

# *Shioki, Fuyō, Zokoku and Sovereignty*

—Status of the Ryukyu Kingdom under “International Law” in Early-Modern and Modern Times—

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## **I Introduction**

The Biblioteca Vallicelliana in Rome houses a world map most likely produced between 1545 and 1550 by an anonymous cartographer in Portugal. On this map, a long string of islands is shown along the east coast of “CHINA” with the inscription “japam” in the middle of the archipelago. This is believed to be the earliest example of the name “Japan” appearing on a map. When you take a closer look at the map, however, you will see that the southernmost island in the archipelago is named “lequio menor,” the one immediately above “lequio mayor,” and the large island above it “japam,” with the island at the north end named “jlhas de Miacoo.” As “lequio” is the Portuguese name for Ryukyu and “Miacoo” is Miyako, the sequence is (from south to north) Shō Ryukyu, Dai Ryukyu, Japan, and the Miyako Islands. On the right-hand side of the string of islands is the inscription “LEQUIOS” (= Ryukyu) in capital letters. Matsumoto Ken’ichi, who compiled 72 maps of Japan produced by early European visitors and Dutchmen, including this one, surmises that “the notation LEQUIOS shows that the cartographer of this map understood the whole archipelago as being the “Ryukyu Islands,” containing Dai Ryukyu, Shō Ryukyu, Japan and Miyako.”<sup>1</sup> Murai Shōsuke makes the same supposition and assumes that Ryukyu had been a place of entrepôt-trade between areas of South East Asia and China since the 15th century. He further conjectures that Ryukyuan seen in Malacca were the first to come into contact with Europeans. Murai concludes that Europeans at the time regarded “Japan as a part of Ryukyu.”<sup>2</sup>

Although it is not necessarily clear how general this perception was at the time, for Portuguese and Spanish sea travelers who sailed from the south to Japan, Ryukyu must have been an important port of call, especially when they were not following a route that took them via China (Francisco de Xavier, the first missionary to bring Christianity to Japan, for example, landed at Bōnotsu on the Satsuma Peninsula via China in 1549).

Here it is also worth noting that Kondō Jūzō, famous for his expeditions into Ezochi (Hokkaido), wrote in his “*Matsumae Ezochi shochi narabi ni ikoku sakai torishimari ni tsuki kengensho sōan*” [Draft

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\* This article was originally published in Yanagihara Masaharu ed., *Henten suru Kokusai Shakai to Kokusaihō no Kinō: Uchida Hisashi Sensei Tsuitō* [The Function of International Law in a Transforming International Society: Liber Amicorum in Honor of Prof. Uchida Hishashi] (Shinzansha, 2018), pp. 3-33.

<sup>1</sup> Matsumoto Ken’ichi, ed., *Nanban Kōmō Nihon Chizu Shūsei* [Compilation of Maps of Japan Produced by Early European Visitors and Dutchmen] (Kajima Institute Publishing, 1975), p. 30.

<sup>2</sup> Murai Shōsuke, “Joron: zabieru to ajia” [Introduction: Xavier and Asia], Minamizuka Shingo et al., ed., *Atarashiku Manabu Seiyō no Rekishi: Ajia kara Kangaeru* [Western History to Start Learning Again: From the Perspective of Asia] (Minerva Shobō, 2016), pp. 31-32.

recommendations on Matsumae's dealings with Ezochi and control of the areas next to foreign countries] (most likely written in 1797)<sup>3</sup> that “passages between our country and foreign countries exist in only four places: Nagasaki, Satsuma, Tsushima, and Matsumae.” The present-day concept of the so-called “four portals”<sup>4</sup> is clearly demonstrated here; in addition to Nagasaki, Tsushima and Matsumae, Satsuma Portal is mentioned as the passage to the Ryukyu Kingdom, a “foreign country.”

From around the end of the 18th century, and especially from the 1840s and after when flotillas from France, the United Kingdom and Russia, and later from the United States, arrived and tried to establish contact with Japan, Ryukyu's role became increasingly important. A typical example was the Convention between the Lew Chew Islands and the United States of America (Friendship Convention between Ryukyu and the United States) signed in 1854. The American signatory was Commodore Matthew Perry and signatories from Ryukyu were *Sōri daijin* (Superintendent of Affairs) Shō Kōkun (Sho Fu-fing), and *Fusei taifu* (Treasurer) Ba Ryōsai (Ba Rio-si).<sup>5</sup> As Perry was based in Hong Kong while he negotiated a treaty with the Tokugawa Shogunate, he stopped at Naha five times in all en route to Edo.

There were other treaties that the Ryukyu Kingdom entered into with Western countries. Following the 1854 Convention between Ryukyu and the United States, the *Convention entre la France et les Iles Liou-Tchou* (Friendship Convention between Ryukyu and France) was signed in 1855, followed four years later by the 1859 *Traktaat tusschen Nederlanden en Lioe-Kioe* (Friendship Convention between Ryukyu and the Netherlands).<sup>6</sup> The Convention between Ryukyu and the United States became effective in 1855, but in the end neither France nor the Netherlands actually ratified their Conventions with Ryukyu.<sup>7</sup>

<sup>3</sup> Tōkyōdaigaku Shiryōhensanjo [Historiographical Institute, the University of Tokyo], ed., *Dai Nihon Kinsei Shiryō: Kondō Jūzō Ezochi Kankei Shiryō 1* [Historical Materials of the Early Modern Japan: Historical Materials of Jūzō Kondō concerning Ezochi, Vol. 1] (University of Tokyo Press, 1984), p. 8.

<sup>4</sup> See Arano Yasunori, “Bakuhansaisei kokka to gaikō: Tsushima-han o sozai to shite” [The Shogunate system state and foreign relations: using Tsushima Domain as an example], *Sekaiishi Nin'shiki ni okeru Minzoku to Kokka: 1978-nendo Rekishigaku Kenkyū Taikai Hōkoku* [Race and State in the Perception of World History: Reports from the 1978 Annual Meeting of the Historical Science Society of Japan] (1978), pp. 104-105; idem., *Kinsei Nihon to Higashi Ajia* [Early Modern Japan and East Asia] (University of Tokyo Press, 1988), p. 161.

<sup>5</sup> For details on the titles of the signatories on the Ryukyu side, see Dana Masayuki, “Ōfu no ikokusen geisetsu taisai: sōrikan o chūshin to shite” [Royal government's reception system for foreign ships: the *Sōrikan* in focus], Ryūkyū Ōkoku Hyōjōsho Monjo Henshū Inkaikai [Compilation Committee of Documents of Ryukyu Kingdom's Judicial Council], ed., *Ryūkyū Ōkoku Hyōjōsho Monjo, Dai 14-kan* [Documents of Ryukyu Kingdom's Judicial Council, Vol. 14] (Urasoe-shi Kyōiku Inkaikai, 1998), pp. 5-42. Hereafter, this series shall be referred to as “*Hyōjōsho Monjo*,” and individual volumes will be identified by publication year.

<sup>6</sup> The originals of the three Conventions are recorded in Gaimushō Jōyakukyoku [Treaties Office, the Ministry of Foreign Affairs of Japan], ed., *Kyū Jōyaku Isan Dai 3-kan (Chōsen, Ryūkyū)* [Collection of Treaties and Conventions 1854-1925, Vol. 3 (Korea & Ryukyu)] (Treaties Office, the Ministry of Foreign Affairs of Japan, 1934), pp. 651-661. For the originals in classical Chinese, see Japan Center for Asian Historical Records, Ref. B06151020700 (images 26-37); Ryūkyū-han Bei Ran Futsu Yakujōsho [Ryukyu Domain's Agreements with the US, the Netherlands and France] (2.5.1.9) (Diplomatic Archives, Ministry of Foreign Affairs of Japan).

<sup>7</sup> Concerning these Conventions, there were recently two noteworthy events. The first was an article published by *Ryūkyū Shimpō* (an Okinawan newspaper) on February 8, 2015. The article reported that the French original of the Convention between Ryukyu and France bearing the seal of the Ryukyu Kingdom had been discovered in the

In this essay, the author intends to clarify issues surrounding these Conventions in the light of international law through investigating the actions taken before and after the Conventions by the interested countries (the Ryukyu Kingdom, the United States, France, the Netherlands, and Japan (more specifically, the Shogunate, the Satsuma Domain and the Meiji government)) and those individuals involved. This should provide a clue to a better understanding of the transition in Ryukyu Kingdom's status under "international law" in early-modern and modern times. Key concepts that will play a central role in carrying out such an analysis are: "仕置 (*shioki*; control)," "附庸 (*fuyō*; dependency)," "属国 (*zokkoku*; client state)" and "主権 (*shuken*; sovereignty)."<sup>8</sup>

As concepts such as "sovereignty" and "territory" based upon modern international law spread slowly across East Asia in the first half of the 19th century—or rather, as countries in the region were forced to accept these novel concepts—East Asian countries including Japan began to gradually establish "territories" of their own as "sovereign States" predicated on Western concepts of "territory." During this transitional period, how did these countries switch over from their traditional concepts—concepts that had existed as inherent notions in the region—to these Western concepts? The main purpose of this essay is to explore this process using the Ryukyu Kingdom as our main subject. Hereafter, in chronological order, we will discuss in detail the Ryukyu Kingdom between 1609 and the 1830s, the Ryukyu Kingdom in the 1840s and the 1850s, and Ryukyu/Okinawa in the early Meiji period.

## **II Ryukyu Kingdom between 1609 and the 1830s**

In 1429, Shō Hashi, king of the Chūzan Kingdom of Ryukyu, overthrew Tarumai, king of the Nanzan Kingdom of Ryukyu, and annexed Nanzan to establish a unified Ryukyu Kingdom. A watershed year for the Ryukyu Kingdom came in 1609 (Keichō 14, the name of an imperial era) when Shimazu Iehisa (originally Tadatsune), Daimyo of the Satsuma Domain, made a decision on February 26 to send a punitive expedition against Ryukyu, and requisitioned Shuri Castle on April 25. On May 26, he reported the suppression of Ryukyu to Tokugawa Ieyasu and Tokugawa Hidetada.

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French Navy Archives (correctly, in Le Service historique de la Défense) in Vincennes, France. Patrick Beillevaire, a French researcher, authenticated the identity of the treaty, and a set of photographs was taken in 2013. The article concluded: "Confirmation of the authenticity of the French original demonstrates that at that time France recognized Ryukyu as an independent sovereign nation." See the second section of this essay regarding the problems with concluding that Ryukyu was an "independent sovereign nation" based on the existence of this document. The second recent event was a "Memorandum of questions about historical facts and recognition of the Ryukyu Kingdom" and a "Memorandum of second questions" about the same subject submitted severally on February 25 and March 11, 2015, by Teruya Kantoku, a member of the Japanese House of Representatives. The government's written answers to the questions were presented on March 6 and March 20, 2015, and address the three Conventions concluded by the Ryukyu Kingdom. Previously, in regards to the Convention with the US, Suzuki Muneo, a member of the House of Representatives, submitted a "Memorandum of questions about the 1854 Convention between Ryukyu and the US" and a "Memorandum of second questions" on the same subject on October 13 and November 1, 2006. The government answered the questions in writing on October 24 and November 10, 2006.

<sup>8</sup> The concept of the "sovereign State" is a key concept directly associated with the basis of modern international law. Uchida Hisashi discussed the phenomenon of transformations in the concept of sovereignty in his essay "Shuken gainen no henyō" [Transformation of the concept of sovereignty] in *Kokusai Mondai* [International Affairs], Vol. 279 (1983), pp. 2-15. Inspired by Uchida's discussion, the author wrote: "Iwayuru 'doitsu kokusaihō' o meguru ichi kōsatsu [A study on so-called 'German international law']," *ibid.*, ed., *Uchida Hisashi-sensei Koki Kinen Ronbunshū: Kokusai Shakai no Soshikika to Hō* [In Commemoration of Prof. Uchida Hisashi's Seventieth Birthday: The Organization of the International Community and Law] (Shinzansha, 1996), pp. 81-155.

Tokugawa Ieyasu responded by letter dated July 7 recognizing Iehisa's great services, saying that "I am so much pleased to hear that you suppressed the whole country of Ryukyu with armed force. Hereby I decide as follows: Ryukyu is given to you and you are instructed to have *shioki* there."<sup>9</sup> The concept of *shioki* has particular importance here. Around the Age of Civil Wars (between the end of the 15th century and the end of the 16th century), the term *shioki* became to mean "ruling with authority." Later, during the Edo period, the meaning gradually shifted to mean only punishment and its execution, which were assumed to have significant importance in ruling with authority.<sup>10</sup> However, as it is presumed that *shioki* as used in Ieyasu's letter of approval to Iehisa implied overall control, we can assume that Ieyasu ordered Iehisa to govern Ryukyu.<sup>11</sup>

Another document worth noting in this context is the *kishōmon* (written vow) that Ryukyu's *Sanshikan* (Ryukyuan prime ministers) were forced to submit to the Kagoshima *Bugyō* (magistrate) on September 20, Keichō 16 (1611). The document begins with the phrase "since ancient times, Ryukyu has been a *fuyō* of the Satsuma Domain."<sup>12</sup> This means that the document was a pledge allegiance to the Satsuma Domain based on in a sense the "fictional" perception that Ryukyu had been Satsuma Domain's *fuyō* from ancient times.<sup>13</sup> The origins of the word *fuyō* ( 附庸 ) can be traced back to around the 14th century and means to "belong to" or be "subject to." There were various specific actions the Shimazu clan of the Satsuma Domain took, which are also called the "Ryukyu *shioki*." On the day before the *kishōmon* was submitted, it was decided that the dominion of the Ryukyu Kingdom should constitute the south of Michinoshima (Amami Islands), and that 89,086 *koku* (of rice; traditionally it was supposed that rice consumption of an adult for a year was a *koku*, which is around 180 L/ 150 kg) of annual land tax, collected from the islands, were to be paid to the Satsuma Domain. It also established the "Ryukyu Kingdom Law of 15 Articles"; among the articles were rules prohibiting Ryukyu from bringing tribute to China except when ordered by Satsuma and from dispatching trading ships to foreign countries.<sup>14</sup>

From 1609 onward, however, the actual contents of Satsuma Domain's *shioki* and *fuyō* changed over the time. At first, the Satsuma Domain had intended to pursue the Japanization of formalities in the Ryukyu Kingdom and the assimilation of Japanese manners and customs. On August 20, Kan'ei 1 (1624), however, Ryukyuan were prohibited from assuming Japanese names and wearing Japanese clothing. On August 4, Kan'ei 11 (1634), the Shogunate effectively authorized the Shimazu clan to govern Ryukyu, when it stated that "total of 605,000 *koku* from both Satsuma and Ōsumi as well as prefectures in the country of Hyūga and an additional 123,700 *koku* from Ryukyu, all of

<sup>9</sup> Rekishigaku Kenkyūkai [The Historical Science Society of Japan], ed., *Nihonshi Shiryō, 3 Kinsei* [Materials on Japanese History, Vol. 3: Early Modern Times] (Iwanamishoten, 2006), p. 126.

<sup>10</sup> Ishii Ryōsuke, "Shioki," *Kokushi Daijiten Dai 6-kan* [Encyclopedia of Japanese History, Vol. 6] (Yoshikawakōbunkan, 1985), p. 662. *O-shioki Ruirei-shū* [Compilation of Parallel Cases of *Shioki*] is a compilation of law reports dealing with criminal cases compiled by the Edo Shogunate's *Hyōjōsho* (judicial council) from 1804 onwards.

<sup>11</sup> See also Hioki Eigō, ed., *Shin Kokushi Dainempyō: Dai 5-kan I* (1601-1715) [New Comprehensive Chronological Table of Japanese History, Vol. 5, I (1601-1715)] (Kokushokankōkai, 2010), pp. 81-82.

<sup>12</sup> Kagoshima-ken Ishin Shiryō Hensanjo [Compilation Department of Historic Materials on the Restoration, Kagoshima Prefecture], ed., *Kyūki Zatsuroku Kōhen 4* [Old Miscellaneous Writings, Part II, Vol. 4] (Kagoshima Prefecture, 1984), p. 347.

<sup>13</sup> The letter Shimazu Yoshihisa sent to Shō Nei, the successor to the king of the Ryukyu Kingdom, dated February, Keichō 9 (1604), contains the phrase "Ryukyu is Satsuma's *fuyō*." Kagoshima-ken Ishin Shiryō Hensanjo, ed., *Kyūki Zatsuroku Kōhen 3* [Old Miscellaneous Writings, Part II, Vol. 3] (Kagoshima Prefecture, 1983), p. 927.

<sup>14</sup> *Kyūki Zatsuroku*, *ibid.*, (Note 12), pp. 344-345.

which the Shimazu clan shall administer.” Both the Shogunate and the Satsuma Domain desired trade with Ming through Ryukyu. While Ming did not hide its suspicion at first (see the Ming official communication on May 13, Banreki 41 (1613)), on June 9, Sūtei 6 (1633), tributary envoys from Ming arrived in Ryukyu to grant the title of the King of Chūzan to Shō Hō and to allow biennial tribute to be made as it had been in the past. As a result, Ryukyu was again incorporated into China’s tributary system (Qing had determined Ryukyu’s status as tributary state in Junchi 11 (1654)).<sup>15</sup>

Thus, as seen above, Ryukyu was under Shimazu’s *shioki* as its *fuyō*, while at the same time it was incorporated into the Chinese (Ming and Qing) tributary system. Ryukyu had had certain exchanges with Korea prior to 1609,<sup>16</sup> but from that year on Ryukyu’s external relations were largely restricted to Japan (Satsuma) and China.

Although it is possible to give a quick sketch of the status of the Ryukyu Kingdom between 1609 and the 1830s as seen above, disparate perceptions remain; indeed, it would be fair to say that there is still no single established understanding of it even today.<sup>17</sup> There is also no consensus on how to evaluate many different facts presented here. Nonetheless, it is quite clear that no serious issues arose during the time of this anomalous arrangement in spite of the multiple different perceptions of Ryukyu among the countries concerned, i.e. Ming, Qing, the Ryukyu Kingdom, the Satsuma Domain, and the Shogunate. Was there a hierarchical structure in ranking Japan and Qing as rulers? How much effort did the Shogunate make to conceal the relationship between Japan and Ryukyu (or Satsuma and Ryukyu) from Qing? These questions are still being discussed.<sup>18</sup> That said, it is clear that for some 230 years a very ambiguous situation, when viewed from present perspectives, continued between Ryukyu, Japan, and Qing, which cannot be grasped from the perspective of modern law or modern international law. The author must further stress that this vague situation did not necessarily emerge as a serious issue among the parties concerned at that time.<sup>19</sup>

<sup>15</sup> For details, see, among others, Kamiya Nobuyuki, *Bakuhansei Kokka no Ryūkyū Shihai* [Control of Ryukyu under the Shogunate System] (Azekurashobō, 1990), pp. 18-45 and 242-268; Watanabe Miki, *Kinsei Ryūkyū to Chūnichī Kankei* [Early Modern Ryukyu and Japan-China Relations] (Yoshikawakōbunkan, 2012), pp. 65-137.

<sup>16</sup> See Fuma Susumu, “1609-nen, nihon no Ryūkyū heigō ikō ni okeru Chūgoku Chōsen no tai Ryūkyū gaikō” [Chinese and Korean diplomacy toward Ryukyu after Japan’s annexation of Ryukyu in 1609], *Chōsen-shi Kenkyūkai Ronbunshū 46-shū* [Bulletin of the Society for the Korean Historical Science, Vol. 46] (Ryokuinshobō, 2008), pp. 23-31; Son Seung-Cheul, “Chōryū kōrin taisei no kōzō to tokuchō” [Structure and characteristics of Korea-Ryukyu diplomacy system], Ha Woo-Bong et al., ed., *Chōsen to Ryūkyū* [Korea and Ryukyu] (Yōjushorin, 2011), pp. 28-44. See also Ikeya Machiko et al., ed., *Chōsen Ōchō Jitsuroku Ryūkyū Shiryō Shūsei* [Compilation of Korean Dynasty’s Authentic Historical Materials Related to Ryukyu] (Yōjushorin, 2005).

<sup>17</sup> For the existence of various theories, see, for example, Tomiyama Kazuyuki, “Ryūkyū Okinawa-shi no sekai” [The world of Ryukyuan and Okinawan history], idem., ed., *Ryūkyū Okinawa-shi no Sekai* (Yoshikawakōbunkan, 2003), pp. 53-57.

<sup>18</sup> See Watanabe, *ibid.*, (Note 15), pp. 140-173 and 213-253.

<sup>19</sup> See Robert K. Sakai, “The Ryukyu (Liu-ch’iu) Islands as a Fief of Satsuma,” John King Fairbank, ed., *The Chinese World Order: Traditional China’s Foreign Relations* (Cambridge, Mass.: Harvard University Press, 1968), p. 112. Ryukyu’s weapon-, crime- and money-free image is vividly portrayed in *Account of a Voyage of Discovery to the West Coast of Korea and the Great Loo-Choo Island in the Japan Sea* (published in 1818) [translated by Haruna Akira under the title *Chōsen Ryūkyū Kōkaiki* [Account of a Voyage to Korea and Ryukyu] (Iwanamishoten, 1968)] by Basil Hall, captain of British naval ship *Lyra*, who visited Korea and Ryukyu during Lord Amherst’s mission to China in 1816, and also in a hand-written Ryukyu diary by Lieutenant H. J. Clifford, an officer on the *Lyra* (this diary was found in the library of the National Museum of the Royal Navy at Portsmouth, U.K., by Hamagawa Hitoshi, who later published a Japanese translation of it titled *Kurifōdo Hōryū Nikki: Mō Hitotsu no Kaikoku* [Clifford’s Diary of the Ryukyu Visit: Another Opening of the Country] (Fujishuppan, 2015)).

### III Ryukyu Kingdom in the 1840s and the 1850s

Beginning in the 1840s, Dutch, British and French ships began to make frequent visits to Ryukyu. Especially serious was the arrival of the French naval vessel *L'Alcmène* at Naha in March Kōka 1 (1844), to negotiate the opening of the port for trade. In the end, the *L'Alcmène* left Naha after a week, leaving behind the missionary Théodore Augustin Forcade and a Chinese theology student to serve as his interpreter. Having received a report of the visit, the Satsuma Domain and the Shogunate held consultations and dispatched 128 guards to Ryukyu in July. In October of the same year, a Ryukyuan envoy traveling on the Ryukyu tributary ship to China submitted a petition to Qing asking for its support in forcing the Frenchman to leave Ryukyu.<sup>20</sup>

Ships from Western countries continued to arrive in Ryukyu following this incident. In April Kōka 3 (1846), the British ship *Starling* arrived at Naha where, claiming to obey the imperial orders, it deposited the missionary and medical doctor Bernard Jean Bettelheim and his wife and children despite the Ryukyu authority's reluctance to accept them. Subsequently the French ships *Sabine*, *Cléopâtre* and *Victorieuse* also arrived in Ryukyu to leave missionaries. In June of that same year, the Shogunate Rōjū (senior councilor) Abe Masahiro communicated to Shimazu Nariakira (Daimyo of the Satsuma Domain) that trade with foreign countries in Ryukyu should be allowed only when necessary, and should be limited to the French alone. As noted above, the Ryukyu Kingdom itself had already requested Qing to exert its influence on such matters as the deportation of foreigners and the rejection of trade overtures, while the Kingdom itself thoroughly obstructed Bettelheim's missionary activities.<sup>21</sup>

Faced with this situation, the Ryukyu Kingdom prepared the document "*Ikokujin e hentō no kokoro*" [Rules for replies to aliens], probably in February Dōkō 28 (1848). The work contains hypothetical questions and answers generated by the Ryukyu government for the use of the officials who were dealing directly with the succession of arriving foreign vessels. It is clear throughout the document that the intention was to conceal both Ryukyu's relationship with Satsuma and Japan and the circumstances within Ryukyu, and to ingeniously deflect the Westerners' requests while appearing to remain totally amicable. For questions concerning its scope, the 36 islands of Ryukyu, including the Amami islands such as Ōshima and Tokunoshima, the official reply was "(those

<sup>20</sup> In this instance, "*Ryūkyū Hisaku*" [Strategic Policy for Ryukyu] was written by Godai Hidetaka, a Satsuma Confucian scholar (Okinawa Rekishi Kenkyūkai [Society for the Research of Okinawa's History], ed., *Nanhei Kikō* [Study of Accounts of Southern Missions] (Okinawa Rekishi Kenkyūkai, 1966), pp. 105-114). Godai supports a so-called "policy of Ryukyu separateness" where Ryukyu is regarded as a "foreign" country detachable from Japan and positioned outside of the Shogunate system. See Nishizato Kikō, *Shinmatsu Chū-Ryū-Nichi-kankeishi no Kenkyū* [A Study of Relations between China, Ryukyu and Japan in the Late Qing Period] (Kyoto University Press, 2005), pp. 119, 123 and 780.

<sup>21</sup> A British warship arrived in November Kaei 4 (1851) and requested improvement in the treatment of Bettelheim. For detail of these incidents, see Jules Revertegat, "Une visite aux Iles Lou-Tchou," *Le tour du monde: Nouveau journal des voyages*, 1882, pp. 250-256; Bénigne Eugène Fornier-Duplan, "Campagne de l'*Alcmène* en Extrême-Orient (1843. 44. 45 et 46)," *Bulletin de la société de géographie de Rochefort-sur-Mer*, 1908, pp. 17-37; Henri Cordier, *Les Français aux Îles Lieou K'ieou* (Paris: Imprimerie nationale, 1911), pp. 5-12; Tomiyama Kazuyuki, "Ryūkyū ōchō makki ni okeru taigai kankei: ryūbei ryūfutsu jōyaku teiketsu mondai o chūshin ni" [External relations in the late Ryukyu dynasty: issues around concluding Ryukyu-US, and Ryukyu-France treaties in focus], *Rekishi Hyōron* [Historical Journal], Vol. 603 (2000), pp. 32-34.

islands) have belonged to Ryukyu since ancient times, and have never been held by Japan.”<sup>22</sup>

## 1 Friendship Convention between Ryukyu and the United States

The Friendship Convention between Ryukyu and the United States was concluded on July 11, 1854, when circumstances had finally reached a pass where it was impossible to manage contacts with Western powers in such a manner. The 7-article Convention calls for amicable relations with visiting American citizens, provision of wood and water (for American vessels), assistance in the case of shipwrecks, and an injunction against tailing on landed sailors.<sup>23</sup> The official text was written in both Chinese and English.<sup>24</sup> The Convention took effect the following year, with a declaration by the president of the United States on March 9, 1855.<sup>25</sup> Some three months prior to this Convention, the Treaty of Peace and Amity between the United States of America and the Empire of Japan, the first treaty that the Tokugawa Shogunate entered into with a Western country, had been signed on March 31, 1854.

Whether or not Perry, the head negotiator for both of these treaties, perceived the Ryukyu Kingdom as being a “part” of Japan or as an “independent State” seems to have varied over time, at least as far as can be ascertained from published materials. While in Madeira, en route to Japan, Perry wrote a letter to John P. Kennedy, the U.S. Secretary of the Navy, dated December 14, 1852. In this communication Perry wrote: “The islands called the Lew Chew [Ryukyu] group are said to be dependencies of Japan, as conquered by that power centuries ago, but their actual sovereignty is disputed by the government of China. These islands come within the jurisdiction of the prince of Satsuma, the most powerful of the princes of the Empire.”<sup>26</sup> However, during the preparation of the Treaty of Peace and Amity, Perry requested that the Shogunate establish several open ports within Japan, and suggested that Ryukyu be one of the candidates. This request would suggest that Perry

<sup>22</sup> “Ikokujin e hentō no kokoroe” [Rules for replies to aliens] (No. 1921), *Hyōjōsho Monjo, Dai 17-kan* [Vol. 17] (2001), pp. 325-333. Also see Takara Kurayoshi, “Kaidai” [Bibliographical introduction], *Okinawa-ken Shiryō Zenkindai 3* [Historical Materials of Okinawa, Pre-modern Times, Vol. 3] (Okinawa-ken Kyōiku Iinkai, 1984), pp. 6-13.

<sup>23</sup> Tinello Marco argues that assigning a follower to foreigners was an important independent policy of the Ryukyu government in his book *Sekaishi kara mita 'Ryūkyū Shobun'* [‘Ryukyu Shobun’ from the Standpoint of World History] (Yōjushorin, 2017), pp. 92-99.

<sup>24</sup> The transcription into Japanese (from Chinese) is “ 亜米理幹合衆国約條之大意 ” [Substance of the agreement with American United States]; See “Shogaikoku to Ryūkyū to jōyaku narabini ōfuku shorui” [Treaties and correspondence between foreign countries and Ryukyu] (No. 1807), *Hyōjōsho Monjo, Dai 17-kan* [Vol. 17], pp. 316-317.

<sup>25</sup> Japan Center for Asian Historical Records, Ref. B06151020700 (Image 7); Ryūkyū-han Bei Ran Futsu Yakujōsho (2.5.1.9) (Diplomatic Archives, Ministry of Foreign Affairs of Japan).

<sup>26</sup> Perry continues: “occupation of the principal ports of those islands ... would be a measure not only justified by the strictest rules of moral law, but what is also to be considered, by the laws of stern necessity.” Tanaka Akira, *Kaikoku: Nihon Kindai Shisō Taikei 1* [Opening the County: Compendium of Japanese Modern Thought, Vol. 1] (Iwanamishoten, 1991), p. 32; Francis L. Hawks, *Narrative of the Expedition of an American Squadron to the China Seas and Japan, Performed in the Years 1852, 1853, and 1854, under the Command of Commodore M. C. Perry*, Vol. 1 (Washington: A. O. P. Nicholson, 1856), p. 85. Commodore Perry’s paper “Remarks of Commodore Perry upon the Expediency of extending further Encouragement to American Commerce in the East” written in 1856 states: “With the flourishing kingdoms of Japan, Lew Chew, and Siam, we have recently negotiated treaties, from which important benefits will undoubtedly be obtained. ...the native governments or communities of the East that are known to be *de facto* independent of any other established power” (Tanaka, op.cit., pp. 11-12.); Hawks, op. cit., Vol. 2, p. 173.

did assume the Ryukyu Islands to be part of Japan.<sup>27</sup>

The Shogunate declined Perry's suggestion, replying that: "as Ryukyu is 遠境 (*enkyō*; a very distant country), setting up an open port there would be very difficult to negotiate."<sup>28</sup> In fact, at this time discussions were ongoing within the Shogunate itself as to whether Ryukyu was Japan's 属国 (*zokkoku*; client state) or Qing's, or if, indeed, it should be regarded as being 両属 (*ryōzoku*; belonging to/dependent on both countries).<sup>29</sup> "Ryūkyū Gaikoku Kankei Monjo, Kaei 6-nen 38" [Documents Related to Ryukyu and Foreign Countries, 1853, Vol. 38], a collection of Shimazu documents now in the possession of the University of Tokyo Historiographical Institute, contains a document titled "Ryūkyū no gi ni tsuki ōsetsukata taii" [Outline of reception about Ryukyu-related matters] to serve as "Bakufu Ryūkyū-koku ni oite gaikokujin shobun jōgian" [Draft for discussion about the Shogunate handling of foreigners in Ryukyu]. Though the document is undated, we can assume that it is a collection of hypothetical questions and answers prepared by senior councilor Abe. From this document, we can see that Abe believed that Ryukyu "belongs to Japan within the dominion of the Satsuma Daimyo," in spite of the fact that Japan had allowed Ryukyu to adopt the Chinese Calendar and receive investiture missionaries from Qing. At the same time, it is also clear that he thinks Ryukyu should reply to other foreign countries that Ryukyu is totally subject to Japan. Positing that Americans might ask if Ryukyu was dependent on both Japan and Qing in such circumstances, the document suggests that in that case, one should not answer the question at all because "forcing to answer such a question might has some secret intention."<sup>30</sup>

Senior councilor Abe asked Hayashi Fukusai, *Daigaku no kami* (head of the Shōheizaka School), and Tsutsui Masanori, *Hizen no kami* (chief official of Hizen) to provide advice based on

<sup>27</sup> It should be noted that Bettelheim explained to Perry that "the country [Ryukyu], though independent to a certain extent, (its ruler being permitted, for a good contribution to Peking, to assume the high-sounding title of king,) yet is, to all ends and purposes, an integral part of Japan." The reasons for his perception are: there is a Japanese garrison in Naha; the trade of Ryukyu is entirely with Japan; many Japanese reside in Ryukyu perfectly at home; Bettelheim's meetings with the Ryukyu authorities seem to be managed by Japanese inspectors; the language, dress, customs, virtues, and vices of Ryukyu correspond to those of Japan. *Ibid.*, Vol. 1, pp. 222-223 (translation supervised by Miyazaki Hisako under the title of *Peri Teitoku Nihon Enseiki, Jō* [Expedition of Commodore Perry to Japan, Vol. 1] (Kadokawa Bunko, 2014), pp. 524-526).

<sup>28</sup> Regarding Matsumae, another candidate for designation as an open port, the Shogunate again rejected negotiation by reason of it being "辺境 (*henkyō*; a very distant place)." *Bakumatsu Gaikoku Kankei Monjo Dai 5-kan* [Documents Related to Foreign Affairs in the Late Shogunate Period, Vol. 5], p. 249. It is not clear whether or not *enkyō* and *henkyō* are used with different meanings. The details of this negotiation still remain in the records of the United States: the English expressions used in these records are "very distant country", "a distant dependency" for *enkyō* and "a very distant place" for *henkyō*. Hawks, *ibid.*, (Note 26), Vol. 1, pp. 363-365.

<sup>29</sup> It is unclear when the term 日中両属 (*nicchū ryōzoku*: belonging to/dependent on both Japan and China) came into existence. It is certain that Shimazu Nariakira stated in a meeting with the Shogunate's Senior Councilor Abe Masahiro on June 20, Kōka 1 (1844), that: "Ryukyu is *nisshin ryōzoku* (dependent on both Japan and Qing), it being ostensibly subservient to Qing and subordinate to Japan behind the scenes." See *Ryūkyū Gaikoku Kankei Monjo, Kōka Gannen 2* [Documents Related to Ryukyu and Foreign Countries, 1844, Vol. 2], Historiographical Institute, the University of Tokyo.

<sup>30</sup> This document and another document cited in the main text of this essay were reprinted in *Peri Nihon Enseiki Zuikōki* [Samuel Wells Williams, *A Journal of the Perry Expedition to Japan (1853-1854)*] translated by Hora Tomio (Yūshōdōshoten, 1970), pp. 447-455. The order of the documents, however, is different from the order in *Ryūkyū Gaikoku Kankei Monjo*. The detailed discussion about the date of the preparation of the collection of hypothetical questions and answers is found in Marco, *ibid.*, (Note 23), pp. 101-131.



this collection of hypothetical questions and answers. It is assumed that the document “*Ryūkyū-koku no gi otazune no omomuki torishirabe mōshiage sōrō kakitsuke*” [Document of requested studies about the state of Ryukyu], dated April Ansei 1 (1854), was the report Hayashi and Tsutsui jointly produced in response. In the document they state that Ryukyu is “a country that belongs to Satsuma” but exchanges tributary and investiture missionaries with China and also receives its calendar from China. The report goes on to state: “to foreign countries, Ryukyu should not declare itself to be a subject country to Japan, but it should say that it has trade with the islands belonging to Japan.” They conclude that “although Ryukyu is subject to both countries, as it could be said that China is something like its [Ryukyu’s] father and Japan something like its mother, it should be possible for Ryukyu to say it belongs to China if an answer is demanded.”<sup>31</sup> In response to this recommendation, the *Kanjōkata* (the finance department of the Shogunate), while saying that it agreed that Ryukyu belonged to Japan, suggested that Satsuma’s opinion should also be heard (April, Ansei 1 (1854)).<sup>32</sup> The *Kaibōgakari* (the coastal defense department of the Shogunate) disagreed with the recommendation, voicing the opinion that Ryukyu should be regarded as a “subject country of both Japan and China,” although asserting at the same time that Ryukyu was “undoubtedly *fuyō* of the Satsuma Domain” (document within “*Ryūkyū-koku no gi ni tsuki ōse idasare sōrō*” [Answering the questions asked about Ryukyu], in May Ansei 1 (1854)).<sup>33</sup>

Here, by using concepts such as *zokkoku* and *ryōzoku*, the discussion was constructed within the conventional framework of the *fuyō* and *sakuhō* (tributary) systems. Apart from the conclusion still to be found of whether Ryukyu was Japan’s *zokkoku*, China’s *zokkoku*, or a *ryōzoku* of both countries, the framework of the discussion itself was couched in absolutely traditional concepts of *fuyō* and *sakuhō*, rather than of a “dependent country” or “protected State” under modern international law.

Toward the end of the Edo period, the concept was also put forward of regarding Ryukyu, together with Korea, to be *tsūshin no kuni* (countries of correspondence) in accordance with the Japanese ancestral law (This position was explained, for instance, in a letter from the senior councilor to the Dutch Regent Minister in 1845). Among the documents dating to around this time, only the *Kaibōgakari*’s objection refers negatively to the “ancestral law.”<sup>34</sup>

The Shogunate never let Perry know that discussions such as the above were taking place within Japan’s government.<sup>35</sup> For his part, the strategy Perry adopted was to seal a treaty directly with the

<sup>31</sup> Hora, *ibid.*, (Note 30), pp. 449-450.

<sup>32</sup> *Ibid.*, p. 450.

<sup>33</sup> *Ibid.*, pp. 450-451. For these documents, see Maehira Fusaaki, “19-seiki no higashiajia kokusai kankei to Ryūkyū mondai” [International relations in the 19th century East Asia and Ryukyu issues], Mizoguchi Yūzō et al., ed., *Ajia kara Kangaeru (3) Shūhen kara no Rekishi* [Series Asian Perspectives (3): History from the Periphery] (University of Tokyo Press, 1994), pp. 253-255; Yokoyama Yoshinori, “Nihon no kaikoku to Ryūkyū” [Ryukyu and the opening of Japan], Sone Yūji & Kimura Naoya, ed., *Atarashii Kinseishi (2) Kokka to Taigai Kankei* [New Modern History (2): Nations and External Relations] (Shinjinbutsuōraisha, 1996), pp. 399-400.

<sup>34</sup> It has been pointed out that, if a *tsūshin no kuni* is “not supposed to be a subject country,” then aside from Korea, positioning Ryukyu as a *tsūshin no kuni* contradicts the existing perception of it being “Satsuma’s *fuyō*.” See Hora, *ibid.*, (Note 30), p. 451; Yokoyama, *ibid.*, (Note 33), p. 400; Marco, *ibid.*, (Note 23), pp. 205-206.

<sup>35</sup> About five months after the conclusion of the Japan-US Treaty of Amity (and about two months after the conclusion of the Convention between Ryukyu and the United States), on *uru’u* intercalary month of July 15 in the traditional Japanese calendar (September 7, 1854, in the Western calendar), Commander-in-chief James Stirling of the British East Indies and the China Station, arrived in Nagasaki. This visit presented an opportunity within the

Ryukyu Kingdom to secure an open port. The preamble of the draft treaty that Perry presented to the Ryukyu Kingdom on June 14 (July 8 in Western calendar), contained a paragraph that positioned the Ryukyu Kingdom as “an independent nation,” according to the document “*Narrative of the Expedition of an American Squadron to the China Seas and Japan, Performed in the years 1852, 1853, and 1854, under the Command of Commodore M.C. Perry.*” The Ryukyu side rejected this, stating as its reason that to China Ryukyu “owed allegiance” and that “the assertion or appearance of their claiming absolute independence” might get them into trouble with China.<sup>36</sup>

From this exchange regarding the treaty preamble, we can presume that, prior to the signing of the treaty, Perry had perceived Ryukyu to be a sovereign State with absolute independence and that as such it would seal the treaty with the United States of America. To the best of current knowledge, there is no record relating to this matter within the surviving government documents of the Ryukyu Kingdom. “*Ryūkyū Ōkoku Hyōjōsho Monjo*” [Documents of Ryukyu Kingdom’s Judicial Council] contains very detailed record of the negotiation with Perry, including a description of the signing day itself, yet there is no record at all of Ryukyu Kingdom independence being mentioned in the preface draft.<sup>37</sup> Continued investigation and analysis on what this fact indicates is needed to better elucidate this matter.<sup>38</sup>

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government for a discussion on Japan’s “territory” and the “boundary” between Japan and Korea. The Nagasaki *Bugyō* (Magistrate of Nagasaki) expressed his opinion in an official letter to the Tokugawa government dated September 28, 1854, that “Ryukyu is a tributary country of Japan and Tsushima is within Japan’s territory.” Yanai Kenji, ed., *Tsūkō Ichiran Zokushū Dai 3-kan* [Synopsis of Foreign Relations: Supplementary Collections, Vol. 3] (Seibundō, 1970), p. 99. In reply to an inquiry from Edward St. John Neale, the British Minister stationed in Japan, on *uru’u* intercalary month of August 8, Bunkū 2 (1862), the Senior Councilor of the Shogunate stated that Ryukyu “belongs to Japan,” but continued that “Japan does not prohibit Ryukyuan from following the Chinese system within the island because the country had been communicating with China from ancient times.” Further, an attached note contains an additional explanation stating that “since the Ming era through to the present time of Qing, (Ryukyu) has accepted envoys from China and has an inclination to follow a Chinese system, which has not been prohibited (by Japan).” From this it is generally understood that Ryukyu’s *ryōzoku*, that is, its dual dependency on Japan and Qing, was communicated to the British Minister. *Ihi Nyūkōroku Dai 1* [Record of Incoming Foreign Ships, Vol. 1] (Nihon Shiseki Kyōkai, 1930), pp. 30-31. Regarding this document, see Iwasaki Naoko, “Ezochi Ryūkyū no ‘kindai’” [‘Modern times’ of Ezochi and Ryukyu], *Nihonshi Kōza 7: Kinsei no Kaitai* [Studies in Japanese History, Vol. 7: Dissolution of the Early Modern Times] (University of Tokyo Press, 2005), p. 288; Nishizato Kikō, “Kampō dōchi-ki (bakumatsu ishin-ki) no chū-ryū-nichi kankei saikō: shōtai sakuhō mondai to sono shūhen” [A reconsideration of Chinese, Japanese, Ryukyuan relations in the Xianfeng-Tongzhi (Meiji Restoration) period: the problem of the investiture of Shoh Tai and its background], *Tōyō-shi Kenkyū* [The Journal of Oriental Researches], Vol. 64, No. 4 (2006), pp. 688-689; Marco, *ibid.*, (Note 23), pp. 202-210.

<sup>36</sup> Hawks, *ibid.*, (Note 26), p. 495. See also Samuel Wells Williams, *A Journal of the Perry Expedition to Japan* (1853-1854) (Tokyo: Z. P. Maruya, 1910), pp. 240 and 242. The entry on July 10, 1854, a day before the conclusion of the Treaty, reads: “Fear of China was the only reason they assigned. It was a singular discussion; we desiring to have them sign this document on terms of equality as a sovereign state, and they debating every inch, preferring to own subjection to China and great inferiority to us” (p. 242). See Hora’s translation, *ibid.*, (Note 30), p. 403.

<sup>37</sup> Details of the negotiation on June 14 (July 8 in the Western calendar) are recorded in the document “Ajin nariyuki on-kunimoto e on-todoke no hikae” [Memorandum to report the matters of the Americans to the central government] (No. 1505), *Hyōjōsho Monjo, Dai 7-kan* [Vol. 7] (1991), pp. 588-589. Here, the Ryukyuan side is described as arguing that they could not decide important matters such as concluding a treaty of amity with a foreign country without Qing’s instructions, as (Ryukyu) had been China’s 藩国 (*fānguó*; client state) or 藩邦 (*fānbāng*; tribute state) since the previous Ming period. See also *ibid.*, pp. 594-595.

<sup>38</sup> It may also be necessary to investigate in what way the Ryukyuan negotiators themselves understood such concepts as “independent nation” and “sovereign State.”

## 2 Friendship Convention between Ryukyu and France

On October 29, 1854, the Satsuma Domain ordered Ryukyu to revise provisions within the Convention between Ryukyu and the United States that might be interpreted as an approval of direct trade and further, to reject signing any treaty with any other countries from then on.<sup>39</sup> This did not go as planned, however. Just the following year, on November 24, 1855, the Friendship Convention between Ryukyu and France was concluded. This 11-article treaty contained, in addition to the provisions already found in the Convention with the United States, such provisions as the leasing and renting of residences, houses and boats (Article 2), prohibiting protection of runaway sailors (Article 9), punishment of both Ryukyuan and French criminals (Article 10), and repair of wrecked ships (Article 11).<sup>40</sup> At the end of the Convention, there was a “most-favored-nation” clause providing that France would receive the same treatment as other countries should Ryukyu agree on matters of trade, sale of land, and residency with any other country in the future.<sup>41</sup> Three originals of the Convention, two for France and one for Ryukyu, were produced and signed by French Admiral Nicolas François Guérin and the Ryukyu representatives Shō Keiho, Ba Ryōsai and Ō Tokuyū.<sup>42</sup> At present, one copy is kept at the Diplomatic Archives of the Ministry of Foreign Affairs of Japan, another at the Service historique de la Défense (French Historical Service of Defense) in Vincennes, France, while the third copy is missing.<sup>43</sup>

Service historique de la Défense also houses a detailed report on the concluding of the Convention by Admiral Guérin, who arrived in Ryukyu in command of three ships including *La Virginie*, addressed to Ferdinand Hamelin, Minister of the Navy and the Colonies and dated December 6, 1855. Guérin writes that the most significant point in dispute was Article 2 concerning the renting and leasing of a residency, houses and boats. He writes that as the Ryukyu negotiators

<sup>39</sup> *Ishin Shiryō Kōyō Kan 1* [Essential Historic Materials of the Restoration, Vol. 1] (Ishin Shiryō Hensan Jimukyoku, 1937), p. 648. Earlier on July 5, Ryukyu notified the Satsuma Domain that the national crisis obliged them to sign the Convention, although they had tried all possible means to oppose its conclusion, and asked for instructions on their future course of action. “Reibatsu” [Selected documents] (No. 1582), *Hyōjōsho Monjo, Dai 14-kan* [Vol. 14], p. 517. See Tomiyama, *ibid.*, (Note 21), pp. 34-39 for several measures taken, including “Ryūkyū kita-amerikan gasshūkoku wayaku no kajōgaki tagai ni torikae sōrō ni tsuki irai torihakarai buri no oboe” [Memorandum for measures to be taken since exchanging itemizations of the Convention between Ryukyu and the North American United States] (“Reibatsu” (No. 1582), *Hyōjōsho Monjo, Dai 14-kan* [Vol. 14], pp. 521-525), sent to Ryukyu by the Satsuma Domain in January, Ansei 3 (1856). See also Okabe Toshikazu, “Beikoku perī kantai no Ryūkyū raikō to Ryūkyū ‘kaikoku’ mondai: ‘ryū-bei yakujō’ o meguru Ryūkyū-ōfu Satsuma-han kōshō o chūshin ni” [The arrival of Perry’s squadron and the issue of the opening of Ryukyu: focusing on the negotiations between Ryukyu and the Satsuma Domain concerning the convention between Ryukyu and the United States], *Meiji Ishin-shi Kenkyū* [The Journal of the History of the Restoration], No. 9 (2013), pp. 16-32.

<sup>40</sup> Henri Cordier, “Le premier traité de la France avec le Japon (Yedo, 9 Octobre 1858)”, *T’oung Pao*, 2nd Ser., Vol. 13, No. 2 (1912), pp. 205-290.

<sup>41</sup> In the original French text, the Convention states that most favored nation treatment in general is provided without limitations such as trade.

<sup>42</sup> “Futsusen raichaku nariyuki shueikata e ontodoke mōshiage sōrō hikaē” [Notes to report to the guards about the events that have occurred since the arrival of French ships] (No.1535), *Hyōjōsho Monjo, Dai 11-kan* [Vol. 11] (1995), pp. 219-220; “Futsusen 3-seki raichaku ni tsuki naha nite no nikki” [Diary on the arrival of three French ships at Naha] (No. 1534), *ibid.*, p. 161. The contents of documents No. 1535 and 1534 are almost identical.

<sup>43</sup> The existence of the original copy in France was reported in *Ryukyu Shimpō*, as noted above (Note 7). A photograph can be found in Yasuko D’Hurst, “19th-century French naval, missionary and diplomatic archival sources on Ryūkyū,” [http://www.eajrs.net/files/happyo/DHulst\\_Yasuko\\_13.pdf](http://www.eajrs.net/files/happyo/DHulst_Yasuko_13.pdf) (last visited on December 9, 2017).

firmly refused to compromise, the French side resorted to threatening with words and actions to achieve the signing.<sup>44</sup> A more detailed account is found in the Ryukyuan record, “*Futsusen raichaku nariyuki shueikata e ontodoke mōshiage sōrō hikae*” [Notes to report to the guards about the events that occurred from the arrival of French ships] (No.1535). It states that a total of 234 of the French contingent landed and that, in order to force the Ryukyu negotiators to sign the Convention, “the admiral and other men withdraw swords, leading soldiers, advanced on (the office) to drag the *Sōrikan* (superintendent in charge of foreign affairs) and *Fuseikan* (treasurer in charge of foreign affairs) out into the courtyard and show them that their weapons operated, which was all very boisterous behavior.”<sup>45</sup> The Ryukyuan’s record goes on to say: “we were truly confounded by such an extraordinary nuisance.”<sup>46</sup>

Although the Convention had been concluded even through intimidation, in the end France never ratified it.<sup>47</sup> In reply to Guérin’s letter above, Minister Hamelin wrote back on March 10, 1856. He states that he received Guérin’s letters of August 7, October 3, November 4, December 6, December 12, 1855, and January 10, 1856, and commented about conclusion of the Convention as follows: “you have achieved conclusion of the Convention with the king of Ryukyu Islands. While this arrangement cannot be regarded as a diplomatic agreement, as it is necessary for this kind of action to be explicitly ratified by both of the governments concerned, there is no doubt that this Convention will be a great measure for our navy and for trade to gain necessary resources for the navy in this area. I congratulate you on your success in concluding the Convention.”<sup>48</sup> It would be possible to interpret

<sup>44</sup> Service historique de la Défense (Vincennes, France), MV BB4 735 Division navale de la Réunion et de L’Indo-Chine - Lettres reçues Contre-amiral Guérin 1855 à 1857, ff. 53–55. This letter is reprinted in Patrick Beilleval, ed., *Ryūkyū Studies since 1854: Western Encounter Part 2* (Richmond: Curzon Press, 2002), Vol. 2.

<sup>45</sup> “Futsusen raichaku nariyuki shueikata e ontodoke mōshiage sōrō hikae” (No.1535), *Hyōjōsho Monjo, Dai 11-kan* [Vol. 11], pp. 215-216.

<sup>46</sup> *Ibid.*, p. 217. This part does not exist in document No. 1534. There is the description “the French Admiral arrived and used force ... which was great annoyance” in “Oranda-koku sen untentsu e raichaku no hazu ni tsuki morotegumi muke nikki” [Diary for measures to respond Dutch ships that will arrive in the port of Unten] (No. 1573), *Hyōjōsho Monjo, Dai 14-kan* [Vol. 14], pp. 161 and 173. During the course of the negotiation, the Ryukyuan side said that they could not conclude the treaty without instructions from both China and Japan because “Ryukyu was a 屏藩 (*hampei*; protectorate) of China from ancient times as well as being a country with frequent exchanges with Japan’s territory of Tokara (Kagoshima).” “Futsusen raichaku nariyuki shueikata e ontodoke mōshiage sōrō hikae” (No.1535), *Hyōjōsho Monjo, Dai 11-kan* [Vol. 11], p. 207.

<sup>47</sup> The Ryukyuan reception of the Convention is shown quite clearly in “Furansu-koku yakujōsho no taii” [Substance of the Convention with France] (November 24, 1855) which includes the description: “ostensibly in an amicable manner.” “Shogaikoku to Ryūkyū to jōyaku narabini ofuku shorui” (No. 1807), *Hyōjōsho Monjo, Dai 17-kan* [Vol. 17], pp. 317-319. In November Ansei 2 (1855), there was discussion within the Ryukyu Chūzan government as to whether an envoy should be sent to Qing to explain the circumstances of the conclusion of the Convention with France (*Ishin Shiryō Kōyō Kan 2* [Essential Historic Materials of the Restoration, Vol. 2] (Ishin Shiryō Hensan Jimukyoku, 1937), p. 146), although we do not know if an envoy was actually dispatched. There is also a historic record of complaints made by French missionaries stationed in Ryukyu in 1856 about the Ryukyu-French Convention not being observed in Ryukyu in “Ikoku goyō gakari nikki” [Diary of officers in charge of foreign matters] (No. 1547), *Hyōjōsho Monjo, Dai 12-kan* [Vol. 12] (1996), p. 349.

<sup>48</sup> “Vous étiez parvenu à passer un traité avec le Roi des Iles Liou tchou: bien que cet arrangement ne puisse être considéré comme une convention diplomatique, attendu qu’il serait indispensable qu’un acte de cette nature fût suivi d’un échange de ratifications expresses entre les deux Gouvernements contractants, le traité dont il s’agit assurera sans doute à notre Marine militaire et du commerce de grandes facilités pour obtenir les ressources dont elle aurait besoin dans ces parages et je vous félicite du succès qui vous avez obtenu.” Service historique de la Défense (Vincennes,

this sentence as meaning that the “arrangement” could not be regarded as a diplomatic agreement because it was necessary for actions of this kind to be explicitly ratified by both of the concerned governments.” Nevertheless, in either interpretation (and especially in the latter), it is quite difficult to explain the relationship between “Convention” and “diplomatic agreement,” especially as concerns the need for ratification, in accordance with the present day theories of international law. Indeed, it is not at all clear in the first place how familiar Minister Hamelin himself was with the theory of international law. In any case, it is clear from these communications that, in Hamelin’s opinion at least, Ryukyu was important from an economic point of view and that the treaty should be made effective.<sup>49</sup>

In the end, the ratification procedure for the Convention was not carried out in France. Records show that ratification was considered from time to time. In a document titled “*Note sur les îles Liou-Kiou*” prepared in 1867, for instance, it is stated that, although the French Navy regarded Ryukyu’s government to be “le gouvernement de ces îles comme entièrement indépendant, libre de ses actions et capable de s’engager valablement par des conventions (an entirely independent government with freedom of action that can be officially bound by a treaty),” it had concluded that it was appropriate to inquire of the Netherlands about the matter, as the French Ministry of Foreign Affairs had only insufficient and confused materials.<sup>50</sup>

### 3 Friendship Convention between Ryukyu and the Netherlands

Four years after conclusion of the Friendship Convention between Ryukyu and France, the Friendship Convention between Ryukyu and the Netherlands was signed on July 6, 1859. According

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France), MV BB4 739 Lettres au Guérin 10 mars - 24 déc 1856 (microfilm: MV I MI 985), ff. 314-316. Guérin himself did not regard the Ryukyu Kingdom to be an independent State. His letter dated December 6, 1855, quoted in part earlier in the main text, contains the following remarks: “Your Excellency, in my view, Ryukyu is a province in Japan (*une province japonaise*) ruled by a local governor-general sent from Edo. This person, with his ultimate volition, controls leaders of the highest rank in the kingdom at will. He was the only objector against the treaty I intended to conclude. The king is like a child and the envoys from China are consulted only out of a sake for formality; they do not have any influence on matters of the Kingdom” (Service historique de la Défense, *ibid.*, (Note 44), f. 55. Translated by the author). According to Ryukyuan records, however, the French negotiators said that “Ryukyu is neither a domain of China nor Japan,” which is in conflict with Guérin’s understanding (“Futsusen raichaku nariyuki shueikata e ontodoke mōshiage sōrō hikae” (No.1535), *Hyōjōsho Monjo, Dai 11-kan* [Vol. 11], p. 207).

<sup>49</sup> During the negotiation with Ryukyu, Guérin himself mentioned, regarding the purpose of the treaty, that he was concerned about the advance of the United States and Russia into the Far East, and added further that French ships could guard Ryukyu’s tribute ship to Qing from pirate attacks (“Futsusen raichaku nariyuki shueikata e ontodoke mōshiage sōrō hikae” (No.1535), *Hyōjōsho Monjo, Dai 11-kan* [Vol. 11], pp. 200 and 202). Uehara Ryō argues that “dissemination of civilization” was another purpose of the treaty (“19-seiki chūyō no furansu kyokutō taisaku to Ryūkyū” [French Far East policy in the mid-19 century and Ryukyu], *Shiryō Henshūshitsu Kiyō* [Bulletin of the Historiographical Institute], No. 25 (2001), pp. 94-97). In a letter from French Foreign Minister Alexandre Walewski to Minister of Agriculture, Commerce and Public Works Eugène Rouher dated December 21, 1857, Walewski says that [the treaty] could not be regarded as a diplomatic convention because the arrangement was concluded with neither authorization nor complete special power and with no instruments of ratification exchanged, but that it was nonetheless significant as the arrangement would make it easier for the navy to procure goods necessary for its voyages (Archives diplomatiques, France, Correspondance politique, Japon, tome 1, f. 63). For this letter, see also Patrick Beillevaire, “Wavering Attention: French Governmental Policy towards the Ryūkyū Kingdom,” Josef Kreiner, ed., *Ryūkyū in World History* (Bonn: Bier’sche Verlagsanstalt, 2001), pp. 213-214.

<sup>50</sup> “Note sur les îles Liou-Kiou,” Archives diplomatiques, France, Mémoires et documents, Japon, tome 1, 1854-1870, ff. 227-228.

to “*Oranda-koku no shisetsu tōrai no toki kokoro e no kotoyose*” [Information to be used when envoys from the Netherlands arrive] prepared in April Kanpō 8 (1858), a year before the arrival of the Dutch delegate, if the Dutch envoy proposed to seal a treaty with Ryukyu on the ground that Ryukyu was “a country of correspondence and subject to Japan (*tsūshin fukujū no kuni*),” Ryukyu should reply that, as far as China knew, it assumed an independent (*dokuritsu*) country not making any interchange with other countries and that it should be top-secret that Ryukyu was a subject country of Japan so that it could continue paying tribute.<sup>51</sup> In short, Ryukyu is to admit that not only that it has correspondence with Japan but also that it is submissive to Japan,<sup>52</sup> and is to request that the Dutch delegate keep this secret from China because, otherwise, Ryukyu’s tribute missions to China might become impossible. That said, both the Shogunate and the Satsuma Domain approved of Ryukyu’s signing the treaty in and of itself. It was especially pointed out in documents that Shimazu Nariakira, Daimyo of the Satsuma Domain, had an ambitious grand plan for the future of Satsuma and Ryukyu, and even of Japan as a whole.<sup>53</sup>

According to “*Ryūkyū Ōkoku Hyōjōsho Monjo*,” the signing of the Convention went comparatively smoothly. Admiral Jules van Capellen with 120 attendants arrived in Ryukyu on a single ship on June 29, and within approximately 10 days, on July 6, the 9-article Convention was signed amicably.<sup>54</sup> There are several reasons for this smooth signature. One of the main factors would have been the similarity of the content of the Netherlands treaty to the earlier Convention with the US (although Article 8 regarding “most-favored-nation treatment” and Article 9 on ratification were both added), and the long history of exchanges between the Netherlands and Japan.<sup>55</sup>

Yet in the end, this Convention, too, was never ratified by the Netherlands. Yokoyama Yoshinori analyses the sequence of the events, including an event that could almost be regarded as a ratification exchange in 1862, utilizing primary materials in the Netherlands and including the Shogunate’s responses in detail. Ultimately, it appears that the conclusion of the treaty had been pushed forward by the Netherland’s Ministry of the Colonies without any consultation with the Ministry of Foreign Affairs.<sup>56</sup>

An interesting document is kept in Archives diplomatiques de la Courneuve, Ministry of Foreign Affairs, France. Titled “*Note sur les îles Liou-Kiou*,” it is dated February 12, 1867, and was written by a French Minister stationed in The Hague. He writes that the Netherlands cannot ratify the treaty with Ryukyu because Ryukyu Kingdom’s position is that of a tributary (*la position tributaire*), and further, that the Ryukyu Kingdom is not important for trade as it has very few resources and its agriculture is lacking in vitality. On the other hand, the Minister writes, it seems that neither Chinese

<sup>51</sup> “Oranda-koku sen untentsu e raichaku no hazu ni tsuki morotegumi muke nikki” (No.1573), *Hyōjōsho Monjo, Dai 14-kan* [Vol. 14], pp. 150-151). See also *ibid.*, p. 162. It is understood that the term “*dokuritsu*” here does not mean “independent State” as that term is understood under modern international law, but rather a country acting on its own judgement with no exchange with any other country, including Japan.

<sup>52</sup> In this respect, the interpretation seems different from the perception of Japan’s *Kaibōgakari*, referred to earlier in Note (34). This is another matter for future exploration.

<sup>53</sup> Onga Takashi, “Kaidai” [Bibliographical introduction], *ibid.*, pp. 147-148. See also Shimazu Nariakira (Ichiki Shirō, ed.), *Shimazu Nariakira Genkōroku* [Words and Deeds of Shimazu Nariakira] (Iwanamishoten, 1944), pp. 83-111.

<sup>54</sup> “Reibatsu” (No. 1582), *Hyōjōsho Monjo, Dai 14-kan* [Vol. 14], pp.485-514. The most problematic were the stationing of a trading officer and a consul, construction of a chapel, and the selection of signatories. *Ibid.*, pp. 498-499.

<sup>55</sup> Nakachi Tetsuo, “Kaidai” [Bibliographical introduction], *ibid.*, pp. 482-484.

<sup>56</sup> Yokoyama, *ibid.*, (Note 33), pp. 400-404 and 411-412.

nor Japanese economic activities have much presence in the sea area around it.<sup>57</sup>

#### 4 Legal Issues of the Three Conventions

When viewing these three Conventions from a modern point of view, we can find several issues under international law. The author would like to concentrate on two of these issues here. The first is the question of whether or not the Ryukyu Kingdom was a “sovereign State” or an “independent State” that had the ability to conclude treaties with Western countries. As we have seen above, there were discussions on this very issue in the preface of the Convention between Ryukyu and the United States. It is understood from American materials that the Ryukyu Kingdom at least opposed the stipulation of itself being a sovereign State in this treaty. It is necessary then to investigate whether the authority to sign a treaty at that time was limited to sovereign States.

Regarding this point, there is interesting information on the website of the National Library of France (Bibliothèque nationale de France). Under the heading “Convention et traités” (Conventions and treaties), we can find a description of the Convention between Ryukyu and France that states “the Ryukyu Kingdom (now Okinawa Prefecture) was assumed to be an independent State at the time [of sealing the treaty] and regarded as a useful supply base in proximity of Japan (*le royaume des Ryūkyū (aujourd’hui département d’Okinawa), alors supposé être un État indépendant et considéré comme une base-arrière utile aux abords du Japon*).”<sup>58</sup> The explanation here is that the treaty was signed because the Ryukyu Kingdom was regarded as an “independent State.” It can be understood from this that there was a precondition that only independent or sovereign States could seal a treaty with other countries.

If so, was it the case in the mid-19th century that the signatories able to conclude a treaty were limited only to independent and sovereign States in the sense that we perceive them now? This was clearly not the case;<sup>59</sup> Western States sealed numerous treaties and agreements with non-Western areas. For instance, there are many agreements with the heads of tribes in Africa and tribes in Southeast Asia. One can find a list of a great many treaties and agreements in the index “Colonial and Like Treaties” in the supplementary volume of “*The Consolidated Treaty Series (CTS)*” edited by Clive Parry.<sup>60</sup> The following are only a few examples from among many: treaties between the United States of America and the Cherokee Nation (a native American nation) between 1785 and 1868 (such as the treaty sealed on July 8, 1817);<sup>61</sup> the Treaty of Cession between Representatives of the British Crown and Maori Chiefs of New Zealand on February 6, 1840 (Treaty of Waitangi);<sup>62</sup> the Treaty between the German East African Company (Deutsch-Ostafrikanische Gesellschaft) and Sultan

<sup>57</sup> “Note sur les îles Liou-Kiou,” *Mémoires et documents*, *ibid.*, (Note 50), ff. 250-252.

<sup>58</sup> <http://gallica.bnf.fr/html/und/asie/convention-et-traites> (last visit: 9 December 2017).

<sup>59</sup> Brownlie has observed that “...it was perfectly possible to conclude treaties with various types of social structure which had a territorial base: but there had to be some definable and unified social structure.” Ian Brownlie, “The Expansion of International Society: The Consequences for the Law of Nations,” Hedley Bull & Adam Watson, ed., *The Expansion of International Society* (Oxford: Clarendon Press, 1984), p. 362. See also Mieke van der Linden, *The Acquisition of Africa (1870–1914): The Nature of International Law* (Leiden: Brill Nijhoff, 2017), pp. 70-94 and 286-287.

<sup>60</sup> Michael A. Meyer, *Special Chronological List: Special Chronologies, (A) Colonial and Like Treaties, (B) Postal and Telegraph etc. Agreements, 1648-1920 (Index-Guide to Treaties Based on the Consolidated Treaty Series)* (Dobbs Ferry / N. Y.: Oceana Publications, 1984).

<sup>61</sup> 67 CTS 295.

<sup>62</sup> 89 CTS 473.

Fungo (Quafungo) on May 16, 1885.<sup>63</sup> Especially interesting among these examples is the US treaty with the Cherokee Nation. Regarding this treaty, a case was brought before US courts, with the US Supreme Court delivering a final judgement in 1831. One of the major points of dispute was whether or not the Cherokee Nation was a foreign nation that could be a contractor of a treaty. The Supreme Court regarded the Cherokee Nation to be one of the “domestic dependent nations” and not a “sovereign and independent States,” yet decided nonetheless that the treaty between the US and the Cherokee Nation was effective.<sup>64</sup> This concept of “domestic dependent nations” had never before been established in international law. It seems that the Supreme Court made a bitter decision: it did not want to nullify the treaty, but it also did not want to admit that the Cherokee Nation was a sovereign State.<sup>65</sup> In any case, we can consider this example as further confirmation that the qualification to be a signatory of a “treaty” is not limited to independent and sovereign States.

Among the three “Conventions” concluded by the Ryukyu Kingdom, the Convention with the United States is included in Parry’s “*Consolidated Treaty Series*”<sup>66</sup> but not in the annexed Index. On the other hand, the Convention with France and the Convention with the Netherlands appear neither in the “*Consolidated Treaty Series*” nor in the Index. It is assumed that those two treaties were not recorded because they were not ratified by France and the Netherlands.<sup>67</sup> If that is the case, however, why was the Convention with the United States, whose effectiveness had been proclaimed by the US president, not entered into the Index? Does it mean that this treaty was regarded as an agreement between two sovereign States, which is quite different from the treaty concluded with the Cherokee Nation? If we interpret this to mean that the Index is primarily a collection of treaties for ceding and making protectorates of non-European territories,<sup>68</sup> then it might be natural not to include the Convention between Ryukyu and the United States as it does not share such a character. However, we cannot conclude from this that the Ryukyu Kingdom was recognized as an “independent and sovereign State” in the same sense as were Western countries in Parry’s “*Consolidated Treaty Series*.”

<sup>63</sup> 165 CTS 1. The German East Africa Company was established on March 28, 1884, with support from the German Empire. The company played the role of *negotiorum gestor* in concluding a treaty, and used a Schutzbrief (protection certificate) from the Kaiser to validate the acquisition of title to sovereignty. See Charles Henry Alexandrowicz, *The Law of Nations in Global History*, David Armitage & Jennifer Pitts, ed., (Oxford: Oxford University Press, 2017), p. 323. For recent studies on “treaties” between the heads of tribes in Africa (Nigeria, Equatorial Africa and Cameroon) and the United Kingdom, France and Germany, see Linden, *ibid.*, (Note 59), pp. 106-120, 145-161, 185-199 and 286-289.

<sup>64</sup> *The Cherokee Nation v. The State of Georgia*, 30 U. S. 1 (1831).

<sup>65</sup> For cases other than the 1831 Cherokee Tribe v. the State of Georgia case, such as the Worcester v. Georgia case tried in Federal Court under Chief Justice John Marshall, see Tanaka Hideo, *Amerika-hō no Rekishi jō* [A History of American Law, Vol. 1] (University of Tokyo Press, 1968), pp. 334-337, and Charles F. Wilkinson, *American Indians, Time, and the Law: Native Societies in a Modern Constitutional Democracy* (New Haven: Yale University Press, 1987), pp. 55-56.

<sup>66</sup> 112 CTS 77.

<sup>67</sup> *Jōyaku Benran (Nikokukan Jōyaku)* [Treaty Handbook: Bilateral Treaties] compiled by Japan’s Ministry of Foreign Affairs Treaty Office as of December 31, 1958, includes both the treaties with France and the Netherlands. See pp. 3, 7, 373, 524 and 576.

<sup>68</sup> In reality, however, a considerable number of treaties of amity and navigation are entered in the Index, including a treaty of commerce between France and the Sultanate of Sulu on April 23, 1843 (94 CTS 395) and the Bangkok treaty of amity, commerce and navigation concluded between the Netherlands and Siam on December 17, 1860 (123 CTS 187), among many others. It might be more accurate to understand rather that everything related to China, Korea or Japan (including Ryukyu) was excluded from the Index.



Even more important would be the following point: concepts such as “sovereignty”, “independence” or “(modern) State” were, in the first place, born in modern Europe. We should consider whether or not it is even appropriate to apply such concepts to places and times outside of modern Europe, where such concepts did not exist. In East Asia, in addition to the area’s characteristic concepts such as 仕置 (*shioki*; control), 附庸 (*fuyō*; dependency), 藩国 (*hankoku*; client state), 藩邦 (*hampō*; tribute state), 属国 (*zokkoku*; client state) and 両属 (*ryōzoku*; belonging to both countries), there existed additional concepts such as 疆域 (*kyōiki*; territory within boundary), 版図 (*hanto*; territory), 邦土 (*hōdo*; domain), and 異国境 (*ikoku sakai*; areas next to foreign countries). The dangerous pitfalls inherent in applying concepts based on modern international law, such as the independent State, sovereign State, and dependent nation and protectorate, to those geographical areas at that time without any reservation should be fully recognized.<sup>69</sup>

Another legal issue about the three Conventions discussed here is whether or not they were succeeded by the Meiji government. The author would like to discuss this point in the next section.

#### IV Ryukyu/Okinawa in the Early Meiji Period

At the outset, the Meiji government was in considerable confusion over how best to position the Ryukyu Kingdom. Within five years, however, in September Meiji 5 (1872), the government made its attitude clear by instituting a series of measures collectively called the *Ryūkyū Shobun* (Ryukyu Disposition). We now have a wealth of research about this process. The author has outlined the sequence of events himself in a 2012 essay.<sup>70</sup> In the present paper, based upon this previous essay, the author would like to further clarify the matter, concentrating specifically on the conflict between inherent East Asian concepts and concepts under modern international law.

It would not be an accurate interpretation of the facts to assume that during the Edo period, even towards the end of the period, no attention was given to modern international law and that the Meiji government was the first Japanese government to begin, based upon modern international law, constructing the nation’s external relationships and defining its “territory”<sup>71</sup>. Indeed, at the end of the Edo period the Shogunate faced situations where it had to recognize both “borders” and “territory” in the sense used under modern international law in its negotiations with “foreign

<sup>69</sup> See Yanagihara Masaharu, “Significance of the History of the Law of Nations in Europe and East Asia,” *Recueil des cours*, tome 371 (2015), pp. 360-381. There have been some attempts to explain the positions of Ryukyu and Ezo at the time using the concepts of 異国 (*ikoku*; foreign countries) and 異域 (*iiki*; foreign areas). It is unreasonable, however, to apply those concepts for this purpose when they are perceived through the prism of concepts within the framework of modern international law. For more detail on the discussion, see Yanagihara Masaharu, “Bakumatsuki, meiji-shoki no ‘ryōiki’ gainen ni kansuru ichi-kōsatsu” [A study on the concept of ‘territory’ in the late Edo and early Meiji periods], *Gendai Kokusai-hō no Shisō to Kōzō, 1. Rekishi, Kokka, Kikō, Jōyaku, Jinken* [Ideology and Structure of Modern International Law, Vol. 1: History, Nations, Organizations, Treaties and Human Rights] (Tōshindō, 2012), pp. 53-54.

<sup>70</sup> *Ibid.*, pp. 65-68.

<sup>71</sup> In the concept of “territory (*territoire*)” as defined under modern international law, the land is principal and the sea is appurtenance (airspace only entered the discussion in the early 20th century). Territorial sovereignty (the nature of which was still being discussed in the late 19th century to establish whether it constituted *dominium* (ownership) or *imperium* (right of control)) extends to both the land and sea. For a detailed discussion on the adoption of the Chinese characters 領域 (*ryōiki*), and 領土 (*ryōdo*; territorial land) as the standard Japanese translations for the concept of “territory” during and after the late Meiji period, see *ibid.*, pp. 59-60.

countries” including Russia, France, the United Kingdom and the United States, countries which could be categorized throughout the Edo period neither as “countries of trade (*tsūshō no kuni*)” nor as “countries of correspondence (*tsūshin no kuni*).” Examples include the Shogunate’s incorporation of Ezochi, border demarcation with Russia (for the Kuril Islands and Sakhalin), and measures for the attribution of Ryukyu.

These measures were, however, quite insufficient, and it cannot be said that the Shogunate possessed adequate knowledge of modern international law at the time. Without sufficient knowledge of modern international law, the new Meiji government initially faced some confusion too. Nevertheless, the Meiji government did set about the demarcation of Japan’s “territory” before long, with its fundamental plan of action being the revision of unequal treaties signed with foreign countries by the Shogunate. Key examples of these efforts were the incorporation of Ezochi, the “*Ryūkyū Shobun*,” and Japanese occupation of *terra nullius* islands.

The first example of Meiji government’s attempt to demarcate Japan’s territory—in particular its territorial sea—in accordance with modern international law is considered to be the declaration of Japan’s neutral status issued at the time of the Franco-Prussian War of 1870. *Gaimukyō* (Minister of Foreign Affairs) Sawa Nobuyoshi quickly prepared this declaration, following the advice on August 18, 1870 given by Maximilian A. S. von Brandt, acting minister to Japan of the North German Confederation, one of the countries directly involved, that it was a normal procedure for a nation to declare its neutrality in such situations in accordance with international law. However, a complicated road lay ahead for the declaration. The Meiji government issued a declaration of Japan’s neutrality (*Dajōkan Fukoku* No. 492 of August 24, 1870), then a revised version (*Dajōkan Fukoku* No. 546 of September 24, 1870), followed yet again by an appendix to the latest version (October 12, 1870). Lastly, in response to the strong opposition voiced by Maxime Outrey, French Minister plenipotentiary to Japan, the Meiji government removed the just-added appendix (October 15, 1870). Yet despite removing the appendix as requested, the government nonetheless implemented the measures contained within it. The entire sequence of events was extremely complicated and confused.<sup>72</sup>

During this process, other foreign ministers stationed in Japan requested that the Meiji government clearly indicate what constituted Japan’s “territorial sea.” In a letter dated September 7, 1870, the Spanish Minister to Japan wrote: “As we would like to understand the inland waters under Japan’s jurisdiction, we would be very grateful if you could inform us of it.” A letter from the Austrian Minister to Japan dated September 19, 1870, contained a similar request.<sup>73</sup> In a meeting with the Dutch Minister stationed in Japan on September 2, 1870, when asked “how did you define territorial

<sup>72</sup> For greater detail on Japan’s declaration of neutrality see, for instance, Soejima Taneomi, “Kōen: meiji shonen gaikō jitsurekidan” [Lecture on the real history of foreign policy in the first years of Meiji], *Kokusaihō Zasshi* [The Journal of International Law], Vol. 1, No. 5 (1902), pp. 93-95; Takeyama Masayuki, “Fufutsu sensō to nihon no ryōkai fukuin” [The Franco-Prussian War and the breadth of Japan’s territorial sea], *Hōgaku Shimpō* [The Chūō Law Review], Vol. 116, Nos. 3 and 4 (2009), pp. 455-522.

<sup>73</sup> Japan Center for Asian Historical Records, Ref. B07091141500 (Image 18 and Images 27 onward); Futsu Doku Ryōkoku Kaisen ni tsuki Hompō ni oite Kyokugai Chūritsu Shikō Ikken [Matter of Japan’s Declaration of Neutrality at the Outbreak of the Franco-Prussian War] Vol. 4 (5. 2. 14. 2) (Diplomatic Archives, Ministry of Foreign Affairs of Japan).

sea?” Sawa replied: “The limit has been established 3 Japanese *ri* (1 *ri*  $\cong$  3.9 km) off coast because the range of a cannon is over 2 *ri*, and warfare should be stopped within the decided boundary.” Specifically, Sawa stated that areas around Shimonoseki were to be regarded as part of Japan’s inland waters. In response to a question about Bungo no Seto (the Bungo Channel), Sawa replied: “It is prohibited to enter all inland waters around Shikoku and Kyushu.”<sup>74</sup>

The following year, a briefing document titled “*Shuppan ni tsuki yōyō shirabe*” [Matters of importance for consideration on departure] was produced for a mission to the United States and Europe headed by Iwakura Tomomi (The Iwakura Mission). The document contains entries such as “the matter of the Karafuto (Sakhalin) border; matter of Takeshima border; matter of Bu-ninjima (uninhabited islands) border; dealing with exchanges with Korea; dealing with exchanges with Ryukyu.” In short, border issues regarding Karafuto, Takeshima (in this case, Utsuryō Island) and uninhabited islands (Ogasawara Islands) and diplomatic issues with Korea and Ryukyu were all selected as a subject for their study.<sup>75</sup> From this we can clearly see that the Japanese government of the time had many questions on where to demarcate its boundary and how to communicate that border to the West. It is remarkable that the Ryukyu issue is categorized in the document as a diplomatic matter of one nation versus another.

When the status of Ryukyu emerged as an important issue following the December 1871 *Taiwan Jiken* (Mudan incident), the central points of discussion within the Meiji government were whether or not Ryukyu had previously been *ryōzoku* (belonging to/dependent on both Japan and China) and whether or not it still was. This was a continuation of the discussions that had been taking place within the Shogunate and within the Satsuma Domain at the end of the Edo period. Opinions clearly differed, as can be seen in the recommendation dated July 4, 1872, presented to the *Seiin* (Central Chamber of the Dajōkan) by Inoue Kaoru, *Ōkura taifu* (senior vice minister of the Ministry of Finance), and the document “*Inoue ōkura taifu Ryūkyū-koku no hanseki o osameshimuru gi ni tsuki kengi narabi ni Seiin no kamon Sain no tōgi*” [*Sain* (Chamber of the Left)’s reply to *Ōkura taifu* Inoue’s recommendation on governing Ryukyu’s land and people and reply to the *Seiin*’s enquiry]. Inoue proposed that a “system identical with the mainland” should be applied to Ryukyu. The *Sain* countered that “since it has been Ryukyu’s status that it is so clearly dependent on both our country and on Qing, there is no need for further discussion about it.”<sup>76</sup>

The Meiji government, however, ultimately rejected the proposition that Ryukyu’s status was that of *ryōzoku*. The promulgation of the “*Ryūkyū kokuō o hanshu to suru shōsho*” [Imperial Edict

<sup>74</sup> Japan Center for Asian Historical Records, Ref. B07091138600 (Images 21 onward); Kyokugai Chūritsu Sankō Shorui [Reference Documents Relating to Japan’s Neutrality] (5. 2. 14. 1) (Diplomatic Archives, Ministry of Foreign Affairs of Japan).

<sup>75</sup> Nihon Shiseki Kyōkai [Association of Japanese History], ed., *Iwakura Tomomi Kankei Monjo 7* [Documents Related to Iwakura Tomomi, Vol. 7], Facsimile edition, (University of Tokyo Press, 1969), pp. 306-309.

<sup>76</sup> Matsuda Michiyuki, “Ryūkyū Shobun” [The Ryukyu Disposition] (1879), Shimomura Fujio, ed., *Meiji Bunka Shiryō Sōsho Dai 4-kan Gaikō-hen* [Meiji Cultural Materials Series, Vol. 4: Diplomacy] (Kazamashobō, 1962), p. 8. Prior to these opinions, on August 27, 1871, Kagoshima [Satsuma] Domain presented a document titled “Ryūkyū ichijō torishirabegaki” [Document on Ryukyu investigation] to the Meiji government, which states: “it is the state of affairs in Ryukyu that Ryukyu cannot maintain itself, if Ryukyu does not regard Japan and China as countries of father and mother and does not support *ryōzoku*.” Ibid. pp. 7-8.

appointing the Ryukyu king as Chief of the Domain] (*Dajōkan Nisshi* (Cabinet Diary), 1872, Vol. 70) dated October 16 of that year, after first acknowledging that “Ryukyu had been *fuyō* of Satsuma through the ages,” went on to establish the king of Ryukyu as the Chief of the Ryukyu Domain.

As time went by, the Meiji government gradually discarded the question of whether or not Ryukyu was a subject of both Japan and China (*ryōzoku*), and instead retroactively applied the modern international legal concept of “territory” to the time prior to the Meiji period in order to position Ryukyu as a part of Japan’s “territory”. In *Dai 1-kai hōshi Ryūkyū fukumeisho* [Report of the first Ryukyu mission], dated September 25, 1875, Matsuda Michiyuki wrote: “(Ryukyu) assuming a dependent state to two countries brings disgrace upon Japan as an independent State, and may cause serious harm to Japan under international law.” Matsuda further stated that “...it is even more obvious that (Ryukyu has been) in our territory since the Keichō period (1596-1615).”<sup>77</sup> The same interpretation was clearly expressed again in “*Ryūkyū-han shobun-an*” [Proposal for a disposition of the Ryukyu Domain] included in “*Matsuda naimu daishokikan dai 2-kai hōshi Ryūkyū shimatsu furoku*” [Appendix to Matsuda’s second Ryukyu management document] (undated, but believed to have been drawn up in January or February, 1879). The document states: “(Ryukyu) should not be regarded as a ‘*reizoku no kuni* (vassal State)’ nor ‘*hanshu koku* (half-sovereign State)’ as defined in international law. It is simply a region of a Domain located in Japan.”<sup>78</sup> It appears that the phraseology adopted in this document (“*reizoku no kuni*” or “*hanshu koku*”) meant a subordinate State or a protected State which did not have full diplomatic power of its own. The understanding that such countries constituted “half-sovereign States” (*halb-souveraine Staaten, mi-souverains*) had been established previously in Europe during the first half of the 19th century.<sup>79</sup> “*Hanshu koku*” here can be regarded as identical “*hanshukoku*”, i.e. “half-sovereign States.” In this phrasing we can discern a clear difference from the previous stance that Ryukyu was *fuyō* of the Shimazu clan (Daimyo of the Satsuma Domain). In short, *fuyō* was a traditional Japanese concept, while “*reizoku no kuni*” and “*hanshu koku*” were a concept premised on sovereignty and diplomatic capacity in accordance with modern international law.

The transcript of a dialogue between Harry S. Parkes, British Minister stationed in Japan, and Japanese Foreign Minister Terashima Munenori on January 13, 1879, is also suggestive. In the transcript, Terashima states: “(Ryukyu) has never been dependent on both Japan and China. In its

<sup>77</sup> Ibid., p. 157. Matsuda also stated: “It is so obvious that (Ryukyu is) in our territory that there is no need to discuss this further” (“Matsuda Naimu Taijō Dai 1-kai Hōshi Ryūkyū Shimatsu” [Overview of the First Ryukyu Mission by Matsuda, Home Ministry Official], May 13, 1875). Ibid., p. 94. See also Instruction addressed to Yanagiwara Sakimitsu, Minister to China, dated July 15, 1874. *Nihon Gaikō Monjo* [Documents on Japanese Foreign Policy], Vol. 7, p. 157.

<sup>78</sup> Matsuda, *ibid.*, (Note 76), p. 203. Matsuda’s supplementary explanation was as follows: “If vestiges of ancient times are put aside, and based upon vestiges of more recent times, particularly from the Restoration onward.” For ‘*hanshu no kuni*,’ see also Inoue Kowashi’s position document and memorandum addressed to *Dajō Daijin* (Grand Minister) Sanjō and *Udajin* (Minister of the Right) Iwakura. *Inoue Kowashi-den Shiryō-hen Dai-1* [Biography of Inoue Kowashi, Historical Materials Vol. 1] (Kokugakuin University Library, 1986), pp. 173-175 and 177-180.

<sup>79</sup> Yanagihara Masaharu, “Shinsei rōma teikoku no shoryōhō no kokusaijō-jō no chi’i o meguru ichi kōsatsu: 18-seiki kōhan ni okeru riron jōkyō o chūshin to shite” [A study on the status of the domains of the Holy Roman Empire under international law: focusing on theoretical concepts in the second half of the 18th century], *Narita Yoriaki-sensei Yokohama Kokuritsu Daigaku Taikan Kinen: Kokusaika Jidai no Gyōsei to Hō* [Collection of Essays Commemorating Prof. Narita Yoriaki’s Retirement from Yokohama National University: Public Administration and Law in the Age of Internationalization] (Ryōsho Fukyūkai, 1993), p. 686.

relationship with Qing, it occasionally sends envoys to present gifts to the Emperor of Qing but not to pay taxes... Although Ryukyu is a small island, it has been belonging to us.”<sup>80</sup> Here, we find the term “tax,” a concept drawn from modern law, mentioned as an important factor.<sup>81</sup>

Thus, as described above, around the year 1875 the Meiji government began to change its attitude toward the retroactive application of concepts drawn from modern international law to situations occurring prior to the Meiji period. The direct factor precipitating this change is not apparent, but we can assume that the Agreement between Japan and Qing signed on October 31, 1874 as a result of *Taiwan Shuppei* (The Taiwan Expedition) could well have contributed to it. On May 9 of next year, the Dajōkan transmitted to the Home Ministry the order “*Ryūkyū-han shobun no gi*” [Matter of disposition of the Ryukyu Domain], centering on the abolishment of envoys to pay tribute to China, homage missions to Japan and the tributary system (the document was transmitted to the Ryukyu Domain on July 14 of the same year). The matter at stake was that the Japanese government, if it acknowledged the traditional relationship of *fuyō* between Ryukyu and Japan, would also have to accept as historical fact the tributary relationship between Ryukyu and China. It is understood that the government had decided, in order to avoid acknowledging a tributary relationship between Ryukyu and China, it would be more persuasive to explain that Ryukyu was already a “territory” of Japan during the Edo period.<sup>82</sup>

In connection with this matter, another serious legal issue faced by the Japanese government was how to address the above-mentioned treaties signed between the Ryukyu Kingdom and Western countries. The Conventions with France and the Netherlands did not become direct issues, as in the end they had not come into effect. The Convention with the United States, however, was a real and serious issue. By examining how the Meiji government treated this matter, we can further clarify the process whereby it retroactively applied the concept of “territory” drawn from modern international law to a situation that had prevailed during the Edo period.

<sup>80</sup> Matsuda, *ibid.*, (Note 76), p. 214.

<sup>81</sup> “Ryūkyū Setsuryaku” [Brief Explanation of Ryukyu] sent to Zongli Yamen (the government department in charge of foreign policy in the Qing dynasty) on August 2, 1879, is a rebuttal of Qing’s “*ryōzoku*” theory couched in terms of international law. The document contains the sentence: “In the first place, if (Ryukyu) itself is a State, the realm does not belong to (any other country); if it is a realm that belongs to (another country), then it itself is not a State.” (*Nihon Gaikō Monjo*, Vol. 12, p. 185).

<sup>82</sup> Further examination would be necessary to clarify how much input was made by foreign advisors employed by the Japanese government at the time. Gustave Émile Boissonade de Fontarabie, employed by the Ministry of Justice (and serving also as an administrative advisor in the Ministry of Foreign Affairs from September 1876 onwards) expressed a different analysis in the position paper “Ryūkyū-jima Mikomian” (Prospect of the Ryukyu Island), 1875, the Japanese translation of which is now preserved in the Collection of Modern Japanese Political History Materials Room, National Diet Library (*Itō Hirobumi Kankei Monjo Sono 1* [Documents Related to Itō Hirobumi, Vol. 1], Collection of Modern Japanese Political History Materials Room, National Diet Library, No. 354) and no original text in French is found until now. There Boissonade states: “Although (Ryukyu) had some degree of independence from the Japanese government in the past, as I mentioned above, there is no reason for it to be independent now. It is wise, however, to allow a slight degree of independence.” In his point of view, although Ryukyu might have had a small degree of independence during the Edo period, there was no rationale for its continued independence as of 1875. Nonetheless, his opinion was that the matter should be resolved through consultations with Qing, rather than instantly incorporating Ryukyu into Japan’s territory. For more on this aspect of the issue, see Yanagihara Masaharu, “Nihon ni okeru kindai yōroppa kokusaihō no juyō” [Acceptance of European international law in Japan], Etō Jun’ichi, ed., *Kokusaihōgaku no Shosō: Tōtatsuten to Tenbō* [Aspects of International Law Studies: Achievements and Prospects] (Shinzansha, 2015), pp. 58-60.

During the course of the *Ryūkyū Shobun*, C. E. De Long, the US Minister stationed in Japan, wrote a letter dated October 20, 1872, to Soejima Taneomi, Minister of Foreign Affairs. In the letter De Long stated that he understood that the king of Ryukyu had recently been made a peer in apposition with Daimyo, and asked whether the prior agreement between Ryukyu and the United States would continue to be observed in all its provisions by the Japanese government, now that Japan was “incorporating Ryukyu as an integral portion of the Japanese Empire”. Soejima replied by letter on November 5, 1872: “The Lew Chew [Ryukyu] Islands have been dependencies [*fuyō*] of this empire for hundreds of years, and to them the title of *Han* was recently given. As you say, the Lew Chew being an integral portion of the Japanese Empire it is natural that the provisions of a compact...will be observed by this government.”<sup>83</sup>

Here Soejima, having first acknowledged that Ryukyu had been Japan’s *fuyō*<sup>84</sup> for hundreds of years, states unequivocally that it is now a part of the Japanese Empire. Clearly, the Meiji government as of November 1872 still explained the relationship between Ryukyu and Japan/Satsuma prior to October 16 of that year—when it made the king of Ryukyu the Chief of the Ryukyu Domain—in accordance with the traditional *fuyō* concept. Having acknowledged this fact, the government then communicated to De Long that the treaty the Ryukyu Kingdom had concluded with the United States would continue to be observed by the new Meiji government. The difficulty in the logic here is how the Meiji government theoretically justified their decision when they notified the United States of its observance of the Convention. Speaking in purely theoretical terms, there can be two different explanations for this decision. The first would be that Japan had “acceded” to the treaty concluded by the Ryukyu Kingdom, as it had incorporated the Ryukyu Kingdom by appointing its king to be the Chief of the newly created Domain. The other would be that Japan, having declared that the Ryukyu Kingdom was a part of Japan, was stating that it would execute the provisions of the agreement that the Ryukyu Kingdom had concluded with the United States by honoring the agreement, even though the “treaty” Ryukyu had signed could not be regarded as a proper treaty between two “sovereign States” as defined under modern international law. It seems that De Long interpreted Soejima’s letter as expressing the former “incorporation” theory. In fact, however, it is possible that Soejima supported the latter interpretation, although this, too, remains unclear.<sup>85</sup>

<sup>83</sup> *Kyū Jōyaku Isan*, *ibid.*, (Note 6), pp. 662-663. According to the records, Soejima’s letter was translated into English by American “Foreign Relations, 1873, p. 554.” At almost the same time, Mori Arinori, *chargé d’affaires* stationed in the US at the time, wrote to Soejima on December 21, 1872, reporting that during his meeting with the Secretary of State Fuhishi (= Hamilton Fish), Fish pledged that “as long as the Japanese government accepts all provisions of the Convention, the US has no objection.” Japan Center for Asian Historical Records, Ref. B06151020700 (Image 15); Ryūkyū-han Bei Ran Futsu Yakujōsho (2.5.1.9) (Diplomatic Archives, Ministry of Foreign Affairs of Japan). For an exchange of great interest between De Long and Fish, see Marco, *ibid.*, (Note 23), pp. 238-243.

<sup>84</sup> There are some documents where 附庸 (*fuyō*) is written as 付屬 (*fuzoku*): for instance, in *Dai-nihon Gaikō Monjo*, Vol. 5, p. 394. However, Japan Center for Asian Historical Records, Ref. B06151020700 (Image 11); Ryūkyū-han Bei Ran Futsu Yakujōsho (2.5.1.9) (Diplomatic Archives, Ministry of Foreign Affairs of Japan) shows a hand-written draft where 附庸 is used.

<sup>85</sup> On October 30, 1872, the Dajōkan instructed the Ministry of Foreign Affairs to have jurisdiction over “Treaties Ryukyu-han concluded with countries in the past” (*Dai-nihon Gaikō Monjo*, Vol. 5, pp. 392-393). In this directive, the interpretation is that the Ryukyu Domain did conclude those treaties, although it is also obvious that the Ryukyu Domain was only established on October 16, 1872. From this directive, we can understand that, at the time the Convention between Ryukyu and the United States was signed if not even sooner, Ryukyu was regarded as a part of Japan. In addition, Inoue Kowashi wrote in his memorandum (assumed to be produced around July 1879) that

Seven years later, in 1879, the Meiji government clearly demonstrated its interpretation.<sup>86</sup> In March of that year, the Ryukyu Domain (Ryukyu-*han*) was abolished and replaced by Okinawa Prefecture (Okinawa-*ken*), and there were continuing discussions between Japan and Qing over the Ryukyu Disposition. Qing asked Japan if the Ryukyu Kingdom was truly a part of the Japanese Empire as the Meiji government claimed, even with the fact that Ryukyu had been sending tributary missions to China in those days. In response, in September 1879, Meiji government produced a “1879-nen 8-gatsu 22-nichi shinaseifu no shōkai nitaisuru tōben no oboegaki” [Memorandum for answering the inquiry from the Chinese government dated August 22, 1879]. The memorandum states that “Ryukyu misrepresented itself to foreign countries as it had the rights of an independent State, even though it did not have, or was not able to attain, such rights... Japanese Empire at the time ruled the country based on feudalism, often allowed feudal lords to act ways that would never be allowed today.”<sup>87</sup> In short, it explains that Ryukyu concluded its treaties under pretense of being an independent nation, although it did not have such power, and in an era of feudalism, it went overlooked because the central government’s rule did not sufficiently reach the whole country. As a precondition for this argument, the Meiji government drew a contrast between tribute and tax, pointing as evidence to Ryukyu’s written pledges, submitted for generations, of its obedience to Satsuma Domain’s laws and ordinances. In this way, the Meiji government made clear that “sovereignty in its perfect and flawless form”—that is, the concept of “territory” under modern international law—applied to Ryukyu, rather than the Chinese traditional concept of 疆域 (*jiāngyù*; territory within boundary).<sup>88</sup>

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this answer by Soejima was meant to recognize that not only the Convention with the United States, but also the Conventions with France and the Netherlands “were legitimate and that it also vindicates that Ryukyu was qualified to conclude treaties with those foreign countries when it did.” Inoue considers these three Conventions to be the main difficulty in the Ryukyu issue, and describes their import as being “as if to see a gigantic obstacle lying ahead.” Inoue, *ibid.*, (Note 78), pp. 175-177.

<sup>86</sup> Prior to this, in a letter dated April 4, 1876, John A. Bingham, the US extraordinary and plenipotentiary Minister to Japan, asked whether a new arrangement had been made between Ryukyu and Japan and how it would influence the Convention between Ryukyu and the United States. In reply, Japan’s Foreign Minister Terashima Munenori, in a letter dated May 31, said that Japan officially made Ryukyu one of Japan’s Domains in October 1872, that from July 12, 1874, officers sent from the Ministry of Interior had been in charge of all foreign-related matters in Ryukyu (at the local agency of the Ministry of Interior), and had taken measures for reorganization such as setting up mail-boat service to and from Ryukyu and establishing barracks. He continued: “We shall notify you as soon as possible should we find any provision in the agreement between your country and the said Domain is difficult to maintain and needing change.” He added that the Japanese government had no intention to deprive the US of any rights arising from the Convention between Ryukyu and the United States and that it will hold consultations with the US if anything as the above should happen. *Nihon Gaikō Monjo*, Vol. 9, pp. 474-475 and 480.

<sup>87</sup> *Nihon Gaikō Monjo*, Vol. 12, pp. 192-193.

<sup>88</sup> The explanation goes: “Under Chinese traditional customary law, the Chinese Emperor calls himself the Monarch of the World, all other countries being his subjects.... The territory [邦土 (*hōdo*)] of the Chinese Empire is supposed to cover all the four seas and its authority is never limited anywhere under the sun.... On the other hand, according to current international law, the right of possession of territory is entitled only to the party that owns the land, governs the land, and collects taxes from it, rather than being based on ungrounded ancient texts. The conceit of letters and imperial demands of gifts under the false name of tribute should be regarded as a favored ploy of the Chinese. ...For Ryukyu Islands, as China has never had real power of control nor has never owned the land, how could it claim sovereignty in its perfect and flawless form? From Shō Nei through to the present Shō Tai, ...kings of Ryukyu pledged to observe Satsuma’s laws and ordinances. .... The right of eternal landlord [territorial sovereignty] is based on the fact of ownership together with the disputant state’s silence and negligence, not just based on the disputant state’s

As discussed above, from around 1875 the general perception within the Meiji government gradually shifted, through the retroactive application of the concept of “territory” under modern international law to times before the Meiji period, in such a way that Ryukyu could be positioned as having been a part of Japan’s “territory” throughout the Edo period. As the Meiji government chose to take neither the option of refuting the Convention with the United States itself,<sup>89</sup> nor of excusing itself from making any comment on the grounds that it had not been a party to the Convention, the only available justification remaining might well have been to attribute the Convention signed by Ryukyu to the past governance system. Be that as it may, it is hard to deny that, legally speaking, the explanation the government ultimately adopted was extremely far-fetched.

## V Conclusion

The Latin word considered to correspond to “independence” or “indépendance,” the terms used in modern international law, is *independia*, which did not exist in either ancient or medieval times. There is no entry for the word in *The Oxford Latin Dictionary* (Second Edition, 2012) or in *Niermeyer Mediae Latinitatis Lexicon Minus* (2002). The word was actually manufactured in modern Europe.<sup>90</sup> “Sovereignty” and “souveraineté” are also terms invented in modern Europe. The corresponding Latin terms in use at the time were *summa potestas* and *summum imperium*. Although these terms existed in ancient Roman times, they did not mean “sovereignty” or “souveraineté” as these words are used today.<sup>91</sup>

As can be seen in the conclusion of treaties between the Ryukyu Kingdom and Western countries, it is beyond doubt that the Western players concerned (Perry, Bettelheim, Guérin, Hamlin, Walewski, and others), tried to understand the position of the Ryukyu Kingdom based upon such European concepts as “independent State” and “sovereign State” when considering the conclusion

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silence and negligence.” Ibid., pp. 193-195 and 199. Based upon this memorandum, the reply to China was presented by Shishido Tamaki, minister to China, on October 26, 1879. The text was far shorter than the memorandum, but the content was essentially identical, saying in short that, setting aside the time before the Keichō War (1597-1598), Japan’s jurisdiction had been established covering the whole of the Ryukyu Islands. “Independence” was never recognized for Ryukyu because of the treaties it contracted with Western countries, stating that “at the time Japan was at the end of its feudal system and had not been controlling foreign affairs systematically; the islanders, forgetting their own place, unreasonably desired to be ranked as one of the small countries, while other countries had not yet discovered the reality of the situation.” These were all coincidences, the text asserted, asserting that “it cannot be an evidence that Ryukyu was an independent State.” Japan Center for Asian Historical Records, Ref. B03041146600 (from Image 32 onward); Ryūkyū-kankei Zakken / Ryūkyū Shozoku Mondai ni kanshi Nisshin Ryōkoku Sōgi Kankei, Matsumoto Kiroku Dai 1-kan [Ryukyu-related Miscellaneous / Record of Dispute between Japan and Qing about Ryukyu’s Attribution, Documents Transcribed by Matsumoto Tadao, Vol. 1] (1. 4. 1. 4. 12-2) (Diplomatic Archives, Ministry of Foreign Affairs of Japan).

<sup>89</sup> The document contains the sentence: “We can act on the basis that we are unable to approve the treaty as it is not in effect” (*Nihon Gaikō Monjo*, Vol. 12, p. 192). This possible avenue was rejected immediately and the explanation was shifted to state that the control of the central government at the time had not covered the whole country.

<sup>90</sup> For detail regarding the way the ancient Romans used the concept of “liberty (*liber*)” to consolidate over territory, see Yoshimura Tadasuke, *Shihai no Tensai Rōma-jin* [Romans, Ruling Geniuses] (Sanseidō, 1981), pp. 227-259. As for the Japanese term 独立 (*dokuryū* or *dokuritsu*), while it existed in Japan’s medieval period, its use as the translation of the Western concept “independence” only began in the early Meiji period.

<sup>91</sup> The Chinese word 主權 (*zhǔquán*) originally meant the “right of a monarch” and became the standard Chinese translation of “sovereignty or souveraineté” in the 19th century. The word is used in this way, for example, in the Chinese translation of *Elements of International Law* by Henry Wheaton, published in January 1865.



and ratification of treaties. Meanwhile, both Ryukyu and the Shogunate were defining Ryukyu's position – i.e. Ryukyu's relationships with Japan and with Qing – using such traditional concepts as *fuyō*, 藩国 (*hankoku*; client state), 藩邦 (*hampō*; tribute state) and 藩屏 (*hampei*; protectorate). Attempts were also made as early as the 1850s, to clarify the situation employing terms such as *zokkoku*<sup>92</sup> and *ryōzoku*. The discussions themselves, however, remained fundamentally the same as discussions based upon traditional concepts. It was the late 1870s when the mode of discussion changed definitively. The Japanese government began to adopt concepts under modern international law, applying the logic of international law retroactively to the Edo period.

However, we must acknowledge here again that it is highly problematic to try to explain Ryukyu Kingdom's position through the retroactive application of concepts drawn from modern law and modern international law, because the position of Ryukyu and its relationships with China and Japan were something that utterly defied explication from modern law and modern international law.<sup>93</sup> If we were to reframe Soejima's letter of November 1872 from the perspective of modern international law, we could say that it represented a "switch" from the traditional concept of *fuyō* to the modern concept of *ryōiki* (territory). Such an explanation would have been more appropriate when historical developments were taken into consideration. As described above, however, if the government did acknowledge the traditional relationship *fuyō* between Ryukyu and Japan, then it had no choice but to also recognize 冊封 (*sakuhō*; bestowing peerage by imperial edict), the relationship between Ryukyu and China, as a historical fact. Indeed, as the attribution of Ryukyu emerged as an increasingly serious issue between Japan and Qing, the retroactive application of modern concepts, while not theoretically flawless, might nonetheless have been one way to deal with a complex reality.

One of the subjects the author is currently working on is how best to depict a comprehensive image of the concept of 領域 (*ryōiki*; territory) as it existed in the late Edo and early Meiji periods. An earlier essay published in 2012 was a preparatory work on this theme, and the present article is intended to be the first chapter of the author's main work on the subject. However, there exists a great abundance of historical materials about Ryukyu recorded by the Shogunate, the Satsuma Domain, the Ryukyu Kingdom and Western countries, and the author has not yet examined all of the existing materials about the three Conventions between the Ryukyu Kingdom and the Western countries. It is the author's intention to arrive, step by step, at a comprehensive picture of the

<sup>92</sup> For the term 属国自主 (*zokkoku-jishu*; dependency-sovereign) used in China and Korea after the 1860s and especially during the 1880s, see, among others, Okamoto Takashi, *Zokkoku to Jishu no Aida: Kindai Seikan Kankei to Higashi Ajia no Meiu* [Between Subjugation and Sovereignty: Qing China-Korea Relations and the Fate of East Asia in Modern Times] (University of Nagoya Press, 2004), pp. 367-383.

<sup>93</sup> *Kokusaihō Senrei Ishū (1) Kokka Heigō* [Collection of Precedents in International Law (1) Incorporation of States], an internal document produced by Gaimushō Jōyakukyoku [Treaties Office, the Ministry of Foreign Affairs of Japan] in October 1933, records the incorporation of Ryukyu as the first of two "precedents of incorporation of a state by the Empire of Japan" (the second is the incorporation of Korea in 1910). It shows that at the time, the Ministry of Foreign Affairs, or at least within the Treaties Office, they regarded it as "incorporation." The attached proviso goes: "There are extremely ambiguous points in its times and procedures about Ryukyu's becoming to a part of Empire's territory by incorporation. It should be avoided to describe it under terms of international law because it is viewed that there are inappropriate aspects to be judged by modern international law," so that it is limited to record history of the relationship between the Empire and Ryukyu, so-called *Ryūkyū Shobun* and associated international issues. Japan Center for Asian Historical Records, Ref. B04120001900 (Images 4-5); *Kokka no Bunri, Heigō ni kansuru Senrei* [Precedents Regarding Division and Incorporation of a State] (Z 1.1.0.5) (Diplomatic Archives, Ministry of Foreign Affairs of Japan).

concept of “territory” as it was understood throughout the late Edo and early Meiji periods. To that end, it may prove necessary to consider whether the situation in East Asia and situations in other non-European regions, such as Southeast Asia, the Islamic world and Africa, can all be understood within a similar framework, or if, in the case of East Asia, it will remain necessary to highlight specific situations unique to the region.<sup>94</sup>

### **Acknowledgement**

The author would like to express his gratitude to Fukamachi Tomoko, Associate Professor, Fukuoka Women’s University, who contributed to the original article with her various useful advice.

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<sup>94</sup> In this regard, Okamoto Takashi, ed., *Sōshuken no Sekaishi: Tōzai Ajia no Kindai to Honyaku Gainen* [A World History of Suzerainty: Modern Times and Translation Concepts in East and West Asia] (University of Nagoya Press, 2014) is a study of great interest.