security Treaty, Japanese facilities and areas are to be provided to U.S. forces as bases, training ranges, etc.). (6) SCAPIN No. 677 ... did not preclude Japan from exercising sovereignty over Takeshima permanently. (7) When the islets were designated as a bombing range for the Far East Air Force on September 16, 1947, it (SCAPIN No. 1778) provided that use of the range would be made only after notification through Japanese civil authorities to the inhabitants of the Oki islands and Western Honshu. This letter was also reported to the U.S. Embassy in Tokyo.

In response to this report from the Director of the Office of Northeast Asian Affairs [Young], Charge d'Affaires ad interim of the U.S. Embassy in Korea [Lightner] replied on December 4, 1952, writing that, "We had never heard of Dean Rusk's letter to the Korean Ambassador in which the Department took a definite stand on this question." Lightner also reported that he has sent a note to the Republic of Korea Ministry of Foreign Affairs which refers to Dean Rusk's note to Ambassador Yang of August 10, 1951.

From the above, contrary to the claims by those arguing that the U.S. changed its position, according to the documents, it is clear that the U.S. government in fact reconfirmed its position of August 1951.

In addition to these exchanges at the end of 1952, in the following year 1953 as well, after a Japanese patrol vessel was fired on from Takeshima [by South Korea], there are records showing the considerations regarding settlement of the dispute over territorial sovereignty over Takeshima and U.S. involvement in this issue by staff of the Northeast Asian Affairs, Department of State, and the U.S. Embassy in Japan. There are also records from 1954, after the Japanese Government proposed to the Government of Republic of Korea that the dispute over territorial sovereignty over Takeshima be submitted to the International Court of Justice and the Republic of Korea refused, in which staff at the Japanese Embassy in the U.S. ask those in charge at the Department of State for their opinion on referring the Takeshima dispute to the United Nations Security Council. In

this paper, I also translate [into Japanese] and introduce the related documents as supplements to my recent articles and report to the Takeshima Issue Research Group.⁶

Document 1: Letter from Kenneth T. Young, Jr., Director of the Office of Northeast Asian Affairs, Department of State to E. Allan Lightner, Charge d'affaires, a.i., American Embassy, Pusan, Korea on November 5, 1952, also reported to the U.S. Embassy in Tokyo

cc. American Embassy, Tokyo

Dear Al:

I have read both Tokyo's despatch No. 659 of October 3, 1952, entitled, "Koreans on Liancourt Rocks" as well as Pusan's Memorandum of October 15, 1952, entitled, "Use of Disputed Territory (Tokto Island) as Live Bombing Area" enclosed in your letter of October 16, 1952 to Ambassador Murphy.

It appears that the Department has taken the position that these rocks belong to Japan and has so informed the Korean Ambassador in Washington. During the course of drafting the Japanese Peace Treaty the Republic of Korea's views were solicited, in consequence of which, the Korean Ambassador requested the Secretary of State in a letter of July 19, 1951 to amend Article 2(a) of the draft treaty so as to include the islands of Dokdo (Liancourt Rocks) and Parangdo as well as Quelpart, Port Hamilton and Dagelet among those islands over which Japan would renounce right, title and claim by virtue of recognizing Korea's independence. In his reply to the Korean Ambassador the Secretary stated in a letter dated August 10, 1951 that the United States could not concur in the proposed amendment as it applied to the Liancourt Rocks since according to his information the Liancourt Rocks had never been treated as a part of Korea, they had been under the jurisdiction of the Oki Islands Branch Office of Japan's Shimane Prefecture since 1905 and it did not appear that they had ever before been claimed by Korea. As a result Article 2(a) of the Treaty of Peace with Japan makes no mention of the Liancourt Rocks:

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

The action of the United States-Japan Joint Committee in designating these rocks as a facility of the Japanese Government is therefore justified. The Korean claim, based on SCAPIN 677 of January 29, 1946, which suspended Japanese administration of various island areas, including Takeshima (Liancourt Rocks), did not preclude Japan from exercising sovereignty over this area permanently. A later SCAPIN, No. 1778 of September 16, 1947 designated the islets as a bombing range for the Far East Air Force and further provided that use of the range would be made only after notification through Japanese civil authorities to the inhabitants of the Oki Islands and certain ports on Western Honshu.

Sincerely yours,
Kenneth T. Young, Jr., Director, Office of Northeast Asian Affairs

⁶ The [U.S. Department of State] documents translated [into Japanese] in [the original Japanese version of] this paper can all be accessed to view microfilm at the National Diet Library Modern Japanese Political History Materials Room, LOT Reel 34, 0648-0651, 0665-0674.

Document 2: Letter from E. Allan Lightner, Charge d'affaires, a.i., American Embassy, Pusan, Korea to Kenneth T. Young, Jr., Director of the Office of Northeast Asian Affairs, Department of State on December 4, 1952

Dear Ken:

Sorry to hear that your trip has again been postponed. However, we will very much look forward to seeing you early in the new year.

I much appreciate your letter of November 14 in regard to the status of the Dokdo Island (Liancourt Rocks). The information you gave us had never been previously available to the Embassy. We had never heard of Dean Rusk's letter to the Korean Ambassador in which the Department took a definite stand on this question. We of course knew of the ROK Government's desire to have Article 2(a) of the Peace Treaty amended to include Dokdo and Parangdo and conveyed that request in a telegram to the Department at that time, along with other ROK suggestions for amendments to the draft treaty. We were subsequently made aware of the fact that Article 2(a) was not to be amended but had no inkling that that decision constituted a rejection of the Korean claim. Well, now we know and we are very glad to have the information as we have been operating on the basis of wrong assumption for a long time.

I am sending with a transmitting despatch, a copy of the note that we have just sent to the Ministry of Foreign Affairs which includes as a final paragraph the wording suggested in the Department's telegram no. 365 of November 27 and which refers to Dean Rusk's note to Ambassador Yang of August 10, 1951.

Sincerely yours,
E. Allan Lightner, Jr.

Document 3: Memorandum entitled, "Possible Methods of Resolving Liancourt Rocks Dispute between Japan and the Republic of Korea" by L. Burmaster, the Office of Northeast Asian Affairs, Department of State to Robert J. G. McClurkin, Deputy Director and Alice L. Dunning, Office of Northeast Asian Affairs on July 22, 1953

During the past six months the question of whether Japan or the Republic of Korea has sovereignty over the Liancourt Rocks has been raised on three separate occasions. According to the Japanese version, in the latest incident on July 12, 1953, a Japanese vessel was patrolling the waters adjacent to the Liancourt Rocks when it was fired upon by Korean shore-based small arms and machine guns. The Japanese Foreign Office verbally protested the incident to the ROK Mission in Tokyo on July 13, demanding the immediate withdrawal of Koreans from the Rocks. On July 14 Foreign Minister Okazaki at a Cabinet meeting stated that the Japanese Government intends to explore every possibility of settling the dispute amicably by direct negotiation with the Republic of Korea. However, Okazaki also stated that it was conceivable that the question might later be submitted to the United States or the United Kingdom for mediation. Some Japanese newspapers have also indicated that as alternatives the question might be submitted either to the Hague Tribunal

(International Court of Justice) or to the United Nations; *Jiji Shimpō* has taken the somewhat extreme view of suggesting that the Japanese Coastal Security Force be despatched to the Rock.

With regard to the question of who has sovereignty over the Liancourt Rock (which are also known in Japanese as Takeshima, and in Korean as Dokdo), it may be of interest to recall that the United States position, contained in a note to the Republic of Korea's Ambassador dated August 10, 1951 reads in part:

"...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....."

(This position has never been formally communicated to the Japanese Government but might well come to light were this dispute ever submitted to mediation, conciliation, arbitration or judicial settlement.)

Since sending the August 10, 1951 note to the ROK Government, the United States Government has sent only one additional communication on the subject. This was done in response to the ROK protest of the alleged bombing of Dokdo Island by a United States military plane. The United States note of December 4, 1952 states:

"The Embassy has taken note of the statement contained in the Ministry's Note that 'Dokdo Island (Liancourt Rocks)....is a part of the territory of the Republic of Korea.' The United States Government's understanding of the territorial status of this island was stated in Assistant Secretary of State Dean Rusk's note to the Korean Ambassador in Washington dated August 10, 1951."

At the same time this note was sent it was hoped that this mere reiteration of our previously expressed views would withdraw us from the dispute and might discourage the Republic of Korea from "intruding a gratuitous issue in the already difficult Japanese-Korean negotiations." Apparently our efforts to date have not had the desired effect.

Should the present efforts of the Japanese Government to solve the dispute on an amicable basis by direct negotiation with the Republic of Korea fail, there are several courses of action open to the Japanese Government.

a) Request for United States Mediation—In the event the Japanese Government were to request the United States to act as mediator, not only would the concurrence of the ROK have to be obtained, but the United States would be placed in the embarrassing position (notwithstanding the facts in the case) of seeming to choose between Japan or Korea. As usual, the role of the mediator is not a happy one. In view of this and of United States requirements and obligations to both these countries, it is believed preferable for the United States to extricate itself from the dispute to the greatest extent possible.

b) Submission to the International Court of Justice—Notwithstanding the fact that neither Japan nor the Republic of Korea is a member of the United Nations, both may be parties in a case before the ICJ provided that both agree to comply with the conditions laid down by the Security Council. At present these conditions are that both states would deposit with the Registrar of the International Court of Justice a declaration accepting the Court's jurisdiction in accordance with the UN Charter and the Statute and Rules of the Court, undertaking to comply in good faith with the Court's decision and accepting the obligations of a Member of the United Nations under Article 94 of the Charter. The difficulty with this plan would seem to be whether Japan could obtain the concurrence of the Republic of Korea to join with Japan in presenting the dispute to the International Court of Justice and if this were done, whether the ROK would abide by decision of the ICJ if it were negative.

c) Submission to the United Nations General Assembly or Security Council—Japan would have the right unilaterally to bring the Liancourt Rocks dispute to the United Nations under Article 35 section 2 of the United Nations Charter, which states:

"A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute, to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Chapter.",

if it were willing to state, as required by Article 33 of the UN Charter, that the Liancourt Rocks dispute was one "likely to endanger the maintenance of international peace and security." It is indeterminable at this time whether Japan would be willing to go that far. It is also unlikely that the United States and/or the other Members of the anti-Soviet bloc in the United Nations would want to add this grist to the Soviet propaganda mill.

Recommendation

1. NA/J [Japanese Affairs of the Office of Northeast Asian Affairs] recommends that the Department of State take no action at this time inasmuch as Foreign Minister Okazaki has stated that the Japanese Government will try to settle the dispute with the ROK Government by direct negotiation.

2. However, if the Japanese Government requests the United States Government to act as a mediator in this dispute, NA/J recommends that:

a) the United States should refuse;

b) the United States should suggest that the matter might appropriately be referred to the International Court of Justice. The United States could inform the Japanese Government that this procedure might be preferable to submitting it to the United Nations for the reasons stated above.

3. If the Japanese Government requests the legal opinion of the United States Government on this question, NA/J recommends that the United States should make available to the Japanese

Government the United States position on the Liancourt Rocks as stated in the Rusk note of August 10, 1951.

Concurrences

NA/K [Korean Affairs of the Office of Northeast Asian Affairs] concurs.

Document 4: Memorandum in regard to the Liancourt Rocks (Takeshima Island) Controversy by William T. Turner, Minister-Counselor of the U.S. Embassy in Japan on November 30, 1953

Ambassador Allison contends (Tokyo's 1306, November 23) that the United States is "inescapably involved" in the Takeshima dispute. In evidence, he points to the Rusk note of 1951 and to the Potsdam Declaration, the Peace Treaty, etc.

There can be no question that the United States has committed itself to an attitude in this matter. However, I fail to see that the commitment carries with it the obligation to intervene between two contestants who are now sovereign nations and who have available to them ample machinery for settlement of such disputes. I cannot believe that a dispute of such essentially unimportant nature will lead to a situation serious enough to justify an intervention by us which could only create lasting resentment on the part of the loser. This is certainly no time to exacerbate our relations with either country. I think that this hands-off position should be maintained regardless of the validity of the claim of either party. I think that the Department is on firm grounds in maintaining that the United States Government is "not legitimately involved in this matter" as has already been pointed out in the Department's note to the Embassy.

The Liancourt Rocks case appears to have aspects in common with that of Shikotan Island, off the coast of Hokkaido, which was occupied by Soviet troops in 1945. We have publicly declared our view that this Island belongs to Japan, but no one in Japan or elsewhere seriously expects us to take military action under the Security Treaty to reclaim this Island for Japan. I think we need not feel undue anxiety even in the unlikely contingency that Japan should invoke the Security Treaty with respect to the Liancourt Rocks.

Nevertheless, I do not think we can or should continue to withhold indefinitely an expression of our position in this matter, particularly if the dispute continues to worsen. Sooner or later the Japanese will get wind of the Rusk letter and will then resent our failure to inform them of something which would measurably strengthen their position. Even if they do not, I think we would be remiss in not apprising the Japanese of a position which we have consistently maintained and which we are under no obligation not to divulge.

Accordingly, I suggest that we adopt the following course of action:

1. Express to the ROK Government our concern over repeated clashes with the Japanese over the Liancourt Rocks.
2. Remind the ROK of our previous statement of view (the Rusk letter); express strong hope that settlement can be reached with the Japanese; state that the United States seeks to avoid any form

of intervention in this matter but if clashes continue to occur we may be forced to give publicity to the Rusk letter and to reiterate the view expressed therein; suggest that if the ROK can not accept the view expressed in the Rusk letter, it take steps toward arbitration or appeal the matter to the ICJ.

3. In case the foregoing steps do not alleviate the situation, seek an appropriate occasion to publicize the Rusk note and disclaim any desire to intervene in this matter.

William T. Turner

Document 5: Memorandum of Conversation, Subject: “Japanese Proposal to refer Liancourt Dispute to Security Council” on November 16, 1954

Participants:

Mr. Tanaka [Hiroto], First Secretary, Embassy of Japan
Mr. Matsuoka [Yasuhiro], Third Secretary, Embassy of Japan
Mr. Eric Stein, UNF, Department of States
Miss. Katherine B. Fite, L/FE, Department of States
William G. Jones, NA/K, Department of States
Richard B. Finn, NA/J, Department of States
Marjorie McMullen, NA/J, Department of States

Mr. Tanaka and Mr. Matsuoka of the Japanese Embassy visited at their request at the Department of State on November 16, 1954 at 4:45 p.m.

Mr. Tanaka said that his Government is considering the possibility of bringing before the Security Council the Japan-ROK dispute over Takeshima with a view to obtaining an SC recommendation that the dispute be taken to the International Court of Justice. He stated that his Government had in late September formally suggested to the ROK that the issues be taken to the ICJ for arbitration, and that in a Note Verbale of October 28 the Koreans had stated their refusal. In the face of the ROK’s action in establishing a lighthouse on Takeshima and unilaterally proclaiming sovereignty over this disputed territory, the Japanese Government felt constrained to take some countermeasures, particularly because of the pressure of Japanese public opinion. Since the dispute cannot be brought before the ICJ without Korean consent, the Japanese Government thought a recommendation by the SC that the matter should be put before the ICJ would at least focus world opinion on the fact that Japan was willing to permit impartial consideration of the merits of the dispute, while the ROK was not. If Japan decided to pursue this course, Mr. Tanaka wondered whether the United States would vote in the SC in favor of referral of the issue to the ICJ.

In answer to Mr. Stein’s question, Mr. Tanaka confirmed that Japan’s recent exchange with Korea with respect to submitting the dispute to the ICJ was only the latest in a long series of attempts by Japan to reach a satisfactory settlement with the ROK on the issue. Mr. Stein indicated that it would appear to be legally possible for the Japanese to bring the issue before the SC under Article 35, paragraph 2, of the Charter, which provides that non-UN members may bring to the attention of the Council any dispute to which it is a party. He added that there were precedents for such

action, citing the Corfu Channel dispute between the UK and Albania as appearing on the surface to be a similar dispute and one which was handled in a similar manner. Mr. Stein confirmed that the ICJ could not consider the issue without the consent of both parties and said that Albania had submitted to the jurisdiction of the ICJ in the Corfu Channel Case. Mr. Matsuoka indicated the Japanese were familiar with this case.

Mr. Jones stated that while we were not in a position to offer any firm views on the matter at the present time, it would seem that the proposed Japanese action would serve little practical purpose and that any small satisfaction which Japan might gain on moral grounds would be far outweighed by the increased agitation to ROK-Japan relations. He added that while he did not want to appear too optimistic, he had reason to believe that the chances for improved ROK-Japan relations were at the moment in ascendancy, and he thought it would be more unfortunate if Japan undertook any action now which might disturb the situation to Japan's ultimate loss.

Mr. Finn agreed with Mr. Jones that Japan would appear to have little to gain and perhaps much to lose by resorting to this proposed measure. He stated that in any case, he would assume that a matter of this nature would be taken up on a higher level by the Embassy, perhaps by Ambassador Iguchi with the Secretary, before the Japanese made any final decision to proceed. Mr. Jones pointed out that the present time would be particularly unpropitious for the proposed action by Japan in view of the upcoming consideration of the Korean question in the General Assembly. Mr. Tanaka confirmed that his Government did not intend to bring the matter up until the current General Assembly has adjourned.

Mr. Jones then said that he wanted to tell Mr. Tanaka and Mr. Matsuoka on a confidential basis why he was hopeful with regard to improved ROK-Japan relations. The United State had just reached with the ROK agreement on several important points of US-ROK policy. Among these was agreement by the ROK that purchases in connection with the Korean rehabilitation program would be made ...goods of comparable quality could be obtained for the best price. This means increased purchases in Japan. While this might in itself be considered a small price for Japan, it could be the beginning of a more relaxed policy by the ROK toward Japan and could conceivably, with careful cultivation by everyone concerned, lead to a better atmosphere for future negotiations on outstanding issues, including Liancourt.

Mr. Tanaka thanked us for the informal exchange of views. Mr. Finn expressed the hope that nothing would be done until we had an opportunity to discuss the matter further with our own people and with the Japanese. Mr. Tanaka assured us that he would keep us informed and requested that the matter be treated confidentially.

Document 6 Memorandum of Conversation, Subject: "Liancourt Dispute" on November 17, 1954

Participants:

Minister Shigenobu Shima, Japanese Embassy

Mr. W. J. Sebald (William J. Sebald), Deputy Assistant Secretary, Far Eastern Affairs

Mr. R. B. Finn (Richard B. Finn), Officer in Charge, Japanese Affairs

Mr. Shima called at his request on November 17 at 3 p.m.

The minister said he first wished to express appreciation for the kind treatment accorded Prime Minister Yoshida and second that he wished to pay his respects to Mr. Sebald now that the latter had assumed his new position as Deputy Acting Secretary.

Mr. Shima stated that he would like to inquire informally regarding the views of the United States on a Japanese proposal to submit to the UN Security Council the controversy with the Republic of Korea over the Liancourt Rocks. The Japanese proposal would request the Security Council to approve a recommendation that this issue be presented to the International Court of Justice for decision. Mr. Shima said that his Government had not yet decided to submit such a proposal to the Security Council and first wished to ascertain informally the views of the United States Government. The Minister stated his personal view that Japan would not submit this problem to the Security Council if it were not assured of United States support of Japan's recommendation that the issue be referred to the International Court.

Minister Shima explained that Japan had by note dated September 25, 1954 proposed to the Republic of Korea that this matter be taken directly to the International Court. The ROK had by note dated October 28 rejected this proposal. Mr. Shima said the dispute over the Liancourt Rocks was a long standing one.

Mr. Sebald said that of course Japan was free to do as it thought best in presenting its case and commented that he had personally followed this controversy over a long period of time. He stated his opinion however that the Security Council would wish to be answered that the two parties were unable to reach agreement through bilateral negotiations and the Council might consider that bilateral efforts had not yet been fully explored. He also stated that the ROK answered reluctant to discuss any proposal to submit this issue to the International Court, if the ROK refused to discuss the issue before the Security Council or before the International Court, Japan would not succeed in obtaining a hearing of its case. Mr. Sebald expressed the view that it is important for Japan to keep its claim alive and not to permit its rights to be prejudiced by default. He suggested that a note to the ROK or other periodic formal statements would serve this purpose.

Minister Shima said that Japan of course intended to press its claim and expressed the view that Japanese public opinion is satisfied that the Government is doing what it can. He stressed that the Government feels it has a strong case and desires early solution. He noted that the U.S. military forces in Japan had listed Liancourt Rocks as a military facility granted to their use under the Administrative Agreement and had later returned this facility to Japanese control. Mr. Shima said this appeared to constitute US recognition of the validity of Japan's claim. Mr. Sebald commented that US relations with the ROK had recently improved and he noted that the US-ROK Mutual Defense Treaty was being brought into force on November 17 and that the general understanding had been agreed to in Seoul. He expressed confidence that relations between Japan and the ROK would improve in the future although this of course would take time.

Minister Shima said he was pleased to learn of these favorable developments although he wondered how they might lead to an improvement of Japan's relations with the ROK. He inquired whether the US was considering designation of an American mediator who might assist in Japan-

ROK negotiations. Mr. Sebald said that he would personally prefer to see the two Governments iron out their difficulties by themselves and that he doubted whether an American mediator would be successful in the absence of willingness by Japan and the ROK to negotiate by themselves. He said the US would however try to assist in bringing the parties together and facilitating their negotiations. Mr. Sebald stressed US interest in the development of a sense of interdependence on the part of nations in Northeast Asia.

Minister Shima thanked Mr. Sebald for his views and said he would report further to his Government.

Conclusion

As seen from the U.S. Department of State records introduced in this paper, the U.S. Government has taken the stance that the dispute over territorial sovereignty over Takeshima should be settled between Japan and the Republic of Korea and that the United States has no intention of working as a mediator, while maintaining the position expressed to the Republic of Korea Ambassador in the process of drafting the Peace Treaty with Japan that Takeshima is Japanese territory.

The U.S. understanding is that, in general, mediating a territorial dispute between other nations is to play an unfavorable role (“The United States would be placed in the embarrassing position ... of seeming to choose between Japan or Korea.” “As usual, the role of the mediator is not a happy one.” Document 3); that the Takeshima dispute does not concern international peace and security (“I cannot believe that a dispute of such essentially unimportant nature will lead to a situation serious enough to justify an intervention by us which could only create lasting resentment on the part of the loser.” Document 4); and that the confrontation between the Eastern and Western blocks under the Cold War at that time was also relevant (“It is also unlikely that the United States and/or the Other Members of the anti-Soviet bloc in the United Nations would want to add this grist to the Soviet propaganda mill.” Document 3). Regarding the Senkaku Islands as well, when China (Taiwanese authorities) began claiming sovereignty in 1970 even though the United States had exercised administrative authority over these islands for many years as part of the Nansei Shoto (Okinawa) under Article 3 of the (San Francisco) Peace Treaty and even though the U.S. was using the Senkaku Islands as bombing ranges, the U.S. responded, “Under... the Peace Treaty with Japan... the term [the Nansei Shoto], as used in the treaty, was intended to include the Senkaku Islands,” “It is anticipated that administration of the Ryukyus will revert to Japan in 1972,” and “With respect to any conflicting claims, we consider that this would be a matter for resolution by the parties concerned.”⁷ Regarding the Northern Territories issue, while the United States supported the Japanese position on the four islands in a memorandum to Japan dated September 7, 1956, the U.S. stated that Japan cannot admit the Kurile Islands as Soviet territory under agreement between Japan and the USSR, and that their disposition should be determined by the U.S. and other Allies.⁸ In addition to legal arguments concerning the Peace Treaty, it seems the international

⁷ “Senkaku Retto Ryoyu ni kansuru Beikokumusho McCloskey Hodokan no Shitsugi Oto,” [“Questions and Answers of Robert McCloskey, Spokesman of the Department of State, regarding Sovereignty over the Senkaku Islands,”], *Kikan Okinawa* [Okinawa Quarterly], No. 63 (December 1972), p. 165.

⁸ *Gaimusho Happyoshu* [Ministry of Foreign Affairs Announcements], No. 4 (Jan. 1957), pp. 49-50. The original text is “U.S. Position on Soviet-Japanese Peace Treaty Negotiations,” *Department of State*

situation in 1956 also greatly influenced this approach. The U.S. did not intend to take the lead to hold a meeting of the Allies, and reach a final territorial settlement on the Kuriles. In short, the active involvement of third countries in the settlement of territorial issues cannot be expected.⁹

Nevertheless, what is important for the (Takeshima) territorial issue is not that the U.S. subsequently firmly maintained its position that Takeshima is Japanese territory and that conversely its “real intention” not to want to be involved in the dispute was revealed, but rather, as made clear in my previous two articles (Footnote 1, above) and through the Department of State documents introduced this time as an addendum, it is the reconfirmed fact that “Japan’s retention of Takeshima was fixed by the San Francisco Peace Treaty.” That is, Takeshima was Japanese territory as of the end of the Second World War. However, as a result of accepting the Potsdam

Bulletin, Vol. 35, No. 900 (September 24, 1956), p.484. The United Kingdom and the European Parliament have also given some support to Japan’s position on the Northern Territories issue. Regarding this point, see Takashi Tsukamoto, “Reisen Shuengo no Hoppo Ryodo Mondai” [“The Northern Territories Issue Since the End of the Cold War”], *Kokusaiho Gaiko Zasshi* [*Journal of International Law and Diplomacy*], Vol 105, No. 1 (May 2006), p. 96; P6_TA (2005) 0297 European Parliament resolution on relations between the EU, China and Taiwan and Security in the Far East, (July 7, 2005) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2005-0297+0+DOC+XML+V0//EN>.

⁹ With the normalization of diplomatic relations between Japan and the Republic of Korea, the two countries concluded the “Exchange of Notes concerning the Settlement of Disputes between Japan and the Republic of Korea” (June 22, 1965). It is explained that this is for the settlement of the Takeshima dispute (Ministry of Foreign Affairs, Japan, *Regarding Japan-Republic of Korea Treaties*, Nov. 1965, pp. 24-26). The Exchange of Notes prescribed, “The governments of both countries will first settle bilateral disputes through diplomatic channels, and when settlement cannot be reached in this way, they will work at settlement through conciliation following procedures agreed on by the governments of both countries.” Conciliation is one of the means of settling international disputes, primarily political disputes, using a framework whereby a multiple conciliation committee gives recommendations on settling the dispute. (For example, when there are five committee members, the countries that are parties to the dispute may each select one member from their own nationals and one member from another country, and the two members from other countries may chose the third member or the chairperson from the other country, etc.). Plans such as having U.S. politician backed by the authority of the U.S. serve as conciliator may involve difficulties for the same reasons presented here.

However, it seems the Republic of Korea explains (domestically) that the Takeshima issue lies outside the scope of this Exchange of Notes concerning the Settlement of Disputes, and the Government of Japan has stated, “This is not limited to settlement by conciliation, so in case there are various obstacles, we can return to the beginning, with settlement by means such as the International Court of Justice or international arbitration, and there are various methods” (reply by Minister of Foreign Affairs Etsusaburo Shiina, Minutes of the 50th Diet, House of Representatives plenary session; No. 5, p. 65; October 16, 1965), so it is not necessary to adhere too strictly to this Exchange of Notes format. The Republic of Korea insists that the Takeshima issue is not a subject of the Exchange of Notes concerning the Settlement of Disputes because Takeshima (Dokdo) is territory of the Republic of Korea and therefore no dispute exists. In response to such assertions, the Government of Japan (Ministry of Foreign Affairs) cites the following advisory opinions of the International Court of Justice and judgments of the Permanent Court of International Justice* and stated that whether there exists an international dispute is a matter for objective determination. (*1. Advisory opinion of the International Court of Justice regarding the interpretation of peace treaties between the Allies and Bulgaria, Hungary and Romania; 1950. 2. Judgment in the Mavrommatis case between Greece and the U.K.; 1924. 3. Judgment in the case concerning German interests in Upper Silesia between Germany and Poland; 1925).

Declaration which limits Japanese sovereignty “to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we [the Allies] determine,” there was a possibility that the “minor islands” except the four major islands that were originally Japanese territory could have been removed from Japanese territory by the determination of the Allies. During the occupation of Japan, some equivocal events such as SCAPIN No. 667, which suspended Japan’s exercise of administrative rights over Takeshima (Footnote 5, above) occurred, but ultimately it was the Peace Treaty that determined which islands Japan retains and which were separated from Japan. The Republic of Korea requested that Takeshima (Dokdo) be added to the article stipulating the renunciation of Korea by Japan as part of Korea, and the U.S. Government which drafted the treaty denied the Korean request with the reason that Takeshima is Japanese territory. Thus, Takeshima was not removed from Japan by the Peace Treaty,¹⁰ and its retention by Japan was determined.

¹⁰ The format of listing the islands to be retained by Japan was considered at one time during the process of drafting the Peace Treaty. The treaty that was finally adopted, however, prescribes the areas to be separated from Japan. Some argue that Japan lobbied for the Peace Treaty to stipulate that Takeshima is Japanese territory but that such a provision was not included. However, this is an argument that does not grasp the structure of the peace treaty.