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Robert D. Eldridge

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The Significance of the G7 Hiroshima Summit in the Context of Global Governance

SHIKATA Noriyuki*

Abstract

When the G7 Hiroshima Summit was held in May 2023, Prime Minister Kishida attached importance to two points: striving to uphold the free and open international order based on the rule of law; and strengthening Japan's engagement with the so-called Global South countries and other international partners beyond the G7. From these perspectives, he led discussions with the leaders of the G7, the invited countries and Ukraine, and it was outstanding that in the final session the leaders were able to share the view that all countries should adhere to the principles of the United Nations (UN) Charter and that we must strive to uphold the free and open international order based on the rule of law.

In addition to other key issues such as the situation in Ukraine, nuclear disarmament, a Free and Open Indo-Pacific (FOIP), economic security, development cooperation, and AI, food security was also discussed in the Summit. The G7 and invited countries jointly issued a statement on this issue, demonstrating the G7's commitment to take concrete action to address the grave issues facing the Global South.

After the G7 Summit, Prime Minister Kishida continued to share the outcome of the Summit with many countries by taking the opportunity to attend various events, such as the ASEAN-related Summit Meetings and the G20 New Delhi Summit. At this juncture, when the United Nations Security Council (UNSC) has been unable to function effectively, it is even more important to ensure cooperation among the G7 countries as well as the G7's outreach efforts. This applies not only to security issues, but also to efforts to address global challenges in such fields as food, energy, and global health.

Introduction

The diplomacy under the administration led by Prime Minister KISHIDA Fumio intends to lead the international community on the basis of the Japan-U.S. Alliance, while also working together with like-minded countries such as the G7 member countries, the Republic of Korea (ROK) and Australia, as well as the so-called Global South countries, for the purpose of ensuring the safety, security, and prosperity of Japanese nationals and maintaining and strengthening a free and open international order based on the rule of law amid the increasingly severe security environment. In this article, I would like to look back on the diplomacy pursued by Prime Minister Kishida as G7 chair before, during, and after the G7 Hiroshima Summit to examine the significance of the summit in the context of global governance. In doing so, I will take up primarily issues regarding security in a broader definition from the perspective of the global governance in the Ukraine War. This text presents the author's personal view.

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1. The Kishida Diplomacy in the runup to the G7 Hiroshima Summit—with two perspectives in the summit in mind

In February 2022, Russia, a permanent member of the United Nations Security Council (UNSC), militarily invaded the neighboring Ukraine, resulting in a dramatic change in the international situation. Since immediately after this aggression, Prime Minister Kishida made full use of summit diplomacy and other various opportunities to repeatedly emphasize (1) that this is not just a European issue; (2) that it is an issue that concerns the national sovereignty prescribed in the United Nations (UN) Charter, as well as an international order based on the rule of law; and (3) that security in Europe and the Indo-Pacific are inseparable and that today's Ukraine may be tomorrow's East Asia.

As the international community faced such a historic turning point, the G7 Hiroshima Summit was held in May 2023. In the summit, while achieving the objective of reaffirming the unwavering unity of the G7, the Prime Minister attached importance to the following two points toward the realization of cooperation, not division or confrontation, of the international community. The first point was to strive to uphold the free and open international order based on the rule of law. The second point was to strengthen Japan's engagement with the so-called Global South countries and other international partners beyond the G7, with a view to coming up with proactive and concrete contributions. From these perspectives, Prime Minister Kishida actively visited various countries to exchange views ahead of the G7 Hiroshima Summit in May.

In March 2023, Prime Minister Kishida visited India, chair of the G20 in the same year, to confirm with Prime Minister Narendra Modi that they will work together in addressing various challenges facing the international community toward both the G7 and G20 Summits, while also announcing Japan's invitation to the G7 Hiroshima Summit for the leaders of eight countries, including India, Brazil, and Indonesia, as well as the heads of seven international organizations.¹ Right after his visit to India, Prime Minister Kishida visited Ukraine and Poland, and, in a meeting with Ukrainian President Volodymyr Zelenskyy, expressed his desire to make the G7 Hiroshima Summit an opportunity for the G7 to demonstrate its determination to strive to uphold the international order based on the rule of law.

In addition, in April and May 2023, Prime Minister Kishida visited Egypt, Ghana, Kenya and Mozambique, where he directly listened to the challenges facing those four African countries and other Global South countries, including development finance, food security, climate, and energy. This contributed to producing positive results in the course of the discussions at the G7 Hiroshima Summit.

2. Outcome of the Hiroshima Summit

(1) Cooperation with international partners beyond the G7

At the G7 Hiroshima Summit, held as a result of such preparatory work, the G7's unwavering unity was reaffirmed and various outcomes were achieved with the participation of invited countries. Particularly outstanding was the final session of the summit, where Prime Minister Kishida, as G7 chair, held discussions with the leaders of the G7, the invited countries and Ukraine regarding the peace and stability of the world, including those in the Indo-Pacific and Africa. Based on this, the leaders shared the view that the following points are important.

- (a) All countries should adhere to the principles of the UN Charter, including the respect for sovereignty and territorial integrity.

¹ Eight invited countries: Australia, Brazil, Comoros (chair of the African Union (AU)), Cook Islands (chair of the Pacific Islands Forum (PIF)), India (G20 chair), Indonesia (ASEAN chair), Republic of Korea (ROK) and Vietnam. Seven invited organizations: United Nations (UN), International Energy Agency (IEA), International Monetary Fund (IMF), Organization for Economic Cooperation and Development (OECD), World Bank, World Health Organization (WHO) and World Trade Organization (WTO).

- (b) Confrontation should be solved peacefully through dialogue, and we support a just and durable peace that is based on respect for international law and the principles of the UN Charter.
- (c) Any unilateral attempt to change the status quo by force is unacceptable anywhere in the world.
- (d) We strive to uphold the free and open international order based on the rule of law.

Discussions were also held with the invited countries and organizations regarding the energy and food prices that were soaring in the world in response to Russia's aggression against Ukraine, as well as various challenges facing the international community such as development, health, climate change, energy, and the environment. This not only confirmed the importance of a broad range of partners beyond the G7 working together to address those challenges, but also identified the actions to be taken in the future. For example, regarding food security, which has become a grave issue for the Global South and the rest of the international community following Russia's aggression against Ukraine, the G7 and invited countries jointly issued the "Hiroshima Action Statement for Resilient Global Food Security,"² which presents a comprehensive set of urgent responses to the food security crisis and initiatives to establish agriculture and food systems that are sustainable and resilient from medium- to long-term perspectives. In promoting these efforts, Prime Minister Kishida particularly emphasized the importance of valuing human dignity and human security through a people-centered approach.

The message from the G7 as a result of the G7 Hiroshima Summit, which stated its commitment to taking concrete action to address grave issues facing the Global South, has demonstrated the G7's proactive contributions to the Global South. Concrete discussions regarding related global challenges will be detailed later in this text.

(2) Russia's aggression against Ukraine

With regard to the situation in Ukraine, one of the key issues discussed in the G7 Hiroshima Summit, the G7 had already responded proactively, including by holding the G7 Leaders' Video Conference on February 24, 2023, one year after the start of Russia's aggression against Ukraine.

First on the agenda of the G7 Hiroshima Summit on May 19 was a candid exchange of views among the G7 leaders regarding the situation surrounding Russia's aggression against Ukraine. Prime Minister Kishida stated that it is essential for the G7 to get united in providing vigorous support to Ukraine in all aspects and continue severe sanctions against Russia, while also expressing his desire to demonstrate once again the G7's strong determination to firmly reject Russia's aggression in order to restore peace in Ukraine.³ In response, the G7 leaders stressed that peace will never be achieved without the retreat of Russian military and confirmed that they will make every effort to bring peace to Ukraine.

In session 8 "Ukraine" on May 21, the G7 leaders exchanged views regarding the situation in Ukraine with the participation of Ukrainian President Zelenskyy. Prime Minister Kishida stated that the G7 welcomes and supports President Zelenskyy's continued sincere efforts toward a just and lasting peace under the basic principles of his "Peace Formula" and expressed his intention to exert leadership as G7 chair to ensure the continued unified response by the G7. In response to this, the G7 leaders confirmed that they will seek to restore peace in Ukraine to strive

² Japan, Ministry of Foreign Affairs, Hiroshima Action Statement for Resilient Global Food Security, May 20, 2023 <https://www.mofa.go.jp/mofaj/files/100506868.pdf>

³ Japan, Ministry of Foreign Affairs, G7 Hiroshima Summit (Session 2 Ukraine) , May 19, 2023 https://www.mofa.go.jp/ecm/ec/page1e_000674.html

to uphold the free and open international order based on the rule of law.⁴ President Zelenskyy appreciated Prime Minister Kishida's clear leadership in Asia in protecting the rule of law and the comprehensive support from Japan and its people.⁵

In the bilateral summit meeting between Japan and Ukraine on the same day, it was confirmed that the G7 will get more united than ever before in providing vigorous support to Ukraine in all aspects and that the continued severe sanctions against Russia are essential.⁶ President Zelenskyy told a press conference that what he requests Japan to support Ukraine with is "technology." The president stated that Japan's experience is extremely important for Ukraine to ensure reconstruction through technology in areas ranging from energy to healthcare and that there is a need for Japan's modern technology in green energy as part of the energy sector, as well as in sectors such as railways and healthcare. Asked at the press conference what struck him at the Hiroshima Peace Memorial Museum, President Zelenskyy referred to photographs depicting Hiroshima in ruins, which he said, "remind me of Bakhmut and other similar cities."⁷ This remark made headlines in many international media reports. "Hiroshima has achieved reconstruction. We now dream of the day when all the cities that have been reduced to ruins, and all the villages where not a single house has avoided Russian attacks will achieve reconstruction."⁸

During his stay in Hiroshima, President Zelenskyy held separate meetings with not only the G7 leaders, but also those of India, Indonesia and the ROK. Particular attention was paid to the meeting he had with Indonesia President Joko Widodo, who expressed his country's readiness to serve as a bridge of peace. President Joko also expressed his intention to provide assistance in the healthcare sector for the reconstruction of Ukraine, to which President Zelenskyy expressed his gratitude. ROK President Yoon Suk Yeol expressed his intention to continue to provide diplomatic, economic, humanitarian aid and other forms of aid needed by Ukraine. The G7 Hiroshima Summit thus offered opportunities for participating countries other than those belonging to the G7 to express support for Ukraine.

The G7 Leaders' Statement on Ukraine,⁹ which was issued as a stand-alone statement at the G7 Hiroshima Summit, reaffirmed the unwavering commitment of the G7 leaders to provide the maximum possible diplomatic, financial, and military assistance to Ukraine, while also sharing the view regarding concrete efforts to strengthen sanctions against Russia, including countermeasures against Russia's attempts to evade and circumvent sanctions.

President Zelenskyy's participation in the G7 Hiroshima Summit was extremely significant, as the G7 reconfirmed its commitment to take even more united efforts to bring a just and lasting peace to Ukraine and, with the invited countries that do not belong to the G7, sent an even more powerful message to the international community that it is important to reject any unilateral attempt to change the status quo by force anywhere in the world, and to strive to uphold the free

⁴ Japan, Ministry of Foreign Affairs, G7 Hiroshima Summit (Session 8 Ukraine) , May 21, 2023 https://www.mofa.go.jp/ecm/ec/page1e_000701.html

⁵ Ukraine, President of Ukraine Official website, "We need global leadership of democracy - President Volodymyr Zelenskyy's speech at the session of the G7 Summit and Ukraine," May 21, 2023. <https://www.president.gov.ua/en/news/nam-potribne-globalne-liderstvo-demokratyi-vistup-prezident-83053>

⁶ Japan, Ministry of Foreign Affairs, Japan-Ukraine Summit Meeting, May 21, 2023 https://www.mofa.go.jp/erp/c_see/ua/page4e_001424.html

⁷ Japan, NHK, Full Text of an Interview with President Zelenskyy of Ukraine: "Russia Should Be the Last Invader," May 22, 2023. This website is only in Japanese and the English in the text is a translation of this website. The press conference itself was conducted in Ukrainian. https://www3.nhk.or.jp/news/special/international_news_navi/articles/detail/2023/05/22/31753.html

⁸ Same as above

⁹ Japan, Ministry of Foreign Affairs, G7 Leaders' Statement on Ukraine, May 19, 2023 <https://www.mofa.go.jp/files/100506474.pdf>

and open international order based on the rule of law.

After the G7 Hiroshima Summit, the then Minister for Foreign Affairs HAYASHI Yoshimasa attended the Ukraine Recovery Conference held in London on June 21 and 22, 2023, co-hosted by the United Kingdom and Ukraine. Minister Hayashi expressed Japan's intention to provide "uniquely Japanese" flexible and bold assistance for the recovery and reconstruction of Ukraine on an all-Japan basis. Minister Hayashi pledged that in the long run, Japan's support will be mainly in the areas of (i) demining and debris clearance, (ii) livelihood reconstruction including the development of basic infrastructure such as electricity, (iii) recovery of agricultural production and industrial development, and (iv) strengthening democracy and governance. Minister Hayashi also stated that Japan will hold the Japan-Ukraine Conference for the reconstruction of Ukraine at the beginning of 2024 to vigorously assist the recovery and reconstruction of Ukraine.¹⁰ In fact, Japan-Ukraine Conference for Promotion of Economic Growth and Reconstruction was held in the presence of the Prime Minister Kishida and Prime Minister of Ukraine Denys Shmyhal in February 2024. At the conference, Prime Minister Kishida stated that Japan attaches renewed importance of "investing in the future" of Ukraine, Japan and the world to support Ukraine, and expressed his intention to strongly support Ukraine's comprehensive economic development through public-private cooperation. A total of 56 cooperation agreements were signed between Japan and Ukraine that day.¹¹

(3) Nuclear disarmament and the "G7 Leaders' Hiroshima Vision on Nuclear Disarmament"

The summit, held in Hiroshima, where a nuclear weapon was actually used as a weapon of war for the first time in the world, provided an opportunity for the leaders of various countries to visit the Hiroshima Peace Memorial Museum, learn about the realities of the atomic bombing, and lay a wreath at the Cenotaph for the Atomic Bomb Victims at the Hiroshima Peace Memorial Park. Candid discussions took place regarding nuclear disarmament among the G7 leaders, who reaffirmed their commitment to a "world without nuclear weapons." Such development led to the issuance of the "G7 Leaders' Hiroshima Vision on Nuclear Disarmament,"¹² the G7 leaders' first-ever stand-alone document focusing on nuclear disarmament, which I believe has enhanced the momentum in the international community toward a "world without nuclear weapons."

Taking advantage of the G7 Leaders' Hiroshima Vision as a powerful springboard, Prime Minister Kishida intends to continue and strengthen realistic and practical efforts by implementing one by one the initiatives under the "Hiroshima Action Plan,"¹³ that he proposed at the NPT Review Conference held in August 2022.

Specifically, Prime Minister Kishida made repeated efforts toward an early entry into force of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) and an early launch of negotiations of the Fissile Material Cut-Off Treaty (FMCT). During his visit to New York in September 2023 for attending a United Nations General Assembly, Prime Minister Kishida hosted the Commemorative High-Level Event on FMCT, which gained political participation from many figures and gathered political attention to FMCT. In March 2024, Foreign Minister KAMIKAWA

¹⁰ Japan, Ukraine Recovery Conference: Statement by Mr. HAYASHI Yoshimasa, Minister for Foreign Affairs of Japan, June 21, 2023 <https://www.mofa.go.jp/mofaj/files/100520058.pdf>

¹¹ Japan, Ministry of Foreign Affairs, Leaders' Session of the Japan-Ukraine Conference for Promotion of Economic Growth and Reconstruction (Overview), February 19, 2024 https://www.mofa.go.jp/erp/c_see/ua/pageite_000001_00176.html

¹² Japan, Ministry of Foreign Affairs, G7 Leaders' Hiroshima Vision on Nuclear Disarmament, May 19, 2023 <https://www.mofa.go.jp/mofaj/files/100506512.pdf>

¹³ Japan, Ministry of Foreign Affairs, The Attendance of Prime Minister Kishida at the Tenth Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), August 2, 2022 https://www.mofa.go.jp/dns/ac_d/page3e_001229.html

Yoko announced the establishment of “FMCT Friends” at the UNSC, to maintain and strengthen political interest in the FMCT and contribute to increased support for the start of the negotiations for the FMCT. Twelve countries, including the United States, the United Kingdom and France, are members of the “Friends.” The initiatives and efforts shown by Prime Minister Kishida at G7 Hiroshima Summit are expanding.

In addition, in his general debate speech at the UN General Assembly, Prime Minister Kishida announced the establishment of the “Japan Chair for a world without nuclear weapons,”¹⁴ which is aimed at promoting multi-layered initiatives involving both governments and private-sector entities through providing a forum for the dissemination of information and discussion for major research institutions in the world, thereby expressing his intention to overcome the binary confrontation “between deterrence and nuclear disarmament” in the academic and practical spheres.

(4) “Free and Open Indo-Pacific”

Another feature of the G7 Hiroshima Summit hosted by Japan, the only G7 member country in Asia, was the focus on the Indo-Pacific as a priority of discussions. The G7 leaders agreed that they will cooperate toward the realization of the “Free and Open Indo-Pacific (FOIP).”

In March 2023, ahead of the G7 Hiroshima Summit, Prime Minister Kishida announced the New Plan for a FOIP during his visit to India, presenting the importance of sharing the vision of FOIP in the international community and concrete initiatives to realize a FOIP toward the coexistence and co-prosperity of various nations at the current historic turning point, under such principles as freedom, the rule of law, inclusiveness, openness, and diversity.¹⁵ In the third session of the G7 Hiroshima Summit, Prime Minister Kishida stated that Japan would like to cooperate with the G7 countries on the basis of this New Plan for a FOIP, and following his remarks, the G7 confirmed that they would continue to work closely together in dealing with various issues concerning China and North Korea, including the North Korean nuclear and missile issues and the abduction issue.¹⁶

(5) Economic resilience and economic security

As the concept of security rapidly expands into more economic areas and the rule-based international economic order is challenged due to changes in the international situations and other factors, cooperation among allies and like-minded countries is essential in responding to issues regarding economic security. In Hiroshima, the G7 issued its first-ever comprehensive and concrete message regarding economic resilience and economic security in the form of a leaders’ statement.¹⁷ The statement confirms the intention of the G7 to strengthen strategic cooperation for (i) building resilient supply chains and key infrastructure; (ii) responding to non-market policies and practices and economic coercion; and (iii) preventing leakage of critical and emerging technologies, and to cooperate and collaborate in a comprehensive manner through the G7 framework, with a view to continuing to produce results of the initiatives, rather than doing so solely during Japan’s G7 presidency.

¹⁴ Japan, Ministry of Foreign Affairs, Address by Prime Minister Kishida at the Seventy-Eighth Session of the United Nations General Assembly, September 19, 2023 https://www.mofa.go.jp/fp/unp_a/page4e_001473.html

¹⁵ Japan, Ministry of Foreign Affairs, Policy Speech by Prime Minister KISHIDA Fumio (New Plan for a “Free and Open Indo-Pacific”), March 20, 2023 https://www.mofa.go.jp/fp/pc/page1e_000586.html

¹⁶ Japan, Ministry of Foreign Affairs, G7 Hiroshima Summit (Session 3 (Working Dinner) Foreign and Security Policy) , May 19, 2023 https://www.mofa.go.jp/ecm/ec/page1e_000681.html

¹⁷ Japan, Ministry of Foreign Affairs, G7 Leaders’ Statement on Economic Resilience and Economic Security, May 20, 2023 <https://www.mofa.go.jp/files/100506815.pdf>

At the same time, the G7 leaders also announced the “G7 Clean Energy Economy Action Plan,”¹⁸ stressing the importance of the establishment of supply chains for energy transition and confirming the benefit of such efforts to workers and society in each region. The leaders also recognized that the transition to a clean energy economy is critical to reducing poverty and ensuring prosperity, and shared the view that they will deepen cooperation with partners around the world, with a focus on low- and middle-income countries.

(6) Development cooperation

In the infrastructure investment sector, a side-event on the Partnership for Global Infrastructure and Investment (PGII) was held. PGII is the G7’s shared commitment to promote public and private investment in sustainable, inclusive, resilient and quality infrastructure. In its efforts on PGII, the G7 has realized investments in a series of pressing priorities, including climate change and the energy crisis, supply chain resilience, connectivity through digital infrastructure and transport networks, sustainable health systems, and gender equality and equity. To conduct such investments in a transparent and fair manner so that they will contribute to the sustainable development of partner countries, it is necessary to mobilize private funds in collaboration with various entities. To this end, representatives of the private sector were invited to the event and confirmation was made that they will work together. In the event, Prime Minister Kishida expressed Japan will support building wind farms in Vietnam and Egypt, and high-speed railways, subways, ports and port crossings in India, Bangladesh, and the Philippines. Japan will continue to work toward further developing PGII and promoting quality infrastructure investment, in line with the domestic GX promotion strategy.

In the healthcare sector, Japan also demonstrated its leadership and contribution. Considering the experience gained in the battle against COVID-19, the international community should take preparatory measures to deal with the next pandemic crisis. Together with the invited countries and organizations, the G7 held discussions focused on three pillars: developing and strengthening the Global Health Architecture (GHA) to strengthen prevention, preparedness, and response for future health emergencies; achieving Universal Health Coverage (UHC); and the promotion of health innovation. In particular, regarding the contribution to the achievement of UHC, the G7 has committed to providing a financial contribution of more than 48 billion dollars from both the public and private sectors. Japan plans to make a contribution totaling around 7.5 billion dollars between 2022 and 2025.¹⁹

(7) Artificial intelligence

In the G7 Hiroshima Summit, Prime Minister Kishida proposed the “Hiroshima AI Process”²⁰ aimed at achieving trustworthy AI, on which the participating countries agreed. Based on the outcome of the subsequent ministerial-level discussions, the G7 leaders issued the “G7 Leaders’ Statement on the Hiroshima AI Process”²¹ in October, 2023. This document states that the G7 leaders welcome the “Hiroshima Process International Guiding Principles for Organizations

¹⁸ Japan, Ministry of Foreign Affairs, G7 Clean Energy Economy Action Plan, May 20, 2023 <https://www.mofa.go.jp/files/100506817.pdf>

¹⁹ Japan, Ministry of Foreign Affairs, Japan-Chaired G7 2023: Health Outcomes, November 6, 2023 https://www.mofa.go.jp/ic/ghp/page22e_001065.html

²⁰ Japan, Ministry of Internal Affairs and Communications, Hiroshima AI Process, <https://www.soumu.go.jp/hiroshimaaiprocess/en/index.html>

²¹ Japan, Ministry of Foreign Affairs, G7 Leaders’ Statement on the Hiroshima AI Process, October 30, 2023 https://www.mofa.go.jp/ecm/ec/page5e_000076.html

Developing Advanced AI system”²² and the “Hiroshima Process International Code of Conduct for Organizations Developing Advanced AI Systems,”²³ both of which cover generative AI, as shared principles essential for achieving trustworthy AI. Furthermore, the “Hiroshima AI Process Comprehensive Policy Framework,” which includes project-based cooperation such as those regarding disinformation, was endorsed at the G7 Digital and Tech Ministers’ meeting in December, 2023.²⁴

The G7, together with the OECD, is leading the way in establishing international rules for the governance of generative AI, promoting transparency, countering disinformation and protecting intellectual property rights. At the occasion of the Generative AI Side Event held on the sidelines of the OECD Ministerial Council Meeting on May 2, 2024, Prime Minister Kishida announced the launch of the Hiroshima AI Process Friends Group with the participation of 49 countries and regions, including many OECD members, as a voluntary framework of countries supporting the spirit of the Hiroshima AI Process.²⁵ This is a strong move to address the risks of generative AI and promote cooperation to ensure that people around the world can benefit from the use of safe, secure, and trustworthy AI. Furthermore, the G7 plans to strengthen support to ensure cybersecurity and advance the digitalization of developing countries. Japan will continue to contribute to the creation of international rules regarding generative AI through the Hiroshima AI Process.

3. The Kishida Diplomacy following the G7 Hiroshima Summit

After the G7 Hiroshima Summit, Prime Minister Kishida continued to work to share the outcome of the summit with various countries around the world, thereby taking the lead in the international community as the 2023 G7 chair for a year.

To begin with, in July, Prime Minister Kishida visited Poland, Lithuania, the venue for a North Atlantic Treaty Organization (NATO) Summit, and Belgium, where a Japan–European Union (EU) Summit was held. Prime Minister Kishida took advantage of those visits to reaffirm a consensus among the member countries of the EU and the NATO and partner countries on the importance of “striving to uphold a free and open international order based on the rule of law,” which was confirmed at the G7 Hiroshima Summit among those countries. Jointly with the NATO, Prime Minister Kishida announced the agreement on the “Individually Tailored Partnership Programme (ITPP) between the NATO and Japan,” confirming cooperation in new areas such as cyber, emerging destructive technologies, space and strategic communications, in addition to traditional areas. In a joint statement with the EU,²⁶ Japan and the EU announced the launch of a foreign minister–level strategic dialogue to elevate the cooperation on the security front to a new level, and as well as their intention to strengthen cooperation in the areas of digital, connectivity, and energy.

Immediately thereafter, Prime Minister Kishida, as G7 chair, visited Gulf countries such

²² Japan, Ministry of Foreign Affairs, Hiroshima Process International Guiding Principles for Organizations Developing Advanced AI System, October 30, 2023 <https://www.mofa.go.jp/files/100573471.pdf>

²³ Japan, Ministry of Foreign Affairs, Hiroshima Process International Code of Conduct for Organizations Developing Advanced AI Systems, October 30, 2023 <https://www.mofa.go.jp/files/100573473.pdf>

²⁴ Japan, Ministry of Internal Affairs and Communications, Hiroshima AI Process G7 Digital & Tech Ministers’ Statement, December 1, 2023 https://www.soumu.go.jp/main_content/000915261.pdf

²⁵ Japan, Ministry of Foreign Affairs, Prime Minister Kishida’s attendance at the Side Event on Generative AI at the OECD Ministerial Council Meeting, May 2, 2024 https://www.mofa.go.jp/ecm/ec/pageite_000001_00332.html

²⁶ Japan, Ministry of Foreign Affairs, Joint Statement: Japan-EU Summit 2023, July 13, 2023 <https://www.mofa.go.jp/mofaj/files/100528227.pdf>

as Saudi Arabia, the United Arab Emirates and Qatar, and held discussions with the leaders of those countries, based on the outcome of the G7 Hiroshima Summit. The leaders confirmed the importance of maintaining “a free and open international order based on the rule of law.”

At the ASEAN-related Summit Meeting held in Indonesia in September and the G20 New Delhi Summit held in India, Prime Minister Kishida, as G7 chair, took the lead in the international discussions based on the outcome of the G7 Hiroshima Summit. On the occasion of the 50th Year of ASEAN-Japan Friendship and Cooperation, Japan launched a “Comprehensive Strategic Partnership” with ASEAN to further strengthen the relationship, and reiterated its support for mainstreaming the “ASEAN Outlook on the Indo-Pacific (AOIP).” They also confirmed that the AOIP and Japan’s FOIP will promote cooperation in a way that creates synergy. In December 2023, the Commemorative Summit for the 50th Year of ASEAN-Japan Friendship and Cooperation was also held in Tokyo. At the conclusion of the discussions, Prime Minister Kishida reaffirmed that Japan and ASEAN share a vision of a world in which all countries can pursue peace and prosperity and in which the principles such as democracy, the rule of law, good governance, and respect for human rights and fundamental freedom are respected. ASEAN and Japan also agreed to further strengthen their cooperation as “Partners for Peace and Stability.”²⁷

Regarding the G20, even before the G7 Hiroshima Summit, Japan was in close communication with India as G20 chair and efforts were made with the idea of passing on the outcome of the G7 Hiroshima Summit to the G20 New Delhi Summit in mind. For example, as confirmed at the G7 Hiroshima Summit, items such as (1) achieving net zero through various paths tailored to each country’s circumstances; (2) building sustainable and resilient agricultural and food systems; and (3) strengthening the delivery of Medical Countermeasures (MCM) to be used in the event of potential pandemic crises, were reflected in the G20 New Delhi Leader’s Declaration.

The declaration also refers to just and durable peace in Ukraine and upholding the principles of the UN Charter, including territorial integrity and sovereignty. They are the items that were emphasized at the G7 Hiroshima Summit. It was significant that all the G20 members, including Russia, were able to agree on them.

Conclusion

The above is a review of the Kishida administration’s diplomacy in the periods before and after the G7 Hiroshima Summit and its relationship to global governance regarding security in a broad definition. As G7 chair, Japan set the agenda for the G7 Hiroshima Summit and worked closely with the G7 member countries to improve global governance in a broad range of areas in a way to expand into non-G7 countries, including those belonging to the Global South. The countries of the Global South do not generally take sides with the United States or China, but rather look at the conjunctures and developments in the world from the perspective of their own national interests. In this situation, Japan and other G7 countries need to be attuned to the challenges they face in parallel to encourage them to uphold the free and open international order based on the rule of law and the principles of the UN Charter, such as respect for sovereignty and territorial integrity.

In addition, as it was possible for Japan, as G7 chair, to make adjustments to the conference formats and the composition of the invited countries and organizations, Japan was able to coordinate with other major international conferences, such as the NATO Summit, the ASEAN-related Summit, and the G20 Summit, making it possible to reflect the outcome of the G7 Hiroshima Summit in them effectively.

After Russia’s aggression against Ukraine, the UNSC has been unable to function in an effective manner due to the positions of Russia and China, and this fact makes it all the more

²⁷ Japan, Ministry of Foreign Affairs, The Commemorative Summit for the 50th Year of ASEAN-Japan Friendship and Cooperation, December 17, 2023 https://www.mofa.go.jp/a_o/rp/pageite_000001_00062.html

important to ensure cooperation among the G7 countries and the G7's outreach efforts. This applies not only to security issues, but also to efforts to address global challenges such as food, energy, and global health. Whether the G7 countries can contribute to the international community by taking concrete actions to resolve these global challenges is becoming increasingly important.

While it is naturally difficult to improve global governance comprehensively and fundamentally through the G7 process alone, I believe that the G7's increasingly proactive efforts to address the various urgent key challenges facing the international community will contribute to medium- to long-term improvements in global governance. From this perspective, it is important for Japan's diplomacy to continue to actively utilize and participate in the G7 process even though its term as G7 chair has ended.

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International Environmental Legal Rules for Regulating the REY-Rich Mud Development by Japan

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Abstract

Leading the way in seabed mining, Japan is now funding the creation of a methodology to mine the newly discovered mineral resources in the deep-seabed, REY-rich mud. It appears that there are no international rules and standards that govern how REY-rich mud develops on the seafloor of coastal states. This does not imply, however, that international law does not regulate these types of activities in any way. Certain international legal rules, particularly those pertaining to the protection of the marine environment, may be relevant and/or serve as a pertinent regulatory benchmark. For instance, Article 208 of UNCLOS, which establishes basic guidelines for environmental protection against activities on the seabed that are under national jurisdiction, may be crucial in preventing the development of REY-rich mud from causing marine environment pollution. Furthermore, it is anticipated that the exploitation regulations that the International Seabed Authority is now developing will serve as a regulatory benchmark even though they are not directly relevant to the area within national jurisdiction. Furthermore, rules of Environmental Impact Assessment, provided in Article 206 and elaborated in the BBNJ (biodiversity beyond national jurisdiction) Agreement, aid coastal states in striking a balance between preserving the maritime environment and exploiting natural resources.

Introduction

Deep-seabed mining is currently attracting increasing attention. One of the reasons is that 30 years after the United Nations Convention on the Law of the Sea (UNCLOS) entered into force, technology has advanced to the extent that deep-seabed mining is commercially feasible. Another reason is that the public awareness of the protection of the marine environment has increased and, as a result, deep-seabed mining, which could cause tremendous damage to the environment, has started to be criticized. There is much scientific indeterminacy regarding deep-sea ecosystems, but it is said that the plume caused by seabed mining inevitably changes deep-sea ecosystems, thereby causing irreversible losses or long-lasting effects.¹

This movement has now appeared in the International Seabed Authority (ISA), the leading international organization of seabed mining. The ISA was established by UNCLOS to develop resources in seabed areas beyond national jurisdiction (the Area). However, 32 states have

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¹ Erik Simon-Lledó, Brian J. Bett, Veerle A. I. Huvenne, Kevin Köser, Timm Schoening, Jens Greinert and Daniel O. B. Jones, "Biological effects 26 years after simulated deep-sea mining," *Scientific Reports*, Vol. 9 (2019), p. 7, available at <<https://www.nature.com/articles/s41598-019-44492-w>>.

requested a moratorium to proceed with development.² Their opinions differ slightly,³ but their main idea is that seabed mining should be restrained until its impact is scientifically proven.⁴ Furthermore, some governments have decided to prohibit or introduce a moratorium on seabed mining within their waters.⁵

Meanwhile, some States and corporations have devoted themselves to developing exploration and exploitation technologies to make seabed mining economically feasible. Some have already concluded contracts with the ISA and found deposits of mineral resources, such as polymetallic nodules, polymetallic sulphides, and cobalt-rich ferromanganese crust.⁶ The Metals Company, a Canadian private corporation, has concluded the contract with three governments,⁷ and has led the development by establishing NORI, a Nauru subsidiary, in cooperation with Nauru as a sponsoring State, and plans to start its exploitation in 2026.⁸ From their perspective, it is not reasonable to suspend activities that would be the fruit of a long-term effort.

Japan is another leading country in terms of seabed mining. In addition to developing existing resources, Japan is also trying to find and create new resources, such as offshore methane hydrate.⁹ As Japan regards itself as a poor-resource State,¹⁰ the natural resources within its maritime zone are one of the targets the State seeks to develop.¹¹ As of 2024, the Japanese government seems to consider REY-rich mud as one of the most promising resources for future development.¹² Although a concrete schedule for commercial development has not yet been proposed, the government strongly supports the development of a methodology to exploit this

² As for the activities for calling moratorium, see <<https://deep-sea-conservation.org/solutions/no-deep-sea-mining/momentum-for-a-moratorium/>>.

³ For example, France looks to take the radical approach to request the ban (not moratorium) of the seabed mining; see <<https://www.lesechos.fr/monde/enjeux-internationaux/cop-27-emmanuel-macron-veut-interdire-lexploitation-des-fonds-marins-1876783>>.

⁴ Zachary Douglas *et al.*, In the Matter of a Proposed Moratorium or Precautionary Pause on Deep-Sea Mining Beyond National Jurisdiction, para. 11, *available at* <<https://www.pewtrusts.org/-/media/assets/2023/03/deep-sea-mining-moratorium.pdf>>.

⁵ For example, on 8 July 2024, the Governor of the State of Hawaii signed bill SB 2575 (Hawaii Seabed Mining Prevention Act.), which prohibits seabed mining in Hawaii's State water for the marine environment protection; the full text of the bill is *available at* <https://www.capitol.hawaii.gov/sessions/session2024/bills/SB2575_CD1_.pdf>; on 24 July 2024, the Governor of American Samoa issued an executive order to place a moratorium on seabed mining in its waters (An order Implementing a Moratorium on Deep Seabed Mining Exploration and Exploitation); the full text of the order is *available at* <<https://www.americansamoa.gov/executiveorders>>.

⁶ As for the list of exploration contracts between the ISA and contractors, see Exploration Contracts - International Seabed Authority, *available at* <<https://www.isa.org/jm/exploration-contracts/>>.

⁷ The Metals Company, "Sponsoring States," *available at* <<https://metals.co/sponsoring-states/>>.

⁸ The Metals Company "NORI-D Project – Nauru Ocean Resources Inc.," *available at* <<https://metals.co/nori/>>.

⁹ Regarding the development of offshore methane hydrate and the Japanese domestic legislation, see Offshore Methane Hydrates in Japan: Prospects, Challenges and the Law, *available at* <https://www.biicl.org/documents/77_omh_in_japan_web_file-compressed.pdf>.

¹⁰ Liberating Japan's resources, *The japan times* (June 25, 2012), *available at* <<https://www.japantimes.co.jp/opinion/2012/06/25/commentary/japan-commentary/liberating-japans-resources/>>.

¹¹ Ministry of Economy, Trade and Industry of Japan, *Plan for the Development of Marine Energy and Mineral Resources*, (March 22, 2024) (in Japanese), *available at* <<https://www.meti.go.jp/press/2023/03/20240322001/20240322001-1rr.pdf>>.

¹² Headquarter for Ocean Policy of Japan, *Ocean Development Strategy (Draft)*, (April 26, 2024) (in Japanese), *available at* <<https://www.kantei.go.jp/jp/singi/kaiyou/dai22/02shiryu1-2.pdf>>.

resource.¹³

Against this background, this study attempts to clarify the rules of international law aimed at protecting the marine environment when a coastal State engages in the development of REY-rich mud. For this purpose, Section I explains the current developmental status of REY-rich mud. The subsequent two sections examine the rules of international law for protecting the marine environment and apply them to mining REY-rich mud. The final section draws conclusions and provides a brief proposal for the future development of REY-rich mud by Japan.

I. REY-Rich Mud and the Current Status of Its Development

(1) *Potential Impact of REY-Rich Mud*

REY in REY-rich mud represents rare earth elements (REE) and yttrium (chemical element with atomic number 39). REE consist of 17 elements, including Sc and lanthanoids La–Lu.¹⁴ These chemical elements are essential for many technologies, such as hybrid vehicles, rechargeable batteries, and wind turbines.¹⁵ They have recently received attention because they are used in the renewable energy industry.¹⁶

REY-rich mud is regarded as the fourth most abundant seafloor mineral resource, following these three advanced resources. REY-rich mud exists at a depth of 4,000–6,000 m depth and is located on a flat deep-sea floor,¹⁷ whereas polymetallic nodules exist at 4,000–6,000 m depth, polymetallic sulphides are at 350–5,000 m depth, and cobalt-rich ferromanganese crusts are at 400–4,000 m depth.¹⁸ The most distinct aspect of REY-rich mud is its nature. The other three resources are in the form of soil and look like either stone (polymetallic nodules and cobalt-rich ferromanganese crusts) or soil (polymetallic sulphides), while REY-rich mud is a clayey material.

Compared to the other three materials, the exploration of REY-rich mud has not been conducted globally; therefore, such resources have not been identified so far. Recent research has demonstrated that REY-rich mud is widely distributed on the deep-sea floors of the Pacific and

¹³ As for the recent Japanese policy for the seabed mining, see Alison McCook, “The Challenge of Regulating Japan’s Deep-sea Mining Experiment,” *The Diplomat*, (June 19, 2024), available at <<https://thediplomat.com/2024/06/the-challenge-of-regulating-japans-deep-sea-mining-experiment/>>.

¹⁴ Frances Wall, “Rare Earth Elements,” in David Alderton and Scott A. Elias eds., *Encyclopedia of Geology* (2nd. ed., 2021), pp. 680–681.

¹⁵ Sophie Theresia Huber and Karl W. Steininger, “Critical sustainability issues in the production of wind and solar electricity generation as well as storage facilities and possible solutions,” *Journal of Cleaner Production*, Vol. 339 (2022) p. 1, available at <<https://doi.org/10.1016/j.jclepro.2022.130720>>.

¹⁶ Lisa Depraiter and Stephane Goutte, “The role and challenges of rare earths in the energy transition,” *Resources Policy*, Vol. 86 (2023) p. 12, available at <<https://doi.org/10.1016/j.resourpol.2023.104137>>.

¹⁷ Kentaro Nakamura, Koichiro Fujinaga, Kazutaka Yasukawa, Yutaro Takaya, Junichiro Ohta, Shiki Machida, Satoru Haraguchi and Yasuhiro Kato, “REY-Rich Mud: A Deep-Sea Mineral Resource for Rare Earths and Yttrium,” in *Handbook on the Physics and Chemistry of Rare Earths* (2015), p. 85.

¹⁸ Japan Organization for Metals and Energy Security (JOGMEC), “Outline of the Seabed Mineral Resources” (in Japanese), available at <https://www.jogmec.go.jp/metal/metal_10_000002.html> ; See also Balaram Vysetti, “Deep-sea mineral deposits as a future source of critical metals, and environmental issues - a brief review,” *Miner Miner Mater* (2023), available at <<http://dx.doi.org/10.20517/mmm.2022.12>>.

Indian Oceans.¹⁹ In Japanese waters, it is primarily found on the continental shelf surrounding Minamitori Island.²⁰

(2) Current Status of the Development of REY-Rich Mud

Hitherto, Japan appears to be the only country that strongly supports the development of REY-rich mud. Therefore, the developmental status of REY-rich mud can be confirmed by elaborating on Japanese practices. Japanese development activities have been led by the Cross-Ministerial Strategic Innovation Promotion Program (SIP). The cabinet office manages the SIP itself, and the Maritime Project, which focuses on maritime security for resources, is led by Japan Agency for Marine-Earth Science and Technology (JAMSTEC) in collaboration with The National Institute of Advanced Industrial Science and Technology (AIST), Kyoto University, and Kochi University,²¹ together with the research led by Tokyo University.²² Although the SIP focused on the development of seabed mineral resources from its first session, the second and third sessions gradually strengthened the focus on REY-rich mud.

After identifying the REY-rich mud surrounding Minamitori Island, Japanese researchers have been extensively engaged in exploring REY-rich mud and have confirmed the widespread existence of these resources on the Japanese continental shelf.²³ Based on this information, the SIP also attempts to develop a method to explore and exploit REY-rich mud. In particular, the third term project of the SIP, named “National Platform for Innovative Ocean Developments,” has one theme that mainly focuses on REY-rich mud, named “Development of Production Technology for REE.”²⁴

The methodology employed for the development of natural resources may vary by resources. For example, in the case of polymetallic sulphides, one of the technologies planned to be used to dig resources is a drum cutter working in water.²⁵ If such a method is used, a huge plume

¹⁹ Yasuhiro Kato, Koichiro Fujinaga, Kentaro Nakamura, Yutaro Takaya, Kenichi Kitamura, Junichiro Ohta, Ryuichi Toda, Takuya Nakashima and Hikaru Iwamori, “Deep-sea mud in the Pacific Ocean as a potential resource for rare-earth elements,” *Nature Geoscience*, Vol. 4 (2011), pp. 535–539; Junichiro Ohta, Kazutaka Yasukawa, Kentaro Nakamura, Koichiro Fujinaga, Koichi Iijima and Yasuhiro Kato, “Geological features and resource potential of deep-sea mud highly enriched in rare-earth elements in the Central Pacific Basin and the Penrhyn Basin,” *Ore Geology Reviews*, Vol. 139 (2021), available at <<https://doi.org/10.1016/j.oregeorev.2021.104440>>; Kazutaka Yasukawa, Kentaro Nakamura, Koichiro Fujinaga, Shiki Machida, Junichiro Ohta, Yutaro Takaya and Yasuhiro Kato, “Rare-earth, major, and trace element geochemistry of deep-sea sediments in the Indian Ocean: Implications for the potential distribution of REY-rich mud in the Indian Ocean,” *GEOCHEMICAL JOURNAL*, Vol. 49 Issue 6 (2015).

²⁰ Tetsuo Yamazaki, Naoki Nakatani, Rei Arai, Tsunehiro Sekimoto and Hiroyuki Katayama, “Combined Mining and Pulp-Lifting of Ferromanganese Nodules and Rare-Earth Element-Rich Mud around Minamitorishima Island in the Western North Pacific: A Prefeasibility Study,” *Minerals* Vol. 11(3) (2021).

²¹ Organizational structure of National Platform for Innovative Ocean Developments, available at <<https://www.jamstec.go.jp/sip3/e/structure/index.html>>.

²² Department of Systems Innovation, School of Engineering, The University of Tokyo Kato, Nakamura, and Yasukawa Laboratory, available at <<https://en.kato-nakamura-yasukawa-lab.jp/research/detail/19>>.

²³ Yutaro Takaya and Kazutaka Yasukawa *et al.*, “The tremendous potential of deep-sea mud as a source of rare-earth elements,” *Scientific Reports*, Vol. 8 (2018), p. 2, available at <<https://www.nature.com/articles/s41598-018-23948-5>>.

²⁴ Cross-ministerial Strategic Innovation Promotion Program (SIP): National Platform for Innovative Ocean Developments, “Main Research and Development Themes,” available at <<https://www.jamstec.go.jp/sip3/e/theme/index.html>>.

²⁵ David Heydon, “Exploration for and Pre-feasibility of mining Polymetallic Sulphides: a commercial case study,” (2004), available at <https://www.isa.org.jm/wp-content/uploads/2022/12/ISA_Heydon1.pdf>.

will inevitably arise and the marine environment will be heavily damaged.²⁶ The development of mineral resources causes more severe environmental damage than the development of oil and gas. Therefore, it is essential to mitigate environmental damage, particularly to prevent plume formation.

To consider these aspects, a methodology for REY-rich mud was developed. Based on a paper published in 2018, to reduce lifting costs, a plan for a hydrocyclone separator that selectively separates biogenic calcium phosphate grains with a high REE content and can operate on a deep seabed floor was considered.²⁷ However, these activities can result in the formation of large sediment clouds. At this point, the methodologies developed in 2022 would be more environmentally friendly because the drilling point is enclosed by a double cover to prevent it from causing a plume and mud is lifted up through such a closure system.²⁸ Therefore, the methodology for extracting REY-rich mud could be similar to the exploitation of oil and gas that spontaneously flow from the well.

II. Obligations to Protect the Marine Environment from the Seabed Activities

(1) UNCLOS Provisions

UNCLOS provides comprehensive rules to prevent pollution of the marine environment (Article 194), as well as detailed regulations based on the sources of pollution.²⁹ Specifically, it distinguishes between pollution from seabed activities in areas within national jurisdiction (Article 208) and within the Area (Article 209). Although the ISA plays an important role in the regulation of seabed activities in the Area,³⁰ coastal States have several obligations to regulate such activities within their national jurisdictions.

As a prerequisite for applying Article 208, any activities must fall within the scope of “seabed activities.” These terms are not defined in the UNCLOS, and both the literal interpretation and travaux préparatoires support the idea that the development of REY-rich mud can be regarded as a seabed activity.³¹ It is pointed out that pollution from bottom-fixed turbines anchored to the seabed can be considered pollution “in connection with” seabed activities.³² Moreover, during UNCLOS III, several States considered this provision is mainly applied to the seabed mining

²⁶ Jeffrey C. Drazen and Craig R. Smith *et al.*, “Midwater ecosystems must be considered when evaluating environmental risks of deep-sea mining,” *PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES*, Vol. 117 No. 30 (2020), pp. 17457–17458, available at <<https://doi.org/10.1073/pnas.2011914117>>.

²⁷ Takaya and Yasukawa, *supra* note 23, p. 5.

²⁸ JAMSTEC, Press Releases (18 October 2022) (in Japanese), available at <https://www.jamstec.go.jp/j/about/press_release/20221018/> ; JAMSTEC, News Letter (29 November 2022) (in Japanese), available at <https://www.jamstec.go.jp/sip2/j/newsletter/pdf/sip2_newsletter031.pdf> .

²⁹ Robin Churchill, Vaughan Lowe and Amy Sander, *The Law of the Sea*, (4th ed. 2022), p. 622.

³⁰ Catherine Blanchard, Ellycia Harrould-Kolieb, Emily Jones and Michelle L. Taylor, “The current status of deep-sea mining governance at the International Seabed Authority,” *Marine Policy*, Vol. 147 (2023), available at <<https://doi.org/10.1016/j.marpol.2022.105396>>.

³¹ Watson Farley & Williams, “Seabed Activities in Domestic Jurisdictions: Why Coastal States should pay attention to the work of the International Seabed Authority,” (May 9, 2024), available at <https://www.wfw.com/articles/seabed-activities-in-domestic-jurisdictions/?utm_source=linkedin&utm_medium=organic_social&utm_campaign=article_disputeresolution_global>.

³² Dawoon Jung, *The 1982 Law of the Sea Convention and the Regulation of Offshore Renewable Energy Activities within National Jurisdiction*, (Brill, 2023) p. 74; James Harrison, *Saving the Oceans through Law* (OUP, 2017), p. 212.

of mineral resources in the continental shelf.³³ Given such facts, both the exploration and exploitation of REY-rich mud qualify as seabed activities according to Article 208. Therefore, coastal States must fulfil their obligations when developing REY-rich mud.

Article 208(1) requires coastal States to establish domestic laws regulating marine environmental pollution from seabed activities. Therefore, when developing REY-rich mud, coastal States must establish legal rules not only for development but also for protecting the marine environment from development. Moreover, in accordance with Article 208(3), such rules “shall be no less effective than” international rules and standards. When there are no such international rules and standards, Article 208(5) requests the establishment of global rules and standards through either competent international organizations or diplomatic conferences.

To facilitate the development of REY-rich mud, the Japanese government amended its Mining Act in 2022 to incorporate rare earth minerals into its mineral list.³⁴ However, as the Mining Act focuses on mining rights and how to exercise it, environmental protection does not need to be covered. Some environmental legal rules, including the Basic Act on the Environment (Act No. 91 of 1993),³⁵ refer to marine environment protection. However, these rules seem insufficient to balance the development and protection of marine environments. Therefore, from a legal perspective, Japan does not seem ready to develop REY-rich mud with adequate protection of the marine environment.

Many coastal States engage in oil and gas development on their continental shelves. However, the international rules and standards required under Article 208(5) have not yet been established. A study report published by the United Nations Environment Programme (UNEP) is sometimes referred to;³⁶ however, given that it is not a publication by the UNEP itself, it might not be regarded as an international rule or standard in the sense of Article 208.³⁷ Therefore, global rules and standards that primarily focus on pollution from seabed activities have not been established.³⁸ Under such circumstances, it is extremely difficult to determine whether the municipal law of a coastal state is more effective than international rules and standards, that is, whether a coastal State violates Article 208(3).

(2) Implications of the ISA Mining Code

The ISA has a mandate to act on behalf of mankind as a whole and explore and exploit the resources of the Area (Article 137(2)). In Part XI, resources are all solid, liquid, or gaseous mineral resources (Article 133(a)) that cover REY-rich mud; therefore, the ISA has the competence to regulate the exploration and exploitation activities of REY-rich mud in the Area.

³³ Myron H. Nordquist, Neal R. Grandy, Shabtai Rosenne and Alexander Yankov eds., *United Nations Convention on the Law of the Sea 1982: A Commentary*, Volume IV (1990), pp. 137–138.

³⁴ The Mining Act (Act No. 84 of 2011), *available at* <<https://www.isa.org.jm/wp-content/uploads/2022/05/JapMiningAct.pdf>>; Yoshiaki Ohtsuki, *IN-DEPTH: Mining Law JAPAN* (2023), *available at* <https://www.amt-law.com/asset/res/news_2024_pdf/publication_0027689_ja_001.pdf>.

³⁵ Basic Act on the Environment (Act No. 91 of 1993), *available at* <<https://www.env.go.jp/en/laws/policy/basic/index.html>>.

³⁶ “Conclusions of the study of legal aspects concerning the environment related to offshore mining and drilling within the limits of national jurisdiction : decision 10/14/VI of the Governing Council of UNEP, of 31 May 1982,” reproduced in Peter H. Sand, *Marine Environment Law in the United Nations Environment Programme: An Emergent Eco-Regime* (1988), pp. 226–235.

³⁷ International rules and standards can be understood in four ways; see, Makoto Seta, “The Contribution of the International Organization for Standardization to Ocean Governance,” *Review of European, Comparative and International Environmental Law*, Vol. 28 Issue. 3 (2019), pp. 307–309.

³⁸ Frank Wacht, “Article 208: Pollution from seabed activities subject to national jurisdiction,” in Alexander Proelss ed., *The United Nations Convention on the Law of the Sea: A Commentary* (2017), p. 1938.

However, the seabed activities that the ISA is in charge of are distinguished from those within the national jurisdiction. Therefore, even if the ISA had established international rules and standards, they would not be international rules and standards in the context of Article 208. In fact, when UN Division for Ocean Affairs and the Law of the Sea (DOALOS) published a list of international organizations relevant for making international rules and standards provided in multiple UNCLOS provisions, it did not list the ISA as an organization that may establish rules and standards under Article 208.³⁹ Furthermore, the rules and standards that the ISA can establish and apply based on Article 145 must be stricter than those of Article 208, because while the damage to the marine environment within the continental shelf is basically damage to coastal States,⁴⁰ the damage to the marine environment in the Area is damage to the international community as a whole.⁴¹ This interpretation also supports the idea that the rules and standards established by the ISA cannot be considered international rules and standards under Article 208.

However, this does not mean that ISA standards are not relevant for the obligations under Article 208. If the ISA has successfully elaborated rules and standards for development with sufficient consideration of the protection of the marine environment, it will be easier for States to establish their own rules with reference to the ISA rules and standards. For conserving the marine environment, the distinction between the ABNJ and areas within national jurisdiction does not matter. On this point, Friedman aptly noted that, because of two constituencies, namely, other States and the citizens of coastal States, coastal States feel pressure to adopt ISA regulations as a “regulatory benchmark.”⁴² This may be especially true for States which have strong fishery industries, because the water column above the continental shelf up to 200 nautical miles from the baseline is their EEZ, where fishermen in coastal States mainly engage in fishing activities.⁴³ Given the possible negative impact the development of seabed resources could have, fishermen would not accept environmental regulations which are less stricter than the ISA regulations applicable to the Area.

One of the tasks that the ISA has engaged in is the development of mining codes. Regarding exploration regulations, the ISA has developed various regulations for different resources. For example, an exploration regulation for polymetallic nodules was developed in 2000 and revised in 2013. The regulation of polymetallic sulphides was developed in 2010 and that of cobalt-rich ferromanganese crusts was developed in 2012.⁴⁴ However, these exploration regulations have not yet been adopted for REY-rich mud. Moreover, exploitation regulations have not yet been

³⁹ DOALOS, *Law of the Sea bulletin*, No. 31 (1996), p. 86; at that time, abbreviation of ISA had not been established, and ISBA was used. But, Article 208 does not include ISA, but it includes the International Hydrographic Organization, the International Labour Organization, the IMO, the Intergovernmental Oceanographic Commission of UNESCO, UNEP and the United Nations Industrial Development Organization. Wacht also supports this non-exhaustive list. See, Wacht, *supra* note 38, p. 1938.

⁴⁰ Andrew Friedman, “Article 208 of UNCLOS and National Regulation of Seabed Mining,” in Lawrence Martin, Constantinos Salonidis and Christina Hioureas eds., *Natural Resources and the Law of the Sea: Exploration, Allocation, Exploitation of Natural Resources in Areas under National Jurisdiction and Beyond* (2017), p. 279.

⁴¹ As for the outlines of Article 145, see Linlin Sun, *International Environmental Obligations and Liabilities in Deep Seabed Mining* (2023), pp. 31–33.

⁴² Friedman, *supra* note 40, pp. 285–286.

⁴³ Within the EEZ, sovereign states have sovereign rights over living resources under some conditions provided by the UNCLOS. For details, see for example, Gemma Andreone, “The Exclusive Economic Zone,” in Donald Rothwell *et al.* eds., *The Oxford Handbook of the Law of the Sea* (2015), pp. 166–169.

⁴⁴ ISA, The Mining Code - International Seabed Authority, available at <<https://www.isa.org.jm/the-mining-code/>>.

established, but are currently being developed under the ISA.⁴⁵ By examining the draft stage of such regulations, the exploitation regulation would be a single instrument and not different instruments for different types of mineral resources.⁴⁶ Therefore, once a draft is adopted, it is highly likely that it can also be applied to REY-rich mud. Nevertheless, the draft regulation does not refer to REY-rich mud, although it manifestly refers to three other mineral resources.⁴⁷

Therefore, as of July 2024, no ISA regulations are directly applicable to the development of REY-rich mud in Areas. This indicates that coastal States attempting to develop REY-rich mud do not have regulatory benchmarks. What they can do at this stage, is to consult the newest draft of the exploitation regulations.

III. Obligations to Conduct an Environmental Impact Assessment When Developing REY-Rich Mud Development

(1) Article 206

UNCLOS also provides for procedural obligations applicable to all maritime areas, including Article 206, which provides for an obligation to conduct an environmental impact assessment (EIA).⁴⁸ In environmental law, procedural obligations, such as EIA, “may, indeed, be of equal or even greater importance than the substantive standards existing in international law.”⁴⁹ Article 206 stipulates “(w)hen States have reasonable grounds for believing that activities may cause substantial pollution of or significant and harmful changes to the marine environment,” they shall conduct the EIA procedure.

ITLOS explores this provision in detail in the *Climate Change Advisory Opinions* in 2024. According to the ITLOS, as the arbitral tribunal in the South China Sea interprets,⁵⁰ the expression “reasonable grounds for believing” gives the States discretion.⁵¹ However, such discretion is limited by the requirements of causing “substantial pollution of or significant and harmful changes to the marine environment,” which can be objectively determined by facts and scientific knowledge.⁵² From this perspective, if many States conduct EIA for an activity, that activity could be regarded as causing the pollution or changes provided in Article 206, thereby triggering the EIA process.

All ISA regulations for the exploration of polymetallic nodules, polymetallic sulphides, and

⁴⁵ ISA, The Mining Code: Draft Exploitation Regulations - International Seabed Authority, *available at* <<https://www.isa.org.jm/the-mining-code/draft-exploitation-regulations-2/>>.

⁴⁶ Draft resolution employs and defines the term “resources,” which is “means all solid, liquid or gaseous mineral resources in situ in the Area at or beneath the seabed” in the Schedule named “Use of terms and scope”; Draft regulations on exploitation of mineral resources in the Area. Prepared by the Legal and Technical Commission. 22 March 2019, (ISBA/25/C/WP.1), p. 116.

⁴⁷ The definition of “resources” also clearly mentions polymetallic nodules, polymetallic sulphides and cobalt-rich ferromanganese as an example; *Ibid.*

⁴⁸ *Request for an Advisory Opinion Submitted by the Sub-Regional Fisheries Commission (SRFC), Advisory Opinion of 2 April 2015, ITLOS Reports 2015*, para. 120; *South China Sea Arbitration (Philippines v China), Award of 12 July 2016, XXXIII Reports of International Arbitral Awards*, p. 519, para. 940.

⁴⁹ *Arbitration regarding the Chagos Marine Protected Area between Mauritius and the United Kingdom of Great Britain and Northern Ireland, Award of 18 March 2015, RIAA, Vol. XXXI*, p. 359, at p. 500, para. 322.

⁵⁰ *The South China Sea Arbitration between the Republic of the Philippines and the People’s Republic of China, Award of 12 July 2016, RIAA, Vol. XXXIII*, p. 153, at p. 523, para. 948.

⁵¹ *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law (Request for Advisory Opinion submitted to the Tribunal)*, *Advisory Opinion of 21 May 2024*, para. 361.

⁵² *Ibid.*, para. 361.

cobalt-rich ferromanganese crusts provide rules for EIA.⁵³ Moreover, the latest draft for the exploitation of all mineral resources provides detailed rules for EIA.⁵⁴ As such, although the development methodology of the REY-rich mud would be more environmentally friendly than those of the other three materials, if drilling the seabed floor, which may cause a plume, is included, States shall conduct EIA as indicated by Klein.⁵⁵

Moreover, according to the advisory opinion on climate change by the ITLOS, compliance with such obligations is important to fulfil the general obligations provided under Article 194 of the UNCLOS.⁵⁶ Furthermore, Article 194 can be strengthened by Article 208. Therefore, if a coastal State of the continental shelf fails to conduct an EIA, as required by Article 206, that State could also violate Article 208.

(2) Implications of the BBNJ Agreement

While Article 206 itself does not stipulate a concrete procedure for the EIA, the newly adopted BBNJ Agreement elaborates on this procedure. According to Article 31 of the BBNJ Agreement, the EIA consists of the following processes: (a) screening; (b) scoping; (c) impact assessment and evaluation; (d) prevention, mitigation, and management of potential adverse effects; (e) public notification and consultation; and (f) preparation and publication of an EIA Report. Articles 32–36 elaborate on each step. However, as its name shows, according to Article 3, the BBNJ Agreement “applies to areas beyond national jurisdiction” and, therefore, the activities conducted within coastal States’ maritime areas are not regulated by the BBNJ Agreement.

On the other hand, given the fact that the BBNJ Agreement was drafted in a manner “fully consistent with” the UNCLOS provisions, as requested by the GA Resolution 72/249,⁵⁷ the BBNJ can be understood to clarify and concretize the rights and obligations provided under the UNCLOS. Based on this understanding, the EIA, under Article 206, should incorporate the steps provided in the BBNJ Agreement. Although it has not been mentioned, ITLOS also notes that the BBNJ Agreement elaborates on the steps of the EIA, which Article 206 needs, but is not equipped with.⁵⁸

In addition, Article 5 requires that the BBNJ Agreement be interpreted and applied in a manner that is harmonized with existing bodies and instruments, including the ISA and its

⁵³ Para 24(b) of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area (ISBA/19/C/17), Regulations on prospecting and exploration for polymetallic sulphides in the Area (ISBA/16/A/12/Rev.1) and Regulations on Prospecting and Exploration for Cobalt-rich Ferromanganese Crusts in the Area (ISBA/18/A/11).

⁵⁴ Section 2 (Preparation of the Environmental Impact Statement and the Environmental Management and Monitoring Plan) of the Part IV (Protection and preservation of the Marine Environment) provides the rules of EIA, together with Annex IV; Draft regulations on exploitation of mineral resources in the Area. Prepared by the Legal and Technical Commission. 22 March 2019, (ISBA/25/C/WP.1), p. 37.

⁵⁵ Natalie Klein, “REY-Rich Mud: An Ocean Resource in Want of Regulation,” *EJIL Talk!* March 30, 2023, available at <<https://www.ejiltalk.org/rey-rich-mud-an-ocean-resource-in-want-of-regulation/>> ; It should be noted that as shown in the I(2), current methodology of the exploitation of REY-rich mud (provided in footnote 23) is more environmentally friendly than one adopted in the article which Klein relies (footnote 28). Such improvement should be recommended and also taken into account, but in any event, if the causing of the plume is inevitable, the process of the EIA is strongly recommended.

⁵⁶ *Obligations of States in respect of Climate Change, Advisory Opinion*, *supra* note 51, para. 345.

⁵⁷ Paragraph 6 of the Preamble, UN Doc. A/RES/72/249 (19 January 2018).

⁵⁸ *Obligations of States in respect of Climate Change, Advisory Opinion*, *supra* note 51, para. 366.

regulations.⁵⁹ Therefore, if the ISA successfully establishes rules and standards to regulate seabed mining activities, they should be met within the framework of the BBNJ agreement. Given the vital role of the ISA in making rules for deep-seabed mining, some provisions of the BBNJ Agreement, together with ISA's rules and standards, can be expected to regulate seabed activities within national jurisdiction.

For example, Article 28(2), which provides the rules of the EIA for activities in areas within a national jurisdiction, might play an important role.⁶⁰ According to this paragraph, "if the activity may cause substantial pollution or significant and harmful changes to the marine environment in areas beyond national jurisdiction, States shall ensure that an EIA is conducted in accordance with this Part or that an EIA is conducted under the Party's national process." Moreover, if a party chooses the national process, there are minimum requirements such as sharing information, including EIA reports through the clearing-house mechanism, and ensuring the monitoring activities in question.⁶¹

Furthermore, Article 30, which provides thresholds and factors for conducting EIAs, is relevant. According to this provision, "(w)hen a planned activity may have more than a minor or transitory effect on the marine environment, or the effects of the activity are unknown or poorly understood," the party shall conduct a screening. Screening is the first step of an EIA, under which it decides whether a full EIA process is needed. This provision might be directly applied only to areas beyond national jurisdiction but can be linked to Article 28(2); namely, the impact on the marine environment in the ABNJ is also unknown. Under such circumstances, it would be better for States to conduct screening to avoid violations of this provision.

Conclusion

If the standard provided in Article 30 of the BBNJ Agreement is applied, States should conduct a screening process when developing REY-rich mud, because the effects of the development of REY-rich mud are unknown or poorly understood. Furthermore, given its nature, it is highly likely that the development of REY-rich mud requires a complete EIA process. Certainly, some members of the Japanese government show a willingness to protect the marine environment when conducting seabed mining.⁶² Actually, in the trial to lift up REY-rich mud, the three methodologies in accordance with the ISO standards were employed for monitoring the marine environment.⁶³ However, to date, Japanese EIA legislation has not included seabed activities within its applicable scope.⁶⁴

⁵⁹ Diane Desierto, "Development, Marine Biodiversity, and the Common Heritage of Mankind: The ISA's Deep Seabed Mining Quandary and Complying with the High Seas BBNJ Convention," *EJIL Talk!*, July 10, 2023, available at <<https://www.ejiltalk.org/development-marine-biodiversity-and-the-common-heritage-of-mankind-the-isas-deep-seabed-mining-quandary-and-complying-with-the-high-seas-bbnj-convention/>>.

⁶⁰ Virginie Tassin Campanella, Yacouba Cissé and Dire Tladi, "State rights and obligations of States on the continental shelf and the Area," in Virginie Tassin Campanella ed., *Routledge Handbook of Seabed Mining and the Law of the Sea* (2024), p. 97.

⁶¹ Subparagraphs (a) to (c) of Article 28(2) provide the minimum requirements of the national process.

⁶² Annelise Giseburt, "Japan prepares to mine its deep seabed by decade's end," *Mongabay* (21 March 2024), available at <<https://news.mongabay.com/2024/03/japan-prepares-to-mine-its-deep-seabed-by-decades-end/#:~:text=Japan%20is%20one%20among%20just,to%20exploit%20the%20deep%20sea>>.

⁶³ JAMSTEC, Press Releases, *supra* note 28.

⁶⁴ As for the development of the Japanese EIA system, see, for example, Tetsuya Kamijo, "EIA in Japan: the benefits of early public participation," in Alberto Fonseca ed., *Handbook of Environmental Impact Assessment* (Edward Elgar, 2022), pp. 367–368.

The Japanese EIA Act (Act No. 81) was adopted in 1997⁶⁵ and has been occasionally amended. Regarding the scope of the EIA process, Article 2 of the Act provides for activities which require an EIA process, such as establishing highways, dams, and power plants.⁶⁶ In other words, the activities not listed in Article 2 are not subject to EIA procedures. The EIA was amended in 2012 to incorporate wind farms as an additional type of power plant. Therefore, the establishment of an offshore wind farm is subject to an EIA process. If Japan intends to develop seabed mineral resources consistent with environmental regulations under international law, the EIA process should be made mandatory for the development of such resources, including REY-rich mud, either by amending the EIA Act or by establishing a new act for maritime EIA.⁶⁷

Balancing the development and protection of marine environments is essential. Protecting the marine environment must be taken into account when developing new technologies and/or initiating new activities. In this context, conducting an EIA is important for seeking an appropriate balance with the relevant stakeholders.

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⁶⁵ The English translation of the full text is *available at* <http://assess.env.go.jp/files/5_global/EIA%20Act.pdf>.

⁶⁶ Ministry of the Environment of Japan, *Environmental Impact Assessment in Japan*, (2023) pp. 3–4, *available at* <http://assess.env.go.jp/files/1_seido/pamph_e.pdf>.

⁶⁷ A simple way is to amend the EIA Act and add seabed mining activities in the Article 2 of the Act. However, given the weak points of the Japanese EIA Act, it might be better for the Japanese government to establish new laws that exclusively focus on the protection of the marine environment. Regarding the weak points, see Yoko Masuzawa and Mari Koyano *et al.*, “Strength and weakness of Japanese EIA law,” *available at* <<https://conferences.iaia.org/2019/uploads/edited-presentations/Strength%20and%20weakness%20of%20Japanese%20EIA%20law.pdf>>. pp. 2–3.

Taiwan and the Senkaku Islands: The Impact of the Democratization Process on the Management of Territorial Claims to the Present

Valérie Niquet

Abstract

Since the 1970s, both the Republic of China and the People's Republic of China have officially laid claim to the Senkaku Islands (Diaoyutai). However, their positions have evolved differently in relation to Japan. After reviewing Taiwan's position on the Senkaku (Diaoyutai) Islands and its evolution, the paper analyzes how strategic factors, as well as ideological and domestic considerations, play a crucial role in the way Taiwan's position has evolved over time, diverging from the nationalist discourse of the PRC. The paper focuses on external factors, including the evolution of relations between Taipei and Tokyo, the role of the United States during the Cold War, and the positioning of the People's Republic of China (PRC) in this complex game involving multiple players in Asia. The paper analyzes the growing indifference of the Taiwanese people to the issue and the lack of anti-Japanese nationalism in the handling of the issue by both the Taiwanese authorities and the media. In addition, this paper analyzes the ideological dimension, especially since the return of the Democratic Progressive Party (DPP) to power and the election of President Tsai Ing-wen in 2016.

Both the Republic of China (ROC/Taiwan) and the People's Republic of China (PRC) lay claim to the Senkaku Islands (Diaoyutai), which have been administered by Japan since 1895. The purpose of this article is not to discuss the validity or other aspects of Taiwan's claims, nor to present Japan's position on the issue, as Tokyo does not recognize the existence of a "dispute" over the islands, but to analyze how strategic factors, as well as ideological and domestic considerations, play a crucial role in the way Taiwan's position has evolved over time, diverging from the extremes of the hyper-nationalist discourse of the PRC, especially since the early 2010s and Xi Jinping's rise to power. After reviewing Taiwan's position on the Senkaku Islands (Diaoyutai) and its evolution, we will analyze external factors, including the evolution of relations between Taipei and Tokyo, the role of the United States, and the positioning of the PRC in this complex game involving four major players in Asia. Finally, we will analyze the ideological dimension, especially since the return of the Democratic Progressive Party (DPP) to power and the election of President Tsai Ing-wen in 2016.

Taiwan and the Senkaku Islands (Diaoyutai): A reminder of the official position

Like the PRC, the ROC has maintained since the early 1970s that the Senkaku Islands (Diaoyutai) are an "inherent" part of its territory for reasons related to history, international law, the geographical location of the islands, and their geological structure. According to their version, the Chinese Empire "discovered" the archipelago in the 14th century, regularly used it as a navigational marker on voyages to the Ryukyu (Okinawa) Kingdom, which paid tribute to the

Ming dynasty, and incorporated the Senkakus into its plans for coastal defense against pirates.¹ Taiwan, like the PRC, does not recognize the position of Japan, which claims to have conducted surveys from 1885 to 1895 before declaring the islets *terra nullius* and incorporating them into the Empire of Japan. The imperial decree of January 14, 1895, which was signed a few months before the signing of the Treaty of Shimonoseki that ended the first Sino-Japanese War, was not made public.² According to Article 2 of the Treaty of Shimonoseki, “the island of Formosa together with the islands belonging to or dependent on the said island of Formosa” were to be ceded to Japan. The Treaty of Shimonoseki, however, was signed on April 17, 1895, three months after the incorporation of the Senkakus into the Japanese Empire during the Sino-Japanese War of 1894–1895.

The Taiwanese position, which links the issue of the Senkaku Islands (Diaoyutai) to the Treaty of Shimonoseki, refers to the Cairo Declaration (December 1, 1943), reaffirmed by the Potsdam Declaration (July 26, 1945), to demand their return. According to the Cairo Declaration: “All territories Japan has stolen from the Chinese such as Manchuria, Formosa and the Pescadores shall be restored to the Republic of China. Japan shall also be expelled from all other territories which she has taken by violence and greed.”³ According to the Potsdam Declaration: “Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.”⁴

After 1945, neither the ROC nor the PRC proclaimed on October 1, 1949 participated in the San Francisco Peace Treaty (1951), but the separate peace treaty signed between Japan and the Republic of China in 1952 nullifies the Treaty of Shimonoseki and declares: “It is recognized that, under Article 2 of the Treaty of Peace which Japan signed at the city of San Francisco on 8 September 1951 (hereinafter referred to as the San Francisco Treaty), Japan has renounced all right, title, and claim to Taiwan (Formosa) and Penghu (the Pescadores) as well as the Spratly Islands and the Paracel Islands.”⁵ However, the Senkaku Islands (Diaoyutai) are not specifically mentioned. According to Taiwanese experts, this omission is explained by the fact that only the territories administratively attached to Taiwan in 1945 were covered by the restitution, as the Diaoyutai/Senkaku Islands had been administratively attached to the village of Ishigaki (Okinawa) by imperial decree on April 1, 1896.⁶

Taiwanese historians emphasize the inability of the weakened Qing Manchu Empire at the end of the 19th century, unlike Meiji Japan in the midst of “Western-style” modernization, to understand and use the rules of international law to define and ensure the integrity of its territory

¹ Vincent Wei-Cheng Wang, “Taiwan’s Policy toward the Diaoyu/Senkaku Islands Disputes and the Implications for the United States,” *Education About Asia*, Association for Asian Studies, vol.19, Number 2, 2014. From 1609, the Ryukyu Kingdom also paid tribute to the shogunate in Japan after being subdued by the Satsuma clan. There is no demonstration in the Chinese argument that there was actual “utilization” of the islands beyond naming a navigation point on the map.

² For example, the International Court of Justice, in a previous arbitration dating from 1931, recognized the sovereignty of France over the islet of Clipperton, although neighboring states were not informed of the French decision; see Kazuhiro Nakatani, “The Senkaku Islands, Takeshima and International Adjudication,” https://www.cas.go.jp/jp/ryodo_eg/kenkyu/assets/pdf/takeshima/column/nakatani01-eg.pdf

³ https://history.state.gov/historicaldocuments/frus1943CairoTehran/pg_448

⁴ <https://history.state.gov/historicaldocuments/frus1945Berlin02/d1382>

⁵ <https://worldjpn.net/documents/texts/docs/19520428.T1E.html>

⁶ [25](https://www.mofa.go.jp/region/asia-paci/senkaku/qa_1010.html#:~:text=Following%20the%20Cabinet%20Decision%20in,the%20jurisdiction%20of%20the%20Governor%2D; Han-yi Shaw, “The Diaoyutai /Senkaku Islands Dispute: Its History and an Analysis of the Ownership Claims of the PRC, ROC, and Japan,” <i>Occasional Papers Reprints Series in Contemporary Asian Studies</i>, November 3, 1999.</p>
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“traditionally recognized in the east Asian world order.”⁷ This reference to an ancient east Asian order to justify Chinese claims to the Diaoyutai/Senkaku raises a fundamental problem in the contemporary world.

The legitimacy of this ancient world order, organized around the supposed centrality of the Chinese Empire, was characterized by inherently unequal hierarchical relations, symbolically manifested in the payment of tribute, between the Chinese Empire and the neighboring states over which its supposedly benevolent suzerainty was to be imposed. There is a school of thought in Beijing that seeks to revive this concept of Tianxia (天下), which is supposedly more “harmonious” than the “Westphalian” Western order (1648 Peace of Westphalia) based on international law and assuming the principle of equality among sovereign states.⁸

In the case of the Diaoyutai/Senkaku Islands, the issue is all the more complex because, unlike the situation that may have prevailed in Vietnam or Korea, the Chinese Empire never exercised effective control over the Diaoyutai/Senkaku Islands. Actually, the reference to tributary relations implies that the entire Ryukyu archipelago (Okinawa) should be “returned” to China as it is the Ryukyu Kingdom that paid tribute to the Chinese Empire from 1372.⁹ The ROC has never articulated this claim and, while the PRC may be tempted to question Okinawa’s affiliation with Japan, especially with a view to destabilizing Japan and its defense alliance with the United States, this is not the official position of the Chinese authorities in Beijing.¹⁰

The Republic of China issued a statement on December 24, 1953, disagreeing with the US interpretation that Japan had “residual” sovereignty over the Amami Islands and the entire Ryukyu archipelago, under direct administration of Washington at that time. Taipei said this contradicted the terms of the Potsdam Declaration, and therefore Japan should not regain possession of the Amami Islands. Despite this opposition, the Amami Islands were handed over to Japanese administration in 1954.¹¹ At the same time, Taiwanese fishermen continued to exploit the waters around the Diaoyutai/Senkaku Islands throughout the period of US administration of Okinawa. According to the ROC, this continued presence of Taiwanese fishermen is the basis of the special geographical and economic relationship between Taiwan and the islands.¹²

However, despite these claims, the ROC’s position on the Diaoyutai/Senkaku Islands between 1945 and the early 1970s, like that of the PRC, was one of indifference.¹³ Prior to the signing of the peace treaty with Japan in 1952, Taipei did not protest the fact that only the territories under Taiwanese administration, i.e., not the Senkaku Islands, had been returned to the ROC. Moreover, as was the case on the mainland, many official publications, maps, atlases and geography books referred to the Senkaku Islands, under that name, as part of Japanese territory until 1972.¹⁴

It was only after the publication of a report by the United Nations Economic Commission for Asia and the Far East (ECAFE) in 1968, which mentioned the possibility of significant hydrocarbon reserves in the East China Sea, that the ROC asserted its claim to the Diaoyutai/Senkaku Islands and gradually developed the above-mentioned arguments. In September 1970,

⁷ Han-yi Shaw, op.cit.

⁸ Zhang Feng, “The Tianxia System, World Order in Chinese Utopia,” *China Heritage Quarterly*, n° 21, March 2010, http://www.chinaheritagequarterly.org/tien-hsia.php?searchterm=021_utopia.inc&issue=021

⁹ Paying tribute was a way to establish very lucrative trade relations with the Ming Empire.

¹⁰ Valérie Niquet, “History and Information Warfare: The Importance of Okinawa in Chinese Strategy,” *Policy Brief*, April 14, 2023.

¹¹ Zhang Feng, op.cit.

¹² Idem

¹³ Han-yi Shaw, op.cit.

¹⁴ https://www2.jiia.or.jp/en/pdf/digital_library/Okuhara_Senkaku.pdf

C. K. Yen, Vice President of the Republic of China, stated: “The ROC is determined to preserve the interests it should have in Diaoyutai,” and the Taiwan Provincial Assembly passed a motion calling for the preservation of Chinese sovereignty over Diaoyutai.¹⁵ In an initial statement issued on June 11, 1971, when the return of Okinawa, including the Senkaku, was the subject of negotiations between Washington and Tokyo, the ROC foreign minister mentioned Taiwan’s claim to the Senkakus based on geological, geographical and historical grounds, but also stated his opposition to the return of the Ryukyu islands to Japan without consulting the ROC.¹⁶ The most comprehensive declaration of sovereignty was issued by the Ministry of Foreign Affairs of the Republic of China on April 3, 2012.¹⁷

The strategic weakening of Taiwan’s position on the international scene

The first and most important crisis between the ROC and Japan took place in the early 1970s and was motivated by two factors: the possible existence of hydrocarbon reserves near the Senkaku Islands and the decision by the United States to return the archipelago to Japan, along with Okinawa, on which it was administratively dependent, without first consulting the Chinese authorities in Taiwan. In February 1971, President Nixon announced his intention to return the Okinawa and Diaoyutai/Senkaku Islands to Japan. The Okinawa reversion agreement was signed in June of that year.¹⁸

At the strategic level, with the Cold War, the Korean War, and then the Vietnam War, Japan’s strategic importance to the United States far outweighed that of Taiwan, particularly after the signing of the Japan-US Security Treaty in 1960.¹⁹ Meanwhile, the PRC, at that time too weak to pose a threat, appeared to American strategists as a possible asset vis-à-vis Moscow and Hanoi. This weakened the ROC’s international position and left it a complex strategic situation to manage. The evolution of the US’s China policy was the main factor. By lifting its opposition, the US made possible the October 1971 passage of UN Resolution 2758 granting permanent Security Council membership to the PRC, and this was followed by Richard Nixon’s trip to Beijing in February 1972 and Japan’s recognition of the PRC the same year.²⁰

Until they were returned to Japan, the Senkaku Islands, like Okinawa, were under American administration, with Japan retaining only residual sovereignty over the entire territory. As President Chiang Kai-shek’s diaries show, Taiwan’s priority at that time was to manage unfavorable developments as best it could, avoiding provoking tensions with Washington and Tokyo in the vain hope of gaining their support for maintaining the ROC’s seat on the UN Security Council. On December 7, 1970, Chiang Kai-shek wrote in his diary: “Regarding the Diaoyutai issue, I should not discuss the sovereignty issue now.” On April 7, 1971, he also wrote: “This cannot be settled by military means. The primary policy of our country is to regain the Chinese

¹⁵ Hsue Hua-yuan 薛化元, 保釣运动的回顾與反思 (Review and Reflection on the Diaoyu Protection Movement), https://www.twcenter.org.tw/thematic_series/history_class/tw_window/e02_20010423, April 23, 2001.

¹⁶ 中華民國外交部關於琉球群島與釣魚台列山與問題的聲明 (Statement by the Ministry of Foreign Affairs of the Republic of China on the Ryukyu Islands and Diaoyutai Issues), https://www.mofa.gov.tw/News_Content.aspx?n=214&sms=57&s=62396, June 11, 1971

¹⁷ 釣魚台列嶼是中華民國的固有領土 (Diaoyutai Islands are the Inherent Territory of the Republic of China), https://www.mofa.gov.tw/News_Content.aspx?n=214&s=62395, April 3, 2012.

¹⁸ Vincent Wei-Cheng Wang, op.cit.

¹⁹ <https://www.mofa.go.jp/region/n-america/us/q&a/ref/1.html>

²⁰ Full diplomatic relations between the United States and the PRC were not established until 1979.

mainland.”²¹

In 1970, ROC foreign minister Wei Tao-ming also declared that US administration of the Diaoyutai Islands was indispensable to the defense of Taiwan and Asia against communism.²² The absence of a clear formal objection by the Taiwanese authorities came against the backdrop of the Cold War and the head-on confrontation between the two Chinas, where the priority was to preserve the United States’ commitment to Taiwan, to avoid creating a rift with Japan—Washington’s ally in the region—and to indulge in the vain hope of preserving the ROC’s diplomatic position at the UN and on the international stage.²³ While Taiwan had not yet begun its democratization process that would eventually increase its soft power and ideological legitimacy among likeminded democracies, the early 1970s were a particularly fragile period for the ROC.

This fragility was also increased with the 保釣 (Baodiao) movement, supported by the PRC to weaken the Taipei regime.

The Baodiao movement and Beijing’s strategy of destabilization

While the ROC was weakened by the strategic decisions of Washington and Tokyo, the PRC was in a position of strength in both the US and Japan. It did not pose a military threat as it was focused on its border with the Soviet Union, and it already appeared to be a potentially huge market. Thus, the priority for Japan was to establish diplomatic relations with the Beijing regime and potentially profitable economic exchanges with the PRC. For the Chinese leadership, obtaining massive loans and aid from Japan, which would contribute greatly to its economic development in the late 1970s, far outweighed the issue of the Senkaku Islands, which Beijing had unofficially agreed in 1978 would be set aside for future generations.²⁴

In fact, the PRC’s claims to the Diaoyutai/Senkaku Islands were expressed only after the ROC had taken a position on the archipelago. On the other hand, in its rivalry with Taipei, the Chinese regime was quick to see the advantages of supporting a nationalist cause that had the potential to unite all Chinese people against a regime—that of the Republic of China in Taiwan—denounced as incapable of defending their interests.

In 1970, at a particularly tense time for the Republic of China, the Baodiao (Protect the Diaoyu) movement began in the United States in communities of Chinese students from Taiwan, Hong Kong, and elsewhere overseas. The objective was to oppose the position of the Taiwanese authorities, who claimed the Diaoyutai/Senkaku Islands but at the same time declared their willingness to develop resources jointly with Japan and South Korea, seemingly recognizing the legitimacy of the Japanese positions. The first student demonstration was held in New York in January 1971 with 1,500 participants, followed by a second demonstration in April of the same year.²⁵ A demonstration was also organized at the National University of Taiwan in June 1971, although it was more cautious due to the martial law that had been in effect on the island since

²¹ In Chiba Akira, “The Reversion of Okinawa as the Origin of the Senkaku Islands Issue, Chiang Kai-shek and his Turbulent Seeds in East Asia,” The OPRI Center of Island Studies, Tokyo, <https://www.spf.org/islandstudies/readings/b00016r.html>, September 27, 2021.

²² Han-yi Shaw, op.cit.

²³ Wu Renbo 吴任博 “再探一九七〇年代初期知保钓运动：中华民国政府之视角”(Reexamining the Diaoyutai Movement in the Early 70s: Perspectives from the Government of the Republic of China), <https://www.airitilibrary.com/Article/Detail/10277641-201106-201201110017-201201110017-134-175>, June 2011.

²⁴ Japan-China Summit Meeting, Deng Xiaoping: “As I expressed this to Minister for Foreign Affairs Sonoda in Beijing, there’s probably insufficient wisdom to resolve the issue in our generation but, with the next generation likely to be savvier than us, they will probably be able to find some resolution to the issue.” https://www.mofa.go.jp/region/asia-paci/senkaku/qa_1010.html#q15

²⁵ Han Cheung, “Taiwan in Time: A Tale of Two Protests over Specks of Land,” *Taipei Times*, April 7, 2019.

1949 and was still in force.²⁶ Despite the “patriotic” nature of the demonstrations, these first demonstrations organized on the island since the imposition of martial law were not supported by the Taipei authorities. The Baodiao movement was also a means of demonstrating opposition to the Kuomintang dictatorship under Chiang Kai-shek. The demonstrations at Taipei University were the first organized on the island since the repression of 1948. At the National University of Taiwan, a banner echoed a Nationalist student slogan from May 4, 1919, declaring, “You can conquer Chinese territory, but you cannot give it away.”²⁷

In this alleged reference to the May 4 Movement, the demonstrators denounced the weakness of the Nationalist government, which was incapable of protecting Chinese territory. They also denounced “US and Japanese imperialism.”²⁸ The “Declaration on the Defense of Diaoyutai Chinese Territory” issued at the January 1971 rally in New York directly condemned the revival of “Japanese militarism” and the “US conspiracy” in support of the Japanese prime minister, and rejected any plans for joint development with Japan and the Republic of Korea.²⁹

Beyond the issue of the Diaoyutai/Senkaku Islands and their reversion to Japan, the dimension of Taiwan’s relations with the PRC was of course predominant. Against the backdrop of the debate over whether the PRC should be admitted to the UN in place of the ROC, the demonstrators, encouraged by Beijing, denounced the inability of Taiwan’s authorities to defend China’s territorial integrity and thus questioned their legitimacy.³⁰ Then, as now, the PRC used “united front” tactics to mobilize all components of the Chinese communities in Taiwan, Hong Kong, and overseas Chinese to try to undermine the Taiwanese authorities’ legitimacy.³¹ This targeting of American imperialism and Japanese “militarism” also took place against the backdrop of the Vietnam War. In his diary on April 17, 1971, Chiang Kai-shek denounced this: “The Communist forces are provoking young students to rise up against the US and Japan. Bandit spies are manipulating these developments under the pretext of Diaoyutai.”³² The last demonstration of the Baodiao movement took place on May 17, 1972, after which the movement lost momentum, not least because the PRC’s priority at the time was instead to strengthen its ties with Japan, which established diplomatic relations with Beijing in 1972, and receive valuable economic assistance from Tokyo after years of chaos under Mao Zedong’s leadership, the Great Leap Forward and the Cultural Revolution.

For their part, the Taiwanese authorities, who no longer had official diplomatic relations with Tokyo, did not give up their claims to the Diaoyutai. Several “crises” occurred in 1990, 1996, and especially in 2012, under the presidency of Ma Ying-jeou (KMT), a former activist of the Baodiao movement, who joined Beijing in denouncing the Japanese government’s purchase of three islets in the archipelago from their private owner on September 11, 2012.

On September 24, 2012, a large flotilla of Taiwanese fishing boats attempted to land on the islands, backed by eight Taiwanese Coast Guard patrol boats that used their water cannons against Japan Coast Guard vessels, while Chinese vessels were positioned at the outer limit

²⁶ Martial law in Taiwan was not lifted until 1987.

²⁷ Both intellectual and political in nature, the May 4 Movement in 1919 saw demonstrations by Chinese students against the attribution by the Treaty of Versailles of the German possessions of Shandong to Japan. China and Japan were among the Allied Powers.

²⁸ Han Cheung, *op.cit.*

²⁹ Wu Renbo, *op.cit.*

³⁰ Duan Xiaolin, “China’s Strategic Thinking on the Diaoyu/Senkaku Island Dispute,” <https://www.e-ir.info/2022/06/26/chinas-strategic-thinking-on-the-diaoyu-senkaku-island-dispute/>, June 26, 2022.

³¹ Hsue Hua-yuan, *op.cit.*

³² Chiba Akira, *op.cit.*

of Japanese territorial waters in what appeared to be a concerted operation.³³ In 1990, the mayor of Kaohsiung, Wu Tun-yi, attempted to disembark on the Senkaku Islands to protest the Japanese Maritime Safety Agency's decision to use a lighthouse erected by a Japanese nationalist movement on the Diaoyutai/Senkaku Islands as an official navigation marker. Similarly, in 1996, groups from Taiwan and Hong Kong attempted to disembark on the Diaoyutai/Senkaku Islands, primarily to protest Japan's ratification of the UN Convention on the Law of the Sea, which established an exclusive economic zone (EEZ) that included the Senkakus, effectively excluding Taiwanese fishermen from their traditional fishing grounds.³⁴ In reality, though, despite the crises in 2012 and earlier, the Diaoyutai/Senkaku Islands issue had been losing importance for the Taiwanese people and their political representatives since the mid-1990s and the successful conclusion of Taiwan's democratization process with the first direct election of the President of the Republic in 1996.³⁵ In 2012, the Apple Daily newspaper noted that the population of a democratic Taiwan is not willing to display "fanatical anti-Japanese" sentiments, in contrast to the very violent demonstrations organized in Beijing against Japanese interests following Tokyo's "nationalization" of the islands.³⁶ Since Xi Jinping came to power in 2013, pro-PRC opinion in Taiwan has plummeted, while at the same time Japan—a former colonial power that played an important role in shaping Taiwanese identity—enjoys a more favorable image. Tokyo and Taipei face the same aggressive gray-zone strategy and constant pressure from the PRC, and their analyses of the Chinese threat are converging. For Japan, stability in the Taiwan Strait and the non-use of force to change the status quo are at the core of its Free and Open Indo-Pacific (FOIP) strategy.

In August 2022, during military exercises organized by Beijing around Taiwan to prevent a visit to the island by US House Speaker Nancy Pelosi, five missiles were fired into Japan's exclusive economic zone off Okinawa as a direct warning to Tokyo, on the front line in the event of military action against Taiwan. Yonaguni lies 108 km off the coast of Taiwan, and Okinawa is home to the largest American bases in the archipelago and in Asia.

Beijing's strategy of pressure and destabilization also includes the Senkaku Islands, as China maintains a quasi-permanent presence in the waters around the archipelago, with occasionally prolonged incursions into its territorial waters. Moreover, the Senkaku Islands are covered by Article 5 of the Japan-US Security Treaty, which covers all territories "administered by Japan," as publicly reaffirmed by all US presidents since Barack Obama in 2014.

As a testimony to this strategic proximity between Taipei and Tokyo, the 2024 edition of the Taiwanese Foreign Minister's annual report, as in previous editions and in contrast with the PRC's posture regarding Japan, underscores the "stability and cordiality of relations between Japan and Taiwan" and the intensity of exchanges involving former prime ministers, vice-ministers and

³³ Dennis V. Hickey, "Taiwan and the Rising Tensions in the East China Sea: A Mouse that Roared," *Asian Survey*, 2014 (3), <https://online.ucpress.edu/as/article-abstract/54/3/492/24732/Taiwan-and-the-Rising-Tensions-in-the-East-China?redirectedFrom=fulltext>

³⁴ Han-yi Shaw, op.cit.

³⁵ Duan Xiaolin, op.cit. and Dennis V. Hickey, op.cit.

³⁶ Boyu Chen, San-Yih Hwang, "Senkaku/Diaoyu islands dispute and Taiwan's netizens' sentiments toward China and Japan," *East Asia*, <https://link.springer.com/article/10.1007/s12140-015-9245-3>, August 13, 2015.

parliamentarians.”³⁷

Conclusion: The Diaoyutai/Senkaku issue and Taiwan’s identity

The ROC’s claims to the Diaoyutai/Senkaku archipelago date back to 1970, as do those of the PRC, which followed the Taiwanese initiative and the Baodiao student movement to challenge Taiwan’s legitimacy and strategic ties with Japan and the United States. While the Chinese and Taiwanese claims are based on the same arguments, the Taiwanese authorities have always been more moderate in their demands. Before his death in 1975, Chiang Kai-shek’s priority was to regain the mainland and fight communism. In the context of the Sino-American rapprochement, it was also a matter of trying to save the ROC’s representation at the UN and then to maintain relations with Washington. For its part, Japan, whose business community wanted closer ties with the PRC for economic reasons and which was surprised by Richard Nixon’s visit to Beijing in February 1972, established diplomatic relations with Beijing on September 29, 1972, effectively severing all diplomatic ties with Taiwan.

In Taiwan, the Kuomintang did implement a more assertive strategy on the Diaoyutai/Senkaku issue in line with Beijing’s own. However, the democratization process that the island has undergone has fundamentally changed the ROC’s position on the Diaoyutai/Senkaku issue. The DPP, traditionally supporting a pro-Taiwanese independence stance, has historically emphasized Taiwan’s separate identity from the PRC, including on the issue of the Diaoyutai/Senkaku Islands. It advocates for a peaceful resolution to the Diaoyutai/Senkaku issue. Such an approach endeavors to balance not abandoning Taiwan’s claims while avoiding escalation into conflict. The party also seeks to leverage such issues to underscore Taiwan’s role and significance in regional security affairs and its specificity as a democratic regime in dealing with territorial issues. In 2016, President Tsai Ing-wen stated in her inaugural address that, as the elected president of the Republic of China, she must protect its territorial integrity and sovereignty in accordance with its constitution, but she also proposed setting aside disputes to allow for common development. As the ROC’s head of state, Tsai Ing-wen, like her predecessors, cannot give up her claims to the Diaoyutai/Senkaku Islands.³⁸ To do so would risk provoking a reaction from Beijing, which would see such a “renunciation” as a demonstration of Taiwan’s independence, just as it would see a decision by the Taipei authorities to abandon the name “Republic of China” in favor of “Taiwan.”³⁹ In his inaugural address on May 20, 2024, newly-elected President Lai Ching-te used the term “Republic of China/Taiwan,” but made no mention of the Diaoyutai/Senkaku archipelago. Internal politics and the different posture of the Kuomintang on the issue of Taiwan identity is another factor, particularly since the legislative elections in 2024 did not give a majority to the DPP.

As early as 1996, Lee Teng-hui, the first president to be elected by universal suffrage and a member of the nationalist Kuomintang party but a native of the island (本省人), laid the groundwork for a peaceful resolution of the Diaoyutai/Senkaku issue with Japan. It was on this basis that President Ma Ying-jeou, a supporter of the one-China principle, launched his East China Sea Peace Initiative 16 years later but with one difference: while Lee Teng-hui rejected any

³⁷ “Report by Jaushieh Joseph Wu, Minister of Foreign Affairs of the Republic of China at the Foreign and National Defense Committee of the Legislative Yuan,” <https://www.google.com/search?q=report+by+Jaushieh+Joseph+Wu%2C+minister+of+foreign+affairs+of+the+republic+of+China+at+the+foreign+national+committee+of+the+legislative+yuan&oq=report+by+Jaushieh+Joseph+Wu%2C+minister+of+foreign+affairs+of+the+republic+of+China+at+the+foreign+national+committee+of+the+legislative+yuan%2%A0&qs=chrome..69i57.4037j0j15&sourceid=chrome&ie=UTF-8>, March 20, 2024.

³⁸ <https://english.president.gov.tw/News/4893>

³⁹ Interviews, Taipei, April 2024.

agreement with the PRC on how to handle the Diaoyutai/Senkaku issue, Ma Ying-jeou's proposal made no mention of this dimension.

Beyond the strategic stakes and the desire to maintain good relations with Japan and the United States, the role of public opinion in a democracy such as Taiwan has become essential in the evolution of the authorities' position on the Diaoyutai/Senkaku issue.⁴⁰ While the anti-Japanese nationalist dimension has become increasingly important in the PRC and serves as a legitimizing factor for a regime that rejects any possibility of political evolution, this dimension is much less important in Taiwan, although it is sometimes taken up in the context of internal political games by the KMT or the political parties most favorable to China. Thus, the PRC systematically denounces any agreement between Tokyo and Taipei, such as the 2013 agreement on fishing zones. Taipei has been accused of selling out China's interests and using the Diaoyutai/Senkaku issue to establish itself as an autonomous actor. Japan, for its part, has been criticized by the Chinese authorities for fueling this ambition by signing an agreement directly with the Taiwanese authorities.⁴¹

Conversely, the dimension of Taiwanese identity based on the principle of shared democratic values and a growing hostility to the PRC and the threat of unification is also expressed in the Taiwanese people's indifference to the Diaoyutai/Senkaku issue and the absence of anti-Japanese nationalism in the handling of this issue by both the Taiwanese authorities and the media, including social networks. For some supporters of Taiwanese independence, the claim to the Diaoyutai/Senkaku Islands is tantamount to an objectionable recognition that Taiwan belongs to China, sharing the same positions—and the same historical arguments dating back to the Ming and Qing dynasties—and thus denying its identity and specific interests. In these respects, Taiwan has entered the camp of the major European liberal democracies, for whom territorial issues have become essentially residual, at least in public opinion.⁴²

⁴⁰ Chang Yu-Che, *Influence of Domestic Politics on the Making of Foreign Policy: A Case Study on Taiwan Regarding the Diaoyutai/Senkaku Islands Dispute*, Master's Thesis, Ritsumeikan Asia Pacific University, September 2018.

⁴¹ Reuters, "China Angers as Taiwan Japan Sign Fishing Agreement," <https://www.reuters.com/article/idUSBRE939097/>, April 10, 2013.

⁴² Valérie Niquet, "Territorial Conflicts in Europe, Possible Lessons for Japan?," *Japan Review*, Vol 6, N° 1, 2023.

Legal Sanction and Emerging Tenets of Territorial Lawfare: A Case Study of the Sea of Japan's Nomenclature

Monika Chansoria*

Abstract

This paper delves into details of the arguments surrounding the nomenclature “Sea of Japan” which has been a source of contention between Japan, South Korea, and North Korea. Beginning with analyzing the early origins of the nomenclature, the paper includes studying various surveys of global antiquarian maps and international references to the “Sea of Japan.” While usage of the term “Sea of Japan” in no way implies an opinion regarding issues pertaining sovereignty, the manner in which nations with revisionist tendencies are developing lawfare strategies in the broader sense and context for strengthening their territorial claims remains concerning, including the recent trends of employing lawfare for territorial entitlement.

The nomenclature “Sea of Japan” has been a source of contention among South Korea, North Korea, and Japan. The dispute emanates over the accepted international name of the water body bordered by Japan, Korea (North and South) and Russia. While Japan advocates exclusively for use of the name “Sea of Japan” (日本海), South Korea supports the alternative name “East Sea” (동해), and the North Korean claim favors exclusive use of ‘Korean East Sea’ or ‘East Sea of Korea’ (조선동해).

While South Korea has been raising the allegation that the term “Sea of Japan” was established when Japan colonized the Korean Peninsula, making it an ‘imperialistic term’ that should be abolished, Japan counters this argument by asserting that the term “Sea of Japan” was established before the colonization of the Korean Peninsula and so has no threads binding it to imperialism. The genesis of this disputation can be traced back to 1992 when objections to the name “Sea of Japan” were first raised by North Korea and South Korea at the Sixth United Nations (UN) Conference on the Standardization of Geographical Names.¹ In 1992, South Korea put claim to the name ‘East Sea’ during its participation in this UN Conference.² While the United Nations has never directly addressed the issue of establishing an official standardized name for the sea, several resolutions and statements by the UN have had relevance to the topic. Japan joined the United Nations in 1956, while South and North Korea both joined it in 1991.

In 1977, the Third UN Conference on the Standardization of Geographical Names (UNCSSGN) adopted Resolution III/20, entitled “Names of Features beyond a Single Sovereignty.” The resolution recommended that, when countries sharing a given geographical feature do not agree on a common name, it should be a general rule of cartography that the names used by each of the countries concerned be accepted. A policy of accepting only one or some of such names

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¹ For details, and related references see, *The Issue of the Name of the Sea of Japan*, Ministry of Foreign Affairs of Japan, February 7, 2017, available at <https://www.mofa.go.jp/policy/maritime/japan/index.html>

² “[East Sea (1)] East Sea/Sea of Japan, what is the problem,” *The Korea Herald*, May 23, 2010, available at <https://www.koreaherald.com/view.php?ud=20100520000904>

while excluding the rest would be inconsistent as well as inexpedient in practice. As with the International Hydrographic Organization's (IHO) Technical Resolution A.4.2.6, Japan and South Korea disagree about whether this policy applies to the Sea of Japan.³ In April 2004, the United Nations affirmed in a written document to the Japanese government that it will continue using the name "Sea of Japan" in all its official documents stating "The use of an appellation by the Secretariat based on the practice is without prejudice to any negotiations or agreements between the interested parties and should not be interpreted as advocating or endorsing any party's position, and can in no way be invoked by any party in support of a particular position in the matter."⁴

It has been observed that international maps and documents predominantly use the name "Sea of Japan" (or its equivalent translation). Alternatively, both "Sea of Japan" and 'East Sea' are used, with 'East Sea' listed in parentheses (marked as a secondary name). Geographically speaking, the marginal "Sea of Japan" is separated from the Pacific Ocean by the Japanese archipelago. In November 2006, during the Asia-Pacific Economic Cooperation (APEC) summit in Hanoi, South Korean President Roh Moo-hyun informally proposed to Japanese Prime Minister Shinzō Abe that the sea in question instead be called the 'Sea of Peace' or 'Sea of Friendship'— a proposal that was rejected nearly instantaneously by Abe. Subsequently, in January 2007, Japan's Chief Cabinet Secretary Yasuhisa Shiozaki opposed the idea on record, arguing that there was no need to change the name of the Sea of Japan.⁵

As per the International Hydrographic Organization, the principal governing body for the naming of water bodies around the world, it was decided in 2012 that the 1953 version of its publication *S-23-Limits of Oceans and Seas*, which includes only the single name "Sea of Japan" will remain, and has not been revised.⁶ In fact, *Limits of Oceans and Seas* has consistently used the name "Sea of Japan" (or 'Japan Sea') as the name for the concerned sea area since its first published edition in 1928. Japan did not participate in the process of the establishment of this name. In addition, Japan did not undertake any kind of *démarche* to have the name "Sea of Japan" put in the first edition of *Limits of Oceans and Seas*. Japan's delegation made the following remark which was recorded in the minutes of the first Supplementary International Hydrographic Conference in April 1929:

Japanese Delegates had objected to the proposal submitted to the previous Conference of 1926, since it was rather a political and diplomatic question and exceed the scope of the Conference. Nevertheless, the Japanese Delegation was in favor of a delimitation of the seas

³ For further details see, *Sea of Japan: The One and Only Name Familiar to the International Community*, Ministry of Foreign Affairs of Japan, February 2009, available at <https://www.mofa.go.jp/files/000080252.pdf>

⁴ As cited in, "The Policy of the United Nations Concerning the Naming of Sea of Japan," June 2004, available at <https://www.mofa.go.jp/policy/maritime/japan/un0406.html>; also see, *The Issue of the Name of the Sea of Japan*, n. 1.

⁵ "Shiozaki: No need to change name of Sea of Japan," *The Japan Times*, January 10, 2007, available at <https://www.japantimes.co.jp/news/2007/01/10/national/shiozaki-no-need-to-change-name-of-sea-of-japan/>

⁶ "Sea of Japan name dispute rolls on," *The Japan Times*, May 3, 2012, available at <https://www.japantimes.co.jp/news/2012/05/03/national/sea-of-japan-name-dispute-rolls-on/>; also see, Jon Rabirot, "Agency rejects South Korea's request to rename Sea of Japan," *Stars and Stripes*, April 27, 2012, available at https://www.stripes.com/theaters/asia_pacific/agency-rejects-south-korea-s-request-to-rename-sea-of-japan-1.migrated; and for additional reading and references on the subject of geographical maps in territorial disputes between Japan and South Korea, see, Arnon Medzini, "The Role of Geographical Maps in Territorial Disputes between Japan and Korea," *European Journal of Geography*, vol. 8, no. 1, pp. 44–60, February 2017.

after due study of the problem in accordance with the guiding principles laid down by the Bureau.

What emerged is that, if Japan had any intention to actively propagate the name “Sea of Japan” (or ‘Japan Sea’) worldwide, it would not have had any concern about the political and diplomatic problems regarding the names and limits of seas as such, nor objected even temporarily to a proposal to prepare guidelines.⁷

Early Origins of the Nomenclature

In the map *Kunyu Wanguo Quantu*, drawn up in 1602 by an Italian missionary priest of the Jesuit Order, Matteo Ricci, more than 400 years ago, the “Sea of Japan” was written in *kanji*. This world map is the oldest extant map describing the sea area between Eurasia and the Japanese islands using the term “Sea of Japan.”⁸ The missionary spread the term “Sea of Japan” to Europe with a new awareness of geographical features. It is said that the copy of *Kunyu Wanguo Quantu* sent by Ricci is kept in the Vatican Library. In addition, maps and books written in European languages by those connected with the Society of Jesus were circulated, and maps with the term “Sea of Japan” began to be drawn in Europe based on them.⁹

Of these maps still in existence, the term “Sea of Japan” was first adopted by Christopherus Blancus, who made a map of Japan in 1617. After that, the term ‘North Sea of Japan’ was adopted by Sir Robert Dudley in 1646, while the term “Sea of Japan” was adopted by Vincenzo Maria Coronelli in 1690 and subsequently by Nicolaas Witsen in 1692. These terms gradually started to gain currency in the 17th and 18th centuries respectively. From the end of the 18th century onward, the name of this sea area began to be standardized as the “Sea of Japan.”¹⁰ In the late 18th century, considerable improvements to surveying technology such as the invention of the chronometer (a watch to measure correct time on the sea) enabled the measurement of longitude with high precision and became indispensable for accurate surveying.¹¹ Further surveys into the Sea of Japan (Japan Sea) were successively conducted by European cartographers, explorers, and navigators. By the beginning of the 19th century, the name “Sea of Japan” (Japan Sea) became established internationally as the name indicating this sea area.

In Japan the term “Sea of Japan” was not established right away. The term was first used in Japan in 1802 when Saisuke Yamamura, a scholar who specialized in Western sciences by means of the Dutch language, made a map attached to a revised *Sairan Igen*, a form of geographic documentation. After that, the term “Sea of Japan” eventually started to be used mostly in maps for the study of Western sciences in Dutch. This trend resulted from the widespread adoption of the term “Sea of Japan” in Western maps drawn from the end of the 18th century onward.¹²

⁷ For further details and references see, “The name - Sea of Japan (Japan Sea),” Hydrographic and Oceanographic Department, Japan Coast Guard, available at https://www1.kaiho.mlit.go.jp/nihonkai/index_eng.html

⁸ As per Hiroo Aoyama, Associate Professor, National Museum of Japanese History, “The History of the Name of the Sea of Japan,” Selected Papers, *Ship and Ocean Newsletter*, No. 55, Ocean Policy Research Foundation, November 20, 2002.

⁹ Ibid.

¹⁰ Ibid.

¹¹ For related and further details see, *Voyage Round the World in the Years 1803, 1804, 1805, and 1806*, (Published by Facsimile Publishers).

¹² Aoyama, n. 8.

Japanese and South Korean Positions on the Issue

The involved countries (especially Japan and South Korea) have put forth many arguments in support of their stance on this issue. The South Korean argument primarily revolves around history, asserting that the more common name was 'East Sea,' 'Sea of Korea,' or a similar variant. On the other hand, Japan argues that the name "Sea of Japan" has been the most cited international name of the water body since at least the beginning of the 19th century. Importantly, this long period precedes the annexation of Korea that South Korea often uses as a reference timeline. South Korea argues that the name 'Donghae' (동해 , literally "East Sea") has been used in Korea for over 2000 years, including in *History of the Three Kingdoms*¹³ (1145), on the monument of King Gwanggaeto, and in the *Map of Eight Provinces of Korea* (八道總圖 , 1530). The South Korean argument is that the current name reflects active promotion by Japan at a time when Korea could not represent its interests internationally, and that no standard name existed prior to Japan's military expansion in the region.¹⁴

On the other hand, successive Japanese governments have claimed that the name "Sea of Japan" has been used internationally since the 17th century, only to become established by the early 19th century – the period (1639–1853) during which Japan was following the Tokugawa shogunate's isolationist policy of *Sakoku*. Seeking almost complete isolation from the rest of the world, the shogunate during the *Sakoku* phase primarily restricted any cultural exchange and commerce with foreign countries except China and the Netherlands until 1854.¹⁵ Consequently, Japan could not have cast any influence on the international community at that time regarding the naming of the sea, contrary to what South Korea tends to base its argument on.

In the late 18th century, the invention of the marine chronometer enabled Western explorers from France, Britain, and Russia to measure time and longitudes on the sea precisely, and map the detailed shape of the Sea of Japan.¹⁶ Adam Johann von Krusenstern, a Baltic German admiral of the Russian Empire and the explorer who led the first Russian circumnavigation of the Earth in 1803–1806, popularized the name "Mer du Japon" (literally, *Sea of Japan*) across the West. Chronicled in von Krusenstern's 1812 work *Reise um die Welt in den Jahren* (1812) it was cited, "... People also call this sea area the Sea of Korea, but because only a small part of this sea touches the Korean coast, it is better to name it the Sea of Japan."¹⁷ This original book was published in St. Petersburg in German and Russian, and then translated into Dutch, French, Swedish, Italian and English for wider distribution throughout Europe.¹⁸ Consequently, the international name of the sea was established as the "Sea of Japan" and named so in multiple kinds of maps drawn by countries other than Japan/Korea stretching between the 17th and 20th centuries.¹⁹

According to the Japan's Hydrographic and Oceanographic Department of the Japan Coast Guard, the name 'East Sea' is ill-suited as an international geographic name because the local

¹³ "The history of the name Donghae (*Tokai*) goes back 2000 years? Korea is said to have originated 2000 years ago," *Korea World Times*, November 23, 2020, available at <https://www.koreaworldtimes.com/topics/news/8195/>

¹⁴ United Nations, Group of Experts on Geographical Names, *Information Paper*, no. 10, Twentieth Session, January 17–28, 2000, available at https://unstats.un.org/unsd/geoinfo/ungegn/docs/20th-gegn-docs/20th_gegn_INF10.pdf

¹⁵ *The Issue of the Name of the Sea of Japan (Study in the Russian Federation)*, Ministry of Foreign Affairs of Japan, available at <https://www.mofa.go.jp/policy/maritime/japan/study-6.html>; for additional details and references see, Hydrographic and Oceanographic Department, Japan Coast Guard, n. 7.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

name for a variety of seas can be translated into English as ‘East Sea,’ e.g., the Government of Vietnam uses ‘East Sea’ for the South China Sea in its English-language publications. Likewise, the Ministry of Foreign Affairs of China uses ‘East Sea’ for the East China Sea in its English-language publications. For that matter, even within Japan itself, the term ‘East Sea’ (東海, *Tōkai*) is used to refer to the parts of the Pacific Ocean lying east of middle and upper Honshu (seen in the naming of the Tōkaidō route and the Tōkai region).²⁰

Surveys of Global Antiquarian Maps

Both Japan and South Korea have conducted antiquarian map studies on the subject. The underlying geography of the sea has also been employed to put forth additional arguments. From 2003 to 2008, Japan conducted several surveys of different collections and published its conclusions in 2010. Exhaustive comparative analysis showed that, among 1,332 maps from the Berlin Library, 279 used ‘Sea of Korea,’ ‘Oriental Sea,’ or ‘East Sea’ (or a combination thereof); 579 exclusively used “Sea of Japan”; 47 used ‘China Sea’ (with or without other names); 33 used another term; and 384 used no term at all.²¹

Out of 79 maps in the Struck Collection, (a collection of antiquarian maps owned by a European map collector)²², 35 used “Sea of Japan,” nine used ‘Sea of Korea,’ two used ‘Oriental Sea’ and 33 were unmarked.²³ Further, antiquarian map research reveals that, among four Russian libraries and document archives holding 51 maps, 29 used “Sea of Japan,” eight used ‘Sea of Korea,’ one used ‘Korea Strait,’ one used ‘East Sea,’ one used ‘Sea of China,’ and 11 used no name.²⁴ Among 1,213 maps surveyed from the US Library of Congress, this water body was named ‘Sea of Japan’ in 87 percent of the maps; eight percent used ‘Sea of Korea’; five percent used other terms; and none used either ‘Oriental Sea’ or the ‘East Sea.’²⁵ Similarly, 86 percent of the 58 maps from the British Library and the University of Cambridge examined used the name “Sea of Japan,” 14 percent used ‘Sea of Korea,’ and none used ‘Oriental Sea,’ ‘East Sea,’ or other terms.²⁶ A survey of 215 maps published in the 19th century in the French National Library revealed that 95 percent of 204 French maps used the term “Sea of Japan.”²⁷

In November 2007, the National Geographic Information Institute of South Korea published a report on a survey of 400 ancient maps. According to the report, nine maps used ‘East Sea’ for the water body that is predominantly referred to as the “Sea of Japan” while 31 maps used ‘East Sea’ for the water body currently called the ‘East China Sea.’ Conspicuously, however, the number of maps using “Sea of Japan” has not been disclosed, thereby casting a serious cloud over the credibility and veracity of the South Korean institute’s findings. That aside, the report states, “*In the late 18th century (1790–1830) the name Sea of Japan emerged... From the 19th century (1830 onward), there was a rapid increase in the use of the name Sea of Japan.*” In a way, South Korea seemingly is contradicting its own assertions on the subject and wavering in its position/

²⁰ Ibid.

²¹ *The Issue of the Name of the Sea of Japan (Study in Germany)*, Ministry of Foreign Affairs of Japan, available at <https://www.mofa.go.jp/policy/maritime/japan/study-7f.html>

²² For further references and reading see, James R. Akerman, “A View from America: Map Collecting, ‘Treasure-House’ Libraries, and American Civic Influences on the History of Cartography,” *Imago Mundi*, [People, Places, and Ideas, in the History of Cartography: Supplement] vol. 66, pp. 21-43, 2014.

²³ *The Issue of the Naming of the Sea of Japan*, n. 21.

²⁴ *The Issue of the Naming of the Sea of Japan*, n. 15.

²⁵ For details see, *Sea of Japan*, n. 3.

²⁶ Ibid.

²⁷ Ibid.

arguments.²⁸

International References to and Acceptance of “Sea of Japan”

The International Hydrographic Organization coordinates any and all hydrographic issues between its member-nations.²⁹ A key function of the organization is to standardize delineation of nautical regions. In 1929, the organization (then known as the International Hydrographic Bureau) published *Edition I* of “IHO Special Publication 23” (IHO SP 23) – *Limits of Oceans and Seas*. This edition included the limits of the sea area between the Korean Peninsula and Japan, and the name “Sea of Japan.” In fact, the name “Sea of Japan” remained in the subsequent editions too, including *Edition III* of S-23 published in 1953.³⁰ In 1974, IHO released a Technical Resolution A.4.2.6. which stated:

It is recommended that where two or more countries share a given geographical feature (such as a bay, a strait, channel, or archipelago) under different names, they should endeavor to reach agreement on a single name for the feature concerned. If they have different official languages and cannot agree on a common name form, it is recommended that the name forms of each of the languages in question should be accepted for charts and publications unless technical reasons prevent this practice on small scale charts.

Japan argued that the resolution does not apply to the “Sea of Japan” because it does not specify this body of water and only applies to geographical features for which sovereignty is shared between two or more countries.³¹ In 2011, the IHO agreed to conduct a survey of available evidence. In April 2012, after several attempts over many years to revise the 1953 edition of S-23 – *Limits of Oceans and Seas*, the IHO Member States decided that it was not possible to make progress with a revision. As a result, only “Sea of Japan” continued to appear in S-23.

Further, Russia refers to the sea as “Япо́нское мо́ре” (*Yapónskoye more*; Japanese Sea). China exclusively uses the name 日本海 (*riběnhǎi*; Japan Sea). In 2003, the French Defense Ministry issued nautical maps which included both “Sea of Japan” and ‘East Sea’; however, it reverted to using “Sea of Japan” exclusively in the map issued in 2004. Further, the United Kingdom and Germany officially use the term “Sea of Japan.” The United States Board on Geographic Names (BGN) continues to advocate the use of “Sea of Japan,” and *The World Factbook* published by the US Central Intelligence Agency (CIA) follows the BGN’s guidance. In August 2011, a spokesperson for the United States Department of State stated that the US BGN considered the official name of the sea to be “Sea of Japan.”³² In the following year [June 2012] US Assistant Secretary of State for East Asian and Pacific Affairs Kurt M. Campbell affirmed the BGN’s position concerning the usage of “Sea of Japan.” Campbell stated, “It is longstanding United States policy to refer to each sea or ocean by a single name. This policy applies to all seas,

²⁸ *The Issue of the Name of the Sea of Japan*, n. 1.

²⁹ The International Hydrographic Organization is headquartered in Monaco and is an intergovernmental organization that works to ensure all the world’s seas, oceans and navigable waters are surveyed and charted. Established in 1921, it coordinates activities of national hydrographic offices and promotes uniformity in nautical charts and documents. It issues survey best practices, provides guidelines to maximize the use of hydrographic survey data and develops hydrographic capabilities in Member States; for details see, <https://iho.int/en/>

³⁰ “East or Sea of Japan,” *IHO Special Publication*, no. 23, Korea Hydrographic and Oceanographic Administration, 2004.

³¹ For details see, *Sea of Japan*, n. 3.

³² “Sea of Japan is the official name, not East Sea: U.S.,” Jiji Press cited in *The Japan Times*, August 10, 2011.

including those bordered by multiple countries that may each have their own names for such bodies of water. Concerning the body of water between the Japanese archipelago and the Korean Peninsula, the longstanding US policy is to refer to it as the “Sea of Japan.”³³

The *Manual of Style* of the National Geographic Society states that, in cases of disputed placenames for international waters or waters jointly controlled by two or more countries, the conventional name should be used first, with other names following in parentheses.³⁴ As such, their policy on this sea states, “The internationally accepted name is *Sea of Japan*, although Korea prefers *East Sea*. When scale permits, geographic maps show the alternative name *East Sea in parentheses after Sea of Japan*.”³⁵ Most encyclopedias using a similar pattern, including *Microsoft Encarta* and the *Columbia Electronic Encyclopedia*. In the 2007 edition of *Encyclopedia Britannica*, the primary article is called “Sea of Japan,” while a secondary article called ‘East Sea’ notes “see Japan, Sea of...” On that encyclopedia’s map of Japan and other Asian maps, the “Sea of Japan” appears as the primary label, and ‘East Sea’ appears as a secondary label in parentheses. Moreover, hydrographic authorities of the UK (since 1863), the US (since 1854), Russia, and France (since they began publishing nautical charts of the sea area around the Sea of Japan (Japan Sea)) have solely used “Sea of Japan” (Japan Sea) in their nautical charts to represent this sea area since their first edition.

Employing Lawfare for Territorial Claims: The Contemporary Strategy

Legal warfare, also referred to as lawfare, is a broader strategy/means by which nations undertake churning out of new laws domestically to serve their territorial claims externally/internationally. Backed by military stealth, employing these legal tactics has become instrumental in attempting to win favorable settlement terms in existential territorial disputes across Asia. The goal of waging lawfare is not simply to exploit the compliance of global players with the international rule of law but is in fact to weaken their legitimacy.³⁶ The objective is to forestall the need for kinetic conflict and to control the narrative of the dispute/conflict. In military-speak, these states may be said to be engaging in legal preparation of the battlefield, setting the conditions under which they will negotiate for peace—or go to war.³⁷

Lawfare as a subject was extensively debated in a 2001 paper titled *Law and Military Interventions: Preserving Humanitarian Values in 21st Conflicts*.³⁸ The paper cited “lawfare” as a term which identifies the use of law as a weapon of war as the newest feature of 21st century combat. The direction and momentum of nations’ application of their legislative systems suggest they are heading on a course wherein, if international law is to remain a viable force for good in

³³ For details see, Kurt Cambell, “Response to We the People Petition on the Sea of Japan Naming Issue,” The White House, [President Obama Archives], June 29, 2012, available at <https://obamawhitehouse.archives.gov/blog/2012/06/29/response-we-people-petition-sea-japan-naming-issue>

³⁴ For additional reading see, “Place Names and the Manual of Style,” by the National Geographic Society.

³⁵ Ibid.

³⁶ For further details see, Jill I. Goldenziel, “Law as a Battlefield: The US, China, and the Global Escalation of Lawfare,” *Cornell Law Review*, vol. 106, no. 5, October 2021, p. 1088; for more about lawfare see, Orde F. Kittrie, *Lawfare: Law as a Weapon of War*, (New York: Oxford University Press, 2016), pp. 172-173.

³⁷ As per the US Army *Field Manual*; Intelligence Preparation of the Battlefield, [Headquarters, Department of the Army] Glossary-7 (July 8, 1994), available at <https://fas.org/irp/doddir/army/fm34-130.pdf>, as cited in Goldenziel, p. 1088.

³⁸ Colonel Charles J. Dunlap, “Law and Military Interventions: Preserving Humanitarian Values in 21st Conflicts,” Prepared for the Humanitarian Challenges in Military Intervention Conference, Carr Center for Human Rights Policy, Kennedy School of Government, Harvard University, Washington, D.C., November 29, 2001.

military interventions, lawfare practitioners cannot be permitted to commandeer it for malevolent purposes.³⁹ Charles J. Dunlap, a colonel in the US Air Force Judge Advocate General's Corps, introduced the term "lawfare" into the mainstream legal and international relations literature in November 2001. He defined "lawfare" as the strategy of "using—or misusing—law as a substitute for traditional military means to achieve an operational objective."⁴⁰

However, the term "lawfare" first appeared in a 1975 manuscript by John Carlson and Neville Yeomans entitled *Whither Goeth the Law - Humanity or Barbarity*, cited in an edited volume.⁴¹ Lawfare was described as a method of warfare where law is used as a means of realizing a military objective. Carlson and Yeomans set out a history of mediation and first introduced the term "lawfare" wherein lawfare replaced warfare, with countries dueling with words rather than swords.

The concept and consequences of statehood play a crucial role within the body of international law. However, statehood in international law has historically been an ambiguous amalgam of law and fact.⁴² The relevance of the traditional criteria for statehood and territory in international law is increasingly being challenged by conflicts and issues arising from the doctrine of statehood, territory, and title.

The usage of domestic and international laws to shape the legal context to support unilateral state actions externally has been well-elucidated in the 2016 book titled *Lawfare: Law as a Weapon of War*. It also appears that lawfare has been adopted principally as an offensive weapon capable of hamstringing opponents and seizing the political initiative. Nations are preparing legal war plans aimed at controlling their adversaries through the law or using the law to constrain them. At a time when lawfare is being used by revisionist states to make optimal use of the existing vacuum in the international legal arena, it is more than about time that Asia's democratic stakeholders take proactive steps to deal with the possibility of nations waging legal warfare via strategic, operational, and tactical policy initiatives across its borders, be they land or maritime neighborhood spaces.

China and other nations have made 'legal preparation of the battlefield' an essential component of their conceptual warfare tenets. Governments have increasingly altered and deployed law both to augment their own power and constrain that of their adversaries. Perhaps it would be apposite to assume that the greatest strength of lawfare lies in its proposed antidotes. This becomes especially challenging when placed in the context of the "Three Warfares" (*san zhan*) cited often in Chinese writings. Incidentally, *san zhan* comprises:

- 1) public opinion/media warfare
- 2) psychological warfare that provides the underpinning for both public opinion/media warfare and legal warfare
- 3) legal warfare – one of the key instruments of psychological and public opinion/media warfare

Law is becoming an increasingly powerful and prevalent weapon of war. The reasons for this development include the increased number and reach of international laws and tribunals, the rise of non-governmental organizations (NGOs) focused on the law of armed conflict and related issues, the information technology revolution, the advance of globalization, and the resultant

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ This paper authored by John Carlson and Neville Yeomans was first published in 1975, in Margaret Anne Smith and David J. Crossley, eds., *The Way Out - Radical Alternatives in Australia*, (Melbourne: Lansdowne Press, 1975).

⁴² On *Statehood, Territory, and Title*, exclusively see, Malcolm Shaw, *Title to Territory in Africa: International Legal Issues*, (Oxford University Press, 1986).

economic interdependence. Lawfare is comparatively less deadly than traditional warfare “for it is vastly preferable to the bloody, expensive, and destructive forms of warfare that ravaged the world in the 20th century.” Lawfare is also financially less costly than traditional warfare and can sometimes be more effective than kinetic warfare. If some portion of warfare can be shifted from kinetic combat to the legal arena, that should prove to the advantage of the revisionist powers.⁴³ For instance, People’s Republic of China (PRC) President Jiang Zemin in 1996 advised a group of Chinese international law experts that Beijing “... must be adept at using international law as a weapon.”⁴⁴ China has the most well-developed lawfare strategy, having defined lawfare as a major part of its military strategy as early as 1999.⁴⁵ In that year, a book titled *Unrestricted Warfare*, authored by two colonels in the People’s Liberation Army (PLA) and published by the PRC’s military, repeatedly referenced the concept of using law as a weapon, sometimes referring to it as “legal warfare.”⁴⁶ The book provided a list of “examples of non-military warfare,” which included “establishing international laws that primarily benefit a certain country.”⁴⁷ The list also included “the use of domestic trade law on the international stage,” which, as the book asserted, “can have a destructive effect that is equal to that of a military operation.”⁴⁸

Conclusion

While usage of the term “Sea of Japan” in no way implies an opinion regarding issues pertaining to sovereignty, the ways nations with revisionist tendencies are developing lawfare strategies in the broader sense and context for strengthening their territorial claims is concerning. Be it China that goes as far as to define lawfare as one of the pillars underlying its military strategy or Russia where law serves to substantiate actions taken under its current military strategy, the Gerasimov Doctrine—a whole-of-government concept that fuses hard and soft power across many domains, transcending the boundary between peacetime and wartime.

Comparatively speaking, nations such as the US and Japan have not developed a full-fledged lawfare strategy or, for that matter, focused on lawfare intently and exclusively. Because of this, they appear to be passing up opportunities to employ lawfare against their adversaries and thereby losing control of the narratives critical to their strategic and military objectives, especially on territorial issues.⁴⁹ To prevail against their adversaries and to better collaborate with partners and allies, Japan and the US need to focus on their respective lawfare strategies. This would unify and improve their whole-of-government efforts to combat their adversaries via lawfare. The increased use of lawfare amplifies the theory that law is a non-lethal but potent weapon impacting the battlefield in a far greater strategic sense. Renaming territorial areas/spaces/places is an integral part of the lawfare strategy, wherein countries seek to claim the legal high ground to press for their territorial claims, or at least attempt to put a cloud of dispute over the existing name and its patron/host nation.

⁴³ For details see, Kittrie, n. 36, p. 3.

⁴⁴ Ibid.

⁴⁵ Ibid., also see, Goldenziel, n. 36, p. 1088.

⁴⁶ Kittrie, n. 36.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ For further details see, Goldenziel, n. 36, p. 1171.

The First Senkakus Clash: The 1955 *Daisan Seitoku Maru* Incident, American, Okinawan, and Republic of China Responses, and Japanese Diplomacy

Robert D. Eldridge*

Abstract

This article examines a relatively unknown incident that took place in March 1955 in the Senkaku Islands in which two junks, believed to have been operated by personnel from the Republic of China, attacked an Okinawan fishing vessel, the *Daisan Seitoku Maru*. In the attack, three fishermen died, their bodies never recovered. In addition to examining the incident and reporting afterwards, it looks at the efforts of U.S. officials responsible for the Civil Administration of the Ryukyu Islands and the U.S. State Department in handling the case vis-à-vis Okinawan and Japanese government officials and ROC authorities. The article uses a multi-archival approach with documents from the United States, Japan, Okinawa Prefecture, and the Republic of China. It also includes testimony and interviews, including those conducted by the author. The incident took place during the First Taiwan Strait Crisis of 1954-1955, leading some to speculate that the People's Republic of China may have been behind the attack, but there is no evidence to suggest this. Contemporary documents drafted by U.S., Japanese, and Okinawan officials and comments made by them both publicly and privately also point the finger at the Republic of China. The ROC's reclassification of once-publicly available Ministry of Foreign Affairs documents, making them inaccessible to researchers, suggests that perhaps indeed personnel from the ROC were at fault. As the United States was responsible for the overall administration of the islands, it took a pre-eminent lead in addressing the issue, but the author argues that the fact that Japan demonstrated interest in the case was also important because it showed Japan's contemporary concern about the fishermen from Okinawa, who were Japanese citizens, and that the incident took place near the Senkaku Islands, over which Japan had "residual sovereignty," as stated at the 1951 San Francisco Peace Treaty Conference.

Introduction

In early March 1955, three crewmembers of the *Daisan Seitoku Maru*, a 15-ton boat crewed by nine men from Okinawa, died after being attacked by two junks flying Republic of China flags in the waters off Uotsuri Island, the largest and most prominent of the islands making up the Senkaku Group (Senkaku Rettō). Two men, the captain and a sailor, were killed by gunfire, and another, the chief engineer, went missing, having likely drowned after jumping into the water. A search was conducted for the fishermen, but they were never found and presumed dead. Although vessels and their personnel from the Republic of China were suspected of the attack, subsequent attempts to identify the perpetrators of the attack were also unsuccessful and the incident remains unsolved and unresolved still today.

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Employing a multi-archival and multi-language approach, including primary documents and memoirs, as well as interviews, this study introduces in detail for the first time this little-known incident, which can be called the “first Senkakus clash.” It examines the investigation at the local level, using the testimonies of local fishermen and police reports, and looks at the political and diplomatic developments and responses surrounding the violent incident. It also discusses the regional context at the time of high tensions following South Korea’s actions around Takeshima between 1952 and 1954 and first Taiwan Strait Crisis in 1954 to 1955 involving the Republic of China (ROC) on Taiwan and the People’s Republic of China (PRC) on the mainland.

In addition to clarifying the details of what happened in the incident and aftermath, this study is significant in that it argues the interest demonstrated by the Japanese government toward gathering the facts in the case and its quick resolution despite the United States being in charge of the administration of Okinawa at this time demonstrates that Japan viewed with seriousness its “residual sovereignty” over the Nansei Islands, including the Senkakus, as well as the fate of the people residing in them.

“Residual sovereignty” was a formula spelled out at the time of the September 1951 Allied Treaty of Peace with Japan. The United States, as per Article 3 of the treaty, was granted “all and any powers of administration, legislation and jurisdiction” over the Nansei Islands. However, the architect of the peace treaty, John Foster Dulles, explained to the assembled delegates in San Francisco during his oral explanation of the treaty’s contents on September 5 that Article 3 also meant that Japan retained ultimate, “residual sovereignty.”¹

Because of this unusual arrangement, the United States would have the lead in responding to the *Daisan Seitoku Maru* incident that occurred a few years later, but because the lives and livelihoods of Okinawan residents, who were ultimately Japanese citizens, were at stake, the government of Japan would take an active interest in the incident’s resolution. To this writer, this fact—Japan’s interest—is one of the key, yet unexplored—aspects of this incident, which itself has not been studied in great detail before. Said another way, if Japan did not view the Senkakus and the remainder of the Nansei Islands as belonging to it, and thus the people as Japanese citizens, the Japanese government would not have taken as strong of an interest in the problem as it did.

Interesting, too, is the fact that throughout the interactions following the incident, the government of the Republic of China (i.e., the Nationalists) used the Japanese name for the Senkakus and never once insisted or even implied or insinuated that the islands belonged to the Republic of China, which it did fifteen years following the publication of United Nations Economic Commission for Asia and the Far East in the late 1960s suggesting there were massive reserves of natural resources in the area.²

These facts in the preceding paragraphs should further lay to rest claims by the Republic of China (and indirectly, the People’s Republic of China) that they have valid claims to the Senkakus.

This study is divided into seven parts, including this Introduction and the Conclusion, and several sub-parts. It expands on the section addressing the *Daisan Seitoku Maru* incident in my

¹ Article 3 of the Treaty of Peace with Japan reads: “Japan will concur in any proposal of the United States to the United Nations to place under its trusteeship system, with the United States as the sole administering authority, Nansei Shoto south of 29 degrees north latitude (including the Ryukyu Islands and the Daito Islands), Nanpo Shoto south of Sofu Gan (including the Bonin Islands, Rosario Island and the Volcano Islands) and Parece Vela and Marcus Island. Pending the making of such a proposal and affirmative action thereon, the United States will have the right to exercise all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of these islands, including their territorial waters.” For the making of Article 3 and its interpretation, see Robert D. Eldridge, *The Origins of the Bilateral Okinawa Problem: Okinawa in Postwar U.S.- Japan Relations, 1945-1952* (New York: Routledge, 2001), particularly Chapter 7.

² For details, see Robert D. Eldridge, *The Origins of U.S. Policy in the East China Sea Islands Dispute: Okinawa’s Reversion and the Senkaku Islands* (New York: Routledge, 2014), particularly Chapter 3.

earlier book on the Senkakus by introducing official Japanese views, adding interviews with crew members, and looks at how the Republic of China handled inquiries as to the potential involvement of its personnel or citizens in the crimes.³ It draws on scholarship that has since emerged such as that by Jen Tien-hao, then an assistant Professor, Center for General Education, National Taichung University of Science and Technology, Saitō Michihiko, formerly a professor at Chuo University, and Kuniyoshi Makomo, a local researcher in Okinawa focusing on Senkaku matters, as well as in-person discussions with these scholars and researchers in Taipei, Tokyo, and Naha.

Cold War Tensions in the Area at the Time of the Incident and Tenuous Bilateral Relations

The Background

In early September 1954, following a heavy build-up of troops on Quemoy (across from Amoy or Xiamen) and Matsu (across from Fuzhou) by the Republic of China and other tensions, the People's Republic of China began shelling Quemoy. In November, the PRC dispatched warships, junks, and patrols to the Dachen (Tachen) Islands, across from Wenzhou and then to Wuqiu Isle between Quemoy and Matsu. People's Liberation Army planes also bombed the Dachen Islands and launched a larger attack in mid-January 1955 with some 10,000 troops in successful air, amphibious, and land operations, eventually forcing the islands to be evacuated of ROC, or Nationalist, troops.⁴

During this time, pressure grew in the United States to bomb the Communists on mainland China, and to possibly use nuclear weapons against it. Urged on by the pro-Taiwan Senator William F. Knowland, the Dwight D. Eisenhower administration signed a Mutual Defense Treaty with Taiwan on December 2, 1954. The treaty was ratified on February 9, 1955, and went into effect on March 3, when Secretary of State John Foster Dulles visited Taipei to exchange instruments of ratification.⁵

Although the treaty did not obligate the United States to defend the smaller islands held by Nationalist forces along the mainland, the Formosa Resolution, which was passed by both houses of Congress on January 29, 1955, authorized the president to employ American troops to defend Taiwan and the Pescadores against armed attack, including such other territories as appropriate to defend them. After threats of the use of nuclear weapons in March, the PRC proposed negotiations with the ROC, and the shelling of Quemoy and Matsu stopped on May 1. The first Taiwan Strait Crisis came to an end.

The evacuation of the islands in late February was likely triggered by the U.S. decision to not assist ROC forces in the defense of Nanchi, which was relayed to ROC officials on February 22.

³ *Ibid.*, pp. 61-63. To do this, the author has traveled to Taipei on numerous occasions to do research at the Institute of Modern History, Academia Sinica, where the archives of the Republic of China Ministry of Foreign Affairs are held, and meet with scholars in Taiwan familiar with the issue. Unfortunately, the ROC's Ministry of Foreign Affairs has resealed almost all the documents related to the Senkaku Islands and has denied access to researchers, a move criticized by scholars in Taiwan. The author, who already has copies of the formerly available documents used in this study, has written to senior government officials in Taiwan, including a former vice president and foreign minister, to ask them to push for reconsideration of the decision that is harmful to future researchers and that government's efforts at transparency. Hopefully, the publication of this study will further encourage the ROC Ministry of Foreign Affairs to move in this direction. (It goes without saying, but the author has no personal gain or stake in the outcome of the *Daisan Seitoku Maru* incident.)

⁴ For details on the fighting at this time, see Hsiao-ting Lin, *Accidental State: Chiang Kai-shek, the United States, and the Making of Taiwan* (Cambridge: Harvard University Press, 2016), pp. 235-236.

⁵ This is one of five visits Dulles would make to Taipei as Secretary of State. Most of the visits occurred around the time of the First and Second Taiwan Strait Crises (1954-1955, 1958).

According to the U.S. Ambassador at the time, the Republic of China determined that “holding the islands would place too great a strain on their own resources, and immediately began evacuation.”⁶ The ROC Navy proceeded to carry out the operation of evacuating 4,000 troops and 2,000 civilians from the islands over the course of three days. It can be assumed that all types of vessels were used at that time to conduct the rushed evacuation.

It was during this tense time that the *Daisan Seitoku Maru* incident occurred near Uotsuri Island, the largest of the five islands comprising the Senkaku Island group, or Senkaku Rettō. Because of the chaotic situation in the region, it has been unclear if the attack on the Okinawan fishing vessels (at least one other boat was also fired on, in addition to the shooting that took place on the *Daisan Seitoku Maru*) was done by desperate Nationalist troops or Communist forces disguised as ROC members. Subsequent investigations conducted by the ROC government were inconclusive, but a former Legislative Yuan member from Taipei stated later that ROC troops retreating from the Dachen amid the PLA attacks on them in February had reportedly garrisoned on the Senkakus and fired at approaching Japanese vessels.⁷ If true, what happened next would suggest that the initial reports of the *Daisan Seitoku Maru* incident are likely accurate and possibly related. In other words, according to a Taiwanese official himself, it was in fact ROC personnel and vessels that were involved in the killings.

There were other events going on in the background that will be touched on later. These events were initially unrelated to incident, but would affect the handling of it, namely U.S.-ROC relations, political dynamics in Japan, personnel changes in the U.S. administration of Okinawa, and frictions within Okinawa, among other matters.

The Incident Itself

In the early afternoon on March 2, 1955, as mentioned at the outset of this paper, three members of the crew of an Okinawan boat, which practiced longline (*haenawa*) fishing for tuna near the Senkakus, went missing and apparently died (their bodies were never recovered nor their whereabouts known) after personnel in military fatigues from two junks flying Republic of China flags near the Senkaku Islands boarded the boat and shot the captain and a crew member. A third person, the chief engineer, dove into the water to avoid being shot. Other members of crew hid inside the boat with the fishing equipment and escaped being noticed, while three others jumped

⁶ Karl Lott Rankin, *China Assignment* (Seattle: University of Washington Press, 1964), p. 223.

⁷ Fung Hu-hsiang, “Evidence beyond Dispute: Tiaoyutai (Diaoyutai) is Chinese Territory!” (www.skycitygallery.com/japan/evidence.html, accessed June 2024). The quote read as: “In 1955, Nationalist Troops while retreating from Tachen Island, were garrisoned on Tiaoyutai. Approaching Japanese ships would be fired upon to drive them away. This proves that even at that time the ROC (Taiwan) government possessed sovereignty over Tiaoyutai.” This statement is odd for two reasons. First, “Japanese ships” most likely did not go there at that time, particularly with the tensions related to the Taiwan Strait crisis. Okinawan fishing vessels would have, as that is one of their fishing areas. Second, were Okinawan (or mainland Japanese) vessels fired on, they would have certainly reported it to the proper authorities (i.e., the United States, which was administering the Senkakus). Fung, who was a controversial figure in academia and Taiwanese politics, died in 2021 from cancer. His reason for including this compromising information (about the garrisoning of ROC troops) therefore is unclear, but may have been to demonstrate that the Senkakus, or Tiaoyutai, was Taiwan/Chinese territory. (I asked the scholar, Dr. Hsiao-ting Lin, now affiliated with Stanford University, if he found any documents relating to the *Daisan Seitoku Maru* incident among the papers he used for his book *Accidental State*, but he said he did “not recall seeing or reading any documentation” about it. (Response, dated June 21, 2024, from Dr. Lin to author’s e-mail.) In the same paper Fung claims that “During the Cold War, when American forces were stationed on Taiwan, military maneuvers were periodically held which required the use of Tiaoyutai as an aerial bombing target. The American military applied each time to the ROC (Taiwan) government for authorization, confirming again that Tiaoyutai is ROC territory.” Dr. Fung provides no evidence for this statement, which is unlikely to be true, despite the paper’s title.

overboard.⁸

According to a detailed police report following interviews with the surviving crew members and personnel on board two other Okinawan boats in the area, the sister vessel, *Daiichi Seitoku Maru*, and *Taikyū Maru*, the *Daisan Seitoku Maru* was, while fishing, hailed by two junks (*Taian* and *Kinsuishin*) ranging in size from 25 to 40 tons and flying the flag of the Republic of China, with a request for assistance.

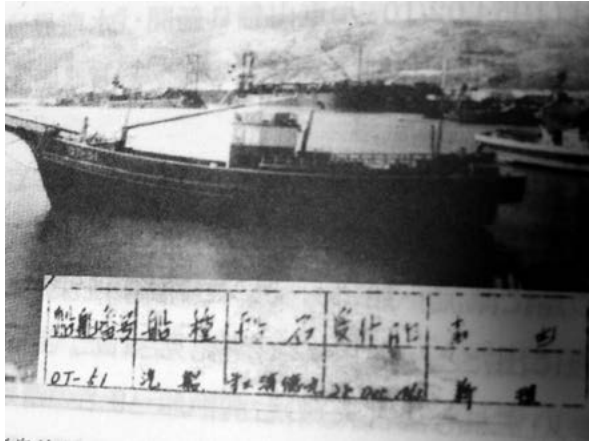
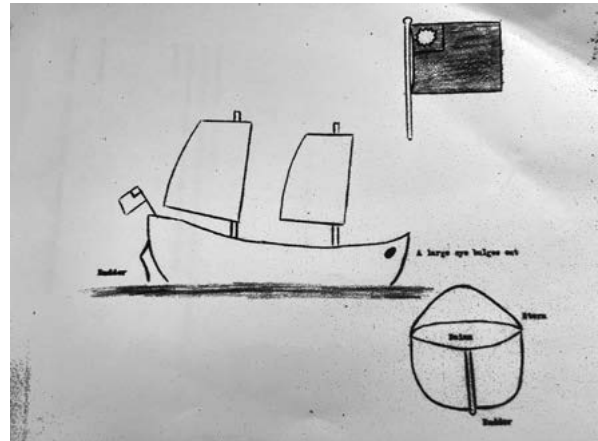


Photo of Daisan Seitoku Maru (from Robert D. Eldridge, *The Origins of U.S. Policy in the East China Sea Islands Dispute: Okinawa's Reversion and the Senkaku Islands*, Routledge, 2014, p. 62)



Drawing of Vessel that Allegedly Attacked Daisan Seitoku Maru and its Crew (from the aforementioned "Report of the Deputy Governor")

The captain of the *Daisan Seitoku Maru*, Kinjō Jirō, was unable to converse with any of the approximately forty personnel, all wearing clothing resembling American-made HBT material used in military fatigues, i.e. olive drab, aboard the two junks, presumably due to language differences.⁹ He allowed one person to come aboard as a liaison. Kinjō learned from the

⁸ The nine members of the crew of the *Daisan Seitoku Maru*, their age, occupation, residence, and fate after the incident, were: Kinjō Jirō, 47, captain, from Naha (shot, fate unknown); Tōma Seitoku, 26, chief engineer, from Sashiki Village (jumped into water, fate unknown); Yonaha Kazuo, 32, fisherman from Sashiki Village (shot, fate unknown); Shinzato Kanshō, 32, fisherman from Sashiki Village (returned to Miyako); Shimoji Keizō, 24, fisherman from Mawashi City [now Naha] (returned to Miyako); Uchima Shinei, 23, fisherman from Kudaka Island, Chinen Village (returned to Miyako); Kanashiro [also reported as Kinjō, another possible reading of the name] Fusuke, 45, fisherman from Sashiki Village (returned to Yaeyama); Tamanaha Zenichi, 27, fisherman from Nishihara Village (returned to Yaeyama), and Asato Yoshio, 17, cook from Chinen Village (returned to Yaeyama). See "Memo to Chief of Police, Government of the Ryukyu Islands from Miyako District Station on Report of Incident Involving the Attack of the Daisan Seitoku Maru Near Senkaku Retto (Pennacle [*sic*] Island), March 8, 1955," Folder 10 (Policy and Precedent Files: Daisan Seitoku Maru Case), Box 92 of HCRI-PS, Records of the Operation Division, Public Safety Department, USCAR, Record Group 260, U.S. National Archives, College Park, Maryland, United States (hereafter Daisan Seitoku Maru files). Copies of this folder are available in the National Diet Library in Tokyo, Japan, and the Okinawa Prefectural Archives in Haeburu-cho, Okinawa Prefecture.

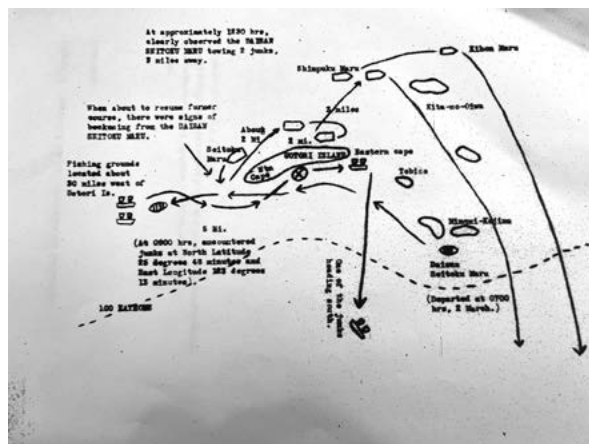
⁹ Because Kinjō was unable to communicate, it can be assumed that the crew of the junks were not native to Taiwan, which had been under Japanese control from 1895 to 1945 and whose education was conducted in Japanese. For this reason it is likely the junk's crew were mainland Chinese, either Nationalist or Communist. See Watanabe Toshio (translated by Robert D. Eldridge), *The Meiji Japanese Who Made Modern Taiwan* (Lanham: Lexington Books, 2022).

interaction with the liaison through the use of gestures and writing *kanji*, or Chinese characters, that the junks desired a tow and some water.

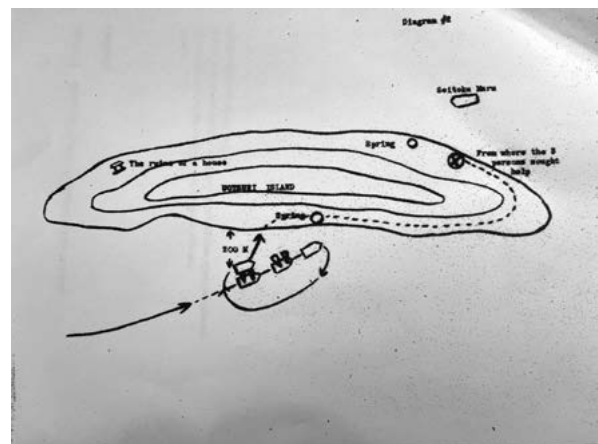
After giving them a tow to Uotsuri Island where there was a spring on the island in which they could get water, Kinjō requested them to drop anchor, but only one of the junks complied. According to the findings of the police report, as summarized by the Deputy Governor's Office of the U.S. Civil Administration of the Ryukyu Islands (which was in charge of the administration of Okinawa by this point), "the other craft refused to do so and personnel aboard indicated they desired to be towed in the direction of Formosa [Taiwan]. Becoming suspicious of the actions of the personnel aboard the junk," Kinjō "withdrew his tow line and approached the anchored junk to permit the liaison man to return to his junk."¹⁰

However, the summary memorandum continues, "either two or three persons from the junk, armed with what appeared to be U.S. Cal. 45 pistols, boarded the *Daisan Seitoku Maru* and subsequently began firing at the crew, allegedly killing the Captain and one other and causing five men to jump overboard."¹¹ (Unfortunately, the summary missed an important detail here that was included in the longer police report—an additional crew member, who had jumped overboard, went missing, presumably drowned.)

Three of the five that jumped overboard were picked up by the sister boat, *Daiichi Seitoku Maru*, which had been in the vicinity and heard cries for help. These men returned on that vessel to Ishigaki port on March 3 and reported the incident.



Drawing of Movement of Vessels at the Time of the Attack on the Daisan Seitoku Maru (from the aforementioned "Report of the Deputy Governor")



Drawing of the Location of the Attack on the Daisan Seitoku Maru near Uotsuri Island (from the aforementioned "Report of the Deputy Governor")

One (Shinzato Kanshō) of the five returned to the *Daisan Seitoku Maru*, having seen that the intruders had departed. Shinzato, who had joined the boat's crew the previous November, discovered two other crew members hidden in the hold of the ship. These three men subsequently went aboard the junk (*Kinsuishin*, with the numbers 17901 written on its stern) that had grounded and apparently been deserted by the original personnel.¹² As there was no one on

¹⁰ "Memo from Ralph R. Pate to Governor of the Ryukyu Islands on Senkaku Retto Incident, April 21, 1955," Daisan Seitoku Maru Files.

¹¹ *Ibid.*

¹² *Ibid.*

it, they returned to their boat after discovering some items that they brought back with them.¹³ They tried to start the motor but were unsuccessful and ended up spending the night aboard the boat. The next morning, March 3, they saw three fishing boats, probably from Itoman, about 500m away, but they were unable to attract their attention despite using cloth as flags. Anchored, they passed a second night on their boat. The next morning, the *Taikyū Maru* came into sight, and they were able to hail it. They received air to help them restart the engine.

With the boat's engine started, they decided to sail to the Miyako Islands, where Shinzato was originally from, but agreed to drift fish first since it was still early in the day. They left the area around 5 p.m. and planned to arrive at Hirara Port around 10 a.m. the next day (March 5), but being unfamiliar with using a compass, missed Miyako. Eventually, they arrived at 1 p.m. on the 6th, having engaged in more drift fishing after they got their bearings. This group also reported what they had witnessed to local police.

The Response to the Incident by U.S., Okinawan, and Japanese Authorities

U.S. Responses: USCAR and U.S. Embassy

It is unclear when U.S. authorities were first informed of the incident, but Major Russell A. Broner, who served as the Chief of the Yaeyama Civil Affairs Team, reported about the attack and return of three crewmen's arrival in Ishigaki at 10 a.m. on March 3 to the Deputy Governor of the Ryukyu Islands (a military officer) that same day.¹⁴ In addition to reporting the basic facts as known, Broner also noted that the junks had chased two Okinawan fishing boats operating in the area, *Kihon Maru* and *Shinpuku Maru*. These latter boats had raced back to Ishigaki to report the incident, arriving around 6 a.m. on March 3, according to a later report by Broner's staff.¹⁵

Broner, who had served along with two of his brothers in the famed Ghost Mountain Boys unit of the U.S. Army's 32nd "Red Arrow" Division in New Guinea during World War II, continued to report about the incident later that day having been told the maritime police interviewed the surviving crew members.¹⁶ Broner noted that the junks were flying the "Chinese Nationalist Flag."¹⁷ He added that the "exact identification of flag unknown yet; info[rmation] not considered

¹³ The personnel of the junk left, probably by mistake due the hurried nature of their departure, several items that were subsequently impounded as evidence. These items included: (1) a pair of light brown trousers, (2) a pair of green shorts, (3) a (signature) seal, (4) a raincoat, and (5) an undershirt. These items were turned over by the police to USCAR soon after the incident but had been "inadvertently misplaced." (See "Letter to James Pilcher, American Embassy, Taipei, Formosa, from Crescenzo Guida, Office of the High Commissioner, November 5, 1957," *Daisan Seitoku Maru* Files.)

¹⁴ "Radio Message NR2 030150Z MAR 55 from YCAT to DG USCAR," *Daisan Seitoku Maru* Files.

¹⁵ "Memo by Ryoan Kinjo, Administrative Assistant, Yaeyama Civil Administration Team, to Chief, YCAT, on Senkaku Retto Incident Involving the *Daisan Seitoku Maru*, March 8, 1955," *Daisan Seitoku Maru* Files. This report was forwarded to Paul H. Skuse, the Director of the Public Safety Department, USCAR, on March 10 with the note that "CIC [Counter-Intelligence Corps] have conducted a full investigation and requested all information thru their channels. They have read this report and concur in its accuracy as far as possible." According to the report by Kinjō, Yaeyama police were surprised at the information and initially "took a cautious attitude and waited for the *Daiichi Seitoku Maru*" to arrive. Members of the crews expressed later their frustration that the police did not move quickly to conduct a search for the junk and the missing crew members and instead focused their attention on the investigations.

¹⁶ For more on Broner's career, see Dave LeMieux, "Looking Back at the Broner Brothers' World War II Service, Plus Letter to Mom," *Muskegon Chronicle*, July 27, 2015 (https://www.mlive.com/news/muskegon/2015/07/looking_back_at_the_broner_bro.html).

¹⁷ "Radio Message NR6 030715Z MAR 55 from YCAT to DG," *Daisan Seitoku Maru* Files.

reliable at present and [there] seems to be disagreement whether one or two junks [involved].”¹⁸

In a separate radio message at 10:30 in the morning on March 3, Broner requested that an immediate air search be conducted.¹⁹ It is unclear when the Office of the Deputy Governor of the Ryukyu Islands of the United States Civil Administration of the Ryukyu Islands forwarded the request, but it appears that it was not until March 6 that the U.S. military’s Air Sea Rescue Unit responded by flying a mission that day over Uotsuri Island and the surrounding waters to locate and assist any persons in distress in the area, including the junk. However, according to the aforementioned summary, the search plane was unable to locate the junk or wreckage or any people in the water or on land.

In the meantime, early on March 4, the Deputy Governor’s Office requested a “complete and detailed report on events surrounding sinking or capture of Ryukyuan fishing boat [in] your area. Many conflicting rep[or]ts rec[eive]d here. F[orwar]d a[s] s[oon] a[s] p[ossible].”²⁰

Broner immediately responded agreeing to send a “detailed written report” as soon as possible and suggested that the intelligence unit of the Ryukyu Islands Command (G-2, RYCOM) be queried for more information. He explained that “this station is submitting data when available” and that “initial information obtained from natives involved was conflicting.”²¹

The Yaeyama Civil Affairs Team was able to give a more thorough, albeit provisional, report on March 8, but the confusion and lack of details at this early juncture was understandable in retrospect. In addition to the language and cultural barriers, as well as the likely agitated state of the witnesses, there was the fact that the whereabouts of several crew members, who could add extra context and information, and the *Daisan Seitoku Maru* itself were unknown in the first few days.

This would change on March 6, when the *Daisan Seitoku Maru* entered Hirara Port on Miyako Island with the remaining three crew members who gave additional statements on March 7, 8, and 9th. (Some gave additional testimony later in the month on March 25 in Yonabaru.)

It was Shinzato’s testimony that most clearly linked the personnel of the crew with the ROC. Other members had spoken about the “sun-in-the-blue-sky” flag, but Shinzato explained that Kinjō, the captain, had motioned for someone from the junks who could write to come aboard and had him write something on a piece of cardboard. “When I asked the captain what that man had written,” Shinzato stated later, “he replied that he wrote that they had fled from Kinmen (Quemoy) Island but that they do not know where Formosa is, and that they have not eaten for about six-seven days because they have no water.”²² In other words, according to Shinzato’s testimony, it was clear that the personnel of the junks were from the Nationalist forces, or at least claimed to be.

Another piece of possible evidence was subsequently found by the purser of a fishing boat, *Rinjū Maru*, whose port registry was Yaeyama. According to Ohama Kōki, the purser of the fishing boat who gave testimony at the Miyako District Station on March 22, one of the crew members found a suitcase under water near where the junk had been grounded when he was going ashore to Uotsuri Island to get water on March 19. Explaining to police officials later that “we

¹⁸ Ibid. That day, the *Stars and Stripes* reported that the assailants were suspected of being “Red Chinese,” i.e., those from the PRC. See “Memo by Sai Sho on Personal Opinion with Regard to the Case of the Attack of a Ryukyuan Fishing Boat by Chinese Junks, March 18, 1955,” *Daisan Seitoku Maru* files.

¹⁹ “Radio Message NR1 P 040400Z MAR 55 from YCAT to DG,” *Daisan Seitoku Maru* Files.

²⁰ “Radio Message CA 0531 040222Z MAR 55 from DG USCAR Okinawa to Chief, YCAT Civ Admin Team,” *Daisan Seitoku Maru* Files.

²¹ “Radio Message NR1 P 040400Z MAR 55.”

²² “Statement by Shinzato Kansho, (M), age 32, a sailor and fisherman, March 7, 1955,” enclosure to “Memo from Ralph R. Pate to Governor of the Ryukyu Islands on Senkaku Retto Incident, April 21, 1955.”

were unable to see any sight of the grounded vessel, but we did see wreckage of the junk on the beach,” Ohama ordered the crew member, Nema Gentoku, to bring the suitcase to him and open it. Inside they found clothes, documents, and photographs.²³ “I thought these belonged to crew members of the junk that [is] alleged to have attacked the *Daisan Seitoku Maru* and therefore thinking that these [*sic*] property will be of some use if I keep them,” Ohama stated, and “brought back the documents and the pictures with me.”²⁴

In the meantime, by the 7th of March, the G2 was able to report to Lieutenant General James E. Moore, Commanding General of the Ryukyu Islands Command, that it learned from information obtained by one of the crew members that arrived on the 6th that the junks had Nationalist Chinese soldiers on board and was believed to have come from Kinmen or nearby islands.²⁵

It was increasingly clear by this point that the perpetrators likely included military personnel from the Republic of China. However, getting justice and proper compensation would become a major challenge for all the players, especially the victims and their families.

What made the situation more difficult and extremely frustrating for the Okinawan side was the fact that at this time that USCAR was in a state of major personnel flux that caused delays in handling the issue.

Before the personnel changes can be explained, it is necessary to first clarify the titles of those in senior positions of the administration and governing of Okinawa at this time. When one hears the title “Governor,” we might think of an elected leader from Okinawa. At the time, however, the leader from Okinawa was appointed by the United States government, and not elected. He was called the “Chief Executive.” At the time of the *Daisan Seitoku Maru* incident, this person was Higa Shūhei, a former educator.

In the context of the declassified documents from USCAR, “Governor” refers to the military governor in charge of Okinawa, and “Deputy Governor” his deputy. The Governor was actually based in Tokyo, and had multiple hats, including Commander-in-Chief, Far East Command.²⁶ His deputy, i.e., the Deputy Governor, was physically located in Okinawa and handled the day-to-day matters for Okinawa as well as being in charge of the Ryukyu Islands Command.

At the time of the *Daisan Seitoku Maru* incident on March 2, 1955, the “Governor” was U.S. Army General John E. Hull, but he turned over command to General Maxwell D. Taylor on April 1. Moreover, Taylor only served in that capacity for 65 days before being replaced by General Lyman L. Lemnitzer on June 5.²⁷ As such, not only did the incident in the Senkakus occur physically far away from the “Governor of the Ryukyu Islands” located in Tokyo, but it was also

²³ “Memo to Chief of Police from Miyagi Kenei, Superintendent, Miyako District Station, on Report of Discovery of Documents and Pictures from the Junk that Attacked the *Daisan Seitoku Maru* in Senkaku Retto, March 23, 1955,” *Daisan Seitoku Maru* Files.

²⁴ *Ibid.* Inexplicably, he threw the clothes and suitcase back into the ocean. The documents and their translations, as well as the photographs, can be found in the *Daisan Seitoku Maru* files.

²⁵ “Radio Message 070801 MAR 55 from G2 RYCOM to CG RYCOM Okinawa,” *Daisan Seitoku Maru* Files. This was probably the aforementioned testimony of Shinzato.

²⁶ A biography about one of those commanding generals says he likened his job, which covered Korea, Japan, and the Ryukyu Islands, to a “three-ring circus.” See L. James Binder, *Lemnitzer: A Soldier for His Time* (Washington: Brassey’s, 1997), p. 208. He continued: “There are so many military and economic problems, both of which are in my area of responsibility, that it takes an unusual amount of time to keep things moving properly. Many other problems are backing up in Okinawa [the main island in the Ryukyus] and here in Japan...I spend a great deal of my time commuting between the three areas.” (*Ibid.*)

²⁷ According to U.S. Ambassador Karl L. Rankin in Taipei, Taylor stopped off in Taiwan for talks with President Chiang Kai-shek and other ROC officials on his way to the United States where he would assume the U.S. Army Chief of Staff position. See Rankin, *Assignment China*, p. 272. It is unclear if Taylor asked Chiang or the others to address the *Daisan Seitoku Maru* incident but it would have been a very good opportunity to have done so coming so quickly after it.

“professionally” far away in that it likely did not have the close attention of any of these individuals as they were either in the process of leaving their position or just arriving.²⁸

Sadly, a similar problem was happening for the Deputy Governor as well. On March 4, 1955, two days after the *Daisan Seitoku Maru* incident occurred, Lieutenant General David A.D. Ogden, who had been serving as Deputy Governor since early January 1953, left to be replaced the next day by Lieutenant General Moore. (Moore would later become the first High Commissioner when that position was established on July 4, 1957.)

Confusing things even more, these men were “dual-hatted,” meaning they had more than one job. In addition to serving as Deputy Governor, they were also, as alluded to earlier, the Commanding General, Ryukyu Islands Command, which mean they had dual responsibilities. Necessarily, some work took priority over other work. It is likely that handling the *Daisan Seitoku Maru* incident would receive increasingly less priority as time went on, even while the staffs of these offices continued to make inquiries.

On a related, and sadder note, Chief Executive Higa, who had been involved in responding to the issue from the beginning, died of a heart attack suddenly on October 25, 1956, and could not see the resolution of the issue to its conclusion.²⁹ The issue would involve the next three Chief Executives, and in fact, would never fully be resolved.

The lack of resolution, or even answers, early on became very frustrating for the families of the victims and others associated with the incident.

In the meantime, the final report of the incident—a 50-page document of summaries, drawings, and statements by the crew members as recorded by the police in Yaeyama, Miyako, and Yonabaru—was sent in early May to the Far East Command, which then forwarded it to U.S. Ambassador to Japan John M. Allison, who had been serving in Tokyo since 1953. Colonel C.W. Nelson, the Adjutant General, informed the ambassador of the contents of the report, which included a March 5 resolution by the Legislature of the Government of the Ryukyu Islands (GRI), and requested that

the proper officials of the Government of the Republic of China be notified of this unprovoked and illegal act allegedly committed by its nationals and vessels and that appropriate demands be made to secure an accounting for the three missing Ryukyuan seamen, adequate compensation for the damages caused to the crew members of the *Daisan Seitoku Maru* and to the families of the missing seamen, and suitable punishment of the perpetrators of this act of piracy.³⁰

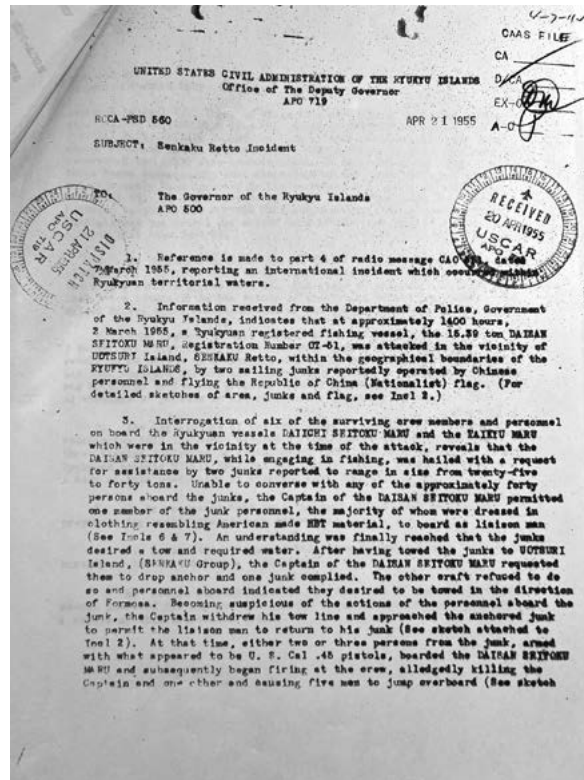
In early September, the U.S. Embassy’s George A. Morgan, who was serving as the Political Counselor, responded to the Far East Command, on behalf of Jeff Graham Parsons, who was serving as the Chargé d’Affaires ad interim, in place of Ambassador Allison who had returned to the United States to be there for Foreign Minister Shigemitsu Mamoru’s visit to Washington.³¹ It

²⁸ U.S. Ambassador to Japan John M. Allison noted the rapid change of commanders of the Far East Command in his memoirs, although he was able to develop a good relationship with most of them. See John M. Allison, *Ambassador from the Prairie or Allison Wonderland* (Boston: Houghton Mifflin Co., 1973), p. 228.

²⁹ For more on his work, see Robert D. Eldridge, “The Other Governor Who Passed Away in Office, Higa Shūhei (Part 1),” *This Week on Okinawa*, Vol. 64, No. 35 (September 2-8, 2018), pp. 10-11, and “The Other Governor Who Passed Away in Office, Higa Shūhei (Part 2),” *This Week on Okinawa*, Vol. 64, No. 37 (September 16-22, 2018), pp. 18-20.

³⁰ “Letter from C.W. Nelson, Far East Command, to Ambassador John M. Allison, May 4, 1955,” *Daisan Seitoku Maru* Files.

³¹ See Allison, *Ambassador from the Prairie*, p. 276.



Report of the Deputy Governor of the Ryukyu Islands to the Governor of the Ryukyu Islands on the Senkaku Retto Incident (i.e., Daisan Seitoku Maru Incident), April 21, 1955 (Copy in Okinawa Prefectural Archives)

is unclear why it took Ambassador Allison’s office this long to respond, as well as to send the note mentioned in the next paragraph.³²

The letter to the Commander-in-Chief, Far East Command (who was also dual-hatted as the Governor of the Ryukyu Islands), explained that the U.S. Embassy had contacted the Republic of China’s Embassy in Tokyo and informed it about the incident and the evidence that the vessel and personnel were from the Republic of China. It requested information on what the ROC knew about the incident and whereabouts of the missing Okinawan seamen. Morgan suggested that upon receipt of such information, officers from the FEC headquarters and U.S. Embassy officials meet to “determine an appropriate course of action.”³³ He also included a copy of the inquiry the Embassy handed to its ROC counterparts, dated August 5, 1955, and reproduced here.

The Embassy of the United States of America presents its compliments to the Embassy of the Republic of China and has the honor to invite the latter’s attention to the reported armed attack on the crew of the Ryukyuan fishing vessel Daisan Seitoku Maru, Registration No. OT-51, which occurred on March 2, 1955, in the vicinity of Uotsuri Island, Senkaku Retto, Ryukyu Island. Available details of the alleged attack on the Ryukyuan vessel and nationals are

³² One possible reason for the elapsed time is that Parsons, who had been serving as Deputy Chief of Mission since 1953 and was particularly focused on dealing with the “No. 5 Lucky Dragon Incident,” went to the United States beginning in June for personal reasons. See Robert D. Eldridge, ed., *The Memoirs of Ambassador J. Graham Parsons: A Foreign Service Life* (London: Cambridge Scholars Publishing, 2022), p. 159.

³³ “Letter from George A. Morgan to Commander-in-Chief, Far East, September 6, 1955,” Daisan Seitoku Maru Files.

contained in the enclosure submitted for the convenience and reference of the Embassy. The Embassy may also be interested to know that on March 5, 1955, the Legislature of the Ryukyu Islands passed a resolution, a copy of which is also enclosed, requesting an investigation of the incident and the rescue of the missing crew members from the Daisan Seitoku Maru, and that a United States aircraft made an observation flight over Uotsuri Island on March 6, 1955, but was unable to locate the abandoned junk or its wreckage. Since there is evident indication that the attacking vessels flew the flag of the Republic of China, and that persons in the said vessels wore military uniforms of the Republic, the Embassy of the United States of America would appreciate receiving from the Embassy of the Republic of China any available information concerning the aforementioned incident and the whereabouts or disposition of the three missing crew members of the Daisan Seitoku Maru. In view of the seriousness of the alleged attack, which has been given the careful and protracted attention of American and Ryukyuan authorities, the Embassy of the United States of America would be pleased to receive from the Embassy of the Republic of China information concerning this matter at an early date.³⁴

It was Second Secretary William H. Bruns who delivered the *note verbale* to the ROC Embassy on August 8. In addition to providing a summary of its contents, Bruns asked ROC officials if the vessels were the same that Chinese naval authorities had previously requested (on February 23 that year) the U.S. Navy assist which were part of the Dachen Command and were on their way from Nanji Island to Keelung, in northern Taiwan.³⁵ ROC officials were unfamiliar with the request and had no answer. They immediately sent a telegraph about the conversation to the Ministry of Foreign Affairs in Taipei the following day.³⁶ The response of the ROC's MOFA is discussed in a later section.

As Morgan's letter to the Far East Command was dated September 6, it means that he had not received a response from the ROC after one month. The reply from the Embassy of the Republic of China's eventually came on November 2 (and is introduced later). Unfortunately, it was not forthcoming and stated that ROC ships and personnel were not involved and suggested the attacks might have been from PRC vessels.

Morgan forwarded this response on November 16 to the Far East Command, for the attention of the J-5, which handles policy matters.³⁷ He did not include a suggestion about what to do next, perhaps leaving it up to the military leadership in charge of Okinawan matters to decide.

The Governor of the Ryukyu Islands (in other words, the Commander-in-Chief, Far East) in turn forwarded Morgan's letter and the ROC Embassy's note to the Deputy Governor's office in Okinawa. The letter, dated November 21, said that it was desirable to submit any additional evidence "so that further action may be taken through the American Embassy should the feasibility of that course be indicated."³⁸

As promised in a June 16, 1955 letter (introduced later) from the Deputy Governor's office to the Chief Executive, Major Harry Apple, on behalf of the deputy governor, shared the response

³⁴ *Ibid.*

³⁵ Jen Tien-hao, "冷戰局勢裡的第三清德丸事件——東亞冷戰與琉球、釣魚臺問題 (The Daisan Seitoku Maru Incident in the Cold War Period: The Ryukyu and Diaoyutai Issues during the East Asian Cold War)," *海洋文化學刊* (Oceanic Culture Studies), No. 22 (June 2017), p. 79.

³⁶ *Ibid.*, p. 66 Fn 12.

³⁷ "Letter from George A. Morgan to Commander-in-Chief, Far East, November 16, 1955," Daisan Seitoku Maru Files.

³⁸ "Letter from Eugene L. Anderson, Far East Command, to Deputy Governor of the Ryukyu Islands, November 21, 1955," Daisan Seitoku Maru Files.

his office had received with Chief Executive Higa early the next year on January 4, 1956. In it, Apple highlighted the key paragraphs of the note from the ROC's Embassy in Tokyo in which the ROC denied responsibility and suggested it might have been the Communists who had attacked the *Daisan Seitoku Maru*. Apple also mentioned the governor's request for additional evidence and told Higa that the Deputy Governor's Office was planning to forward the physical evidence received from the police and include additional evidence the police might acquire in any future investigations upon receipt.³⁹

Okinawan Responses: Media, GRI, Victims, and the Fishing Industry

The Okinawan media was quick to gather information and report on the situation as well. Their first story appeared on March 3 in the *Okinawa Times* followed by reports on March 4 in the *Yaeyama Mainichi Shimbun*, *Ryukyu Shimpo*, and again in the *Okinawa Times*.⁴⁰ Eventually, some 32 stories appeared in the first two weeks.⁴¹

Perhaps as a result of the newspaper reporting, or their own internal investigations, the Yaeyama District Police Station received a radiogram from Chief Executive Higa immediately afterwards that ships "should be advised [not] to go to Senkaku Retto vicinity for the time being, for that area was regarded to be dangerous as indicated by the incident involving the *Daisan Seitoku Maru*."⁴² There are also indications that in fact the area had become increasingly dangerous in the days and weeks before.⁴³

On March 5, 1955, the Legislature of the Ryukyu Islands passed a "Resolution Requesting for Investigation of Shooting Incident on the *Daisan Seitoku Maru* Crew" and submitted it to the United Nations, the International League for the Human Rights, the Government of Japan, Governor and Deputy Governor of the Ryukyu Islands, among others.

The 300-word resolution, which was signed by the Speaker of the Legislature of the Government of the Ryukyu Islands, Ohama Kunihiro, read:

In connection with an incident that about 2 p.m., March 2, in the vicinity of Uotsuri Island, the Ryukyus, in 123° 13' East Longitude, 25° 48' North Latitude, a 15-ton fishing craft, the *Daisan Seitoku Maru*, owned by Mr. Seiyo Toma, 4-han, Baten-ku, Sashiki-son, Okinawa, was seized by two junks flying sun-in-the-blue flags (the national flag of the Government of the Republic of China); and two crewmen were shot up and four others missing, out of nine members of the crew; interviews with three crewmen (Fusuke Kinjo, Zenichi Tamanaha, and Yoshio Asato) who could complete to return escaping from danger, have been reported. Putting all their accounts together, however, one seems to be difficult to reveal the real facts of the incident whether this was of a mere piracy, a doing of Nationalist soldiers, or an action of Red China's soldiers. Although it is of course that the authorities of the U.S. Civil Administration and the Executive Branch will disclose the truth of the incident before long as they promptly begin

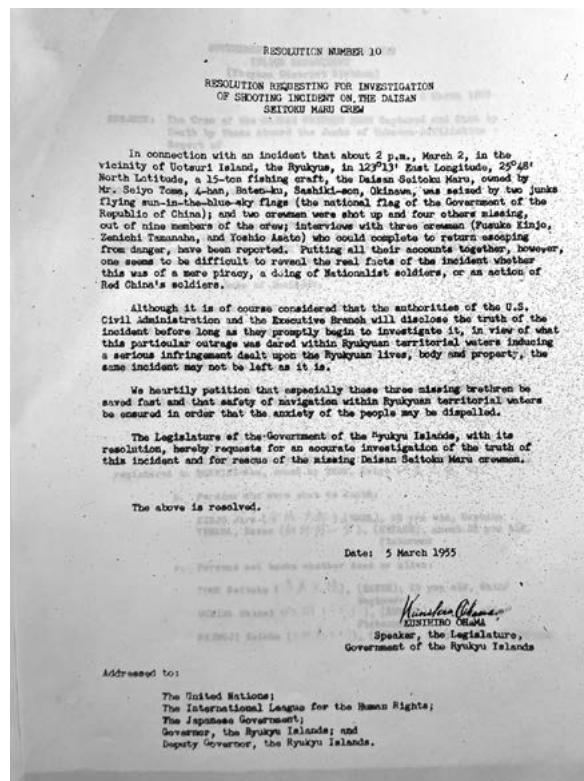
³⁹ "Letter from Major Harry Apple, Office of the Deputy Governor, to Chief Executive, GRI, January 4, 1956," *Daisan Seitoku Maru* Files.

⁴⁰ "Okinawajin Gyofu Shasatsu Saru (Okinawan Fishermen Shot)," *Okinawa Times*, March 3, 1955.

⁴¹ "Memo by Kuniyoshi Makomo on *Daisan Seitoku Maru* Shimbun Kiji (Newspaper Articles on *Daisan Seitoku Maru*, November 21, 2016," shared with the author. Incidentally, at the time, Higa was already under (unrelated) pressure from opposition parties in the Legislature, having faced an unsuccessful vote of non-confidence.

⁴² "Memo by Ryoan Kinjo."

⁴³ According to Kuniyoshi, fishermen from other area spoke later of the area having become increasingly dangerous in early 1955. The author wishes to thank Kuniyoshi for providing documentation to confirm this. See Tomishuku Mitsuyoshi, *Kushikino Gyogyōshi* (History of Fishing in Kushikino), (Kushikino, Kagoshima: Kushikino Gyogyō Kyōdō Kumiai, 1971), p. 423.



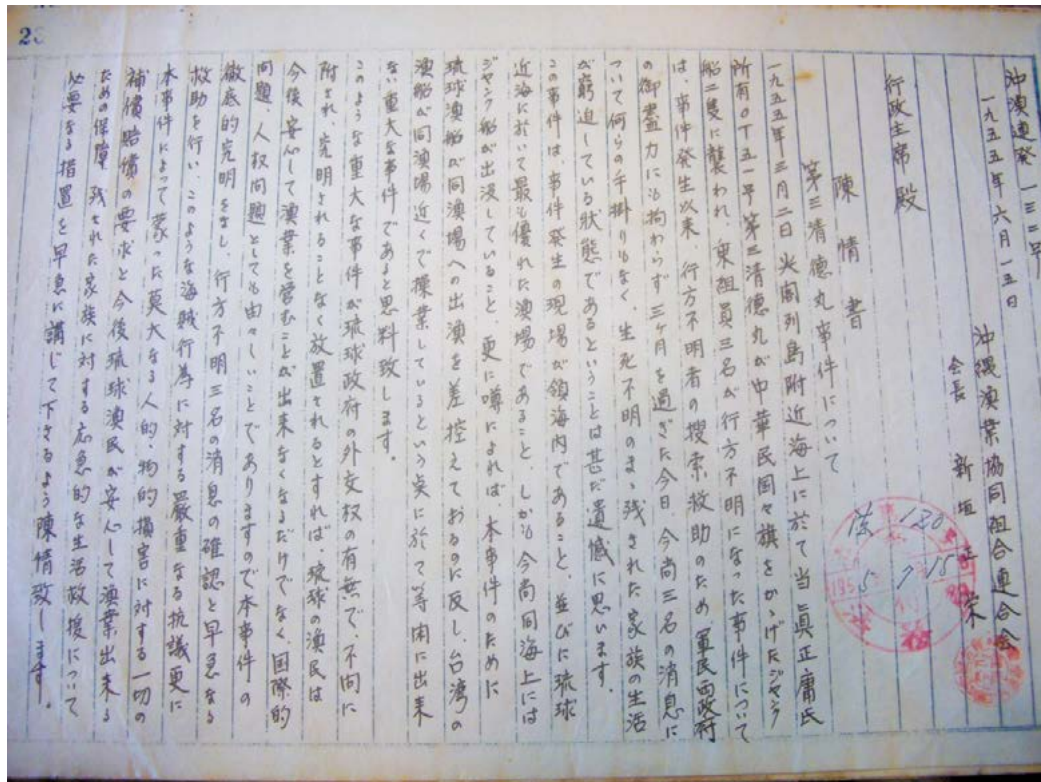
English Translation of Resolution by the Legislature of the Government of the Ryukyu Islands Requesting for Investigation of Shooting Incident on the Daisan Seitoku Maru Crew, March 5, 1955 (Copy in Okinawa Prefectural Archives)

to investigate it, in view of what this particular outrage was dared within Ryukyuan territorial waters inducing a serious infringement dealt upon the Ryukyuan lives, body and property, the same incident may not be left as it is. We heartily petition that especially these three missing brethren be saved fast and that safety of navigation within Ryukyuan territorial waters be ensured in that the anxiety of the people may be dispelled. The Legislature of the Government of the Ryukyu Islands, with its resolution, hereby requests for an accurate investigation of the truth of this incident and for rescue of the missing Daisan Seitoku Maru crewmen. The above is resolved. Date: 5 March 1955.”

The resolution certainly had a special meaning for Ohama, as the former educator was from the village in Ishigaki—Tonoshiro—where the Senkaku Islands were registered. While it is uncertain if he knew the affected crew, he certainly knew the area in question and the impact it would have on the fishing industry.

The owner of the *Daisan Seitoku Maru*, Tōma Seiyo, the captain of the *Daiichi Seitoku Maru*, Tōma Seisei (also known as Masakiyo), and Tōma Shinsei, the president of the Yonabaru Fishing Cooperative jointly signed an appeal and sent it on May 15, 1955, to the Civil Administration, Government of the Ryukyu Islands, and Legislature for a search for the three missing, financial support for the families of the three victims, and compensation for the damage to the vessel. The petition contained a detailed list of the items requiring compensation, which amounted to 582,825 yen.⁴⁴ (A month later on June 15, the presidents of all the fishing cooperatives throughout Okinawa would make a similar request to the GRI.)

⁴⁴ “Petition to Chief Executive, GRI, May 1955,” Daisan Seitoku Maru Files.



Resolution from Okinawa Cooperative of Fisheries Association on Daisan Seitoku Maru Incident, June 15, 1955 (Original in Okinawa Prefectural Archives)

Chief Executive Higa forwarded this petition on June 8 to the Civil Administrator, requesting his “kind and appropriate consideration” in addressing the concerns of the petitioners, who had also sent a copy to USCAR directly.⁴⁵ On June 9, Yogi Tatsubin, a former educator from the Miyako Islands who was serving as the Deputy Chief Executive of the GRI, replied to the petitioners saying that the GRI had requested the Civil Administration to do its best to address their needs.⁴⁶

Also, in the meantime, Higa had requested a few days before that the Civil Administrator keep him informed about the status of the investigation. In his letter of June 6, Higa wrote,

Since this is a matter of the international problem [*sic*] this office wishes to settle the matter at the earliest date as possible upon submittal of any information to you each time we receive. Further, the ship owner and survivors have inquired with this office concerning development of the search of such case and also their representatives including President of the Yonabaru Fishery Association have petitioned to the Legislature of immediate solution of the same. Therefore, you are sincerely requested to furnish with this office informations of up-to-date search progress and future forecast for our information.⁴⁷

⁴⁵ “Letter from Shuhei Higa, Chief Executive, Government of the Ryukyus, to Civil Administrator, USCAR, on Petition Concerning the Daisan Seitoku-Mar Case, June 8, 1955,” Daisan Seitoku Maru Files.

⁴⁶ Saitō Michihiko, “Okinawa Gyosen Shūgeki Jiken: Daisan Seitoku Maru Jiken ni Taisuru Chūka Minkoku no Taiō to Shinsō (An Occurrence of Attack against an Okinawa Fisherboat: Contention by the Republic of China about the Occurrence of Attack against Daisan Seitoku-maru, and Its Truth),” *Jinbunken Kiyō*, No. 81 (2015), p. 76.

⁴⁷ “Letter from Shuhei Higa, Chief Executive, GRI to Civil Administrator, USCAR, on Case of Daisan Seitoku Maru, June 16, 1955,” Daisan Seitoku Maru Files.

The Office of the Deputy Governor responded to Higa's June 6 and June 8 letters on June 16. It explained that "all available information concerning this incident" had been forwarded to the Governor (in Tokyo, at the Far East Command) with the request that the matter be taken up "through appropriate diplomatic channels to fix responsibility; to secure an accounting for the missing Ryukyuan seamen; to demand adequate compensation for damages caused to the crew members of the *Daisan Seitoku Maru* and to the families of the missing seamen; to ensure that the perpetrators be punished and to ensure that there will be no future occurrence of this nature."⁴⁸

The letter also promised to keep the Chief Executive's Office informed of further developments as soon as information was received. Regarding the issue of emergency financial assistance for the families of the missing fishermen, the letter explained that any such assistance would be the responsibility of the GRI should "welfare officials determine such measures are warranted and necessary."⁴⁹

In the meantime, on July 10, *Daisan Seitoku Maru* owner Tōma Seiyō and more than 30 others, including the heads of the fishing cooperatives, made an appeal to Prime Minister Hatoyama Ichirō, Foreign Minister Shigemitsu, the speakers of both houses, the heads of each political party, the Japan Civil Liberties Union, and the president of the Japan Prefecture Fisheries Association to resolve the issue quickly. The issue would come up in the parliament later that month, which is discussed in the next section on Japan's response.

Over the following months into 1956, it would primarily be the United States government, however, that took up the issue with Republic of China authorities. Unfortunately, as discussed earlier, the ROC denied any involvement by its personnel or vessels and there was no forward movement.

As such, on July 7, 1956, *Daisan Seitoku Maru* owner Tōma wrote directly to Republic of China Foreign Minister Kung-chao Yeh, a former university professor who had studied in the United States, asking him to resolve the issue quickly.⁵⁰ It is unclear if he received a response. If he did not, it was a missed opportunity for the ROC to explain its position directly to the victims, and this lack of response probably led to greater apprehension and mistrust.

Tōma followed this up a couple of weeks later on July 20 by asking the Chief Executive of the Government of the Ryukyu Islands Higa Shūhei about the status of the investigation.

Higa, who was preoccupied with the land crisis and would die a few months later from a heart attack, had Nishihira Sōsei, the Chief of Police, GRI, respond shortly after on July 27.⁵¹ Nishihira told Tōma that the GRI had not received any information from USCAR, and explained that they would not be able to share any information with Mr. Sai Sho, who headed the Ryukyuan People's Association of Formosa, as the latter did not have any diplomatic credentials or the authority to address the issue. It seems, from the context of that response, that Tōma believed Sai could act as

⁴⁸ "Letter from Earle F. Burns, Office of the Deputy Governor, to Chief Executive, GRI to Civil Administrator, USCAR, on Case of *Daisan Seitoku Maru*, June 6, 1955," *Daisan Seitoku Maru* Files.

⁴⁹ *Ibid.* The families were compensated in 1967 by the GRI, twelve years after the incident. As discussed more fully in the Conclusion, the author believes that if the ROC would not take responsibility, it should have been the United States government that paid compensation as the incident occurred "during its watch." An even better solution might have been for the Government of Japan to compensate the victims. This would have demonstrated further Japan's commitment to Okinawa and the victims, who were Japanese citizens.

⁵⁰ Saitō, "Okinawa Gyosen Shūgeki Jiken," p. 77.

⁵¹ Nishihira would become Superintendent of the Police (Ryūkyū Keisatsu Kyokuchō) on July 30. He likely continued to follow the investigation in this more senior capacity, in which he served the next five years.

a go-between or liaison with the ROC on this issue.⁵²

The same day, Higa wrote to U.S. authorities to ask for an update, mentioning Tōma's petition and the families' "great anxiety" over the lack of clear answers.⁵³ Higa specifically asked that the following questions be addressed: "a. How and to whom did you contacted [*sic*] based upon the evidence presented to you by this office? And what is the result? b. After that how [do] matters stand in the question to settle and what do you foresee for its future?"⁵⁴

Upon receipt of the letter, the Deputy Governor's office immediately reached out to the Governor of the Ryukyu Islands in Tokyo for information on which to base a reply.⁵⁵ That answer was essentially a repeat of previous responses. Namely, it informed the Deputy Governor's Office that the "presently available evidence" was of an "inconclusive nature" and that while it did not have any additional information the office could inform the Chief Executive of "the attempts which have been and will be made to obtain additional information."⁵⁶

A curious thing happened after this response was received by USCAR officials, however. Paul H. Skuse, who was the Director of the Public Safety Department and oversaw the police, and Edward O. Freimuth, of the Liaison Office, decided not to share it with the Chief Executive. The reasons for this decision are unclear, but according to a handwritten memo, dated November 3, 1956, by Skuse, he consulted with Mr. John M. Steeves, the U.S. consul general in Okinawa and political advisor, who agreed that "we were right in not giving this answer to" Higa.⁵⁷ Sadly, as previously mentioned, Higa had died of a heart attack the week before. Skuse's handwritten note may have been a memo for the record about the status of their exchanges on this matter, or lack thereof.

Because the Chief Executive's Office had not received a reply, Higa's successor, Tōma Jūgō, a former judge and mayor of Naha City in the prewar who assumed office as Chief Executive on November 1, wrote to the Civil Administrator in late March 1957 asking for an update as the "families concerned are also longing therefor."⁵⁸ (Shortly before this on March 12—more than two years after the incident—the boat owner, Tōma, petitioned Yoshida Hōsei, a member of the Socialist Party, and other parliamentarians who were visiting Okinawa at the time when they met. As introduced later, Yoshida had raised the issue in the Japanese Diet in January, the year before,

⁵² Sai had penned a memo on the incident a couple weeks later. It is unclear to whom the memo was presented, but a typed English version can be found in the USCAR files on the *Daisan Seitoku Maru* incident. See Sai Sho, "Personal Opinion with regard to the Case of the Attack of a Ryukyuan Fishing Boat by Chinese Junks, March 18, 1955." Sai doubted ROC personnel did it and suggested it might have been the work of the Communists. At least one researcher believes Sai to have been an agent of the ROC. See Saitō, "Okinawa Gyosen Shūgeki Jiken," p. 54.

⁵³ "Letter from Higa Shuhei to Civil Administrator on Case of the *Daisan Seitoku Maru*, July 27, 1956," *Daisan Seitoku Maru* Files.

⁵⁴ *Ibid.*

⁵⁵ "Letter from Major John L. Tanner, Deputy Governor's Office, to Governor of the Ryukyu Islands on Senkaku Retto Incident, August 3, 1956," *Daisan Seitoku Maru* Files.

⁵⁶ "Letter from Colonel Herbert L. Nelson, Headquarters, Far East Command, to Deputy Governor of the Ryukyu Islands on Senkaku Retto Incident, August 10, 1956," *Daisan Seitoku Maru* Files.

⁵⁷ "Handwritten note (untitled) by Paul H. Skuse, November 2, 1956," *Daisan Seitoku Maru* Files. For more on the position of consul general in Okinawa, see Robert D. Eldridge, "Report from Naha: The U.S. Consuls General and the 'Okinawa Problem' in the 1950s," *Kokusai Kōkyō Seisaku Kenkyū* (International Public Policy Studies), Vol. 7, No. 1 (October 2002), pp. 1-17.

⁵⁸ "Letter from Jugo Thoma, Chief Executive, Government of the Ryukyus, to the Civil Administrator on Case of the *Dai San Seitoku Maru*, March 28, 1957," *Daisan Seitoku Maru* Files. Tōma spelt his name "Thoma" but I will use the more common way here. It is unclear if he was directly related to the victim and his family. As he did not talk about the incident in his memoirs, or in any other known documents, it is unlikely that there was a connection.

and would do so a week later on March 19, 1957.)

The Deputy Governor's Office responded in early May that it did not have any "further information bearing on this case available" other than what was included in last letter on January 4, 1956.⁵⁹ This letter did, however, paraphrase the letter from the Governor it received in August 1956 (but which it inexplicably did not share at the time)—namely, that the "evidence previously submitted did not conclusively establish the identity of the assailants."⁶⁰ It also noted the Department of Police, GRI, had recently submitted additional evidence which might be "helpful in identifying one or more members of the attacking junks" and explained that the new evidence had been forwarded to "appropriate authorities with a request that further efforts be made to fix responsibility for this incident."⁶¹

It is unclear from this letter what the new evidence was, where and how it was received, to whom it was given, and when it was given. It is also unclear if it was given at all to anyone, at least at the time the letter was sent in May. The reason for this is that in the surviving records, there is no mention of such a transfer of property during 1956 or the first half of 1957.

However, in the summer of 1957, in response to a State Department Instruction Letter dated August 9, the Office of the High Commissioner, a position created in July, wrote to the new Consul General in Okinawa Olcott M. Deming to inform him that the office was "in possession of numerous items of personal property apparently belonging to the perpetrators of the alleged attack" on the *Daisan Seitoku Maru* and said that they believed "this evidence could be of great value to the investigating authorities in tracing the identity of the perpetrators."⁶²

The following month, on September 12, Skuse and Ronald W. Ota, supervising Criminal Investigator, from the Public Safety Department, USCAR, met with Peter A. Seip from the U.S. Consulate in Okinawa to discuss the contents of the evidence.⁶³ They decided that papers and other materials they had on hand should be forwarded to the U.S. Embassy in Taipei, which was done later that month. In the meantime, they sent copies of reports to the U.S. Consulate in Naha on September 20.⁶⁴

On September 28, the Office of the High Commissioner sent a large package containing the main evidence to James B. Pilcher, Counselor at the U.S. Embassy in Taipei since July 1956 and later its Chargé d'affaires.

The spring and summer of 1957 had been a very difficult time for the U.S. Embassy in Taipei. Protests erupted over killing of a ROC army officer by an American soldier and his subsequent acquittal in a court martial hearing known as the May 24 Incident (also Reynolds Riot, after the

⁵⁹ "Letter from Chief Warrant Officer Jack C. Smith, Deputy Governor's Office, to Chief Executive, Government of the Ryukyu Islands, on the Case of the *Daisan Seitoku Maru*, May 9, 1957," *Daisan Seitoku Maru* Files.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² "Letter from Colonel G.A. Walk, Office of the High Commissioner, to Consul General, August 30, 1957," *Daisan Seitoku Maru* Files. Deming became Consul General on June 30, 1957, replacing Steeves who had been serving in that capacity since December 1954, in yet another personnel change at an important juncture. For details on the timing of the appointments, see Eldridge, "Report from Naha."

⁶³ "Undated Memo for Record by Ronald M. Ota, added to Letter from Lieutenant Colonel Crescenzo Guida, Office of the High Commissioner, to Consul General, September 18, 1957," *Daisan Seitoku Maru* Files.

⁶⁴ "Letter from Lieutenant Colonel Crescenzo Guida, Office of the High Commissioner, to Consul General, September 20, 1957," *Daisan Seitoku Maru* Files.

name of the sergeant involved in the killing).⁶⁵ That kept Pilcher and his colleagues very busy as the Embassy and U.S. Information Service buildings were attacked and heavily damaged.

Later in the fall, after things had settled down somewhat, the Office of the High Commissioner sent a follow-up letter and package to Pilcher explaining that some evidence had been “inadvertently misplaced” and that “in our haste to mail the major portion of evidence which was mailed to you on the 28th of September the above [listed items] were omitted. It is hoped that these items will furnish additional leads.”⁶⁶

Coincidentally, the date this package went out was November 5, two years to the day that the ROC Embassy in Tokyo originally informed the U.S. Embassy there in 1955 that the ROC had nothing to do with the *Daisan Seitoku Maru* incident.⁶⁷

Charles J. Stanley, the Second Secretary at the U.S. Embassy in Taipei, immediately forwarded the list of new evidence upon receiving it.⁶⁸ It is unclear if he received a reply.

With no response had, Chief Executive Tōma was forced once again to write to the Civil Administrator and ask the status of the investigation. On May 8, 1958, one year after it had received a letter from USCAR in early May 1957 that the evidence provided by the GRI Police had been “forwarded to appropriate authorities” and that the Chief Executive’s Office “would be informed of any further developments concerning the case as soon as they became known,” he requested that “this office be notified of the results of the negotiations based upon the evidence furnished by GRI and of the future development of the case.”⁶⁹

Unfortunately, Tōma seems to have received no response to his letter, then or even before he finished his term as Chief Executive the following year in November 1959. However, this does not mean that the U.S. side was not working the issue. A week after Tōma’s letter, the Office of the High Commissioner wrote to Consul General Deming to request any information the State Department had that could be shared with the Chief Executive.⁷⁰

Moreover, after Pilcher received the first package of evidence at the U.S. Embassy in Taipei in late September 1957, the U.S. Embassy contacted the ROC Ministry of Foreign Affairs a week later on October 8 explaining that the U.S. side had received evidence suggesting “that unofficial personnel with loyalty to [the Republic of] China” were involved in the attack and was sharing it with the ministry.⁷¹

This note was eventually shared within the ROC government leading to several exchanges between MOFA, the Ministry of Defense, Navy Command, Chief of Staff, and others how to respond and other matters. According to a memo drafted by MOFA, it had informed the U.S. Embassy in Taipei on May 28, 1958, that ROC Navy did not have any vessels as described by the U.S. side but that it would continue to check with the other services, include the Security

⁶⁵ For details see Rankin, *China Assignment*, especially Chapter 10, and Stephen G. Craft, *American Justice in Taiwan: The 1957 Riots and Cold War Foreign Policy* (Lexington: University of Kentucky Press, 2016).

⁶⁶ “Letter to James Pilcher, American Embassy, Taipei, Formosa, from Crescenzo Guida, Office of the High Commissioner, November 5, 1957.”

⁶⁷ Saitō, “Okinawa Gyosen Shūgeki Jiken,” p. 50.

⁶⁸ Letter from Charles J. Stanley, Second Secretary of Embassy, to Dr. Hsu Shao-chang, Director, American Affairs Department, MOFA, November 13, 1957.” This document is labeled “11-EAP-01532” in the ROC’s MOFA files.

⁶⁹ “Letter from Chief Executive Jugo Thoma to Civil Administrator on Case of the *Daisan Seitoku Maru*, May 8, 1958,” *Daisan Seitoku Maru* Files.

⁷⁰ “Letter from Theodore A. Christophil, Office of the High Commissioner, to Consul General, May 16, 1958,” *Daisan Seitoku Maru* Files.

⁷¹ Saitō, “Okinawa Gyosen Shūgeki Jiken,” pp. 50-51.

Command.⁷² Throughout the remainder of the year, the ROC would continue to deny involvement (including in a December 20 note to the U.S. Embassy in Taipei) in the *Daisan Seitoku Maru* incident and insist that it was probably the work of PRC personnel.⁷³

No doubt frustrated with the failure to get helpful information or reach a solution, Yamashiro Zenkō, a recently elected member of the Legislature of the Government of the Ryukyu Islands, visited Taiwan in November 1958 and reportedly met with Chang Chun, Secretary General to the President of the Republic from 1954 to 1972, with whom he raised the issue.⁷⁴ Subsequently, in early 1959, he sent a follow-up inquiry to President Chiang Kai-shek's office.⁷⁵ Chang, whose name is also written as Zhang Qun, shared it with the Ministry of Foreign Affairs and asked for clarification and details, and after receiving it, responded to Yamashiro, a former newspaper reporter and longtime activist, on March 7.

In its response, the President's Office explained that it had confirmed with MOFA the details of the incident, and shared with Yamashiro MOFA's reply:

It may be recalled that the case in question was submitted to this (the Chinese Foreign) Ministry for settlement by our (the Chinese) Embassy to Japan upon receipt of a note by the U.S. Embassy to Japan dated back August 5, 1955. This (the Chinese Foreign) Ministry then referred the case to the Ministry of National Defense (of China) for action and reply. Afterwards, a reply was received to the effect that our (Chinese) fleet or troops had never performed any activities whatsoever in the area where the accident of the Ryukyuan fishing boat occurred, or the attack on that boat; nor was there any such boat called "Chin-shui-chin" as stated in the original letter. This (the Chinese Foreign) Ministry immediately cabled our (the Chinese) Embassy in Japan, asking the latter to transmit the investigation results of the case to the U.S. Embassy in Japan. Later on, this (the Chinese Foreign) Ministry was in receipt of two letters dated respectively October 8th, 1957 and November 13th [sic], 1957, accompanied with pictures of newly discovered evidences regarding the case, requesting continuous investigation. Again, this (the Chinese Foreign) Ministry asked the Ministry of National Defense (of China) to conduct further investigation on the basis of the new clue furnished by the new evidence. The Ministry of National Defense (of China), however, replied that all the units concerned had been ordered to probe into the case with their utmost efforts, but according to their reports, no such personnel and ship as claimed could be found. This (the

⁷² *Ibid.*, p. 52.

⁷³ *Ibid.*, p. 53.

⁷⁴ "Chugoku Seifu ha Shiranu": Daisan Seitoku Maru Jiken ni Kaito (The Chinese Government Does Not Know: Answer to the Case of the Daisan Seitoku Maru)," *Ryūkyū Shimpō*, March 11, 1959. The author is grateful to Kuniyoshi Makomo for locating this article and other support he provided throughout the writing of this paper. Yamashiro may have been a part of a 196-member tourist group that traveled to Taiwan at that time. The group included those that had been born and raised in Taiwan during the Japanese administration of the island. (See "Taiwan he Hatsu no Kanko Dan [First Tourist Group to Visit Taiwan]," *Ryūkyū Shimpō*, November 5, 1958.)

⁷⁵ There is some confusion about when the letter was sent. A response from Chang Chun, of the Office of the President, Republic of China, references Yamashiro's letter as being sent on February 15. (See "Letter from Chang Chun to Mr. Yamashiro, March 7 [1959]," Daisan Seitoku Maru Files.) A newspaper story from that time, however, writes that the letter was sent on January 15. (See "Daisan Seitoku Maru Chōsa Mada Tsuzuku: Taiwan Kokumin Seifu Kara Shokan [Investigations to Continue on Daisan Seitoku Maru, Letter Received from Nationalist Government on Taiwan]," *Okinawa Times*, March 11, 1959.) In addition, scholar Saitō Michihiko, who examined the then-declassified documents in the files of the ROC Ministry of Foreign Affairs, writes that the letter was dated January 14, and references two other exchanges which suggest, from the timing of the exchanges, that the letter was sent on January 15. (See Saitō, "Okinawa Gyosen Shūgeki Jiken," pp. 72-73.)

Chinese Foreign) Ministry then sent a reply to the U.S. Embassy in China, by quoting in brief the letter of the Ministry of National Defense (of China), “on February 14 of this year.”⁷⁶

MOFA in turn informed the U.S. Embassy in Taipei about the exchange, explaining it had sent its response to Yamashiro. It also told U.S. officials that the Ministry of National Defense had not found any individuals or vessels identified in the evidence the U.S. side had presented.⁷⁷

Japanese government officials became aware of the exchanges, too, it seems, likely because of local reporting. On March 13, 1959, the Naha Office of the Nanpō Renraku Jimusho, an agency set up in 1952 at the suggestion of the U.S. side within the Prime Minister’s Office to monitor affairs in Okinawa as envisioned by former Prime Minister Yoshida Shigeru, sent a report to the Director of the Liaison Office of the Special Areas (*Sōrifu Tokubetsu Chiiki Renrakukyoku*), which included Okinawa, about the response Yamashiro received.⁷⁸ This office in turn forwarded it to Nakagawa Tōru, the counsellor of the Foreign Ministry and Director General of the Asian Affairs Bureau on March 23.⁷⁹

It is unclear if these events are related, but a colleague of Yamashiro, Asato Tsumichiyo, called on the High Commissioner, Lieutenant General Donald P. Booth, around this time about resolving the *Daisan Seitoku Maru* issue. Asato, who had been serving in the Legislature since its beginning in 1952 and was at this time its speaker, had been a lawyer in Tainan City during Japan’s administration of Taiwan. In 1935, he was elected to the Tainan City assembly.

He brought with him a petition to the Legislature, dated March 15, from Tōma and others connected to the fishing vessel but had not shared it with the Legislature yet as he “does not want to make a political issue of it” and “does not want it to get to the Communist Chinese for food to attack the [Nationalist Chinese].”⁸⁰ “However,” the undated memo of conversation prepared of the meeting said, “he has what he thinks is irrefutable evidence that the [Nationalist Chinese] did this. He thought by working through diplomatic channels we could get the [Nationalist Chinese] to pay solatium and compensation for the damage to the boat.”⁸¹

Asato, who would later become a member of the House of Representatives in the Japanese Diet in 1970, argued that “since the [United States] is the administrative authority here it is [the United States] responsibility to see that something is done about it. [The problem] is (5) years

⁷⁶ “Letter from Chang Chun.”

⁷⁷ The confusion in the dates is found here as well, because of the timing of the report from MOFA to the President’s Office, which is dated February 14, according to Saitō. Because of this confusion, I decided to leave the description in the text vague as to dates, but all of this transpired in the first few months of 1959.

⁷⁸ “Na Dai 383 Gō, Shōwa 34 Nen 3 Gatsu 13 Nichi, Naha Nihon Seifu Nanpō Renraku Jimushochō [to] Sōrifu Tokubetsu Chiiki Renraku Kyokuchō,” in *Beikoku Kanrika no Nansei Shotō Jōkyō Zakken Okinawa Kankei Daisan Seitokumarū Jiken* (米国家管理下の南西諸島状況雑件 沖縄関係 第三清徳丸事件), Bunrui Bangō (分類番号) A!3.0.0.7-1 (68), Diplomatic Archives of the Ministry of Foreign Affairs, Tokyo. For more on the establishment and operation of the office in Okinawa, see Robert D. Eldridge, “Early Liaisons,” *This Week on Okinawa*, Vol. 65, No. 32 (August 11-17, 2019), pp. 13-15.

⁷⁹ “Sōtokuren Dai 302 Gō, Shōwa 34 Nen 3 Gatsu 23 Nichi, Sōrifu Tokubetsu Chiiki Renraku Kyokuchō [to] Gaimushō Ajia Kyokuchō,” in *Beikoku Kanrika no Nansei Shotō Jōkyō Zakken Okinawa Kankei Daisan Seitokumarū Jiken*.

⁸⁰ “Undated Memorandum for Col Williams by Andy [last name unknown] on Mr. Asato’s Meeting with General Booth,” *Daisan Seitoku Maru* Files. From the context, it appears to have taken place in March 1959.

⁸¹ *Ibid.*

old now and nothing has been done about it.”⁸²

While it is likely that Booth, who had assumed his position as High Commissioner the previous May, did not commit to anything during his meeting with Asato, the memorandum of conversation stated afterwards that he directed his staff to “get the full facts of the case. Find out (1) what happened referenced publicity; (2) international difficulties; (3) what happened in the Japanese Diet; (4) [what happened in the] GRI Legislature; (5) what USCAR did, etc.”⁸³ Importantly, the memo also stated that the High Commissioner “wants to send a letter to [the Consul General] or, possibly, a message to [the Department of the Army], depending upon the facts. We should take position that the [United States] should make strong protest to Taiwan Government to get solatium for the bereaved people and payment for damage to the boat. If the [United States] does not want to take this matter up with the [Nationalist Chinese] then [the United States] should pay this...We cannot let this fester any longer.”⁸⁴

Unfortunately, it is unclear from the files what happened next on the U.S. side. It appears little progress was made, however, because in early August 1962, the new Chief Executive, Ota Seisaku, a judge and public prosecutor in the prewar, wrote to the High Commissioner, who was also new, Lieutenant General Paul W. Caraway, to inquire about the status. Ota had also previously served in Taiwan as the governor of Hōko Prefecture, otherwise known as the Pescadores (today, known as Penghu County), and had been the Deputy Chief Executive under Tōma.⁸⁵

Caraway’s office responded at the end of the month. Its letter, however, was unlike previous responses, seeming to suggest it was trying to end USCAR’s involvement. “Recognizing the importance of this case to the individuals concerned as well as to the Government of the Ryukyu Islands,” the response stated, “the High Commissioner wishes to express his regret in being unable to establish legal liability or responsibility for the incident based on the information and evidence available.”⁸⁶ Of note, this letter did not conclude with the phrase—“we will keep your office informed about any new developments,” which was always included in earlier letters. As such, it probably meant that USCAR had given up on pursuing the case on behalf of the GRI any longer.

GOJ Responses: Ministry of Foreign Affairs and Diet

It is important to look at how the Government of Japan responded following the *Daisan Seitoku Maru* incident as well. Despite not having administrative rights over the Nansei Islands at this time as a result of the San Francisco Peace Treaty, the Government of Japan also became involved in the issue as previously mentioned. There were several, understandable reasons for this.

First, Japan was worried about the assault on the Okinawan fishermen, as it came so close after numerous incidents between Japanese fishermen and Korean authorities near Takeshima. As alluded to in the beginning of this article, tensions were high in the early to mid-1950s due to the unilateral establishment of the Syngman Rhee Line in January 1952 which placed Takeshima (which the Republic of Korea calls “Dokdo” but which the San Francisco Peace Treaty recognized as belonging to Japan) within the line that President Rhee established and committed to defend

⁸² *Ibid.* Here “(5)” is written, but it is because the discussants (or the recorder of the conversation) think the incident happened in 1954 rather than 1955.

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ As Deputy Chief Executive, Ota had visited Taiwan in September 1958. It is unclear if he brought up the incident in his meetings with Vice President Chen Cheng and Secretary General Zhang Qun.

⁸⁶ “Letter from Lieutenant Colonel Kenneth S. Hitch, High Commissioner’s Office, to Chief Executive, Government of the Ryukyu Islands, on Expedious Solution of the Dai San Seitoku Maru Case, August 29, 1962,” *Daisan Seitoku Maru Files*.

by force.

Within this unilaterally established zone, Japanese fishing boats were regularly fired on and seized, and in one incident on February 4, 1953, a chief fisherman was killed.⁸⁷ A Japanese Coast Guard patrol vessel was also fired on by the ROK Dokdo garrison on August 23, 1954. A year later in August, amid rising tensions, the ROK severed ties between it and Japan, forbidding trade and other exchanges. This escalation in tensions occurred as the *Daisan Seitoku Maru* saga was beginning. Japan had two major maritime incidents on its hands to deal with.

A second related reason Japan became involved is because Okinawan residents were Japanese nationals. Japan had “residual sovereignty” over the Nansei Islands, as stated by the U.S. special representative (John Foster Dulles) at the time of the San Francisco Peace Treaty conference.⁸⁸ In order to clarify this, Prime Minister Yoshida submitted a document entitled “‘Practicable Arrangement’ for the Southern Islands” in December 1951 when Dulles visited Japan which called for, among a half-dozen items, that “The U.S. confirms that the Southern Islands remain under Japanese sovereignty and thus the inhabitants remain Japanese nationals.”⁸⁹ As such, while the U.S. government administered Okinawa through the U.S. Army, the Japanese government maintained its strong interest in the fate of the residents. Therefore, it monitored the situation and as necessary appealed to U.S. authorities on behalf of the Okinawan residents.

It is unclear how and when the Japanese government first became aware of the incident. However, the local media began reporting it as early as March 3 (with the *Okinawa Times* doing so that day with other newspapers following the next day), so it was within approximately 24 to 48 hours of the incident that it became public knowledge.

Despite these reasons to be involved, because of the principle that the United States had primary responsibility to administer the islands, the Government of Japan felt its hands somewhat tied and could only appeal to the United States on behalf of the residents. (The author argues later that there were probably other things the GOJ could have done as well.)

With no immediate resolution in sight, the matter was taken up in the Parliament that summer. In the afternoon of July 26, during a meeting of the Foreign Affairs Committee of the 22nd Session of the Lower House, Hososako Kanemitsu, a Socialist Party member and lawyer, asked Nakagawa Tōru, a counsellor of the Foreign Ministry and Director General of the Asian Affairs Bureau, about the incident. Nakagawa, who would later serve as the Director General of the Treaties Bureau and Japan’s ambassador to the United Nations in the early 1970s, responded that the ministry had informed the U.S. Embassy in Tokyo of the incident and requested that the U.S. government do its best to investigate it. Nakagawa further explained that because the United States had administrative rights over the Ryukyu Islands, the U.S. government was primarily responsible for protecting the people of the islands, and thus the Japanese government had relayed to the U.S. side its desires and expressed its hope that the United States would do a thorough investigation. Unfortunately, he admitted, “the government has not received any reports yet [from the U.S. side].”⁹⁰

A couple of days later on July 28 (1955), Nakagawa wrote to George A. Morgan, who had

⁸⁷ This homicide was called the “Daihō Maru Incident.” See Daniel Roh, *Japan, Korea, and the Takeshima Secret Pact: Territorial Conflict and the Formation of the Postwar East Asian Order* (Tokyo: Japan Publishing Industry Foundation for Culture, 2024), p. 34

⁸⁸ Eldridge, *The Origins of the Bilateral Okinawa Problem*, p. 325.

⁸⁹ *Ibid.*, pp. 363-365.

⁹⁰ Saitō, “Okinawa Gyosen Shūgeki Jiken,” p. 76.

joined the U.S. Embassy in Tokyo the year before as its Political Counselor.⁹¹ He referenced the incident and forwarded a summary of a petition from the families of the victims, owner of the *Daisan Seitoku Maru*, and others. In particular, Nakagawa expressed his hope that U.S. Embassy would “use its good offices so that the U.S. authorities would make every effort to investigate into the case, to rescue the three missing and to relieve the victims and take a proper step to ensure safe fishing operation of the Ryukyuan fishermen in the waters of the Ryukyu Islands.”⁹²

The five-page “Gist of Petition,” prepared by the Okinawan group and which appears to have been translated by the Ministry of Foreign Affairs, was attached. Its contents are important, so the main text (minus the list of signatories) will be reproduced here.⁹³ The names of the three who are believed to have died in the attack were redacted by MOFA officials when they declassified the related file in 2021, but the names are already publicly known from newspaper articles at the time as well as U.S. diplomatic documents declassified decades ago, so they will be included here in parentheses (and can also be found in footnote 8).

Gist of Petition

About 2 p.m. on March 2, 1955 a shocking event occurred in the sea 123° 29' east longitude and 25° 45' north latitude, near Uotsuri Island of the Senkaku Islands, north-west of Ishigaki Island of the Yaeyama Islands, which lies within the territorial waters of the Ryukyus. The No. 3 *Seitokumaru*, OT No. 51 (15.39 tons) owned by Seiyo Toma was attacked by two junks (respectively named *Taian* and *Kinsuishin*) hoisting the national flag of the Republic of China (Sun in Blue Sky), and as a result of this outrage, [Kinjō Jirō], skipper of the No. 3 *Seitokumaru*, [Tōma Seitoku], Chief Engineer, and [Yonaha Kazuo], a crew member are missing.

Immediately after this event, Brigadier General [Walter M.] Johnson, Civil Administrator of the Civil Administration of the Ryukyu Islands, stated that “the U.S. naval and air forces were now employed to make investigations of the event and particulars would be communicated as soon as they are obtained” and he thought that “in the present stage it was not necessary

⁹¹ See “Interview with Ambassador George Allen Morgan, December 23, 1989,” The Association for Diplomatic Studies and Training Foreign Affairs Oral History Project (<https://adst.org/OH%20TOCs/Morgan,%20George%20Allen.pdf>), p. 7. Also see “Interview with Margaret (Peggy) Morgan, September 2, 1986,” The Association for Diplomatic Studies and Training, Foreign Affairs Oral History Program, Foreign Service Spouse Series (https://adst.org/OH%20TOCs/Morgan,%20Margaret%20_Peggy_%201986%20-%20TOC.pdf), pp. 17, 22.

⁹² “Letter from Toru Nakagawa to George A. Morgan, July 28, 1955,” Kōjōsho (口上書, Verbal Note), Beikoku Kanrika no Nansei Shotō Jōkyō Zakken Okinawa Kankei Daisan Seitokumarū Jiken.

⁹³ The signatories and their occupations were: Tōma Seiyo, owner of the *Daisan Seitoku Maru*; Tōma Seisei, owner and skipper of the *Daiichi Seitoku Maru*; Shinzato Kanshō, crew member of the *Daisan Seitoku Maru*; Kinjō Fusuke, same; Tamanaha Zenichi, same; Uchima Shinei, same; Tōma Seiko, same; Tsuha Gempachi, Mayor of Sashiki Village; Yamashiro Butoku, Speaker of Sashiki Village Assembly; Nakamura Seian, Chairman of Sashiki Fishing Cooperative Association; Miyagi Kigi, head of Baten Ward, Sashiki Village; Shiroma Bansei, Member of Sashiki Village Assembly; Sesoko Seishun, same; Kaneshima Shinsuke, Mayor of Yonabaru Town; Yamauchi Hisamitsu, Speaker of Yonabaru Town Assembly; Sesoku Yamato, Member of Yonabaru Town Assembly; Komaki Kiichi, same; Yamauchi Toshio, same; Tōma Seijin, Chairman of Yonabaru Fishing Cooperative Association; Sesoku Masao, Managing Director of Yonabaru Fishing Cooperative Association; Nakazato Zenshun, Head of Tosoe Ward, Yonabaru Town; Uehara Hideo, Chairman of Itoman Fishing Cooperative Association; Gima Shinki, Chairman of Naha District Fishing Cooperative Association; Taira Sentetsu, Chairman of Okinawa Federation of Fishing Cooperative Associations; Tamaki Jinei, Chairman of Yaeyama Federation of Fishing Cooperative Associations; Nagamine Kenshō, President of Ryukyu Marine Products Co., Ltd.; Uechi Seiko, Chairman of Ryukyu Fishing Vessel Insurance Association.

for the Ryukyu Government to take any steps in regard to the event.” (March 5th issue of the *Okinawa Times*) From the above statement it seems that the Civil Administration of the Ryukyu Islands conducted investigations of this accident. However, now after nearly four months since the event no information whatsoever has been given from the said authorities.

The Legislature of the Ryukyu Government adopted a resolution for submitting for submitting a petition to the United Nations, the International Civil Liberties Union, the Japanese Government, the Governor and Deputy Governor of the Ryukyu Islands, with regard to investigations and settlement of this case. No announcement, however, has been made as to what measures have been taken in regard to the petition.

Measures which we desire to be taken are as follows:

1. To search for [Kinjō Jirō, Tōma Seitoku, and Yonaha Kazuo], who have been missing and rescue them as quickly as possible.
2. Payment of indemnity by the country concerned for all the damage caused by unlawful acts of the junks.
3. In order to protect the life and safety of fishermen, to lodge a strong protest with the country concerned.
4. To extend an emergency livelihood assistance to the families of the missing.

This problem not only concerns us, but affects the life and livelihood of the whole fishery population of the Ryukyus.

The sea adjacent to the Senkaku Islands is the sole fishing ground for Okinawan fishermen, now that they have few fishing grounds because of their detachment from the main island of Japan. Though the sea just referred to lies within the territorial waters of the Ryukyu Islands, it is haunted by Formosan fishing boats freely and constantly. Besides, even after the event junks similar to those that caused the incident have been frequently sighted to the great horror of the Okinawan fishermen. When the fishing boats of Okinawans see such junks, they hastily run away, giving up their fishing operation.

Since the fishermen of the Ryukyus have almost no fishing ground in the seas near Okinawa owing to the bombing practice of the U.S. Air Force in that area, the above mentioned sea is the last fishing ground for them to sustain their livelihood; if this fishing ground is left to the plundering of pirates, those fishermen and their families will be driven to starvation.

In order to rescue the three missing men, to defend the natural right we have as human being, and further to protect the lives and livelihood of the Okinawa fishermen, we, in behalf of the whole fishermen of the Ryukyus, earnestly request the co-operation and assistance of the people of our father land.

July 1955.

As discussed in an earlier section, Morgan was at the time working on a *note verbale* to the Embassy of the Republic of China in Tokyo inquiring about the incident, which he sent on August 5. Unfortunately, the ROC's response was immediately not forthcoming. Morgan would later share this answer from the ROC when it came with the Japanese Foreign Ministry, as he did the Far East Command.

As we saw earlier, Nakagawa's request to Morgan came in part as a result of the petition, but also because of the questioning in the Diet he had undergone. This would not be the last time the issue would be raised in Japan's Parliament.

Later that year on December 8, *Daisan Seitoku Maru* owner Tōma asked five members of the Ryukyu Legislature, who were visiting mainland Japan, to take up the case of the *Daisan Seitoku*

Maru with the Japanese government and those from each of the political parties with whom they met.⁹⁴

They seem to have done so because on December 13, 1955, at the Upper House's Budget Committee, Yoshida Hōsei, a member of the Socialist Party, asked Justice Minister Makino Ryōzō and Foreign Minister Shigemitsu about the incident. Shigemitsu, who had visited the United States several months earlier, answered in the same vein as Director General Nakagawa in July: "Because the United States is in charge now of directly governing Okinawa, it is negotiating with the government of the Republic of China. However, Japan can not sit still and be quiet. The Japanese government has raised attention to this matter with both the United States and Republic of China and requested measures be taken to resolve the issue," and added, "It is regrettable that we have not received any report that the issue will be resolved along our desires."⁹⁵

The following year on March 19, after a similar request by Tōma earlier that month, Yoshida again brought it up Kishi Nobusuke who was serving concurrently as Foreign Minister and Prime Minister, in questioning in the Diet. Although Yoshida referenced the *Daisan Seitoku Maru* incident in his question, Kishi responded in more general terms about the United States being in charge of the administration and that it was important for Japan to share the concerns of the residents with U.S. officials.⁹⁶

ROC Reactions: President's Office, MOFA, and the Military

It is unclear when officials in the Republic of China were alerted about the incident, but Japanese scholar, Saitō Michihiko, who worked with some of the documents of the Ministry of Foreign Affairs of the Republic of China in April 2014, wrote that he found a copy of the March 5 Resolution by the Legislature of the GRI in the Institute of Modern History, Academia Sinica, which houses the archives.⁹⁷

A few days earlier on March 3, as previously mentioned, the *Okinawa Times* had published a story about the incident. Due to the presence of U.S. military officials in Taiwan, ROC officials certainly monitored the former newspaper, affiliated with but nominally independent of the U.S. military, and thus were aware of the story.

While the date is unknown, it appears that an official from the Taiwan Provincial Security Command was sent to meet with Sai Sho, the president of the Ryukyuan People's Association. Sai, as mentioned earlier had written up his thoughts on the incident supposedly in response to a comment by Funakoshi Shōyū, Director of the Economics Department, Government of the Ryukyu Islands in the Okinawan media. Among other arguments, Sai suggested that the items reportedly left by the perpetrators could have been staged by the Chinese communists: "a planned method of the communist junks for hiding the crime, and also this may be their

⁹⁴ Saitō, "Okinawa Gyosen Shūgeki Jiken," p. 77. The five legislative members from Okinawa were: Taira Ryōshō, Aragaki Kanezō, Kaneshi Saichi, Nakazato Takeru, and Owan Kisaburō.

⁹⁵ "Dai 23 Kai Kokkai Sangiin Yosan Inikai (23rd Session of the House of Councilors Budget Committee), No. 5, December 13, 1955.

⁹⁶ "Dai 26 Kai Kokkai Sangiin Yosan Inikai (26th Session of the House of Councilors Budget Committee), No. 12, March 19, 1957.

⁹⁷ Saitō, "Okinawa Gyosen Shūgeki Jiken," p. 44. Unfortunately, he noted, due to time constraints and the policies of the Institute, he was not able to see all the materials. Moreover, sometime after his visit, the Foreign Ministry reclassified almost all materials related to the Senkakus, making them inaccessible to researchers, a fact this author learned during visits to Academia Sinica in February and March 2024, and related discussions with Taiwanese scholar Tien-hao Jen (任天豪). The U.S. Embassy in Tokyo provided a copy of the resolution to the ROC's Embassy in early August, but the latter probably had its own copy earlier than that point.

conventional means.”⁹⁸ The meeting between Sai and Lee Mei-tetsu of the Security Command is referenced in a report dated May 12.

But there is at least one document that predates this one among the once-declassified ROC materials referencing the incident. It is dated May 10 and concerns an exchange by senior officials within the Taiwan Defense Headquarters.⁹⁹ This was followed by another exchange dated June 8.¹⁰⁰ There are two others from June, dated June 18, and the 25, concerning the incident, as well as two from July 18 and July 25.¹⁰¹ The latter sought to argue that the junks were the PRC's.

It was in August, after the U.S. representative visited the ROC Embassy to inquire about the incident and ask for further information, when correspondence began to increase. An undated ROC Ministry of Foreign Affairs memo discussed the meeting and issues raised and included the documents Second Secretary Bruns had submitted.¹⁰² In mid-September, the Chief of the General Staff contacted the Navy Headquarters to inquire about the comment Bruns made regarding the ROC request to the U.S. Navy in February 1955 to assist the junks.¹⁰³ On October 3, the ROC Navy responded that it would investigate and shortly thereafter, it responded that there was no truth in that statement.¹⁰⁴ The answer was forwarded by the Ministry of National Defense to the Foreign Ministry on October 14.¹⁰⁵

Early the following month, the ROC Embassy in Tokyo responded to the U.S. *note verbale* of August 5. Its response, dated November 2, stated,

The Embassy of the Republic of China presents its compliments to the Embassy of the United States of America and has the honour to reply to the latter's note verbale of August 5, 1955, concerning the reported armed attack on the crew of the Ryukyuan fishing vessel *Daisan Seitoku Maru*, Registration No. OT-51, which took place on March 2, 1955, in the vicinity of Uotsuri Island, Senkaku Retto, Ryukyu Island. After a thorough investigation of the case based upon the information supplied by the American Embassy, the Government of the Republic of China wishes to state that the Chinese naval vessels and units had never operated in that part of the sea and therefore they could not have attacked the crew of the Ryukyuan fishing vessel *Daisan Seitoku Maru*. The result of the investigation further makes it clear that the Chinese Navy did not have ships as were described. However, in view of the fact that the Chinese Communist motorboats based on Fukien or Chekiang Province are capable of operating in the specified area, it was possible that the attack might have been made by the Communists for the purpose of disturbing the American-Ryukyuan friendly relations with the Republic of China.¹⁰⁶

The ROC Embassy in Tokyo informed its Foreign Ministry on November 5 that it had

⁹⁸ Sai Sho, “Personal Opinion with Regard to the Case of the Attack of a Ryukyuan Fishing Boat by Chinese Junks, March 18, 1955,” *Daisan Seitoku Maru* Files.

⁹⁹ Saitō, “Okinawa Gyosen Shūgeki Jiken,” pp. 45-46.

¹⁰⁰ *Ibid.*, p. 46.

¹⁰¹ *Ibid.*, pp. 46-47.

¹⁰² *Ibid.*, pp. 47-49.

¹⁰³ *Ibid.*, pp. 49-50.

¹⁰⁴ *Ibid.*, p. 50. While this may be true, under the panicked circumstances at the time discussed in the beginning of this paper, a request to the U.S. Navy for assistance would not have been unreasonable. Another possible explanation is that there may have been a miscommunication at the time between ROC and U.S. officials, with the latter interpreting a possible remark as a request for assistance.

¹⁰⁵ *Ibid.*

¹⁰⁶ “Letter from George A. Morgan to Commander-in-Chief, Far East, November 16, 1955.”

forwarded the note to the U.S. Embassy.¹⁰⁷ This appears to be the last significant interaction on the ROC side for the remainder of the year.

It would not be until the fall of the following year before bilateral discussions would be had again.

Conclusion

This concluding section will cover three inter-related topics: responsibility for the incident, how the governments of the United States and Japan could have better handled the response, and the importance of transparency through the declassification of documents.

Following the *Daisan Seitoku Maru* incident, the Republic of China continued to deny its vessels and personnel were involved despite overwhelming evidence to the contrary. It unfortunately maintained that stance throughout the remainder of the 1950s, preventing a timely resolution. Lacking this admission, it was clear that the U.S. government was unable to produce any additional information to provide the Government of the Ryukyu Islands by the early 1960s.

It is unclear, however, if the U.S. government pressured the ROC to pay compensation to the Okinawan victims regardless of its willingness to admit involvement. (Potentially, groups or individuals within the United States who wished to support a fledgling government led by Chiang Kai-shek may have decided not to pressure the ROC to come clean on the matter.) It is also unclear if the U.S. government ever seriously considered the suggestion by High Commissioner Booth that it should pay the victims' families on behalf of the unknown perpetrators. (If it was not going to do the former—i.e., pressure the ROC government to come clean and pay compensation—it should have done the latter—pay compensation itself—since it was responsible for the Ryukyu Islands.)

In any case, the Government of the Ryukyu Islands decided in 1967 to go ahead and pay compensation to the victims' families and others involved. This was a dozen years after the incident, obviously too long to have waited.¹⁰⁸

The failure of the United States to quickly and properly address the issue raised concerns among Okinawa residents and Japanese politicians and officials alike and was used to criticize the construct of the U.S. government having administrative rights over Okinawa.¹⁰⁹ In other words, what was the point of the United States being in charge of Okinawa when it was unable to protect the lives and property and rights of Okinawan residents, in this case, the fishermen? Fishermen would be increasingly unwilling to go too far from shore to fish if they did not have faith in the United States to be able to protect them. In fact, some fishermen stopped going to the Senkakus

¹⁰⁷ Saitō, "Okinawa Gyosen Shūgeki Jiken," p. 50.

¹⁰⁸ Author's interviews with Tōma Seikyō and Kuniyoshi Makomo, July 11, 2014, Yonabaru, Okinawa Prefecture, and Kuniyoshi Makomo, July 24, 2024, Naha City, Okinawa Prefecture. The author would like to express his gratitude to Mr. Kuniyoshi for arranging the interview with Mr. Tōma, and for his contributions to gathering and analyzing documents and conducting interviews with those involved with the Senkaku Islands and the fishing industry in Okinawa. His work is of enormous help to other researchers and scholars. I would also like to express my appreciation to the editorial committee members of the volumes entitled *Senkaku Kenkyū*, which have been revised and updated over the years. In particular, I would like to draw attention to: Senkaku Shotō Bunken Shiryō Hensankai, ed., *Senkaku Kenkyū Senkaku Shotō Kaiiki no Gyogyō ni Kansuru Chōsa Hōkoku: Okinawaken no Gyogyō Kankei ni Taisuru Kikitori Chōsa*, 2014 (Naha: Senkaku Shotō Bunken Shiryō Hensankai, 2015) and Senkaku Shotō Bunken Shiryō Hensankai, ed., *Senkaku Kenkyū Senkaku Shotō Kaiiki no Gyogyō ni Kansuru Chōsa Hōkoku: Okinawaken ni Okeru Senzen kara Nihon Fukki (1972) no Ugoki*, 2009 (Naha: Senkaku Shotō Bunken Shiryō Hensankai, 2016).

¹⁰⁹ An example of this sentiment was found in a reporter's column in a local newspaper in "Kishaseki: Gaikōken Naki no Kanashisayo... (Reporter's Seat: Sadness of Not Having Diplomatic Rights...)," *Ryūkyū Shimpō*, March 11, 1959.



Author with Tōma Masakiyo, July 11, 2014, in Yonabaru, Okinawa Prefecture

area to fish after the *Daisan Seitoku Maru* Incident. Combined with the fact that the Kuba and Taishō Islands within the Senkaku Islands Group were used for U.S. military target practice, the concern about fishing too close to the Senkakus where pirates or armed personnel might harm them further reduced the fishing areas for them.

Regarding the U.S. handling of the incident, the Government of Japan should have asked—if it did not—to be allowed to dispatch an official and join the U.S. side investigating the incident. (No such record of a request was found in the various files examined so the author assumes the Japanese government did not ask.) Such a request would have further shown that Japan had a strong interest in the protection of Okinawan residents, who were Japanese nationals, as well as any incidents or incursions around the Senkaku Islands, which was Japanese territory. Although it does not seem to have done so at the time, this did not mean that the Government of Japan was not interested in the case, as this article has shown. However, the Japanese government lost an important chance to be more directly involved at this time in the early years of the post-treaty U.S. administration of the Ryukyu Islands with the safety and welfare of the people of Okinawa.

Similarly, the Japanese government should have also offered to pay the compensation if the perpetrators could not be identified. This, like the suggestion in the previous paragraph, would have established a precedent for Japan's closer involvement in Okinawan affairs. Whether the U.S. government at the time would have permitted it or not is uncertain, but at least Japan should have gone on the record to make the offer.

We may never know with 100% certainty who was responsible for the incident, but all evidence points to vessels and personnel from Nationalist China, i.e., the Republic of China. (It appears that an important piece of evidence—the vessel, *Kinsuishin*, No. 17901—was abandoned and later sunk. Where it sunk and whether it was done deliberately to hide some of the evidence, including perhaps the bodies of the victims, remain questions to be answered.¹¹⁰) This author highly encourages the ROC to be more forthcoming in its investigation, particularly as it happened during the government of the autocratic Chiang Kai-shek and whose record continues to be re-assessed within modern democratic Taiwan society.

¹¹⁰ Saitō, “Okinawa Gyosen Shūgeki Jiken,” p. 78.

Japanese scholar Saitō Michihiko, who worked with once declassified documents of the Ministry of Foreign Affairs of the Republic of China, strongly believes, as does the author, that the junks involved in the attack belonged to the ROC, and thus the personnel were Nationalist Chinese. The same scholar dismisses the argument raised by Sai Sho at the time and the ROC Ministry of National Defense that it was probably a PRC vessel that was disguised as an ROC boat and that its personnel were also from the PRC, saying that there is no reason for the PRC to have done so and all of the witnesses insist that it was an ROC vessel.¹¹¹

In discussing the issue with Professor Saitō, we both agreed that the PRC probably did not have the ability to do such an operation near the Senkakus then.¹¹² Moreover, the author would like to add that had it been a “false flag” operation by the PRC to make the ROC look bad in Japanese eyes, the PRC does not appear to have done, at the time, any of the related propaganda afterwards to sustain the criticism of the ROC among the Okinawan or Japanese public. In other words, false flag operations are usually accompanied by a propaganda effort, but in this case there was none.

Some questions the author continues to have concerns intra-ROC government relations between the various ministries and players. For example, was the ROC Ministry of Foreign Affairs, which presumably wanted stable relations with the United States and Japan, potentially afraid of pursuing the truth behind the incident too far with the Ministry of National Defense? Or similarly, did the Ministry of National Defense look down on MOFA and choose not to share the truth? Or was there a problem within the Ministry of National Defense regarding the sharing of information internally? Did President Chiang Kai-shek or his close associates block disclosure of the information?

Despite the denials by the ROC, it is interesting to note that there were more than 60 pages of documents in seven folders related to the *Daisan Seitoku Maru* incident within its files held in the archives of the Institute of Modern History, Academia Sinica, as of 2015 before they were closed again to researchers. If the ROC had no involvement, it would theoretically have no need to keep the files or inquiries in the first place. Yet, it did. Furthermore, the fact that MOFA has since made the documents inaccessible to researchers can only mean it has something to hide.

In the interest of transparency, the Republic of China should make all documents available, and in the interest of accountability, if the Republic of China is able to verify that its vessels and personnel were indeed responsible for the incident, it should make amends somehow to the families of the victims and/or the fishing community in Okinawa. It would be a generous act and would contribute to even better Taiwan-Japan relations, which are admittedly already very positive. Although nearly 70 years has passed since the incident, there is no statute of limitations on goodwill and doing the right thing.

¹¹¹ *Ibid.*, pp. 78-79.

¹¹² Interview with Saitō Michihiko, Hachioji City, July 26, 2024.

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