

The U.S. and the Territorial Dispute on Dokdo/Takeshima between Japan and Korea, 1945-1954

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ABSTRACT

The territorial dispute over Dokdo/Takeshima (or Liancourt Rocks) has frequently strained South Korean-Japanese relations in the post World War II era. Japan claims that it acquired Dokdo/Takeshima as a *terra nullius* in 1905, whereas Korea rejects Japan's claim on the ground that Dokdo was a Korean island, not a *terra nullius*, which Japan usurped illegally in 1905. The dispute was exacerbated further due to the inconsistent U.S. policy in the disposition of the disputed island during the Allied occupation of Japan (1945-1952). Initially, the U.S. decided to return Dokdo/Takeshima to Korea in accordance with the Cairo Declaration (1943) and the Potsdam Declaration (1945). Furthermore, all of the U.S. drafts of the peace treaty with Japan from 1947 to November 1949 explicitly stipulated the return of Dokdo/Takeshima to Korea. However, the U.S. became apprehensive about the possibility of the Communist takeover of the entire Korean Peninsula, the U.S. wanted to let Japan retain the disputed island in its December 1949 draft of the peace treaty. Subsequently, the U.S. and Great Britain worked out a compromise not to contain any provision concerning the disposition of Dokdo/Takeshima in the San Francisco Peace Treaty of September 1951. As a result, both Japan and South Korea have interpreted the meaning of the peace treaty differently. Since the U.S. has not rescinded its initial decision in 1946 on Dokdo/Takeshima with a new SCAP directive during the Allied occupation or by signing a new treaty nullifying the 1946 decision, Korea's legal claim to Dokdo/Takeshima is clearly stronger than Japan's insofar as the U.S. disposition of the Dokdo/Takeshima during the Allied occupation of Japan is concerned.

Keywords: Dokdo/Takeshima, SCAPIN Nos. 677 & 1033, the San Francisco Peace Treaty, the Rhee Line, John Foster Dulles, the Cairo Declaration, & the Potsdam Declaration.

Introduction

The territorial dispute over Dokdo Island has been a thorny issue in Korean-Japanese relations since the signing of the San Francisco Peace Treaty in September 1951. Both the Republic of Korea (ROK) and Japan have contended that they have legitimate claims over Dokdo (or Takeshima in Japanese). The problem was created largely due to the inconsistent U.S. policy toward the Dokdo/Takeshima (also known as Liancourt Rocks) from 1945 to 1952. It is a well known fact that the U.S. initially adopted the position in January 1946 that the island should be returned to Korea as part of the Korean territory that Japan had acquired illegally in 1905. However, when U.S. occupation policy toward Japan underwent a major change in 1949 as a result of the Communist victory in China, it did not want to implement punitive policies toward Japan. In addition, the U.S. began to reconsider its position on the return of Dokdo to the Republic of Korea in view of the strategic location of the island. By December 1949, in its new draft of the peace treaty with Japan, the U.S. stipulated the return of Dokdo to Japan, thus completely reversing its previous position. However, the new drafts prepared under the supervision of John Foster Dulles from March 1950 to August 1951 were completely silent on this issue by excluding it altogether from the treaty. In fact, the San Francisco Peace Treaty, signed on September 8, 1951, contained no provision pertaining to Dokdo. As a result, both Japan and South Korea interpreted the omission in the peace treaty so differently that neither was willing to accept the other's position on Dokdo/Takeshima (or Liancourt Rocks).

The purpose of this article is to examine U.S. policy toward the Dokdo/Takeshima problem from 1945 to 1954. It contends that the U.S. government's inconsistent and ambivalent policy during the Allied Occupation of Japan (1945-1952) contributed to the rise of the territorial dispute between Japan and South Korea. The U.S. policy was not consistent on the Dokdo problem, as it initially decided to return the island to Korea (1945-1949), but later took an ambivalent position, which could be interpreted as favoring either Korea or Japan.

The Genesis of the Dispute

In order to understand the territorial dispute between Japan and South Korea, it is necessary to review briefly the genesis of the dispute, which was created by Japan's unilateral incorporation of Dokdo as a *terra nullius* (ownerless land) on February 22, 1905. On that day, the

Governor of Shimane prefecture proclaimed that the islets were incorporated as part of the Shimane prefecture under the name “Takeshima.” The Koreans refused to recognize the legitimacy of the Japanese acquisition of Dokdo as a *terra nullius*, for Korea had claimed sovereignty over the island for many centuries and had incorporated Dokdo in Ullungdo County in the administrative reform carried out in 1900.

The Koreans based their claims to Dokdo on the basis of numerous historic documents, maps, and administrative measures taken by the Korean government, some of them dating as early as 512 A.D.¹ In addition, there were two very important policy decisions adopted and issued authoritatively by two different Japanese governments, which disclaimed unequivocally Japanese sovereignty over Dokdo and thereby implicitly recognized Korea’s sovereignty over the island in the pre-1900 period. The first disclaimer was issued by the Tokugawa military government in 1696²; and the second one by the Japanese Imperial government in 1877.³ The Meiji government’s decision was adopted in response to Shimane prefecture’s attempt to incorporate both then Ullungdo and Dokdo into its prefecture. The Japanese Dajokan (the Council of State), the highest decision making organ of the Meiji government, denied Shimane prefecture’s request by ruling in 1877 that “our country [Japan] has nothing to do with them” (i.e., the Ullungdo and Dokdo islands).⁴

Despite its initial disclaimer over Dokdo in 1877, the Meiji government’s position changed following the Japanese victory in the Sino-Japanese war (1894-1895) and the Russo-Japanese war (1904-1905). During the latter, the Japanese took over the Korean islands located in the East Sea/Sea of Japan to establish watchtowers and to link them via submarine telegraph cable. Furthermore, Korea was virtually under the Japanese military occupation during the Russo-Japanese war.⁵ By the spring of 1905, Japan not only occupied the Incheon-Seoul area but also maintained law and order in this vitally important region.⁶ Furthermore, by November 1905, Japan forced Korea to sign a protectorate treaty with Japan which established the Japanese Resident-General’s office in Korea. As a result, Korea lost its sovereign rights to conduct foreign relations. The Japanese takeover of Dokdo/Takeshima as a *terra nullius* in 1905 was regarded as completely unjustifiable and illegitimate by the Koreans in view of the fact that on October 25, 1900, or four years before the Japanese incorporation of the island, the Korean

government had incorporated Dokdo as part of Ullungdo county by promulgating Imperial Ordinance No. 41 (Article 2).⁷ Although Japanese critics of this ordinance assert that the island named in the document, Sokdo (in Chinese character), is not Dokdo but refers to Jukseodo, located in the northeastern corner of Ullungdo, available documents verify that Sokdo was Dokdo, as both essentially mean the same thing: “rock island.” As the text of the ordinance was written in Chinese characters, the “Sok” (rock) meant the dialectical Korean, “Dok” or “Dol.”⁸

In incorporating Dokdo/Takeshima as a *terra nullius* in February 1905, Japan did not inform the Korean government of its decision. In fact, Japan did not notify any country of its action, a clear violation of the established customs under international law. The Japanese government did not even bother to announce its action in the official government *Kanpo* (*Gazette*). Instead, it announced it only in the Shimane prefectural government bulletin.⁹ Such actions of the Japanese government differed sharply from Japan’s previous practice in its incorporation of the Bonin Islands as *terra nullius* in 1876.¹⁰ In this case, in accordance with the established customs under international law, Japan duly notified the U.S., Great Britain and a dozen other European countries regarding its acquisition of the newly-found islands. It does not require much imagination to speculate as to why Japan skipped the required diplomatic protocol in connection with its incorporation of Dokdo/Takeshima as a *terra nullius*.

Clearly, the Japanese took advantage of Korea’s political weakness in 1905 when it incorporated Dokdo (renaming it Takeshima). The Korean government was not officially informed of Japan’s takeover of the island until 1906, and then only indirectly.¹¹ Upon learning of Japan’s decision to incorporate the island, Korean officials at both local and national levels protested the Japanese action as a violation of Korean sovereignty. However, having lost its sovereign rights to conduct foreign relations as a result of the Protectorate Treaty of 1905 (also known as the “Eulsa Treaty” or “the Second Japan-Korea Agreement”), Korea could not mount any effective protest against the Japanese action.¹² By 1910, Korea was officially annexed by Japan and subjected to Japanese colonial rule until 1945, when it was liberated by the victorious Allied Powers.

The Cairo and Potsdam Declarations

Japan's quest for the establishment of an empire by conquest did not stop with the annexation of Korea in 1910. The Japanese military's occupation of Manchuria in 1931-1932 heralded the beginning of Japan's campaign to conquer China and beyond. When China and the international community refused to recognize the puppet Manchukuo, the fruits of Japanese aggression in Manchuria, Japan decided to invade China proper by launching an all-out, though undeclared, war in July 1937. Contrary to the Japanese expectations for a quick victory, the Sino-Japanese war dragged on to 1945, as China put up fierce resistance to the Japanese invaders. By 1940, Japan became an axis power by signing the tripartite pact with Germany and Italy, alienating further the Western democratic nations. By then, Japan was also declaring its intentions to build the so-called "East Asia Co-prosperity Sphere" under Japanese control. In an attempt to conquer the resource rich colonies of the Western powers in Southeast Asia by utilizing the opportunities created by Nazi Germany's sweeping victories in Europe, Japan had occupied all of French Indochina by the summer of 1941. When the United States adopted economic sanctions against Japan, demanding that Japan withdraw from the illegally occupied areas, the military-controlled Japanese government launched a surprise attack on the U.S. naval base at Pearl Harbor on December 7, 1941. That attack brought about all-out war between Japan and the U.S. plus its allies from 1941 to 1945. The "Pacific War" ended on August 15, 1945, when Japan surrendered unconditionally to the Allied Powers.

Meanwhile, as the tide of war shifted in favor of the Allied Powers in 1943, the United States and its allies began seriously to consider plans for reshaping Japan after defeating it, including the disposition of overseas territories Japan had acquired after 1895. At Cairo, in November 1943, the leaders of the U.S., Great Britain, and China decided to strip Japan of all territories gained after 1895.¹³ They also agreed to make Korea independent "in due course." According to the Cairo declaration, "Japan will be expelled from all territories which she has taken by violence and greed [since the time of the Sino-Japanese War of 1894-1895]."¹⁴ Considering the way Japan had annexed Dokdo in 1905 and all other Korean territories by 1910, there can be little doubt that Japan's annexation of Dokdo fit into the territories as defined by the Cairo Declaration.

Following Germany's surrender in early May 1945, it became a foregone conclusion that Japan would follow suit. Such an eventuality became inevitable after the dropping of nuclear bombs on Hiroshima (August 6) and Nagasaki (August 9) and the entrance of the Soviet Union into the Pacific War. In fact, on July 26, the leaders of the Allied Powers issued the famous Potsdam Declaration, demanding Japan's unconditional surrender. They made it also clear that the Allied Powers would occupy Japan after the surrender to "demilitarize" and democratize Japan by carrying out far-reaching reforms. At the same time, they announced their intentions to implement the terms of the Cairo Declaration regarding the disposition of Japanese territories.¹⁵ On August 15, 1945, Japanese Emperor Hirohito formally accepted the terms of the unconditional surrender demanded by the Allied Powers.

Koreans welcomed the Allied victory and rejoiced at the prospects of being liberated from Japan's colonial rule and becoming an independent nation in the postwar era. They also welcomed the Allied Occupation of Japan. In this context, it was natural for Koreans to expect the return of all the territories Japan had taken from Korea after 1905, in accordance with the Cairo and Potsdam declarations.

The Initial U.S. Policy on Dokdo

The Allied Occupation of Japan officially began when the Japanese government signed the instrument of surrender, incorporating the Potsdam Declaration, on the USS Missouri on September 2, 1945. It was the U.S. which took the dominant position in carrying out the occupation of Japan. The U.S. played this role largely because it had shouldered the major burden in defeating Japan in the Pacific war and partly because of its ability to establish immediate control under General Douglas MacArthur who became the Supreme Commander of the Allied Powers (SCAP) in Japan. In this capacity, MacArthur operated only under the broad directives of the United States. It is true that the U.S. agreed to an eleven-nation Far Eastern Commission that could define the Allies' policy toward Japan by a majority vote, including American, Soviet, British and Chinese approval. However, any Commission proposal was subject to an American veto. In addition, the U.S. could issue interim directives to SCAP headquarters in Tokyo. Even the four-member Allied Council for Japan, established in Tokyo, had only advisory powers.¹⁶ Under the effective leadership of General MacArthur, the U.S. and its allies were able to achieve the dual goals of the

demilitarization and democratization of Japan by April 28, 1952, when the occupation of Japan ended.

Regarding the disposition of Japan's overseas territories, which it had acquired from 1895 to 1945, the Allied Powers were determined to implement the terms of the Cairo Declaration of 1943 and the Potsdam Declaration of 1945. As a result, the Koreans did not anticipate any problem in recovering their lost land from Japan. Indeed, the Koreans were gratified to see a manifestation of U.S. intentions to return Dokdo to Korea in 1946. SCAP's first major opinion concerning the territory of postwar Japan was cited in an instruction SCAP gave to the government of occupied Japan. The order, SCAPIN (or SCAP instruction) No. 677 of January 29, 1946, specifically defined Japanese territory and stated that the islands in dispute between Japan and Korea—Utsuryo Island (Ullungto), Liancourt Rocks (Dokdo) and Quelpart Island (Chejuto)—were to be excluded from Japan's political or administrative authority.¹⁷ To be sure, a caveat was added to SCAPIN No. 677 that "Nothing in this directive shall be construed as an indication of Allied policy relating to the ultimate determination of the minor islands referred to in Article 8 of the Potsdam Declaration."¹⁸ Another instruction (SCAPIN No. 1033 of June 22, 1946), prohibited Japanese nationals from approaching within 12 miles of Dokdo.¹⁹ Dokdo's exclusion from Japan remained in effect throughout the remainder of the Allied occupation.

Apparently, these SCAP instructions were based on extensive research carried out by the officials and scholars on the question of the disposition of Japan's illicitly acquired overseas territories after 1895. Regarding Dokdo, the study conducted by the State-War-Navy Coordinating Committee (SWNCC) in 1946 recognized Korea's claims over Dokdo.²⁰ In fact, the U.S. State Department's preparatory studies showed that Dokdo was "to become Korean Territory" and planned to return it to Korea until November 1949.²¹ Apparently, SCAPIN No. 677 and No.1033 were based on the initial determination of the status of the island by the U.S. State Department and other relevant government agencies.

Following the promulgation of SCAPIN 677 in January 1946, jurisdiction over Dokdo was transferred to the U.S. military government in South Korea, which was administering Korea south of the 38th parallel after the Japanese surrender on August 15, 1945.²² On August 15, 1948, on the basis of democratic elections held in South Korea under the supervision of the United Nations Temporary Commission on Korea

(UNTCOK), the Republic of Korea (ROK) was established. Whereupon, the U. S. immediately transferred the administrative jurisdictions over all South Korea, including Dokdo, to the Republic of Korea.²³

Meanwhile, the Japanese Foreign Ministry appealed to SCAP concerning Japan's claim to sovereignty over both Ullungdo and Dokdo by preparing a report entitled "Minor Islands in the Sea of Japan." In an attempt to influence the U.S. in any future deliberations concerning these islands, Japanese officials denied Korea's ownership of Dokdo by contending that "no Korean name exists for the island" and that the island "is not shown on the maps made in Korea."²⁴ The Japanese also argued in the report that the settlers on the larger island, Ullungdo, had arrived recently and that the island's development was "still in an incipient stage," and, for these reasons, it was not within the Korean government's ability to develop the island.²⁵ However, such an effort did not have an immediate effect on the U.S.

On March 17, 1947, following the signing of the peace treaties with Italy and other European Axis countries at the Paris Peace Conference in the previous month, General MacArthur proposed at the Foreign Correspondents' Club in Tokyo to draft a peace treaty with Japan. The first draft was prepared in the U.S. State Department in the same month. According to several drafts of the treaty prepared from 1947 to November 1949, all five drafts contained a provision stipulating the return of the Dokdo to Korea. For example, Article 4 of the treaty draft prepared in March 1947 prescribed the return of Dokdo to Korea:

Japan hereby renounces all rights and titles to Korea and all minor offshore Korean islands, including Quelpart Island, Port Hamilton, Dagelet (Utsuryo) island and Liancourt Rock [Dokdo].²⁶

Thus, Dokdo was included in the "minor offshore islands" considered to be part of Korea.

In July 1947, the U.S. officially invited eleven members of the Far Eastern Commission to call a preliminary conference on peace with Japan. It was scheduled for August 19. In the meantime, a revised draft was prepared with more revisions on August 5. In the August draft, precise demarcation was attempted by delineating the territorial limits of Japan (Article 1) and of the Korea that Japan was to renounce. Accordingly, Article 4 of the draft treaty stipulated:

Japan hereby renounces all rights and title to Korea (Chosen) and all offshore islands, including Quelpart (Saishu To); the Nan How group (San To or Komun Do) which forms Port Hamilton (Tonankai); Dgelet island (Utsuryo To, or Matsu Shima); Liancourt Rocks (Takeshima); and all other islands and islets to which Japan had acquired title lying outside the line described in Article 1. . . This line is indicated on Map No. 1 attached to the present Treaty.²⁷

These early drafts were very detailed and lengthy, designed for a firm delimitation of Japan's territory. However, the August 1947 draft was criticized by the Policy Planning Board (PPS) of the U.S. State Department, headed by George Kennan, the architect of the "containment." In August, Kennan forwarded a memo prepared by his PPS staff to U.S. Under-Secretary of State Robert A. Lovett, suggesting that discussions of peace terms with other powers be delayed until the U.S. could formulate its objectives precisely.²⁸ The PPS emphasized the need to reconsider the peace terms in order to reflect U.S. interests in light of the intensified Cold War. Lovett sent back the treaty draft as "inadequate in present form."²⁹

Additional drafts of the treaty were prepared in November 1947 and January 1948 "in general along the line of PPS thinking."³⁰ However, the Korean disposition remained the same, and Japan renounced "in favor of the Korean people all rights and titles to Korea (Chosen) and offshore islands, including . . . Liancourt Rocks (Takeshima); and all other islands and islets to which Japan had acquired title lying outside the line described in Article 1. . ." ³¹ According to the "Analysis" prepared with the January 8, 1948 draft, the territorial clauses of the draft were "based largely on international agreements made at Cairo, Yalta and Potsdam."³²

After returning from a visit to East Asia on March 25, 1948, Kennan wrote a report [PPS 28] entitled "Recommendations With Respect to U.S. Policy Toward Japan."³³ It argued for the policy of securing Japan for the Western bloc in view of the changing international security environment in Asia. It also suggested that a peace treaty not be drafted impetuously, but focus on Japan's economic recovery. In addition, it argued that Japan would have to be rearmed to cope with a possible invasion by the Soviet Union. Changes in the U.S.- Japan policy suggested by the PPS were adopted by the National Security Council

(NSC) on October 26, 1948.³⁴ The drafting of the peace treaty with Japan was stalled thereafter for over a year until the fall of 1949.

A new draft of the peace treaty was prepared in the U.S. State Department on October 13, 1949, one based on that of January 8, 1948, with changes in many parts of the treaty. According to the “Commentary” prepared with the draft, “the underlying concept of the treaty draft is that the settlement should restore Japan to a genuinely sovereign status with a minimum of restrictions and special disabilities.” The overriding objective of U.S. policy was to ensure that Japan align itself with the U.S. in international politics, and such an objective could be “better served if Japan is restored to a genuinely sovereign status free to determine its own future course than if it is placed in any sort of a strait jacket.”³⁵ However, there was no change regarding the return of Dokdo to Korea in the October 1949 draft.

The next draft dated November 2, 1949, specified the territorial limits of Japan by delineating the specific outlines in terms of latitude and longitude with an attached map indicating the line of allocation. The first sentence of Article 3 of Chapter II stated that “The territory of Japan shall comprise the four principal Japanese islands . . . and all adjacent minor islands. . .” The second clause of the same article stipulated that “[t]his line of allocation is indicated on the map attached to the present treaty.”³⁶ Regarding the Korean disposition, it remained essentially the same as the previous draft, except that the “Korean Peninsula” was replaced with “the Korean mainland territory.” Again, it stipulated the return of Dokdo to Korea.

Sebald’s Recommendation to Recognize Japan’s Claim

The November 2, 1949 draft was sent to William J. Sebald, U.S. Political Advisor to General MacArthur. After studying the draft with MacArthur, Sebald sent comments and suggestions for revisions. In a commentary sent to the State Department on November 19, Sebald recommended that the Liancourt Rocks be specified as belonging to Japan, for “Japan’s claims to these islands is old and appears valid, and it is difficult to regard them as islands off the shore of Korea.” In addition, Sebald argued that “Security considerations might also conceivably render the provision of weather and radar stations on these islands a matter of interest to the United States.”³⁷ Sebald’s recommendation for recognizing Japan’s title to the Liancourt Rocks issue was to influence the subsequent U.S. policy toward Japan and the Dokdo problem, for he

was to play a major role in drafting and signing the peace treaty with Japan on September 8, 1951.

Insofar as the historical background of the disputed island was concerned, Sebald's argument was not only inaccurate but also contravened earlier findings of the U.S. government. For example, the study of U. S. State-War-Navy Coordinating Committee (SWNCC) had stated in July, 1946, that Liancourt Rocks was one of the islands considered "historically and administratively part of Korea."³⁸ Clearly, Sebald's recommendation was not based on historical facts. It is a well known fact that Sebald was a pro-Japanese U.S. official who had been a major target of lobbying by the Japanese government in its attempts to regain control of Dokdo. He was clearly influenced by Japanese officials, especially those in the Japanese Ministry of Foreign Affairs which had prepared a pamphlet entitled "Minor Islands in the Pacific and the Sea of Japan (Taiheiyo oyobi Nihonkai sho Shoto)," in June 1947.³⁹

To be sure, Sebald was more persuasive in making the case on the basis of strategic considerations. In the face of the intensifying Cold War, the U.S. became quite uneasy about the establishment of the Communist regime in China in October 1949. Against this background, Japan was viewed as the country of primary importance for the U.S. strategy in East Asia. It was included in the "first line of strategic defense" in the key policy documents such as NSC 13 and NSC 48 (approved by President Harry Truman in December 1949). In contrast, South Korea was accorded merely secondary importance and was excluded from the U.S. defense perimeter in East Asia (i.e., the "Acheson Line"), announced by the U.S. Secretary of State Dean Acheson on January 12, 1950.⁴⁰ By then, many feared a possible North Korean invasion of the South for the domination of all of Korea and felt that it was preferable for Japan, not Korea, to keep islands in the Sea of Japan, such as the Liancourt Rocks.

It became increasingly evident that the argument for territorial disposition to suit security concerns was gaining support within the U.S. government. In light of Sebald's commentary, a revised draft was prepared on December 29, 1949. The new draft specified the Liancourt Rocks as belonging to Japan by adding it to the list of islands Japan would retain in Chapter 2 (Territorial clause), Article 3. In addition, it deleted the island from Article 6 of the Korea provision. According to Article 6 of the draft treaty,

Japan hereby renounces in favor of Korea all rights and titles to the Korean mainland territory and all offshore islands, including Quelpart (Saishuto), the Nan How group (Santo, or Kuomun Do) which forms Port Hamilton (Tonankai), Dagelet Island (Utsuryo To or Matsu Shima), and all other offshore Korean islands and islets to which Japan had acquired title.⁴¹

Another important change contained in the draft was that, for the first time, Korea was added to the list of treaty signatories in the preamble. However, South Korea was deleted from the list of signatories in the joint U.S.-British draft in June 1951 and thereafter.

John Foster Dulles and the Peace Treaty with Japan

Following the appointment of John Foster Dulles as Consultant to the U.S. Secretary of State in the spring of 1950, Dulles became officially responsible for overseeing the drafting of the peace treaty with Japan. He began working basically along the lines suggested by the PPS. Shortly thereafter, on June 25, the North Korean army invaded South Korea, which resulted in the Korean War and involved the participation of the U.S. and U.N. forces against North Korea and eventually China until the armistice on July 27, 1953. The war further enhanced Japan's strategic importance to the U.S. Under the circumstances, Washington clearly wished to avoid a peace settlement that might humiliate Japan or intensify Japanese resentment against the U.S.

In the face of Communist aggression in Korea, the U.S. decided to defend South Korea together with 15 other U. N. member nations by committing its combat troops under General Douglas MacArthur, who became the supreme commander of the U. N. forces in Korea. After the successful campaign to land U.S. forces at Inchon on September 15, the U.N. forces not only chased the Communist invaders out of South Korea, but began to move into North Korea in the beginning of October. Although the campaign to unify Korea was disrupted by the Chinese intervention in the Korean War in November, the military situation was largely stabilized by the spring of 1951. Following the signing of the armistice agreement on July 27, 1953, South Korea became a U.S. ally by signing the treaty of mutual defense with the United States in October 1953, which went into effect in November 1954

Against the backdrop of fierce fighting on the Korean Peninsula, Dulles continued the task of drafting a peace treaty with Japan. The first version under Dulles' supervision was drafted on August 7, 1950. Dulles

wanted a “simple treaty” instead of the lengthy one previously prepared.⁴² Accordingly, the clause delineating Japan’s territorial limits was deleted from the text, and a simple “Chapter II. Sovereignty” was substituted. Unlike the previous drafts, there was no use of latitude and longitude for border demarcation. Moreover, it did not contain any detailed listing of Japanese islands or a map.⁴³

It is also noteworthy that the treaty draft of August 7, 1950, did not contain any provision concerning Liancourt Rocks which was deleted completely from the draft. Why did Liancourt Rocks disappear from the treaty text? Some observers speculated that it was due to the new format which simply drastically shortened the text. However, it was undoubtedly related to the earlier decisions adopted by the U.S. (e.g., in SCAPIN No. 677 and in several U.S. drafts of the peace treaty from 1947 to 1949) stipulating the return of Dokdo to Korea. It was also related to the U.S. involvement in the Korean War, defending South Korea from the North’s aggression. Under the circumstances, it would not have been prudent for the U.S. to side either with Japan or South Korea on the Liancourt Rocks issue, as both countries were vital to the U.S. in countering the challenge of Communism in East Asia. Apparently, the U.S. preferred to preserve some room to maneuver in case the strategic situation changed in Korea.⁴⁴ The U.S. made it clear that if any territorial issue, such as the Dokdo/Takeshima problem, became a dispute, it was expected to be dealt with by the International Court of Justice.

On September 11, 1950, a revised draft was prepared.⁴⁵ However, the Korea-related provision remained the same. Also, the U.S. prepared a memorandum summarizing the major points of the September 11, 1950 draft, including (1) Parties; (2) United Nations; (3) Territory; (4) Security; (5) Political and Commercial Arrangements; (6) Claims; and, (7) Disputes. These and other changes in the drafts of the treaty prepared under the supervision of Dulles reflected the strong U. S. security interest.⁴⁶

Following an exchange of views with the other Allied powers in the fall of 1950, President Truman established a Japanese Peace Mission headed by Dulles. The mission visited Japan on January 22, where it discussed the contents of the seven principal sections of the treaty draft with Japanese officials as well as representatives of several Allied Powers stationed in Tokyo. After returning from the trip, Dulles prepared yet another treaty draft on March 1, 1951, with further changes.

Regarding the territorial clauses, it stated that “Japan renounces all rights, titles and claims to Korea, Formosa and [the] Pescadores . . . Antarctica.” Also, Japan would accept a “United Nations trusteeship . . . over the Ryukyu and Bonin Islands” and the establishment of the Trust Territory of the Pacific Islands.⁴⁷

In the meantime, the British Foreign Office prepared its own treaty drafts in the spring of 1951. Its April 1951 draft was to serve as a “preliminary working document” for the U.S.-United Kingdom (UK) joint draft. The British draft was handed to the U.S. on April 7. It was long and detailed and similar to the earlier drafts of the U.S. State Department from 1947 to November 1949. In Article 1, it specified the boundary of the Japanese territory and excluded Liancourt Rocks from Japanese territory.⁴⁸ According to Article 2,

Japan hereby renounces any claim to sovereignty over, and all rights, titles, and interest in Korea, and undertakes to recognize and respect all such arrangements as may be made by or under the auspices of the United Nations regarding the sovereignty and independence of Korea.⁴⁹

Although the word “Liancourt Rocks” is not included in Article 2 of the British draft, when combined with the text of Article I and the attached map, it was evident that the island was considered to be Korean territory.⁵⁰ The British draft differed substantially from the U.S. draft of March 1, 1951, not only in its format and in the disposition of Korea, but also in areas such as war criminals and compensation claims.

On May 3, through a series of negotiations with the U.K., the U.S. was able to work out a joint draft. The British regarded the U.S. draft as “too imprecise to meet the criterion set out” by the British and wanted a “[very] careful drafting . . . in order to ensure that no islands near Japan are left in disputed sovereignty in condition which might benefit the Soviet Union” and others in Asia. It maintained further that “the device used in Article 1 of the United Kingdom draft is probably the best method of defining the limits of Japanese sovereignty.”⁵¹ The British draft was supported by Australia and New Zealand. However, the British gave in to the U.S. insistence that the British method of defining the Japanese boundaries “would have a bad psychological effect on Japan and emphasize the contraction of their country.”⁵² Thus, in the joint draft the U.S. format was adopted for the territorial disposition, not the British draft’s method of delineating borders by latitude and longitude.

Article 2 of the joint draft stipulated that “Japan renounces all rights, titles, and claims to Korea (including Quelpart, Port Hamilton and Dagelet). . . .” However, again, Liancourt Rocks was not mentioned in the joint draft. Following Dulles’ visit to London, a revised U.S. – U.K. joint draft was prepared on June 14, 1951. According to Chapter II, Article 2 (a) of the revised joint draft, “Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.”⁵³ The text of the revised U.S.-UK joint draft of June 14 was circulated to the Allied Powers in July, and was kept open for further changes until mid-August. The clause concerning the Korean disposition remained without further change in the text of the joint draft. It became officially the peace-treaty with Japan and was signed by 48 countries in San Francisco on September 8, 1951. Meanwhile, in July 1951, when the text of the U.S.-UK joint draft treaty became available, Seoul demanded that the devolution of Liancourt Rocks, which it regarded as its inherent territory taken away illegally by Japan in 1905, should be specified in the proposed treaty. The South Korean government submitted a commentary on the U.S.-UK joint draft, requesting specification of Dokdo as Korean territory:

According to Korean Ambassador You-Chan Yang’s memorandum, his government requested the words “renounces” in Paragraph a, Article Number 2, should be replaced by “confirms” that “Japan renounced on August 9, 1945, all right, title and claim to Korea and the islands which were part of Korea prior to its annexation by Japan, including the islands Quelpart, Port Hamilton, Dagelet, Dokdo and Parangdo.”⁵⁴ Receiving this document at a meeting with the South Korean ambassador on July 19, 1951, Dulles asked whether Dokdo/Takeshima and Parangdo had been Korean before the Japanese annexation. The Korean ambassador’s reply was affirmative, whereupon Dulles said he “saw no particular problem in including these islands in the pertinent part of the treaty which related to the renunciation of Japanese territorial claims to Korean territory.”⁵⁵

On August 9, the final U.S. answer on this point was given by U.S. Assistant Secretary of State for Far Eastern Affairs Dean Rusk, in a statement to the South Korean ambassador. In the letter, Rusk stated:

As regards the islands of Dokdo, otherwise known as Takeshima or Liancourt rocks, this normally uninhabited rock formation was according to our information, never treated as part

of Korea and, since about 1905, has been under the jurisdiction of the Oki Islands Office of Shimane prefecture of Japan. This island does not appear ever before to have been claimed by Korea. It is understood that the Korean Government's request that "Parangdo" be included among the islands named in the treaty as having been renounced by Japan has been withdrawn.⁵⁶

Rusk's reply shocked the Koreans, for it contradicted the previous position taken by the U.S. on the Dokdo issue in the SCAPIN No. 677 as well as several drafts of the peace treaty with Japan from 1947 to November 1949. And these earlier drafts showed that the island was to be returned to Korea. Although the U.S. position shifted briefly to the recognition of Japan's claims over the island in the December 1949 draft, all the drafts prepared under the direction of John Foster Dulles from August 1950 to the U.S.-UK joint draft of June 14, 1951, were completely silent on the Liancourt Rocks. Clearly, Dean Rusk's view on the status of Dokdo/Takeshima was not based on the earlier studies made by the SWNCC or the U.S. State Department on the issue from 1946 to November 1949. Rather, it was influenced by William Sebald, who had argued in his commentary on the draft treaty of November 1949 for the recognition of the island as Japan's for historical, strategic and psychological reasons in the face of the intensification of the Cold War.

The San Francisco Peace Treaty and the Dokdo Dispute

On September 8, 1951, the Treaty of Peace with Japan was signed by 48 countries at a peace conference held in San Francisco. Neither South nor North Korea was invited to the conference. Initially, Dulles considered South Korea's participation; however, he abandoned the idea in the face of Japanese and British opposition. Japan's opposition was based on its claim that South Korea was not legally at war with Japan, and also on the concern for the possibility that Korean participation might undermine Japan's economic interests.⁵⁷ British opposition was related partly to the Soviet Union's non-recognition of the Republic of Korea (South Korea) and partly to the issue of Chinese participation. The UK wanted to invite the People's Republic of China (PRC) to the peace conference, whereas the U.S. wanted to invite Nationalist China. As a compromise, they decided not to invite either Communist or Nationalist China. Under the circumstances, it was difficult for the U.S. to insist on inviting South Korea, while not inviting China, which had been at war with Japan from 1937 to 1945.⁵⁸ As a result, the U.S. dropped the idea

of inviting South Korea to the peace conference. In his meeting with South Korean Ambassador to the U.S. You-Chan Yang, Dulles explained the exclusion of South Korea to the peace conference on the ground that the invitation to the San Francisco Peace Conference was limited to the signatories of the 1942 Declaration of the United Nations.⁵⁹

Regarding the disposition of Korean lands, Chapter II, Article 2 (a) of the San Francisco peace treaty of 1951 stipulated that “Japan, recognizing the independence of Korea, renounces all rights, title and claims to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.” Again, there was no provision concerning Liancourt Rocks in the treaty. As a result, both South Korea and Japan interpreted the peace treaty, which became effective April 28, 1952, differently to strengthen their national claims over Dokdo/Takeshima.

In the meantime, on January 18, 1952, South Korean President Syngman Rhee proclaimed the “Presidential Declaration of Sovereignty over Adjacent Seas” (known as the “Peace Line” or the “Rhee Line”), essentially along the MacArthur Line and placed Dokdo within the protected waters of South Korea.⁶⁰ Six months later, South Korea issued a presidential order to seize all illegal foreign ships engaged in fishing in breach of the Rhee Line. The Japanese government protested to South Korea, and the territorial dispute over the island became public. Why did South Korea proclaim the Rhee Line? Apparently, it was based on several considerations.

First, the purpose of the proclamation was to protect natural resources, “marine or otherwise,” within a specified zone of seas adjacent to the territories of Korea. Koreans were not ready to compete against the better-equipped Japanese fishing companies in the East Sea/the Sea of Japan. South Korea requested the U.S. to insert a clause in the treaty for the retention of the MacArthur line even after the termination of the Allied occupation, so as to prevent Japan’s domination of fisheries in the East Sea/Sea of Japan. However, such a request was turned down by the U.S. in May 1951.⁶¹ As a result, South Korea issued the “Rhee Line” in order to protect maritime resources in the coastal waters of Korea along the MacArthur line.

The second reason for the Rhee line was to ensure South Korea’s continued control of Dokdo. Clearly, the Rhee government was dissatisfied with the U.S. policy in dealing with the peace treaty with Japan in general and the Dokdo problem in particular. As a leader of anti-Japanese nationalism, Rhee was clearly unhappy with the Peace

Treaty for its generous terms to Japan, while ignoring Koreans' legitimate demand on Dokdo. As South Korea was not invited to the Peace Conference in September 1951, it could not argue its case at the conference. Thus, when the San Francisco Peace Treaty was signed without stipulating the return of Dokdo to Korea, President Rhee took the only measures at his disposal to keep Dokdo within South Korea's jurisdiction by placing it within the protected waters of South Korea. Since then, South Korea has been effectively in control of Dokdo.

Third, it should also be mentioned that South Korea's action was based on its interpretation of the San Francisco Peace Treaty. According to the ROK Foreign Ministry, there was no provision in the peace treaty which stipulated that Dokdo/Takeshima belonged to Japan. In spite of the serious Japanese-Korean disagreement on its status of the island in the post WW II era, the peace treaty remained completely silent on its status. Furthermore, there was no provision in the treaty that invalidated the actions taken by SCAP (e.g., SCAPIN No.677) during the Allied Occupation of Japan. Thus, even though Dokdo was not mentioned specifically in Article 2 (a) of the peace treaty, South Korea maintained that it had sovereignty over Dokdo, for SCAPIN No. 677 had not been rescinded or nullified by SCAP. In short, SCAP's earlier decision to exclude Dokdo from Japan's jurisdictions, which had led to Korea's effective control of Dokdo after August 15, 1948, remained valid. This is why Korean Foreign Minister Young-Tai Pyon justified Korea's claim to Dokdo, largely on the basis of SCAPIN No.677 and the historical validity in a cable sent to the U.S. State Department in October 1951.⁶²

Fourth, South Korea also regarded Dokdo as one of several hundred "minor offshore islands" that were returned to Korea from Japan together with the three larger islands (i.e., Quelpart [Chejudo], Port Hamilton [Keomundo], and Dagelet [Ullungdo]) as stipulated in Article 2 (a).⁶³ The enumeration of the three large islands in Article 2 (a) was illustrative in nature, not exclusive, in dealing with numerous offshore islands to be returned to Korea under the peace treaty. In fact, many of these offshore islands returned to Korea together with three largest islands which reverted to Korea under Article 2(a), were much larger in size than Dokdo (e.g., Keojaedo, Oryukdo, etc.) None is identified by name in the same provision of the treaty.

Japanese-Korean Dispute on Dokdo/Takeshima

After January 18, 1952, the Japanese government repeatedly protested not only the “Rhee Line” but also South Korea’s occupation of Dokdo. In a series of diplomatic notes verbale exchanged with South Korea from January 1952 to September 1953, Japan attempted to justify Tokyo’s claim that Dokdo/Takeshima belonged to Japan.⁶⁴

First, Japan contended that it had incorporated Dokdo/Takeshima, for it was a *terra nullius* and administered as part of the Japan proper from 1905 to 1945.⁶⁵ Japan also maintained that “literature, old maps, etc. clearly show that the present Takeshima was known to Japan in olden times by the name of Matsushima, and considered as an integral part of her territory.”⁶⁶ Unlike Korea, which was annexed in 1910 and governed by the colonial administration headed by the Japanese Governor-General in Korea, Dokdo/Takeshima was administered by Shimane prefecture from 1905 to 1945. However, such a contention was clearly self-contradictory. If Dokdo/Takeshima was “an integral part of her territory” from the “olden times,” why or how could Japan incorporate Dokdo/Takeshima as a *terra nullius* in 1905?⁶⁷ This is probably the reason the Japanese Foreign Ministry’s website no longer carries the passage contending that the incorporation of Dokdo/Takeshima was a *terra nullius* in 1905.⁶⁸

Second, Japan also maintained in the notes verbale sent to South Korea that SCAPIN No. 677, which “directed the Japanese government to suspend its exercise of, or the attempt to exercise, the political or administrative authority over Takeshima,” did not “exclude the island from the Japanese territory,” for it stated that “Nothing in this directive shall be construed to indicate the policy of the Allied Powers concerning the final decision on the small islands as referred to in Article 8 of the Potsdam Declaration.”⁶⁹

Third, regarding Article 2 (a) of the Peace Treaty, Japan maintained that it “recognizes the independence of Korea,” meaning Japan “recognized the separation and independence from Japan of Korea as it existed before the annexation,” but “does not contain the slightest implication that the land which was part of the Japanese territory before the annexation be ceded to the newly independent Korea.”⁷⁰ It went on to say that Takeshima had been “placed under the jurisdiction of Shimane Prefecture prior to the annexation of Korea” and, as such, was not “placed under the jurisdiction of the Government-General of Korea.” According to Japan, it was therefore “indisputable” that Takeshima “is a part of the Japanese territory.”⁷¹

Fourth, Tokyo also maintained that “the above interpretation” of the Peace Treaty has been taken for granted” by the U.S., “the chief signatory to the San Francisco Peace Treaty.” Thus, the U.S. sought and got permission from Japan to use Dokdo/Takeshima as a bombing range for the U.S. Air Force on July 26, 1952.⁷²

In its several notes verbale to Japan from 1952 to 1953, South Korea responded to Japan’s claims. First, Seoul pointed out that Japan’s incorporation of Dokdo/Takeshima in 1905 was illegal, because the island was under the Korean jurisdiction, not a *terra nullius*. Japan did not announce its intention to incorporate Dokdo or get Korea’s consent in incorporating Dokdo/Takeshima. In addition, Japan did not even announce the incorporation of Dokdo/Takeshima neither in the official government gazette nor in communiqués to any other foreign powers. It simply announced the fact in the Shimane prefecture bulletin. According to South Korea, “Such a mere notice by one of Japan’s local governments does not affect by any means Korea’s sovereignty over the islets.”⁷³ Thus, the island remained Korean territory when Japan annexed Korea in 1910, “because there had been no legal facts about extinction of Korea’s territorial ownership of the island thus far.”⁷⁴

Second, following Japan’s unconditional surrender in August 1945, the Allied Powers through SCAPIN No. 677 “explicitly excluded the islets from the territorial possession of Japan,” and stated that “the Peace Treaty with Japan did not provide any article contradictory to the article of the SCAPIN so far as the issue on the Japanese territory was concerned.” South Korea contended further that “the Peace Treaty confirmed SCAP’s disposition on this matter without making substantial change at all.”⁷⁵

Third, South Korea rejected further Japan’s contention that Article 2 (a) of the Peace Treaty with Japan “does not specify that Dokdo is a part of the Korean territory like Chejudo (Qualpart), Kumundo (Port Hamilton) and Ullengdo (Dagelet).” According to Seoul, “the enumeration of these three islands is by no means intended to exclude other hundreds of islands on the Korean coasts from Korea’s possession.”⁷⁶ It went on to say that “If Japan’s interpretation on this matter were followed, hundreds of islets off the western and southern coasts of Korea besides those three islands would not belong to Korea, but to Japan.”

Finally, South Korea also rejected Japan’s contention that the U.S. recognized Dokdo/Takeshima as a Japanese island on the grounds that

Dokdo/Takeshima was designated by the U.S.-Japan Joint Committee as a bombing range for the U.S. air force in 1952 and then the same committee excluded it from such a range in 1953. According to Seoul, the U.S. decision to terminate bombing practices on Dokdo was taken in response to a “protest lodged by the Government of the Republic of Korea.” Upon South Korea’s protest, the commanding general of the U.S. Air Force officially notified South Korea that “Dokdo was to be excluded from the designated maneuver grounds for the U.S. air force on February 27, 1953.”⁷⁷

Meanwhile, Japan also attempted to secure its control over Dokdo/Takeshima by dispatching Japanese crews to erect its landmark on the island. In July 1953, crews of two Japanese coast guard vessels drove Koreans out of one of Dokdo’s two islets and erected a Japanese territorial marker on the shore of Dokdo. It was followed the next month by three Japanese patrol boats which arrived to stage a show of force. Under mortar fire from the Korean garrison on Dokdo, the Japanese lost at least one of the three boats and incurred 16 casualties, including several deaths. A similar incident occurred in August 1954. The Japanese Foreign Ministry not only denounced the Korean actions but also demanded an apology from Seoul and the removal of the Korean coast guard from the island.⁷⁸ However, South Korea refused to accommodate Japan’s request. Rather, it decided to station a permanent garrison squad on Dokdo in addition to building a light house there.

Japan also attempted to establish its control of Dokdo by enlisting the support of the United States. For example, on July 26, 1952, a U.S.-Japan joint committee in connection with implementing the U.S.-Japan Security Treaty designated Takeshima/Dokdo as a U.S. military training area under Article 2 of the U.S.-Japan administrative agreement. Such a move was designed to strengthen Japan’s claim to Dokdo/Takeshima.⁷⁹ Thus, the Japanese attempted to publicize their claim that “the U.S. recognized it [Takeshima/Dokdo] as Japanese territory.”⁸⁰ However, such a claim became meaningless following the U.S. Air Force’s decision to exclude Takeshima/Dokdo from its training areas on February 27, 1953.⁸¹ That decision was announced following the South Korea’s protest to the U.S. Fifth Air Force for bombing practices on the island, for such activities had endangered the lives of Koreans on and around Dokdo.

When these efforts failed to dislodge South Korea from Dokdo, Japan tried to enlist the U.S. in regaining the control of

Takeshima/Dokdo by invoking the U.S.-Japan Security Treaty. Since the U.S. tended to side with Japan on the Takeshima/Dokdo issue, even though it did not reveal to Japan the existence of U.S. Assistant Secretary of State Dean Rusk's letter of August 9, 1951, to South Korea.⁸² Japanese officials seemed to have assumed that the U.S. would accommodate Japan's request for help in gaining control over Dokdo/Takeshima. However, on December 9, 1953, Secretary of State John Foster Dulles rejected the Japanese request in a cable dispatched to the U.S. Embassy in Tokyo, saying in part that "such an idea . . . cannot be construed as a legitimate claim for US action under the U.S.-Japan security treaty."⁸³ Furthermore, Dulles pointed out that "US view re Takeshima is simply that of one of many signatories to the treaty. The U.S. is not obligated to 'protect Japan' from Korean 'pretensions' to Dokdo. . ."⁸⁴ He therefore recommended that Japan seek a peaceful solution with South Korea. Since then, the U.S. has maintained a neutral stance on the Japanese-Korean territorial dispute on Dokdo/Takeshima.

Why did the U.S. take a neutral position on the Dokdo/Takeshima issue? Among other things, it can be pointed out that the U.S. had decided to sign a treaty of alliance with South Korea in October 1953, a treaty which went into effect in November 1954. As South Korea became a U.S. ally, it became a political liability for the U.S. to side either with Japan or South Korea on the Dokdo/Takeshima dispute. As a result, the U.S. urged both Japan and South Korea to settle the territorial dispute through peaceful bilateral negotiations, or by referring the matter to the International Court of Justice (ICJ). In fact, Japan did request South Korea take the matter to the International Court of Justice in 1954. However, South Korea refused to comply with the request, for it did not see any merit in referring the matter to the ICJ.

Conclusion

From the foregoing analysis, a few basic conclusions can be drawn. First, the territorial dispute over Dokdo/Takeshima was created largely due to the inconsistent U.S. policy toward Dokdo/Takeshima from 1945 to 1952. The U.S. initially adopted the policy of returning the island to Korea, because it was part of the Korean territory that Japan had acquired by the use of illegal means in 1905 and as such needed to be returned to the lawful owner (Korea) in accordance with the Cairo and Potsdam Declarations. In accepting the terms of surrender stipulated in the Potsdam Declaration, Japan agreed to return all the territories it had

acquired from other countries after 1895. In the directives issued by the Supreme Commander of the Allied Powers (SCAP) General Douglas MacArthur, specifically SCAPIN No. 677 and SCAPIN No. 1033, the U.S. not only excluded Dokdo/Takeshima from Japan's jurisdiction but also prohibited the Japanese and their ships from approaching within twelve miles of Dokdo island in 1946. In addition, several different drafts of the peace treaty with Japan prepared by the U.S. State Department from 1947 to November 1949 also stipulated the return of Dokdo to Korea. These initial decisions were made on the basis of extensive studies carried out by the U.S. State, War and Navy departments in connection with the implementation of the Cairo and Potsdam Declarations.

Second, in the face of the intensification of the Cold War, the U.S. occupation policy toward Japan underwent a major change after 1948. The U.S. did not want to implement punitive policies toward Japan. Rather, it wanted to help Japan recover and reconstruct its economy. At the same time, the U.S. began to reconsider its position on the return of Dokdo to South Korea in view of the deteriorating security situation on the Korean Peninsula after the 1949 Communist victory in China as well as the strategic location of the island. By December 1949, the U.S. accepted Japan's claims on Dokdo/Takeshima, influenced by William Sebald, and replaced the provision stipulating the return of Dokdo to Korea with a new provision recognizing Japan's claims over the island. However, Sebald's view was not based on history. Rather, his view simply reflected the Japanese government's view.

Third, under the leadership of John Foster Dulles, the U.S. decided to delete Dokdo/Takeshima from the text of the peace treaty and maintain silence on the issue. The San Francisco Peace Treaty of September 8, 1951, contained no provision pertaining to Dokdo/Takeshima. Japan interpreted this omission to mean that the peace treaty recognized Japan's claim, because it did not stipulate a return of Dokdo to Korea. South Korea, on the other hand, emphasized that although Article II (a) did not list Dokdo with the other three large islands to be returned to Korea, it did not explicitly exclude Dokdo from Korea's minor offshore islands. Over one thousand such islands were returned to Korea together with three major islands listed in Article 2 (a). In addition, read together with Article 19 (d) of the San Francisco Peace Treaty, in which Japan recognized "the validity of all acts and omissions done during the period of occupation under or consequences of directives of the occupation

authorities. . . ” it seemed clear that Japan accepted the validity of the actions taken under SCAP directives, such as SCAPIN No. 677.⁸⁵ Since SCAP did not issue any new orders nullifying or rescinding SCAPIN No. 677, the separation of Dokdo from the Japanese jurisdictions remained valid. Such a view seems to be justified especially in view of the fact that the San Francisco Peace Treaty is completely silent on Liancourt Rocks. Accordingly, South Korea proclaimed the “Rhee Line” on January 18, 1952, placing Dokdo within the protected waters of South Korea. Since then, South Korea has effectively controlled the island in spite of Japan’s protests.

Fourth, it is also significant to note that the U.S. did not attempt to intervene on behalf of Japan to compel South Korea to return the island to Japan. In 1953, when Japan requested U.S. help to regain control of Dokdo/Takeshima, Secretary of State Dulles replied that the U.S. was one of the forty-eight signatories of the San Francisco Peace Treaty and, as such, its view on Dokdo/Takeshima weighed no more than that of any other Allied signatories. Dulles’ statement made it untenable for Japan to equate the U.S. view on Dokdo/Takeshima with the general consensus of the 48 Allied powers on the Dokdo issue. Also, Dulles’ statement made it futile for Japan to bolster its claim to the island by publicizing the U.S.-Japan joint committee’s decision on designating Dokdo/Takeshima as a bombing range in 1952. At any rate, the U.S. decided to take a neutral position on the Dokdo/Takeshima issue by maintaining that the U.S.-Japan security treaty could not be invoked to deal with the Dokdo problem, while advising Japan to settle the dispute over Dokdo/Takeshima amicably with South Korea, either through bilateral negotiations or referring the matter to the International Court of Justice. Since then, the U.S. has maintained a neutral stance in dealing with the Dokdo issue.

Fifth, insofar as the legal effects of the U.S. decisions concerning the disposition of Dokdo/Takeshima (i.e., SCAPIN No. 677) during the Allied occupation of Japan are concerned, Korea’s interpretation is far superior and stronger than Japan’s. Since the U.S. has not rescinded its initial decision stipulated in the SCAPIN No. 677 by issuing a new SCAP directive or by signing a new treaty nullifying its 1946 decision on Dokdo/Takeshima, it is clear that the validity of the initial U.S. decision to exclude Dokdo/Takeshima from Japan’s jurisdictions remains intact without being affected by the San Francisco Peace Treaty, which is completely silent on the disposition of the Dokdo/Takeshima.

Notes:

¹ For a detailed analysis of pre-1905 era documents supporting Korea's claim to Dokdo/Takeshima, see Hideki Kajimura, "The Question of Takeshima/Tokdo," *Korea Observer*, Vol. XXVIII, No. 3, Autumn 1997, pp. 428-456. See also, Seichu Naito, "Takeshima wa Nihon kōyū ryōdo ka," *Sekai*, June 2005, pp. 57-58; and Yong-Ha Shin, "A Historical Study of Korea's Title to Tokdo," *Korea Observer*, Vol. XXVIII, No.3, Autumn 1997, pp. 333-358. For pre-1905 era maps (both Japanese and Korean), see Kazuo Hori, "Japan's Incorporation of Takeshima into Its Territory in 1905," *Korea Observer*, Vol. XXVIII, No. 3, Autumn 1997, pp. 479-488. According to Prof. Hori of Kyoto University, Dokdo was treated as a Korean territory in a number of Japanese maps published from 1778 to 1897, including *Nihon yochirotei zenzu* (1793); *Nippon rotei yochizu* (1778); *Tainippon enkaï yochi zenzu* (1821); and the Japanese Navy's *Chosen suiroshi* (1894 & 1897).

² Naito, *op. cit.*, pp. 56-57. See also, Hori, *op. cit.*, p. 486.

³ Naito, *op. cit.*, pp. 58-59. The document was signed and approved by Minister of the Right Iwakura Tomomi, Vice Minister Okuma Shigenobu, Terajima Munenori, and Okui Takato. Hori, *op. cit.*, pp. 490-491.

⁴ *Ibid.*, pp. 490 & 511-514. See also, Naito *op. cit.*, p. 60.

⁵ *Ibid.*, pp. 61-62.

⁶ *Ibid.*

⁷ *Ibid.*, p.59. See also, Shin, *op. cit.*, pp. 349-350.

⁸ Naito, *op. cit.*, pp. 59-60.

⁹ Hori, *op. cit.*, pp. 519-520. See also, Naito, *op. cit.*, p. 61.

¹⁰ Hori, *op. cit.*, p. 520. See also, Shin, *op. cit.*, p.353.

¹¹ Naito, *op. cit.*, pp. 59-60. See also, Hori, *op. cit.*, pp. 520-523; and Shin, *op. cit.*, pp. 354-356.

¹² *Ibid.*, p. 356. See also, Kajimura, *op. cit.*, p. 457; and Hori, *op. cit.*, pp. 520-524; and Kajimura, *op. cit.*, p. 457.

¹³ Kenneth Scott Latourette, *A Short History of the Far East* (New York: MacMillan Co., 1957), p. 627.

¹⁴ For the text of the Cairo Declaration, see Theodore McNelly (ed.), *Sources in Modern East Asian History and Politics* (New York: Appleton-Century-Crofts, 1967), p. 154.

¹⁵ For the text of the Potsdam Declaration, see *ibid.*, pp. 166-168.

¹⁶ Fred Greene, *The Far East* (New York: Holt, Rinehart and Winston, 1957), p. 262.

¹⁷ For the text of SCAPIN No. 677 (“Governmental and Administrative Separation of Certain Outlying Areas from Japan”), see <mhtml:file://F:\SCAP Instructions Pertaining to Dokdo.mht> (retrieved on November 2, 2008).

¹⁸ *Ibid.*

¹⁹ For the text of SCAPIN No. 1033 (“Areas Authorized for Japanese Fishing and Whaling”), which established the “MacArthur Line,” see <mhtml:file://F:\SCAPIN 1033.mht> (retrieved on November 23, 2008).

²⁰ For example, the July 1946 SWNCC study had stated that Takeshima was one of the islands considered “historically and administratively part of Korea.” See Kimie Hara, *Cold War Frontiers in the Asia Pacific: Divided Territories in the San Francisco System* (New York: Routledge, 2007), p. 32.

²¹ *Ibid.* p.44.

²² Shin, *op. cit.*, p. 357.

²³ *Ibid.* Immediately after the establishment of the Republic of Korea on August 15, 1948, the South Korean government extended its administrative authority to the island by registering it as “No. 1, Todong, Nam-myon, Ullung-gun, Kyongsang-puto province.” See Kajimura, *op. cit.*, pp. 462-463.

²⁴ Mark S. Lovmo, “The Territorial Dispute Over Dokdo.” <http://www.geocities.com/mlovmo/page4.html>. (retrieved on July 18, 2008).

²⁵ *Ibid.*

²⁶ For the text, see Yongha-Ha Shin, *Dokdo Yeongyukwon Jaryo eui Tamgu* (Seoul: Dokdo Yeonku Bojon Hyuphoe, 2000), Vol. 3, p. 286.

²⁷ *Ibid.*, p. 290.

²⁸ “Memorandum by Mr. John P. Davis, Jr., of Policy Planning Staff to the Director of the Staff (Kennan),” August 11, 1947, in United States Department of State, *Foreign Relations of the United States* (cited hereafter *FRUS*) 1947, Vol. VI, pp. 485-486.

²⁹ *Ibid.*, p. 486, footnote 21.

³⁰ Hara, *op. cit.*, p. 28.

³¹ For the text of Article 4 of the January 1948 draft treaty, see Shin, *op. cit.*, pp. 292-293.

³² Hara, *op. cit.*, p. 28.

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- ³³ United States Department of State, *FRUS 1948*, Vol. VI, pp. 691-719.
- ³⁴ Robert D. Eldridge, "George F. Kennan, PPS to Okinawa," *Kokusai Seiji*, Vol. 120, February 1999, p. 44.
- ³⁵ Hara, *op. cit.*, pp. 29-30.
- ³⁶ For the text of Article 6 of the November 2 (1949) draft, see Shin, *op. cit.*, p. 300.
- ³⁷ For Sebald's detailed commentary sent to the U.S. State Department, see Shin, *op. cit.*, pp.305-311. See also United States Department of State, *FRUS 1949*, Vol. VII, p. 900.
- ³⁸ Hara, *op. cit.*, p. 32.
- ³⁹ For a detailed analysis on Sebald's role in the making of the peace treaty with Japan, see Byung Joon Jung, "William J. Sebald and the Dokdo Territorial Dispute," *Korea Focus*, July-August 2005, pp. 55-81, esp. 72-73.
- ⁴⁰ Donald F. Lach and Edmund S. Wehrle, *International Politics in East Asia since World War II* (New York: Praeger Publishers, 1975), p. 88.
- ⁴¹ For the text of Article 6 of the December 1949 draft, see Shin, *op. cit.*, p.315.
- ⁴² *Ibid.*, p.1267.
- ⁴³ For the text of relevant chapters of the treaty draft, see Shin, *op.cit.*, pp. 317-319. See also, Hara, *op. cit.*, p. 34.
- ⁴⁴ *Ibid.*, p. 36.
- ⁴⁵ United States Department of State, *FRUS 1950*, Vol. VI, pp. 1297-1303.
- ⁴⁶ *Ibid.*, p.1296.
- ⁴⁷ *Ibid.*, p. 1330.
- ⁴⁸ For the text of the March 23, 1951 draft, see United States Department of State, *FRUS 1951*, Vol. VI, pp.944-945. See also Hara, *op. cit.*, p. 39.
- ⁴⁹ For the text of relevant articles of the third British draft, see Shin, *op .cit.*, pp. 339-344.
- ⁵⁰ Hara, *op. cit.*, p. 39.
- ⁵¹ For the text of the relevant articles of the May 3, 1951 "Joint U.S. – United Kingdom Draft Prepared During the Discussions in Washington, April-May 1951," see Shin, *op. it.*, pp. 348-350. For the U.S. State Department's "Working Draft and Commentary" on the May 3, 1951 U.S.-U.K joint draft (dated June 1,

1951), see *ibid.*, pp. 351-353. For the full text, see United States Department of State, *FRUS 1951, Vol. VI, Part I*, pp.1058-1061.

⁵² United States Department of State, *FRUS 1951, Vol. VI, Part 1*, p. 1061.

⁵³ For the text of Chapter II, Article 2(a) of the U.S.-U.K. joint draft of June 14, 1951, see *Foreign Relations of the United States 1951, Vol. VI*, pp. 1119-1121.

⁵⁴ United States, Department of State, *FRUS 1951, Vol. VI, Part 1*, pp. 1206-1207.

⁵⁵ *Ibid.*, p. 1203.

⁵⁶ For the text of Rusk's reply, see Shin, *op. cit.*, pp. 379-381, esp. 379-380.

⁵⁷ Hara, *op. cit.* p. 46.

⁵⁸ *Ibid.*, p. 46.

⁵⁹ United States Department of State, *FRUS 1951, Vol. VI, Part 1*, p. 1205.

⁶⁰ For the text of the "Presidential Declaration of Sovereignty over Adjacent Seas," see Shin, *op. cit.*, pp. 397-400.

⁶¹ See "Comments on Korean Note Regarding U.S. Treaty Draft (SECRET) (May 9, 1951)," in Shin, *op. cit.*, pp. 360-364, esp. 362-363. See also, "Memorandum of Conversation [between Ambassador You-Chan Yang and Ambassador John Foster Dulles on July 9, 1951], by the Officer in Charge of Korean Affairs in Office of Northeast Asian Affairs (Emmons) (SECRET)," in Shin, *op.cit.*, pp. 364-369, esp. pp. 366-368.

⁶² Mark Lovmo, "The United States' Involvement with Dokdo Island (Liancourt Rocks): A Timeline of the Occupation and Korean War Era." (<http://www.geocities.com/mlovmo/page9.html>, retrieved on October 2, 2009).

⁶³ *Ibid.*

⁶⁴ For the texts of these notes verbale, see Yongha Shin, *Dokdo Youngyukwon Charyo eui Tamku (Seoul: Dokdo Yeonku Bojon Hyuphae, 2000)*, Vol. 3, pp. 400-402 (Japan's note verbale dated January 28, 1952); pp.405-407 (Japan's note verbale dated April 25, 1952); pp. 408-409 (Japan's note verbale dated June 22, 1953); pp. 414-421 (Japan's note verbale dated July 13, 1953); pp. 425-426 (Japan's note verbale dated August 8, 1953); and p. 428 (Japan's note verbale dated August 31, 1953). For the Korean Foreign Ministry's notes verbale, see *ibid.*, pp. 402-405 (for the note verbale dated February 12, 1952);pp. 409-410 (for the note verbale dated June 26, 1953); pp. 421-424 (for the note verbale dated August 4, 1953); pp. 426-428 (for the note verbale dated, August 22,

1953); pp. 432-442 (for the note verbale dated September 9, 1953); and pp. 442-443 (for the note verbale dated September 26, 1953).

⁶⁵ Seichu Naito, "Takeshima momondai no shiteki kensho," in Seichu Naito & Byong-Sup Park, eds., *Takeshima=Dokdo Ronso: Rekishi shiryō kara kangaeru* (Tokyo: Shinkansha, 2007), pp. 184-185.

⁶⁶ See Japanese Foreign Ministry's Note Verbale (No. 186/A2) dated July 13, 1953 in *Ibid.* pp. 414-421, esp. 418.

⁶⁷ Naito, *loc.cit.*.

⁶⁸ Ministry of Foreign Affairs of Japan, "Outline of Takeshima Issue." (<http://www.mofa.go.jp/region/asia-paci/takeshima/position.html>, retrieved on October 9, 2009).

⁶⁹ Shin, *op.cit.*, p. 419.

⁷⁰ *Ibid.*, p. 420.

⁷¹ *Ibid.*

⁷² *Ibid.*

⁷³ *Ibid.*, p. 438.

⁷⁴ *Ibid.*, p.439.

⁷⁵ *Ibid.*, p.440.

⁷⁶ *Ibid.*, p. 441.

⁷⁷ *Ibid.*, p .442.

⁷⁸ Hideki Kajimura, "The Question of Takeshima/Dokdo," *Korea Observer*, Vol. XXVIII, No. 3, Autumn 1997, pp. 464-465. According to Mark Lovmo, "on June 27, 1953, crews of the two Japanese coast guard vessels, led by Tomizo Sawa and Nobuo Igawa, drove six of the Korean coast guards from their base on the East islet to the West islet, landed on the island, and erected a Japanese territorial marker on the shore." See Lovmo, *op. cit.* Furthermore, on July 12, 1953, three Japanese patrol boats arrived to stage their "typical show of force." However, upon arriving at Dokdo the Japanese ships came under mortar fire from the Korean forces on Dokdo." The Japanese ships returned fire, but the Japanese lost one boat and suffered 16 casualties, including several deaths. For details, see *ibid.*

⁷⁹ See, for example, Japanese Vice-Minister of Foreign Affairs Ishihara's testimony before the Foreign Affairs committee of the House of Representatives (shugiin) on May 23, 1952.

⁸⁰ Kajimura, *op. cit.*, p. 464.

⁸¹ *Ibid.*

⁸² See John Foster Dulles' telegram dated December 9, 1953.

⁸³ For the text of Secretary of State Dulles' cable, see Lovmo, "The United States' Involvement with Dokdo Island (Liancourt Rocks)..." *op. cit.*.

⁸⁴ *Ibid.*

⁸⁵ Myung-Ki Kim, "Sovereignty over Tok-do island and interpretation of Article 2 of the Peace Treaty between Korea and Japan: Review of the Principle of Integration," *East Asian Review*, Vol. 18, No. 2, Summer 2006, pp. 70-81, esp. 76-80.