

**The London School of Economics and Political Science**

*The Crafting of the Treaty of Peace with Japan, 1945-1951*

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## **Declaration**

I certify that the thesis I have presented for examination for the MPhil/PhD degree of the London School of Economics and Political Science is solely my own work other than where I have clearly indicated that it is the work of others (in which case the extent of any work carried out jointly by me and any other person is clearly identified in it). The copyright of this thesis rests with the author. Quotation from it is permitted, provided that full acknowledgement is made. This thesis may not be reproduced without my prior written consent. I warrant that this authorization does not, to the best of my belief, infringe the rights of any third party.

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## **Abstract**

This study traces how the Treaty of Peace with Japan was negotiated between 1945 and 1951. Originally, the treaty was based on the principle of demilitarization and democratization to prevent Japan's re-emergence as a threat. As tensions increased with the Soviet Union and the PRC, however, the US decided that the peace treaty must be geared towards containing communism, which entailed revitalizing Japan's economic and military capacity and anchoring it to the West. For this purpose, the US sought to eradicate punitive elements from the treaty. However, the US often clashed with its friends in that process, as many countries had not forgotten Japan's wartime atrocities and harbored suspicion that Japanese militarism could revive. Hence, the US had to make important concessions, such as obligating Japan to pay reparations and excluding the Chinese Nationalists from the treaty. Nevertheless, thanks to the widespread consensus among America's friends of the need to combat communism, the US was able to steer the treaty in a way that was lenient and conformed to its containment policy. This study is significant in that it focuses on a number of aspects of the Japanese peace treaty and its negotiation that have hitherto been underappreciated, and thereby offers a fresh perspective. It also has contemporary significance as it seeks to better understand how today's problems, such as territorial disputes and "history issues" regarding Japan's past, originated.

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## **Introduction**

### **The Question and Significance of the Study**

After years of fighting, the Pacific War ended with Japan's defeat in August 1945. Shortly thereafter, with the signing of the "Instrument of Surrender" on 2 September 1945, all authority to control and supervise Japan was delegated to the Supreme Commander of the Allied Forces (SCAP), General Douglas MacArthur; the occupation of Japan had begun.<sup>1</sup> This marked the de facto termination of the war. Now Japan and her former belligerents had to negotiate a peace treaty to terminate the war de jure.

The negotiation process for the peace treaty is the focus of this study. Simply put: how was the treaty of peace with Japan made? By tracing the dialogue between the US and other concerned governments, it shows that the crafting of the treaty was a multilateral effort that involved more than thirteen different countries. At the same time, it highlights that the peace treaty was conceived more as an instrument to combat communism than as a postwar "settlement" with Japan, thus leaving many important questions about Japan's wartime past unanswered as the US and its allies hastened to conclude the treaty.

The reason for this research, meanwhile, is two-fold. To begin with, it has historiographical significance as it seeks to rekindle the debate on the Japanese peace settlement, a topic in the postwar history of Japan that has been comparatively neglected in recent years. As a result of this negligence, some aspects of the peace treaty that are important to understanding today's Asia-Pacific remain underexplored, and at times completely overlooked. This study therefore seeks to tackle these shortcomings. Secondly, it has contemporary significance, as many of the on-going controversies in today's Northeast Asia can be traced back to the Japanese peace treaty. For instance, some current territorial disputes – including the Liancourt Rocks between Korea and Japan, the Kurile Islands between Japan and Russia and the Senkaku Islands between Japan and China – spring from the fact that the ownership of these islands was never defined in the treaty. In order to have a fuller understanding of why these issues exist, one must examine how they originated in the first place, which this study attempts to do. The following

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<sup>1</sup> Instrument of Surrender, 2 September 1945, accessed 11 October 2019 via the National Archives and Records Administration (NARA), <https://www.archives.gov/exhibits/featured-documents/japanese-surrender-document>.

section traces the scholarly findings more in detail and elaborates on the specific gaps that need to be filled.

### **Review of the Existing Historiography**

The existing historiography can be largely divided into three categories: those produced before the opening of the archives; those produced after the opening of the archives; and those produced after the fall of the Soviet Union. One of the earliest works was written one year after the occupation ended by Baron Van Aduard, a former deputy representative with the Dutch mission in occupied Japan. This book is an impressive overview of what happened to Japan between 1945 and 1952. Most notably, he depicts the Japanese peace settlement as having been a multilateral affair and examines the roles of the British Commonwealth (although mostly confined to Australia and Britain), Japan, the Soviet Union and the US. Also, perhaps because he was an insider who had a first-hand encounter with the realities of occupation, most of his recollections of the era are pertinent and still deserve to be read. However, because he lacked access to sensitive American and Japanese material, some of his arguments regarding the US and Japan were simply wrong or inaccurate. Interestingly, Van Aduard chose to narrate the story of postwar Japan from a very US-centric point of view rather than a European one. This is rather unfortunate, since the Japanese peace settlement was not simply an American affair and Van Aduard was ideally placed to contribute to the international angle by speaking more from a Dutch perspective.<sup>2</sup>

Van Aduard's work was quickly followed by two books by Princeton University scholars Bernard Cecil Cohen, a political scientist, and Frederick S. Dunn, an international law specialist. The former examines what happened within the US during the peace treaty negotiations and how these domestic factors affected the talks. Cohen's book is valuable in that the author conducted extensive personal interviews with leading actors in the treaty-making process, including John Foster Dulles, John M. Allison, Dean Rusk, George F. Kennan, H. Alexander Smith (Republican, New Jersey) and Francis O. Wilcox (Senate Foreign Relations Committee Chief of Staff, 1947-

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<sup>2</sup> Baron E. J. Lewe Van Aduard, *Japan: from surrender to peace* (The Hague: Martinus Nijhoff, 1953).

1955). Cohen demonstrates that the Japanese peace treaty was a relatively smooth affair, as it did not provoke much public outrage in the US.<sup>3</sup>

Dunn, on the other hand, focuses on the international aspect and traces how the US negotiated with other governments. He argues that the Japanese peace settlement was affected by two factors: US-Soviet rivalry, which led the US to craft the treaty in a way that conformed with its containment policy; and what could be termed a “de-Versailles” mentality, in that the US wished to avoid repeating the mistakes of 1919 by imposing a harsh peace on the vanquished. This has now become a classical narrative that is often taken for granted.<sup>4</sup>

Another important book on the Japanese peace settlement – and perhaps the most significant work at the time of its publication – was written by Nishimura Kumao, the former leader of the Treaty Bureau of the Japanese Ministry of Foreign Affairs, who was in charge of formulating Japan’s position on the peace treaty. Based on his personal experience, Nishimura produced in the Japanese language an extensive narrative of what happened between 1945 and 1952, covering both the peace treaty and the bilateral US-Japan security treaty that were signed simultaneously. This book is particularly valuable in that the author provides a rare glimpse of what was taking place within the Japanese government; most notably, the author shows how Tokyo tried its best to lobby the West in order to make the peace treaty more favorable to Japanese interests. This is perhaps the only work that was produced at the time that narrated the peace settlement from the Japanese point of view. In retrospect, his recollection of the treaty negotiations has been proven to be almost completely accurate. Unsurprisingly, Nishimura’s book has been cited by almost all scholars who examine the occupation period and the Japanese peace treaty. Yet, because his focus is on the US and Japan, the fact that other governments were also involved in formulating the postwar Japanese settlement is almost completely neglected. In addition, perhaps because of his identity as a former government officer, he is rather defensive about the decisions reached by the two governments.<sup>5</sup>

It should be noted that other former members of the Allied occupation authority also left written accounts of their experiences. Yet, these are largely personal recollections of various

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<sup>3</sup> Bernard Cecil Cohen, *The Political Process and Foreign Policy: the making of the Japanese peace settlement* (Princeton: Princeton University Press, 1957).

<sup>4</sup> Frederick S. Dunn, *Peace-making and the Settlement with Japan* (Princeton: Princeton University Press, 1963).

<sup>5</sup> 西村熊雄 [Nishimura Kumao], *日本外交史 27: サンフランシスコ平和条約 [The Diplomatic History of Japan Vol. 27: The San Francisco Peace Treaty]* (東京 [Tōkyō]: 鹿島研究所出版会 [Kajima Institute of International Peace Press], 1971).

aspects of postwar Japan and not strictly books about the Japanese peace treaty. Hence, while recognizing their merit as useful references for understanding postwar Japan, they cannot be treated as scholarly works on the postwar Japanese peace settlement.<sup>6</sup>

All of the works above were produced before the US government records became available and thus were handicapped by a lack of access to confidential material; in the case of Van Aduard and Nishimura – who most likely had access to government records – they were not able to cite any. They are also mostly centered around the role of the US. Rajendra Kumar Jain attempted to fill this gap by discussing what different governments – including Britain, Burma, the two Chinas, India, Indonesia, Korea, Philippines, the Soviet Union, Vietnam and the US – were looking for in the Japanese peace treaty. Yet, Jain’s attempt is rudimentary at best, as he too wrote it before any of the sensitive government material was disclosed.<sup>7</sup>

Meanwhile, based on extensive interviews with former American and Japanese government officials who were involved in the treaty negotiation process, Michael Yoshitsu in 1983 attempted to substantiate many of the points raised by Nishimura, especially the fact that the Japanese Foreign Ministry had sought to make the peace treaty more amenable for Japan, while strengthening its ties with the US. Unlike Nishimura, Yoshitsu had no qualms about arguing that the US-Japan relations were not equal, as Japan had been pressed to make important concessions in return for its independence. The biggest shortcoming of Yoshitsu’s work, however, is that, once again, the international aspect of the Japanese peace settlement is missing, as he focuses solely on the US and Japan. Equally surprising is the fact that Yoshitsu almost completely neglected the formerly classified government archives that were finally made available at the time; instead, he relied heavily on published material (the *Foreign Relations of the United States* series).<sup>8</sup>

However, Yoshitsu’s work was quickly followed by three notable books written by Japanese academics that did draw on these de-classified American and British records. The most monumental work – and the most comprehensive work to date on the Japanese peace settlement – was written by Hosoya Chihiro, a specialist in Anglo-Japanese relations. While his book is

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<sup>6</sup> Edwin M. Martin, *The Allied Occupation of Japan* (Stanford: Stanford University Press, 1948); Robert A. Fearey, *The Occupation of Japan, Second Phase: 1948-50* (New York: Macmillan, 1950); Russell Brines and William J. Sebald, *With MacArthur in Japan: A Personal History of the Occupation* (New York: W. W. Norton & Company, 1965); W. MacMahon Ball, *Japan: Enemy or Ally?* (New York: John Day, 1949); Yoshida Shigeru, *The Yoshida Memoirs: the story of Japan in crisis* (London: Heinemann, 1961).

<sup>7</sup> Rajendra Kumar Jain, *Japan's Postwar Peace Settlements* (Atlantic Highlands: Humanities Press, 1978).

<sup>8</sup> Michael Yoshitsu, *Japan and the San Francisco Peace Settlement* (New York: Columbia University Press, 1983).

significant in a number of ways, what is most notable is the fact that he analyzed not only the role of the US, but also that of the British Commonwealth. By focusing on the two most powerful actors in the crafting of the peace treaty, Hosoya showed that, in addition to the US-Soviet rivalry, the Japanese peace settlement was also affected by the efforts of the British Commonwealth states to convince the US to take over more responsibilities worldwide, especially in the field of security.<sup>9</sup>

Nevertheless, there are certain aspects of the peace treaty that Hosoya does not sufficiently explore. For instance, the roles of France and Indochina are simply acknowledged without any detailed explanation of their roles in the making of the treaty. Also, while Hosoya goes a long way towards discussing the effects of the Korean War on the peace settlement, any analysis of the question of Korea's participation in the treaty is curiously lacking. The debates upon postwar Japan's high-seas fisheries and shipbuilding capacity are also not adequately elaborated. This owes to the fact that Hosoya's work is about the overall peace "settlement" and not exclusively about the peace "treaty." The peace settlement in his remit encompassed not only the peace treaty, but also the three accompanying security treaties that were signed concurrently: the US-Japan security treaty, US-Philippines security treaty and the trilateral US security treaty with Australia and New Zealand. The scope of Hosoya's analysis is therefore very wide, and not surprisingly, he does not explain in depth the background and full significance of the actual terms of the peace treaty.

An edited volume by Watanabe Akio and Miyasato Seigen, meanwhile, attempted to situate the Japanese peace settlement in a more international context. Here, the contributing authors examined the viewpoints of Australia, Britain, India, the Philippines, the Soviet Union and the US regarding the Japanese peace settlement.<sup>10</sup> This book shows that the peace treaty was affected by a complex web of security, economic and ideological concerns, and that all of the individual countries had different ideas about what course postwar Japan should take. This work was a major addition to the early effort made by Jain and constituted a significant contribution to the international history of the Japanese peace treaty. Nevertheless, as is the case with Hosoya,

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<sup>9</sup> 細谷千博 [Hosoya Chihiro], *サンフランシスコ講和への道 [The Road to San Francisco Peace Treaty]* (東京: 中央公論社, 1984).

<sup>10</sup> 渡辺昭夫 [Watanabe Akio] and 宮里政玄 [Miyasato Seigen], *サンフランシスコ講和 [The San Francisco Peace Treaty]* (東京 [Tokyo]: 東京大学出版会 [University of Tokyo Press], 1986).

this book does not elucidate the French, Indochinese and Korean points of view and, moreover, how the individual terms of the treaty were made is not sufficiently explained.

If Hosoya, Watanabe and Miyasato focused on the international aspects of the Japanese peace settlement, Igarashi Takeshi looked at the domestic story, examining what was happening in Japanese political circles as the Cold War intensified between 1945 and 1952, and how this affected the peace treaty. Igarashi explains how Japanese politics went through a significant transformation during the occupation, in which the socialists, who were originally in power, gradually gave way to the conservatives. This, he argued, ultimately contributed to the “partial” peace created by the US which excluded China and the Soviet Union from the peace treaty and left many controversial questions unresolved.<sup>11</sup> This internal conflict among the Japanese had not, hitherto, been sufficiently addressed and thus Igarashi’s analysis was a welcome addition to the scholarly understanding of the Japanese peace settlement. Its merits notwithstanding, Igarashi narrates the issue of peace settlement almost exclusively through the lens of US-Japan relations, and thus largely neglects the viewpoints of other countries that were involved in the postwar Japanese settlement. At the same time, because his focus is more on the Japanese attitude towards the peace settlement, the evolution and significance of the specific treaty terms are not sufficiently discussed. Even more unfortunate is the fact that the Japanese peace settlement disappeared as a stand-alone topic thereafter, as nobody has followed up on these three works.

Similarly, no notable monograph on the peace treaty has been produced outside of Japan after Yoshitsu. Instead, following the opening of the archives until the present, it has been subsumed as a subsidiary topic within other specialized themes, including the general American postwar occupation policy for Japan, the British Commonwealth policy for postwar Japan, Korea-Japan relations, Japan’s postwar economy and the US-Japan security alliance.<sup>12</sup> In fact,

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<sup>11</sup> 五十嵐武士 [Igarashi Takeshi], *対日講和と冷戦: 戦後日米関係の形成* [*The Japanese Peace Settlement and the Cold War and the Formation of US-Japan Relations*] (東京 [Tokyo]: 東京大学出版会 [Tokyo University Press], 1986).

<sup>12</sup> Michael Schaller, *The American Occupation of Japan: The Origins of the Cold War in Asia* (Oxford: Oxford University Press, 1985); Howard B. Schonberger, *Aftermath of War: Americans and the remaking of Japan, 1945-1952* (Kent: Kent State University Press, 1989); William S. Borden, *The Pacific Alliance: United States foreign economic policy and Japanese trade recovery, 1947-1955* (Madison: University of Wisconsin Press, 1984); Roger Buckley, *Occupation Diplomacy: Britain, the United States and Japan, 1945-1952* (Cambridge: Cambridge University Press, 1982); Ann Trotter, *New Zealand and Japan 1945-1952: the occupation and the peace treaty* (London: Athlone Press Ltd, 1990); Richard B. Finn, *Winners in Peace: MacArthur, Yoshida and Postwar Japan* (Berkeley: University of California Press, 1992); John W. Dower, *Embracing Defeat: Japan in the Wake of World War II* (New York: W.W. Norton & Company, 1999); Aaron Forsberg, *America and the Japanese Miracle: the Cold War context of Japan's postwar economic revival, 1950-1960* (Chapel Hill: University of North Carolina Press,

the most recent study by Jennifer Miller, who situates postwar Japan within an American Cold War crucible to safeguard democracy, follows this pattern. While she convincingly argues that the overarching goal of the US in crafting the treaty was to anchor Japan to the West, there is relatively little analysis of how the treaty terms were developed as a whole or how the non-US governments contributed to the shaping of those terms.<sup>13</sup>

This does not mean, however, that there has been no meaningful analysis of the peace treaty after Igarashi. On the contrary, as will be elaborated in pertinent chapters, certain terms of the treaty, most prominently the exclusion of China from the treaty and the ambiguous definition and ownership of the Kuril Islands, have been researched quite extensively. Nevertheless, these studies tend to use these cases to reinforce the notion that the overriding factor that determined the fate of postwar Japan was the Cold War rivalry between the communist and free world.<sup>14</sup> Certainly, containing communism was the most important concern at the time. However, it was not the only factor impacting Japan. One must also consider American grand strategy in the Pacific, conflict of interests within the Western camp – including internal dissent within the US between the government and domestic constituency – which took place independently from the Cold War.

Scholars from Korea and Japan have made important contributions in this regard. They not only analyze numerous aspects of the treaty, including the exclusion of South Korea, reparations (Article 14), fisheries (Article 9), which are relatively unknown outside – since almost none of the relevant works have been translated into English – but also approach the issues from the viewpoint of decolonization.<sup>15</sup> However, they focus near-exclusively on the roles

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2000); Robert D. Eldridge, *The Origins of the Bilateral Okinawa Problem: Okinawa in postwar U.S.-Japan relations, 1945-1952* (New York: Routledge, 2001).

<sup>13</sup> Jennifer M. Miller, *Cold War Democracy: The United States and Japan* (Cambridge: Harvard University Press, 2019).

<sup>14</sup> Hosoya Chihiro, “Japan, China, the United States and the United Kingdom, 1951-2: the Case of the Yoshida Letter,” *International Affairs* 60-2 (1984): 247-259; Howard Schonberger, “Peacemaking in Asia: the United States, Great Britain and the Japanese decision to recognize Nationalist China, 1951-1952,” *Diplomatic History* 10-1 (1986): 67-73; Kevin Ruane, “The Origins of the Eden–Dulles Antagonism: the Yoshida Letter and the Cold War in East Asia 1951–1952,” *Contemporary British History* 25-1 (2011): 141-156; John J. Stephan, *The Kuril Islands: Russo-Japanese frontier in the Pacific* (Oxford: Clarendon Press, 1974); David Rees, *The Soviet Seizure of the Kuriles* (New York: Praeger, 1985); Hiroshi Kimura, *The Kurillian Knot: a history of Japanese-Russian border negotiations*, trans. by Mark Ealey (Stanford: Stanford University Press, 2008); Fiona Hill, “A Disagreement between Allies: the United Kingdom, the United States, and the Soviet-Japanese territorial dispute, 1945–1956,” *Journal of Northeast Asian Studies* 14-3 (1995): 3–49; Hara Kimie, *Cold War frontiers in the Asia-Pacific: divided territories in the San Francisco system* (New York: Routledge, 2007), 71-99.

<sup>15</sup> 이원덕 [Yi Wondök], *한일 과거사 처리의 원점: 일본의 전후처리 외교와 한일회담* [Square One: settling the past – Postwar Japanese settlement and Korea-Japan normalization] (서울 [Seoul]: 서울대학교출판부 [Seoul

of Japan, Korea and the US with no in-depth analysis of the viewpoints of other governments. Furthermore, each work specializes in one specific question and its impact on Korea-Japan relations in the post-treaty era. Consequently, there is no comprehensive analysis that brings the various inter-related issues together, while the peace treaty is used as a subsidiary topic to explain the bigger postwar diplomatic issues between the two countries. Hence, while introducing these aspects of the treaty to audiences outside of Korea and Japan, this study also seeks to tackle these identifiable gaps.

This study also introduces two new aspects of the treaty that have been overlooked in the existing works: the Indochinese representation and Japan's postwar shipping and shipbuilding capacity. Close analysis of these two questions is justified in that they attest to the multilateral nature of the Japanese peace settlement. The case of Indochina is particularly interesting in that it shows how the peace treaty was also shaped by concerns that had little to do with Japan.

In contrast to the neglect of the peace treaty, the history of the US-Japan security treaty has consistently been a popular topic over the years for historians and political scientists because of its central position in US-Japan relations and its significance within Japanese politics. In fact, even before the opening of the archive, George Packard, taking note of the fact that the security treaty aroused mass protest and the collapse of Prime Minister Kishi Nobusuke's cabinet in 1960, carefully traced the opinions of Diet members, intellectuals, newspapers and student groups to understand why this treaty caused such outrage in Japan and shows how the treaty terms were construed by many as dangerously compromising Japan's security and independence.<sup>16</sup> This was followed up by Martin Weinstein, who revisited the making of the security treaty to show that Japan was not a passive observer but an active participant, successfully guarding itself from

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National University Press], 1996); 장박진 [Chang Pakjin], *미완의 청산 한일회담 청구권 교섭의 세부 과정 [The Past Unsettled: the claims settlement between Korea and Japan]* (서울 [Seoul]: 역사공간 [Yöksa konggan], 2014); 오오타 오사무 [Ōta, Osamu], *한일교섭: 청구권문제 연구 [Studies on Japanese-Korean Claims Negotiation]*, trans. 송병권 [Song Pyönggwon], 박상현 [Pak Sanghyöŋ], 오미정 [Oh Mijöng] (서울 [Seoul]: 선인 [Sönin], 2008); 박진희 [Pak Chinhüi], *한일회담: 제1 공화국의 對日 정책과 한일회담 전개과정 [Korea-Japan Normalization Talks: Rhee Syngman administration's Japan policy and the normalization talks]* (서울 [Seoul]: 선인 [Sönin], 2008); 浅野豊美, 李東俊, 樋口敏広 [Asano Toyomi, Lee Dongjun, Higuchi Toshihiro], *戦後日本の賠償問題と東アジア地域再編: 請求権と歴史認識問題の起源 [The Question of Postwar Japanese Reparations and Re-orientation of East Asia]* (名古屋 [Nagoya]: 中京大学企業研究所 [Chukyo University Press], 2013); 정병준 [Chöng Pyöngchun], *독도 1947: 전후독도문제와 한미일관계 [The Liancourt Rocks 1947: post-war disposition of the Liancourt Rocks and Korea-Japan-US relations]* (과주 [P'aju]: 돌베개 [Tolbegae], 2010).

<sup>16</sup> George R. Packard, *Protest in Tokyo: The Security Treaty Crisis of 1960* (Princeton: Princeton University Press, 1966).



American pressure for a rapid remilitarization. Later, Frank Weinstein, in collaboration with numerous American and Japanese scholars, sought to assess how the security treaty might be adjusted to better fit into the new circumstances resulting from the end of the Vietnam War.<sup>17</sup> Taking advantage of the newly available records in the 1980s, Reinhard Drifte and John Welfield to varying degrees revisited the origins of the US-Japan security treaty and its legacy to substantiate the existing claims that its terms had compromised Japan's sovereignty and that it strained US-Japan relations in later years.<sup>18</sup> A more recent study by John Swenson-Wright, meanwhile, challenges the traditional notion that an unequal security relationship was created between Japan and the US and stresses the mutual goals in the alliance, while Kuniyoshi Tomoki traces the British contribution to the making of the security treaty in order to show its multilateral origins. Nam Kijeong, meanwhile, examines the effects of the Korean War in expediting the security treaty and regimentation of Japan into a "base state."<sup>19</sup>

Although not strictly concerned with the security treaty itself, the books by Roger Buckley and Michael Schaller on postwar US-Japan relations are still premised on the assumption that it was the pillar of the US-Japan alliance and that it impacted the two countries in important ways. The peace treaty, on the other hand, is not given such recognition. Even though both authors devote one full chapter to outline the US efforts to craft a lenient peace treaty to restore Japan's independence and anchor it to the West, they are interested in it as a process rather than looking at its specific terms and significance.<sup>20</sup> Meanwhile, the centrality of security as an issue within Japanese politics is stressed not only by Jennifer Miller but also in a recent publication by Nick Kapur. The latter discusses how the crisis brought forth by the 1960 renegotiation of the security treaty led to a merger of the conservative camp in Japanese politics,

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<sup>17</sup> Martin E. Weinstein, *Japan's Postwar Defense Policy, 1947-1968* (New York: Columbia University Press, 1971).

<sup>18</sup> Franklin B. Weinstein, *US-Japan Relations and the Security of East Asia: the next decade* (Boulder: Westview Press, 1978); Reinhard Drifte, *The Security Factor in Japan's Foreign Policy, 1945-1952* (Ripe: Saltire Press, 1983); John Welfield, *An Empire in Eclipse: Japan in the postwar American alliance system - a study in the interaction of domestic politics and foreign policy* (London: Athlone Press, 1988).

<sup>19</sup> John Swenson-Wright, *Unequal Allies? United States Security and Alliance Policy Toward Japan, 1945-1960* (Stanford: Stanford University Press, 2005); Tomoki Kuniyoshi, "Britain and the Question of Japan's Security, 1947-1951" (PhD diss., London School of Economics and Political Science, 2009); 남기정 [Nam Kijeong], *기지국가의 탄생: 일본이 치른 한국전쟁 [The Birth of a Base-State: Japan's Korean War]* (서울 [Seoul]: 서울대학교출판부 [Seoul National University Press], 2016).

<sup>20</sup> Roger Buckley, *US-Japan Alliance Diplomacy, 1945-1990* (Cambridge: Cambridge University Press, 1992); Michael Schaller, *Altered States: the United States and Japan since the occupation* (New York: Oxford University Press, 1997).

which subsequently allowed the Liberal Democrats to maintain its position as the ruling party for decades.<sup>21</sup>

Interest in the security treaty has also been generated by its significance to scholars of contemporary international politics. For them, the security treaty constitutes an important element of the so-called “hub-and-spokes” system, a form of regional security scheme consisting of multiple bilateral agreements between the US and concerned countries. This is rather unique as it differs from its European counterpart, which is characterized by one collective security treaty (North Atlantic Pact). Scholars, such as Victor Cha, Jae Jeok Park and Kent Calder have all sought to understand why the security scheme developed so differently for Asia-Pacific. In doing so, Cha believes that the US found bilateral form of agreement more advantageous in keeping Japan aligned to the West, while Calder believes that it served the respective Japanese and American interests of economic development and safeguarding of Western influence in Northeast Asia. Park goes further and argues that the hub-and-spokes system still survives because it helps prevent any unwanted regional order from emerging, such as a Sino-centric system led by the PRC.<sup>22</sup> Meanwhile, Dennis Blair, John Hanley, Stuart Harris and Richard Cooper foresee the important role the security treaty (more specifically the US forces in Japan) will continue to play in Northeast Asia’s future.<sup>23</sup>

In sum, the bilateral US-Japan security treaty has been analyzed extensively for the past half-century. Perhaps this is a foregone conclusion, considering the significance of the treaty. It has not only played a prominent role during the Cold War era as one of the cornerstones in the American containment policy in Asia-Pacific, but has also outlived the US-Soviet rivalry that begot it in the first place and continues to stand strong in the US-Japan relations. It also constituted the first of the series of bilateral (trilateral in the case of Australia and New Zealand) spokes that were established in the 1950s. Additionally, Japan’s rearmament and contribution to

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<sup>21</sup> In his book, Nick Kapur examines the effects of the 1960 demonstration against the security treaty and challenges the notion of the “1955 system.” He argues that “1960 system” is a more appropriate terminology, as it was the demonstration that really led to a consolidation of the conservative camp. See: Nick Kapur, *Japan at the Crossroads: Conflict and Compromise After Anpo* (Cambridge: Harvard University Press, 2018).

<sup>22</sup> Victor D. Cha, *Powerplay: The Origins of the American Alliance System in Asia* (Princeton: Princeton University Press, 2016); Kent Calder, “Securing security through prosperity: the San Francisco System in comparative perspective,” *The Pacific Review* 17-1 (2004): 135-57; Jae Jeok Park, “The US-led alliances in the Asia-Pacific: hedge against potential threats or an undesirable multilateral security order?” *The Pacific Review* 24-2 (2011): 137-158.

<sup>23</sup> Dennis C. Blair & John T. Hanley Jr., “From wheels to webs: Reconstructing Asia-pacific security arrangements,” *Washington Quarterly* 24-1 (2001): 5-17; Stuart Harris and Richard Cooper, “The US-Japan Alliance,” in *America’s Asian Alliances*, ed. Robert D. Blackwill and Paul Dibb (Cambridge: MIT Press, 2000), 31-60.

regional defense, the principle on which the security treaty is premised, has been a constant source of irritation for both countries. Whereas the US since 1950 has been lobbying Japan to expand its armed forces and shoulder more of the burden for the region's security, Tokyo has continued to remain reluctant. This led to a tremendous disappointment in the US, with certain segments openly attacking Japan for "free-riding" on security, that is relying on the US and refusing to make the level of military commitment commensurate to its economic affluence, especially with Japan's spectacular economic growth since the 1970s. The perception that Japan was simultaneously exploiting the US market while imposing formidable trade barriers against American products further fueled an angry reaction in Washington. The Japanese, on the other hand, felt considerable unease throughout the Vietnam War, as the US troops used Okinawa as a staging area. Today, the treaty is also associated various tensions with local Japanese residents near the US base in Okinawa (Futenma). Not surprisingly, the security treaty has often led to the outburst of governmental and non-governmental debates and continually fascinated scholars. It will likely remain an important topic, especially as newly emerging problems, such as the rising Chinese military threat and the North Korean nuclear conundrum, are pushing Japan and the US to reconsider the former's role in this volatile security environment.

While, undoubtedly, the security treaty is an important topic and its scholars have made important intellectual achievements, it has come at the cost of overlooking the Japanese peace treaty. This is regrettable, as the nature of postwar Japan and regional order in Asia-Pacific rests on issues that extend beyond the US-Japan security alliance. The tensions between Japan and its neighbors involving territorial ownership, the controversy over the former's past atrocities, and competition in regard to high-seas fisheries also constitute important parts of the history and present of postwar Asia-Pacific. Many of these issues were contained and suppressed during the Cold War years in the name of battling communism. However, after the collapse of the Soviet Union these issues came to the fore and have intensified over the years. A focus on the San Francisco security framework, its merits notwithstanding, cannot, by itself, provide a satisfactory insight into these controversies; only by examining the peace treaty and how its terms developed can one truly understand how these problems originated and how they could possibly be resolved.

As explained above, scholars have made important progress in furthering the understanding the Japanese peace treaty. However, because the treaty has been comparatively neglected in the academic discourse as a stand-alone topic for so long, certain assumptions have

been taken for granted for decades without being seriously tested. This study therefore re-examines certain classical arguments to either substantiate or dispel them. For instance, while all scholars agree that the treaty was initially punitive, nobody has proven this by analyzing the specific terms of the treaty; hence, Chapter 1 examines the nature and contents of the early peace treaty that was developed in 1947 to explain why that draft is considered punitive and to allow comparison with the terms that were eventually agreed upon. Also, while John Foster Dulles is often rightly credited for negotiating the treaty, too much is sometimes claimed in regard to the specifics of his contribution. This thesis emphasizes that he was not the originator of either shuttle diplomacy or a lenient peace treaty; on the contrary, they were developed prior to his advent. Dulles benefited tremendously from these pre-existing policies and refined them, but they were not his creations.

Another shortcoming in the existing studies is that although scholars have been narrating the peace settlement process from an international point of view, they do not go far enough in two respects. As mentioned above, the degree to which developments in postwar Germany and Italy affected the Japanese peace treaty remains almost completely unexplored; the same applies to the role of France and Indochina in the Japanese peace treaty negotiations. In other words, the international history of the Japanese peace settlement is not complete. This study makes no pretense of writing a definitive account of the peace treaty; however, it does attempt to bring it closer to its completion. This is particularly important, as many of the present controversies in Northeast Asia have international origins; hence, as Hara Kimie points out, resolving those issues necessitates using an international lens.<sup>24</sup>

It should be acknowledged that this study relies mostly on American and British sources. The reason is self-evident. Both American and British governments had commitments worldwide, and thus had to wrestle with multiple developments around the world while negotiating the Japanese peace treaty. Their experiences, therefore, allow one to construct a narrative from a more international angle. Additionally, due to the language barrier, the Chinese, French, Soviet and Indochinese viewpoints had to be examined indirectly via American and British records.

## **Outline of the Chapters**

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<sup>24</sup> Hara Kimie, ed, *The San Francisco System and its Legacies: continuation, transformation and historical reconciliation in the Asia-Pacific* (New York: Routledge, 2015), 4.

This study is divided into two parts. The first part, consisting of Chapters 1, 2 and 3, gives a chronological overview of the Japanese peace treaty making from 1945 to 1951. Each chapter corresponds with the three stages of the treaty's development. The first stage (Chapter 1), covering the years 1945 to 1947, is when the US first tried to convene a peace conference for Japan; however, this proved to be abortive, as procedural differences between the Allies and internal US disagreements hindered any meaningful progress. This was followed by a dormant phase (Chapter 2), which approximately covers the years 1948 and 1949. While no overt negotiations took place in this period, there were important developments within the US – such as the emergence of more lenient peace terms and the idea of engaging in “shuttle diplomacy” – that would have a profound effect on the eventual Japanese peace settlement. Chapter 3 covers the formative years (1950 to 1951), when the peace treaty was finally negotiated and signed. This chapter highlights the fact that in negotiating the Japanese peace treaty, the US not only talked to the Allies, but also to Congress and perhaps more notably Japan. Meanwhile, considering the scope, complexity and significance of the discussion between the US and the other governments, one chapter on 1950 to 1951 cannot possibly cover the various controversies that emerged among the former Allies during the negotiation process. Hence, these are dealt with in the second part.

The second part, which consists of the remaining eight chapters, is arranged thematically and examines in depth some of the most controversial elements of the treaty; as explained above, the focus is the peace treaty and hence the security aspect is not analyzed in detail, as this has been amply dealt with by other scholars. Chapters 4, 5 and 6 address the question of Chinese, Korean and Indochinese representation at the conference, the latter two of which are relatively unknown topics in English-speaking academia. Simply put: why was neither of the Chinese governments able to sign the treaty? Why was Korea not able to sign the treaty? Why were the three Indochinese states – Cambodia, Laos and Vietnam – able to sign the treaty? This study shows that these questions were determined not simply by legal factors, but also (perhaps more so) by political considerations.

The subsequent three chapters – Chapters 7, 8 and 9 – tackle economic questions. Chapter 7 traces the evolution of the reparations clause and attempts to understand how Article 14 – which limited the recipients of reparations to Southeast Asian states and even then restricted them to “services” – was crafted. This chapter highlights Dulles' obsession with wanting to

avoid a repeat of the problems associated with the Versailles peace settlement which figured prominently in his discussions with the Allies. Chapter 8 examines a topic that has been relatively neglected in the existing historiography of the Japanese peace settlement: Japan's postwar shipping and shipbuilding capacity. It shows that there was a real possibility that the peace treaty might have permanently restricted Japan's shipping and shipbuilding industries, if not for Dulles' aggressive opposition. Chapter 9 examines a topic that is largely unknown outside of Japan and Korea: postwar Japanese fisheries. Again, if not for Dulles' proactive lobbying on behalf of Japan, the Allies might have adopted a restrictive fisheries clause, which would have severely curtailed Japan's deep-sea fishing activities and affected the country's everyday diet.

The issue of Most-Favored Nation treatment, although an important element in the treaty, is not discussed in detail as it warrants a separate analysis and has been thoroughly discussed elsewhere. It suffices to refer to Akaneya Tatsuo and Yokoi Noriko, who point out that whereas the US policy was to grant Japan the right to free trade, many of the Allies, especially Britain, were opposed to this because of the ongoing hostility towards Japanese commerce that had developed in the 1930s. The peace treaty reflected this discrepancy, as it adopted a mixture of rather peculiar – even contradictory – principles. As exemplified in Article 8-b of the treaty, Japan was expelled from various prewar commercial treaties, such as 1919 Congo Basin Treaty, which stripped it of certain commercial prerogatives and did not conform to the American desire to ensure non-discriminatory trade practices. On the other hand, Article 12 sought to provisionally bring Japan within the network of non-discriminatory trade arrangement by obligating Japan to extend MFN treatment to the Allies for four years, but “only to the extent” that the latter reciprocated by offering national treatment or MFN to the former. It was only in September 1955 that Japan was admitted to the GATT (General Agreement on Tariffs and Trade) and even then, it would take several more years before other countries withdrew their reservations in granting MFN to Japan.<sup>25</sup>

Chapter 10 revisits the question of territorial disposition. It argues that the US sought, out of political expediency, to apply the formula of unspecified ownership to all of Japan's

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<sup>25</sup> 赤根谷達雄 [Akaneya Tatsuo], *日本のガット加入問題: レジーム理論の分析視角による事例研究 [Japan's Accession to GATT: the regime theory and its case studies]* (東京 [Tokyo]: 東京大学出版会 [Tokyo University Press], 1992); Yokoi Noriko, *Japan's Postwar Economic Recovery and Anglo-Japanese Relations, 1948-1962* (New York: Taylor and Francis Group, 2003).

controversial island possessions; this was on the grounds that a change of sovereignty for one island would require equivalent changes to other islands, which the US wished to avoid. The last chapter (Chapter 11) re-examines another aspect of the Japanese peace settlement that has been largely forgotten in recent years: the San Francisco peace conference itself. It shows that the US adopted a shrewd diplomatic maneuver prior to the conference by introducing a very specific procedural rule that would block any Soviet attempts to sabotage the peace treaty; at the same time, it shows that the entire conference was united against the communist bloc, making the Japanese peace settlement a clear victory for the non-communist world.

## Chapter 1. The Early Attempt to Draft a Peace Settlement and Its Failure, 1945-1947

As explained in the previous chapter, the making of the Japanese peace treaty can be roughly divided into three phases. Although the most important and dynamic events took place during the third phase between 1950 and 1951, the history of Japanese peace settlement cannot be fully appreciated without understanding what transpired during the first phase between 1945 and 1947. Hence, this chapter elaborates on the first phase. It shows that while the US attempted to convene a peace conference for Japan in 1947, this effort ultimately disintegrated because of procedural issues with the other Allies and internal US disagreement.

The early phase of the Japanese peace settlement remains under-explored and consequently has two critical historiographical shortcomings. To begin with, the reason why a peace conference in 1947 never took place is inadequately explained. Previous studies correctly point out that the Soviet-American disagreement over veto rights contributed to the failure of early attempt for the peace conference; however, the procedural issues involved other countries as well and the veto issue was only part of the problem.

Secondly, while there is general agreement among scholars that the initial approach to the postwar Japanese peace settlement was harsh, almost nobody has analyzed the actual terms of the 1947 peace treaty to substantiate this.<sup>26</sup> The only exception is Kimie Hara, who examines the evolution of the territorial terms of the treaty; however, her analysis focuses exclusively on this aspect and therefore does not sufficiently answer the general question of why the 1947 draft peace treaty is perceived as punitive.<sup>27</sup> Moreover, while Igarashi Takeshi gives a general overview of the peace treaty and argues that the 1947 draft was based on the principle of demilitarization, he does not back his argument by referring to any specific terms of the treaty and hence does not sufficiently demonstrate why the treaty was punitive.<sup>28</sup> The following sections seek to fill these gaps.

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<sup>26</sup> Dunn, *Peace-making and the Settlement with Japan*, 60-74; Cohen, *Political process and foreign policy*, 11-2; Hosoya, *San Francisco Peace Treaty*, 10-1, 38; Hara, *Cold War Frontiers*, 27-8; Schaller, *Occupation of Japan*, 99; Nishimura, *San Francisco Peace Treaty*, 9-16; 原朗 [Hara Akira], 昭和財政史—終戦から講和まで (第1巻: 総説, 賠償, 終戦処理) [Shōwa Financial History: from postwar to peace settlement (Vol. 1: Overview, Reparations and Postwar Settlement)] (東京 [Tokyo]: 東洋経済新報社 [Toyo Keizai Inc.], 1984), 439-48.

<sup>27</sup> Hara, *Cold War Frontiers*.

<sup>28</sup> Takeshi Igarashi, "MacArthur's Proposal for an Early Peace with Japan and the Redirection of Occupation Policy toward Japan," *The Japanese Journal of American Studies* 1 (1981): 65.



## **The Early Principles behind the Postwar Japanese Settlement**

Before discussing the Japanese peace treaty, it is necessary to briefly deal with certain policies that preceded it, as they would guide the peace talks between 1945 and 1947. Most notable is the Potsdam Declaration of 26 July 1945 – issued jointly by Britain, Soviet Union and the US – which defined demilitarization as the primary objective for postwar Japan. It stated that “militarism...must be eliminated for all time” in Japan and that the “revival and strengthening of democratic tendencies” had to be prioritized. Until there was convincing proof that Japan's war-making power was destroyed, it would be occupied by the Allies.<sup>29</sup>

A similar statement was incorporated into the “US Initial Post-Surrender Policy for Japan” (SWNCC150/4/A) that was handed to the US occupation forces on 22 September 1945 and released to the public on 24 September 1945. According to this document, the “ultimate objectives” of the US were to “insure that Japan will not again become a menace” and to bring about a “peaceful and responsible government” that was friendly to the US and conformed to democratic principles.<sup>30</sup> This was repeated in the “Basic Initial Post Surrender Directive” (JCS1380/15) of 3 November 1945. It is worth noting that this latter document also stated that the SCAP would “not assume any responsibility for the economic rehabilitation of Japan or the strengthening of the Japanese economy.”<sup>31</sup>

In short, demilitarization and democratization of Japan were the most important and immediate goals for the Allies. Moreover, a Cold War mentality had not yet emerged among those American officials in charge of leading the Japanese peace settlement; instead, the wartime spirit of Allied cooperation – although, the mutual animosity between the Soviet Union and the US was quickly intensifying – dictated the initial postwar Japanese peace settlement. It was against this backdrop that the Japanese peace treaty was first developed.

## **The Initial Attempt for a Peace Settlement**

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<sup>29</sup> Proclamation Defining Terms for Japanese Surrender (Potsdam Declaration), 26 July 1945, accessed via National Diet Library (NDL), <https://www.ndl.go.jp/constitution/e/etc/c06.html>.

<sup>30</sup> *Bulletin* 326 (23 September 1945), 423-7; SWNCC150/4/A: US Initial Post-Surrender Policy for Japan, 21 September 1945, accessed via NDL.

<sup>31</sup> Basic Initial Post Surrender Directive to Supreme Commander for the Allied Powers for the Occupation and Control of Japan (JCS1380/15), 3 November 1945, accessed via NDL.

Peace efforts for Japan germinated early. Indeed, the State Department started drafting a peace treaty with Japan in October 1945, almost immediately after the surrender, and by October 1946 a rough outline was produced.<sup>32</sup> While this chapter cannot cover all the details of how the treaty draft evolved, it suffices to say that the State Department was constantly refining its terms thereafter.

Meanwhile, MacArthur, as the head of the Occupation force, began to signal the need for an early peace. On 31 January 1946, for instance, he remarked that a peace treaty was the “most important matter” that required “early consideration.” Hence, he urged the Far Eastern Advisory Commission (FEAC) – a multilateral consultative organ for postwar Japan that had been created in October 1945– to “quickly get to work to consider the terms of such a peace treaty.”<sup>33</sup> When informed on 12 February 1947 about the State Department's on-going progress with drafting the peace treaty, MacArthur, perhaps encouraged by this development, pressed the Army Department on 20 February 1947 on the need for a peace settlement with Japan.<sup>34</sup> A similar message was also expressed to Congress.<sup>35</sup> Nor was MacArthur the only person to entertain the idea of a peace settlement with Japan. Truman in his State of the Union Address in January 1947 also stressed that the “early making of a peace” with Japan was one of the “basic interests” of the US, and that the Allies “must now get on with the peace settlements.”<sup>36</sup> Additionally, on 11 March 1947, George C. Marshall (Secretary of State) proposed a Japanese peace conference at the Moscow session of the Council of Foreign Ministers.<sup>37</sup>

It was against this backdrop that MacArthur, at a press conference on 17 March 1947, publicly called for a peace settlement with Japan. While Van Aduard argues that the State Department had shelved all discussion of the Japanese peace treaty and that this statement was a

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<sup>32</sup> The organization in charge of developing the treaty was an ad hoc “Working Group on Japan Treaty,” headed by James K. Penfield (Deputy Director of the Office of Far Eastern Affairs). For details, refer to: *FRUS* 1947, Vol. 6, 459; Igarashi, “MacArthur's Proposal for an Early Peace,” 61.

<sup>33</sup> The FEAC was based in Washington and was represented by eleven countries: Australia, Britain, Canada, China, France, India, the Netherlands, New Zealand, the Philippines, the Soviet Union and the United States. For MacArthur's statement, refer to: *FRUS* 1946, Vol. 8, 126.

<sup>34</sup> Igarashi, “MacArthur's Proposal for an Early Peace,” 63; Acheson to MacArthur, 12 February 1947, *FRUS* 1947, Vol. 6, 448.

<sup>35</sup> Acheson to Marshall, 21 March 1947, *FRUS* 1947, Vol. 6, 453.

<sup>36</sup> Annual Message to the Congress on the State of the Union, 6 January 1947, Public Papers of the Presidents of the United States, accessed via Harry S. Truman Library (HSTL), <https://www.trumanlibrary.gov/library/public-papers/2/annual-message-congress-state-union-2>.

<sup>37</sup> Igarashi, *Japanese Peace Settlement*, 63-6.

“complete surprise” to Washington, MacArthur’s proposal did not come out of a vacuum.<sup>38</sup> Indeed, judging from the statements made by Marshall and Truman, there seems to have been a growing consensus within the US of the need to work on the Japanese peace treaty.<sup>39</sup>

MacArthur at this press conference claimed that demilitarization and democratization, the two most important occupation objectives, had been largely achieved. The only remaining task, he observed, was to allow Japan to resume international trade and rebuild its economy, for which a peace treaty was necessary.<sup>40</sup> This recalled the terms of JCS1380/15, which had stated that the US would not be responsible for Japan’s economic rehabilitation; that was for Japan to resolve. MacArthur believed that time had now come for Japan to assume that responsibility and advocated that Japan’s rights to decide its own future needed to be restored for this purpose.

Strictly speaking, an economic recovery program could have been carried out without a peace treaty. However, while under occupation, Japan was not able to make decisions on its own and thus the victorious powers would essentially need to do the job of reviving Japan’s economy. This was a problem, as certain Allied Powers – particularly Australia, the Philippines and the Soviet Union – still bitter about Japan’s aggressive past, were not amenable to rebuilding Japan’s economy and might therefore hinder this objective. Hence, many State Department officials believed that Japan’s economic reconstruction would be best facilitated by restoring the country’s independence.<sup>41</sup> MacArthur seems to have shared this view.

In response to MacArthur’s statement, the State Department on 19 April 1947 informed him that it would fully respect his intention.<sup>42</sup> Subsequently, on 11 July 1947, the US proposed to the now renamed Far Eastern Commission (FEC) that a Japanese peace settlement should be negotiated “as soon as practicable.”<sup>43</sup> The tentative date and venue for a peace conference was set for 19 August 1947 in San Francisco.

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<sup>38</sup> Van Aduard, *Japan*, 64.

<sup>39</sup> Schaller, *Occupation of Japan*, 98-9; Hosoya, *San Francisco Peace Treaty*, 10-1; Igarashi, *Japanese Peace Settlement*, 63.

<sup>40</sup> “MacArthur Favors Japan Treaty Now To End Occupation,” 17 March 1947, New York Times (NYT); “Transcript of General MacArthur’s Talk to the Press on Occupation,” 18 March 1947, NYT.

<sup>41</sup> “Extent to which US policy objectives in Japan could be accomplished so far as legal considerations are concerned in the absence of a peace treaty,” undated, RG59, Entry A1 1230, Drafts by Ruth Bacon (2 of 6), accessed via National Institute of Korean History (NIKH).

<sup>42</sup> Igarashi, “MacArthur’s Proposal for an Early Peace,” 62.

<sup>43</sup> The FEC replaced the FEAC in accordance with the agreement reached at the Moscow session of the Council of Foreign Ministers (December 1945). While the member states stayed the same, FEC was empowered to formulate policies (with the US retaining an exclusive right to issue “interim [emergency] directive” whenever deemed necessary), whereas the FEAC was purely an advisory organ. For details, refer to: George Hubbard Blakeslee, *The*

What kind of a peace conference was the US envisioning? Because this peace conference never materialized, hardly any existing studies pay attention to this question. Yet, in order to have a fuller understanding of the Japanese peace settlement, it is necessary to answer it. This section, thus, attempts to fill this gap.

Procedurally, the forthcoming Japanese peace conference was envisaged as a two-stage process. First, the eleven member states of the FEC, as the “principal” parties to the treaty, would hammer out the core terms of the treaty with decisions being taken using a simple two-thirds majority voting system. During the second stage, all concerned countries, including the non-FEC states and most importantly Japan itself, would be invited to a “general peace conference” for final adjustments and signing.<sup>44</sup>

It is quite possible that this formula was meant to avoid repeating mistakes from the past. To elaborate, the post-WWI German peace settlement had seen the victors negotiate a treaty and simply present it as an ultimatum for the Germans to sign. In other words, there was only a victor’s conference and no real peace talks with the vanquished. Not surprisingly, this had made the Germans bitter and adamantly opposed to the treaty.<sup>45</sup> Perhaps aware of this, the US in 1947 proposed that Japan would be invited to the “general peace conference” in order to ensure that the vanquished also had a chance to voice its concerns. This is significant because it demonstrates that John Foster Dulles, the mastermind behind the 1951 Japanese peace treaty, was neither the first nor the only person who sought to avoid the mistakes of the post-WWI German precedent. While existing studies credit Dulles for trying to do things differently from the 1919 Versailles peace treaty, this “de-Versailles” mentality was already in existence well before his advent on to the scene.

Meanwhile, a draft treaty was produced on 1 August 1947 to be discussed at the proposed conference. Spanning more than eighty pages with fifty-six articles, as well as nine annexes and two maps, it starkly contrasts with the simple treaty that would eventually be signed in 1951.<sup>46</sup>

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*Far Eastern Commission: a study in international cooperation: 1945 to 1952* (Washington DC: Government Printing Office, 1953), 12-7.

<sup>44</sup> Conversation on Japanese Peace Conference, 1 July 1947, *FRUS* 1947, Vol. 6, 468; Bulletin 421 (27 July 1947), 182.

<sup>45</sup> Zara Steiner, *The Lights that Failed: European international history, 1919-1933* (Oxford: Oxford University Press, 2005), 17-8, 66; Klaus Schwab, “Germany’s Peace Aims: domestic and international constraints,” in *The Treaty of Versailles: a reassessment after 75 years*, edited by Manfred F. Boemeke, Gerald D. Feldman, and Elisabeth Glaser (Cambridge: Cambridge University Press, 1998), 37-67.

<sup>46</sup> Treaty of Peace with Japan, 1 August 1947, RG59, Entry A1 1230, Treaty (Bacon, Ruth)-1, accessed via NIKH.

Most importantly, as scholars have unanimously pointed out, this draft treaty was punitive.<sup>47</sup> Interestingly, however, nobody has substantiated this claim. This section therefore analyzes the essential terms of the treaty to demonstrate in what ways this treaty sought to punish Japan.

The 1947 treaty was premised on the principle of democratizing and demilitarizing Japan. To begin with, the political clauses dictated how Japan ought to behave in order to ensure its progress towards democracy. It also provided for a period of an “Allied supervision” for this purpose, during which Japan’s sovereignty “shall be limited.”<sup>48</sup> Worse still, Article 21 (Interim Supervision and Assistance) stipulated that “inspections” and “supervision” of demilitarization and democratization would continue “for such time as may prove to be necessary.” Equally ominous was Article 27 (Disarmament and Demilitarization), which stipulated that Japan “shall be and shall remain demilitarized and shall not rearm.” This meant that “all Japanese armed forces” and “all para-military forces and organizations in any form” would be “completely disarmed.” It once again stressed that Japan would be “subject to the [Allied] system of inspection and control” in carrying out this demilitarization term. Simply put, the occupation would essentially continue indefinitely, and Japan’s sovereignty would continue to remain limited.<sup>49</sup>

It should also be noted that the International Military Tribunal for the Far East (Tokyo Tribunal) was taking place around this time and the treaty was drafted to assist this effort. Article 17, for instance, obligated Japan to surrender its nationals, who were guilty of “war crimes” and “crimes against peace or humanity.” Having to bow to external pressure and give up one’s own national was obviously humiliating, if not an infringement of sovereignty. Of course, Japan was also expected to “fully execute” the sentences imposed by the tribunal.<sup>50</sup>

Meanwhile, Article 32 required Japan to make “equitable reparation” for the “damage caused by it to the Allied and Associated Powers” by transferring “capital equipment and

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<sup>47</sup> Dunn, *Peace-making and the Settlement with Japan*, 60-74; Cohen, *Political process and foreign policy*, 11-2; Hosoya, *San Francisco Peace Settlement*, 10-1, 38; Hara, *Cold War Frontiers*, 27-8; Schaller, *Occupation of Japan*, 99; Igarashi, “MacArthur’s Proposal for an Early Peace,” 65; Nishimura, *San Francisco Peace Treaty*, 9-16; Hara, *Reparations*, 439-48.

<sup>48</sup> For instance, Article 10 obligated Japan to “ensure...fundamental human rights...including freedom of thought, expression and the press...” Meanwhile, Article 11 obligated Japan to have a “democratic government based on elections by secret ballot.” Article 12 banned “anti-democratic, ultra-nationalistic or militaristic ideologies.” (Treaty of Peace with Japan, 1 August 1947, RG59, Entry A1 1230, Treaty (Bacon, Ruth)-1, accessed via NIKH).

<sup>49</sup> Chapter V: Disarmament and Demilitarization (Treaty of Peace with Japan), 1 August 1947, RG59, Entry A1 1230, Treaty (Bacon, Ruth)-1, accessed via NIKH.

<sup>50</sup> Chapter III: War Criminals (Treaty of Peace with Japan), 1 August 1947, RG59, Entry A1 1230, Treaty (Bacon, Ruth)-1, accessed via NIKH.

facilities” as well as “goods” out of current and future production. Annex J complemented this by outlining a range of industries to be earmarked for reparations, including weapons factories, the iron and steel industry, shipping and shipbuilding facilities.<sup>51</sup> Additionally, according to Article 51, Japanese “state and parastate property” within the ceded or liberated areas – such as Korea and Taiwan – would be given to those governments. As if to add insult to injury, Article 38 obligated Japan to forgo “all claims” against the Allies, while in Article 45-2 Japan was expected to repay to the US “all” aid that had been furnished to assist it since the end of the war. Worse still, Article 45-3-a-2 sought to permanently cap Japan’s economic potential by stipulating that its economy would be limited to 1930-1934 production levels and could even be lowered “under special circumstances.”<sup>52</sup>

Japan’s industrial capacity was further curtailed by the demilitarization clause (Article 27). Most importantly, the importing or stockpiling of “strategic raw materials” that were “in excess” of peacetime requirements was prohibited.<sup>53</sup> This meant that even those materials that could be used for peaceful purposes – such as iron, scrap steel, aluminum and petroleum products – would be restricted. Considering the fact that Japan was a resource-poor country that had to rely on mainland Asia for imports of these raw materials, this could have seriously handicapped Japan’s industrial capacity.

In sum, the 1947 draft peace treaty constituted retributive justice. It is worth noting that this draft was linked to a separate five-power pact (Treaty on the Disarmament and Demilitarization of Japan) that was to be signed between Japan, Britain, China, the Soviet Union and the US for the purpose of overseeing the “total disarmament and demilitarization” of Japan. As the name suggests, this treaty was also premised on prohibiting Japanese military and provided for a “quadripartite inspection,” which would empower Britain, China, the Soviet Union and the US to supervise the implementation of Japan’s disarmament even after the termination of the occupation.<sup>54</sup> As Hara Kimie, Hosoya Chihiro and Igarashi Takeshi point out,

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<sup>51</sup> Chapter VI: Claims Arising Out of the War (Treaty of Peace with Japan), 1 August 1947, RG59, Entry A1 1230, Treaty (Bacon, Ruth)-1, accessed via NIKH.

<sup>52</sup> Treaty of Peace with Japan, 1 August 1947, *Ibid.*

<sup>53</sup> Chapter V: Disarmament and Demilitarization (Treaty of Peace with Japan), 1 August 1947, *Ibid.*

<sup>54</sup> *Bulletin* 365 (30 June 1946), 1113-4.

the peace settlement envisioned in 1947, in other words, reflected the wartime Allied policy of preventing Japan's future re-emergence as a threat.<sup>55</sup>

Although any detailed account of what the non-US governments had in mind at this point cannot be addressed in full – as it deserves a separate analysis – it is worth acknowledging that the conclusion of a peace treaty based on the principles of demilitarization and democratization for Japan was shared by the other countries as well. Indeed, the British Commonwealth – especially Australia and Britain – agreed that Japan should remain completely demilitarized and sought to include strict industrial limitations and supervision thereof; it also advocated that the democratic principles outlined in the Potsdam Declaration and the Japanese constitution should be written into the treaty.<sup>56</sup> The ROC also showed considerable interest in the post-treaty control measures, and even argued that the withdrawal of occupation troops from Japan was not the proper answer.<sup>57</sup> It was precisely the punitive nature of the treaty that soon caused discord within the US government and led to the dissolution of the proposed peace conference.

### **Dissolution of the 1947 Peace Conference**

The peace conference proposed by the US never materialized. Frederick Dunn and Howard Schonberger argue that the US proposal for a peace conference was an empty gesture that the US never intended to honor.<sup>58</sup> This is an oversimplification. If the US truly had not meant to work on a peace settlement with Japan, it seems preposterous that it went through all the trouble to develop the treaty and engage in lively discussions both internally and internationally. There were two factors, procedural and substantial, that created obstacles. The former involved the question of which countries should be in charge of negotiating the peace treaty and what kind of voting procedure should be adopted. The latter involved the question of what kind of peace treaty the US wanted. This section elaborates on these issues.

To reiterate, on 11 July 1947, the US proposed to the FEC that the Japanese peace treaty should be negotiated by the eleven FEC members with a two-thirds majority voting system. This differed from the normal FEC voting procedure in which veto rights were reserved to the Big

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<sup>55</sup> Hara, *Cold War Frontiers*, 27-8; Hosoya, *San Francisco Peace Treaty*, 38; Igarashi, "MacArthur's Proposal for an Early Peace," 68, 82.

<sup>56</sup> Drumright to Marshall, 20 March 1947, *FRUS* 1947, Vol. 6, 451; Penfield to Lovett, 2 August 1947, *Ibid.*, 476; British Embassy to the Department of State, 9 October 1947, *Ibid.*, 533-4.

<sup>57</sup> Sebald to Marshall, 26 October 1947, *Ibid.*, 547-50.

<sup>58</sup> Dunn, *Peace-making and the Settlement with Japan*, 64; Schonberger, *Aftermath of War*, 75.

Five (Britain, China, France, the Soviet Union and the US).<sup>59</sup> Moscow responded on 22 July 1947, contending that the CFM – not the FEC – was the most appropriate platform and that the Big Four (Britain, China, the Soviet Union and the US) should be in charge of developing the treaty. The Soviet Union reasoned that the CFM had been organized “on the initiative of the US...for preparatory work of drawing up peace treaties.”<sup>60</sup> It should be noted that the Soviet Union excluded France, which reflected the low opinion Stalin had towards Paris due to the past record of French capitulation and collaboration with Germany.<sup>61</sup> In contrast to the Soviets, all of the other FEC member states by 2 August 1947 agreed to the idea of an eleven-power conference for the peace treaty.<sup>62</sup>

The Soviet proposal involved limiting the negotiating powers to four specific countries, each with veto power. Strictly speaking, the US was opposed to the former, but not the latter. This is one aspect of the US-Soviet disagreement on the procedural issue that is not clear in the existing historiography. Stretching back to the classical studies by Dunn, Cohen and Van Aduard, scholars have simply acknowledged the existence of the procedural issue without elaborating on what exactly was at stake. This creates the impression that the US was opposed to the Soviet proposal, because of its concern that the latter would have veto power.<sup>63</sup> However, this was not the case. Indeed, according to a memorandum prepared by the Office of Far Eastern Affairs (OFEA) – the State Department organ that was in charge of the Japanese peace treaty – and endorsed by Marshall on 14 May 1947, the US was “prepared to agree” to the idea of granting veto power to the Big Four. The US also agreed that France should be excluded from veto rights, considering its pro-Japanese collaborationist past in Indochina during the Pacific War (refer to Chapter 6). However, there was one principle that the US could not yield: the peace conference

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<sup>59</sup> Far Eastern Commission Terms of Reference V-2 stipulated: “The Commission may take action by less than unanimous vote provided that action shall have the concurrence of at least a majority of all the representatives including the representatives of the four following powers: United States, United Kingdom, Union of Soviet Socialist Republics and China” (*FRUS* 1945, Vol. 2, 817).

<sup>60</sup> Smith to Marshall, 23 July 1947, *FRUS* 1947, Vol. 6, 474.

<sup>61</sup> Georges-Henri Soutou, “General de Gaulle and the Soviet Union, 1943-5: Ideology or European Equilibrium,” in *The Soviet Union and Europe in the Cold War, 1943-53*, Francesca Gori and Silvio Pons et. al. (New York: St. Martin's Press, Inc., 1996), 310-333.

<sup>62</sup> Penfield to Lovett, 2 August 1947, *Ibid.*, 477.

<sup>63</sup> Van Aduard, *Japan*, 70-2; Cohen, *Political process and foreign policy*, 12; Dunn, *Peace-making and the Settlement with Japan*, 64.



“should not be confined to...the CFM powers” and that the US should “reject flatly” any such suggestion.<sup>64</sup>

There were two rationales behind this. To begin with, if the CFM took charge of the treaty, there was a risk that the peace settlement would predominantly reflect North American-European interests that did not sufficiently meet the views of the Asian-Pacific countries. In order to avoid this, the US wished to “broaden the representative basis” for the treaty and invite “all nations” with a “primary interest in Japan.”<sup>65</sup> Secondly, as claimed by Dunn and Van Aduard, the US was disillusioned with the CFM due to the complications it had already caused in Europe.<sup>66</sup> As Charles Bohlen (State Department Counselor) remarked to Wang Shih-Chieh (ROC Minister of Foreign Affairs) on 17 September 1947, the Soviet member of the CFM in the past in regard to Germany and Austria had “frustrated” the postwar settlement in Europe. Likewise, if decisions were confined to the Big Four, then the Soviet Union might again cause trouble and cause possible delay in the Japanese peace settlement.<sup>67</sup> Bohlen was most likely referring to the difficulties regarding the terms under which Germany should be re-unified; the Soviet Union advocated a weak Germany that did not pose threat to the Soviet Union, while the US proposed a stable Germany to prevent any implosion or threats to Western economic health.<sup>68</sup> The Italian peace settlement was also complicated by the Soviet right to veto, especially over the territorial disposition of Trieste and reparations question.<sup>69</sup>

Meanwhile, Charles Fahy (the State Department’s Legal Adviser) in his memorandum to Robert Lovett (who had recently replaced Dean Acheson as Under Secretary of State) on 7 August 1947 pointed out that the idea of the CFM handling the Japanese peace settlement had never been codified into a written agreement. Hence, the US was under no legal obligation to comply with the Soviet demand for a CFM-form of Japanese peace conference. Fahy also argued that the US should have no compunction about moving forward with a Japanese peace treaty that

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<sup>64</sup> Vincent to Marshall, 12 May 1947, *FRUS* 1947, Vol. 6, 458; Memo for Record, 14 May 1947, *Ibid.*

<sup>65</sup> Marshall to MacArthur, 26 June 1947, *Ibid.*, 465.

<sup>66</sup> Dunn, *Peace-making and the Settlement with Japan*, 64; Van Aduard, *Japan*, 65-6.

<sup>67</sup> Memorandum of Conversation (Bohlen and Wang), 17 September 1947, *FRUS* 1947, Vol. 6, 520-2.

<sup>68</sup> Benn Steil, *The Marshall Plan: Dawn of the Cold War* (New York: Simon & Schuster, 2018); Francesca Gori and Silvio Pons et. al., *The Soviet Union and Europe in the Cold War, 1943-53* (New York: St. Martin's Press, Inc., 1996), 23-75.

<sup>69</sup> Ilaria Poggiolini, “Negotiating a Settlement for Italy and the Minor Axis Powers: Peace Diplomacy and the Origins of the Cold War, 1945-7,” in *The Soviet Union and Europe in the Cold War, 1943-53*, ed. Francesca Gori and Silvio Pons (New York: St. Martin's Press, Inc., 1996), 381-94.

excluded the Soviet Union, if there continued to be a deadlock over procedural issues.<sup>70</sup> Australia and Britain expressed similar opinions on 28 July and 14 August 1947, respectively.<sup>71</sup>

On 13 August 1947, the US officially informed the Soviet Union of its disagreement. The US claimed that there had been no written agreement that the CFM alone would be authorized to develop the Japanese peace treaty. On the other hand, the FEC had been established, with the Soviet government's consent, to formulate policies for postwar Japan. The US argued that this was an implicit recognition that all FEC member states should have a stake in the Japanese peace settlement. Besides, all of the other FEC governments had indicated their agreement to the US approach.<sup>72</sup> The Soviet Union immediately protested and repeated its earlier demand that the Big Four should be responsible for the peace treaty.<sup>73</sup>

Meanwhile, the Republic of China (ROC) on several occasions (17 July, 17 September, 26 October and 20 November 1947) expressed reservations about a simple two-thirds majority voting procedure and instead sought veto rights. The ROC attitude was partly shaped by suspicion towards the West. At Yalta, China's fate had been determined arbitrarily by Roosevelt and Stalin without consultation. China was also sidelined in the European peace settlement, even though it was a CFM member. Wang wished to avoid these scenarios, in which China was excluded from vital discussions that impacted on its interests. Moreover, a simple two-thirds majority voting system carried the risk of China being easily outvoted by the coalition of the British Commonwealth, the Philippines and the US. In other words, the West might develop the peace treaty in a way that was "objectionable" to China.<sup>74</sup>

Furthermore, Wang was worried about the Soviet position regarding Manchuria, an area of vital "economic and political" significance. If the ROC supported the US proposal, the Soviet Union might retaliate by backing the Chinese Communist forces, which were waging intense resistance in that area against the ROC. Furthermore, in the case of the Soviet Union deciding not to partake in the peace conference while the ROC supported the US, Moscow might accuse it of bad faith, due to this being a violation of the Sino-Soviet treaty of 1945 which barred the two governments from entering into a separate peace agreement with Japan. Thus, the ROC proposed

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<sup>70</sup> *FRUS* 1947, Vol. 6, 479-84.

<sup>71</sup> Penfield to Lovett, 2 August 1947, *FRUS* 1947, Vol. 6, 476; Bishop to Penfield, 14 August 1947, *Ibid.*, 494.

<sup>72</sup> Marshall to Tsarapkin, 13 August 1947, *Ibid.*, 488-9.

<sup>73</sup> Memorandum of Conversation (Bohlen and Tsarapkin), 13 August 1947, *Ibid.*, 492.

<sup>74</sup> Stuart to Marshall, 17 July 1947, *FRUS* 1947, Vol. 6, 472; Memorandum of Conversation (Charles Bohlen and Wang), 17 September 1947, *Ibid.*, 520-2; Memorandum of Conversation (Wang and Sebald), 26 October 1947, *Ibid.*, 547-50; Stuart to Marshall, 20 November 1947, *Ibid.*, 573-4.

(on 17 September and 9 October 1947) sticking with the normal FEC voting procedure that granted veto power to China.<sup>75</sup>

The Chinese proposal was not far from what the US was willing to settle for. However, the US could not easily agree to the Chinese proposal due to the Australian and British viewpoints. This is another aspect that has not been sufficiently explained in the existing studies and therefore requires a brief overview. On multiple occasions (28 July, 16 October, 28 October and 21 November 1947), Australia emphasized the need for a “democratic” voting procedure, instead of according veto power to specific countries. Herbert V. Evatt (Australian Minister of External Affairs) stressed Australia’s “vital contribution” to the defeat of Japan and the postwar occupation, in which it had supplied the “main portion” of the British Commonwealth occupation force. Hence, it would be “intolerable” for Australia to be in an inferior position at the Japanese peace conference. If the veto were adopted, Evatt demanded that Australia should either be admitted as an additional member with a veto or replace Britain as the veto power.<sup>76</sup> Evatt also opined that the US should not be overly concerned about Soviet attendance (or exclusion).<sup>77</sup>

Britain, meanwhile, was against the idea of Australia inheriting its veto power or being added as a veto power. Instead, Britain continued to adhere to the no-veto principle; in fact, this principle was agreed among the British Commonwealth members at the Canberra Conference that was held between 26 August and 2 September 1947 to discuss the Japanese peace settlement.<sup>78</sup> Britain also urged Wang to drop his demand for veto, arguing that the Soviet Union would most likely use this power to damage China’s interests. Britain also argued that the Sino-Soviet treaty of 1945 did not, in fact, bar China from signing a separate peace treaty with Japan. Britain noted that Article 2 of this treaty prohibited China and the Soviet Union from making peace with Japan that “does not clearly renounce all aggressive intentions,” but the latter was clearly (though not completely) demilitarized in 1947. Furthermore, Britain suggested that if the

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<sup>75</sup> “China, Soviet Union: Treaty of Friendship and Alliance,” *The American Journal of International Law* 40-2 (1946): 51-63; Memorandum of Conversation (Bohlen and Wang), 9 October 1947, *FRUS* 1947, Vol. 6, 527; Wang to Marshall, 9 October 1947, *Ibid.*, 529.

<sup>76</sup> Acheson to Marshall, 28 July 1947, *FRUS* 1947, Vol. 6, 476; Evatt to Marshall, 16 October 1947, *Ibid.*, 543-4; Memorandum of Conversation (Evatt and Marshall), 28 October 1947, *Ibid.*, 552-4; Bohlen to Lovett, 21 November 1947, *Ibid.*, 578.

<sup>77</sup> Memorandum of Conversation (Evatt and Marshall), 14 September 1947, *Ibid.*, 517.

<sup>78</sup> British Commonwealth Conference on Japanese Treaty, 11 September 1947, RG59, Entry A1 1230, British Views; Canberra Conference, accessed via NIKH.

Soviet Union used the voting issue as a pretext to retain influence in Manchuria, the ROC should bring this before the UN Security Council or the International Court of Justice.<sup>79</sup> It should be noted that Britain was also willing to go ahead without the Soviet Union.<sup>80</sup>

The US, thus, faced a conundrum. On the one hand, the ROC and the Soviet Union strongly demanded veto rights; on the other hand, Australia and Britain were strongly opposed to this and supported the US-proposed two-thirds majority voting system. The State Department's response was to continue to stress its preference for a two-thirds majority voting system and to dissuade China from insisting on adopting the FEC voting procedure; MacArthur went further and tried to convince the ROC to proceed with the conference even without the Soviet Union.<sup>81</sup> One should be careful to note here that the US never completely rejected the possibility of adopting veto rights as a last resort.<sup>82</sup> Fortunately for the US, when Molotov (Soviet Foreign Minister) on 27 November 1947 rejected the Chinese proposal and continued to insist on a Big Four conference, the ROC changed its position. Perhaps frustrated with the Soviet Union's intransigence, the ROC confided to the US on 5 December 1947 that the Chinese were "not bound to await Soviet approval" to proceed with the Japanese peace settlement.<sup>83</sup>

By the end of 1947, there was therefore a consensus among FEC members on the need for an early peace settlement with Japan.<sup>84</sup> Additionally, all FEC members, with the sole exception of the Soviet Union, agreed on convening an eleven-power conference to discuss the peace treaty. Meanwhile, in contrast, the Soviet Union remained adamant about only accepting a Big Four conference. In response, Australia, Britain and China – and the US by December 1947 – entertained the idea of proceeding without the Soviet Union.<sup>85</sup> The only real sticking point therefore was the Chinese demand for veto rights. However, as Ambassador Stuart pointed out in his letter to the State Department on 20 November 1947 and 5 February 1948 – and as Hosoya Chihiro highlights – this was not an insuperable obstacle as it is highly likely that the ROC

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<sup>79</sup> Douglas to Marshall, 2 December 1947, *FRUS* 1947, Vol. 6, 582-3.

<sup>80</sup> Memorandum of Conversation (Butterworth and Everson), 14 November 1947, *Ibid.*, 567-8; British Embassy to Department of State, 20 November 1947, *Ibid.*, 576-7.

<sup>81</sup> *Ibid.*, 555-6, 590-1.

<sup>82</sup> Butterworth to Lovett and Bohlen, 18 November 1947, *FRUS* 1947, Vol. 6, 570-1; Fearey to Hamilton and Borton, 29 October 1947, *Ibid.*, 557-63.

<sup>83</sup> Molotov to Wang, 27 November 1947, *FRUS* 1947, Vol. 6, 581-2; Stuart to Marshall, 5 December 1947, *Ibid.*, 585-6.

<sup>84</sup> *Ibid.*, 524-5; British Commonwealth Conference on Japanese Treaty, 11 September 1947, RG59, Entry A1 1230, British Views; Canberra Conference, accessed via NIKH.

<sup>85</sup> Lovett to Bohlen, 15 December 1947, *FRUS* 1947, Vol. 6, 591-2; Sebald to Marshall, 16 December 1947, *Ibid.*, 594.

would have traded its veto rights for increased US military aid for fighting the Chinese Communists.<sup>86</sup> In other words, the US could have pushed at this juncture for an eleven-power peace conference for Japan, regardless of Soviet opinion. However, it did not. Why? To understand this we need to look at developments within Washington.

As pointed out by numerous scholars, the early attempts to convene a conference were unsuccessful, not only because of the procedural problems, but also because of internal US disagreement.<sup>87</sup> Hosoya Chihiro even contends that the procedural issues were simply an excuse and that the real reason for the failure of 1947 peace conference was the lack of consensus in Washington on the postwar Japanese settlement.<sup>88</sup> The core issue was: how should the US deal with the Soviet Union?

To recall, the original drafters of the peace treaty in the OFEA adhered to the wartime spirit of cooperation with the Soviet Union, as exemplified in the five-power demilitarization treaty and the various inspection mechanisms adopted in the draft peace treaty.<sup>89</sup> MacArthur at this time also supported the idea of cooperating with the Soviet Union.<sup>90</sup> However, in late 1947, George F. Kennan (the leader of the Policy Planning Group, which acted as the State Department's in-house advisory organ) and his deputy John P. Davies began to challenge this attitude.

Unlike their OFEA colleagues, Kennan and Davies advocated a confrontational stance towards the Soviet Union. Both men had worked as diplomats in the US Embassy in Moscow and their experiences had led them to believe that there was a genuine danger of Soviet expansionism and that the Russian threat to Japan was real. Kennan's philosophy is particularly important, as his advent signaled that the Japanese peace treaty would now be dictated by a Cold War mentality. As expressed in his well-known "long telegram" and Mr. X article of 1946 and 1947 respectively, Kennan believed that the Soviet leadership harbored inherent distrust of the

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<sup>86</sup> *FRUS* 1947, Vol. 6, 573-4; *FRUS* 1948, Vol. 6, 661; Hosoya, *San Francisco Peace Treaty*, 27.

<sup>87</sup> Hara, *Reparations*, 442-3; Hosoya, *San Francisco Peace Treaty*, 25-6, 30, 37-51; Igarashi, "MacArthur's Proposal for an Early Peace," 55-86; Wilson D. Miscamble, *George F. Kennan and the Making of American Foreign Policy, 1947-1950* (Princeton: Princeton University Press, 1992), 251; Seigen Miyasato, "John Foster Dulles and the Peace Settlement with Japan," in *John Foster Dulles and the Diplomacy of the Cold War*, edited by Richard H. Immerman (Princeton: Princeton University Press, 1990), 190; Schaller, *Occupation of Japan*, 99-106.

<sup>88</sup> Hosoya Chihiro, "The Road to San Francisco: the shaping of American policy on the Japanese peace treaty," *The Japanese Journal of American Studies* 1 (1981): 89.

<sup>89</sup> Igarashi, "MacArthur's Proposal for an Early Peace," 66-7.

<sup>90</sup> "MacArthur Favors Japan Treaty Now To End Occupation," 17 March 1947, *NYT*; "Transcript of General MacArthur's Talk to the Press on Occupation," 18 March 1947, *NYT*.

outside world and sought the “total destruction” of any rival power. Consequently, there could be “no permanent modus vivendi” with the Soviet Union, thus leaving the US with no choice but to adopt a firm “containment” policy. Equally important, as indicated by his Naval War College lectures in September and October 1948, Kennan identified Japan as being one of the industrial and military “power centers” that was vital to US security.<sup>91</sup> In other words, the US could not afford to leave Japan on the opposing side of the Cold War. Unsurprisingly, when Kennan and Davies discovered that the draft treaty was premised on continuing cooperation with the Soviet Union, they strongly opposed it and suggested delaying the peace conference until the terms of the treaty were rectified in conformity with Cold War realities. Kennan specifically advocated a paradigm shift away from demilitarization towards strengthening Japan’s economy, as he believed that the most effective weapon against communism was internal economic stability.<sup>92</sup>

To elaborate, on 11 August 1947 Davies wrote to Kennan his concerns about the draft treaty. He observed that the “central American objective” should be to build a “stable Japan, integrated into the Pacific economy, friendly to the US.” However, contrary to these objectives, the draft treaty was preoccupied with “drastic disarmament and democratization,” which Davies thought was unnecessary, since Japan “could not in the foreseeable future resurrect itself as a first-class military power.” Even more concerning, in his view, was the fact that the draft settlement gave the Soviet Union a footing in Japan by giving it a chance to partake in post-treaty “international supervision.” Moreover, the draft treaty only provided for the establishment of a “civil police force equipped with small arms” in Japan, which could do little to prevent Soviet penetration. Hence, Davies recommended that the draft treaty be re-examined.<sup>93</sup> In response, Kennan immediately contacted Lovett on 12 August 1947 and argued that the US did not seem to have a concrete objective for Japan and that this made it “highly dangerous” to talk about peace terms. Hence, Kennan suggested that the US should delay the Japanese peace settlement until specific goals, especially rebuilding Japan’s economy, had been agreed and the

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<sup>91</sup> Miscamble, *George F. Kennan*, 3-42, 247-73. For Kennan’s anonymous publication, refer to: X (George F. Kennan), “The Sources of Soviet Conduct,” *Foreign Affairs* 25-4 (1947): 566-82. Also refer to: Kennan to Byrnes (Long Telegram), 22 February 1946, *FRUS* 1946, Vol. 6, 698-709; “Contemporary Problems of Foreign Policy,” Naval War College 17 September 1948, George Kennan Papers, Box: 299, 15, Princeton University Library (PUL); “United States Foreign Policy,” Naval War College 11 October 1948, *Ibid.*

<sup>92</sup> Igarashi, “MacArthur’s Proposal for an Early Peace,” 69, 72, 79, 80.

<sup>93</sup> *FRUS* 1947, Vol. 6, 485-6.

draft peace treaty revised accordingly. Lovett agreed and rejected the draft treaty as being “wholly inadequate.”<sup>94</sup>

The OFEA, for its part, had no qualms about seeking Japan’s economic recovery; in fact, it agreed with this goal. However, it believed that an early peace treaty was necessary precisely for this purpose. On 14 August 1947, Max W. Bishop (Chief of Division of Northeast Asian Affairs, OFEA) contacted Kennan and opined that the economic reconstruction of Japan and its neighbors required a peace settlement. Furthermore, Bishop contended that the occupation had now reached a “point of diminishing returns,” as the Japanese were becoming tired of having foreign overlords decide their fate. Hence, any delay in the peace settlement would incur “serious psychological repercussions” and a “disheartening effect on Japan,” which would be highly detrimental to US and only serve Soviet interests.<sup>95</sup>

It is important to note here that the issue of Japan’s economic revival was becoming increasingly important for the US. In the absence of a peace treaty, the US, as the principal occupying power, had to carry the burden of sustaining Japan’s economy. This in turn, aggravated US taxpayers. Equally worrisome was the fact that the US stood to be blamed for any economic distress in Japan – for instance, if it failed to feed the population or prevent disease – and it was feared that this could damage US prestige and interests. Meanwhile, considering the general scarcity of finished goods worldwide, Japan was by 1947 seen as one of the more industrially advanced countries that could meet these needs. Hence, the OFEA was already stressing in that year how the US should try to stimulate Japan’s foreign trade. It also expressed its preference for ending the occupation soon by remarking that some Allies felt that the US was trying to monopolize the Japanese market through prolonged occupation.<sup>96</sup>

The prospects of an early peace settlement became even dimmer when the military establishment added its voice of concerns about the draft peace treaty. To begin with, the Navy – which responded to the OFEA on two occasions (18 August and 25 August 1947) – echoed Davies’ worry that Chapter V (Demilitarization and Disarmament clause) of the draft treaty only provided for a “civil police” and “coast guard” with “small arms.” The Navy contended that this would leave Japan “completely unable to defend herself against outside aggression.” Mindful of

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<sup>94</sup> *Ibid.*, 486-7.

<sup>95</sup> *Ibid.*, 493-4.

<sup>96</sup> “Extent to which US policy objectives in Japan could be accomplished so far as legal considerations are concerned in the absence of a peace treaty,” undated, RG59, Entry A1 1230, Drafts by Ruth Bacon (2 of 6), accessed via NIKH.

the increasing US-Soviet animosity, the Navy advised “continuing the military occupation” until the “UN has adequate forces for performing this function.” Furthermore, it noted that a demilitarized Japan would not be able to contribute to UN collective security, and thus recommended amending the treaty to allow Japan to have sufficient armed capability. The Navy also wished to secure its base rights at Yokosuka and other necessary airfields, which would later be revisited and eventually contribute to the bilateral security treaty with Japan.<sup>97</sup>

The War Department (on 29 August 1947), meanwhile, contended that any peace treaty should ensure that Japan stayed “aligned with US interests” and that the US should safeguard its “dominant position.” To this end, it suggested discarding the interim control arrangement (Chapter IV: Interim Measures of Control and Inspection), as this would give other powers, especially the Soviet Union, a footing in Japan.<sup>98</sup> The War Department further argued that the treaty should encourage “Japanese economic self-sufficiency,” as US economic assistance could not continue indefinitely. In light of this, “the treaty should permit full Japanese participation in international trade.” Additionally, reparations should not be allowed to hinder Japan’s “reasonable economic self-sufficiency.” In the meantime, the US should progressively “diminish the degree of control” to allow Japan greater discretion over its own political and economic affairs.<sup>99</sup>

MacArthur also cabled the State Department on two occasions (21 March and 1 September 1947) to express certain qualms about the draft treaty. To begin with, he suggested revising Article 1, which included Ryukyu as part of Japan. MacArthur stressed that the Ryukyu Islands “must be vested in the US,” as this island group was “absolutely essential” to US security interests in the Pacific. He also suggested removing the interim control arrangements and the demilitarization clause and discarding the five-power treaty on the demilitarization and disarmament of Japan. MacArthur denounced these items as being essentially a continuation of the occupation that would defeat the purpose of restoring Japan’s independence. He also agreed with the War Department that they provided an opportunity for the Soviet Union to acquire a

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<sup>97</sup> *FRUS* 1947, Vol. 6, 495-6, 503-4.

<sup>98</sup> This chapter stated that a “Council of Ambassadors” would be set up, with the Soviet Union as a member, for the “supervision” of the withdrawal of occupation forces after the conclusion of a peace treaty. (Chapter IV: Interim Measures of Control and Inspection (Treaty of Peace with Japan), 1 August 1947, RG59, Entry A1 1230, Treaty (Bacon, Ruth)-1, accessed via NIKH).

<sup>99</sup> Fahy to Penfield, 29 August 1947, *FRUS* 1947, Vol. 6, 506-7; “Extent to which US policy objectives in Japan could be accomplished so far as legal considerations are concerned in the absence of a peace treaty,” RG59, Entry A1 1230, Drafts by Ruth Bacon (2 of 6), accessed via NIKH.



military foothold in Japan, which would threaten the US strategic position in the Pacific. Moreover, MacArthur stressed that Japan was already demilitarized and would not be able to rearm for the immediate future. He also contended that the peace treaty should enable Japan to earn money on its own initiative via international trade, lest the US have to continue aiding Japan indefinitely. Hence, MacArthur argued, the peace should be “simple” and “avoid arbitrary, oppressive, and unnecessary controls.”<sup>100</sup>

Confronted with this opposition, William Walton Butterworth (Head of OFEA) sent his opinion to Marshall on 22 September 1947. While he argued that the peace conference should not be delayed, he did admit that the US should first “consolidate” its position and recommended that the US concretize its goals. Meanwhile, he adhered to the initial OFEA attitude that sought to continue cooperating with the Soviet Union, arguing that there could be a “serious legal obstacle” to making a separate peace.<sup>101</sup> Since the occupation of Japan was theoretically an Allied effort, if the Soviet Union were excluded from the peace treaty – which meant continued state of belligerency against Japan – then the termination of the occupation might be seriously jeopardized.

Around this time, Kennan sent his own analysis (PPS 10) to Marshall and Lovett on 14 October 1947. As Frederick Dunn and Howard Schonberger argue, PPS 10 was a formal proposal for a paradigm shift away from wartime US-Soviet cooperation and towards Cold War confrontation.<sup>102</sup> In this document Kennan once again questioned the wisdom of an early peace settlement. He argued that Japan was politically and economically unstable and that there was a “great risk” that early termination of the occupation might leave it vulnerable to communist penetration. Hence, until Japan could “stand on its own feet economically,” Kennan suggested “abandoning the idea of concluding a peace settlement.”<sup>103</sup>

Of course, Kennan was aware that the US had already proposed a peace conference, and therefore noted that the US could not refuse to proceed with the negotiations so blatantly. The best option, therefore, was to continue the discussion on the peace treaty at an “exploratory”

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<sup>100</sup> *FRUS* 1947, Vol. 6, 455-6, 512-5; Chapter I: Territory (Treaty of Peace with Japan), 1 August 1947, RG59, Entry A1 1230, Treaty (Bacon, Ruth)-1, accessed via NIKH.

<sup>101</sup> *FRUS* 1947, Vol. 6, 524-5.

<sup>102</sup> Dunn, *Peace-making and the Settlement with Japan*, 60; Schonberger, *Aftermath of War*, 170-1.

<sup>103</sup> *FRUS* 1947, Vol. 6, 537-43.

level, but not hasten the pace in any way and hold open the possibility of postponement. In short, the US should discreetly delay the peace settlement.<sup>104</sup>

Echoing the War Department's suggestion, Kennan advised "gradual modification" of occupation policy in a way that would restore Japan to "normal peace-time status without any treaty at all."<sup>105</sup> In other words, de facto independence should be granted in lieu of de jure independence.<sup>106</sup> This was a shrewd way to secure America's diplomatic leverage. By relaxing the degree of American control, Japan's position vis-à-vis other countries would be strengthened, since the latter would have less inducements to offer. At the same time, Japan would continue to depend on America's goodwill, lest the US change its mind and tighten control again. In short, granting de facto independence to Japan would increase the bargaining position of the US, while weakening that of all others. While Van Aduard argues that it was MacArthur who adopted a piecemeal restoration of sovereignty for Japan as a stop-gap remedy for the continued occupation, the records make it clear that this was Kennan's idea; MacArthur, in contrast, maintained the belief that the occupation should end soon.<sup>107</sup>

Kennan was also opposed to post-treaty allied supervision of Japan's political life, considering the adverse psychological effect this might have on the Japanese. He therefore opposed Chapter II: Political Clauses, which dictated how Japan should behave politically.<sup>108</sup> Meanwhile, in regard to Japan's security, he argued that it must rest primarily on the "proximity" or "presence" of US forces. Hence, he agreed with MacArthur in suggesting revision of Article 1 to allow the US to retain its military facilities in Okinawa. Kennan furthermore agreed with MacArthur that the five-power treaty on the demilitarization and disarmament of Japan must be discarded.<sup>109</sup>

The OFEA, however, continued to insist on an early peace settlement. In the memo it sent to Lovett on 29 October 1947, the OFEA argued against indefinite delay of the Japanese peace settlement, since the US had already publicly proposed one and had consequently raised

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<sup>104</sup> *Ibid.*

<sup>105</sup> *Ibid.*

<sup>106</sup> Blakeslee, *The Far Eastern Commission*, 96-104.

<sup>107</sup> Van Aduard, *Japan*, 290-1.

<sup>108</sup> For instance, Article 10 obligated Japan to "ensure...fundamental human rights...including freedom of thought, expression and the press..." Meanwhile, Article 11 obligated Japan to have a "democratic government based on elections by secret ballot." Article 12 banned "anti-democratic, ultra-nationalistic or militaristic ideologies." (Treaty of Peace with Japan, 1 August 1947, RG59, Entry A1 1230, Treaty (Bacon, Ruth)-1, accessed via NIKH).

<sup>109</sup> *FRUS* 1947, Vol. 6, 537-43.

expectations in Japan and other governments that the occupation might end soon. Any delay would cause a “letdown” in Japan and lead to a “less cooperative attitude” among the British Commonwealth, which could damage America’s prestige and leadership worldwide. And while some argued that continued US occupation would help in “cranking up” Japan’s economy, the OFEA still contended that only a peace treaty would truly allow its economic revitalization.<sup>110</sup>

Despite his reservations about certain terms of the treaty, MacArthur also urged Washington (on 28 October and 8 December 1947) to continue work on an early peace settlement. MacArthur argued that Japan’s economic and political stability depended on the revitalizing of foreign trade, which would not be possible without a peace treaty. Furthermore, the continued presence of large numbers of foreigners could provoke “xenophobia in Japan,” which the communists to take full advantage of; an early peace treaty would resolve this quandary. MacArthur also contended that an early peace would gradually wean Japan away from financial reliance on the United States, while cementing “closer ties, politically, economically, and culturally” between the two countries. MacArthur, therefore, recommended that the US should move forward with developing the peace treaty even without Soviet involvement; signing and ratifying it without the Soviet Union was another matter that could be considered at a later stage.<sup>111</sup>

Yet, other sections of the US government continued to express concerns about the wisdom of proceeding with a peace conference. In December 1947, the US Embassy in Moscow cabled Washington and cautioned against “hastily proceeding” with a settlement, instead advising it to prolong the occupation. If the US insisted on a peace conference, then the treaty should “maximize stability of Japanese government and minimize Soviet influence.”<sup>112</sup> The US Embassy in London also (on 16 December 1947) entertained the possibility of postponing the Japanese peace conference.<sup>113</sup> Even Butterworth, the head of OFEA who had long argued for an early peace, by the end of 1947 started to doubt the wisdom of an early settlement.<sup>114</sup>

In sum, throughout 1947, the US gravitated increasingly towards postponing the peace treaty with Japan. Unsurprisingly, the proposed peace conference never took place; instead, it

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<sup>110</sup> *Ibid.*, 556-63.

<sup>111</sup> Sebald to Penfield, 28 October 1947, *Ibid.*; Sebald to Marshall, 8 December 1947, *Ibid.*, 555-6, 589-90.

<sup>112</sup> *Ibid.*, 583-4, 595.

<sup>113</sup> Drumright to Bohlen, 16 December 1947, *Ibid.*, 592-3.

<sup>114</sup> Butterworth (Lovett) to Bohlen, 15 December 1947, *Ibid.*, 591-2.

drifted into superficial discussions that continued well into 1948. The momentum for a peace conference would not be revived until 1949.

## **Conclusion**

To conclude, the peace conference proposed by the US failed to materialize because of two factors. Internationally, there were disagreements among the Allies regarding the voting method and the question of who should be responsible for negotiating the Japanese peace treaty. Meanwhile, domestically, the US began to transition from the spirit of wartime cooperation with the Soviet Union to the Cold War mentality of containing it. The latter raised doubts about the wisdom of moving forward with the peace settlement and the existing policy of crafting the treaty based on the principle of demilitarization. This eventually culminated in the US decision to suspend the peace talks, the subject for the following chapter.

## Chapter 2. The Dormant Years, 1948-1949

The disintegration of the 1947 peace conference initiative was followed by a dormant phase in which no official negotiations took place. Although, the peace efforts would only pick up pace again in late 1949, there were important developments during this period that would later impact the peace settlement. This chapter elaborates on those developments.

This period has been researched quite extensively by numerous scholars. So why revisit a topic that has been studied quite exhaustively? One important shortcoming of the existing studies is that they focus overwhelmingly on the transformation of occupation policy and consequently overlook the fact that the Japanese peace treaty also went through a significant change. This is not to say that scholars have completely ignored the peace treaty in their analyses. The prominent historians of postwar Japan, including Hosoya Chihiro and Michael Schaller, have pointed out that disagreement between the Defense Department and the State Department hampered the treaty negotiations between 1948 and 1949. Furthermore, Dunn briefly assesses the treaty amendments that took place in late 1949.<sup>115</sup> However, an overview of the exact changes made to the treaty contents and procedural questions is lacking.<sup>116</sup> Perhaps the only exception to this rule is the work of Kimie Hara and Chŏng Pyŏngchun, who trace the evolution of the territorial terms of the treaty; nevertheless, they focus exclusively on that issue. This is a major gap in the history of postwar Japanese peace settlement. Without understanding the treaty's transformation process during the dormant years, one cannot fully understand why Dulles was successful in negotiating the Japanese peace treaty in later years. This chapter, therefore, seeks to provide a comprehensive outline of how the peace treaty changed between 1948 and 1949.<sup>117</sup>

### Paradigm Shift, Postponement and Transformation of the Peace Treaty, 1948-1949

The Japanese peace settlement entered into a dormant year in 1948, partly because the US was busy with Europe, particularly with the European recovery plan (Marshall Plan) and the postwar German settlement; in other words, Japan was not the top priority. Only after the establishment of the North Atlantic Treaty Organization (NATO) and West Germany would the State

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<sup>115</sup> Dunn, *Peace-making and the Settlement with Japan*, 85-6.

<sup>116</sup> Schaller, *Occupation of Japan*, 164-77; Hosoya Chihiro, "The Road to San Francisco," 87-109; Hosoya Chihiro, *San Francisco Peace Treaty*, 55-78.

<sup>117</sup> Hara, *Cold War Frontiers*; Chŏng, *The Liancourt Rocks*.

Department re-examine the Japanese peace settlement seriously.<sup>118</sup> Equally important was the fact that the US, after much hesitation, formally decided to suspend the peace talks, the details to which we now turn to.

As explained in the previous chapter, Kennan believed that the Japanese peace settlement had to be postponed until Japan was economically strengthened. He was by no means alone in stressing the importance of Japan's economic health. Other influential figures shared this belief, including William H. Draper (Undersecretary of the Army), Kenneth Royall (Secretary of the Army), and James V. Forrestal (Secretary of the Navy and later Secretary of Defense). There also emerged at this point a pro-Japanese lobbying group, the American Council for Japan, under the leadership of Harry F. Kern. A conglomeration of powerful figures from academia, businesses, government and the media – Kennan and Draper were both associated with the Council – this lobby group sought to revitalize Japan's business.<sup>119</sup> This emphasis on Japan's economic reconstruction would eventually culminate in the policy of so-called "reverse course," which entailed moving away from the principles of demilitarization towards economic reconstruction and later rearmament.

This policy shift must be understood as a reflection of the larger general transformation of US foreign policy taking place at this time. The escalating tension between the US and the Soviet Union since the end of WWII led to several crises in Europe (over Poland and Germany) and the Middle East (over Iran and Turkey).<sup>120</sup> Against this backdrop, Truman in March 1947 declared that the US had to help the "free peoples of the world," who were being threatened by "totalitarian regimes," an indirect reference to the Soviet Union and its satellites. This specifically meant tackling economic distress, which Truman described as the "seed of totalitarian regimes."<sup>121</sup> Conventionally known as the "Truman Doctrine," Truman's statement signaled a formal departure from wartime cooperation with the Soviet Union towards a

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<sup>118</sup> Hosoya, "The Road to San Francisco," 90-1.

<sup>119</sup> Theodore Cohen and Herbert Passin, *Remaking Japan: the American Occupation as New Deal* (New York: Free Press 1987), 406-7; Schonberger, *Aftermath of War*, 170-1, 187-9, 192, 202; Michael Schaller, "MacArthur's Japan: The View from Washington," *Diplomatic History* 10-1 (1986): 12-5; Howard Schonberger, "The Japan Lobby in American Diplomacy, 1947-1952," *Pacific Historical Review* 46-3 (1977), 327-359.

<sup>120</sup> John Lewis Gaddis, *The United States and the Origins of the Cold War, 1941-1947* (New York: Columbia University Press, 1972); *John Lewis Gaddis, We Now Know: rethinking Cold War history* (Oxford: Oxford University Press, 1998).

<sup>121</sup> Special Message to the Congress on Greece and Turkey: The Truman Doctrine, 12 March 1947, accessed via HSTL, <https://www.trumanlibrary.gov/library/public-papers/56/special-message-congress-greece-and-turkey-truman-doctrine>.

confrontational mode. In Europe and the Mediterranean, this paradigm shift manifested itself in the Marshall Plan; in Japan, it was the “reverse course.”<sup>122</sup>

One of the earliest expressions of this major policy shift was SWNCC 381 (“Revival of the Japanese Economy”), which was produced on 22 July 1947, shortly after the declaration of the “Truman Doctrine.” This SWNCC paper pointed to the importance of revitalizing Japan’s production and export sector, lest the US have to continue to aid Japan indefinitely or leave it in a state of poverty.<sup>123</sup> This portended the eventual transformation of the postwar peace with Japan. The ideas contained in SWNCC 381 were echoed by Kennan in his report of 25 March 1948 (PPS 28: Recommendations with Respect to US Policy toward Japan).<sup>124</sup> PPS 28 advocated that economic recovery, not the peace treaty, should be the “prime objective” in Japan. Kennan thought it best that the US “should not press” for a peace treaty, but instead focus on the “revival of Japanese foreign trade,” especially “Japan’s exports.” Kennan also advised that the peace treaty in its final form should be “as brief, as general, and as nonpunitive as possible.” These suggestions were later adopted verbatim as NSC 13/2 – with an added emphasis on the need to delay peace with Japan in light of the “Soviet Union’s aggressive policy of communist expansion” – which was approved by Truman on 9 October 1948.<sup>125</sup> The US had thus formally suspended the Japanese peace treaty negotiations.

This did not mean that there was no progress on the peace treaty. Indeed, there were ongoing discussions within the State Department regarding its terms. As already mentioned, Kennan advised that the treaty should be non-punitive. For this purpose, he wished to amend the reparations clause, as he believed that the existing reparations policy would hamper Japan’s economic recovery. He was convinced that Japan needed its industrial facilities – including those with war potential, such as shipyards – to attain self-sufficient economy; hence, he proposed terminating the current reparations removal policy and formalizing this in the peace treaty.<sup>126</sup>

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<sup>122</sup> Michael J. Hogan, *The Marshall Plan: America, Britain, and the reconstruction of Western Europe, 1947-1952* (Cambridge: Cambridge University Press, 1987); Melvyn P. Leffler, *A Preponderance of Power: national security, the Truman administration and the cold war* (Stanford: Stanford University Press, 1992), 100-219; Steil, *Marshall Plan*.

<sup>123</sup> SWNCC 381: Revival of the Japanese Economy, 22 July 1947, RG59, Entry A1 505-E, Lot 55D370, accessed via NIKH; Summary of the Introduction to the “Discussion” of SWNCC 381, *Ibid.*; Hilldring to Petersen, 25 July 1947, *FRUS* 1947, Vol. 6, 265.

<sup>124</sup> *FRUS* 1948, Vol. 6, 692-719.

<sup>125</sup> *Ibid.*, 858.

<sup>126</sup> *Ibid.*, 692-719.

Kennan had other practical reasons for wanting to stop reparations. Reparations removal involved physically disassembling the designated plants, packing them and transporting them to designated seaports or airports to be shipped to the recipient countries. This whole process not only incurred “enormous” costs, but also required a lot of time – twenty years in the case of China – to complete. This naturally meant a tremendous financial strain on Japan, since it would be expected to bear the bulk of these expenses. Kennan also worried that the closing down of these industries would result in mass unemployment and discourage banks from making investments.<sup>127</sup> In addition, he doubted that the recipients had the ability to handle the machinery they received. Kennan noted that the ROC and the Philippines – the two main beneficiaries of the reparations program – lacked the skilled labor and infrastructure needed to operate the Japanese equipment. The ROC and the Philippines even admitted that they were more interested in the “packing materials” that were used for shipping the machinery. Hence, Kennan believed that it was better to retain the machinery in Japan, which had the ability to produce goods – such as textiles, spare parts and fishing vessels – for the wider region.<sup>128</sup>

Kennan was not alone in wanting to revamp the existing reparations policy. Already on 2 March 1948, Sherwood M. Fine, one of the economic advisers in SCAP, had raised the same concern.<sup>129</sup> MacArthur too thought that the existing reparations policy hampered Japan’s recovery, while also placing a tremendous burden on the US.<sup>130</sup> Not surprisingly, Kennan’s idea was later adopted as part of NSC 13/3 on 6 May 1949, which committed the US to terminating the reparations program.<sup>131</sup> This paved the way for a lenient reparations clause in the final treaty.

Kennan also advocated a “relaxation of the purge,” which meant promptly concluding the war crimes trial process and delegating more decision-making power to Japan.<sup>132</sup> Since these aspects have already been examined in detail by other scholars, it suffices to say that these ideas were adopted as part of NSC 13/2. This too had implications for the 1947 treaty draft as it meant that three of the punitive chapters – “Chapter II: Political Clauses,” “Chapter III: War Criminals”

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<sup>127</sup> *Ibid.*

<sup>128</sup> *Ibid.*

<sup>129</sup> Memorandum of Conversation, 2 March 1948, *Ibid.*, 955-8.

<sup>130</sup> Conversation between MacArthur and Kennan, 23 March 1948, *Ibid.*, 706-12.

<sup>131</sup> *FRUS* 1949, Vol. 7-2, 731-6.

<sup>132</sup> *FRUS* 1948, Vol. 6, 692-719.



and “Chapter IV: Interim Measures of Supervision and Control” – could now be removed.<sup>133</sup> Furthermore, Kennan contended that the US forces should remain in Japan after the end of the occupation and that this should be discussed bilaterally with Japan during the peace negotiations. This portended the bilateral security treaty that would be signed between Japan and the US in 1951.

How else was the peace treaty amended? As noted above, while it is generally understood that it went through piecemeal changes, there is a lack of detailed explanation of the exact amendments that were made. The evolution of the treaty terms, however, warrants closer examination, as it helps to stress the point made by other historians that a lenient peace treaty was gradually but clearly taking shape. It is important to understand this, as otherwise it is easy to get the impression that Dulles simply discarded the existing treaty and drafted generous peace terms from scratch. Hence, this section traces how the terms of the treaty evolved between 1948 and 1949.

The first revision was circulated by the OFEA on 8 January 1948 in response to various demands made by different branches of the US government. Two important changes were made in this revision that would have a long-term effect. To begin with, the new draft no longer envisaged a separate five-power demilitarization treaty. This meant that Japan would voluntarily carry out the demilitarization program, rather than being forced to do so by outside powers.<sup>134</sup> In addition, Article 45-3-a-2 of the 1947 draft peace treaty, which sought to permanently cap the Japanese economy, was removed.<sup>135</sup>

Between September and December 1949, four further drafts were produced. The first draft, on 7 September 1949, saw the war-guilt clause disappear. Additionally, it no longer obligated Japan to pay for reparations; instead, it stated that the reparations claims of the Allies “shall be deemed to have been satisfied out of the Japanese assets subject to their respective jurisdictions” and “out of the assets received from Japan during the occupation” (Article 30). This reflected the principle adopted in NSC 13/2 that sought to prevent further reparations from

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<sup>133</sup> Dower, *Embracing Defeat*; Schaller, *The American Occupation of Japan*; David Cohen and Yuma Totani, *The Tokyo War Crimes Tribunal: law, history, and jurisprudence* (Cambridge: Cambridge University Press, 2018); Richard H. Minear, *Victors' Justice: the Tokyo War crimes trial* (Princeton: Princeton University Press, 1971).

<sup>134</sup> Chapter VII: Claims Arising Out of the War, Article 33, RG59, Entry A1 1230, Excerpts from Draft Peace Treaty with Japan dated 1/8/1948, accessed via NIKH.

<sup>135</sup> Chapter VIII: Other Economic Clauses (Treaty of Peace with Japan), 1 August 1947, RG59, Entry A1 1230, Treaty (Bacon, Ruth)-1, accessed via NIKH; Analysis of the Japanese Peace Treaty, 8 January 1948, *FRUS* 1948, Vol. 6, 657-60.

Japan. The post-treaty control mechanism was also deleted, thus permanently removing one of the items that could have limited Japan's sovereignty. In addition, Article 6 now stipulated that the Ryukyu islands would be placed under a UN trusteeship with the US as the "administering authority."<sup>136</sup> This reflected the idea espoused earlier by MacArthur that had been adopted as part of NSC 13/3.<sup>137</sup>

A second revised draft was prepared on 13 October 1949. What is most notable about this draft is the fact that Japan's obligation to repay the advance occupation cost was now revived. This term had been removed in the September 1949 draft mentioned above, most likely because the US wanted to remove anything that might financially burden Japan. Dunn interprets its revival as evidence that the US had decided to adopt the principle of "repayment of occupation costs before reparations payment" for the purpose of inhibiting other governments from demanding further reparations.<sup>138</sup> Although this version of the treaty never explicitly stated that the payment of advance occupation costs would be prioritized over reparations, this was precisely what the US had in mind as revealed in a confidential commentary later in November 1949.<sup>139</sup> In fact, Dulles would later use this logic to discourage the Philippines from demanding reparations (see Chapter 7).

A third draft treaty was produced on 2 November 1949. The most notable change here was that the terms relating to demilitarization were now permanently removed.<sup>140</sup> When the fourth draft was developed on 29 December 1949, Japan's obligation to hand over its nationals for trials was eliminated; instead, the war criminals clause simply stated that Japan would execute the decision of the Tokyo tribunal and that the convicts could be pardoned upon the approval of "majority" of the tribunal governments.<sup>141</sup> This reflected the fact that the tribunals were adjourned in November 1948. With the slight revision in the phrasing, it would be adopted in the final treaty in 1951.

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<sup>136</sup> Treaty of Peace with Japan, 7 September 1949, RG59, Entry A1 1230, "Treaty Documents-9/1949~5/1950; Treaty-Draft-9/07/1949," accessed via NIKH.

<sup>137</sup> NSC 13/3 stated that the US should secure "long-term strategic control of the Ryukyu Islands" (*FRUS* 1949, Vol. 7-2, 731-6).

<sup>138</sup> Dunn, *Peace-making and the Settlement with Japan*, 84.

<sup>139</sup> Commentary on Treaty of Peace with Japan, 2 November 1949, RG59, Entry A1 1230, "Treaty-Draft-11/2/1949," accessed via NIKH.

<sup>140</sup> Treaty of Peace with Japan, 2 November 1949, RG59, Entry A1 1230, "Treaty-Draft-11/2/1949," accessed via NIKH.

<sup>141</sup> Draft Treaty of Peace with Japan, 29 December 1949, RG59, Entry A1 1252, Lot 54D423, "Treaty Drafts, 1949 - March 1951," accessed via NIKH.

Compared to the 1947 treaty, the contents of the treaty were now much more lenient. Indeed, John Allison (Deputy Director of Far Eastern Affairs) stressed that the “underlying concept” of the treaty was now to “restore Japan to a genuinely sovereign status with minimum restrictions.” Not only would this help align it with the US, but would also prevent the Soviet Union or the PRC from offering a better alternative.<sup>142</sup>

Although gradual and piecemeal, the Japanese peace treaty was thus moving very clearly in a more lenient direction. While Dulles is often credited for negotiating a generous peace treaty – even the most recent work by Miller argues this – these drafts demonstrate that the policy of leniency predated his appointment.<sup>143</sup> Hence, as Dunn argues, it is inaccurate to refer to Dulles as the “architect” of the treaty, as has often been done, but rather as the person who successfully carried out an existing blueprint.<sup>144</sup>

It is important to note that the US also began to re-consider the procedural aspects, during which a major development took place: the advent of “shuttle diplomacy.” Its precise origins are unclear, but one of the earliest proponents was Allison, who on 19 May 1948 wrote to Butterworth that frequent use of the “diplomatic channel” would better facilitate the crafting the peace treaty than working through the FEC. In other words, the US should talk to concerned governments individually to hammer out the terms of the treaty, as opposed to discussing them at a multilateral platform.<sup>145</sup> This idea was adopted in NSC 13/2 and consequently, as Hosoya points out, “shuttle diplomacy” became the official US policy.<sup>146</sup> This was an early indication of how the Japanese peace treaty would not be negotiated through a traditional peace conference.

Of course, the idea of a traditional peace conference had not yet been completely abandoned; this would only be decided in early 1950 (refer to Chapter 3). However, the prospect was becoming increasingly clear. Indeed, on 27 May 1949, James Webb (Under Secretary of State) once again stressed the importance of relying on individual consultations, as this would enable the US to circumvent the Soviet Union and the thorny issue of the voting procedure,

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<sup>142</sup> Allison to Fearey, 23 February 1950, RG59, A1 1252, Lot 54D423, Treaty Drafts, 1949 - March 1951, accessed via NIKH.

<sup>143</sup> Miller, *Cold War Democracy*, 123.

<sup>144</sup> Dunn, *Peace-making and the Settlement with Japan*, 85-6.

<sup>145</sup> Allison to Butterworth, 19 May 1948, *FRUS* 1948, Vol. 6, 763-5.

<sup>146</sup> *FRUS* 1948, Vol. 6, 858; Hosoya, *San Francisco Peace Treaty*, 48.

while also allowing it to clarify the requirements for the peace treaty and negotiate from a more advantageous position.<sup>147</sup>

### **The Rekindling of Momentum, 1949**

As mentioned above, the Japanese peace settlement negotiations slowly regained momentum in 1949, as the State Department had by the middle of the year tackled the major European questions – particularly the creation of the NATO and the establishment of West Germany – and thus now had the time to examine the situation in Japan. More importantly, though, the US did not want to lose the initiative to the Soviet Union.<sup>148</sup> This problem became apparent when the Soviet Union at a Council of Foreign Ministers meeting on 23 May 1949 proposed to discuss the Japanese peace settlement.<sup>149</sup> The Japanese had heretofore believed that the Soviet Union was delaying the peace efforts. The US, accordingly, feared that if it became known that the latter had recently proposed a peace settlement and that Acheson had rejected this overture, it could create the impression that Moscow was sincerely anxious for a treaty, while Washington was not. This could damage the American reputation in Japan, where there was strong yearning for a peace treaty.<sup>150</sup>

The US was also being pressed internationally to proceed with the peace treaty. As already explained in Chapter 1, there was already a consensus among FEC members in 1947 on the need for an early peace settlement with Japan; this was re-affirmed on 29 July 1949 when the State Department noted that “all of the FEC countries, except India and possibly France, favor a Japanese peace settlement as soon as possible.”<sup>151</sup> No matter how powerful the US had become, it was difficult to ignore this mounting pressure. Against this backdrop, the State Department proceeded to clarify its position and to try to iron out the remaining disagreements that existed within the government.

However, when the State Department raised the possibility of a peace settlement with Japan in 1949, it confronted strong opposition from the Defense Department. With the exception of MacArthur, the American military establishment was against ending the occupation any time

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<sup>147</sup> Webb to Acheson, 27 May 1949, *FRUS* 1949, Vol. 7-2, 759-60.

<sup>148</sup> Hara, *Cold War Frontiers*, 29; Hosoya, “The Road to San Francisco,” 90-1; Igarashi, *Japanese Peace Settlement*, 172-3, 181.

<sup>149</sup> Acheson to Truman, 23 May 1949, *FRUS* 1949, Vol. 3, 916-7.

<sup>150</sup> Cloyce K. Huston (Charge in Japan) to Acheson, 27 May 1949, *FRUS* 1949, Vol. 7-2, 758.

<sup>151</sup> View of Other Countries Toward a Japanese Peace Settlement, 29 July 1949, *FRUS* 1949, Vol. 7-2, 820-5.

soon. The Joint Chiefs of Staff (JCS) reasoned on 15 June 1949 that Japan, due to its geographic location, skilled manpower and industrial potential, was of “high strategic importance” to the US. It was therefore crucial to deny it to the Soviets. For this purpose, the JCS recommended that Japan’s democracy and pro-Western orientation “first be established” before embarking on a peace settlement. The JCS also suggested securing bases in mainland Japan and building up “Japanese armed forces for self-defense.”<sup>152</sup>

The JCS also spoke of a “communistic trend” and “developing chaos on the Asiatic mainland.”<sup>153</sup> It is likely that the JCS was alluding to developments in mainland China, where the fortunes of war had long turned in favor of the communists. The anti-communist Nationalist Chinese regime was on the verge of being driven out in June 1949. With the free world in East Asia seemingly hanging in the balance, the JCS wished to avoid any action that might weaken US influence over Japan.

The State Department responded on 30 September 1949, expressing both agreement and disagreement. It agreed on the need to deny Japan to the Soviet Union and the idea of developing its self-defense capacity. The State Department added that Japan’s internal security force needed to be strengthened as well, in order to protect itself from Kremlin-inspired subversion.<sup>154</sup> However, the State Department argued that these were precisely the reasons for insisting on an early peace treaty. It reasoned that, in addition to the military aspect, the US also had to consider the “political, economic and social” factors. The State Department was particularly concerned that the continued presence of American forces constituted an “irritating” influence on Japan and could adversely affect its willingness to align itself with the West. Hence, the best course of action was to promptly proceed with a peace treaty.<sup>155</sup> Meanwhile, to better understand the military requirements of the Japanese peace treaty, Webb sent an inquiry to the Defense Department on 3 October 1949.<sup>156</sup>

MacArthur supported the State Department in pursuing an early peace treaty. However, as expressed in his cables to Washington (delivered on 21 September 1949, 2 November 1949 and 14 November 1949) he had his own ideas about the terms which both conformed and

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<sup>152</sup> NSC 49: Strategic Evaluation of United States Security Needs in Japan, 15 June 1949, *FRUS* 1949, Vol. 7-2, 773-7.

<sup>153</sup> *Ibid.*

<sup>154</sup> NSC 49/1: Department of State Comments on NSC 49, 30 September 1949, *Ibid.*, 870-3.

<sup>155</sup> *Ibid.*

<sup>156</sup> *Ibid.*, 860.

conflicted with the ideas espoused by the State Department and Pentagon. In contrast to both the State Department and the Pentagon, MacArthur argued that “unarmed neutrality” was the “most desirable course” for Japan, especially considering the war renunciation clause in its constitution and the financial strain that rearmament would cause. Instead, he thought it was sufficient for the US forces to remain in Japan to prevent any Soviet take-over.<sup>157</sup> It should also be noted that on 5 March 1948 MacArthur had explained to Kennan that stationing American troops in Japanese home islands was not necessary as long he could secure Okinawa for air striking purposes.<sup>158</sup> Hence, contrary to Van Aduard’s argument that MacArthur advocated the stationing of US troops throughout Japan, while the JCS wanted them only on the outlying islands, the records indicate that it was the other way around.<sup>159</sup>

MacArthur also strongly advocated securing Soviet participation in the treaty. This echoed the military’s opinion, as well as Kennan’s. Interesting to note is that MacArthur argued that any base agreement would have to be concluded through a separate agreement, which would be at Japan’s “request” and come into force “simultaneously” with the peace treaty; this was precisely the course that the US would take later.<sup>160</sup> Furthermore, MacArthur stressed that the treaty should impose “no restrictions on industries” that were vital to developing Japan’s peaceful economy.<sup>161</sup> In response to MacArthur, the Defense Department expressed its agreement that the peace treaty should not preclude bilateral negotiations for base rights in Japan. However, it also stressed the need to develop Japan’s self-defense forces, not only to deny it to the Soviet Union, but, in addition, to allow US forces to be deployed elsewhere where they were “badly needed.”<sup>162</sup>

On 23 December 1949, in response to the State Department’s inquiry about the defense requirements for the peace treaty, Louis Johnson (Secretary of Defense), outlined three minimum security requirements: the retention of the US military as the “only foreign power” in Japan with base rights, US trusteeship over the former Japanese Mandate Islands, and “exclusive long-term strategic control of the Ryukyu islands.” In terms of the timing of the peace treaty, he still opposed an early settlement. Considering the “political and military instability in the Far East” –

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<sup>157</sup> *Ibid.*, 862-4, 890-5.

<sup>158</sup> *FRUS* 1948, Vol. 6, 700-1.

<sup>159</sup> Van Aduard, *Japan*, 151-2.

<sup>160</sup> General MacArthur’s views on a Japanese Peace Treaty, 2 November 1949, *FRUS* 1949, Vol. 7-2, 890-5.

<sup>161</sup> Sebald to Acheson, 14 November 1949, *Ibid.*, 898-900.

<sup>162</sup> Department of Defense Policy Towards Japanese Industry, 12 October 1949, *Ibid.*, 883-6; General MacArthur’s views on a Japanese peace treaty, 2 November 1949, *Ibid.*, 890-5.

most likely alluding to the defeat and expulsion of the Chinese Nationalists from the mainland and the frequent border skirmishes between the two Koreas – he argued that a treaty concluded at this time could give an opening to Soviet “exploitation” of Japan and drive the latter further away from the West.<sup>163</sup> While not explicitly acknowledged in this letter, it is likely that the Pentagon’s opinion was also affected by the fact that the US nuclear monopoly had been broken when the Soviet Union successfully detonated its first atomic bomb in August 1949.

The Pentagon also insisted on securing the participation of the Soviet Union and the PRC in the peace settlement. The goal here was not simply to end the state of war between Japan and the communist bloc; more importantly, the Pentagon wanted the Soviet Union and the PRC to sign – and thus officially endorse – a pro-American peace treaty that contained all the essential requirements for the US. Securing Soviet agreement for a peace treaty that complied with the US military requirements was the best way to safeguard the latter’s security interests in Japan. Hence, as long as the Soviet Union declined to sign a US-led peace treaty, the Pentagon was loath to end the occupation.<sup>164</sup>

Unlike the Pentagon, Truman took a bolder step. With the deepening of the Cold War, the State Department was becoming increasingly disillusioned about the prospect of being able to find any agreement with the Soviet Union. On 29 July 1949, for instance, the State Department noted that the US and the Soviet Union had “diametrically opposing objectives,” as both were trying to keep the other out of Japan. It was therefore “almost impossible” for the two countries to agree on treaty terms.<sup>165</sup> Even MacArthur – despite the fact that he was pushing for Soviet participation in the peace – shared this thought.<sup>166</sup> Hence, Truman on 29 December 1949 made a momentous decision that the Japanese peace treaty was largely a matter to be decided between Britain, ROC and the US, and that the treaty negotiations should proceed without the Soviet Union.<sup>167</sup> The road was thus paved for a “separate peace” – meaning a peace treaty without the Soviet Union – as opposed to an “overall peace.”

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<sup>163</sup> Johnson to Acheson, 23 December 1949, *Ibid.*, 922-3; Christopher R. Lew, *The Third Chinese Revolutionary Civil War, 1945-49: an analysis of Communist strategy and leadership* (New York: Routledge, 2009); 정병준 [Chŏng Pyŏngchun], *한국전쟁: 38 선 충돌과 전쟁의 형성* [*The Korean War: the border skirmishes and shaping of the war*] (과주 [P’aju]: 돌베개 [Tolbegae], 2006), 192-477.

<sup>164</sup> JCS to Johnson, 29 December 1949, *FRUS* 1949, Vol. 7-2, 922-6.

<sup>165</sup> Views of Other Countries toward a Japanese Peace Settlement, 29 July 1949, *Ibid.*, 820-5.

<sup>166</sup> Sebald to Acheson, 20 August 1949, *Ibid.*, 831-40.

<sup>167</sup> *FRUS* 1950, Vol. 6, 1131.

It should be noted that, while Van Aduard credits MacArthur for pushing for a separate peace, the records indicate that he was not its proponent.<sup>168</sup> On the contrary, MacArthur had been advocating Soviet participation; only belatedly on 8 January 1950, would he agree that the US should proceed with the peace treaty even without the Soviet Union.<sup>169</sup> Van Aduard also argues that Dulles created a sense of urgency for the need to work on the peace treaty, which creates the mistaken impression that the US did not work on the Japanese peace treaty until June 1950.<sup>170</sup> While Van Aduard cannot be blamed – since he did not have access to confidential US records – it is important to appreciate that a sense of urgency predated Dulles; the State Department had been refining the treaty and urging the government to move forward with the peace settlement since 1949.

While trying to bridge the gap with the Pentagon, the State Department also maintained informal contact with Britain regarding the Japanese peace settlement, through which emerged four important points that would affect the negotiations. To begin with, Britain on several occasions (20 February, 27 May and 3 September 1948) insisted that the US should take leadership.<sup>171</sup> Without this support, it would have been difficult for the US to play a leading role in crafting the treaty between 1950 and 1951. Also, as Hosoya Chihiro argues, this pressure prompted Acheson to examine the Japanese peace settlement more seriously, in order not to lose the initiative to Britain.<sup>172</sup>

Secondly, Britain agreed with the US that Japan's demilitarization was substantially complete and that the West should start focusing on its economic reconstruction. As early as 11 September 1947, the British Commonwealth had acknowledged that Japan should become "economically self-sustaining as soon as possible."<sup>173</sup> In addition, throughout 1948 various British officials opined that Japan no longer posed a military threat and stressed the importance of rebuilding its economy.<sup>174</sup> Of course, this did not mean unconditional support for Japan's

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<sup>168</sup> Van Aduard, *Japan*, 151-2.

<sup>169</sup> Memorandum of Conversation (MacArthur and Jessup), 9 January 1950, *FRUS* 1950, Vol. 6, 1111-2.

<sup>170</sup> Van Aduard, *Japan*, 155-6.

<sup>171</sup> Douglas to Acheson, 20 February 1948, *FRUS* 1948, Vol. 6, 664-5; Memorandum of Conversation (Denning and Lovett), 27 May 1948, *Ibid.*, 783-5; Memorandum of Conversation (Gascoigne and Sebald), 3 September 1948, *Ibid.*, 842-3.

<sup>172</sup> Hosoya, "The Road to San Francisco," 91.

<sup>173</sup> Memorandum on British Commonwealth Conference on Japanese Peace Treaty, 11 September 1947, RG59, Entry A1 1230, Canberra Conference, accessed via NIKH.

<sup>174</sup> Memorandum of Conversation (Borton and Graves), 19 March 1948, *FRUS* 1948, Vol. 6, 685-7; Dickover (Counselor at the US Embassy in London) to Butterworth, 11 May 1948, *Ibid.*, 754-5; Memorandum of



economic revival; while Britain was generally against imposing economic restrictions, it was concerned about the revival of Japanese shipping and shipbuilding capacity (see Chapter 8).<sup>175</sup>

Nevertheless, this meeting of minds between Britain and the US on the general idea that Japan's economy had to be reconstructed constituted an important shift in perception of the peace treaty. Whereas in 1947 the peace settlement had been mainly a military issue, it was increasingly becoming an economic question. Of course, other countries – specifically Australia, New Zealand, the Philippines, ROC and the Soviet Union – continued to view Japan from the security angle and still insisted on the need to eradicate militarism.<sup>176</sup> However, Britain's support would greatly facilitate the US in relegating the significance of the demilitarization of Japan and emphasizing its economic recovery when the peace treaty was negotiated in 1950 and 1951.

The third important development was the fact that the US confided in Britain regarding its intention to engage in shuttle diplomacy. On 27 May 1948, Lovett told Esler Dening (Assistant Undersecretary for Foreign Affairs, Far East) that the US wished to initiate discussions through “diplomatic channels” with Britain and other friendly FEC countries.<sup>177</sup> In September 1949, France and the Netherlands were also informed. Acheson explained that this was the best way to ensure that the treaty would develop in a way that was agreeable to the West.<sup>178</sup> It appears that Britain, France and the Netherlands endorsed the idea of relying on diplomatic channels, as there was no express opposition. One can also assume that these early consultations facilitated Dulles' subsequent shuttle diplomacy in 1950 and 1951.

Finally, Acheson found Britain amenable to the idea of framing the Soviet Union as the culprit for the delayed peace settlement with Japan. On 24 December 1949, Acheson confided in Oliver Franks (British Ambassador to Washington) that Japan should not be given the impression that “countries other than the Soviet Union” were responsible for the delay. Franks

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Conversation (Dening and Kennan), 28 May 1948, *Ibid.*, 789-94; Memorandum of Conversation (Dening and Green), 2 June 1948, *Ibid.*, 797-9; Memorandum of Conversation (Gascoigne and Sebald), 3 September 1948, *Ibid.*, 843.

<sup>175</sup> Memorandum of Conversation, 9 September 1949, RG59, Entry A1 1252, Japanese Peace Treaty [December 1, 1948 - June 8, 1950], NIKH.

<sup>176</sup> Dulles to Marshall, 1 October 1948, *FRUS* 1948, Vol. 6, 856; Lovett to Sebald, 10 November 1948, *Ibid.*, 892; Lovett to Sebald, 9 November 1948, 915; *FRUS* 1949, Vol. 7-2, 820-5.

<sup>177</sup> Memorandum of Conversation (Dening and Lovett), 27 May 1948, *FRUS* 1948, Vol. 6, 783-5.

<sup>178</sup> Memorandum of Conversation (Acheson and Bevin), 13 September 1949, *FRUS* 1949, Vol. 7-2, 859; Memorandum of Conversation (Acheson, Bevin and Schuman), 17 September 1949, *Ibid.*, 861; Memorandum of Conversation (Butterworth and Reuchlin), 27 September 1949, *Ibid.*, 868.

“readily assented” to this argument.<sup>179</sup> Later on 27 December 1949, he instructed the US embassies in the British Commonwealth to tell their respective hosts that the Soviet Union was causing the continued delay in the peace settlement and that “everybody”, including Japan, should share this view. Acheson stressed that this was “psychologically of great importance.”<sup>180</sup> Considering the fact that the Soviet Union is still cited as the reason for the delayed peace, it appears that this strategy was highly successful.

Of course, there were disagreements between the US and Britain, such as over the timing of the peace treaty. To recall, Britain had been pushing for an early peace settlement since 1947; Britain maintained this position throughout 1948 and 1949, arguing that it was necessary in order to keep Japan oriented towards the West. However, as explained by Kennan to Dening on 28 May 1948, the US believed that an early peace settlement entailed the risk of creating an opening for the Soviets influencing Japan.<sup>181</sup> This would all change in 1950, as the US would work rigorously to finally end the occupation, the subject for the next chapter.

## **Conclusion**

To conclude, while the US officially suspended the peace treaty negotiations effort amidst escalating tensions with the Soviet Union, a number of important developments took place during this period that would have a lasting effect on the Japanese peace settlement. Most notably, to borrow Kennan’s own words, the stage was set for an “inoffensive” peace treaty that would be “as brief, as general and as non-punitive as possible” and constitute a “pat on the back” to encourage Japan as it entered into a new period.<sup>182</sup> The treaty terms were thus moving away from demilitarization and towards economic rehabilitation. The idea of “shuttle diplomacy” also germinated during this period. These developments would greatly facilitate Dulles’ peace negotiation efforts in later years.

Van Aduard argues that this transition towards a non-punitive peace was inevitable.<sup>183</sup> While he does not back up this argument with any concrete evidence, it seems that this liberal

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<sup>179</sup> Acheson to Franks, 24 December 1949, *Ibid.*, 928; Memorandum of Conversation (Acheson and Franks), 24 December 1949, *Ibid.*, 929-30.

<sup>180</sup> *Ibid.*, 932.

<sup>181</sup> Douglas to Acheson, 20 February 1948, *FRUS* 1948, Vol. 6, 664-5; Borton to Butterworth, 19 March 1948, *Ibid.*, 685-7; Memorandum of Conversation (Dening and Kennan), 789-94; *FRUS* 1949, Vol. 7-2, 854-6.

<sup>182</sup> *FRUS* 1948, Vol. 6, 692-719

<sup>183</sup> Van Aduard, *Japan*, 292.

turn was indeed a forgone conclusion, as the Soviet Union and the US having diametrically opposing worldviews were bound to clash. In other words, as Gaddis and Narinskii argue, the Cold War rivalry was unavoidable, and as long as the Cold War was inevitable, it was very unlikely that the US would provide the Soviets with any opening to Japan by allowing the latter to languish in poverty.<sup>184</sup> At the same time, as Schonberger argues, even without the US-Soviet rivalry, the prolonged occupation meant more expense for the US, and thus it was likely at some point that American taxpayers would call for some change in occupation policy in order to relieve the US of this financial burden.<sup>185</sup>

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<sup>184</sup> Michail M. Narinskii, "The Soviet Union and the Berlin Crisis, 1948-9," in *The Soviet Union and Europe in the Cold War, 1943-53*, Francesca Gori and Silvio Pons et. al. (New York: St. Martin's Press, Inc., 1996), 57; Gaddis, *We Now Know*, 20-4.

<sup>185</sup> Schonberger, *Aftermath of War*, 154.

### **Chapter 3. The Formative Years and the Japanese Peace Treaty, 1950-1951**

Unlike in 1947, the State Department's decision in late 1949 to move forward with the Japanese peace settlement led to a vibrant discussion both within the US and with other governments. After almost a further twenty months of hard bargaining, a Japanese peace treaty was eventually completed and signed on 8 September 1951. This chapter examines the development of the treaty during this formative period.

It should be remembered that the Japanese peace settlement was a two-pronged process, as the State Department had to negotiate not only with foreign governments, but also with Congress. Given the political system of the US, the government had to convince the Senate to support the treaty, lest it refuse to ratify it. This was no small task for the Truman Administration, whose Far Eastern policy had been discredited in the eyes of Republican senators for losing China to the communists. It is quite possible that the government could have experienced a major setback in its effort to conclude the peace treaty with Japan had it not been for John Foster Dulles, who was recruited for the purpose of bridging the gap between the government and the Senate. This chapter mainly focuses on this domestic aspect of the treaty negotiations. The international aspect, although briefly outlined here, will be discussed more in detail in the subsequent chapters, as their complexity warrants individual analysis of the various issues that emerged during the talks between the US and other Allies.

#### **Towards a Consolidated US Position, 1950-1951**

The State-Defense disagreement over the timing of the treaty continued well into 1950. The crux of the matter was whether or not an early peace settlement was the best way to secure US influence in Japan. In order to close the gap, the State Department began to entertain the idea of isolating the "security" issues from those concerned with "peace." In other words, the peace treaty should be limited to political and economic questions, while those pertaining to security – such as securing base access in Japan – would be arranged via a separate agreement.

The State Department believed that this approach would not only satisfy the JCS, but also help avoid possible accusations of American imperialism; to obligate Japan to provide bases through a peace treaty would be too blunt an expression of the US intention to use the former for its own security needs and certainly would have been exploited by the communists for

propaganda. The State Department also hoped that the peace treaty – by removing any controversial military terms – would be more acceptable to India and other neutralist Asian states that were loath to sign any agreements that could be construed as being overtly directed against the communists.

On 9 March 1950, this policy was adopted as part of the official “Position of the Department of State on United States Policy toward a Japanese Peace and Security Settlement.”<sup>186</sup> Acheson officially forwarded this proposal to Johnson on 24 April 1950, stressing that Japan would be pressed to “grant whatever bases and rights might be determined as necessary” by the US.<sup>187</sup> While this did not lead to an immediate meeting of minds, it certainly brought the two departments closer to agreement.

The “Position of the Department of State” also further crystallized the idea of using “diplomatic channels” to obtain agreement with “friendly Allies” for the peace treaty and the security arrangement. Aware that the Soviet Union and PRC would oppose a peace arrangement that allowed a US troop presence in Japan, the State Department felt the need to secure endorsement from “as many as possible of its friendly allies” and thus give the peace treaty a “solid international backing” that would also “appeal to Japanese interest.” The best means to achieve this goal was by consulting individual governments directly, while also “discreetly” identifying Japanese views when negotiating the treaty. Of course, this did not mean that the Soviet Union would not be consulted; however, the State Department was determined craft peace treaty on its terms.<sup>188</sup>

This was a brilliant maneuver. On the one hand, it allowed the US to steer the treaty in a way that conformed to Western (or anti-communist) interests. On the other hand, if the communists opposed such a treaty, it meant that that they would be opposing not simply the US, but also all those countries that supported it, including Japan; this in turn would place the communists in an awkward position.

Equally important was the idea that, while a peace conference would be convened, its main purpose would for signing a treaty rather than negotiating its terms. As explained above, the substantial negotiations would take place through “diplomatic channels.” The conference itself would be “as brief as possible with most of the time devoted to [listening to] the views of”

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<sup>186</sup> *FRUS* 1950, Vol. 6, 1138-49.

<sup>187</sup> *Ibid.*, 1175-82.

<sup>188</sup> *Ibid.*, 1138-49.

the participants, after which the treaty would be signed.<sup>189</sup> This was exactly how the San Francisco peace conference would be run in September 1951. Although the State Department would continue to ruminate on the exact procedure for the conference, it can be assumed that the US had essentially abandoned the idea of a traditional peace conference by March 1950.

These developments were followed by a series of other notable events in May 1950. To begin with, Yoshida sent his close ally Ikeda Hayato, the Minister of Finance, to the US on a discreet mission to explain Japan's position regarding the peace settlement.<sup>190</sup> During his meeting with the American economic adviser to Japan, Joseph Dodge, on 2 May 1950, Ikeda explained that Yoshida wished to have a peace treaty as soon as possible and that if maintaining the US bases in Japan was the price to facilitate this, then Japan would "try to find a way to offer them." Ikeda added that if the US felt reluctant to make an outright demand, then Japan could consider "volunteering" to provide bases. Furthermore, this arrangement could be incorporated into the peace treaty or into a separate agreement.<sup>191</sup> In other words, Yoshida was willing to sacrifice Japan's sovereignty in return for ending the occupation.<sup>192</sup>

While Yoshida himself would publicly deny that he favored the stationing of foreign troops in Japan and often remained elusive when approached by Dulles on this topic, in truth the idea of relying on the US for security by maintaining the latter's military presence in Japan actually formed the core of Yoshida's defense policy.<sup>193</sup> Indeed, on 9 November 1949, Nishimura Kumao (Head of Treaty Bureau of the Japanese Foreign Ministry) had publicly stated that a peace treaty would likely be accompanied by a "military agreement" that would provide for the continued presence of Allied troops and bases in Japan.<sup>194</sup> Also, considering the fact that the idea of allowing the US to maintain troops in Japan had been expressed as early as September 1947 during the Katayama cabinet, it is safe to assume that Yoshida's proposal was neither totally unacceptable nor alien to many within the Japanese elite.<sup>195</sup> Meanwhile, Japan's

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<sup>189</sup> *Ibid.*

<sup>190</sup> Nakamura Takafusa, "Ikeda Hayato: the man who created the economic era," in *The Prime Ministers of Postwar Japan, 1945-1995: their lives and times*, Watanabe Akio, trans. by Robert D. Eldridge (Lanham: Lexington Books, 2016), 119-139

<sup>191</sup> Reid to Butterworth, 10 May 1950, *FRUS* 1950, Vol. 6, 1194-8.

<sup>192</sup> Drifte, *The Security Factor in Japan's Foreign Policy*, 50-70.

<sup>193</sup> Sugita Yoneyuki, "The Yoshida Doctrine as a Myth," *The Japanese Journal of American Studies* 27 (2016): 123-43.

<sup>194</sup> *NYT*, 10 November 1949.

<sup>195</sup> 鈴木アイケルバーガー会談 [Summary of meeting between Suzuki Tadakatsu and General Eichelberger, 13 September 1947] (外務省 [Japanese MOFA] (日本外交文書サンフランシスコ平和条約: 準備対策 [Documents

willingness to offer base rights to the US certainly assured the State Department that it was on the right track.

Another notable development was Truman's press statement of 18 May 1950, when he publicly sided with Acheson by stating that the Japanese peace treaty would be negotiated by the "Secretary of State." This implied that the State Department's opinion would now prevail over that of the Defense Department regarding the peace treaty.<sup>196</sup> Linked to this, and perhaps even more importantly, he also announced that John Foster Dulles had been appointed to lead the treaty negotiations efforts. This appointment reflected the fact that the administration was seeking bipartisan support for its foreign policy in light of various problems concerning the Far East, especially Republican criticism of the loss of China.<sup>197</sup> Dulles was chosen because he had been recommended enthusiastically by Senator Arthur Vandenberg, a powerful figure in the internationalist wing of the Republican Party and the former Chairman of the Senate Foreign Relations Committee, and by Dean Rusk, who was in good terms with the Republicans and had recently demoted himself to the level of Assistant Secretary in order to help the administration with its Far Eastern policy.<sup>198</sup>

A brief overview of Dulles's personality is necessary as his worldview had an important bearing on the shaping of the peace treaty. The son of a well-travelled Christian minister and the grandson and nephew of two of America's former Secretaries of State (John W. Foster and Robert Lansing), Dulles had been exposed to an internationalist worldview from very early in life. Perhaps because of this, he remained an internationalist throughout his political career, supporting the UN and always prioritizing regional and international interests over state interests. Of course, he was convinced that what was good for the US must be good for the rest of the world, and hence had no qualms about defending American national interests. As a young man he took part in the 1919 Paris peace conference, which convinced him that punitive peace ought

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*on Japanese Foreign Policy: Treaty of Peace with Japan Preparatory Work* (東京 [Tokyo]: 明光社 [Meikōsha], 2006), 284-94; Nishimura, *San Francisco Peace Treaty*, 37-8.

<sup>196</sup> The President's News Conference, 18 May 1950, accessed via HSTL, <https://www.trumanlibrary.gov/library/public-papers/137/presidents-news-conference-0>; Hosoya, *San Francisco Peace Treaty*, 68.

<sup>197</sup> Nancy Bernkopf Tucker, *Patterns in the Dust: Chinese-American relations and the recognition controversy, 1949-1950* (New York: Columbia University Press, 1983), 182.

<sup>198</sup> Vandenberg to Acheson, 31 March 1950, Vandenberg, Arthur H., 1950; John Foster Dulles Papers, Box 51, Reel 17, Public Policy Papers, Department of Rare Books and Special Collections, PUL; James Chace, *Acheson: the Secretary of State who created the American world* (New York: Simon & Schuster, 1998), 260-2; Ronald W. Pruessen, *John Foster Dulles: the road to power* (New York: Free Press, 1982), 436-7; Swenson-Wright, *Unequal Allies?*, 66-8.

to be avoided. Meanwhile, as a Wall Street lawyer by profession, he was extremely well-connected with the business world. Not surprisingly, he was business friendly and did not approve of market restrictions. He was also a staunch anti-communist and would work rigorously to ensure that the peace treaty reflected his ideological convictions.<sup>199</sup> It was these credentials that led Vandenberg to back Dulles when Truman went scouting for talent.

But however well-placed Dulles was for the job, he first had to wait until the government resolved its internal differences before he could fully engage in negotiating the treaty. Fortunately, the US steadily closed the inter-departmental divide. Most importantly, on 23 June 1950 MacArthur reconciled himself with the Pentagon and informed Washington that the “entire area of Japan” must be made available as a potential base for the US; he further argued that “despite Japan’s constitutional renunciation of war,” Japan should muster “all of its available human and material resources” to build its own defense force.<sup>200</sup> As Miyasato explains in detail, this change in attitude owed much to the fact that Dulles was making subtle but consistent overtures to MacArthur.<sup>201</sup>

MacArthur’s decision ultimately helped the State and Defense Departments resolve their differences and sustain the momentum for the peace settlement.<sup>202</sup> In fact, without it, the outbreak of the Korean War on 25 June 1950 could have seriously hampered the peace treaty negotiations, as the Defense Department’s reluctance hardened. While Mabon argues that the Korean War convinced the Defense Department to be more willing to begin talking about the peace treaty, the records prove otherwise.<sup>203</sup> Indeed, while Dulles opined that the “Korean attack makes it more important, rather than less important” to proceed with the peace treaty negotiations, Johnson’s attitude was that he “didn’t have time to talk about that now.”<sup>204</sup>

Fortunately, when MacArthur’s memorandum of 23 June 1950 was presented to Omar Bradley (JCS Chairman), he noted on 12 July 1950 that “the views of State and Defense were not now very far apart.”<sup>205</sup> Similarly, when Dulles presented Johnson with MacArthur’s

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<sup>199</sup> John Robinson Beal, *John Foster Dulles, 1888-1959* (New York: Harper, 1956); Pruessen, *John Foster Dulles*.

<sup>200</sup> Memorandum on Concept Governing Security of Postwar Japan, 23 June 1950, *FRUS* 1950, Vol. 6, 1227-8.

<sup>201</sup> Miyasato Seigen, “John Foster Dulles and the Peace Settlement with Japan,” in *John Foster Dulles and the Diplomacy of the Cold War*, edited by Richard H. Immerman (Princeton: Princeton University Press, 1990), 197-8.

<sup>202</sup> Hosoya, *San Francisco Peace Treaty*, 71.

<sup>203</sup> David Mabon, “Elusive Agreements: The Pacific Pact Proposals of 1949-1951,” *Pacific Historical Review* 57-2 (1988): 162.

<sup>204</sup> Dulles to Acheson, 19 July 1950, *FRUS* 1950, Vol. 6, 1243; Conversation between Dulles and Johnson, 3 August 1950, *Ibid.*, 1264-5.

<sup>205</sup> *Ibid.*, 1255.



memorandum on 3 August 1950, stressing that the peace treaty would entitle the US to “maintain in Japan as much force as we wanted, anywhere we wanted, for as long as we wanted,” Johnson softened his attitude about the idea of an early peace treaty.<sup>206</sup> On 22 August 1950, there was another meeting of minds, as the JCS reversed its earlier position and agreed to move forward with the peace treaty even without the Soviet Union and the PRC. However, since this might provoke the Soviet Union and the PRC to take hostile action against Japan and the West, the JCS recommended that the treaty “must not become effective” until the military situation in Korea became more favorable.<sup>207</sup> This view was endorsed by the State Department on 23 August 1950.<sup>208</sup>

Finally, after some minor technical discussions, “practically complete agreement was achieved” between the State Department and the Pentagon on 4 September 1950.<sup>209</sup> Subsequently, on 7 September 1950, a joint memorandum (NSC 60/1) was submitted by Acheson and Johnson to Truman, outlining the basic security requirements agreed between the two Departments and recommending that the US “now proceed with preliminary negotiations for a Japanese peace treaty.” Truman approved the joint memorandum on 8 September 1950.<sup>210</sup>

A week later, on 14 September 1950, Truman held a press conference stating that an “effort should again be made” for a Japanese peace settlement and that he had authorized the State Department to “initiate informal discussions.” At the same time, Truman hinted at his intention to proceed even without the Soviet Union. When asked by the press if he would move forward with the negotiations even if the Soviet Union resisted, Truman did not openly deny this. Truman had thus publicly committed the US to working on the peace treaty.<sup>211</sup> Subsequently, Dulles began to consult the members of the FEC in September 1950, thus initiating inter-government talks.

The PRC intervention in Korea and the subsequent UN setback in late 1950 could have jeopardized the peace talks, as the JCS (on 28 December 1950) once again recommended that the US refrain from proceeding with the peace treaty negotiations.<sup>212</sup> Fortunately by this point

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<sup>206</sup> Dulles to Acheson, 3 August 1950, *Ibid.*, 1264-5.

<sup>207</sup> Acheson to Johnson, 22 August 1950, *Ibid.*, 1278-82.

<sup>208</sup> Allison to Acheson, 24 August 1950, *Ibid.*, 1282-8.

<sup>209</sup> Allison to Acheson, 4 September 1950, *Ibid.*, 1289-93.

<sup>210</sup> *Ibid.*, 1293-96.

<sup>211</sup> The President’s News Conference, 14 September 1950, accessed via HSTL, <https://www.trumanlibrary.gov/library/public-papers/250/presidents-news-conference>.

<sup>212</sup> JCS 2810/2: US Policy toward Japan, 28 December 1950, *FRUS* 1950, Vol. 6, 1391.

Marshall had replaced Johnson as the Secretary of Defense, and the former's amicable relations with Acheson helped the State Department maintain the momentum for the peace talks.<sup>213</sup> Indeed, Marshall facilitated the peace talks by submitting a joint memorandum with Acheson (dated 9 January 1951), recommending that Truman promote Dulles as a special ambassador to expedite the peace treaty negotiations. On 10 January 1951, Truman approved this and authorized Dulles to "visit Japan and any other country and discuss with appropriate authorities and individuals" to develop the treaty regardless of the military situation in Korea.<sup>214</sup>

In sum, the US was able to iron out its internal imbroglio by January 1951. Afterwards, peace treaty development proceeded with impressive speed and Dulles completed drafting the treaty within seven months. Of course, the multilateral discussions on the Japanese peace settlement were no simple matter, a subject that will be discussed thematically in the subsequent chapters. Here, the general discussion that Dulles had with the other governments and the Congress is explained.

### **The International Discussion on the Japanese Peace Settlement**

Soon after his appointment to lead the Japanese peace treaty effort in May 1950, Dulles embarked on a fact-finding mission to Japan between 21 June and 27 June 1950. This visit was a clear signal of his intention to listen to its viewpoint. Indeed, on 14 June 1950, just prior to his departure, Dulles stated publicly that he planned to talk to "members of the Japanese government and with Japanese business, trade-union and religious leaders."<sup>215</sup> Hence, while Richard Finn argues that the US view before 1951 was that the peace treaty would be made "without any input from the Japanese," the records suggest the exact opposite; from the onset, Dulles intended to craft the peace treaty with a degree of input from the Japanese.<sup>216</sup>

Through his meetings with prominent Japanese leaders – including Yoshida Shigeru (Prime Minister, Liberal Party), Tomabechi Gizō (Chairman of Democratic Party), Asanuma Inejiro (Secretary General of Socialist Party) and Shidehara Kijūrō (President, House of Representatives) – Dulles was able to identify the strong yearning for independence, an increased acknowledgment, following the outbreak of the Korean War of the need to maintain American

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<sup>213</sup> Hosoya, "The Road to San Francisco," 114; Hosoya, *San Francisco Peace Treaty*, 154-7.

<sup>214</sup> *FRUS* 1951, Vol. 6-1, 788-9.

<sup>215</sup> Statement by the Honorable John Foster Dulles Prior to Departure to Japan and Korea, 14 June 1950, RG59, Entry A1 1252, Lot 54D423, Dulles, John Foster – Diary of Trip to Korea and Japan, accessed via NIKH.

<sup>216</sup> Finn, *Winners in Peace*, 247.

troop presence in Japan, and a general reluctance to rearm and become embroiled in inter-bloc rivalry.<sup>217</sup> One must be careful, though, not to interpret Japan's reluctance to get involved in US-Soviet rivalry as an indication of wanting an "overall peace." While Van Aduard argues that Japan remained reluctant as late as June 1950 about entering into a "separate peace" this must be qualified.<sup>218</sup> It is true that there were elements in Japan, especially the leftists, who did not want a separate peace. However, as Igarashi Takeshi points out, already by the end of 1949 Yoshida and the ruling conservative elements were clearly inclined to proceed with a separate peace. The fact that Yoshida was even thinking about maintaining US military presence in Japan, which was objectionable to the Soviet Union, is a clear indication that he had distanced himself from an overall peace.<sup>219</sup> In short, it is safe to assume that Japan had already set itself on the path of a separate peace by the time of Dulles' visit.

The fact that Dulles was talking to the vanquished deserves close attention. For the victor to consult the former "enemy" and make the verdict more acceptable to the latter was a novel approach. It contrasted drastically from the 1919 Versailles precedent, when Germany was practically given an ultimatum with no opportunity to present its views.<sup>220</sup> However, there was nothing surprising about the fact that Dulles was acting in this way. To recall, already on 9 March 1950, the State Department had adopted the position that the treaty had to be acceptable to Japan.<sup>221</sup> More importantly, Dulles was convinced that the best way to avoid another war was to prevent a punitive peace with the ex-enemy (see Chapter 7). Hence, Dulles negotiating with Japan was a foregone conclusion.

From June 1950 onwards, Dulles also worked on amending the existing draft peace treaty. In doing so, he embraced various principles that had been propounded by US officials since 1947. Politically, Japan should be "part of the free world," "friendly to the US" and able to contribute to the security of the Pacific against the communist threat. Economically, the treaty should provide a "full opportunity for peaceful economic development, without reparation and with a minimum of, or no, special economic restrictions." Equally important, the treaty should avoid establishing any post-treaty control machinery.<sup>222</sup> Furthermore, Dulles adopted the idea of

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<sup>217</sup> Dulles to Acheson, 3 July 1950, *FRUS* 1950, Vol. 6, 1230-7.

<sup>218</sup> Van Aduard, *Japan*, 126-7, 135-6, 154, 157-8.

<sup>219</sup> Igarashi, *Japanese Peace Settlement*, 167-70, 181-93, 209-72.

<sup>220</sup> Steiner, *The Lights that Failed*, 17-9

<sup>221</sup> Howard to Butterworth, 9 March 1950, *FRUS* 1950, Vol. 6, 1138-49.

<sup>222</sup> Dulles to Acheson, 7 June 1950, *Ibid.*, 1207-12.

relying on “diplomatic channels” instead of convening a formal peace conference to negotiate the treaty.<sup>223</sup> While Dulles cannot be credited as the originator of these principles, he nevertheless deserves recognition for further clarifying the State Department’s position on the peace treaty.<sup>224</sup>

Based on these clarified principles, the treaty was updated on 7 August 1950. With just twenty-one articles, the new draft embraced the concept of a brief, non-punitive peace. The treaty simply concerned itself with the termination of a state of war with Japan and expressed hope that it would promote common welfare and maintain peace between “sovereign equals.” It contained no post-treaty economic or political controls. In regard to security, the draft peace treaty adopted the agreement between the State Department and JCS on the continued presence of the American troops in Japan. In addition, it tacitly paved the way for a rebuilding Japan’s defense force by removing any reference to Japan’s military capacity.<sup>225</sup>

This draft was fine-tuned and updated on 11 September 1950. The new draft – which now had a total of twenty-six articles – contained several new terms that would prove to be controversial. This included a reparations clause, which stipulated that the Allies and Japan “reciprocally waive claims against each other” (Article 18), and territorial terms regarding Taiwan and the Kurile Islands (Article 5), which stipulated that their final dispositions would be determined by the UN if the Big Four (Britain, China, the Soviet Union and the US) could not reach agreement. While this draft peace treaty was kept confidential, an outline of the updated terms – conventionally known as Dulles’ “seven point memorandum” on the Japanese peace treaty – was distributed to the FEC member states and later released to the press on 24 November 1950.<sup>226</sup>

Dulles officially began his “shuttle diplomacy” in September 1950. In the first stage he conferred with the FEC member states until November 1950 in order to identify each government’s position on the Japanese peace settlement. Almost all the members expressed concerns, usually involving the commercial and security questions. Britain, while agreeing to a lenient peace and the idea of a separate security arrangement, expressed concern over “Japan’s re-emergence as a commercial power” and wanted some safeguarding of British economic

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<sup>223</sup> Dulles to Acheson, 6 June 1950, *Ibid.*, 1207-12; Dulles to Acheson, 7 July 1950, *Ibid.*, 1240-1; Dulles to Acheson, 11 August 1950, *Ibid.*, 1272.

<sup>224</sup> Miyasato, “John Foster Dulles and the Peace Settlement with Japan,” 196.

<sup>225</sup> Dulles to Thorp, 9 August 1950, *FRUS* 1950, Vol. 6, 1267-70.

<sup>226</sup> *Ibid.*, 1296-1303.

interests.<sup>227</sup> Australia took a more hardline stance, stating that it was “politically impossible” to endorse a treaty that did not have firm guarantees against Japanese aggression.<sup>228</sup> Similarly, it was “extremely difficult” for New Zealand to accept a re-armed Japan without a firm security guarantee from the US.<sup>229</sup> Canada also expressed concern that certain Allies could not agree to terminating the occupation unless the US offered security guarantee against Japan’s possible re-emergence as a threat. At the same time, Canada doubted the wisdom of delegating the question of territorial disposition of Taiwan and the Kuriles to the Big Four and the UNGA. Also notable is the fact that Canada demanded further examination of the question of fisheries.<sup>230</sup> The Netherlands and France, the other two Western members of the FEC, were perhaps the most amenable to Dulles’ plans. While the Dutch expressed concern that the communists would denounce the stationing of the US troops in Japan as “imperialism,” it endorsed almost all aspects of the seven points.<sup>231</sup> The French, meanwhile, did not express any objections to the US plans for the peace treaty and security arrangement.<sup>232</sup>

Among the Asian states, the ROC expressed concern about a “possible resurgence of Japanese militarism” and its hope for something “like” reparations. The ROC’s “principal objection,” however, concerned the fact that, as things stood, the future status of Formosa was to be settled by the UN; in other words, China was not pleased with the prospect that its future might be determined by outside powers again.<sup>233</sup> Similarly, the Philippines demanded that the US give “proper weight to their fears of Japanese aggression,” while also demanding “due consideration” of its claim to reparations.<sup>234</sup> Burma also expressed displeasure at the fact that the peace treaty sought to waiver reparations claims, while not adopting any military restrictions against Japan.<sup>235</sup>

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<sup>227</sup> Memorandum of Conversation (Dening and Dulles), 22 September 1950, *Ibid.*, 1306-8.

<sup>228</sup> Memorandum of Conversation (Dulles and Romulo), 27 September 1950, *Ibid.*, 1308.

<sup>229</sup> Memorandum of Conversation (Doidge and Dulles), 19 October 1950, *Ibid.*, 1322-3.

<sup>230</sup> Pearson to Riddell, 28 September 1950, WA2356: Wrong to Pearson, 29 September 1950, 701: Riddell to Pearson, 6 October 1950, RG25, 1940 Central Registry, General Registry, Peace treaty with Japan, Part 8, 1950/06/16-1950/10/31 (File 50051-40), Library and Archives Canada (LAC), accessed via NIKH.

<sup>231</sup> Memorandum of Conversation (Dulles and van Roijen), 13 October 1950, *FRUS* 1950, Vol. 6, 1321-2.

<sup>232</sup> Memorandum of Conversation (Daridan and Dulles), 23 October 1950, *Ibid.*, 1323-4.

<sup>233</sup> Memorandum of Conversation (Dulles and Koo), 23 October 1950, *Ibid.*, 1324-5.

<sup>234</sup> *Ibid.*, 1308-11.

<sup>235</sup> *Ibid.*, 1325.

India expressed a number of reservations. To begin with, it stated that the Soviet Union and the PRC should be treated as negotiating powers and signatories for the peace treaty.<sup>236</sup> Additionally, India demanded that, per the Cairo Declaration, Formosa and the Pescadores should be returned to China (by which it meant “Communist China”). With regards to South Sakhalin and the Kurile Islands, India argued that they should be “returned” to the Soviet Union “in accordance with the Yalta Agreement.” India’s “most serious concerns” were those associated with security. India argued that Japan should be demilitarized and that its security be guaranteed by the UN. It reasoned that Japanese rearmament would be opposed by not only the communist camp, but also Australia and the Philippines, and also noted that Japan itself did not favor rearmament. Furthermore, if foreign troops were stationed in Japan, this would “practically constitute military occupation,” limit its sovereignty, and potentially expose it to attack by hostile powers. Interestingly, India endorsed the idea of a US trusteeship over the Ryukyu Islands, provided that the peace treaty clearly guaranteed their eventual return to Japan.<sup>237</sup>

India’s response echoed that of the Soviet Union almost exactly. The Soviet Union too disapproved of the idea of delegating the question of Formosa to the UN, arguing that the Cairo Declaration had already stipulated that it would be returned to China. The Soviet Union also believed that the stationing of US troops in Japan was simply a continuation of the occupation, and, of course, it was opposed to Japanese rearmament. Furthermore, the Soviet Union objected to the trusteeship scheme for the Ryukyus. Interestingly, the Soviet Union did not make a serious issue out of South Sakhalin and the Kurile islands.<sup>238</sup>

In sum, a number of issues were brought to Dulles’ attention during his conversations with the FEC member states. With the exception of the Soviet Union, Dulles seems to have been optimistic about his ability to resolve the differences with the rest of the FEC members, as he implied in a letter to MacArthur of 15 November 1950.<sup>239</sup> But as the subsequent chapters will show, Dulles would find that convincing friends would be no less trying.

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<sup>236</sup> India’s preliminary views on US memorandum on Japanese peace treaty, undated, RG59, Entry A1 1252, Lot 54D423, India, accessed via NIKH.

<sup>237</sup> Memorandum of Conversation: Japanese peace treaty, 21 December 1950, RG59, Entry A1 1252, Lot 54D423, India, accessed via NIKH; India’s preliminary views on US memorandum on Japanese peace treaty, 21 December 1950, *Ibid.*

<sup>238</sup> Memorandum of Conversation (Dulles and Malik), 26-7 October 1950, *FRUS* 1950, Vol. 6, 1332-6; Aide-Memoire from the USSR dated November 20, 1950, *Bulletin* 596 (4 December 1950), 881-2.

<sup>239</sup> *FRUS* 1950, Vol. 6, 1349-52.

Beginning in 1951, Dulles embarked on a number of trips overseas to confer again with the concerned governments. The first trip lasted between 19 January and 22 February 1951. During this time, Dulles visited Australia, Japan, New Zealand and the Philippines. This trip was significant as it led to the first internationally-negotiated draft peace treaty on 23 March 1951.<sup>240</sup> While the specific language of the treaty would be amended later, this draft reflected the basic contours of the peace treaty.<sup>241</sup> It should also be noted that it was during this trip that the ANZUS treaty took form.

Dulles visited Tokyo again between 16-24 April 1951, conferring with Prime Minister Yoshida and various members of the Liberal Party and Democratic Party. In these meetings, he hammered out a number of important agreements with Japan, including a Japanese commitment to voluntarily restrain its fishing off the Alaskan and Canadian waters (see Chapter 9). Most important was that Dulles truly treated Japan as a negotiating partner – although not as an equal – summarizing his meetings with other governments, going over the detailed terms of the treaty and asking for Yoshida’s opinion.<sup>242</sup>

Dulles’ third and last trip took place between 2-14 June 1951. This time, he visited London and Paris in the hope of finalizing the treaty. By the end of this trip, many of the controversial elements had been settled, including the questions of territorial disposition, Japan’s shipping and shipbuilding capacity, and the knotty problem of Chinese and South Korean representation. The last remaining issues – reparations, fisheries and the question of Indochinese participation – were resolved by early August 1951, allowing the final version of the Japanese peace treaty to appear on 13 August 1951.<sup>243</sup> While all these issues will be examined in detail in the subsequent chapters, it is worth noting here that some of the most difficult negotiations for Dulles involved disagreements with friends, not the Soviet Union. This obviously demonstrates the multiplicity of conflicting interests among the non-communist countries. More importantly, however, the very fact that numerous countries were involved in the making of the treaty testifies to the international nature of the Japanese peace settlement. In other words, the Japanese peace treaty was not simply about Japan alone.

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<sup>240</sup> Provisional Draft of a Japanese Peace Treaty, 23 March 1951, *FRUS* 1951, Vol. 6-1, 944-50.

<sup>241</sup> Hosoya, “The Road to San Francisco,” 117.

<sup>242</sup> The most indicative meeting was his 18 April 1951 meeting with Yoshida, the summary of which could be accessed via: RG59, Entry A1 1252, Lot 54D423, Japan Trip, April 1951, accessed via NIKH.

<sup>243</sup> Treaty of Peace with Japan, 13 August 1951, RG59, Entry A1 1252, Lot 54D423, Dulles Black Book, accessed via NIKH.

## Bipartisan Foreign Policy

While negotiating with foreign governments, Dulles also regularly consulted with Congress. This owed to the fact that the Truman administration was seeking bipartisan support for the Japanese peace settlement.<sup>244</sup> The State Department had already noted in March 1950 the importance of “congressional consultation” for the peace treaty.<sup>245</sup> Unfortunately, the Truman administration was being constantly attacked by the Republicans for losing China to the communists. Against this backdrop, it was difficult to muster Republican support for any major foreign policy initiative for Asia. Dulles’ job was in part to fulfill this role.<sup>246</sup>

It is worth noting here that Dulles himself was a firm believer in keeping the Senate informed of the peace treaty progress.<sup>247</sup> He had witnessed how Woodrow Wilson had failed to garner congressional support for the Versailles peace treaty and as a result the Senate had refused to ratify the treaty. In order to avoid this mistake, Dulles maintained close relations with the Senate, regularly updating the members of the Foreign Relations Committee throughout the peace negotiations process.<sup>248</sup> Dulles even went public on 15 June 1950 to stress the importance of a bipartisan approach.<sup>249</sup>

One of the first steps Dulles took was to shield the Japanese peace treaty effort from potential Republican assault. Almost immediately after his appointment to lead the treaty negotiations, Dulles consulted with a number of prominent Republicans on 23 May 1950 about the peace treaty.<sup>250</sup> At this meeting, Styles Bridges (Leader of the Senate Republican Conference), together with William Knowland and H. Alexander Smith (both members of the Senate Foreign Relations Committee), said that they wanted to “break loose” and attack the Truman administration for not doing anything about China. Perhaps mindful that such an attack

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<sup>244</sup> Cohen, *Political process and foreign policy*, 16.

<sup>245</sup> *FRUS* 1950, Vol. 6, 1138-49.

<sup>246</sup> Dunn, *Peace-making and the Settlement with Japan*, 95; Pruessen, *John Foster Dulles*, 436-7.

<sup>247</sup> Cohen, *Political process and foreign policy*, 12.

<sup>248</sup> Pruessen, *John Foster Dulles*, 491-2.

<sup>249</sup> Dulles Hails Bipartisan Trip to Japan, 15 June 1950, RG59, Entry A1 1252, Lot 54D423, Dulles, John Foster - Diary of Trip to Korea and Japan, accessed via NIKH.

<sup>250</sup> The Senators, who were present at the meeting were: Robert Taft (Ohio, Republican, Senate Republican Policy Committee Chairman and a prominent isolationist), Eugene Millikin (Colorado, Republican, Chairman of the Senate Republican Conference), Kenneth S. Wherry (Nebraska, Republican, leader of the Senate Republican Conference and Senate Minority Leader), Styles Bridges (New Hampshire, Republican, Leader of the Senate Republican Conference), Alexander Wiley (Wisconsin, Republican, Foreign Relations Committee member), H. Alexander Smith (New Jersey, Republican, Foreign Relations Committee member), William Knowland (California, Republican).



would not augur well for the Japanese peace settlement, Dulles “hoped very much that there would not be any attacks” on Far Eastern policy until he had sufficiently discussed the situation with Acheson. The Senators “indicated that they were disposed” to follow Dulles’ advice.<sup>251</sup>

Meanwhile, Eugene Millikin (Chairman of the Senate Republican Conference) expressed concern about Japan’s economic prospects, fearful that it might depend either on mainland China for trade – which could lead to “communist domination” – or on continued American support, which might be financially draining for the US. Dulles responded that Japan’s economic conundrum could best be solved by expanding its trade with the non-communist countries in Southeast Asia. It should be noted that the revival of such a trade link between Japan and Southeast Asia formed the backbone of America’s scheme to rebuilding Japan’s economy (see Chapters 6 and 7).<sup>252</sup>

Dulles also hinted at this meeting at the prospects for a base agreement with Japan. In doing so, however, he warned that the US had to obtain Japan’s agreement. He argued that it would be “useless” to force a country to accept a foreign troop presence against its will, as this would only arouse hostility and push Japan away from the West. The record indicates that by the end of this meeting, Dulles was able to secure general agreement among these Republican Senators about the outline of the peace treaty.<sup>253</sup>

Dulles met with the Republican Senators again on 13 July 1950. This time, in light of the outbreak of the Korean War, he stressed the need to rearm Japan to prevent communist take-over. It appears that the Senators also agreed with this view, since nobody indicated any objection.<sup>254</sup> On 28 July 1950, when Dulles again conferred with certain Republican Senators, there was “strong and virtually unanimous sentiment” in favor of Japanese rearmament if deemed necessary.<sup>255</sup> Subsequently, on 14 August 1950, the Republican Senators of the Foreign Relations Committee released a statement in the *New York Times*, publicly and “wholeheartedly”

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<sup>251</sup> Memorandum of Conversation (Taft, Millikin, Wherry, Bridges, Wiley, Smith, Knowland and Dulles), 23 May 1950, RG59, Entry A1 1252, Lot 54D423, Congressional (Miscellaneous), 1950-52, accessed via NIKH.

<sup>252</sup> *Ibid.*

<sup>253</sup> *Ibid.*

<sup>254</sup> Memorandum of Conversation (Dulles and Republican Senators), 13 July 1950, RG59, Entry A1 1252, Lot 54D423, Congressional (Miscellaneous), 1950-52, accessed via NIKH.

<sup>255</sup> The Senators included Irving Ives (New York, Republican), Ralph Owen Brewster (Maine, Republican), Homer Ferguson (Michigan, Republican), Henry Cabot Lodge, Jr. (Massachusetts, Republicans) and Edward John Thye (Minnesota, Republican). Refer to: Memorandum of Conversation of Mr. Dulles with some Republican Senators in the Minority Floor Leader’s room at the Capitol on Friday, July 28th, 1950, RG59, Entry A1 1252, Lot 54D423, Congressional (Miscellaneous), 1950-52, accessed via NIKH.

pledging their “un-partisan cooperation” in foreign policy.<sup>256</sup> It is difficult to imagine such a public declaration of support for bipartisan foreign policy had Dulles not engaged in regular dialogue with the Republicans. Dulles would continue to work hard to maintain this Republican support throughout the negotiation process.

One should note that all these developments took place before September 1950, which was when the US officially began negotiating with other governments. Dulles, in other words, was able to secure Republican support for the Japanese peace settlement that Truman administration envisioned, even before the talks started. After Truman announced his intention to engage in preliminary negotiations, Dulles once again conferred with the Senate Foreign Relations Committee on 13 September 1950 to brief them on the general terms governing the treaty, its security aspects, and the plans to consult FEC powers individually. All three Senators present expressed support.<sup>257</sup>

Dulles also met with the Far Eastern Subcommittee of the House Foreign Affairs Committee on 14 September 1950.<sup>258</sup> At this meeting, he explained the background and procedural plan for the peace treaty and security arrangement. Aware of the existing isolationist sentiment against entanglements overseas, Dulles was careful to explain that the planned security agreement would allow the US broad rights “without incurring obligations.” Dulles also highlighted that the peace treaty would place “no limitation” on Japanese rearmament. Finally, he assured the Representatives that the peace treaty and security arrangement would be negotiated in a way that would prevent any possible Soviet take-over of Japan. After the meeting, Dulles reported to Acheson that the “entire committee was in accord” with the State Department.<sup>259</sup>

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<sup>256</sup> This text was signed by Alexander Wiley (Wisconsin, Republican), H. Alexander Smith, Bourke B. Hickenlooper (Iowa, Republican) and Henry Cabot Lodge, Jr. and retroactively agreed to by Arthur Vandenberg (Michigan, Republican). The original text can be accessed via: Text of GOP Senators’ Statement Charging Foreign Policy Bungling in Europe, Asia: III-THE FUTURE, 14 August 1950, *NYT*.

<sup>257</sup> Dulles conferred with Walter George (Georgia, Democrat), Alexander Wiley (Wisconsin, Republican) and the committee chairman, Senator Tom Connally (Texas, Democrat); *FRUS* 1950, Vol. 6, 1295.

<sup>258</sup> The House representatives present at the meeting included: John Kee (West Virginia, Democrat), Mike Mansfield (Montana, Democrat), Charles A. Eaton (New Jersey, Republican), John M. Vorys (Ohio, Republican), Frances P. Bolton (Ohio, Republican), Walter Judd (Minnesota, Republican), James G. Fulton (Pennsylvania, Republican) and George Smathers (Florida, Democrat).

<sup>259</sup> Memorandum of Conversation (Dulles and Subcommittee on the Far East, House Committee on Foreign Affairs), 14 September 1950, RG59, Entry A1 1252, Lot 54D423, Congressional (Miscellaneous), 1950-52, accessed via NIKH.

After his initial conferring with the FEC member states, Dulles again consulted with Senators Taft and Millikin on 30 November 1950. Regarding Taiwan, Dulles confided that the island could be used as a base for covert operations to stimulate “insurrectional activities” in mainland China. As will be discussed in Chapter 10, this portended the fact that the peace treaty would not specify the ownership of the island. Furthermore, Dulles commented that the US needed “some understanding” with Australia and New Zealand on regional security, portending the trilateral ANZUS treaty that would be signed simultaneously with the Japanese peace treaty.<sup>260</sup>

In late January 1951, Dulles was due to visit Australia, Japan, New Zealand and the Philippines to discuss the terms of treaty. Before embarking on this trip, he (on 11 January and 12 January 1951) explained before a joint meeting of the House Foreign Affairs Committee and Senate Foreign Relations Committee that the “two chief questions” for Japan were “future security” and “economic stability.” This first meant that the peace settlement should not only protect Japan from external aggression, but also prevent it from re-emerging as a threat. For this purpose, a multilateral security arrangement was needed with Australia, New Zealand and the Philippines, while at the same time Japan should be made to share the burden of its own defense. Secondly, Dulles stressed that Japan was in a “precarious” position, alluding to the idea that unless some means was found allow it to rebuild itself, the US would need to sustain it, which would be very expensive; hence, restrictive economic clauses had to be avoided. Dulles also stressed once again the need to treat Japan as a negotiating partner. “All members of the House Committee expressed general approval of” Dulles’ plans and wished him success; the Senate, meanwhile, made no outright opposition.<sup>261</sup>

Upon returning to Washington, Dulles again conferred with the Foreign Relations Committee on 9 March 1951 to report “fully” on the discussions that had taken place during his trip.<sup>262</sup> More importantly, when the updated draft treaty was developed later, Dulles met with the Senate Foreign Relations Committee on 19 March 1951 to explain the terms of the treaty and the rationales behind them – such as the territorial disposition of Taiwan, Ryukyu and Kurile islands

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<sup>260</sup> Dulles to Acheson, 30 November 1950, *Ibid.*

<sup>261</sup> Meetings with House Foreign Affairs and Senate Foreign Relations Committee regarding Japanese Peace Treaty on January 11 and 12, 1950, *Ibid.*

<sup>262</sup> US Senate Committee on Foreign Relations, *Executive sessions of the Senate Foreign Relations Committee Vol. 3-1* (Washington: GPO, 1976), 259-342; Statement by Chairman Connally, 9 March 1951, RG59, Entry A1 1252, Lot 54D423, Dulles Black Book, accessed via NIKH.

– prior to circulating it to foreign governments. One noteworthy conversation at this meeting took place between Dulles and Hickenlooper, wherein the latter asked if the Allies should have post-treaty rights to inspect Japan, in order to prevent it from secretly remilitarizing. Dulles responded that the most effective way to ensure against such secret remilitarization was “not to write prohibitions or inspection provisions into the treaty.” Dulles was “absolutely convinced that treaty restrictions would not work” and reiterated that this conviction was “basic to his whole approach to the treaty.” Sparkman, Alexander Smith and Hickenlooper, who were present at the meeting, thanked Dulles for keeping them up to date and no overt objection was raised.<sup>263</sup>

By the end of March 1951, Dulles had thus secured broad congressional support for the overall peace initiative. Of course, two issues would later emerge – fisheries and the Chinese representation – that would worry the Senate and require delicate maneuvering by Dulles, the details of which are discussed in Chapter 9 and Conclusion. Nevertheless, by early 1951 the Senate and the House were happy with the general direction that Dulles was taking.

Here, it might be worth re-visiting the question of Dulles’ contribution to the Japanese peace treaty negotiations. The popular understanding is that Dulles was primarily responsible for the treaty. However, this must be qualified, lest one overstress his role. As already noted, the governing principles for the peace treaty, such as the ideas of a lenient peace and “shuttle diplomacy” that are often associated with him predated his appointment. As such, it is a small wonder that a number of scholars argue that Dulles was not the architect of the treaty; Hosoya even argues that Dulles’ role was less about dictating the terms of the treaty than resolving internal US differences, especially the gap between the Democrats and Republicans.<sup>264</sup> Igarashi takes a similar view.<sup>265</sup> However, Miyasato challenges this view by arguing that Dulles clarified the State Department’s views on the peace treaty and that, as such, he should still be considered the primary architect. This interpretation therefore accepts the fact that the State Department had been constantly refining the treaty and that the essential concepts – a short and lenient peace that would firmly anchor Japan to the West – had already been established in that process prior to his appointment, but suggests that Dulles refined them further.

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<sup>263</sup> Meeting with Far East Sub-Committee of Senate Foreign Relations Committee regarding a Japanese Peace Treaty, 19 March 1951, RG59, Entry A1 1252, Lot 54D423, Congressional (Miscellaneous), 1950-52, accessed via NIKH.

<sup>264</sup> Dunn, *Peace-making and the Settlement with Japan*, 85-6; Pruessen, *John Foster Dulles*, 494-5; Hosoya, *San Francisco Peace Treaty*, 110-1.

<sup>265</sup> Igarashi, *Japanese Peace Settlement*, 218.

Of course, while one must be careful not to over-credit Dulles, it would be equally unwise to undermine his contribution to the peacemaking effort. Bridging the gap between the Democratic government and the Republican Congress was a tremendous responsibility, and perhaps something that only Dulles was capable of. Acheson, who was technically in charge of the Japanese peace settlement, had long been discredited in eyes of Congress due to his handling of China, and the sheer personality flaw of not being able to suffer fools gladly. He was therefore not the most suitable character for sweet talking the Republicans.<sup>266</sup> Dulles was recruited by Truman to remedy this situation. Once Dulles received his appointment, he did an outstanding job in convincing the Republicans to support the peace initiative. In addition to winning Republican support, Dulles also played an important role in mending fences between the State and Defense Departments, without which the peace treaty could not have proceeded.

Yet, interdepartmental agreement and bipartisan support for the Japanese peace settlement would have been meaningless, unless other countries agreed to the peace envisioned by the US. It was up to Dulles to convince other governments and garner international support. This was no small task that required patience, wisdom and decisiveness, the details of which will be discussed in the following chapters.

## **Conclusion**

To summarize, the US was finally able to iron out its own internal differences in September 1950, thus paving the way for the multilateral Japanese peace treaty negotiations. Afterwards, Dulles spent a year conversing with Congress and other governments to develop the peace treaty. The final draft was developed on 13 August 1951, and after some minor adjustments was signed on 8 September 1951 in San Francisco. It became effective on 28 April 1952 with the ratification by the US Senate.

It is important to remember that the peace treaty was negotiated and not simply imposed by the US. Also, in negotiating the treaty terms, the US confronted major disagreements with its friends. The question of security was particularly contentious, as many countries were still bitter about Japan's past aggression and therefore had qualms about not placing any military restrictions on that country. Dulles deemed that these were legitimate concerns and was willing

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<sup>266</sup> Thomas J. Christensen, *Useful Adversaries: Grand Strategy, Domestic Mobilization and Sino-American Conflict, 1947-1958* (Princeton: Princeton University Press, 1996), 77-149; Chace, *Acheson*, 9-12, 215-7.

make concessions, in order to placate the Pacific allies – Australia, New Zealand and the Philippines – in return for a non-punitive peace. This culminated in three concurrent security treaties: a bilateral US-Japan security treaty, the US-Philippines security treaty and the ANZUS Pact. Since the Japanese peace settlement cannot be fully appreciated without accounting for these security arrangements, it is necessary to briefly examine how they came about.

Australia and New Zealand, having confronted Japan's aggression during the Pacific War, desired a security guarantee from the US. Both countries, thus, went public in January and May 1949 respectively to express interest in a "Pacific Pact" paralleling the NATO that included Britain and the US as members.<sup>267</sup> The Philippines also proposed on 24 March 1949 a "Pacific Pact", with the US as a member that would prevent Japan's resurgence as a threat.<sup>268</sup> Meanwhile, the State Department on 9 March 1950 brought up the possibility of a collective security framework with Australia, Canada, Japan, the Philippines, New Zealand and the US as members.<sup>269</sup> Unfortunately, this multilateral "Pacific Pact" never materialized; Australia and New Zealand were not fond of having the Philippines as a partner, while Britain protested against any regional pact from which it was excluded.<sup>270</sup>

While the idea of a collective security arrangement was shelved, the security needs of Australia, New Zealand and the Philippines were shrewdly capitalized upon by Dulles. When Australia and New Zealand opposed the lenient peace treaty during Dulles' visit in early 1951, the latter raised the idea of a security guarantee as a possible trade-off. Both Australia and New Zealand had real security concerns, not simply because of past Japanese aggression, but also due to their commitments elsewhere – specifically Malaya and the Middle East – to defend the British Commonwealth, thus creating a security gap in their own countries. Against this backdrop, Dulles assessed that the US could induce Australia and New Zealand to support a lenient peace treaty if their security needs were met.<sup>271</sup> Consequently a trilateral ANZUS Pact was signed on 1 September 1951, on the condition that Australia and New Zealand signed the US-led peace treaty.<sup>272</sup> As will be explained in Chapter 7, the same formula was applied to the

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<sup>267</sup> New Zealand House of Representatives, *Parliamentary Debates: Third Session, Thirtieth Parliament* (Wellington: Government Printer, 1953), 180; *NYT*, 16 May 1949.

<sup>268</sup> *FRUS* 1949, Vol. 7-2, 1126.

<sup>269</sup> *FRUS* 1950, Vol. 6, 1143-4.

<sup>270</sup> Mabon, "Elusive Agreements," 147-77.

<sup>271</sup> Dulles to MacArthur, 2 March 1951, *FRUS* 1951, Vol. 6-1, 900-3.

<sup>272</sup> William David McIntyre, *Background to the ANZUS Pact: policy-making, strategy, and diplomacy, 1945-55* (Houndmills: Palgrave Macmillan, 2014), 225-348.

Philippines. As Van Aduard correctly notes, Australia, New Zealand and the Philippines were essentially bought off to support the lenient peace treaty by being offered a security guarantee in return.<sup>273</sup> Of course, the idea of a “security guarantee in return for agreeing to the US-led lenient peace treaty” was carefully nurtured by Australia and New Zealand as well. Hence, it would be wrong to assume that the US simply imposed its will on them.<sup>274</sup>

With regards to Japan, Dulles was eager to re-arm the country. He stressed that Japan could not expect a free ride and had to be willing to take up the burden of its own defense. As noted above, however, the Japanese in general, including Yoshida, were against rearmament. The solution eventually adopted by the US – which was also strongly advocated by Britain and supported by Japan – was to station the US troops in Japan through a bilateral agreement with Tokyo.<sup>275</sup>

By signing this security treaty, Yoshida was able to postpone any major build-up of Japan’s armed forces, while finally making the country independent. However, the treaty compromised Japan’s sovereignty in several ways. To begin with, foreign troops would remain in Japan in the name of protecting it from outside threat. Ironically this increased the risk of external attack by making clear that the aim of American troops was to ensure peace and security for not only Japan, but also the “Far East.” In other words, Japan could theoretically be used as an offensive forward base to project US military power to the Asian mainland, which meant that Japan could be entangled in a hot war with the PRC and the Soviet Union. The treaty also empowered the US to interfere in Japan’s domestic affairs by recognizing that the US troops could, upon the Japanese government’s request, “put down largescale internal riots and disturbances.”<sup>276</sup> Furthermore, the subsequent “administrative agreement,” signed on 28 February 1952, gave diplomatic immunity to all US service members, which however temporary essentially amounted to extra-territoriality.<sup>277</sup> Of course, as Nishimura and Swenson-Wright point out, the security treaty was a negotiated agreement, in which both countries made genuine efforts to listen to each other. Hence, it would be an oversimplification to frame this treaty as

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<sup>273</sup> Van Aduard, *Japan*, 180-1, 218.

<sup>274</sup> Trotter, *New Zealand and Japan*, 137-8.

<sup>275</sup> Kuniyoshi, “Britain and the Question of Japan's Security”; Swenson-Wright, *Unequal Allies?*, 21-76.

<sup>276</sup> Security Treaty Between the United States and Japan, 8 September 1951, accessed via Yale University, [https://avalon.law.yale.edu/20th\\_century/japan001.asp](https://avalon.law.yale.edu/20th_century/japan001.asp).

<sup>277</sup> Administrative Agreement under Article III of the Security Treaty between the United States of America and Japan, 28 February 1952, accessed via National Graduate Institute for Policy Studies (GRIPS), University of Tokyo, <https://worldjpn.grips.ac.jp/documents/texts/docs/19520228.T1E.html>.

being an American diktat. Nevertheless, the terms make it clear that this was not an equal alliance. Fortunately, the peace treaty would be crafted in a way that was much more favorable for Japan, the subject to which we now turn to.



## Chapter 4. The Question of Chinese Representation

This chapter examines why the Chinese Nationalist government was not able to sign the Japanese peace treaty. This question was one of the most controversial issues at the time of the negotiations. Even though the Republic of China (ROC) was one of the Allied Powers that fought against Japan during the war – and while it was consistently treated as one of the negotiating members and a potential signing power – it was ultimately excluded from the treaty and had to negotiate a separate bilateral peace treaty with Japan at a later date.

While the question of Chinese representation in the Japanese peace treaty is not a new topic – and many scholars have already produced excellent analysis – revisiting this question is important, as two important gaps still exist in the literature: the roles of the British Commonwealth and that of the Chinese Nationalist government itself. The classical narrative asserts that the ROC could not sign the Japanese peace treaty because of Anglo-American disagreement. While the US wanted the Nationalist China to sign the treaty, Britain wanted the Communist China to do so; because they could not agree, the Anglo-American governments decided to exclude both Chinas.<sup>278</sup> Even the most recently published works frame the Chinese representation issue in this way.<sup>279</sup>

The Anglo-American disagreement did, of course, contribute to the exclusion of the ROC from the Japanese peace settlement. However, over-concentration on the American and British roles overlooks the fact that other members of the FEC also played an important role in excluding the Chinese Nationalists. This is not to say that the existing studies are ignorant of this aspect of the ROC's exclusion. Indeed, a number of studies acknowledge the fact that the British Commonwealth, the Philippines and Indonesia were involved.<sup>280</sup> However, none of them demonstrate how this process worked, and by overlooking this they fail to explain why the US in

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<sup>278</sup> Beal, *John Foster Dulles*, 122-3; Cohen, *Political Process and Foreign Policy*, 15; Dunn, *Peace-making and the Settlement with Japan*, 141-2; Hosoya, *San Francisco Peace Treaty*, 205-250; Hosoya, “Yoshida Letter”; Schonberger, “Nationalist China”; Van Aduard, *Japan*, 185-95.

<sup>279</sup> Ruane, “Eden–Dulles Antagonism”; 陳肇斌 [Chen, Zhaobin], 戦後日本の中国政策: 1950年代東アジア国際政治の文脈 [*Japan's Postwar China Policy: the landscape of East Asia's international relations in the 1950s*] (東京 [Tokyo]: 東京大学出版会 [University of Tokyo Press], 2000); 井上正也 [Inoue Masaya], 日中国交正常化の政治史 [*The Political History of Sino-Japanese Normalization*] (名古屋 [Nagoya]: 名古屋大学出版会 [Nagoya University Press], 2010); 袁克勤 [Yuan, Ke-qin].

“日華講和と戦後東アジア国際政治 [Sino-Japanese Peace Settlement and Postwar East Asian International Relations]” (博士論文 [PhD Diss.], 一橋大学 [Hitotsubashi University], 1994).

<sup>280</sup> Hosoya, *San Francisco Peace Treaty*, 15, 233; Pruessen, *John Foster Dulles*, 487; Chen, *Postwar Japan's China Policy*, 24; Schonberger, *Aftermath of War*, 270.

this case compromised instead of forcing its will on others, which is in contrast to its handling of other issues, such as Japan's postwar fisheries and shipbuilding capacity, where it refused to buckle. Equally important is the fact that hardly any of the existing studies examines the Chinese Nationalist government's point of view, thus giving the incorrect impression that it had no voice in this issue. However, the fact is that the ROC did contribute to its own exclusion. Taking this into account, this chapter attempts give a fuller explanation of why the ROC was not able to sign the treaty.

### **The Emergence of the Question of Chinese Representation**

The question of whether or not the ROC should be invited to sign the Japanese peace treaty only became a serious issue because of the communization of mainland China in 1949. Up until this time, there was no question that the ROC was the legitimate representation of China and one of the Allied Powers. The Chinese Nationalists not only signed important wartime international agreements – such as the 1943 Cairo Declaration and 1945 Potsdam Declaration – but also was represented on the UN Security Council as a permanent member with a veto. After the war, the Chinese Nationalists also partook in the occupation of Japan as a member of the Allied Council for Japan and the Far Eastern Commission. In other words, nobody before 1949 doubted that the ROC had to be a party to the peace treaty.

However, the situation changed when the ROC was driven off the mainland in late 1949.<sup>281</sup> The great majority of the China was now under the control of the Chinese Communists, while the Nationalists were confined to Taiwan. Moreover, the indigenous Formosans did not even consider themselves ethnic Chinese. Consequently, this raised the question of whether or not the ROC was the legitimate representative of China. Furthermore, the fact that the Chinese Nationalists had been defeated despite US support, led many people to doubt if the ROC was even a capable government.

Against this backdrop, four FEC member states began to break ties with the ROC and instead opted for the normalization of relations with the PRC, beginning with the Soviet Union (2 October 1949), India (30 December 1949), Britain (6 January 1950) and finally the Netherlands (27 March 1950). While other FEC members – Australia, Canada, France, New Zealand, the Philippines and the US – continued to recognize the ROC, they all shared some

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<sup>281</sup> Lew, *The Third Chinese Revolutionary Civil War*.

reservations. Meanwhile, four Asian countries that would later be invited to sign the Japanese peace treaty also recognized the PRC: Burma (17 December 1949), Ceylon, Indonesia (5 December 1949) and Pakistan (5 January 1950).<sup>282</sup>

Within the US, the State Department also considered coming to terms with the PRC, believing that the Chinese Nationalists were doomed. With the defeat of the ROC imminent, Acheson on 4 August 1949 opined to the NSC his belief that Taiwan would “sooner or later come under Communist control.”<sup>283</sup> Acheson made this public when on 13 January 1950, he stated at a Senate Foreign Relations Committee hearing that Taiwan’s “fall to the Communists” was “inevitable.”<sup>284</sup>

Instead of salvaging this doomed regime, Acheson and a number of State Department officials explored the possibility of recognizing the PRC and establishing trade links with it. In justifying this approach, the State Department officers argued that trade relations would help create a rift between the Soviet Union and PRC, an idea that Acheson submitted to the NSC for review as early as 28 February 1949 (NSC 41).<sup>285</sup> Other advantages of having formal diplomatic ties with the PRC included the reduction of Anglo-American tension, which had arisen due to Britain’s insistence on recognizing the PRC; protecting American business interests in mainland China; helping Japan economically, as the country depended on raw materials from the Chinese mainland; and keeping in touch with a country that contained one-fourth of humanity. The State Department’s intelligence estimate before the outbreak of the Korean War also stated that any communist conquest of Taiwan would not significantly damage American strategic interests, since the PRC lacked both the naval capacity and economic wherewithal to pose a meaningful

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<sup>282</sup> David McLean, “American Nationalism, the China Myth, and the Truman Doctrine: The Question of Accommodation with Peking, 1949–50,” *Diplomatic History* 10-1 (1986): 27; 外務省 [Japanese MOFA], *日本外交文書: 平和条約の締結に関する調書 第1冊* [Documents on Japanese Foreign Policy: records relating to the conclusion of a peace treaty Vol. 1] (東京 [Tokyo]: 外務省 [Ministry of Foreign Affairs (Japan)], 2002), 641; Hara, *Cold War Frontiers*, 65; Ide Anak Agung Gde Agung, *Twenty Years Indonesian Foreign Policy, 1945-1965* (The Hague: Mouton & Co., 1973).

<sup>283</sup> Acheson to NSC, 4 August 1949, *FRUS* 1949, Vol. 9, 369-71.

<sup>284</sup> US Senate, *Reviews of the World Situation: 1949-1950 (Hearings held in Executive Session before the Committee on Foreign Relations, United States Senate Eighty-First Congress First and Second Sessions on the World Situation)* (Washington: GPO, 1974), 184.

<sup>285</sup> *FRUS* 1949, Vol. 9, 833; The State Department officers who supported Acheson’s approach to Taiwan included: Walter P. McConaughy, Sabin Chase, Hendrik van Oss, Philipp Jessup, Everett Case, Raymond Fosdick, Walton Butterworth, John Melby and John P. Davies. Refer to: Tucker, *Patterns in the Dust*, 28-31, 189.

threat.<sup>286</sup> Many journalists, businesses and missionaries were also supportive of the PRC and certain Democratic Senators rallied behind Acheson.<sup>287</sup>

Of course, the Truman administration had to be discreet. A powerful “China Lobby” consisting of politicians, journalists, missionaries and businessmen, was busy avidly defending the interests of the ROC and assaulting Truman for losing China to the communists.<sup>288</sup> Hence, while Acheson made ominous statements about the future of the ROC, he could not be too upfront about his preferred strategy of rapprochement with the PRC. Accordingly, NSC 48/2, approved by Truman on 30 December 1949, stipulated that the US would continue to recognize the ROC, until it was “clearly in the US interest” to recognize the PRC.<sup>289</sup> While maintaining the façade of supporting the ROC, the US also began to take piecemeal steps to weaken it. For instance, Acheson discouraged military aid to the Chinese Nationalists to expedite its downfall and prevent any unnecessary provocation against the CCP.<sup>290</sup> This was made public on 5 January 1950, when both Truman and Acheson announced that the US would not furnish military aid or advice to the ROC.<sup>291</sup> In response to the China Lobby’s pressure to protect the ROC, Acheson patiently waited for the regime’s eventual downfall in order to present it as a *fait accompli*.<sup>292</sup>

For Acheson, then, “China” would mean the PRC alone. This implied that the PRC would be represented at the Japanese peace settlement and the draft peace treaty was developed accordingly. Indeed, the treaty was updated on 2 November 1949 and again on 29 December 1949 “so as to permit presentations to the USSR and communist China.” The PRC – and not the ROC – was now assumed to be a partner in negotiating and signing the peace treaty. It should also be noted that the State Department took into account the possibility of the PRC refusing to sign the treaty, which essentially would have amounted to no Chinese representation at all.<sup>293</sup>

Meanwhile, the British Commonwealth, regardless of its members’ individual attitudes towards the PRC, was united in its dislike of the ROC and reluctance to support its presence at the peace conference. Indeed, as evidenced in the Commonwealth working conference on the

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<sup>286</sup> Christensen, *Useful Adversaries*, 128-33.

<sup>287</sup> Tucker, *Patterns in the Dust*, 19-39, 100-11, 112-33, 134-153, 178, 186, 190, 194.

<sup>288</sup> *Ibid.*, 80-99.

<sup>289</sup> *FRUS* 1949, Vol. 7-2, 1219.

<sup>290</sup> Tucker, *Patterns in the Dust*, 32, 39, 185-8.

<sup>291</sup> *Bulletin* 550 (16 January 1950), 79-81.

<sup>292</sup> Tucker, *Patterns in the Dust*, 192.

<sup>293</sup> Commentary of Treaty of Peace with Japan (November 2, 1949), RG59, Entry A1 1230, Treaty-Draft-11/2/1949, accessed via NIKH; Commentary of Treaty of Peace with Japan (December 29, 1949), RG59, A1 1252, Lot 54D423, Treaty Drafts, 1949 - March 1951, accessed via NIKH.

Japanese peace treaty that was convened between 1 and 18 May 1950, its members agreed that the PRC should represent “China”. Britain was especially vocal in insisting that the PRC should sign the Japanese peace treaty. It believed that the normalization of PRC-Japan relations – and the consequent revitalization of trade – would encourage the former’s increased contact with the free world, through which the PRC could eventually be allured away from the Soviet Union. Britain had also never been fond of Chiang Kaishek, as evidenced in Churchill’s reluctance to agree to the ROC being one of the four “policemen” in the postwar world when suggested by Roosevelt. Furthermore, Britain had important commercial interests in mainland China and was thus reluctant to antagonize the PRC. However, the British Commonwealth also agreed that the PRC should be excluded if its approach to the peace settlement were “unacceptable to the democratic powers.”<sup>294</sup> In other words, either the PRC would sign the peace treaty or no “China” would sign at all.

Hence, even before the Japanese peace treaty negotiations entered the substantive phase, the question of Chinese representation was emerging as a major question with various opinions being offered, including limited support for the ROC, the idea of PRC participation in the peace settlement, and even the possibility of no Chinese representation at all. As such, while Van Aduard believes that Dulles was responsible for the idea of excluding both Chinas, this does not seem to have been the case. Indeed, as explained below, Dulles continued to entertain the idea of inviting both Chinas until the PRC intervened in the Korean War.<sup>295</sup>

### **The Chinese Nationalist Representation during the Early Stages of Negotiation**

The appointment of Dulles in May 1950 further complicated the Chinese representation question, as he had a very different view of the Chinese Nationalists from that of Acheson. In a memorandum drafted on 21 April 1950, Dulles highlighted that the ROC was an important partner in the anti-communist struggle and a significant military force to be reckoned with. He praised the Chinese Nationalists for improving lives in Taiwan, while deterring further communist expansion from the mainland. He also appealed for continued aid to be given to the

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<sup>294</sup> Commonwealth Working Party on Japanese Peace Treaty, 17 May 1950, RG59, Entry A1 1252, Lot 54D423, United Kingdom [I], accessed via NIKH; Chen, *Japan’s Post-War China Policy*, 18; Gaddis, *The United States and the Origins of the Cold War*, 23-31; Seung Mo Kang, “Great Britain’s Postwar Insecurity and the Question of South Korean Participation in the Japanese Peace Treaty,” *Seoul Journal of Korean Studies* 28-2 (2015): 173; Tucker, *Patterns in the Dust*, 19-39.

<sup>295</sup> Van Aduard, *Japan*, 191, 194-5.

ROC, both military and economic, while arguing that its representation in the UN must be defended.<sup>296</sup>

In addition, Dulles, as early as January 1949, had ruled out any prospect of recognizing the PRC as a government and instead sought ways to overthrow it.<sup>297</sup> Dulles repeated his belief on the need to contain the PRC in a radio interview with the Columbia Broadcasting System on 29 June 1949 and a public statement on 5 August 1949.<sup>298</sup> Again on 18 May 1950, Dulles advocated taking a “strong stand” to prevent communist spillover to Taiwan.<sup>299</sup> Dulles was supported in this line by a number of Republican Senators (Taft, Millikin, Wherry, Bridges, Wiley, Smith and Knowland), who expressed the “unanimous view that the US should not recognize the Communist Government of China,” lest communist prestige in Asia be redoubled.<sup>300</sup>

Dulles was thus supportive of the ROC and opposed to the PRC, which naturally meant that he wanted the ROC representation in the Japanese peace treaty. However, when Dulles first outlined his plans for the treaty on 6 June 1950, both the PRC and ROC were treated as potential negotiating members, thus continuing the existing State Department approach.<sup>301</sup> This was most likely in response to the Defense Department’s early insistence on Chinese Communist representation; as pointed out in Chapter 3, it was not until 22 August 1950 that the Pentagon formally rescinded this demand. Hence, it appears that Dulles at this point avoided any overt rejection of PRC representation. As Hosoya points out, only later, following the PRC intervention in Korea, would Dulles harden his attitude and clearly shift towards excluding it from the treaty.<sup>302</sup>

The question of Chinese representation became even more complicated when Dulles began consulting other governments in late 1950. To begin with, both the Soviet Union and India demanded the PRC’s participation. The PRC, perhaps informed by the Soviet Union, also

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<sup>296</sup> Refer to personal papers of Dulles under: China, Republic of, 1950, John Foster Dulles Papers, Box 47, Reel 15, Public Policy Papers, Department of Rare Books and Special Collections, PUL.

<sup>297</sup> McLean, “American Nationalism, the China Myth, and the Truman Doctrine,” 30-3; Pruessen, *John Foster Dulles*, 438-9, 467.

<sup>298</sup> Dulles radio interview with the Columbia Broadcasting System, 29 June 1949; Statement made August 5, 1949 on White Paper on China released to Paramount News, Chinese Question, 1949, JFD Papers, Box 40, Reel 12, PUL.

<sup>299</sup> China, People’s Republic of, 1950, JFD Papers, Box 47, Reel 15, PUL.

<sup>300</sup> Memorandum of Conversation (Taft, Millikin, Wherry, Bridges, Wiley, Smith, Knowland and Dulles), 23 May 1950, RG59, Entry A1 1252, Lot 54D423, Congressional (Miscellaneous), 1950-52, accessed via NIKH.

<sup>301</sup> *FRUS* 1950, Vol. 6, 1211.

<sup>302</sup> Hosoya, *San Francisco Peace Treaty*, 116.

demanded its own representation through a radio announcement.<sup>303</sup> Dulles' position, however, was that the PRC could not be consulted, as the US had no official relations with the PRC.<sup>304</sup>

There was nothing surprising about the fact that the communist and neutralist states demanded Chinese communist representation. But the lack of any enthusiasm among the Western powers for the ROC certainly surprised Dulles. Canada, for instance, argued in November 1950 that "China" was now represented "only by" the PRC and thus the latter should be invited to sign the peace treaty; in case it refused to participate, then the door should be left open for its later accession.<sup>305</sup> In addition, its exclusion from the treaty would be unacceptable to certain Asian states and Japan which had natural economic interests in mainland China.<sup>306</sup> Canada's proposal essentially echoed the British Commonwealth agreement of May 1950: either invite the PRC or exclude both Chinas from the peace treaty. This was certainly not a pleasing prospect for either Dulles or the ROC.

Canada's response must have been particularly irksome for the US, considering recent developments in Korea. In late November 1950, while Dulles was conferring with the foreign governments to explain the US position on the peace treaty, the PRC decisively intervened in the Korean War by unleashing a military offensive that pushed the UN forces south of the 38<sup>th</sup> parallel. This military reversal killed any prospect of US accommodation with the PRC. Instead, the US sought to undermine the Chinese communists, lobbying within the UN to brand the PRC as an aggressor. At the same time, inviting the PRC to sign the peace treaty became virtually impossible. Indeed, on 11 April 1951, when Dulles conferred with H. Alexander Smith, Taft, Millikin and Wiley before embarking on his third trip to Tokyo, the Republican Senators stressed that the Chinese communists should not be a party to the peace treaty.<sup>307</sup>

Unfortunately for the US, other governments reacted differently to the Chinese intervention. Most notably, the British sensed an added urgency to the need for a negotiated settlement in Korea, which in turn necessitated enticing the Chinese to the negotiating table through

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<sup>303</sup> *FRUS* 1950, Vol. 6-1, 1389; *Bulletin* 596 (4 December 1950), 881-2; Memorandum of Conversation: Japanese peace treaty, 21 December 1950, RG59, Entry A1 1252, Lot 54D423, India, accessed via NIKH; India's preliminary views on US memorandum on Japanese peace treaty, 21 December 1950, *Ibid.*

<sup>304</sup> Dulles to Malik, 28 December 1950, RG25, 1940 Central Registry, General Registry, Peace treaty with Japan, Part 9, 1950/11/01-1951/02/14, accessed via NIKH.

<sup>305</sup> Canadian position on the Japanese peace treaty, November 1950, *Ibid.*

<sup>306</sup> Memorandum on Japanese peace treaty, 29 December 1950, RG25, 1940 Central Registry, General Registry, Peace treaty with Japan, Part 9, 1950/11/01-1951/02/14, accessed via NIKH.

<sup>307</sup> Michael Schaller, "The Korean War: The Economic and Strategic Impact on Japan, 1950-1953," in *The Korean War in World History*, edited by William Stueck (Lexington: University of Kentucky Press, 2004), 166.

concessions, one of which was to recognize the legitimacy of the PRC.<sup>308</sup> Britain thus lobbied rigorously for the PRC to replace the ROC as the true representative of “China” at the UN. In the Attlee-Truman talks in Washington on 7 December 1950, for instance, the British questioned the wisdom of the continued American recognition of the ROC. Attlee stated that the Korean War had to be settled via the UN and that giving the UN seat to PRC could convince the Chinese communists to facilitate a settlement in Korea.<sup>309</sup> This naturally meant that Britain would also support the Chinese communist representation in the Japanese peace settlement.

Of course, at the same time Britain was aware of the depth of US opposition to its reasoning. It was therefore resigned to the idea that the PRC may in the end be excluded from the peace treaty, but it wished to make its case and, by doing so, hopefully bar the ROC. On 2 January 1951, Britain informed other Commonwealth members that communism was the greatest danger in Asia and that, accordingly, as part of the anti-communist struggle Britain was prepared to see a partial peace that excluded the Soviet Union and the PRC.<sup>310</sup> Later, on 26 February 1951, Walter Gifford (US Ambassador to London) informed Acheson that Britain did not wish the China issue to delay the peace and that an accession clause should be entertained that would facilitate the temporary exclusion of both Chinas from the peace treaty.<sup>311</sup> However, this was devised as a last resort; it did not mean that Britain had given up on the idea of inviting the PRC to negotiate and sign the treaty. As a matter of fact, Britain continued to express its preference for involving the PRC until late in the day; in the words of the diplomat, C.H. Johnston, it was best to invite the PRC, so that in case it declined the offer, then it would receive all the blame.<sup>312</sup>

In sum, by early 1951, the idea of excluding both Chinas from the Japanese peace treaty – as well as the idea of a separate peace settlement between China and Japan – had emerged as a potential outcome. In this context, it is interesting to note that the ROC informed Dulles on 22 January 1951 that if a multilateral peace treaty could not be signed, then a series of bilateral peace treaties could be considered, an idea shared by the Philippines; Dulles also acknowledged

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<sup>308</sup> Robert Barnes, *The US, the UN and the Korean War: Communism in the Far East and the American Struggle for Hegemony in the Cold War* (New York: I.B. Taurus, 2014), 60-90.

<sup>309</sup> Truman-Attlee Talks, 7 December 1950, *FRUS* 1950, Vol. 7, 1437, 1451-6.

<sup>310</sup> Japan: Japanese peace treaty, 2 January 1951; Japanese peace treaty, 25 January 1951 (RG25, 1940 Central Registry, General Registry, Peace treaty with Japan, Part 9, 1950/11/01-1951/02/14, accessed via NIKH).

<sup>311</sup> 4617: Gifford to Acheson, 26 February 1951, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH.

<sup>312</sup> Pacific security arrangement, 30 March 1951, RG59, Entry A1 1252, Lot 54D423, United Kingdom [I], accessed via NIKH; Japanese Peace Treaty: Chinese Participation and Disposal of Formosa, 30 March 1951, CAB129/45/3, CP(51)78, The National Archives (NA); Gifford to Acheson, 20 March 1951, *FRUS* 1951, Vol. 6-1, 952-3.



this as a distant possibility.<sup>313</sup> This was a fateful statement, as the ROC would eventually end up signing a separate bilateral agreement with Japan, although it would take a few more months before Britain and the US settled on this approach.

### **The Continuing Multilateral Opposition to the Chinese Nationalist Representation**

When Dulles put together a draft treaty in March 1951 following his early talks with other governments, the China question became a heated issue with multiple countries expressing disapproval of the ROC's participation. Most importantly, Britain continued to insist on the PRC's participation. Oliver Franks (British Ambassador to Washington) at his meeting with Dulles on 30 March 1951 stressed the need to invite the PRC to sign the treaty, citing the importance of creating trade links between Japan and mainland China. However, Dulles objected, as the US did not recognize the PRC and its participation would cause "many difficulties." On 12 April 1951, Dulles once again conferred with Franks and remarked that while Britain was free to consult the PRC, he was going to move forward with the treaty negotiations regardless of Beijing's reaction; Dulles was neither willing to wait for the PRC response nor to take its views seriously.<sup>314</sup>

However, other than the Philippines, the US was alone in the FEC in its support for the ROC. India was as vocal as Britain in its support for the PRC's participation. In response to the March 1951 draft, India argued that the treaty should not be offensive to the PRC and that it was "essential" to invite the latter to express its views for a "stable and enduring peace with Japan." Interestingly, however, India did not explicitly demand that the PRC be treated as a signatory. Instead, India remarked that a "non-signatory Allied Power" should be able to sign a separate peace treaty with Japan.<sup>315</sup> It is unclear why India made this statement, but it is possible that it foresaw the difficulty of inviting the PRC to sign the peace treaty in light of US attitude. What is clear is that by expressing this view, India contributed to the increased possibility of a separate bilateral Sino-Japanese peace settlement.

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<sup>313</sup> Koo to Dulles, 22 January 1951, RG59, Entry A1 1252, Lot 54D423, China [January 6 - November 29, 1951], accessed via NIKH; Preliminary consideration of Japanese peace treaty, 27 September 1950, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH; Memorandum of Conversation: Japanese peace treaty, 21 December 1950, RG59, Entry A1 1252, Lot 54D423, India, accessed via NIKH.

<sup>314</sup> Pacific Security Arrangement, 30 March 1951, *FRUS* 1951, Vol. 6-1, 953-4; Memorandum of Conversation (Dulles and Frank), 12 April 1951, *Ibid.*, 977-9.

<sup>315</sup> Views of the Government of India on provisional draft of Japanese peace treaty prepared by the US Department of State on 28 March 1951, undated, RG59, Entry A1 1251, Lot 78D174, accessed via NIKH.

Two other Asian states, Burma and Indonesia, were also opposed to the ROC's participation, as they did not recognize that government; they were afraid that co-signing the treaty with the ROC would imply recognition.<sup>316</sup> In addition, Burma was antagonistic to the ROC because at this time the Chinese Nationalist general Li Mi was launching anti-communist guerrilla raids from north Burma into Yunnan. Supporting the ROC in the peace settlement might have suggested Burmese support for these activities and consequently aroused a hostile reaction from the PRC.<sup>317</sup> For Indonesia, the Sukarno government was pursuing a neutralist policy and did not wish side with the ROC against the PRC.<sup>318</sup>

The State Department also noted on 21 March 1951 that Australia, Canada and New Zealand – although they continued to recognize the ROC – were all reluctant to cosign the peace treaty with the Chinese Nationalists.<sup>319</sup> Indeed, Lester Pearson (Canadian Secretary for External Affairs) suggested in April 1951 that neither China be invited as a signatory. Unsurprisingly, this caused outrage when it became known to the ROC, which “strongly” opposed Canada's proposal.<sup>320</sup> Unfortunately for the ROC, however, it was clear that majority of the “principal” negotiating powers were opposed to its representation.

In response, the ROC employed various political and legal arguments to secure American support for its representation in the peace treaty. For instance, the former ROC Foreign Minister Wu Teh-cheng emphasized that peace between ROC and Japan was necessary for deterring the communist threat in the Far East, while Wang Chung-hui (Judicial Yuan President) even expressed willingness to waive China's reparations claims. Wang's statement was significant considering the local public sentiment, which demanded “satisfactory” reparations; indeed, there was a “wave of protest” in Taiwan against the March 1951 draft treaty for adopting a no-reparations formula.<sup>321</sup> Meanwhile, Foreign Minister Yeh highlighted that the ROC was making an “all-out effort” to resist Communist aggression and was receptive to the US-led peace treaty. Yeh added that it was the “Republic of China” that had fought the war against Japan and was recognized by the “overwhelming majority” of its co-belligerents and that after the war the ROC

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<sup>316</sup> Chen, *Japan's Post-War China Policy*, 24.

<sup>317</sup> Russell Hunt Fifield, *The Southeast Asia, 1945-1958* (New York: Harper & Brothers Publishers), 202-3.

<sup>318</sup> *Ibid.*, 141-7.

<sup>319</sup> Memorandum of the Under Secretary's Meeting, 21 March 1951, *FRUS* 1951, Vol. VI, 943.

<sup>320</sup> 1423: Rankin to Acheson, 17 April 1951, RG59, Entry A1 1252, Lot 54D423, Taipei, accessed via NIKH; DTG210114Z: Rankin to Far Eastern Command and State Department, 22 April 1951, *Ibid.*

<sup>321</sup> 1364: Rankin to Acheson, 9 April 1951; 1393: Rankin to Acheson, 12 April 1951 (RG59, Entry A1 1252, Lot 54D423, Taipei, accessed via NIKH).

had represented China at the UN and FEC. Yeh also argued that the exclusion of the ROC from the treaty could contribute to instability in the Far East. Hence, it deserved the “firm support” of the US in negotiating and signing the treaty.<sup>322</sup> Again both Wang and Yeh indicated the possibility of Japan signing a series of bilateral peace treaties with various countries rather than one multilateral peace treaty should this be necessary.<sup>323</sup> This was the second time that the ROC raised the idea of a bilateral peace with Japan.

Amidst the continuing Chinese conundrum, George Bernard Noble of the State Department’s Division of Research and Publication identified a significant parallel between the current Chinese situation and the Russian experience after WWI. To elaborate, Russia had been badly fragmented during the Paris peace negotiations in 1919, as the civil war between the Bolsheviks and the anti-Bolshevik “White” Russians was ravaging the country with both regimes contending to be recognized as the legitimate government. As such, while the provisional Russian government that was led by Alexander Kerensky had been recognized by the US and other Allies, the Russians were ultimately excluded from the Versailles peace treaty.<sup>324</sup> In much the same way, China was in a state of civil war between the communists and anti-communists, with the US and some Allies recognizing the non-communists.<sup>325</sup> While this document contained no specific conclusion, it subtly hinted at the possibility of excluding China from the peace settlement.

In sum, between March and April 1951 numerous countries, including those that recognized the ROC, were opposed to the Chinese Nationalists signing the peace treaty. Hence, the prospect of excluding the ROC was becoming more real. The Philippines was perhaps the only exception, aside from the US, as it adamantly opposed PRC representation in the treaty and expressed support for the ROC.<sup>326</sup> However, the Filipino support was not enough to warrant ROC representation in the treaty. The only reason that the ROC could maintain its tenuous

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<sup>322</sup> Taipei's Comments on Mar. 28 Draft, 24 April 1951, RG59, Entry A1 1251, Lot 78D174, accessed via NIKH; ROC Embassy to State Department, 24 April 1951, RG59, Entry A1 1252, Lot 54D423, China [January 6 - November 29, 1951], accessed via NIKH.

<sup>323</sup> 1364: Rankin to Acheson, 9 April 1951, RG59, Entry A1 1252, Lot 54D423, Taipei, accessed via NIKH; 1393: Rankin to Acheson, 12 April 1951, *Ibid.*; 1405: Rankin to Acheson, 14 April 1951, *Ibid.*

<sup>324</sup> Noble to Dulles, 11 April 1951, RG59, Entry A1 1252, Lot 54D423, China [January 6 - November 29, 1951], accessed via NIKH.

<sup>325</sup> Nippon Times news clip, 18 April 1951, *Ibid.*; 1470: Press review (Rankin to Acheson), 21 April 1951, RG59, Entry A1 1252, Lot 54D423, Taipei, accessed via NIKH.

<sup>326</sup> Letter from Elizalde to Acheson, 1 June 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH; Philippine comment on US March draft, 25 June 1951, *Ibid.*; 4165: Allison to Dulles, 23 June 1951, RG59, Entry A1 1252, Lot 54D423, Manila I, accessed via NIKH; 343: Cowen to Acheson, 25 July 1951, *Ibid.*

position as a negotiating power and a potential signing member for the treaty was because of the US support. Unfortunately for the ROC, the US position would soon change.

### **The Exclusion of Both Chinas and Paving the Way for a ROC-Japan Peace Treaty**

On 16 May 1951, Dulles cabled Sebald and indicated three possibilities for the ROC: accession, a separate bilateral peace arrangement with Japan, or indefinite delay of the Chinese signature.<sup>327</sup> Dulles, of course, still saw ROC signature of the multilateral peace treaty as his preferred option. However, he was aware that this would be “seriously” opposed by “probably” all British Commonwealth members – including those recognizing the ROC – as well as Indonesia and even the Western European countries. Dulles also noted the Russian precedent in the 1919 Versailles peace settlement which suggested that even a recognized government could be excluded from signing a peace treaty. He concluded by referring to a separate peace arrangement between the ROC and Japan as being an “acceptable” alternative.<sup>328</sup> In short, Dulles had started to entertain the ROC’s exclusion as a real possibility. He shared this prospect with Franks on the same day (16 May 1951).<sup>329</sup>

Of course, Dulles ruled out any PRC signature on the peace treaty.<sup>330</sup> Dulles was supported by Jack Tate (Deputy Legal Advisor of the State Department), who on 22 May 1951 opined that as far as the US was concerned the PRC was neither a state nor a government, since the US had never recognized it.<sup>331</sup> Hence, it did not make sense to invite a non-entity to sign an international instrument. That same day, Dulles conferred with Christopher E. Steel (Minister at the British Embassy), who suggested that Japan should be allowed to decide which China it wished to make peace with and how to do so. Steel stressed that neither the US nor Britain should meddle in Japan’s future relations with China. When Dulles asked how this could be accomplished, Steel responded that a provision could be made in the treaty that authorized Japan to sign a peace treaty with other governments at a later date, provided that this separate treaty

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<sup>327</sup> *FRUS* 1951, Vol. 6-1, 1044-5.

<sup>328</sup> The Netherlands, undated, RG59, Entry A1 1252, Lot 54D423, Netherlands, accessed via NIKH; Acheson to Sebald, 16 May 1951, *FRUS* 1951, Vol. 6-1, 1044-5.

<sup>329</sup> Talk with Sir Oliver Franks regarding Japanese peace treaty, 16 May 1951, RG59, Entry A1 1252, Lot 54D423, United Kingdom [I], accessed via NIKH.

<sup>330</sup> *Ibid.*

<sup>331</sup> Tate to Dulles, 22 May 1951, RG59, Entry A1 1252, Lot 54D423, China [January 6 - November 29, 1951], accessed via NIKH.

was not substantially different from the multilateral one.<sup>332</sup> This was later adopted as Article 26 and would act as an enabling clause for the 1952 bilateral ROC-Japan peace treaty.<sup>333</sup>

When Sebald on 19 May 1951 presented Dulles' telegram to Iguchi Sadao (Vice Foreign Minister) and inquired about Japan's views, the latter responded that Japan wanted the ROC to sign the treaty "concurrently and at the same ceremony with the other Allied Powers." When Sebald remarked that this might not be possible due to Allied opposition, Iguchi responded that Japan was "of the definite opinion that Chinese Nationalist participation in some form was desirable" and was open to either a separate peace arrangement or accession. Iguchi added that indefinite delay on the China question should be considered "only as a last resort," if absolutely necessary for achieving an early peace treaty. Iguchi also stressed that Japan "under no circumstances desired to sign the treaty" with PRC.<sup>334</sup> Hence, as Nishimura Kumao reminisces, Japan was open to the idea of excluding both Chinas from the treaty.<sup>335</sup>

With regards to what Japan really had in mind, scholars are divided. Chen Zhaobin and Jennifer Miller argue that Yoshida did not wish to choose one China over the other due to commercial concerns. In other words, because of his desire to uphold Japanese business interests in mainland China, Yoshida was reluctant to enter into peace with the ROC alone. Inoue Masaya believes otherwise. He accepts the view that Yoshida was interested in trade relations with the mainland and would later try to seek ties with both Chinas. However, he argues that this was not the case at the time of the Japanese peace treaty negotiations. Based on Japan's internal records, Inoue argues that Yoshida at this point was clearly against making peace with the PRC.<sup>336</sup> The American records corroborate Inoue's argument. His argument becomes all the more convincing, considering the fact that Yoshida since early 1950 had been advocating a "partial peace" instead of an "overall peace," as the latter entailed making peace with the communist bloc, which

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<sup>332</sup> Memorandum of Conversation: Chinese signature to the Japanese peace treaty, 22 May 1951, *Ibid.*

<sup>333</sup> Treaty of Peace with Japan, 8 September 1951, accessed via UN, <https://treaties.un.org/doc/publication/unts/volume%20136/volume-136-i-1832-english.pdf>.

<sup>334</sup> Handling of China in the peace settlement, 19 May 1951, RG59, Entry A1 1251, Lot 78D174, accessed via NIKH; Memorandum of Conversation: Handling of China in Peace Settlement, 19 May 1951, RG59, Entry A1 1252, Lot 54D423, China [January 6 - November 29, 1951], accessed via NIKH.

<sup>335</sup> Nishimura, *San Francisco Peace Treaty*, 319.

<sup>336</sup> Chen, *Japan's Post-War China Policy*, 7-76; Miller, *Cold War Democracy*, 144-5; Inoue, *The Political History of Sino-Japanese Normalization*, 16-23, 35-6.

Yoshida considered “outrageous.”<sup>337</sup> Yoshida’s China policy was therefore closely aligned with that of Dulles.

Meanwhile, the PRC and ROC continued to demand representation in the Japanese peace treaty. According to a note sent by Zhou Enlai to the Soviet Ambassador N.V. Roschin on 26 May 1951, the PRC argued that “all the states concerned” should take part in the Japanese peace treaty negotiation. Zhou added that China had engaged in a “heroic war” to defeat Japan, and thus it was “absolutely proper and just” that the PRC participate in the treaty. Zhou also accused the US of trying to exclude the PRC from negotiating the treaty.<sup>338</sup>

Likewise, Wellington Koo (ROC Ambassador to Washington) on 29 May 1951 defended the right of the ROC to sign the treaty. He emphasized that the ROC had fought the war against Japan, that it effectively controlled Formosa, and that the PRC would demand treaty terms unacceptable to the US. Dulles, however, responded that the “great majority” of the FEC members declined to be co-signers with the ROC and that it was “impossible” to embark on a course that would satisfy the ROC and the US but at the expense of ostracizing the other FEC countries. Dulles further explained that there was a valid question over whether or not the Chinese Nationalist government could effectively represent mainland China. This question of jurisdictional authority led certain countries – referring to Australia, Canada and New Zealand – to question the wisdom of inviting the ROC to sign the peace treaty, even though they recognized the Chinese Nationalist government. Amid such negative opinions about the ROC, Dulles also worried that insisting on inviting the ROC could delay the peace settlement.<sup>339</sup> While this meeting ended without any conclusion, it was clear that Dulles was now inclined to exclude the ROC, which essentially meant that no “China” would be represented in the treaty.

Certain British Commonwealth members were also increasingly inclined to exclude both Chinas. On 23 May 1951, Britain expressed agreement with Canada that both Chinas should be excluded; instead the treaty should allow China – with which one still to be determined – to either sign or accede at a later date.<sup>340</sup> Australia echoed this suggestion.<sup>341</sup> Ceylon also indicated

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<sup>337</sup> Igarashi, *Japanese Peace Settlement*, 190, 213-5; Extracts from “Summary of World Broadcasts,” RG25, 1940 Central Registry, General Registry, Peace treaty with Japan, Part 9, 1950/11/01-1951/02/14, accessed via NIKH.

<sup>338</sup> Chou addresses note to Roschin stating China’s support for Russia on peace pace, 26 May 1951, RG59, Entry A1 1252, Lot 54D423, China [January 6 - November 29, 1951], accessed via NIKH; Chou supports USSR on Japanese peace, 29 May 1951, RG59, *Ibid.*; 1679: Chinese communist statement regarding Japanese peace treaty, 1 June 1951, *Ibid.*

<sup>339</sup> Memorandum of Conversation: Japanese peace treaty, 29 May 1951, *Ibid.*

<sup>340</sup> Japanese Peace Treaty, 23 May 1951, CP(51)137, CAB129/45, NA.

its willingness to exclude both Chinas from the peace treaty when Allison conferred with Sir Claude Corea (Ceylonese Ambassador to Washington) on 23 May 1951.<sup>342</sup>

The exclusion of both Chinas from the Japanese peace settlement was finally agreed upon when Dulles travelled to London in early June 1951 in an attempt to finalize the treaty. On 4 June 1951, Dulles proposed inviting both Chinas to sign the treaty, since the Congress would not allow the exclusion of the ROC. It is likely that Dulles did not mind inviting communist China along with the Nationalists, as it was certain that the former would not sign a treaty that was intended to combat communism. What Dulles could not afford was to invite the PRC at the expense of the ROC. On 5 June 1951, however, Britain opposed Dulles' proposal, arguing that this amounted to recognizing both regimes and thus acknowledging the existence of two separate Chinese governments. Also, if the ROC signed the treaty, this would legitimize Chinese Nationalist ownership of Taiwan and give the Chiang regime "greater status," which Britain thought was unacceptable. Finally, it contended that, while both Britain and the US were trying to get as many countries as possible to sign the peace treaty, inviting the ROC to sign the treaty would eliminate "most, if not all, of Asian states and probably others" as well. Instead, Britain suggested adding a provision for the FEC powers to decide later through a two-thirds majority voting system which of the two Chinas would adhere to the treaty.<sup>343</sup>

On 7 June 1951, the State Department, while agreeing to the exclusion of the two Chinas, developed a different proposal. Instead of having the FEC decide, Japan should be able to choose with which China it wished to conclude a peace treaty.<sup>344</sup> The British Cabinet on 8 June 1951 rejected the US suggestion, arguing that there was no sufficient guarantee that Japan would not conclude a bilateral peace treaty with the ROC. Dulles, however, insisted that Japan should be given full decision-making power in determining its future relations with China. Dulles added that if the British proposal were adopted, then the FEC member states would again be divided.

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<sup>341</sup> Japanese peace treaty, 25 May 1951, RG59, Entry A1 1252, Lot 54D423, New Zealand, accessed via NIKH.

<sup>342</sup> Memorandum of Conversation: Ceylon Government's comments on draft Japanese peace treaty (conversation with Ambassador of Ceylon), 23 May 1951, RG59, Entry A1 1252, Lot54D423, Ceylon, accessed via NIKH.

<sup>343</sup> Dulles to Acheson, 5 June 1951, *FRUS* 1951, Vol. 6-1, 1106.

<sup>344</sup> 6433: Gifford (Dulles) to Acheson, 7 June 1951, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH.

He also expressed his displeasure at Britain seeming to distrust the US. With Dulles unyielding, Britain ultimately acquiesced.<sup>345</sup>

Dulles' arguments were rather specious. While he argued that no foreign power should impose its will on Japan, he himself was determined to prevent Japan from entering into any peace arrangement with the PRC. He would later come back to Tokyo in December 1951 with his entourage of two Senators from the Foreign Relations Committee (Smith and Sparkman) to obtain a written pledge from Yoshida that Japan would not sign a peace treaty with the PRC.<sup>346</sup> With regards to the FEC, more than half of the members were against the ROC, which meant that if a two-thirds majority voting system had been adopted, there was a good chance that Japan might have ended up signing a peace treaty with the PRC. It was precisely because of this prospect that Dulles took an uncompromising stance and opposed the British proposal. Of course, Dulles could also confidently insist on Japan's free will, because he knew Yoshida was strongly opposed to signing a peace treaty with the PRC.

Swenson-Wright points to the fact that Dulles insisted on Japan's free will to choose the China of its own choice as evidence that he genuinely made an effort to treat Japan as an equal and was not as heavy-handed in his approach as hitherto thought.<sup>347</sup> While this is true, it should be noted that Dulles did not have to be heavy-handed, because Yoshida's China policy at this time dove-tailed with his own. Had Japan ever insisted on establishing formal ties with the PRC, it is doubtful that Dulles would have agreed to Japan's free will to proceed with official dialogue with the Chinese communists. In this sense, Dulles' insistence on Japan's free will was motivated less by respect for Japan's freedom to choose, and more by his determination to prevent the FEC from opening the door to a Japan-PRC peace treaty.

What is interesting is that while the discussion was still on-going between Dulles and the British delegates, Yeh on 7 June 1951 informed Karl Rankin (US Ambassador to Taipei) that he wanted to explore the possibility of signing a separate bilateral peace treaty with Japan that would be signed "at the same time" as the multilateral one to be signed by the other Allies. Although a "less satisfactory alternative" to the multilateral one, he stated that a separate peace

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<sup>345</sup> Japanese peace treaty, 8 June 1951, FJ1022/547, FO800/639, NA; 6438: Gifford (Dulles) to Acheson, 8 June 1951, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH; 6456: Gifford (Dulles) Acheson, 8 June 1951, *Ibid.*

<sup>346</sup> Cohen, *Political process and foreign policy*, 146.

<sup>347</sup> Swenson-Wright, *Unequal Allies?*, 77-105.



treaty was still “much preferable” to accession at a later date.<sup>348</sup> Although Dulles did not agree with the idea of the simultaneous signing of the two treaties, the ROC’s willingness to negotiate a separate peace treaty with Japan must have been a tremendous relief for him.

On 14 June 1951, a revised joint US-UK draft treaty was developed, and China was officially removed from the list of signatories. Dulles remarked that this was necessary in light of Allied disagreement and the urgency of concluding a Japanese peace treaty.<sup>349</sup> When Dulles informed Taipei of the Anglo-American agreement to exclude both Chinas on 18 June 1951, Yeh decried the decision as being “discriminatory and unacceptable,” denounced the fact that foreign governments were dictating the fate of China, and once again demanded that the ROC be invited to sign the multilateral treaty.<sup>350</sup> Chiang Kaishek and local newspapers also criticized the exclusion of ROC from the peace treaty as constituting a “vicious betrayal” that could only work favorably for the communists.<sup>351</sup>

Regardless, the joint US-UK decision to exclude both Chinas was made public on 19 June 1951.<sup>352</sup> The State Department defended its decision to exclude the ROC as being necessary due to the lack of agreement among FEC members over which regime, lawfully and practically, represented the “whole Chinese nation.” Even when Senator Harry P. Cain (Republican, Washington) protested in August 1951 against the exclusion of the ROC, Dulles defended his decision as being necessary, explaining that only two of the FEC member states – the Philippines and the US – were willing to be co-signers with the National Government.<sup>353</sup>

## Conclusion

To conclude, the ROC was not able to sign the Japanese peace treaty, largely because of its own failure, as it had lost the Chinese Civil War, leaving the bulk of Chinese territory and population under communist control. This led to the question of who legitimately represented “China.” Also important, however, was the international factor. By the time of the Japanese peace treaty

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<sup>348</sup> 1684: Rankin to Acheson, 7 June 1951, RG59, Entry A1 1252, Lot 54D423, Taipei, accessed via NIKH.

<sup>349</sup> Chinese participation and Formosa, 14 June 1951, RG59, Entry A1 1252, Lot 54D423, Dulles Black Book, accessed via NIKH.

<sup>350</sup> 1736: Rankin to Acheson, 18 Jun 1951, RG59, Entry A1 1252, Lot 54D423, Taipei, accessed via NIKH.

<sup>351</sup> President Chiang’s statement on peace treaty with Japan, 18 June 1951, *Ibid.*; 1740: Rankin to Acheson, 19 June 1951, *Ibid.*; News clipping (Associated Press), 18 June 1951, RG59, Entry A1 1252, Lot 54D423, China [January 6 - November 29, 1951], accessed via NIKH.

<sup>352</sup> Rusk to Rankin, 21 June 1951, *FRUS* 1951, Vol. 6-1, 1135.

<sup>353</sup> Dulles to Acheson, 3 August 1951, RG59, Entry A1 1252, Lot 54D423, Congressional (A-H), 1950-52, accessed via NIKH.

negotiations between 1950 and 1951, both the PRC and the ROC demanded to be invited to sign the treaty in an effort to enhance their own prestige and legitimacy while undermining that of the other. The principal negotiating powers were divided in their response. Whereas the US and the Philippines supported the ROC, all the other members of the FEC were against it, with some – Britain, India and the Soviet Union – advocating PRC representation. Because of this united opposition against the ROC, the US was technically isolated. Thankfully for the US, Japan indicated that it would not sign a peace treaty with the PRC but that it was open to negotiating a separate bilateral arrangement with the ROC. Equally important was the fact that the ROC was also resigned to the idea of negotiating a separate peace treaty with Japan. Meanwhile, a number of countries argued that both Chinese regimes had to be excluded for the sake of an early peace settlement. Against this backdrop, Britain and the US as co-sponsors of the peace treaty agreed to exclude both Chinas. However, the US left the door open for Japan and the ROC to sign a separate peace treaty at a later date by insisting that the Japanese be allowed to freely choose which China they wanted peace with.

Perhaps worth noting here is that while scholars have attributed Congressional pressure as being the driving force behind Dulles' sustained opposition to any peace settlement between Japan and the PRC, one must remember that Dulles himself was a firm supporter of the ROC.<sup>354</sup> In other words, even without the China Lobby, it is highly likely that Dulles, driven by his own anti-communist conviction, would have proactively sought ways to ensure the Chinese Nationalist participation in the peace treaty. Certainly, the Senatorial opposition to the exclusion of the ROC provided a powerful momentum and bargaining chip for Dulles to ward off any suggestions of inviting the PRC and excluding the ROC. But Dulles never needed anybody to tell him that the PRC should not be allowed to enter into a formal relationship with Japan at the expense of the ROC.

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<sup>354</sup> Schonberger, *Aftermath of War*, 270; Schonberger, "Peacemaking in Asia," 63; Hara, *Cold War Frontiers*, 65; Miller, *Cold War Democracy*, 144; Swenson-Wright, *Unequal Allies?*, 78-9.

## Chapter 5. The Question of South Korean Participation

This chapter examines why South Korea was not able to sign the Japanese peace treaty. There was a glimmer of hope in Seoul between late 1949 and early 1951 that the US would support the southern-based Republic of Korea's participation in the peace settlement. However, these hopes were dashed in June 1951, when Britain and the US agreed to exclude South Korea from the treaty. This resulted from a complex interplay between the big power interests – specifically Britain, Japan and the US – and South Korea's own diplomatic blunder.

South Korea's exclusion from the Japanese peace settlement is significant in many respects. Not only was it one of the most contentious issues at the time of the treaty negotiations, but also it was a contributory factor to the postwar animosity between Korea and Japan involving the so-called “history issues.” Since South Korea could not sign the peace treaty, it was not recognized as a belligerent in the Pacific War, which deprived it of an opportunity to demand war reparations. This generated a feeling in Korea that the wrongful past had never been properly settled. This is today expressed most prominently in Korea's efforts to press Japan to compensate the “comfort women” victims and those conscripted as labor force. Taking these into account, one cannot avoid asking the question: why was South Korea excluded from the list of signatory states to the Japanese peace treaty?

The case of South Korea's exclusion from the Japanese peace settlement is a topic that has been amply dealt with in Korea and Japan but is almost unknown outside. Hence, this chapter introduces an important piece of postwar history of Northeast Asian to audiences outside of Korea and Japan. Also, it seeks to build on the existing findings. While Tsukamoto Takashi, Kim Minsoo, Chŏng Pyŏngchun, Pak Chinhŭi and Kang Seungmo have all examined this question, none of these works sufficiently elaborate the effects that the post-WWI peace settlement and the post-WWII Italian peace treaty had on the Korean question.<sup>355</sup> This chapter therefore seeks to fill this gap and suggests that South Korea's postwar fate was tied up with the

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<sup>355</sup> 塚本孝 [Tsukamoto Takashi], “韓國の対日平和条約署名問題--日朝交渉,戦後補償問題に関連して” [The Question of Korean Participation in the Japanese Peace Treaty: Japan-Korea negotiation and post-war compensation], *Reference* 42-3 (March 1992): 95-100; Kim Min Soo, “The Debate over Korean Participation in the Japanese Peace Treaty,” *Kokusai Seiji* 131 (October 2002): 133-147; Chŏng, *The Liancourt Rocks*; 박진희 [Pak Chinhŭi], “한국의 대일강화회담 참가와 대일평화조약 서명 자격 논쟁” [The Question of Korean Representation in the Japanese Peace Treaty] in *한국 근현대 정치와 일본 2 (해방후)* [*Modern Korean Politics and Japan (post-liberation era)*], edited by 이창훈 [Yi Ch'anghun] and 전상숙 [Chŏn Sangsuk] (서울 [Seoul]: 선인 [Sŏnin], 2010), 121-56; Pak, *Korea-Japan Normalization Talks*, 27-96; Kang, “The Question of South Korean Participation in the Japanese Peace Treaty,” 153-177.

wider world, and not simply Northeast Asia's regional dynamics. Furthermore, while Chŏng and Pak argue that South Korea brought forth its own exclusion by making punitive demands, this chapter argues that South Korea's blunder lay elsewhere, namely in raising the possibility of a separate bilateral dialogue with Japan.

### **The Emergence of the South Korean Question and Initial Uncertainty**

Here, it is necessary to provide a brief overview of the history of Korea's annexation and independence. Korea was turned into part of the Japanese Empire through a series of agreements, recognized by the other Great Powers, in the early twentieth century, beginning with a treaty in 1905 that relegated Korea into being a protectorate and ending with the annexation treaty of 1910, in which Korea relinquished its sovereignty to Japan. Thereafter, Korea was ruled by Japan, both factually and legally, until August 1945. While there were resistance movements, both peaceful and militant, the Korean people unfortunately were not able to regain their independence. Although there was a government in exile based in China, it was never accorded any recognition by outside powers. Also, while the 1943 Cairo Declaration promised Korea independence in "due course" when and how exactly this would be achieved was never specified. Furthermore, while the US and the Soviet Union agreed on the need for a trusteeship for Korea at the Yalta Conference, no concrete plans were developed. Only when Japan surrendered on 15 August 1945 was Korea finally liberated. Sadly, the liberation was accompanied by the peninsula's division into two competing blocs, which became formal in 1948 with the founding of the Republic of Korea (ROK) in the south and the Democratic People's Republic of Korea (DPRK) in the north, each under the respective auspices of the US and the Soviet Union. Thereafter, the US sought not only to ensure South Korea's survival, but also to build up its legitimacy. It was against this backdrop that Korea's representation in the Japanese peace treaty was discussed.

The US first contemplated the question of Korean representation in 1947, when it proposed a peace conference. At the time, the US and the Soviet Union were working to reunify Korea, which was still divided into two temporary occupation zones.<sup>356</sup> When the interim legislative assembly of southern Korea demanded that it be invited to negotiate the peace treaty

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<sup>356</sup> Webb to Jacobs, 15 August 1947, *FRUS* 1947, Vol. 6, 754; Jongsoo James Lee, *The Partition of Korea after World War II: a global history* (New York: Palgrave Macmillan, 2006), 86-126.

on 29 August 1947, the US feared that, if it accepted this request, the Soviet Union might insist on inviting the northern half, which could adversely affect the reunification effort. Hence, the State Department argued that Korea should potentially be invited “only in the capacity of an observer.”<sup>357</sup> Of course, the proposed peace conference never took place and consequently the Korean question was shelved.

The question of Korean participation was revisited by the State Department in 1949, when the momentum for negotiations began to revive. On 2 November 1949, the initial State Department position was that “Korea should not participate in a peace treaty with Japan.”<sup>358</sup> However, throughout 1949, Rhee – together with Yi Pömsök (ROK Prime Minister) and Yi Siyöng (ROK Vice President) – expressed strong interest before the Korean press in partaking in the peace settlement.<sup>359</sup> Accordingly, John J. Muccio (US Ambassador to South Korea) cabled Washington on 3 December 1949, recommending that Korea should participate “in consultative capacity.” He observed that the Koreans believed that they had been a “belligerent” in that they had fought in the anti-Japanese resistance war in China and therefore naturally expected to be invited to the peace settlement. Furthermore, if South Korea were “entirely excluded,” its prestige would be “seriously impaired,” which would not only disappoint Koreans, but also constitute a “backward step” in fostering the country. Muccio also argued that problems between Korea and Japan could be better resolved through a multilateral peace treaty than through “bilateral [Korean-Japanese] negotiation.”<sup>360</sup>

On 12 December 1949, the State Department responded that there were strong arguments under international law for not inviting South Korea to sign the treaty. To begin with, Japan’s annexation of Korea was “recognized by almost all countries, including the US, and no general recognition was given [to] any Korean state or government until 1948.” Secondly, the “Korean nationalist organizations outside Korea,” such as the Korean Provisional Government (KPG) founded in 1919, “were not given any formal international recognition.” Third, the legal status of Korea had “not been established definitely since World War II.”<sup>361</sup> In other words, it was unclear if Korea was an independent state. Of course, South Korea was a *de facto* independent country at

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<sup>357</sup> Jacobs to Marshall, 29 August 1947, *FRUS* 1947, Vol. VI, 511.

<sup>358</sup> Treaty of Peace with Japan, 2 November 1949, *op. cit.*

<sup>359</sup> 동아일보 [Tonga Ilbo], 8 January 1949; 경향신문 [Kyönghyang sinmun], 18 November 1949; Tonga Ilbo, 24 November 1949.

<sup>360</sup> Muccio to Marshall, 3 December 1949, *FRUS* 1949, Vol. 7-2, 911.

<sup>361</sup> DRF 163: Participation of the Republic of Korea in the Japanese Peace Settlement, 12 December 1949, RG59, Records of the Division of Research for Far East, 250/49/24/3-4/E.1360/Box4, National Library of Korea (NLK).

the time. Not only had the UN recognized it as a government on 12 December 1948, but also South Korea had already exchanged ambassadors with China (ROC), the Philippines and the US.<sup>362</sup> However, from a legal point of view, the 1910 annexation treaty had neither been rescinded nor superseded by another treaty. Hence, it was questionable under international law if Korea was no longer Japan's colony. In turn, whether or not South Korea could be acknowledged as a former belligerent of Japan and entitled to sign the peace treaty was unclear.

Equally important was that there was a prevalent feeling in Korea that Japan should pay for the damage done during the colonial period. In March and September 1949, for instance, the South Korean National Assembly published a summary of reparations claim that amounted to over 2 billion US dollars.<sup>363</sup> Hence, there was a fear that South Korea might take a “strong stand” on indemnification rights and go against the existing US policy of terminating all reparations (see Chapter 2).<sup>364</sup>

The State Department was also concerned that agreeing to South Korean participation would “draw demands for similar participation” from North Korea. Moreover, if the US declined North Korean participation but invited the regime in Seoul, the communist bloc would engage in vicious propaganda against South Korea, denouncing it as “pro-Japanese” and placing it in “embarrassing positions.” This was not an empty concern, as the Rhee government had recruited a lot of former pro-Japanese collaborators, especially the police who had suppressed the anti-Japanese resistance movement during the colonial era. Even worse was that the police on 6 June 1949 had launched an armed attack against the members of a special tribunal that had been organized by the South Korean legislative body to punish pro-Japanese collaborators. Rhee had turned a blind eye to this incident and even defended the police as being vital in combating communism. After the attack, the special tribunal was terminated in June 1949.<sup>365</sup> In other words,

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<sup>362</sup> 대한민국외교부 [ROK MOFA], *대한민국외교 60년, 1948-2008 [60 Years of ROK Diplomacy, 1948-2008]* (서울 [Seoul]: 외교통상부 [ROK MOFA], 2008), 482.

<sup>363</sup> Chang, *The Past Unsettled*, 93-202; Ōta, *Japanese-Korean Claims Negotiation*, 39-92; Pak, *Korea-Japan Normalization Talks*; 浅野豊美 [Asano Toyomi], “帝国日本の解体と日韓国交正常化: 植民地の物理的清算と心理的清算—請求権の法的性格と異なる「相殺」構想” [The Dissolution of the Japanese Empire and Korea-Japan Normalization: psychological and material decolonization – the claims settlement and mutual relinquishment formula], in *The Question of Postwar Japanese Reparations and Re-orientation of East Asia*, edited by Asano Toyomi (Nagoya: Chukyo University Press, 2013), 47-51.

<sup>364</sup> *Ibid.*

<sup>365</sup> 허정 [Hö Chong], *반민특위조직과 활동: 친일파청산, 그 좌절의 역사 [The Organization and Activities of the Special Tribunal for Pro-Japanese Collaborators: history of liquidation efforts and its failure]* (서울 [Seoul]: 선인

the legitimacy of South Korean government was already stained and it could suffer further damage if invited to the peace conference. There was also the danger that South Korea might take a deliberately “punitive” stance against Japan in order to counter its collaborationist image.<sup>366</sup>

Various legal and political factors, therefore, seemed to point against South Korean participation. Nevertheless, the State Department acknowledged that “complete rejection of Korean participation” would cause resentment against the US. It understood that Korea’s sense of entitlement ran deep, because of its suffering throughout the annexation period. Hence, it had to grant at least “the appearance, though not necessarily the substance, of a consultative role.” Meanwhile, whether or not South Korea would sign the peace treaty would be decided later, based on Korea’s “conduct” and “opinion.”<sup>367</sup> While the State Department had not yet made a final decision, “Korea” was therefore added as one of the potential signatories in the 29 December 1949 US draft treaty.<sup>368</sup>

### **The Transformation of the US Attitude and Reactions from Britain and Japan**

With the outbreak of the Korean War, the US abandoned its early ambiguity and expressed unequivocal support for South Korea participation in the Japanese peace treaty. In July 1950, the State Department remarked that South Korea could augment its prestige by signing the treaty on behalf of “Korea.” However, South Korea should only be invited in a “consultative capacity” rather than as a “negotiating” member.<sup>369</sup>

Meanwhile, Yu Chino – a member of a special ad hoc committee for developing South Korea’s policy regarding the Japanese peace settlement – submitted a long analysis to Rhee in defense of South Korea’s right to sign the treaty. In this report, dated October 1950, Yu pointed out that after WWI, Poland and Czechoslovakia had become independent and had both been allowed to sign the peace treaty with Germany and Austria. Yu also stressed that after WWII, Albania and Ethiopia had become independent and took part in the peace treaty with Italy; the latter signed the treaty while the former was invited to accede at a later date. In other words,

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[Sönin], 2003); 이강수 [Yi Kangsu], *반민특위연구* [The Study of Special Tribunal for Pro-Japanese Collaborators] (과주 [P’aju]: 나남 [Nanam], 2003).

<sup>366</sup> DRF 163: Participation of the Republic of Korea in the Japanese Peace Settlement, *op. cit.*

<sup>367</sup> *Ibid.*

<sup>368</sup> Allison to Fearey, 23 February 1950, *op. cit.*

<sup>369</sup> Commentary on 1947 Treaty, July 1950, RG59, Entry A1 1230, Lot 56D527, NARA.

Korea's lack of independence until 1945 should not hinder it from participating in the peace treaty.<sup>370</sup> Subsequently, on 31 November 1950, Rhee once again requested Washington to invite South Korea to participate in both the “negotiation and signing” of the Japanese peace treaty, arguing that Korea had been subjected to “Japanese aggression,” had engaged in “anti-Japanese belligerency” and made a “significant contribution” to defeating Japan.<sup>371</sup>

Rhee also elicited British support. On 11 December 1950, the South Korean Mission in London informed the Foreign Office that South Korea was “vitaly interested” in the Japanese peace settlement. The Foreign Office responded that there were legal difficulties. Korea remained “part of the Japanese Empire” until the termination of hostility, and considering that the Japanese peace treaty would “bring Korea into existence as an independent state,” inviting Korea as a party would be difficult.<sup>372</sup> As was the case with the US, Britain's position was that for Korea to be legally independent, the 1910 annexation treaty had to be either rescinded or superseded by another treaty. Britain believed that the Japanese peace treaty would fulfill this role, and that until then Korea was not legally independent. The Foreign Office also internally remarked that there was no precedent for the “association of a state formed out of part of the territory of a defeated enemy with the negotiation of a peace treaty between it and the victors.”<sup>373</sup> In short, South Korea could neither negotiate nor sign the treaty.

As a possible concession, Britain briefly entertained the idea of allowing South Korea to accede at a later date. To elaborate, in early January 1951 the Foreign Office noted that Albania – which had been conquered and occupied by Italy, and later Germany during WWII, and had no exile government recognized by the Allies – nevertheless had been invited to the Italian peace conference to express its views and later acceded to the Italian peace treaty. It therefore followed that Korea could “express its views” and accede to the Japanese peace treaty later.<sup>374</sup> However, the idea was quickly shelved, as the Foreign Office's legal adviser identified an important weakness in this argument. A “fiction” had always been maintained that Albania had never lost its sovereignty and was automatically treated as an independent country after the war. In contrast,

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<sup>370</sup> 대일강화조약에 관한 기본태도와 그 법적 근거 [Korea's Position regarding the Japanese Peace Settlement and its Legal Basis, October 1950], Frame: 36-9, accessed via Northeast Asia History Foundation.

<sup>371</sup> Instructions to the Foreign Minister from the President, 31 November 1950, 이승만서한철 [Rhee Papers], NIKH.

<sup>372</sup> Conversation between the Secretary of State and the Korean Minister: Participation of the Government of Korea in the Signing of a Japanese Peace Treaty, 11 December 1950, FJ1021/214, FO371/83837, NA.

<sup>373</sup> Memorandum by C.P. Scott: Participation by Korea in the signing of a Japanese Peace Treaty, 11 December 1950, FJ1021/215, FO371/83837, NA.

<sup>374</sup> Korea and a Japanese Peace Treaty, 1 January 1951, FJ1021/214, FO371/83837, NA.



Korea had “unquestionably” been part of Japan and was to become independent through the Japanese peace treaty.<sup>375</sup> In short, Korea should not take part in the Japanese peace treaty in any capacity.

Around this time, South Korea dispatched a series of curious messages to Washington. On 4 January 1951, Chang Myŏn (ROK Ambassador to the US) sent a letter to Acheson requesting that South Korea be bestowed the “privilege” of signing the peace treaty. Rhee immediately reprimanded Chang on 14 January 1951 for his word choice, which was too subservient and “entirely contrary” to Rhee’s attitude. Rhee told Chang to revise the wording and demand that South Korea should either sign the peace treaty or convene a “separate peace conference with Japan.”<sup>376</sup> Chang complied and relayed this message to Dean Rusk (Assistant Secretary for Far Eastern Affairs) and Acheson on 17 January and 20 January 1951 respectively.<sup>377</sup>

In doing so, South Korea essentially expressed – not once, but twice – its willingness to forgo signing the peace treaty and instead to engage in separate normalization talks with Japan. It is unclear why Rhee decided to chart the course this way. It is possible that he thought the problems between Korea and Japan were special and thus required a separate dialogue. Indeed, as early as 28 November 1950, Rhee confided to the South Korean Ambassador in Washington that there were “acute problems” – including the termination of annexation treaty, the legal status of Korean residents in Japan, and bilateral commercial relations – that had to be solved “between the authorities of the two Governments.”<sup>378</sup> It is also possible that Rhee, who had been suspicious of Japan’s potential for aggression in the past and continued to remain so in the post-treaty era, did not wish to sign a treaty that was premised on Japan’s remilitarization.<sup>379</sup> In fact, as explained below, he opposed Japanese rearmament in April 1951.

Whatever the reason, South Korea made a major diplomatic blunder, as the US now had a legitimate pretext to exclude South Korea from the peace treaty. Of course, South Korea had not

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<sup>375</sup> G.G. Fitzmaurice response to ‘Korea and a Japanese Peace Treaty,’ 3 January 1951, FJ1021/214, FO371/83837, NA.

<sup>376</sup> Rhee to Chang, 14 January 1951, Rhee Papers, NIKH.

<sup>377</sup> *FRUS* 1951, Vol. 7-1, 97; Chang to Acheson, 20 January 1951, Rhee Papers, NIKH.

<sup>378</sup> Government policies in regard to Japanese Peace Treaty, 28 November 1950, NIKH.

<sup>379</sup> Syngman Rhee, *Japan Inside Out: The Challenge of Today* (New York: Fleming H. Revell Company, 1941); 차상철 [Ch’a Sanch’ŏl], “이승만과 한미상호방위조약” [Rhee Syngman and the ROK-US Mutual Defense Treaty] in *한국과 6.25 전쟁* [Korea and the Korean War], edited by 유영익, 이채진 편 [Young Ick Lew and Chae-jin Lee] (서울 [Seoul]: 연세대학교 출판부 [Yonsei University Press], 2002), 255-298.

yet given up all hope of signing the peace treaty. Indeed, on 26 January 1951 Chang once again brought up the prospect of South Korean participation, to which Dulles responded that the US “would continue to support the right of the Republic of Korea to participate in the Japanese peace settlement.”<sup>380</sup>

Britain, meanwhile, continued to oppose South Korean participation. When Britain was informed by the US that the March 1951 draft peace treaty would be delivered to Rhee, the Foreign Office internally noted that South Korea should neither be consulted nor invited to sign, especially as its fate remained uncertain due to the recent military reversal resulting from the PRC’s intervention.<sup>381</sup> When the Americans and British met to discuss the Korean question on 21 March 1951, the former explained that it wished to keep South Korea updated on the treaty talks for “political reasons,” while the latter opposed this because of Korea’s “legal position.”<sup>382</sup> When the two delegates convened again on 22 March 1951, Britain opposed treating South Korea as one of the parties to the treaty, arguing that from a legal point of view Korea was “part of the Japanese Empire” and was thus “never at war with Japan.” In response, the US “recognized the legal point,” but stressed that there were “political arguments in favor of the Republic of Korea being included.”<sup>383</sup> On 27 March 1951, the US informed Britain that the question of Korean participation should not be determined purely on “legalistic grounds.”<sup>384</sup>

However, Britain remained opposed. On 30 March 1951, the Foreign Office internally noted that since the idea of excluding the “two Chinas” from the treaty was being entertained, the “two Koreas” should also be excluded from the treaty. In addition, it observed that if South Korea were chosen over North Korea to be represented in the treaty, as the US suggested, then the PRC and the Soviet Union would protest.<sup>385</sup> While Herbert Morrison – who had succeeded Bevin as the British Foreign Secretary – on 16 April 1951 expressed his willingness to acquiesce to the US position over South Korea, this was his own personal opinion and not that of the

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<sup>380</sup> Memorandum of Conversation (Chang and Dulles), 26 January 1951, *FRUS* 1951, Vol. 6-1, 817.

<sup>381</sup> Telegram from Washington to London, 14 March 1951, FJ1022/134, FO371/92534, NA; Comments by C.P. Scott, 18 March 1951, FJ1022/134, FO371/92534, NA; F.S. Tomlinson to C.H. Johnston, 30 March 1951, FJ1022/188, FO371/92536, NA.

<sup>382</sup> Memorandum of Conversation (Allison and Scott), 21 March 1951, *FRUS* 1951 Vol. 6-1, 941.

<sup>383</sup> C.H. Johnston to F.S. Tomlinson, 22 March 1951, FJ1022/121, FO371/92533, NA.

<sup>384</sup> F.S. Tomlinson to C.H. Johnston, 27 March 1951, FJ1022/194, FO371/92536, NA.

<sup>385</sup> Tokyo (George Clutton) to Foreign Office, 30 March 1951, FJ1022/198, FO371/92536, NA.

Foreign Office.<sup>386</sup> For legal and political reasons, Britain remained opposed to South Korean participation.

When Britain and the US conferred again in May 1951, the former continued to insist that South Korea should not sign the treaty. To dissuade the US, Britain contended that supporting South Korean participation was more of a political liability than an advantage. Britain pointed out, against the backdrop of the two Chinas being formally excluded from the treaty, that allowing South Korea to sign the treaty could antagonize certain Asian countries, specifically neutralist Burma, India and Indonesia, all of whom supported the PRC.<sup>387</sup> This was a serious issue, as Britain and the US were desperately trying to secure as many Asian participants as possible to sign the Japanese peace treaty, lest it become a white men's pact with Japan.<sup>388</sup> In response, the US simply repeated its belief that there would be "political advantages" to South Korea's participation.<sup>389</sup>

Japan also initially opposed South Korean participation. When Yoshida conferred with Dulles on 23 April 1951, the former stated that Korea should not be a signatory for three reasons. First, Korea was not in a state of war or belligerency. Second, Korea was not yet an independent country. Third, if Korea became a signatory, "one million Koreans residing in Japan, most of them Communist, would have the property and compensation rights (derived from the Treaty) of Allied nationals."<sup>390</sup> In response, Dulles indicated that the US wished to build up the "prestige" of South Korea by inviting it to sign the treaty. However, he shared Yoshida's concerns and assured him that the issues of Korean compensation rights "could and should be taken care of."<sup>391</sup> Yoshida responded that Japan would not oppose inviting South Korea to sign the treaty, if it were "definitely assured" that Korean residents in Japan would "not" acquire the "status of Allied Powers nationals."<sup>392</sup>

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<sup>386</sup> Japanese Peace Treaty: Memorandum by the Secretary of State for Foreign Affairs, 16 April 1951, CAB129/45/29, NA.

<sup>387</sup> Anglo-American meetings on Japanese Peace Treaty, Summary Record of Seventh Meeting, 3 May 1951, FO371/92547, FJ1022/376, NA.

<sup>388</sup> Anglo-American meetings on Japanese peace treaty, Summary Record of Ninth and Final Meeting, 4 May 1951, FO371/92547, FJ1022/378, NA.

<sup>389</sup> Japanese Peace Treaty: Records of meeting between our representative and Mr. Dulles, 3 May 1951, FO371/92547, FJ1022/370, NA.

<sup>390</sup> Korea and the Peace Treaty, RG59, Lot 56D527, Box 7, "Second Tokyo Trip (April 1951)," NARA.

<sup>391</sup> Memorandum of Conversation (Dulles and Yoshida), 23 April 1951, *FRUS* 1951 Vol. 6-1, 1007.

<sup>392</sup> Yoshida to Dulles, 23 April 1951, *Ibid.*, 1011.

In sum, the US was engaged in a lonely battle to include South Korea as a signatory. No other country rallied behind the US in support of South Korean representation in the peace treaty. Instead, Britain, the most important partner in the peace negotiations, consistently objected to it. Combined with South Korea's response that did not exactly conform with the US plans, as explained below, the State Department finally discarded the idea inviting South Korea to San Francisco.

### **The Exclusion of South Korea**

South Korea responded to the March 1951 draft on two occasions: on 10 April and 26 April 1951. It demanded that it should be consulted as a negotiating power and be given recognition as an Allied power.<sup>393</sup> It further stressed that Korea had formally declared independence on 1 March 1919 and that “from that date on until the liberation of Korea in 1945 engaged in a state of belligerency against Japan.”<sup>394</sup>

On 9 May 1951, the State Department drafted an analysis of South Korea's response. The US likened South Korea to Poland during and after WWI. This comparison was both fascinating and apt, as both countries had been occupied in the past by foreign powers and had both liberation and collaborationist elements.<sup>395</sup> However, unlike the Polish provisional government that had been set up and recognized by the Entente powers during WWI, the Korean exile government (KPG) had never been recognized. The fact that the KPG had declared war on Japan and had fought against it in China thus had “no significance.”<sup>396</sup> In other words, Korea had never been accepted as a belligerent and was therefore not fit to sign the peace treaty. Consequently, on 1 June 1951, the State Department concluded that “in agreement with the British position, Korea is not entitled to be a signatory.”<sup>397</sup>

Dulles relayed this decision to Yang Yuch'an (Chang's successor as the ROK Ambassador) on 9 July 1951, explaining that South Korea would not be invited to sign the treaty, as “only those nations in a state of war with Japan and which were signatories of the UN

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<sup>393</sup> Chang to Dulles, 10 April 1951, *op. cit.*

<sup>394</sup> Limb to Dulles, 26 April 1951, *op. cit.*

<sup>395</sup> Kay Lundgreen-Nielsen, *The Polish problem at the Paris Peace Conference: a study of the policies of the Great Powers and the Poles, 1918-1919* (Odense: Odense University Press, 1979).

<sup>396</sup> Comments on Korean Note Regarding US Treaty Draft, 9 May 1951, RG59, Entry 1252, Lot54D423, Korea [October, 1948 - August 16, 1951], accessed via NIKH.

<sup>397</sup> Japanese Peace Treaty: Working Draft and Commentary Prepared in the Department of State, 1 June 1951, *Ibid.*, 1068-1069.

Declaration of January 1942 would sign the treaty.”<sup>398</sup> The South Korean government protested vehemently – on 19 July and 16 August 1951 – arguing that Korea had been engaged in a war against Japan in China under the KPG’s leadership, and that its exclusion would damage public morale.<sup>399</sup> Yang also made a scathing press statement on 28 July 1951, expressing “fury” at the “unsound” decision to exclude South Korea.<sup>400</sup> Unfortunately for Korea, the US decision was final and South Korea was not accorded the status of a signatory. Subsequently, at the San Francisco Peace Conference (5 September 1951), Dulles announced that South Korea would not sign the treaty because “Korea was never at war with Japan,” as it had “tragically lost its independence long before” the Pacific War and did not regain independence until after Japan had surrendered. While many individual Koreans were engaged in anti-Japanese resistance wars, they were private individuals and “not recognized governments.”<sup>401</sup>

Why did the US change its mind and decide to exclude South Korea? As pointed out by Pak Chinhŭi, one big reason was that Britain and Japan, two of the most important parties to the peace treaty, expressed opposition and the US could not ignore this.<sup>402</sup> But, simply blaming the Americans, British and Japanese is an over-simplified narrative. As a number of Korean scholars argue, Korea also shared the blame, as it committed a major diplomatic blunder.

So what exactly was the mistake that South Korea made? Yu Chino and Pak Chinhŭi argue that Korea did not pay enough attention to the peace treaty talks and sent its response to the US too late.<sup>403</sup> However, as Chŏng Pyŏngchun points out, Korea’s response (sent in April 1951) was not late compared to those of the other governments.<sup>404</sup> Indeed, most of the FEC member states, the “principal parties” to the Japanese peace settlement, sent their responses between mid-April and mid-May 1951. For instance, Britain responded with its own draft peace treaty on 7 April.<sup>405</sup> Based on peripheral evidence, the Netherlands seems to have responded on

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<sup>398</sup> Memorandum of Conversation (Dulles and Yang), 9 July 1951, *FRUS* 1951, Vol. 6-1, 1183.

<sup>399</sup> Memorandum of Conversation (Dulles and Yang), 19 July 1951, *Ibid.*, 1205; Memorandum of Conversation (Rusk and Yang), 16 August 1951, *FRUS* 1951, Vol. 7-1, 823.

<sup>400</sup> *민주신보(석)* [*Minjusinbo evening edition*], 4 August 1951.

<sup>401</sup> Conference for the Conclusion and Signature of the Treaty of Peace with Japan, 84.

<sup>402</sup> Pak, *Korea-Japan Normalization Talks*, 73.

<sup>403</sup> 3807: 제 80 회 한일 회담 (6) [Yu Chino’s Recollection of Korea-Japan Normalization Process 6], 3 September 1983, *중앙일보* [*Chungang Ilbo*]; 3808: 제 80 회 한일 회담 (7) – 정치 의견서 작성 [Yu Chino’s Recollection of Korea-Japan Normalization Process 7: Korea’s response to the Japanese peace treaty negotiations], 5 September 1983, *Chungang Ilbo*; Pak, *Korea-Japan Normalization Talks*, 66.

<sup>404</sup> Chŏng, *Liancourt Rocks*, 702-5.

<sup>405</sup> Treaty of Peace with Japan, 7 April 1951, FO371/92538, FJ1022/222, NA.

17 April 1951.<sup>406</sup> In the case of the ROC, its responses came on 24 April and 23 May 1951.<sup>407</sup> The French and Soviet responses did not arrive until 4 May and 7 May, respectively, while the Philippines sent its response on 31 May, more than a month after South Korea.<sup>408</sup> Australia/New Zealand and Ceylon respectively sent their responses on 25 May and 28 May.<sup>409</sup> In other words, South Korea's response came in time; tardiness was not its diplomatic blunder.

Meanwhile, Chang Pakjin and Chŏng Pyŏngchun argue that South Korea was excluded because its response largely contradicted what Dulles wanted to accomplish.<sup>410</sup> Indeed, South Korea did make demands that were difficult for the State Department to accommodate. For instance, South Korea expressed reservations about Japan's rearmament, which was counter to the US objectives. It also made the "punitive" demand that Japan "return" Tsushima, claiming this as Korean territory that had been stolen.<sup>411</sup> The State Department, in response, remarked that Japan had been exercising "complete" control of Tsushima for "at least 350 years" and therefore this claim did "not appear to be well-founded."<sup>412</sup>

South Korea also requested the maintenance of the "MacArthur Line," in order to protect its fishing interests.<sup>413</sup> This was a temporary maritime border that had been established by the SCAP during the early occupation era in order to restrict Japan's maritime activities. According to this directive, Japan was prohibited from fishing or navigating in those parts of the high seas that Korea considered to be its own. However, in an effort to rebuild Japan's economy, the US was against continuing this restriction. Furthermore, Dulles believed that trying to permanently regulate the Japanese high-sea fishing industry through the peace treaty would delay the settlement and hence wished to divorce the question of fisheries from the treaty (see Chapter

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<sup>406</sup> Aide-Memoire, 17 April 1951 (classified), RG59, Entry A1 1252, Lot 54D423, Netherlands, accessed via NIKH.

<sup>407</sup> ROC Embassy to State Department, 24 April 1951, RG59, Entry A1 1252, Lot 54D423, China [January 6 - November 29, 1951], accessed via NIKH; Tan to Dulles, 23 May 1951, *Ibid.*

<sup>408</sup> Allison to Dulles: French views on the Japanese peace treaty, 4 May 1951, RG59, Entry A1 1252, Lot 54D423, France, accessed via NIKH; *Bulletin* 621 (28 May 1951), 856-8; Elizalde to Acheson, 1 June 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH.

<sup>409</sup> Japanese peace treaty, 25 May 1951, RG59, Entry A1 1252, Lot 54D423, New Zealand, accessed via NIKH; Fearey to Dulles: Ceylon's comments on US treaty draft, 28 May 1951, RG59, Entry A1 1252, Lot 54D423, Ceylon, accessed via NIKH; Aide-Memoire (New Zealand Embassy to State Department), 25 May 1951, RG59, Entry A1 1252, Lot 54D423, New Zealand, accessed via NIKH.

<sup>410</sup> Chŏng, *Liancourt Rocks*, 722-34.

<sup>411</sup> Limb to Dulles, 26 April 1951, *op. cit.*

<sup>412</sup> OIR 4900: Korea's Recent Claim to the Island of Tsushima, 30 March 1950, RG59, Entry A1 1252, Lot 54D423, Korea [October, 1948 - August 16, 1951], accessed via NIKH; Comments on Korean Note Regarding US Treaty Draft, 9 May 1951, *op. cit.*; Chŏng, *Liancourt Rocks*, 731-2.

<sup>413</sup> Limb to Dulles, 26 April 1951.

9).<sup>414</sup> In addition, South Korea asked that all property belonging to its nationals that had been either confiscated or damaged by Japan should be restored. As explained above, Yoshida and Dulles agreed that this should be prevented; the US thus rejected this request.<sup>415</sup>

However, many other governments also presented demands that conflicted with the US interests. As a matter of fact, when compared to the attitudes of Australia, Britain, Burma, Canada, Indonesia, New Zealand, the Philippines, the Soviet Union and Vietnam – which all demanded some form of restrictive clause in the treaty to suppress Japan economically and militarily – South Korea’s demand cannot be singled out as being particularly contrary to US intentions. It is also telling that in stark contrast to Burma, the Philippines and Vietnam, South Korea indicated that it would make “no claim for reparations.”<sup>416</sup> It is doubtful, therefore, if South Korea’s demands could be considered a major diplomatic blunder.

Instead, South Korea made a critical mistake in January 1951 by expressing its willingness to forgo signing the peace treaty and instead engage in bilateral talks with Japan. This gave the US, when pressed for time, a convenient pretext to exclude South Korea. As explained in Chapter 3, the outbreak of the Korean War gave added urgency to the need to end the occupation of Japan. Against this backdrop, inviting South Korea to sign the treaty was not the best idea. While the US believed that there were political advantages to treating it as a signatory, there were also significant legal and political obstacles. Most notably, Britain was adamantly opposed to South Korean participation. Meanwhile the latter, by raising the idea of bilateral normalization talks with Japan, created the impression that it did not see its participation as something absolutely essential. Furthermore, South Korea made demands that did not cater to the lenient peace envisioned by the US. Given these developments, the US felt it more politically expedient to exclude South Korea from the treaty.

## Conclusion

In conclusion, South Korea was excluded from the Japanese peace treaty due to legal, political, international and domestic factors. Legally, it was unclear if Korea could be considered a belligerent, since it had been an internationally recognized colony of Japan in the past. Even after the war, Korea’s status remained unclear as the annexation treaty had never been rescinded.

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<sup>414</sup> *Bulletin* 613 (2 April 1951), 579; Comments on Korean Note Regarding US Treaty Draft, 9 May 1951, *op. cit.*

<sup>415</sup> Chang, *The Past Unsettled*, 267-8.

<sup>416</sup> Limb to Dulles, 26 April 1951, *op. cit.*

Politically, South Korean participation could strengthen its leverage to demand reparations from Japan, which could damage the US plans to rebuild Japan's economy. At the same time, it might provoke a hostile reaction from the communist bloc and drive potential Asian signatories away. Internationally, both Britain and Japan expressed strong reservations about South Korean participation. The chances of South Korean signing the treaty were therefore extremely dim. Its only hope was if the US believed that South Korea's prestige could be strengthened by inviting it to sign the peace treaty. Unfortunately, South Korea voluntarily closed this precious window of opportunity by raising the possibility of its engaging in separate bilateral normalization talks with Japan. When pushed for time, the US thought it politically expedient to exclude South Korea



## Chapter 6. The Question of the Associated States of Indochina

This chapter seeks to understand how the Associated States of Indochina – specifically, Cambodia, Laos and Vietnam – were able to sign the Japanese peace treaty. Reminiscent of Korea’s case, whether or not the three Indochinese states were entitled to sign the treaty was disputed, due to legal and political factors. Despite these odds, however, they were all invited as signatories. This owed to the fact that the Indochinese representation in the peace treaty served the respective interests of France, Indochina and the US.

The Indochinese aspect has been almost totally neglected in the existing historiography. This is puzzling considering the fact that it was one of the major points of contention at the time of the treaty negotiations. While Hosoya, Hara and Van Aduard acknowledge the existence of the issue, none of them provide a detailed analysis of why the question of Indochinese representation emerged in the first place or how it was resolved.<sup>417</sup> Also, while Miyashita examines how France’s concerns about its security and the need to restore its prestige as a world power affected its attitude towards the peace settlement, the specific question of Indochinese participation is missing in his analysis.<sup>418</sup> This chapter fills this gap by attempting to construct a full narrative detailing how Cambodia, Laos and Vietnam were able to sign the peace treaty.

The Indochinese representation question is peculiar in that it involved certain factors that were not directly related to Japan. Indeed, as will be elaborated below, it was affected by developments in Southeast Asia and to a lesser extent Europe. The question of Indochinese representation is therefore significant in that it shows that the Japanese peace treaty was not simply about Japan, but also concerned the wider world, thus showing once again the international character of the treaty. It should also be noted that the Indochinese case demonstrates how the treaty could never be a purely legal document and was heavily affected by political factors, especially the question of what was most expedient for containing communism.

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<sup>417</sup> Hara, *Cold War Frontiers*, 152-3; Hosoya, *San Francisco Peace Treaty*, 264; Van Aduard, *Japan*, 195.

<sup>418</sup> 宮下雄一郎 [Miyashita Yūichirō], “フランスと東アジア, 1945-1951年

「第2次世界大戦の論理」と「冷戦の論理」のはざままで” [France and East Asia, 1945-1951: between wartime paradigm and Cold War paradigm] in *戦後アジア・ヨーロッパ関係史: 冷戦・脱植民地化・地域主義* [*History of Post-War Asian-European Relations: Cold War, Decolonization and Regionalism*], 細谷雄一編著 [Hosoya Yūichi et. al.] (東京 [Tokyo]: 慶應義塾大学出版会 [Keio University Press], 2015), 35-63.

## **The Historical Context: the French Colonial Interests, Indochinese Yearning for Independence and US Response**

Before discussing the question of Indochinese representation in the Japanese peace treaty, it is important to examine the region's history, as certain developments from the past – especially during the Pacific War and the years immediately after the war – affected Indochina's fate in the treaty. French Indochina can be understood as the area consisting of today's Cambodia, Laos and Vietnam. Beginning with Catholic missionary activities in the seventeenth century, France began to slowly assert its authority and was able to secure effective control over the entire region by the end of the nineteenth century.<sup>419</sup>

In the age of imperialism, control of an overseas colony bolstered France's reputation as a major world power. But more importantly, Indochina had economic and geostrategic value for its raw material (such as rice, rubber and tin), natural waterways (Mekong River) and harbors (Haiphong and Cam Rahn).<sup>420</sup> Not surprisingly, France developed considerable attachment to its treasured colony. However, the French colonial regime was known for its ruthlessness. This was most pronounced in Laos, which was grossly under-developed – no major schools, roads or hospitals were built there – but nevertheless subject to heavy taxes and demands for labor. Hence, perhaps with the exception of the ruling elites, who benefited from the educational and career opportunities offered by the French, a large segment of Indochina wanted their colonial overlords to leave.<sup>421</sup> The French position became more precarious when Japan appeared at its doorsteps during the months leading up to the Pacific War.

Amid the aggression against China in the 1930s, Japan turned its gaze to Indochina, one of the supply routes that fed the Chinese forces. Eager to block this logistical flow from Indochina to the Chinese, Japan from the late 1930s gradually began to assert its authority over the region.<sup>422</sup> In response, the French Governor-General in Indochina from July 1940 to April 1945, Jean Decoux, made numerous concessions to Japan, allowing Japan to station its forces

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<sup>419</sup> Arthur J. Dommen, *The Indochinese Experience of the French and the Americans: nationalism and communism in Cambodia, Laos, and Vietnam* (Bloomington: Indiana University Press, 2001), 1-20.

<sup>420</sup> Jan Meinhard Pluvier, *South-East Asia from Colonialism to Independence* (London: Oxford University Press, 1974), 4-5, 21-22, 25, 109; Fifield, *Southeast Asia*, 286, 293-6, 345-6, 367; Alfred W. McCoy, "French Colonialism in Laos, 1893-1945" in *Laos: war and revolution*, Alfred W. McCoy and Nina S Adams et. al. (New York: Harper & Row 1970), 78, 84.

<sup>421</sup> McCoy, "French Colonialism in Laos," 79, 83-5, 89-92; Nina S. Williams, "Patrons, Clients and Revolutionaries: the Lao search for independence, 1945-1954," in *Laos: war and revolution*, Alfred W McCoy and Nina S Adams et. al. (New York: Harper & Row 1970), 101.

<sup>422</sup> Pluvier, *South-East Asia*, 109.

and move freely throughout Indochina, while also allowing access to seaports and air bases. Decoux also supplied Japan with various raw materials that were crucial for war. Decoux, as the representative of Vichy France, also suppressed Free France elements in Indochina that resisted the Axis Powers. Decoux thus aided the Japanese in turning French Indochina into a forward base for aggressive war against the Allies, including Britain, China and the United States.<sup>423</sup>

Of course, Franco-Japanese relations in Indochina were hardly friendly, as the French were often bullied by Japan into submitting to various demands. For instance, when Decoux refused in September 1940 to comply with Japan's demands to cut off the supply route from Vietnam to China, the Japanese attacked the French in Langson. Also, when the fortunes of war turned against the Axis powers in 1944 and de Gaulle's Free France recovered Paris, Japan became concerned that the French would turn against them in Indochina and decided to take direct control over the region. Japan's concerns were amplified by the fact that Free France had already declared war on Japan on 8 December 1941 and that French commandos were operating in Laos. Additionally, there were secret overtures between the French officials in Indochina and De Gaulle. Accordingly, on 9 March 1945, Japanese forces attacked and subjugated the French colonial forces, assuming direct control over Indochina and entering into a de facto state of belligerency against France.<sup>424</sup> Nevertheless, the fact that Decoux had earlier opted for concessions, rather than outright resistance, stained the French colonial regime with a pro-Japanese collaborationist past.

The situation in Indochina became even more complex in 1945. As Japan sought to secure its control over Indochina, it wooed various segments of the population, especially the nationalist elements, to cajole them away from France. Most importantly, Japan persuaded the ruling elites to denounce the French and collaborate with Tokyo. On 11 March 1945, Emperor Bao Dai proclaimed Vietnam's independence from France and stressed that he would work closely with Japan. This was followed by similar moves on the part of King Norodom Sihanouk

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<sup>423</sup> *Ibid.*, 148-50; Mark Atwood Lawrence, *Assuming the Burden: Europe and the American commitment to war in Vietnam* (Berkeley: University of California Press 2005), 21-3; Fredrik Logevall, *Embers of War: the fall of an empire and the making of America's Vietnam* (New York: Random House, 2012), 33; Dommen, *Indochinese Experience*, 57.

<sup>424</sup> *Ibid.*, 63-6, 75-83; Pluvier, *South-East Asia*, 113, 341-2; Fifield, *Southeast Asia*, 286-7; Logevall, *Embers of War*, 71-3; The Japanese Peace Settlement and States at War with Japan, 20 June 1949 (States at war with Japan), RG59, Entry A1 1252, Lot54D423, Japanese Peace Treaty [December 1, 1948 - June 8, 1950], accessed via NIKH; Williams, "Patrons, Clients and Revolutionaries," 104-5.

of Cambodia on 13 March 1945 and King Sisavang Vong of Laos on 8 April 1945.<sup>425</sup> In effect, the top leadership in Indochina discredited itself by associating with Japan in return for pseudo-independence. While collaboration with Japan was simply a means to achieve real independence for certain leaders – including Tran Trong Kim (future Prime Minister of Vietnam), Son Ngoc Thanh (future Prime Minister of Cambodia) and Prince Phetsarath Ratanavongsa (Prime Minister of Laos) – their affiliation with Japan, however nominal, damaged their reputation in public eyes.<sup>426</sup>

Unlike the ruling class, the radical elements in Indochina engaged in outright resistance against foreign domination and began to win wide support. This was especially pronounced in Vietnam; the revolutionary elements had already attempted an unsuccessful armed uprising in southern Vietnam (Cochin China) against France and Japan in late 1940. The Vietnamese resistance survived the war and continued to earn the public's respect and trust. The ruling class, meanwhile, was further discredited as some supported Japanese suppression of the resistance, which threatened the power of the established elites.<sup>427</sup>

Another important aspect of Japan's occupation was the near-complete devastation of the Indochinese economy. Most notably, there was a serious food shortage by the end of the conflict, partly caused by a combination of Japan's extraction of resources and the consequent crop failures in 1944. Indochina also experienced serious inflation, as Japan circulated a special currency which technically had no value. Moreover, northern Vietnam, where the mining industry and plantation agriculture were concentrated, was particularly hard hit by aerial bombing. The widespread hunger and economic dislocation unsurprisingly led to intense resentment against Japan. This would later be cited by the Indochinese as one of the justifications for representation in the Japanese peace treaty.<sup>428</sup>

In sum, by the time the world emerged from WWII, French prestige was damaged and its wartime standing ambiguous as Vichy France had opted for a *modus vivendi* rather than armed

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<sup>425</sup> David P. Chandler, *The Tragedy of Cambodian History: politics, war, and revolution since 1945* (New Haven: Yale University Press, 1991), 14; Logevall, *Embers of War*, 81; Pluvier, *South-East Asia*, 259-60, 343; Fifield, *Southeast Asia*, 29; Williams, "Patrons, Clients and Revolutionaries," 104.

<sup>426</sup> Pluvier, *South-East Asia*, 344-5, Chandler, *Cambodian History*, 14-18, 23; Philippe Devillers, "The Laotian Conflict in Perspective" in *Laos: War and Revolution*, Alfred W McCoy and Nina S Adams et. al. (New York: Harper & Row 1970), 38.

<sup>427</sup> Pluvier, *South-East Asia*, 115-7, 262, 289-90.

<sup>428</sup> William J. Duiker, *Ho Chi Minh: a life* (New York: Hyperion, 2000), 307-9; Pluvier, *South-East Asia*, 270-831, 357-8; Fifield, *Southeast Asia*, 31, 286.

resistance against Japan. The ruling elites of Indochina were also tainted with collaboration by flirting with Japan in an attempt to seek independence. These factors would later lead to the question of whether or not Indochina could be considered a belligerent that fought against Japan and raised doubts about the wisdom of inviting the Indochinese states to sign the peace treaty. Nevertheless, Japan's cruel occupation that left the local economy in tatters fueled an impassioned demand among the Indochinese that their voices be heard.

After the Pacific War, Indochina was unfortunately mired in yet another conflict. To elaborate, France worked frantically to regain control over the region. This was no easy task, as France confronted strong nationalist sentiments throughout Indochina. Most notably, militant nationalists led by the Viet Minh in Vietnam, Khmer Issarak in Cambodia and Lao Issara forces (later reorganized as the Pathet Lao on 13 August 1950) in Laos continued their respective struggles to expel the French.<sup>429</sup>

The Viet Minh, a united front coalition within which the communists were the most powerful element, was the strongest of all the nationalist groups. Its unwavering commitment to independence made the Viet Minh intolerant of any compromise. Hence, while the French engaged in dialogue with its leader Ho Chi Minh between 1945 and 1946 in search of a *modus vivendi*, the Viet Minh's opposition to continuing French rule led to escalating violence near Hanoi and eventually ignited the First Indochinese War. Furthermore, the Viet Minh forged ties with the Cambodian and Laotian revolutionaries and aligned themselves closely with the Soviet Union and later the PRC in their struggle for independence. To the dismay of the French, not only did the PRC and the Soviet Union recognize (in January 1950) the Democratic Republic of Vietnam (DRV), the state established by the Viet Minh, but also promised the DRV military and economic assistance. True to this commitment, by September 1950, the PRC was training and equipping the Viet Minh armed forces, further strengthening the latter's war capacity.<sup>430</sup>

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<sup>429</sup> Logevall, *Embers of War*, 74, 161-4; Pluvier, *South-East Asia*, 363-4, 371, 386-7, 504-5; Fifield, *Southeast Asia*, 380; Devillers, "The Laotian Conflict in Perspective," 38-9; Williams, "Patrons, Clients and Revolutionaries," 107-9, 113-4, 116-7.

<sup>430</sup> Chandler, *Cambodian History*, 24, 28, 33-5, 48-9, 56; Devillers, "The Laotian Conflict in Perspective," 39-41; Lawrence, *Assuming the Burden*, 126-9; McCoy, "French Colonialism in Laos, 1893-1945," 84-5; Robert J. McMahon, *The Limits of Empire: the United States and Southeast Asia since World War II* (New York: Columbia University Press, 1999), 80; Pluvier, *South-East Asia*, 410, 415, 492-5; Williams, "Patrons, Clients and Revolutionaries," 108-10; Fifield, *Southeast Asia*, 330, 333-4, 337, 340, 354, 374; Duiker, *Ho Chi Minh*, 346-98, 413-4, 422, 427, 438-9; Dommen, *Indochinese Experience*, 159-61, 200.

In response, France reached out for American support. In doing so, Paris devised a two-pronged strategy. To begin with, France portrayed itself as defending Indochina against communism. Aware that colonial rule was an anathema to the Americans – indeed, stretching back to Franklin D. Roosevelt, the US had been pressuring France to relinquish control over Indochina – France had to frame its interests in Indochina in a way that did not conflict with America’s anti-colonial mentality.<sup>431</sup> Paris shrewdly capitalized on the growing US hostility to communist expansion by amplifying the menace posed by the revolutionary elements in Indochina and thus the need for a French presence as a stabilizing force in the region.<sup>432</sup>

Its second action was to grant pseudo-independence to Indochina. For the French government, its standing as a global power depended on its colonial possessions. Hence, the complete termination of its control over Indochina was unacceptable.<sup>433</sup> In lieu of full liquidation of its colonial authority, Paris decided to admit Indochina into the “French Union.” While similar to the British Commonwealth system in appearance, the French Union did not recognize overseas territories as being independent. Instead, the real power was vested in Paris, as the French president was empowered to make major policy decisions for the French Union, ranging from foreign policy, defense and finance.<sup>434</sup> In fact, when Vietnam was formally admitted to the French Union on 8 March 1949 by signing the Elysee Accord with Paris, Vincent Auriol (French President) stressed that Vietnam’s foreign policy would be decided “under the direction and responsibility of the government of French Republic.” Laos and Cambodia were also admitted to the French Union on 19 July and 8 November 1949 respectively on the same terms with Vietnam.<sup>435</sup> Real independence was not achieved until the 1954 Geneva Accord. Until then, the sovereignty of the Indochinese states remained questionable.

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<sup>431</sup> Gaddis, *The United States and the Origins of the Cold War*, 1-31, 133-73; William Roger Louis, *Imperialism at Bay: the United States and the decolonization of the British Empire, 1941-1945* (New York: Oxford University Press, 1978), 27-47, 532-547, 548-574; Logevall, *Embers of War*, 62-5.

<sup>432</sup> Duiker, *Ho Chi Minh*, 412; Lawrence, *Assuming the Burden*, 189; Pluvier, *South-East Asia*, 506-7; Fifield, *Southeast Asia, 1945-1958*, 384-5, 357.

<sup>433</sup> Lawrence, *Assuming the Burden*, 245.

<sup>434</sup> Refer to Article 62, 64 and 65 of the 1946 French Constitution, accessed via Conseil Constitutionnel, <https://www.conseil-constitutionnel.fr/les-constitutions-dans-l-histoire/constitution-de-1946-ive-republique>.

<sup>435</sup> Article 61 stated that a separate agreement would be signed between Paris and other members of the French Union to determine the bilateral relations (*Ibid.*); “Unified States,” *Digest of International Law 1* (1963): 285-7; Lawrence, *Assuming the Burden*, 223, 259, 277; Bruce M. Lockhart and William J. Duiker, *Historical Dictionary of Vietnam* (Lanham: Scarecrow Press, 2006), 30, 126, 425; Igarashi Masahiro, *Associated Statehood in International Law* (The Hague: Kluwer Law International, 2002), 17-24; Fifield, *Southeast Asia*, 35-44; Pluvier, *South-East Asia*, 493-4.

If France hoped to win immediate American sympathy and support, it was disappointed, as the initial US reaction to these French overtures was reserved. In response to the Elysee Accord, for instance, the State Department internally noted on 6 June 1949 that this was only a half-hearted attempt to appease Vietnamese nationalist sentiment and that the locals would “continue to fight” to gain complete independence, which in turn would require “military force at great cost.”<sup>436</sup> Of course, this did not mean outright rejection of the French pleas.<sup>437</sup> While sympathetic to the nationalist sentiments in Indochina, the US, as early as 17 December 1946, had also recognized that the French presence was vital to ensure stability.<sup>438</sup> Hence, the US decided to remain non-committal, hoping to avoid choosing sides between the “French imperialism” and Indochinese “militant nationalism.”<sup>439</sup>

Fortunately for the French, a series of events in 1949 and 1950 led the US to become more supportive. To begin with, the Chinese Communist success in driving out the Nationalists in 1949 created a heightened sense of fear that the CCP might support subversion in Southeast Asia. In response, and to counter the Soviet and PRC recognition of the DRV, the US recognized the three non-communist Associated States of Indochina on 7 February 1950 and lobbied other governments to do likewise.<sup>440</sup> Moreover, as suggested by the State Department and the JCS, Truman on 10 March 1950 approved \$15 million in military aid for Indochina to curb communism, marking the start of US aid to the region.<sup>441</sup> On 24 April 1950, Truman also approved NSC 64, stressing the need to take “all practicable measures” to prevent further communist expansion in Indochina, which essentially meant assisting the French armed forces there.<sup>442</sup> With the outbreak of the Korean War in June 1950, combined with a major Viet Minh victory at Cao Bang in October 1950 that brought a large area of Tonkin under its control, the

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<sup>436</sup> Memorandum by the Department of State to the French Foreign Office, 6 June 1949, *FRUS* 1949, Vol. 7-1, 39-45.

<sup>437</sup> Abbott to Acheson, 10 June 1949, *Ibid.*, 45-6.

<sup>438</sup> Duiker, *Ho Chi Minh*, 392.

<sup>439</sup> PPS 51 (NSC 51): United States Policy Toward Southeast Asia, 29 March 1949 (1 July 1949), *FRUS* 1949, Vol. 7-2, 1128-1133; *Ibid.*, 1215-20; NSC 48/1: The Position of the United States With Respect to Asia, 23 December 1949 (Department of Defense, *United States-Vietnam relations, 1945-1967 Vol. 8* (Washington: GPO, 1971), 249).

<sup>440</sup> “US recognizes Vietnam, Laos and Cambodia,” 7 February 1950, *Bulletin* 555 (20 February 1950), 221; Lawrence, *Assuming the Burden*, 239, 243; Fifield, *Southeast Asia*, 345-6, 362.

<sup>441</sup> Johnson to Acheson, 14 April 1950, *FRUS* 1950, Vol. 6, 780-5; Acheson to Truman, 17 April 1950, *Ibid.*, 785-6; Jasmine Aimaq, *For Europe or Empire? French colonial ambitions and the European army plan* (Lund: Lund University Press, 1996), 175-6; Kathryn C. Statler, *Replacing France: the origins of American intervention in Vietnam* (Lexington: University Press of Kentucky 2007), 26; Pluvier, *South-East Asia*, 491.

<sup>442</sup> NSC 64: The Position of the United States With Respect to Indochina, 27 February 1950, *FRUS* 1950, Vol. 6, 745-7.

US became further alarmed about the prospect of the communization of Southeast Asia.<sup>443</sup> In response to this sense of crisis, a Mutual Defense Assistance agreement was signed with the three Indochinese states on 23 December 1950.<sup>444</sup>

For the US, the defense of Indochina – and thus assisting the French – was important for several reasons. To begin with, the stabilization of the region and secure access to its raw materials was seen as key to European and Japanese economic recovery.<sup>445</sup> Additionally, loss of Indochina could lead to the loss of Southeast Asia as a whole to communism; and with the Congress constantly battering the administration for sacrificing China, Truman could not afford to risk a further setback.<sup>446</sup>

Moreover, the US became more accommodating to the French because of European defense questions.<sup>447</sup> Already in 1948 and 1949, when the negotiations for the NATO were taking place, the US was keenly aware of the need to include France in the nascent organization.<sup>448</sup> The need for French support became even more acute with the adoption of NSC 82 (11 September 1950), wherein the US envisioned the creation of a European defense force in order to facilitate eventual West German rearmament.<sup>449</sup> It goes without saying that the US expected France to become an integral part of this scheme. The problem was that France was not amenable to the idea of reviving German military and could sabotage the whole effort. Additionally, the French armed forces and finances were stretched thin, partly because of its embroilment in the war in Vietnam, which meant that France might not be able to contribute to the defense of Europe. This essentially left the US with two options. The first was to replace France in Indochina and take over direct responsibility there, thereby allowing French financial and human resources to be rechanneled to Europe. However, this was not a preferred option, as

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<sup>443</sup> NIE-5 (Indochina: Current Situation and Probable Development), 29 December 1950, *FRUS* 1950, Vol. 6, 958-63; Pluvier, *South-East Asia*, 497.

<sup>444</sup> Mutual Defense Assistance: Indochina-Agreement Between the United States of America and Cambodia, France, Laos, and Vietnam, 23 December 1950, *The American Journal of International Law* 48-3 (1954): 133-137; Dommen, *The Indochinese Experience*, 200-2; Fifield, *Southeast Asia*, 312-3.

<sup>445</sup> McMahon, *Limits of Empire*, 38-9; *FRUS* 1949, Vol. 7-2, 1130; NSC 48/1 (United States-Vietnam relations, 1945-1967 Vol. 8, 258, 263-4); Japanese peace settlement, 12 January 1951, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH.

<sup>446</sup> *FRUS* 1950, Vol. 6, 781; Lemnitzer to Bruce, 19 April 1951, *Ibid.*, 787; MacMahon, *Limits of Empire*, 37, 219

<sup>447</sup> Pluvier, *South-East Asia*, 517; Lawrence, *Assuming the Burden*, 238; Military Aid for Indochina, 1 February 1950, *FRUS* 1950, Vol. 6, 711-15; Marc Trachtenberg, *A Constructed Peace: the making of the European settlement, 1945-1963* (Princeton: Princeton University Press, 1999), 77.

<sup>448</sup> Lawrence, *Assuming the Burden*, 220, 225.

<sup>449</sup> *FRUS* 1950, Vol. 3, 273-9; David Clay Large, *Germans to the Front: West German rearmament in the Adenauer era* (Chapel Hill: University of North Carolina Press, 1996).



the US was also stretched thin at this time, especially with the on-going Korean War. The alternative was to aid the French war effort against the revolutionaries in Indochina. The French, of course, capitalized on this dilemma and continually pressed the US for assistance, lest it have no other choice than to leave Indochina and expose the region to possible communist infiltration.<sup>450</sup> Unsurprisingly, the US opted to assist the French in Indochina. Inviting the Indochinese states to sign the Japanese peace treaty must be understood as part of this policy. In other words, the Indochinese participation became intricately linked to the anti-communist struggle in Southeast Asia and Europe.

### **The Emergence of the Indochinese Question**

When the pace of negotiations for the Japanese peace treaty began to pick up in 1949, the question of Indochinese representation was examined by the State Department. In an undated document, the State Department noted that the US wished to foster Indochina and was inclined to invite Cambodia, Laos and Vietnam as signatories. At the time, however, Indochina's relationship with France, its ability to enter into international agreements and the French government's position remained unclear.<sup>451</sup> In other words, were the Indochinese states empowered to sign a multilateral international instrument, considering their quasi-independence? This concern was repeated in a letter from Robert Fearey to John Allison on 23 February 1950.<sup>452</sup>

Despite the ambiguity, the State Department's Office of Legal Adviser was optimistic. It opined on 5 January 1950 that while Vietnam's sovereignty was "limited," it nevertheless could be considered a "state." More importantly, referring to Morocco, the Legal Adviser pointed out that while its foreign relations were determined by France, this did not prevent other countries, such as the US, from entering into treaty relations.<sup>453</sup> This Moroccan precedent indicated that the diplomatic capacity of the French Union members could be handled flexibly and portended the

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<sup>450</sup> Michael Creswell, *A Question of Balance: how France and the United States created Cold War Europe* (Cambridge: Harvard University Press, 2006), 29, 34-5; William I. Hitchcock, *France Restored: Cold War diplomacy and the quest for leadership in Europe, 1944-1954* (Chapel Hill: University of North Carolina Press, 1998), 164-5; MacMahon, *Limits of Empire*, 60-1; Lawrence, *Assuming the Burden*, 204-5, 252-64, 268-9; Pluvier, *South-East Asia*, 448.

<sup>451</sup> Commentary on 1947 draft peace treaty, undated, RG59, Entry A1 1230, Commentary on the 1947 Treaty, accessed via NIKH.

<sup>452</sup> Allison to Fearey, 23 February 1950, *op. cit.*

<sup>453</sup> "Unified States," *Digest of International Law 1* (1963): 285-7.

fact that the question of Indochinese representation in the Japanese peace treaty would ultimately require a political decision.

Interesting to note is that, according to the available American records, it was not until 4 May 1951 that France demanded that the Indochinese states be invited to sign the peace treaty with Japan.<sup>454</sup> It is unclear why France did not bring up the question any earlier. It is possible that France felt that inviting the Indochinese states to adhere to the treaty would strengthen their case for independence and thus initially wished to avoid this, but that when the tide of war turned against France in late 1950, it felt the need to explore more options in order to strengthen the non-communist regimes. What exactly Paris was thinking requires examining the Quai d'Orsay archives, which is beyond the scope of this study. Whatever the case was, the US gave no immediate response. Meanwhile, Britain, perhaps for reasons similar to those pertaining to Korea, entertained the idea of accession at a later date.<sup>455</sup>

The question of Indochinese representation was brought up again by France on 11 June 1951, when Dulles was visiting Paris trying to wrap up the treaty negotiations. When Alexandre Parodi (Secretary General of the French Foreign Ministry) requested that the Associated States of Indochina (AS) be invited to sign the peace treaty, Dulles responded that the US would not oppose it. However, the latter also expressed the concern that other potential signatories – specifically India, Burma and Indonesia – might refuse to sign the treaty if the AS were invited. In light of the fact that Vietnam was divided between the Viet Minh and the pro-French regime, each being recognized respectively by the communist and non-communist bloc, Dulles argued that if the pro-French regimes were invited, while the Viet Minh were not, this partiality could cause ill feelings among certain Asian governments. Dulles, hence, proposed that in the worst-case scenario, the AS may need to sign a separate peace treaty with Japan, just as Britain and the US had recently agreed to do in the case of China. Perhaps in order to win American goodwill by pressing the decolonization switch, Parodi stressed that signing the treaty would be very important for the AS to secure their “independent sovereign status.”<sup>456</sup>

On the same day (11 June 1951), Donald R. Heath, the head of the US Mission in Saigon, wrote a long analysis to Acheson. Heath had four concerns. To begin with, the status of the AS

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<sup>454</sup> Allison to Dulles: French views on the Japanese peace treaty (Summary of French telegram regarding Japanese peace treaty), 4 May 1951, RG59, Entry A1 1252, Lot 54D423, France, accessed via NIKH.

<sup>455</sup> 6306: Gifford to Acheson, 1 June 1951, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH.

<sup>456</sup> Memorandum of Conversation (Dulles with French representatives from the French Foreign Affairs Ministry), 11 June 1951, *FRUS* 1951, Vol. 6-1, 1115.

was unclear. While France claimed that the AS through their past colonial links with France were in a state of war with Japan and thus deserved to sign the treaty, Heath questioned the validity of this argument. Heath believed that the AS – which were created “after termination of hostilities” – and wartime French Indochina were different entities. Hence, from a legal point of view, the AS had “never been at war with Japan” and therefore their entitlement to sign the peace treaty with Japan was questionable. At the same time, considering the questionable independence of Indochina, there was also the technical problem of whether the AS could represent themselves in a treaty or not and if France had to sign on their behalf.<sup>457</sup>

The second problem was the Vichy regime’s controversial past. While acknowledging the fact that Japan had eventually seized power from the Vichy colonial administration in Indochina in March 1945, Heath noted the fact that Decoux had until then avoided open confrontation and made several concessions. Also, while Free France had declared war on Japan, Vichy France had not. As such, Japan had “never considered itself at war with France.” From a legal standpoint, this led to the question of whether or not “France” really had been in a state of war against Japan; if not, this naturally meant that Indochina had not been a belligerent and hence had no reason to sign the peace treaty.<sup>458</sup>

Heath’s third concern was the controversial conduct of the Indochinese leadership during the Pacific War. Specifically alluding to the case of Vietnam, where various segments of the population had collaborated with Japan, Heath pointed out that this very act of collaboration, even if done under duress, damaged the credibility of Indochina’s state of belligerency against Japan. Moreover, echoing Dulles’ concern, Heath worried that inviting the AS could provoke an adverse reaction from both the communists and other Asian states.<sup>459</sup>

His fourth concern was related to the reparations issue. If the AS signed the Japanese peace treaty, then they would be entitled to demand reparations from Japan. Heath found this prospect “unacceptable,” as the Indochinese, due to their past grievances, were certain to make such demands. Heath believed that this would hamper Japan’s economic rehabilitation leading to the latter’s continuing reliance on American financial assistance, which in turn would impair the

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<sup>457</sup> 2181: Heath to Acheson, 11 June 1951, RG59, Entry A1 1252, Lot 54D423, Saigon, accessed via NIKH.

<sup>458</sup> *Ibid.*

<sup>459</sup> *Ibid.*

US capacity to aid Southeast Asia.<sup>460</sup> It should also be recalled that the US had already decided to terminate the reparations program on 6 May 1949.

In sum, whether or not Indochina should be invited to sign the Japanese peace treaty was no simple matter, as there were various legal and political complications. Nevertheless, Heath recognized that the US could not simply decline the French request, as this might damage the latter's reputation and authority in Southeast Asia. Heath thus ended his telegram with the simple question: should Indochina be invited to sign the Japanese peace treaty despite the numerous complications?<sup>461</sup>

### **Unfolding of Debate, Opposition from Asian Governments and Initial Hesitation**

In response to the Indochinese question, the State Department investigated the attitudes of other governments throughout July 1951. In general, the Asian governments were either indifferent or hostile to the prospect of co-signing the peace treaty with the AS. While Burma, Ceylon and the Philippines expressed no particular opinion, Indonesia thought it would be a "serious mistake" that could "alienate other Asian states" and was therefore "very strongly opposed" to the AS participation. Furthermore, the Indonesian Foreign Ministry believed that supporting the AS participation could give a pretext for its domestic opposition party to attack the government, which might jeopardize Indonesia's support for the US-led treaty. India was even blunter, declaring that it would refuse to sign the treaty if the AS were invited as co-signers, as the latter were not sovereign countries. Pakistan, although "well-disposed" towards the Indochinese, did not recognize the AS and explained that it would be "embarrassed" by their presence at the peace conference. Moreover, Pakistan wanted the Soviet Union and the PRC to sign the treaty, but felt that Indochinese participation might make this difficult. Hence, Pakistan "strongly" recommended against Indochinese participation. Meanwhile, no overt opposition came from the West. Against this backdrop, the State Department decided that although inviting the Indochinese would allow the US to "maximize number of oriental signatories," if India, Indonesia and Burma would only sign the peace treaty on the condition that the AS did not, then

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<sup>460</sup> *Ibid.*

<sup>461</sup> *Ibid.*

a separate peace arrangement should be worked out between Japan and the AS. Britain, the co-sponsor of the Japanese peace treaty, endorsed this approach.<sup>462</sup>

The State Department's attitude was shaped largely by its hope of securing as many Asian signatories as possible. This discussion was, after all, taking place following the decision to exclude the two Chinas and two Koreas from signing the treaty, which meant that the peace conference could well develop into a gathering between Japan and the West, and the US wished to avoid this scenario. It was especially important to secure Indian and Filipino participation, as their refusal to sign the peace treaty could also lead Indonesia and Burma to refuse as well.<sup>463</sup>

Around this time, Cambodia and Vietnam began to lobby for a place at the Japanese peace treaty. On 23 July and 24 July 1951 (and again on 3 August and 16 August 1951) Cambodia protested the exclusion of the AS from signing the treaty. Cambodia argued that it had inherited the status of a belligerent through its former links to France – and that it had suffered war damage from the Japanese occupation – just as Burma and Indonesia were accorded recognition through their ties with Britain and the Netherlands. Cambodia also complained that Ceylon and India, which had not even been occupied by Japan, were still being invited to sign the treaty. Cambodia also stressed that it was now an independent country that had the ability to enter into international agreements and highlighted that it was engaged in the anti-communist struggle in Southeast Asia.<sup>464</sup>

Aware of the Indian opposition to the AS participation, Cambodia also proposed a non-recognition formula on 23 July 1951. In other words, even if the AS signed the Japanese peace treaty, this would not mean that the other co-signatories were obligated to recognize the AS. This meant that India, Indonesia and the Philippines could simply sign the treaty along with the AS,

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<sup>462</sup> Lacy to US Legation in Saigon, 18 July 1951, RG59, Entry A1 1252, Lot 54D423, Saigon, accessed via NIKH; 56: Warren to Acheson, 19 July 1951, RG59, Entry A1 1252, Lot 54D423, Karachi, accessed via NIKH; Memorandum of Conversation: reply on Japanese peace treaty draft, 12 July 1951, RG59, Entry A1 1252, Lot 54D423, Netherlands, accessed via NIKH; 22: Jarman to Acheson, 16 July 1951, RG59, Entry A1 1252, Lot 54D423, Canberra, accessed via NIKH; 626: Gifford to Acheson, 31 July 1951, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH; 187: Steere to Acheson, 13 July 1951, RG59, Entry A1 1252, Lot 54D423, New Delhi, accessed via NIKH; Cochran to Acheson, 13 July 1951, RG59, Entry A1 1252, Lot 54D423, Jakarta, accessed via NIKH; 205: Cowen to Acheson, 14 July 1951, RG59, Entry A1 1252, Lot 54D423, Manila I, accessed via NIKH; Fifield, *Southeast Asia*, 95.

<sup>463</sup> Dulles to Morrison, 11 July 1951, RG59, Entry A1 1252, Lot 54D423, India, accessed via NIKH; Lacy to US Legation in Saigon, 18 July 1951, *op. cit.*

<sup>464</sup> 123: Acheson to US Legation in Saigon, 24 July 1951, RG59, Entry A1 1252, Lot 54D423, Saigon, accessed via NIKH; Catlett to Acheson, 24 July 1951, RG59, Entry A1 1252, Phnom Penh, accessed via NIKH; Catlett to Acheson, 3 August 1951, RG59, Entry A1 1252, Phnom Penh, accessed via NIKH; 392: Heath to Acheson, 16 August 1951, RG59, Entry A1 1252, Lot 54D423, Saigon, accessed via NIKH.

while continuing to refuse recognizing the latter. In response, the State Department expressed its sympathy towards Cambodia's demands and the non-recognition proposal. This Cambodian proposal would ultimately be adopted as one of the terms governing the San Francisco peace conference.<sup>465</sup>

Coincidentally, Henri Bonnet (the French Ambassador to the US) visited the State Department that day. Bonnet expressed concern that if the AS were excluded from signing the Japanese peace treaty, this may be detrimental both to their morale and that of the French troops fighting the communists in the region.<sup>466</sup> He was especially concerned that with the armistice talks in Korea now underway and some relaxation of tension there, the Chinese communists might re-direct their forces to Southeast Asia. Bonnet even claimed that if the AS were excluded from signing the treaty, then Foreign Minister Robert Schumann would not attend the San Francisco peace conference. Considering the fact that foreign ministers were expected to represent their countries at this conference, this was a very strong message. Aware of the unfavorable responses from the Asian governments, however, the US remained cautious and no decision was reached.<sup>467</sup>

Meanwhile, both the French and Indochinese press raised awareness of the fact that France was lobbying to invite the AS to sign the peace treaty.<sup>468</sup> Certain Vietnamese newspapers portrayed participation in the treaty as a manifestation of national sovereignty and expressed displeasure that the US was being oversensitive to India and hesitant to invite Vietnam. In light of these developments, Heath informed Washington on 24 July that the AS would be disappointed if they were not included as signatories. While aware of the strong Indian opposition, Heath felt that the State Department should nevertheless try "strongly" to persuade it to support AS participation.<sup>469</sup>

On 26 July 1951, the Vietnamese president Tran Van Huu contacted the American Legation in Saigon, demanding his country's representation in the peace treaty and expressing his displeasure that fellow Asians were opposing it. In response, Heath confided to Washington that, despite his reservations concerning the collaborationist past of the Vietnamese leadership

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<sup>465</sup> *Ibid.*

<sup>466</sup> 123: Acheson to US Legation in Saigon, 24 July 1951, RG59, Entry A1 1252, Lot 54D423, Saigon, accessed via NIKH.

<sup>467</sup> 127: Acheson to US Legation in Saigon, 25 July 1951, *Ibid.*

<sup>468</sup> Heath to Acheson, 17 July 1951, *Ibid.*

<sup>469</sup> Heath to Acheson, 24 July 1951, *Ibid.*

and Vichy France, he nevertheless believed that AS participation was “desirable” and that their exclusion would be “seriously disappointing” to the locals. Heath, therefore, suggested inviting the AS to sign the treaty and inform the other co-signatories that they could still deny recognition. Otherwise, an accession clause should be arranged to enable the AS to become parties to the treaty at a later date.<sup>470</sup>

Meanwhile, David Bruce (US Ambassador to France) offered his own analysis on 26 July 1951. In response to the Indian opposition, Bruce suggested that Britain should take the lead in convincing the Asian Commonwealth – India and Burma – to support AS participation. In the worst-case scenario, however, Bruce felt that the US might have to exclude the AS, in which case the US could work with Britain and France to negotiate a separate peace treaty between AS and Japan at a later date.<sup>471</sup>

In sum, when the question of AS representation was first brought to the fore in July 1951, India, Indonesia and Pakistan expressed strong reservations. Because the US was trying to ensure their participation, it remained hesitant to formally invite the AS to the peace conference. As late as 27 July 1951, a little over a month before the peace conference, when Jean de Lattre de Tassigny (the French High Commissioner in Indochina) visited Heath to request that the AS be invited to the San Francisco peace conference, the State Department still could not offer a clear response.<sup>472</sup> This would soon change with the hard lobbying of the US Legation in Saigon and confirmation of Ceylonese, Indonesian, Pakistani and Filipino participation in the peace conference.

### **Towards Invitation: the American Legation in Saigon, Indochinese Demands and Maximizing of Asian Representation**

As the US continued to hesitate, Vietnam sustained its lobbying to secure its representation in the Japanese peace treaty. For instance, on 29 July 1951, the Vietnamese government asked Thomas Dewey (Governor of New York), who was visiting Vietnam at the time, to support its representation, in the hope that he would exert some pressure on the US government.<sup>473</sup> Also, on 31 July 1951, Huu visited Heath to once again demand an invitation to sign the treaty. Huu

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<sup>470</sup> 230: Heath to Acheson, 26 July 1951, *Ibid.*

<sup>471</sup> Bruce to Acheson, 26 July 1951, RG59, Entry A1 1252, Lot 54D423, Paris, accessed via NIKH.

<sup>472</sup> 235: Heath to Acheson, 27 July 1951, RG59, Entry A1 1252, Lot 54D423, Saigon, accessed via NIKH; 138: Acheson to Heath, 28 July 1951, *Ibid.*

<sup>473</sup> 264: Heath to Acheson, 30 July 1951, *Ibid.*

asserted that Vietnam had “every right” to be a signatory, arguing that it had contributed to the Allied victory at a tremendous cost during the Pacific War. With regards to collaboration, Huu claimed that Vietnam had had to “yield” to Japanese occupation due to the inefficiency of the French forces; even so, Vietnam had still engaged in “reduced resistance” and contributed to Allied victory. Vietnam also felt that it was unfair to make an issue out its collaborationist past, as such elements had been present in Burma, India, Indonesia and the Philippines, who were nevertheless being recognized as belligerents. Unfortunately for Vietnam, all that Heath could offer in response was sympathy.<sup>474</sup>

Amid this on-going debate, Health cabled Dulles on 10 August 1951, arguing that since other governments that had recently become independent, such as India, were being invited as full signatories, not granting the same treatment to the AS would be discriminatory and damage the American and British effort to build up the international legitimacy of AS. Heath also added that the AS might possibly seek out other non-participants, such as China and Korea, to jointly lobby for a place in the Japanese peace treaty. He therefore suggested that the State Department should invite the AS to sign the treaty and convince the other Asian countries to co-sign based on Cambodia’s non-recognition formula. Failing this, a separate peace arrangement should be made between Japan and the AS.<sup>475</sup>

Meanwhile, there were some encouraging signs. On 4 August 1951, Ceylon expressed its willingness to sign the treaty.<sup>476</sup> Pakistan on 8 August 1951 reversed its position and informed France that it favored the AS participation.<sup>477</sup> Indonesia, although unfavorable to AS, also did not refuse to attend the peace conference – and there were indications that it might sign the treaty – even if the AS were invited as co-signers.<sup>478</sup> In short, even if India and the Philippines refused to sign, there was a good chance that the US would end up with a reasonable number of Asian participants. Perhaps buoyed by these developments, the State Department on 8 August 1951 informed Britain that the US intended to invite the AS to sign the Japanese peace treaty, as long

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<sup>474</sup> 277: Heath to Acheson, 31 July 1951, *Ibid.*; 304: Heath to Dulles and Acheson, 3 August 1951, *Ibid.*; Fifield, *Southeast Asia*, 29; Pluvier, *South-East Asia*, 181, 201-2, 222-3, 230, 376.

<sup>475</sup> 357: Heath to Acheson (Dulles), 10 August 1951, *Ibid.*

<sup>476</sup> 75: Satterthwaite to Acheson, 4 August 1951, RG59, Entry A1 1252, Lot 54D423, Colombo, accessed via NIKH.

<sup>477</sup> 59: Warren to Acheson, 19 July 1951, RG59, Entry A1 1252, Lot 54D423, Karachi, accessed via NIKH; 896 (57): Bonsal to Acheson, 8 August 1951, RG59, Entry A1 1252, Lot 54D423, Paris, accessed via NIKH.

<sup>478</sup> 972: Bonsal to Acheson, 11 August 1951, RG59, Entry A1 1252, Paris, accessed via NIKH; 239: Cochran to Acheson, 13 August 1951, RG59, Entry A1 1252, Jakarta, accessed via NIKH.



as London had “no serious objection.”<sup>479</sup> The fact that the French Foreign Ministry (also on 8 August 1951) informed the US that France could not sign the treaty on behalf of Indochina would have further convinced the State Department of the wisdom of inviting the AS.<sup>480</sup>

On 12 August 1951, Laos also officially demanded invitation to sign the treaty. Laos echoed Cambodia and Vietnam in arguing that it had “inherited” the status of a belligerent from France and that it had suffered tremendously from the Japanese occupation. At the same time, Laos stressed that it was an independent country recognized by the US and its participation was supported by France. Laos also emphasized that its participation in the peace treaty would facilitate “mutually beneficial economic cooperation between Laos and Japan.”<sup>481</sup>

Against this backdrop, on 13 August 1951, Heath sent another note to Dulles with the following thoughts on India and the Philippines. To begin with, now that Ceylon, Indonesia and Pakistan had expressed their willingness to participate in the peace conference, Heath suggested proceeding with the peace conference without India if it continued to oppose. After all, why should the US favor India, which was friendly towards the PRC – a communist and an “aggressor” in the Korean War – over the Indochinese states that were fighting against communism?<sup>482</sup> In his telegram to Washington on 15 August and 16 August 1951, Heath also argued that failure to invite the AS would only aid the communists in Southeast Asia.<sup>483</sup>

France and Vietnam, meanwhile, continued to exert pressure. On 14 August 1951, the French Embassy in Washington once again requested inviting the AS to sign the treaty, arguing that not doing so would be “practically equivalent” to supporting the Viet Minh, which would have “considerable” repercussions and lead to a crisis in the region.<sup>484</sup> Meanwhile, the Bao Dai government used the press to place more pressure on the US.<sup>485</sup> While criticizing the US for favoring India, Indonesia, Pakistan and Burma at the expense of AS interests, local newspapers

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<sup>479</sup> Acheson to US Embassies in Paris, Saigon and London, 8 August 1951, RG59, Entry A1 1252, Lot 54D423, Paris, accessed via NIKH.

<sup>480</sup> 896: Bonsal to Acheson, 8 August 1951, *Ibid.*

<sup>481</sup> 359: Heath to Acheson, 12 August 1951, RG59, Entry A1 1252, Lot 54D423, Saigon, accessed via NIKH.

<sup>482</sup> Heath to Dulles, 13 August 1951, *Ibid.*; 401: Webb to London and New Delhi, 17 August 1951, RG59, Entry A1 1252, Lot 54D423, New Delhi, accessed via NIKH.

<sup>483</sup> 383: Heath to Acheson (Dulles), 15 August 1951, RG59, Entry A1 1252, Lot 54D423, Saigon, accessed via NIKH; 394: Heath to Acheson, 16 August 1951, *Ibid.*

<sup>484</sup> French Embassy to the State Department, 14 August 1951, RG59, Entry A1 1252, Lot 54D423, France, accessed via NIKH.

<sup>485</sup> 372: Heath to Acheson, 14 August 1951, RG59, Entry A1 1252, Lot 54D423, Saigon, accessed via NIKH.

demanded that Vietnam be invited to sign the treaty for reasons including sovereignty, prestige, morale, anti-communism and upholding the French position in the region.<sup>486</sup>

Finally, on 17 August 1951, the State Department made a momentous decision. In light of the fact that the Soviet Union had announced its decision (on 12 August 1951) to attend the peace conference, the State Department was convinced that Soviet participation would induce India, Indonesia and Burma to attend the peace conference and therefore that it was safe to invite the AS. Responding to Indian opposition that the AS were not entitled to participate because they were not sovereign states, the State Department pointed out that India had attended the 1919 Paris peace conference, even though it had not been really independent. Hence, unless Britain objected, the US was planning to invite the AS.<sup>487</sup>

Britain responded immediately on 18 August 1951 and supported the idea that the AS should be invited to the San Francisco peace conference. Britain reasoned that Indochina had “suffered directly from Japanese aggression” and that there was a need to “bring as many Asians as possible” to the peace conference. Additionally, since France insisted that it could not sign on behalf of the AS, the Indochinese had to sign the treaty themselves. Britain also felt that India could be convinced to co-sign the treaty by adopting Cambodia’s non-recognition formula.<sup>488</sup> This essentially marked the end of the negotiations for Indochinese representation.

### **Invitation to San Francisco Peace Conference**

On 21 August 1951, two weeks before the San Francisco peace conference, the State Department decided to invite Cambodia, Laos and Vietnam to the conference as full signatories; the invitations were delivered the following day (22 August 1951).<sup>489</sup> When informed on 22 August 1951, the Philippines did not raise any objections and simply demanded the right to adopt the non-recognition formula.<sup>490</sup> Afterwards, the San Francisco peace conference “Rules of Procedure”

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<sup>486</sup> 371: Heath to Acheson, 14 August 1951, *Ibid.*; 381: Heath to Acheson, 14 August 1951, *Ibid.*

<sup>487</sup> 106: US Embassy (Moscow) to State Department, 13 August 1951, RG59, Entry A1 1252, Lot 54D423, USSR(II) Part I, accessed via NIKH; 1032: Acheson to US Embassy in London, 17 August 1951, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH.

<sup>488</sup> 937: Holmes to Acheson, 18 August 1951, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH; 1042: Webb to US Embassy in London, 18 August 1951, *Ibid.*; FO371/92581, FJ022/1011, NA.

<sup>489</sup> 256: Acheson to US Legation in Saigon, 21 August 1951, RG59, Entry A1 1252, Lot 54D423, Saigon, accessed via NIKH; 441: Gullion to Acheson, 22 August 1951, *Ibid.*; 444: Gullion to Acheson, 22 August 1951, *Ibid.*; Letter of invitation to Cambodia, 21 August 1951, RG59, Entry A1 1252, Lot 54D423, Indochina, accessed via NIKH.

<sup>490</sup> 749: Cowen to Acheson, 22 August 1951, RG59, Entry A1 1252, Manila II, accessed via NIKH.

Article 8 adopted Cambodia's non-recognition proposal.<sup>491</sup> Burma and India, unfortunately for the US, refused to attend the peace conference. However, as explained in later chapters, this was not because of Indochinese participation; Burma was not happy with the reparations clause, while India did not approve of certain territorial and security provisions in the treaty. However, the US was able to secure all other Asian participants – Ceylon, Indonesia, Pakistan and the Philippines – as co-signers, while adding further Asian representation by inviting the AS.

In conclusion, numerous factors enabled Indochinese representation at the Japanese peace conference. Although the Indochinese entitlement to sign the treaty was questionable because of its controversial past and legal postwar status, it enjoyed the solid backing of France, one of the major world powers (albeit an ailing one) and a former Ally. France, in order to retain its influence in Southeast Asia, sought to build up the legitimacy of the pro-French regimes that were established after the end of WWII; Indochinese participation in the Japanese peace settlement was one means to accomplish this end. In order to win American support, France constantly inculcated the US with the idea that Indochinese participation would not only build up the legitimacy and sovereignty of the local governments, but also contribute to the anti-communist cause. This struck a chord with the US, which was seeking ways both to prevent the spread of communism in Southeast Asia and end European colonial rule; at the same time, the AS participation would increase Asian representation in the Japanese peace treaty. For the three Indochinese states, signing the treaty was not only a given right, considering the state of belligerency they inherited from their links to France during the Pacific War and the tremendous human and material loss that had resulted from Japan's aggression, but also a way to strengthen their status as independent states. Not surprisingly, Cambodia, Laos and Vietnam persisted in their demands to be invited to sign the treaty. The Indochinese participation, in other words, served the interests of all three parties – France, Indochina and the US – and by the end of August 1951 an official invitation was extended to the AS to be represented as full signatories.

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<sup>491</sup> It stated that the co-signature of the treaty did not imply recognition of any state or government to which any signatory has not previously extended recognition (Conference for the Conclusion and Signature of the Treaty of Peace with Japan, 23).



## Chapter 7. The Reparations Clause (Article 14): historical and international origins

This chapter examines how the reparations clause (Article 14) was formulated. Article 14 stipulated that the “resources of Japan are not presently sufficient” to make “complete reparation,” and hence reparations would be confined to two forms. One was “services” in terms of “production, salvaging and other work.” The other was allowing the Allies to confiscate Japanese property located within their own territories. Otherwise, the Allies were made to “waive all reparations claims.”<sup>492</sup> In short, it was intended to discourage extracting reparations from Japan. This chapter demonstrates that this clause was the product of both the Cold War and a number of historical experiences preceding it.

Article 14 was another extremely controversial aspect of the Japanese peace treaty and its significance is acknowledged in virtually all existing studies.<sup>493</sup> Interesting to note, however, is that, with the exception of Harry Scheiber, it has not received much detailed scholarly attention in the West. This is rather surprising considering the major role that the US played in crafting Article 14. In contrast, numerous scholars from Korea and Japan have analyzed the effects of Article 14 on bilateral relations between these two countries.<sup>494</sup> Taking this into account, this chapter seeks to breathe life into the debate on reparations in the English-speaking academia.

Another goal is to build on the existing historiography by tackling three important shortcomings. While virtually all the existing studies recognize that Dulles was affected by the post-WWI Paris peace conference, none explain what he exactly experienced at this conference and which particular elements of this settlement he wanted to avoid. Additionally, the fact that Article 14 was affected by the post-WWII Italian peace settlement and the German reparations

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<sup>492</sup> Certain Japanese properties were exempted and could not be confiscated. These included diplomatic and religious, and those belonging to Japanese who had sympathized with and helped the Allies during the war.

<sup>493</sup> Igarashi, *Japanese Peace Settlement*, 106, 112, 121-2, 172-3, 216, 226-7, 269, 267, 280; Nishimura, *San Francisco Peace Treaty*, 32-3, 78, 100, 146-7, 171, 190, 307-9; Hosoya, *San Francisco Peace Treaty*, 24, 31-2, 101-2, 114-5, 121, 209, 225-8, 262-3, 273; Dunn, *Peace-making and the Settlement with Japan*, 83, 85, 101-2, 110, 123-4, 142; Cohen, *Political Process and Foreign Policy*, 18, 23-4; Dower, *Embracing Defeat*; Schaller, *The American Occupation of Japan*; Miyasato, “John Foster Dulles and the Peace Settlement with Japan,” 189-212; 吉川洋子 [Yoshikawa Yōko], *日比賠償外交交渉の研究: 1949-1956 [The Japanese-Filipino Reparations Talks: 1949-1956]* (東京 [Tokyo]: 勁草書房 [Keisoshobo], 1991), 3-83.

<sup>494</sup> Yi, *Square One*; Chang, *The Past Unsettled*; Ōta, *Japanese-Korean Claims Negotiation*; Asano et. al., *The Question of Postwar Japanese Reparations and Re-orientation of East Asia*; Harry N. Scheiber, “Taking Responsibility: Moral and Historical Perspectives on the Japanese War Reparations Issues,” *Berkeley Journal of International Law* 20-233 (2002): 233-249. For the most comprehensive and detailed study on the question of postwar Japanese reparations, refer to: Hara, *Reparations*, 149-666.

question is totally overlooked. This chapter seeks to fill these gaps. Also, while Korean and Japanese scholars have extensively analyzed the origins and legacies of Article 14, they usually focus on the roles played by Japan, Korea and the US. This chapter attempts to provide a more international and fuller understanding of how Article 14 was formulated by examining the roles of the other governments as well.

### **The 1919 Versailles Peace Treaty and Dulles**

There were two elements of the Versailles peace treaty that were relevant to the Japanese reparations question. The first was the principle of “payment in principle, but restraint in practice.” To elaborate, Article 231, the so-called war guilt clause, stipulated that Germany “accepts the responsibility of Germany” for “causing all the loss and damage” to the “Allied and Associated Governments.” Article 232, however, stipulated that Germany did not have adequate resources to pay “complete reparation.”<sup>495</sup> In other words, while Germany was forced to recognize its responsibility to pay reparations, the Allies acknowledged, in turn, that it could not make full payment. One of the proponents of this principle was Dulles.

This was a compromise solution devised in 1919 to satisfy both the Germans and the Allies, the latter of which were internally divided over what and how much should be paid. The US believed that Germany should be required to pay for civilian damages only and was strongly against making it responsible for war costs. This would have confined the reparations payments mostly to Belgium and France, which had sustained the greatest losses. The American delegation further estimated that Germany could only pay \$25 to 30 billion. The US wished to save the Germans from an excessive reparations burden. This was motivated by the belief that damaging Germany’s economy would not only impair overall international trade – and thus hurt the American economy – but also drive Germans towards Bolshevism, an anathema to many of the top decision-makers in the US. This concern was shared by Woodrow Wilson, Robert Lansing (Secretary of State and Dulles’ uncle), Thomas Lamont and Norman Davis (both members of the US reparations team), and Dulles.<sup>496</sup>

In contrast, the Allies – in particular, Britain, France, Italy and Serbia – opted for a harsh reparations formula. They demanded that Germany should be made liable for paying not only

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<sup>495</sup> The Treaty of Peace with Germany, accessed via Library of Congress (LOC), <https://www.loc.gov/law/help/us-treaties/bevans/m-ust000002-0043.pdf>.

<sup>496</sup> Pruessen, *John Foster Dulles*, 45-7, 52-3, 55-7, 76-105, 392-7.

civilian damages, but also “all” of the war costs; this meant the replacing of damaged property and compensation for the expenses incurred in obtaining weapons, ships, planes and other supplies. In terms of the amount, Britain and France respectively demanded \$90 billion and \$200 billion worth of reparations. The Europeans took a more punitive approach due to security concerns and public opinion. Not only did they share a desire to curb the German threat, but also their general sentiment did not incline them towards mercy for Germany.<sup>497</sup>

Articles 231 and 232 were devised to resolve these differences.<sup>498</sup> Unfortunately, while the Allies ultimately agreed on this compromise after much bickering, neither the Allies nor Germany was satisfied. Germany, in particular, was extremely unhappy with the fact that Article 231 singled it out as the sole villain of the war.<sup>499</sup> Unsurprisingly, it sought to undo the Versailles peace treaty in the following years, framing the reparations formula as being an unworkable burden on the German economy and as adversely affecting world trade in general.<sup>500</sup>

Meanwhile, there were a number of notable figures on both sides of the Atlantic who opposed the harsh reparations approach. These included John Maynard Keynes, Ray Stannard Baker and Harold Nicolson, all of whom had either witnessed or taken part in the 1919 Paris peace conference.<sup>501</sup> They all accused the Europeans of wanting a “Carthaginian peace” and thought that the reparations terms would cripple the German economy and cause economic chaos worldwide, leading to another war. Later writers would also contend that more moderate peace terms would have helped avoid creating Hitler.<sup>502</sup>

It should be noted that more recent scholarly findings have demonstrated that the reparations formula of Versailles peace treaty could have worked had the Allies and the Germans

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<sup>497</sup> *Ibid.*, 34; Steiner, *The Lights that Failed*, 38, 55-62.

<sup>498</sup> Alan Sharp, *The Versailles Settlement: peacemaking after the First World War, 1919-1923* (New York: Palgrave Macmillan, 2008), 90-1; Pruessen, *John Foster Dulles*, 36-7.

<sup>499</sup> Sharp, *The Versailles Settlement*, 91; Klaus Schwab, “Germany’s Peace Aims: domestic and international constraints,” in *The Treaty of Versailles: a reassessment after 75 years*, edited by Manfred F. Boemeke, Gerald D. Feldman and Elisabeth Glaser (Cambridge: Cambridge University Press, 1998), 54; Fritz Klein, “Between Compiègne and Versailles: the Germans on the way from a misunderstood defeat to an unwanted peace,” *Ibid.*, 203-220; Sally Marks, “Smoke and Mirrors: in smoke-filled rooms and the Galerie des Glaces,” *Ibid.*, 364; William R. Keylor, “Versailles and International Diplomacy,” *Ibid.*, 500.

<sup>500</sup> Niall Ferguson, “The Balance of Payments Question: Versailles and After,” *Ibid.*, 401-440; Marks, “Smoke and Mirrors,” 364; Glaser, “The Making of the Economic Peace,” 392-7.

<sup>501</sup> Ray Stannard Baker acted as Wilson’s press secretary and later compiled a biography of Wilson. Harold Nicolson was a junior diplomat during the peace conference and later wrote a book about it. Keynes was part of the British delegation in charge of economic matters, and later wrote a book claiming the Versailles peace treaty could lead to another war: John Maynard Keynes, *The Economic Consequences of the Peace* (New York: Harcourt, Brace and Howe, 1920).

<sup>502</sup> William R. Keylor, “Versailles and International Diplomacy,” 490.

taken appropriate action.<sup>503</sup> Tony Smith even argues that the real problem lay with Germany's internal structure. Since democracy never really took root in Germany, while militarism continued to exist and economic affairs were dominated by mercantilist cartels, Smith argues that the rise of Hitler would still have been probable even if the Allies had opted for a generous peace.<sup>504</sup>

Regardless, the popular notion that the reparations formula of the Versailles peace treaty was doomed to failure survives to this day.<sup>505</sup> Most importantly, Dulles shared this belief and was convinced that the formula that he had helped to create was fundamentally flawed. Hence, for the Japanese peace treaty, he decided to do things differently and specifically refused to adopt a war guilt clause.

The second component of the Versailles peace treaty that would later have an impact on the Japanese reparations question was Article 233, which stipulated that an Inter-Allied Commission (reparations commission) would be set up. The objective of this commission was to calculate the exact reparations amount to be paid by Germany. At the Paris peace conference, the Allies were not able to agree on the reparations bill, as the US sought to minimize it, while Britain and France, mindful of their public opinion, feared that they might agree to too little. Consequently, the Allies agreed to delay and study the precise amount of reparations after the signing of the treaty, culminating in Article 233.<sup>506</sup>

The reparations commission's performance was unimpressive, as it continued to revise its decision. Initially, on 21 May 1920, it agreed on a total sum of 132 billion gold marks to be paid by Germany. This agreement, conventionally called the "London Schedule of Payments," was revised twice, once on 9 April 1924 ("Dawes Plan") and again in 1929 ("Young Plan"). In recognition of Germany's difficulty in paying the full amount, the former reduced the reparations amount to around 40 billion marks, while the latter suggested payment of around 67 billion marks over 59 years. Eventually, with the imminent collapse of the German economy in 1931, reparations were cancelled in 1932 at the Lausanne Conference. The total amount of reparations that Germany paid eventually came to approximately 21 billion marks.<sup>507</sup>

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<sup>503</sup> Marks, "Smoke and Mirrors," 362-4; Keylor, "Versailles and International Diplomacy," 502.

<sup>504</sup> Tony Smith, *America's Mission: the United States and the worldwide struggle for democracy* (Princeton: Princeton University Press, 2012), 100.

<sup>505</sup> Keylor, "Versailles and International Diplomacy," 502-3.

<sup>506</sup> Pruessen, *John Foster Dulles*, 38-41.

<sup>507</sup> Steiner, *The Lights that Failed*, 183-250, 457-493, 667-90.



Dulles' experience at the Paris peace conference had a profound effect on him personally and the Japanese peace treaty in two respects. To begin with, Dulles learned that adopting a "war guilt clause" was not the wisest option. Secondly, he became pessimistic about the practicality of post-treaty Allied coordination in formulating a precise reparations schedule. Of course, there were other important developments that would affect the terms dictating the Japanese peace treaty. It is to this question that we now turn to.

### **The Emergence of the Japanese Reparations Question, Post-WWII German and Italian Settlements and Preliminary Decisions, 1945-1947**

While the main focus of this chapter is to understand how Article 14 was formulated between 1950 and 1951, the narrative on reparations would not be complete without examining the early peace treaty developments. Taking this into account, this section and the subsequent one will briefly explore the early reparations plans before 1950.

The US began to explore the question of Japanese reparations rather early. Already at the end of the Pacific War a debate had emerged between those who argued for a punitive approach and those who were against it. The latter were concerned about Japan's economic well-being, while the former argued that Japan should not enjoy a more lenient policy than JCS1067 (April 1945), which stated that Germany's living standards should not be at a higher level than those of its neighbors.<sup>508</sup>

There was also a debate on the type of reparations that Japan would be obligated to pay. Two notable documents were produced in early 1945 by the State Department regarding this question: PR-2 ("Economic Policy of the US with respect to Japan") and SC101 ("Economic Policy toward Japan: summary statement").<sup>509</sup> Although PR-2 and SC101 were not formally adopted by the US on the grounds that they lacked clarity on the question of what specific industrial facilities could be delivered as reparations, some of the suggestions contained in the two reports would later be adopted.<sup>510</sup> For instance, these reports argued that Japanese reparations should be premised on: demilitarization, the liquidation of its economic dominance overseas (and helping the former victims to recuperate), the assurance of a minimum living

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<sup>508</sup> Hara, *Reparations*, 165-70, 175.

<sup>509</sup> *Ibid.*, 178-9, 181-2.

<sup>510</sup> *Ibid.*, 182-3.

standard, the strengthening of its economic ties with the free world, and conformity with the US-envisioned postwar economic order in East Asia.

Regarding the permissible forms of reparations, both reports saw the removal of industrial plants and transfer of overseas Japanese assets as the most favored solution. In other words, any capital equipment – such as steel and aluminum plants and machinery – that had war potential and was not necessary for the peacetime economy would be dismantled and given to the Allies; the Allies would also be free to confiscate Japanese property located within their own territories. The former conformed to the idea of Japan’s demilitarization, while the latter would help the rehabilitation of recipient countries. While reparations in the form of stockpiled commodity “goods” were also entertained, both reports were ambiguous about the applicability of this approach, since it might divert certain export commodities to paying for reparations, thus losing the chance to earn foreign exchange and hindering Japan’s economic recovery.

Both reports opposed any cash form of reparations, as it was believed that there would not be enough disposable money left in Japan by the end of the war.<sup>511</sup> This was formalized in the Potsdam Declaration of July 1945, which indicated that Japan’s reparations payment should be “in kind” and not in cash.<sup>512</sup> This non-cash principle was maintained throughout the treaty negotiation process and ultimately adopted in the final 1951 draft.

Meanwhile, two important developments took place in postwar Europe that would later impact on the question of Japanese reparations. The first was the German settlement. At the Potsdam conference in July 1945, the Allies agreed that certain industrial equipment from the western occupation zone (administered by Britain, France and the US) would be given to the Soviet Union as reparations; in return, the Soviet Union would deliver raw materials from its occupation zone to the West.<sup>513</sup> However, the Soviet Union refused to live up to its promise, citing economic difficulties as the reason. Worse still, the Soviet Union confiscated capital equipment in its own occupation zone indiscriminately without consulting the other Allies. Additionally, the Soviet Union started to take reparations from current production, which was not even part of the Potsdam agreement.

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<sup>511</sup> Hara, *Reparations*, 178-9, 181-2.

<sup>512</sup> Potsdam Declaration, 26 July 1945, *op. cit.*

<sup>513</sup> Potsdam Agreement (Protocol of Proceedings), 1 August 1945, accessed via NATO, [https://www.nato.int/ebookshop/video/declassified/doc\\_files/Potsdam%20Agreement.pdf](https://www.nato.int/ebookshop/video/declassified/doc_files/Potsdam%20Agreement.pdf).

This Soviet behavior was controversial, because it went against the principle of treating Germany's economy as a whole; any reparations removal from its zone of occupation was bound to have an adverse effect on the other zones of occupation. The discord between the Soviet Union and the US led Lucius Clay (Military Governor of US-occupation zone) to propose the termination of the reparations program in the May 1946, to which both Britain and France agreed. It should be noted that the US was partly motivated by its own economic interests, as Germany's economic difficulties could only be overcome with American financial support, a burden that it did not wish to continue indefinitely. Hence, the US decided it was best to stop the removal of industrial equipment and instead worked to revive German productive capacity and make it self-sustaining again.<sup>514</sup>

The second important development was the 1947 Italian peace treaty. Under this treaty (Article 74), Italy was made to pay reparations from "current production" to Albania, Ethiopia, Greece, the Soviet Union and Yugoslavia. Important to note here is the fact that this was predicated on the condition that the recipient countries would provide the necessary raw materials to Italy. Furthermore, Article 74 stipulated that reparations should neither interfere with Italy's economic reconstruction nor impose "additional liabilities" on other Allies, an indirect way of saying that the US should not be made to indirectly pay for reparations. This formula, with slight modification, would eventually be adopted for the Japanese peace treaty.

The problem with the Italian case was that only the Soviet Union had the capacity to provide such raw materials. In contrast, Greece was not able to do this due to its civil war and on-going border skirmishes with Albania over Northern Epirus. Meanwhile, reparations for Albania and Yugoslavia did not progress for various "political" reasons, including the war criminals issue – as Italy refused to extradite its nationals to Yugoslavia or Albania for trial – and the territorial dispute over Trieste. In Albania, the American and British secret services were attempting to topple the communist Enver Hoxha regime. Thus, naturally, both tried to prevent reparations going to Albania.<sup>515</sup> Simply put, the experience with the Italian reparations questions was not a happy one.

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<sup>514</sup> Steil, *Marshall Plan*, 62-9, 75-6.

<sup>515</sup> Reparations from current production, undated, RG59, Entry A1 1252, Lot 54D423, Reparations, accessed via NIKH; Effie G. H. Pedaliu, *Britain, Italy and the origins of the Cold War* (New York: Palgrave Macmillan, 2003), 9-34; Giampaolo Valdevit, "The Search for Symmetry: a Tentative View of Trieste, the Soviet Union and the Cold War," in *The Soviet Union and Europe in the Cold War, 1943-53*, Francesca Gori and Silvio Pons et. al. (New York: St. Martin's Press, Inc., 1996), 395-411; Leopoldo Nuti, "Security and Perceptions of Threat in Italy in the Early

Hence, even before the Japanese peace treaty negotiations began, there were a number of important developments that affected the reparations question. To begin with, there was already a consensus within the US that the only permissible form of reparations would be in-kind, an idea that was later formally agreed with the other Allies in the Potsdam Declaration; the cash form of reparations was thus ruled out early on. Equally important was the fact that postwar reparations in Europe had neither been successful after WWI nor WWII. As explained below, this led to a general disillusionment with the prospect of any successful Allied agreement on reparations for Japan.

### **Evolution of Reparations Terms for Japan: from harsh reparations towards no-reparations**

To recall, the initial US policy towards Japan was not dictated by Cold War concerns; instead, the wartime anti-Axis mentality still dominated. The early reparations policy was developed in conformity with this principle. This was first evidenced in the “Initial Post-Surrender Policy” (6 September 1945), which stated that reparations would be geared towards “Japan’s demilitarization” and provided for the confiscation of its overseas assets and the transfer of “goods or existing capital equipment and facilities.”<sup>516</sup> The reparations policy was further crystallized by Edwin Pauley, an American oil tycoon, who was appointed by Truman on 27 April 1945 to develop a specific formula for Japan. Pauley’s proposal – which was delivered to Truman on two occasions, an interim report on 18 December 1945 and a final report on 1 April 1946 – was a two-pronged solution that sought both to demilitarize Japan and assist the industrial development of the neighboring Asian countries.<sup>517</sup> Pauley pointed out that Japan’s industrial capacity was “far greater” than needed for peacetime use and that such excess facilities should be made available for reparations. The specific industries that he targeted included steel and iron,

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Cold War Years, 1945-1953,” *Ibid.* 412-29; Peter Grose, *Operation Rollback: America's Secret War Behind the Iron Curtain* (New York: Houghton Mifflin Harcourt, 2000), 155-8; Owen Pearson, *Albania as Dictatorship and Democracy: from isolation to the Kosovo War 1946-1998* (London: I.B.Tauris, 2006), 333-4, 362-3.

<sup>516</sup> SWNCC150/4: United States Initial Post-Surrender Policy for Japan, 6 September 1945, accessed via NDJ, <https://www.ndl.go.jp/constitution/shiryō/01/022/022tx.html>.

<sup>517</sup> Jerome B. Cohen, *Japan's Economy in War and Reconstruction* (New York: Routledge, 2000), 420; Ohno Takushi, “United States Policy on Japan War Reparations, 1945-1951,” *Asian Studies: Journal of Critical Perspectives in Asia (ASJ)* 13-3 (1975), 27; Hara, *Reparations*, 211.

chemicals, shipping and shipbuilding, machine parts, power plants and communications with the total value of approximately \$2.466 billion.<sup>518</sup>

Subsequently, the FEC decided on 13 May 1946 to start removing industrial plant that had been earmarked for reparations, and on 4 April 1947 the JCS directed MacArthur to begin delivery.<sup>519</sup> This so-called “advance reparations” program – in which 30% of those resources earmarked for reparations were removed and transferred to Britain, China, the Netherlands and the Philippines – would be the first and the last industrial assets from Japan that were actually delivered overseas.<sup>520</sup>

In short, the early Japanese reparations policy had three important characteristics. To begin with, it was geared towards demilitarizing Japan to ensure that it did not re-emerge as a threat. Secondly, reparations were limited to in-kind payments and the confiscation of Japanese properties abroad. Finally, in Pauley’s own words, it was based on a “principle of severity” that would “severely” limit Japan’s industrial capacity.<sup>521</sup>

The reparations clause of the first draft peace treaty that was developed in 1947 was premised on this punitive approach. The preamble clearly depicted Japan as being an aggressor that had engaged in a state of war against the Allies. Furthermore, Article 32 obligated Japan to make “equitable reparation” to the Allies by transferring “capital equipment and facilities” and goods out of current and future production. Meanwhile, Annex J stated that overseas Japanese assets would be transferred to the Allies as reparations and outlined the percentage share of each claimant and appended a list of the specific industries earmarked for reparations.<sup>522</sup> This resonated with the 1919 Versailles precedent, as it clarified Japan’s war guilt and its obligation to rectify its past crimes through reparations. It was also a punitive policy that could have seriously impaired Japan’s economy.

Fortunately for Japan, this treaty was discarded and drastically revised amid the escalating Cold War tensions of 1947-8 and the emergence of the “reverse course” that

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<sup>518</sup> Reparations from Japan: Comprehensive Program (report to the president from Edwin W. Pauley), 1 April 1946, accessed via University of Minnesota.

<sup>519</sup> JCS to MacArthur, 4 April 1947, *FRUS* 1947, Vol. 6, 376-80.

<sup>520</sup> Frank McCoy (US representative at the FEC) made a public statement on 3 April 1947, explaining that interim reparations were necessary in light of the urgent need of the recipient countries for economic revival; McCoy also added that the lack of progress over reparations was hindering occupation objectives. For details, refer to: *Bulletin* 406 (13 April 1947), 674-5; Hara, *Reparations*, 269.

<sup>521</sup> Reparations from Japan: Comprehensive Program, 1 April 1946, *op. cit.*

<sup>522</sup> Treaty of Peace with Japan, 1 August 1947, RG59, Entry A1 1230, Treaty (Bacon, Ruth)-1, accessed via NIKH.

prioritized Japan's economic rehabilitation. Kennan, for instance, argued in PPS 10 (14 October 1947) that "none out of current productions" should be made available for reparations.<sup>523</sup> This was echoed by MacArthur who argued on 28 October 1947 that the present policy essentially amounted to making the US pay for reparations, as Japan's production capacity depended on American assistance.<sup>524</sup>

Meanwhile, Kenneth Royall (Secretary of the Army) gave a speech on 6 January 1948 in San Francisco in which he implied that even those industries with "war potential" might need to be retained by Japan for the sake of a "sound and self-supporting economy."<sup>525</sup> The Royall speech was followed by three reports that were submitted sequentially to the Army and the State Department, each criticizing the existing reparations policy and suggesting amendments. The first report was submitted on 18 February 1948 by Clifford Strike (Head of Overseas Consultant, Inc.), who was tasked by the Army to review reparations policy. Strike argued that Japan's demilitarization was complete and thus it did not pose any threat in the immediate future. Strike added that, in his view, economic recovery would steer Japan away from militarism and contribute to regional stability. He was therefore "against the removal of productive facilities (except primary war facilities) that can be effectively used in Japan" and suggested restoring Japan as a "strong industrial nation." The total value of reparations removal was also scaled down to \$1,648,156,000.<sup>526</sup>

The second report was submitted on 26 April 1948 by Percy H. Johnston (Chairman of the Chemical Bank and Trust Company), who was tasked by the Army to examine the economic situation in Japan. Johnston largely endorsed Strike's arguments. Furthermore, he reiterated that demanding reparations from Japan was against American interests, as the US "would in reality be paying the reparations bill." Since Japan could only sustain itself with US financial support, the former's reparations payment simply meant channeling American taxpayers' money through Tokyo to the recipients. The total reparations amount was also scaled down to \$662,247,000.<sup>527</sup>

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<sup>523</sup> *FRUS* 1947, Vol. 6, 542.

<sup>524</sup> Sebald to Penfield, 28 October 1947, *Ibid.*, 555-6.

<sup>525</sup> Speech by Kenneth C. Royall, Secretary of the Army, on the United States Policy for Japan, 6 January 1948, accessed via University of Tokyo Database of Japanese Politics and International Relations, <http://worldjpn.grips.ac.jp/documents/texts/JPUS/19480106.S1E.html>.

<sup>526</sup> Strike Report (Report on Industrial Reparations Survey of Japan to the United States of America), 18 February 1948, accessed via Japan Center for Asian Historical Records (JACAR), 8-9; Asano, "The Dissolution of the Japanese Empire and Korea-Japan Normalization," 43-4.

<sup>527</sup> Report on the Economic Position and Prospect of Japan and Korea: measures required to improve them, 26 April 1948, B19010374100, B'3.1.1.1-5, accessed via JACAR.

One salient feature of Johnston report was that it proposed the formula of “Japan : neighbors = supplier of finished goods : supplier of raw material.”<sup>528</sup> This was premised on the idea that Japan had the industrial capacity to make the goods that its neighbors needed, while the latter had the raw materials that Japan lacked and that the two sides should use their comparative advantage to mutually benefit one another.<sup>529</sup> This idea would later be adopted by Dulles, who wanted to build up Japan as a supplier of finished goods and Southeast Asia as a provider of raw materials.

The third report was PPS 28 (25 March 1948), developed by Kennan and his team. This report advised that, aside from the aforementioned “advance reparations,” the peace treaty should not allow any further payments. Kennan also argued that even “primary war facilities” should now be exempt from removal.<sup>530</sup> On 9 April 1949, Acheson approved these suggestions and decided to make them known to the FEC “regardless of likely unfavorable reception.”<sup>531</sup>

The US was thus increasingly inclined towards discouraging reparations payments from Japan. This change in mood eventually culminated in NSC 13/3, signed by Truman on 6 May 1949, which sought to terminate all reparations program and reduce the “whole” reparations question to a “dead letter.”<sup>532</sup> Frank McCoy (US Representative at the FEC) informed the FEC members accordingly on 12 May 1949, stressing that Japan had already paid substantial reparations through the expropriation of its overseas assets and that further reparations would hinder the occupation’s objective of putting its economy back on a self-sustaining basis. McCoy additionally stated that the FEC had not been able to agree on reparations since the end of the war and hinted that there was no immediate prospect of an agreement.<sup>533</sup> The same day, the JCS directed the SCAP to formally terminate all reparations removal.<sup>534</sup> The draft peace treaty was also duly revised. Article 30 of the 7 September 1949 treaty adopted the no-reparations policy, stipulating that the reparations claims of the Allies were deemed to have been satisfied from the seizing of the Japanese assets located in their respective territories and those assets received

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<sup>528</sup> Asano, “The Dissolution of the Japanese Empire and Korea-Japan Normalization,” 45-6.

<sup>529</sup> Report on the Economic Position and Prospect of Japan and Korea: measures required to improve them (Johnston Report), 26 April 1948, B19010374100, B'3.1.1.1-5, accessed via JACAR, 12.

<sup>530</sup> *FRUS* 1948, Vol. 6, 695.

<sup>531</sup> Acheson to Royall, 9 April 1949, *FRUS* 1949, Vol. 7-2, 701-3.

<sup>532</sup> NSC13/3, 6 May 1949, *op. cit.*

<sup>533</sup> Department of State, *A Decade of American Foreign Policy: Basic Documents, 1941-1949 (revised edition)* (Washington DC: GPO, 1985), 452.

<sup>534</sup> JCS to MacArthur, 12 May 1949, *FRUS* 1949, Vol. 7-2, 744.

through the advance reparations program.<sup>535</sup> Also, to recall, the October 1949 draft revived the idea that Japan should prioritize the repayment of the initial occupation aid and assistance provided by the US over reparations (see Chapter 2). Although this clause was eventually discarded, the idea was maintained into the post-treaty era and would have an important bearing on Japan's economic relationship with Korea and Southeast Asia, a subject that will be revisited in the concluding chapter.

### **The FEC Reactions to the No-Reparations Formula**

Even before Dulles' appointment, the US had thus already decided not to exact further reparations from Japan. This no-reparations formula was duly adopted in Dulles' seven-point memorandum of 11 September 1950; with the exception of the transfer of Japan's overseas assets and the industrial equipment already received via the advance reparations program, "all parties would waive claims arising out of war."<sup>536</sup> When this memorandum was circulated to the FEC members, only the Philippines objected.<sup>537</sup> India simply endorsed Dulles' formula.<sup>538</sup> Likewise, China (ROC) explained that it was prepared to waive its reparations claims.<sup>539</sup> Meanwhile, the other members of the FEC made no mention of reparations at all.<sup>540</sup> Only belatedly on 29 January 1951 would Britain demand that the gold reserves in Japan be made available for reparations.<sup>541</sup>

Dulles also conferred at this point with Burma, even though it was not an FEC member. Burma stated it was "very much concerned over the waiving of reparations." James Barrington (Burmese Ambassador to Washington) stressed the country's economic difficulties, as well as the "damage done by the Japanese" and the "lack of Japanese assets present in Burma" that were available for seizure. In other words, Burma needed reparations. Dulles, however, rejected

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<sup>535</sup> Draft treaty of peace with Japan, 7 September 1949, RG59, Entry A1 1230, Treaty-Draft-9/07/1949, accessed via NIKH.

<sup>536</sup> *FRUS* 1950, Vol. 6, 1296-8.

<sup>537</sup> Preliminary consideration of Japanese peace treaty, 27 September 1950, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH; Romulo's memorandum (Filipino position on the Japanese peace treaty), 27 September 1950, *Ibid.*

<sup>538</sup> India's preliminary views on US memorandum on Japanese peace treaty, 21 December 1950, RG59, Entry A1 1252, Lot 54D423, India, accessed via NIKH.

<sup>539</sup> Memorandum of Conversation (Dulles and Koo), 19 December 1950, *FRUS* 1950, Vol. 6, 1373.

<sup>540</sup> *Ibid.*, 1307-8, 1324.

<sup>541</sup> Text of remarks by Sir Alvary Gascoigne, UK Ambassador at meeting with Mr. Dulles and Mr. Allison, 11:00 a.m., January 29th, Tokyo, RG59, Entry A1 1252, Lot 54D423, United Kingdom [I], accessed via NIKH.



Burma's pleas, arguing that if Japan were to pay reparations, then the US would be technically paying the bill, which it was not willing to do.<sup>542</sup>

Since Burma was not a member of the FEC, it was not treated as a principal negotiating partner. It therefore did not need to be consulted as closely as the Philippines. This necessarily meant that the discussion on reparations was mostly confined to the US and the Philippines, and, to a lesser extent, Britain. If Dulles ever thought this was going to be an easy battle – after all, there was really one small country (the Philippines) to deal with – he would be flabbergasted at how fanatically the Philippines was opposed to not receiving reparations.

### **The “Security in Lieu of Reparations” Approach**

In response to the no-reparations formula, the Filipino Congress on 10 February 1951 protested vehemently and demanded that the Philippines be accorded the same preferential treatment for reparations as had been the case for Belgium in 1919. This meant treating the Philippines as the first among equals in receiving reparations. It further stated that Japan should pay approximately \$8,000,000,000 worth of reparations in the form of capital goods, consumer goods, gold, technical services, stocks and merchant ships. Elpidio Quirino (President of the Philippines) at this congressional meeting highlighted the “terrible suffering” that the Philippines had experienced under Japanese aggression and complained that the US seemed more interested in helping the former enemy than its ally.<sup>543</sup>

In his own address to the Filipino Congress (11 February 1951) and private conversation with Quirino (12 February 1951), Dulles expressed his “great sympathy.” At the same time, however, he stressed that Japan's economic reconstruction was necessary for the “common good” of the Pacific. He further argued that Japan had to be anchored to the West and must not fall to communism – a principle that even the Philippines agreed with. Thus, harsh reparations would be counterproductive. Dulles also claimed that it would be impossible for the Philippines to receive the kind of reparations it envisioned, citing “at length” the past difficulties with the German reparations terms after WWI and the “fruitless” attempt to resolve the reparations issue in the 1947 Italian peace settlement. Dulles also internally referred to the post-WWII German

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<sup>542</sup> Memorandum of Conversation: Japanese peace treaty, 19 October 1950, RG59, Entry A1 1252, Burma, accessed via NIKH.

<sup>543</sup> Joint meeting of Senate Committee on Foreign Relations and House Committee on Foreign Affairs attended by the Acting Secretary of Foreign Affairs on Saturday, 10 February 1951, on the proposed Japanese peace treaty, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH

reparations as another reason for doubting that any meaningful agreement could be reached. Dulles added that the “only” way for Japan to pay reparations was for the US to foot the bill, which the American government did not want.<sup>544</sup> The Philippines, in turn, disagreed and the two countries entered into a deadlock.

To break the impasse, Dulles started to entertain the idea of extending a security guarantee to the Philippines as a quid pro quo for the no-reparations formula. As indicated in a letter to MacArthur (2 March 1951), Dulles believed that that one of the driving needs for the countries in the Pacific was a security guarantee against possible Japanese re-aggression and that as long as this need was met, the reparations demands could be silenced.<sup>545</sup> Dulles was perhaps encouraged by the advice of Manolo Elizalde (one of the most powerful businessmen in the Philippines), who believed that a Pacific security arrangement might “cushion” any problem arising from a lenient reparations approach.<sup>546</sup> Myron Cowen (US Ambassador to Manila) also endorsed this idea of trading security for reparations.<sup>547</sup>

Meanwhile, Britain revisited the question of reparations in late January 1951 and again in mid-March 1951, by demanding that Japan’s gold bullion be used for reparations. The US, however, disagreed with this idea, reasoning that the Allies had never been, and hence never would be, able to agree on the division of shares. In fact, on 29 July 1948 McCoy had already informed the FEC members that gold and precious metals would not be given as reparations, as they were needed for Japan to secure foreign exchange.<sup>548</sup> The US further added that if Japan had the ability to pay reparations at all, then it should first repay the US’s advance occupation costs. Additionally, the US stressed that the removal of gold might damage Japan’s already-precarious living standards and that the Congress might refuse to ratify the treaty, if further reparations were extracted, as the US would be essentially paying for them. The US also pointed out that it would

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<sup>544</sup> Statement by Dulles, 11 February 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH; Memorandum of Conversation (Dulles and Quirino), 12 February 1951, *Ibid.*; Draft substance of remarks to be made to the foreign ministers of the Philippines, 21 March 1951, *Ibid.*; 2385: Cowen to Acheson, 13 February 1951, RG59, Entry A1 1252, Lot54D423, Manila I, accessed via NIKH.

<sup>545</sup> Dulles to MacArthur, 2 March 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH.

<sup>546</sup> From Vinton Chapin to Cowen (Dulles), 12 March 1951, *Ibid.*

<sup>547</sup> 2784: Cowen to Dulles, 15 March 1951, RG59, Entry A1 1252, Lot54D423, Manila I, accessed via NIKH.

<sup>548</sup> Statement by McCoy, 29 July 1948, *FRUS* 1948, Vol. 6, 993.

be awkward to force Japan to pay reparations to Britain, while Dulles was trying to discourage the Philippines from making its own demands.<sup>549</sup>

### **The New Dulles Formula and Transition Away from No-Reparations Principle**

Amidst the on-going discussion with the Philippines and Britain on reparations, Dulles reported on his overall progress to the Senate Foreign Relations Committee in March 1951. In this meeting Dulles highlighted the importance of preventing the further extraction of reparations from Japan, noting the potential burden on the US. Dulles also pointed out that, due to corruption in the Filipino government, the existing advance reparations that went to the Philippines were “completely wasted...lying rotting on a little island in Manila Bay.” In other words, reparations served no useful purpose, other than damaging Japan’s industrial capacity and possibly threatening the US economy.<sup>550</sup> Judging from the rather favorable response from the Senate, Dulles must have been reassured. Not surprisingly, the updated draft treaty dated 23 March 1951 maintained the no-reparations formula.

Dulles, however, could not simply ignore the Philippines. The US needed to ensure that the Philippines continued to be pro-US and internally stable. However, the pro-US ruling party (Liberal Party) confronted formidable opposition from the Nacionalista Party, which tended to take a more independent line, and the militant Huk rebels.<sup>551</sup> Hence, the US had to assist the Quirino regime in all permissible ways.

Dulles soon began to reconsider the existing no-reparations formula and entertained the possibility, should the Philippines refuse to give way, of obligating Japan to pay some reparations. On April 17, 1951, Dulles revealed to his team that he was thinking about applying the current production form of reparations from the 1947 Italian peace treaty to the Japanese peace treaty. However, in making any such transition, Dulles wanted to ensure that this new approach would benefit not only the Philippines, but also Japan. The idea was to arrange

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<sup>549</sup> Japanese peace treaty, 15 March 1951, FO371/92534, FJ1022/133, NA; Aide Memoire: Japanese Peace Treaty, 16 March 1951, FO371/92534, FJ1022/141, NA; Discussion on points of substance in the Japanese peace treaty, 21 March 1951, FJ1022/121, AB21/3267, NA.

<sup>550</sup> US Senate Committee on Foreign Relations, *Executive sessions of the Senate Foreign Relations Committee Vol. 3-1* (Washington DC: GPO, 1976), 266-9; Meeting with Far East Sub-Committee of Senate Foreign Relations Committee regarding a Japanese Peace Treaty, 19 March 1951, RG59, Entry A1 1252, Lot 54D423, Congressional (Miscellaneous), 1950-52, accessed via NIKH.

<sup>551</sup> NSC 84/2: The Position of the US with respect to the Philippines, 9 November 1950, *FRUS* 1950, Vol. 6, 1515-20; Yoshikawa, *Japanese-Filipino Reparations Talks*, 18-20.

reparations payment in a way that would allow the flow of raw materials from Southeast Asia to Japan in exchange for finished products. He hoped that this would in the long run “reopen a channel for trade with Philippines, Malaya, Burma and other reparations claimant countries.” In Dulles’ own words, it would essentially constitute trade between Japan and Southeast Asia “in the guise of reparations.”<sup>552</sup> This was not his optimum policy, as he still wished to adhere to the no-reparations formula, but it was one that he could live with if necessary.

Meanwhile, the British Commonwealth came up with its own draft peace treaty on 7 April 1951, independently from the US. The preamble of the British draft adopted a war guilt clause, stipulating that Japan “undertook a war of aggression” against the Allies, for which Japan “bears her share of responsibility for the war.” In light of this, Article 23 obligated Japan to transfer “gold and bullion” and “precious metals and jewels” as reparations “in addition to the sums already paid by her” under the 1947 advance reparations.<sup>553</sup> This was precisely the formula that Dulles wished to avoid. Britain admitted that it was impossible for the US to agree to these terms and hence indicated that it was willing to drop these demands.<sup>554</sup> Nevertheless, on 4 June 1951, Morrison made one last attempt to demand that Japan should pay reparations using its gold. Morrison reasoned that Japan’s past wrongdoings, especially the cruel treatment of POWs, were “not forgotten and could not be wholly ignored in the treaty.” For reasons mentioned so far, the US opposed this.<sup>555</sup> This marked the end of reparations talks between Britain and the US.

Although this British demand was rejected, it would be wrong to assume that the US completely ignored Britain’s indemnification rights. Indeed, Article 16 provided for compensation for the former European POWs, who had languished in Japanese prison camps, by creating a fund from Japanese overseas assets held in neutral and former axis countries. This topic deserves a separate analysis and hence this study cannot detail all the discussions. It suffices to say that Article 16 – while unsatisfactory, as it limited the recipients to military POWs and excluded civilian victims – sought to address the need to compensate the Western Allied victims of Japanese aggression.

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<sup>552</sup> Dulles Mission Staff Meeting, April 17, 1951, *FRUS 1951*, Vol 6-1, 980.

<sup>553</sup> Treaty of Peace with Japan, 7 April 1951, FO371/92538, FJ1022/222, NA.

<sup>554</sup> Draft brief on US provisional draft peace treaty with Japan, 11 April 1951, FO 371/92539, FJ1022/236, NA; Johnston to Clutton, 19 April 1951, FO 371/92540, FJ1022/242, NA.

<sup>555</sup> 6361: Gifford (Dulles) to Acheson, 4 June 1951, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH; 6409: Gifford to Acheson, 6 June 1951, *Ibid.*; Outline: Reparations and Property/Claims Consideration, undated, RG59, Entry A1 1252, Lot 54D423, Reparations, accessed via NIKH.

Dulles now had to convince the Philippines, which continued to object to the “no further reparations” formula. Contrary to Dulles’ view, Felino Neri (Acting Foreign Secretary) argued that the Versailles peace treaty had been “sound and valid” that was based on the “principle of justice.” According to Neri, it made sense that the “cost of a wrong should be borne by the wrong-doer.” The treaty had also, he believed, been mindful of the public sentiment of the victims. Neri also argued that allowing the wrong-doer to “escape payment for the damage he wrought” would not lead to peace, but rather encourage him to “break the peace again.” Indeed, Neri believed that WWII erupted because Germany had been allowed to stop its reparations payments. In short, Neri opposed the no-reparations formula, as it not only ignored the sentiment of the victim countries, but also entailed the risk of another conflict. In response, Cowen cabled Washington on 20 April 1951 and recommended that “some reparations” be given to the Philippines, even if these were a “token” amount.<sup>556</sup> Meanwhile, Dulles and his team conferred with Yoshida on 23 April 1951 in order to hint at the possibility that Japan might eventually have to pay reparations and to find possible ways to satisfy the Filipino demands.<sup>557</sup> A number of ideas were explored. Most notable was a proposal for salvaging sunken vessels around the Philippines, in which Japan would pay for the salvaging operations and all vessels recovered would be transferred to the Philippines. A second plan was for Japan to receive raw materials from the Philippines for processing and for these then to be delivered as finished goods to the Filipino government.<sup>558</sup> It is worth noting that these plans were eventually adopted in the formal reparations agreement between Japan and the Philippines in 1956.<sup>559</sup>

It would be unjust to assume that all Filipino leaders took an uncompromising attitude towards Japanese reparations. Certain Filipino officials, especially Manolo Elizalde and Senator Lorenzo Martinez Tañada, were sympathetic to Dulles and believed that their country’s demands were unrealistic. Nevertheless, the dominant sentiment forced the Filipino government to continue its hardline stance. The opposition Nacionalista Party even threatened to vote against ratification of the peace treaty if no reparations were forthcoming.<sup>560</sup>

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<sup>556</sup> 3297: Cowen to Acheson, 20 April 1951, RG59, Entry A1 1252, Lot54D423, Manila I, accessed via NIKH.

<sup>557</sup> Reparations claims, 23 April 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH.

<sup>558</sup> Supplementary statement to the conversation of Friday morning, 23 April 1951, *Ibid.*; On the Philippines’ claim to reparations, 23 April 1951, *Ibid.*

<sup>559</sup> Yoshikawa, *Japanese-Filipino Reparations Talks*, 247-348.

<sup>560</sup> 3572: Harrington to Acheson, 11 May 1951, RG59, Entry A1 1252, Lot54D423, Manila I, accessed via NIKH; 3807: Harrington to Acheson, 30 May 1951, *Ibid.*; Harrington to Acheson, 1 June 1951, *Ibid.*; 3851: Harrington to Acheson (Dulles), 1 June 1951, *Ibid.*; 3903: Harrington to Acheson, 6 June 1951, *Ibid.*; Harrington to Acheson, 30

The Philippines specifically demanded a total of \$8,079,624,000, which included physical damage (\$807,411,000), human loss (\$1,667,892,000) and commandeered goods and services (\$5,514,321,000). Perhaps as a gesture of goodwill, the Philippines added that it was willing to scale this down to \$6,527,260,500. With regards to the method of payment, it proposed creating a special committee consisting of representatives from the US, the Philippines and Japan to discuss the implementation process. Reparations would be extracted from numerous “sources,” including government revenue generated through various taxes and the profits made by Japan’s financial institutions. The Philippines also demanded that, even if all other Allied powers were to waive their right to reparations, it should be made the “sole exception.”<sup>561</sup>

For Dulles, the Filipino demands reminded him too much of the Versailles precedent. Not only was the reparations amount considerable, but also the idea of establishing a special committee was reminiscent of the reparations commission whose legacy had been discredited. Furthermore, the “sources” referred to by the Philippines essentially called for a cash form of reparations, to which Dulles was utterly opposed.

Dulles, therefore, responded with another proposal, which became the backbone of Article 14. To begin with, Japan would only pay reparations to those Allies whose “metropolitan territories” (as opposed to “colonial territories”) it had occupied. It would do this by making available its “skills and industry” in “manufacturing, salvaging and other services.” Meanwhile, any raw materials required for “manufacturing” in Japan would be supplied by the recipients of reparations. Dulles added that reparations should neither interfere “with the economic reconstruction of Japan,” nor impose any “additional liabilities on other Allied Powers,” which was another way of saying that the US had no intention of paying the bill.<sup>562</sup>

Dulles’s proposal was notable in many respects. Most importantly, Japan was now obligated to pay reparations, a major shift from the “no further reparations” policy. At the same time, however, reparations would specifically take the form of “services” instead of cash, which would prevent the loss of Japan’s foreign exchange, but still be beneficial to the more backward economies of Asia. The West had no need for Japan’s “skills and industry” as they were all

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May 1951, *FRUS* 1951 Vol. 6, 1054-5; Letter from Elizalde to Acheson, 1 June 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH; 3843: Yoshikawa, *Japanese-Filipino Reparations Talks*, 57.

<sup>561</sup> 3999: Harrington to Acheson, 12 June 1951, RG59, Entry A1 1252, Lot 54D423, Manila I, accessed via NIKH.

<sup>562</sup> Acheson (Dulles) to Cowen, 14 June 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH; 3165: State Department to US Embassy in Manila, 14 June 1951, RG59, Entry A1 1252, Lot 54D423, Manila I, accessed via NIKH.

advanced industrial societies, and in any case were barred by the reference to “metropolitan territories.” At the same time, the beneficiaries would only include those who were able to offer “raw materials,” which essentially meant that reparations would be limited to resource-rich Southeast Asia. This was clearly in line with the idea of turning Japan into a “workshop,” with Southeast Asia providing raw materials and Japan turning them into finished goods. While Yoshikawa credits the Filipino pressure for bringing about these changes, one should also acknowledge Dulles’s shrewdness in confining Japan’s reparations to Southeast Asia and thus reducing potential economic burden on Japan.<sup>563</sup> Additionally, although the new formula was meant to satisfy the Philippines, one can also speculate that Dulles aimed to win the support of other Southeast Asian states (and avoid the accusation doing special favor to Manila) by extending the same rights to them. Dulles’ new formula was adopted in the updated draft treaty of 14 June 1951 – which was published by the New York Times on 15 June 1951 – and would eventually make it into the final draft treaty almost intact.<sup>564</sup>

For the interim, however, the Philippines continued to oppose Dulles’ reparations policy. On 20 June 1951, Romulo sent an extensive letter of protest to Dulles. Romulo likened Dulles’ lenient approach towards Japan to Neville Chamberlain’s appeasement policy towards the Nazis; it was fraught with the danger of causing another war. The only sensible solution, he argued, was to make Japan pay a heavy price so that it had no means to wage another conflict. Romulo also added that it was Washington’s protectionist policies and unwillingness to cancel inter-allied debts that had led to the worldwide economic collapse in the early 1930s and the outbreak of WWII, not the reparations terms of the Versailles peace treaty.<sup>565</sup> This argument that the US protectionist policy had contributed to the war was something that even Dulles agreed with.<sup>566</sup> Perhaps because of this, Dulles referred to the WWI precedent less and less.

The situation therefore remained in deadlock. Until mid-July 1951, the two governments exchanged numerous proposals and counterproposals. There were three major points of contention. To begin with, whereas the Philippines wished to stipulate Japan’s war guilt and its responsibility to pay reparations, the US opposed this. Secondly, whereas the US believed that Japan had no capacity to pay, the Philippines believed otherwise and felt that the US was

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<sup>563</sup> Yoshikawa, *Japanese-Filipino Reparations Talks*, 24, 42-7.

<sup>564</sup> *FRUS* 1951 Vol. 6-1, 1120-32.

<sup>565</sup> Elizalde to Acheson, 20 June 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH.

<sup>566</sup> Pruessen, *John Foster Dulles*, 76-105.

unfairly shielding it at the expense of the former Allies. Finally, whereas the Philippines wished to leave the door open for cash reparations, the US was absolutely opposed to this and insisted on services-only form of reparations. Throughout this process sentiments turned bitter, with the US and the Philippines accusing one another of insufficient understanding. The Filipino Foreign Ministry at one point (2 July 1951) indicated that it might not even sign the Japanese peace treaty, unless its “reasonable claim for reparations and essential safeguard for its security” were satisfied.<sup>567</sup> Without doubt, the State Department was alarmed at this response, especially as the US was trying to secure as many Asian signatories as possible. At the same time, there was an added urgency in the need to extend some sort of security guarantee to the Philippines.

### **The Quasi-War Guilt Clause and Final Adjustment**

On 12 July 1951, the reparations talks entered a new phase, when Romulo suggested the following revised wording of Article 14: “It is recognized that Japan should pay reparations for the damage and suffering caused by it during the war and should make adequate reparations to the Allied Powers.”<sup>568</sup> While Yoshikawa interprets this as being a war guilt clause, it did not, in fact, bluntly state that Japan recognized its responsibility for the conflict, a stark contrast from the Versailles precedent.<sup>569</sup> It would be more apt to call it a quasi-guilt clause.

In response, Cowen suggested on 20 July 1951 that Washington should adopt Romulo’s quasi-war guilt clause with some minor revisions. Cowen believed that a revised version, coupled with a security pact, would satisfy the Philippines.<sup>570</sup> Although State Department initially rejected this suggestion on the grounds that reparations might endanger Japan’s economy, Cowen persisted that a compromise was “badly needed” and that Romulo’s formula should be accepted with “some rephrasing.”<sup>571</sup>

There were some other alarming developments around this time. On 21 July 1951 Burma noted its disapproval of the Japanese peace treaty on the basis of its unsatisfactory reparations

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<sup>567</sup> Elizalde to Acheson, 20 June 1951, op. cit; 4133: Harrington to Acheson, 21 June 1951, RG59, Entry A1 1252, Lot54D423, Manila I, accessed via NIKH; 3273: Acheson to US Embassy in Manila, 22 June 1951, *Ibid.*; 4165: Allison to Dulles, 23 June 1951, *Ibid.*; 12: Harrington to Acheson, 2 July 1951, *Ibid.*; Philippine comment on US March draft, 25 June 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH; Fearey to Dulles: comments on Philippine reparations proposal, 29 June 1951, *Ibid.*

<sup>568</sup> 164: Cowen to Acheson, 12 July 1951, RG59, Entry A1 1252, Lot54D423, Manila I, accessed via NIKH.

<sup>569</sup> Yoshikawa, *Japanese-Filipino Reparations Talks*, 24, 73.

<sup>570</sup> 308: Cowen to Acheson, 20 July 1951, RG59, Entry A1 1252, Manila I, NARA.

<sup>571</sup> 253: Acheson to Cowen, 20 July 1951, *Ibid.*; 338: Cowen to Acheson, 24 July 1951, *Ibid.*



terms. Meanwhile, faced with the continued rejection of its proposals, on 25 July 1951 Eugenio Padlan Perez and Claro Recto – both influential members of the Filipino Congress – once again talked of not signing the peace treaty. In response, the State Department briefly entertained the idea of eliminating both Burma and the Philippines from the treaty.<sup>572</sup>

Despite being frustrated, the State Department continued its attempt to find a solution. On 1 August 1951, it cabled Cowen with a new proposal. Reversing its earlier position, it now partially accepted the wording of Romulo’s quasi-war guilt clause. It suggested including the following phrase, “it is recognized that Japan should pay reparations to the Allied Powers for the damage and suffering caused by it during the war” while deleting that Japan “should make adequate reparations to the Allied Powers.”<sup>573</sup> This was another milestone that brought the US and the Philippines closer to a final agreement.

During the following week, there was another round of proposals and counterproposals. The point of contention now narrowed down to the question of monetary reparations. The Philippines argued that although Japan might not be able to make payments now, its economy might improve in the future and therefore become capable of paying reparations both in goods and cash. While confidentially acknowledging that the Philippines had a point, Acheson argued that “psychological factors and political assumptions” also had to be considered. Simply put, exacting monetary reparations in the future could theoretically lead to a “substantial tax increase” and inflation, thus eroding economic, political and social stability. Furthermore, there was no guarantee that Japan’s economy would improve in the future. Simply put, monetary reparations had to be avoided. Acheson and Dulles subsequently obtained a letter from Truman (dated 7 August 1951), which rejected the Filipino demands on the basis of Japan’s need for foreign exchange and the difficulty in deciding the precise percentage share among the recipients.<sup>574</sup>

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<sup>572</sup> 82: Key to Acheson, 21 July 1951, RG59, Entry A1 1252, Lot54D423, Rangoon, accessed via INH; 343: Cowen to Acheson, 25 July 1951, RG59, Entry A1 1252, Manila I, accessed via NIKH; 347: Cowen to Acheson, 25 July 1951, *Ibid.*; 373: Cowen to Acheson, 26 July 1951, *Ibid.*; 89: Allison to Key, 25 July 1951, RG59, Entry A1 1252, Lot54D423, Rangoon, accessed via NIKH.

<sup>573</sup> 390: Acheson to Cowen, 1 August 1951, RG59, Entry A1 1252, Lot54D423, Manila I, accessed via NIKH.

<sup>574</sup> Allison to Cowen, 2 August 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH; Draft proposed statement to the Philippine government, 7 August 1951, RG59, *Ibid.*; 404: Acheson to Cowen, 2 August 1951, RG59, Entry A1 1252, Lot 54D423, Manila I, accessed via NIKH; 406: Cowen to Acheson, 27 July 1951, *Ibid.*; 460: Cowen to Acheson, 1 August 1951, *Ibid.*; 553: Cowen to Acheson, 8 August 1951, RG59, Entry A1 1252, Lot 54D423, Manila II, accessed via NIKH.

Finally, on 9 August 1951, the Philippines acquiesced, marking the end of this arduous process.<sup>575</sup>

One token concession that the Philippines won at this stage was the deletion of the word “skills.” Quirino and Romulo were displeased with this expression, because it sounded as if the Philippines lacked talent and had to seek its former enemy’s help.<sup>576</sup> Cowen also informed Washington that the Philippines feared Japan’s economic infiltration through its “services,” and that being made a supplier of raw materials connoted “colonial subservience.”<sup>577</sup> Acheson, however, dismissed the idea that opening up the Philippines to Japanese products would lead to its economic dependence on Japan. But as if to show that he was not totally blind to colonial sensitivities, Acheson deleted the word “skills.”<sup>578</sup>

Here a brief explanation is necessary on why the Philippines gave in to the US pressure. While public sentiment forced the Filipino government to take an uncompromising attitude on the surface, the Philippines did not actually have a lot of negotiating leverage, as it was dependent on the US for its economy and security. Although not made known to the public, both Quirino and Romulo were also quite supportive of the US policy towards Japan. Quirino, for instance, believed that amity with Japan would benefit the Philippines economically and strategically. Meanwhile, Romulo agreed with the idea of Japanese rearmament (albeit with reservations) and of its rebuilding on an economically self-sustaining basis in order to lift America’s financial burden; he was even ready to give up reparations. Hence, the Filipino acquiescence to Dulles’ reparations formula was not surprising.

Equally important is the fact that the over-riding priority for the Philippines had always been security. There was a genuine fear of the communist menace in the Philippines at the time of the Japanese peace treaty negotiations, especially as the Huk rebels were threatening the country from within. There was also a lingering concern about the possible resurgence of Japan as a military threat. For these two reasons, it persistently demanded that some security safeguard be provided.<sup>579</sup> Dulles shrewdly exploited this opportunity. To reiterate, Dulles had in March

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<sup>575</sup> 491: Dulles to Cowen, 9 August 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH; Allison to Cowen, 9 August 1951, *Ibid.*; 490: Acheson (Allison) to Cowen, 9 August 1951, RG59, Entry A1 1252, Manila II, accessed via NIKH; 569: Cowen to Acheson, 9 August 1951, *Ibid.*; 579: Cowen to Acheson, 9 August 1951, *Ibid.*; 495: Acheson (Dulles) to Cowen, 9 August 1951, *Ibid.*

<sup>576</sup> 500: Cowen to Acheson, 3 August 1951, RG59, Entry A1 1252, Manila II, accessed via NIKH.

<sup>577</sup> 566: Cowen to Acheson, 8 August 1951, *Ibid.*

<sup>578</sup> 483: Acheson to Cowen, 8 August 1951, *Ibid.*

<sup>579</sup> Yoshikawa, *Japanese-Filipino Reparations Talks*, 10-1, 17-8, 23, 37-8, 40, 52-54, 57.

1951 raised the possibility of offering a security guarantee to the Philippines in return for agreeing to a non-punitive reparations policy. Cowen also endorsed the wisdom of this approach, aware of the Filipino fear of the resurgence of Japanese military power.<sup>580</sup> Cowen further believed that a security guarantee would cushion Quirino and Romulo against any backlash for accepting Dulles' reparations proposal.<sup>581</sup> Subsequently, the bilateral US-Philippines security treaty received an "urgent and most serious consideration" over the following months and the final draft was agreed upon on 27 August 1951.<sup>582</sup>

Of course, the security treaty did not exactly develop in the way that the Philippines envisioned. For instance, whereas it wanted to adopt Article 5 of the NATO treaty, which provided for automatic American military intervention in case of attack, Dulles rejected this demand, noting that the prevalent isolationist sentiment in the Senate discouraged committing US forces overseas. The Philippines also wished to give a multilateral tone to the US-Philippines security treaty by adopting Article 8 of the ANZUS treaty, which established a "Council" that was empowered to consult multiple countries in the Pacific. However, the Defense Department was "strongly" opposed to this, as it might further expand its already over-stretched commitments overseas. Most importantly, the US stipulated that the security treaty would only be effective if the Filipino government signed and ratified the Japanese peace treaty.<sup>583</sup> Although not entirely happy, Quirino believed that this was a sufficiently satisfactory trade-off and asked the public to support the Japanese peace treaty. Fortunately, the Filipino newspapers reacted favorably to the bilateral security treaty, which certainly offset the feeling of disappointment with Article 14.<sup>584</sup>

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<sup>580</sup> 279: Cowen to Acheson, 19 July 1951, RG59, Entry A1 1252, Lot 54D423, Manila I, accessed via NIKH; 266: Cowen to Acheson, 19 July 1951, *Ibid.*

<sup>581</sup> 613: Cowen to Acheson, 12 August 1951, RG59, Entry A1 1252, Lot 54D423, Manila II, accessed via NIKH.

<sup>582</sup> 299: Acheson to Cowen, 24 July 1951, RG59, Entry A1 1252, Lot 54D423, Manila I, accessed via NIKH; 334: Acheson (Rusk) to Cowen, 27 July 1951, *Ibid.*; 448: Acheson (Dulles) to Cowen, 6 August 1951, RG59, Entry A1 1252, Manila II, accessed via NIKH; 470: Acheson (Allison) to Cowen, 7 August 1951, *Ibid.*; 481: Acheson (Dulles) to Cowen, 8 August 1951, *Ibid.*; 481: Acheson (Dulles to Cowen), 8 August 1951, *Ibid.*; Dulles to Cowen, 8 August 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH; Memorandum for the files, 27 August 1951, *Ibid.*

<sup>583</sup> Dulles to Cowen, 20 July 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH; Rusk to Romulo, 29 August 1951, *Ibid.*; 579: Cowen to Acheson, 9 August 1951, RG59, Entry A1 1252, Manila II, accessed via NIKH; 545: Webb (Dulles) to Cowen, 14 August 1951, *Ibid.*; 549: Webb (Dulles) to Cowen, 14 August 1951, *Ibid.*; 570: Webb (Dulles) to Cowen, 15 August 1951, *Ibid.*

<sup>584</sup> Manila to Washington, 15 August 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH; Yoshikawa, *Japanese-Filipino Reparations Talks*, 52.

## Conclusion

To conclude, Article 14 was a product of complex historical experiences and Cold War diplomacy. Initially, the Allies opted for harsh reparations in accordance with the wartime agreement on demilitarizing Japan. However, with the escalating Cold War tension and the resultant “reverse course” that stressed the importance of Japan’s economic reconstruction, the US decided to prevent any further reparations; the treaty consequently adopted a “no reparations” approach. However, in the face of fierce opposition from the Philippines, Dulles eventually acknowledged that Japan should pay reparations, although in the form of “services” only and limited to Southeast Asian countries.

As Yoshikawa points out, Article 14 was crafted in a way that primarily served US and Japanese interests. Not only was the US able to limit Japanese reparations to Southeast Asia and in the form of “services” alone, but also this consequently contributed to Japan’s re-entry into Southeast Asian markets. Japan was pleased with Article 14, as Yoshida believed that it would help the development of backward regions, secure raw materials and open markets in Southeast Asia, all of which would benefit Japan.<sup>585</sup> Nevertheless, there was one major cost to it: losing Burmese support. Burma refused to sign the San Francisco peace treaty on the grounds that the treaty failed to provide adequate reparations.<sup>586</sup> This was obviously disappointing for Dulles, as he had hoped to secure as many Asian signatures on the peace treaty as possible.

It is also important to note that Article 14 was a compromise. While Borden correctly argues that the US was working hard to open the Southeast Asian market to Japan and cleverly exploited the reparations arrangement to facilitate Japan’s economic integration with Southeast Asia, it would be wrong to assume that Dulles had been planning all along to craft the reparations clause in order to enable Japan’s re-entry into Southeast Asian market.<sup>587</sup> Rather, it was an improvised scheme that went through multiple amendments to calm the Philippines.

On the brighter side, the Philippines gained both reparations and the US security guarantee, albeit in terms much less than what it wished for. Equally important is the fact that Article 14, thanks to the Philippines, allowed all Southeast Asian countries to demand

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<sup>585</sup> Yoshikawa, *Japanese-Filipino Reparations Talks*, 1-2, 50-2, 64, 72.

<sup>586</sup> Burmese Embassy to State Department, 27 August 1951, RG59, Entry A1 1252, Lot 54D423, Burma, accessed via NIKH.

<sup>587</sup> Borden, *The Pacific Alliance*, 203.

reparations, while also paving the way for economic cooperation with Japan, the details of which will be explained in the concluding chapter.

## Chapter 8. Postwar Japanese Shipping and Shipbuilding Capacity

This chapter examines the question of Japan's merchant marine (how many ships Japan should be allowed to have and operate) and shipbuilding (how many ships Japan should be allowed to build) capacity during the Japanese peace treaty negotiations. While the Allies initially entertained the idea of adopting a restrictive treaty clause to limit Japan's shipping and shipbuilding capacity, this never happened; Japan was left free to own and construct as many ships as it wished. Why no such restriction was adopted is the central question of this chapter. It argues that the US efforts to frame Japan's postwar shipping and shipbuilding capacity as an economic question rather than a military one was the key to dissuading the Allies from adopting a restrictive clause.

Examining this question is important in several respects. To begin with, its significance is neglected in the existing historiography. This is surprising because Japan's shipping and shipbuilding capacity was a serious issue during the treaty negotiations. At best, existing studies on the peace settlement simply recognize the existence of the issue.<sup>588</sup> Moreover, while business historians have written extensively on the development of Japan's shipping and shipbuilding industries from the 19th to 20th centuries, they all tend to take a domestic angle, rather than a diplomatic one; hence, while they clarify the roles of the Japanese government and the private sector, no satisfactory explanation is provided as to what other governments had to say during the peace treaty negotiations.<sup>589</sup> In this regard, an analysis by John Weste on the British response to the revival of Japan's postwar shipping and shipbuilding capacity is a welcome historiographical contribution. Yet even he offers no specific explanation as to the nature of British policy towards the treaty terms on shipping and shipbuilding. Meanwhile, the roles of the other governments have been entirely overlooked.<sup>590</sup> Likewise, while many scholars have examined the postwar shipping issue as it relates specifically to Korea and Japan, these narratives tend to focus on developments after the signing of the Japanese peace treaty.<sup>591</sup> In

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<sup>588</sup> Nishimura, *San Francisco Peace Treaty*, 129, 152-4; Hosoya, *San Francisco Peace Treaty*, 21, 101-3, 209, 232-3, 251-2; Cohen, *Political Process and Foreign Policy*, 72-3.

<sup>589</sup> Tomohei Chida and Peter N. Davies, *The Japanese Shipping and Shipbuilding Industries: a history of their modern growth* (London: Atlantic Highlands, 1990); Peter N. Davies, *Japanese Shipping and Shipbuilding in the Twentieth Century: the writings of Peter N. Davies* (Folkestone: Global Oriental, 2010), 43-55, 82-110.

<sup>590</sup> John Weste, "Shipping and Shipbuilding," in *Britain and Japan in the Twentieth Century: one hundred years of trade and prejudice*, edited by Philip Towle and Nobuko Kosuge (London: I. B. Tauris, 2007), 107-18.

<sup>591</sup> 李東俊 [Lee Dongjun], "船舶をめぐる日韓請求権交渉 [The Question of Claims and Shipping Issue between Korea and Japan]" in *The Question of Postwar Japanese Reparations and Re-orientation of East Asia*, Asano

short, no detailed study of the debate over postwar Japanese shipping and shipbuilding capacity during the peace treaty negotiations exists, and this chapter attempts to fill this gap.

This chapter also has a larger significance. For decades, Japan has ranked continuously as among the world's top shipping and shipbuilding powers. Indeed, with the exception of 1973, Japan was consistently the top exporter of ships from 1964 to 2005, when it was replaced by South Korea.<sup>592</sup> Had the Allies adopted a restrictive clause in the peace treaty, this might not have been possible. Hence, it is important to understand why the former belligerents decided not to limit Japan's shipping and shipbuilding ability.

Additionally, the Allied discussion on Japan's postwar shipping and shipbuilding capacity exemplifies how the Japanese peace settlement was much more international than hitherto perceived. In addition to Japan and the US – the usual protagonists in the existing historiography of postwar occupation and peace settlement with Japan – Australia, Britain, and New Zealand figured prominently in this debate. Korea and the Philippines, though not very well-known actors in the Japanese peace settlement, also played a part.

### **The Initial US Policy towards Japanese Shipping and Shipbuilding Capacity and the 1947 Draft Peace Treaty**

Here, a brief overview is necessary regarding the significance of the shipping and shipbuilding sectors to the state. A country's ability to own, operate and build ships has important economic and security implications, as ships can be employed not only for trade, but also for fighting wars. This was certainly the case for Japan. As a resource-poor country, Japan had to rely on importing vital raw materials from abroad – such as coal, petroleum, and rubber – for its industrial development.<sup>593</sup> Japan also depended on its merchant marine to export its products, such as silk

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Toyomi et. al. (Nagoya: Chukyo University Press, 2013), 67-110; 현대송 [Hyun Daesong], “한일회담에서의 선박 문제 [Ship Restitution Issue in the Korea-Japan Normalization Talks - The Quartet with Fishery, Peace Line and Dokdo issue],” *한국정치학회보* [Korean Political Science Review] 50-1 (2016): 185-211; 남기정 [Nam Kijeong], “한일 선박반환 교섭에 관한 연구: 1 차 회담 선박분과위원회 교섭을 중심으로 [Korea-Japan Talks on Shipping during the First Round]” in *의제로 본 한일회담 외교문서 공개와 한일회담의 재조명 2* [The De-classification of Records on Korea-Japan Normalization and Re-examination of the Bilateral Normalization Process Vol. 2], edited by 국민대학교 일본학연구소 [Kookmin University Institute of Japanese Studies] (서울 [Seoul]: 선인 [Sōnin], 2010), 333-52.

<sup>592</sup> In 1973, West Germany was topped as the number one exporter. The statistics on world export on ships can be accessed via the Observatory of Economic Complexity.

<sup>593</sup> Cohen, *Japan's Economy in War and Reconstruction*, 110-4, 117-9, 124-5, 148, 250-1; Van Aduard, *Japan*, 294-5.

and textiles, to earn foreign exchange.<sup>594</sup> It should be briefly noted that Japan's textile exports had in the interwar period led to commercial competition with the European powers, particularly Britain, and would later affect the British attitude towards Japan's postwar shipping and shipbuilding capacity. Of course, one also cannot ignore the fact that the Japanese Navy played a prominent role in the wars in Southwest Pacific, which would later contribute to Australia's perennial suspicion towards anything that had to do with Japan and ships.<sup>595</sup>

The war brought forth dire consequences for Japan's shipping sector, as Japanese merchant vessels were targeted by Allied bombers and submarines and nearly annihilated.<sup>596</sup> Indeed, Japan lost 80% of its ships, leaving its shipping sector virtually incapacitated. In stark contrast, Japan's shipbuilding capacity, both commercial and naval, was left almost intact; indeed, only 20 percent of the shipbuilding yards were damaged by the war.<sup>597</sup> The survival of this infrastructural foundation meant that Japan had the potential to become a formidable naval power again. It was against this backdrop that the question of Japan's postwar shipping and shipbuilding capacity developed into an important discussion point for the US.

The initial US policy was to dismantle Japan's shipping and shipbuilding industries, in accordance with the demilitarization policy. According to the "Basic Initial Post-Surrender Directive" (1 November 1945), with the minor exception of those craft necessary for carrying out occupation tasks, all "naval vessels" were to be eliminated, while civilian "merchant ships" would be subject to either "reduction or elimination."<sup>598</sup> A more detailed recommendation was submitted later on 1 April 1946 by Edwin Pauley, who proposed that shipbuilding equipment should be removed for reparations and that any "immovable installations" be destroyed. At the same time, the maximum size of Japanese merchant ships was to be restricted to 1.5 million tons with any remaining ships removed for reparations.<sup>599</sup>

The draft peace treaty developed in 1947 embodied these terms. For instance, Article 27 stipulated that Japan "shall be and shall remain demilitarized and shall not rearm." And for this

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<sup>594</sup> Davies, *Japanese Shipping*, 95-7.

<sup>595</sup> Mark E. Stille, *The Imperial Japanese Navy in the Pacific War* (New York: Osprey Publishing, 2013), 23-52.

<sup>596</sup> Chida, *Japanese Shipping*, 52-5, 58; Cohen, *Japan's Economy in War and Reconstruction*, 57, 78, 104, 107-9, 193; Davies, *Japanese Shipping*, 83.

<sup>597</sup> Chida, *Japanese Shipping*, 59; Cohen, *Japan's Economy in War and Reconstruction*, 109.

<sup>598</sup> Paragraph 7, Potsdam Declaration, 26 July 1945, *op. cit.*; JCS 1380/15: Basic Initial Post-Surrender Directive to Supreme Commander for the Allied Powers for the Occupation and Control of Japan, 1 November 1945, accessed via NDL, <https://www.ndl.go.jp/constitution/e/shiryō/01/036/036tx.html>.

<sup>599</sup> Report on Japanese Reparations to the President of the US (November 1945 to April 1946), 1 April 1946, accessed via University of Minnesota.



purpose, “naval forces...shall be and shall remain completely disarmed, demobilized and disbanded” and the “manufacture of all naval vessels of any classes” was to be prohibited. Additionally, the stockpiling of strategic raw materials, including iron ore, pig iron and scrap iron – all essential in building ships – in excess of peacetime requirements was to be banned. Meanwhile, Annex J of the draft peace treaty, which outlined the reparations terms, stated that “steel merchant ship building and ship repair” facilities would be made available for reparations removal (Article 1) and that (Article 2-c) the existing merchant ships that were earmarked for reparations would be distributed to the appropriate recipients.<sup>600</sup>

Japan was, of course, horrified and protested vehemently, arguing that ships were essential to its peacetime economy. It further contended that because of the already limited number of ships at its disposal, it had to rely on expensive foreign shipping, which meant, in turn, an increased financial burden; this would be made worse if more ships were removed for reparations.<sup>601</sup> It is intriguing that this would be the exact logic that the US would later employ to oppose any restrictions against Japan’s shipping and shipbuilding.

### **The Reverse Course and the Transformation of the US Attitude on Japanese Shipping and Shipbuilding Capacity, 1948-1949**

As explained in Chapter 2, the postwar US policy towards Japan in 1947-8 entered the phase of the “reverse course,” which prioritized Japan’s economic revival. Against this backdrop the US began to frame Japan’s shipping and shipbuilding capacity as an economic question and increasingly adopted a non-restrictive approach. This was exemplified in the “Strike Report” of 18 February 1948 (see Chapter 7), which argued that Japan’s current shipping and shipbuilding capacity was “grossly inadequate” and that it had to be able to build its own ships “to the maximum extent possible.” Furthermore, Strike reversed Pauley’s earlier recommendation, arguing that no existing merchant ships or shipbuilding facilities should be made available for reparations. In addition, he suggested that Japan should be allowed to build ships for foreign customers, as this would allow it to earn foreign exchange, thus making a “substantial contribution to Japanese economy.”<sup>602</sup> Strike’s arguments were echoed in the Johnston Report

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<sup>600</sup> Treaty of Peace with Japan, 1 August 1947; Treaty of Peace with Japan Annex J: Reparation for the Allied and Associated Powers, 31 July 1947, RG59, Entry A1 1230, Treaty (Bacon, Ruth)-1, accessed via NIKH.

<sup>601</sup> Hara, *Reparations*, 220-6, 261.

<sup>602</sup> Report on Industrial Reparations Survey of Japan to the United States of America, February 1948, B19010373600, B'.3.1.1.1-4-1, accessed via JACAR.

(26 April 1948), which also proposed permitting Japan to increase its merchant shipping and shipbuilding capacity without any restrictions in light of their importance to the export trade and economic revival.<sup>603</sup>

These recommendations resonated with a shift in mood within the US government. Kenneth Royall (Secretary of the Army), for instance, expressed caution on 6 January 1948 in a public speech at San Francisco, stating that destroying Japan's shipbuilding industry could "adversely affect the peace potential."<sup>604</sup> Also, on 25 March 1948, the Navy suggested at a State-Army-Navy-Air Force Coordinating Committee (SANACC) meeting that Japan should retain "all merchant ships now available" rather than removing them for reparations, as Japan needed sufficient capacity to achieve a self-supporting economy.<sup>605</sup>

Subsequently, on 9 October 1948, Truman approved NSC 13/2, which recognized the need for "Japanese merchant shipping" in the "revival of Japanese foreign trade" and "exports."<sup>606</sup> NSC 13/3, approved by Truman the following year on 6 May 1949, added that all reparations programs should be terminated and that the use of "primary war facilities" – which included shipbuilding facilities that had the capacity to build merchant vessels of over 3,000 tons – should be permitted to help Japan's economic revival. This signified that no more merchant vessels or shipbuilding facilities would be removed from Japan. At the same time, as long as ships were useful for Japan's "peaceful" economic development, "no limitation" on new building would be imposed.<sup>607</sup>

On 9 September 1949, the Pentagon further concluded that there should be no limitations at all on Japan's merchant shipping and shipbuilding capacity. The Pentagon argued that this was necessary for Japan to trade and to attain "reasonable prosperity," which would not only lift the financial burden on the US, but also allow democracy to flourish. It could also contribute to the "eventual establishment of limited Japanese armed forces." In light of this, the Pentagon suggested forcing the US's opinion on the FEC.<sup>608</sup> MacArthur concurred (2 November 1949)

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<sup>603</sup> Report on the Economic Position and Prospect of Japan and Korea, 26 April 1948, B19010374100, B'3.1.1.1-5, accessed via JACAR.

<sup>604</sup> Speech by Kenneth C. Royall, 6 January 1948, *op. cit.*

<sup>605</sup> *FRUS* 1948, Vol. 6, 961-2.

<sup>606</sup> *Ibid.*, 861.

<sup>607</sup> *FRUS* 1949, Vol. 7-2, 735-6; undated document, RG59, Entry A1 1230, Drafts by Ruth Bacon (2 of 6), accessed via INH.

<sup>608</sup> Department of Defense Policy towards Japanese Industry, 9 September 1949, *FRUS* 1949, Vol. 7-2, 883-6.

that Japan should be permitted to develop its merchant shipping and shipbuilding industries without limit as an important source of foreign exchange.<sup>609</sup>

Hence, between 1948 and 1949, there was a major shift in the attitude of the US towards the question of Japanese shipping and shipbuilding capacity. The latter's retention was no longer framed as a military question, but rather as an economic one. The peace treaty was amended accordingly and by November 1949 all references to restricting Japan's shipping and shipbuilding capacity were removed.<sup>610</sup>

Japan's shipping and shipbuilding sector also began to slowly take off under US auspices. Its first new shipbuilding order came from Norway in 1948, and by March 1949, 16 ships totaling 62,000 tons had been contracted with foreign customers. Among these vessels was a tanker of 18,000 tons, which exceeded the limit posed by Pauley.<sup>611</sup> Also, when the FEC member states – specifically Australia, Britain, France, the Netherlands, New Zealand and the Philippines – sought to block a “Maritime Safety Authorities Bill” that was proposed by the Japanese Diet in April 1948 to help increase the number of merchant ships, the US defended the bill by vetoing the FEC opposition.<sup>612</sup> In short, the US not only relaxed its attitude, but also actively assisted the revival of Japan's shipbuilding industry. It was against this backdrop that Dulles was appointed to lead the Japanese peace treaty negotiations.

### **Allied Discussion on Japanese Shipping and Shipbuilding Capacity during the Formative Years, 1950-1951**

When Dulles took the lead in negotiating the peace treaty, he concurred that no restrictions should be applied to Japan's shipping and shipbuilding capacity.<sup>613</sup> The outbreak of the Korean War, meanwhile, created a new demand for ships. As Japan had the ability to meet this demand, the US took this opportunity to further strengthen its shipping and shipbuilding sector.<sup>614</sup> However, whether or not Japan's shipping and shipbuilding industry could continue to grow required the approval of other countries as well. Unfortunately, many countries were opposed,

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<sup>609</sup> *Ibid.*, 890-5.

<sup>610</sup> Draft Treaty of Peace with Japan, 2 November 1949, RG59, Entry A1 1230, Box 6, Treaty-Draft-11/2/1949, accessed via NIKH.

<sup>611</sup> Chida, *Japanese Shipping*, 82.

<sup>612</sup> Department of Defense, *Reports of General MacArthur: supplement. MacArthur in Japan: the occupation, military phase* (Washington DC: Center of Military History, 1994), 289; *FRUS* 1948, Vol. 6, 741-2, 744-50.

<sup>613</sup> *FRUS* 1950, Vol. 6, 1207-12.

<sup>614</sup> Chida, *Japanese Shipping*, 65-6, 75-6, 79-81.

especially Australia, Britain and New Zealand. Indeed, even back in 1947, when the first attempt had been made to convene a Japanese peace conference, they had sought to limit Japan's capacity to a ceiling determined by the Allies.<sup>615</sup> Again in May 1950, Australia, Britain and New Zealand, while recognizing that Japan should have a viable economy, felt that its present shipbuilding capacity was in excess of normal peacetime needs and wished to cut this down.<sup>616</sup>

Why were Australia, Britain and New Zealand so concerned about Japan's shipbuilding capacity? Australia and New Zealand were profoundly affected by their experience of Japanese aggression during the Pacific War. Having directly confronted Japan, both countries wished to make sure that it could not reemerge as a threat.<sup>617</sup> As Robert Menzies (Australian Prime Minister) explained to Acheson on 29 July 1950, Australia was particularly concerned about the potential revival of Japan's ability to "build a navy with offensive capabilities."<sup>618</sup> Likewise, any prospect of Japan's military revival worried New Zealand throughout the peace treaty negotiations.<sup>619</sup> Britain, on the other hand, appears to have been affected more by commercial motives dating back to the 1930s. Gascoigne observed to Dulles in June 1950 that Britain was opposed to Japan having any excess shipbuilding capacity and was not especially happy with the prospect of its exporting ships to foreign buyers.<sup>620</sup>

These concerns were reiterated when Dulles consulted the FEC member states with his seven principles in late 1950. Australia and New Zealand again noted their concern about the possible re-emergence of Japan as a threat, a sentiment shared by the Philippines, the Soviet Union and the neutralist bloc (Burma and India). While Britain was not against Japanese re-armament – as this was necessary to contain communism and align Japan to the West – it was concerned about the commercial threat posed by the shipping and shipbuilding industry, and explicitly requested that some safeguard be provided against it.<sup>621</sup> This prevalent concern about Japan's potential military and commercial threat did not augur well for Japan's shipbuilding capacity.

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<sup>615</sup> *FRUS* 1947, Vol. 6, 533-4.

<sup>616</sup> Commonwealth Working Party on Japanese Peace Treaty, 17 May 1950, RG59, Entry A1 1252, Lot 54D423, United Kingdom [I], accessed via NIKH.

<sup>617</sup> McIntyre, *ANZUS Pact*, 15-6.

<sup>618</sup> *FRUS* 1950, Vol. 6, 1261-2.

<sup>619</sup> Trotter, *New Zealand and Japan*, 93-5, 101-8, 118-72.

<sup>620</sup> *FRUS* 1950, Vol. 6, 1230-7.

<sup>621</sup> Japanese Peace Treaty: security aspects, 21 December 1950, CP(50)318, CAB 129/43/68, NA.

The British Commonwealth members, however, were aware that Japan's shipping and shipbuilding capacity could not be suppressed permanently, as it needed to have a viable economy.<sup>622</sup> Moreover, while the three members of the British Commonwealth wished to restrict its capacity in some form, how this was to be accomplished was unclear. This lack of any concrete proposal placed Australia, Britain and New Zealand in a weak negotiating position vis-à-vis the US which was contemporaneously working enthusiastically to rebuild Japan's shipping and shipbuilding industry, as exemplified in the National Bulk Carriers (NBC) project.

The NBC in November 1950, at the height of the Korean War, was looking for potential shipyards that could build very large cargo ships and had their eyes on Kure shipyard (Hiroshima). In April 1951, while Japan was still occupied and at the height of the Japanese peace treaty negotiations, a portion of Kure shipyard was leased to NBC for 10 years.<sup>623</sup> NBC's decision to sign a contract with Kure shipyard signified that the US was actively partaking in the revival of Japan's shipbuilding sector. Hence, it would be awkward for the US to adopt a restrictive treaty clause.

Not surprisingly, the US clashed with many of its friends in the following months. When Dulles embarked on his trip to Asia and the Pacific in early 1951, he confronted strong opposition from Australia, Britain and the Philippines. Britain reiterated that Japan's present merchant shipbuilding capacity was above its normal needs, and that any excess capacity should be destroyed. Additionally, Britain made clear that it wanted to protect its industries from Japanese competition. This last statement reflected the pressure from the British shipbuilding industry, which feared fierce competition from Japan, as well as the Lancashire textile industry, which wanted to limit Japan's capability to export competitive cotton textile goods to South and Southeast Asia. Hence, while the possession and building of merchant fleets could not be denied to Japan, Britain strongly demanded a definite cap.<sup>624</sup>

Australia strongly demanded restricting Japan's military capability. While Australia did not specifically refer to shipping, considering the intrinsic military value of ships, it can be safely assumed that its demands implied limiting Japan's capacity in this sector. Perhaps because of Menzies' pro-British inclination and sympathy towards its commercial concerns, Australia also

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<sup>622</sup> Commonwealth Working Party on Japanese Peace Treaty, 17 May 1950, *op. cit.*

<sup>623</sup> Chida, *Japanese Shipping*, 106-9.

<sup>624</sup> *FRUS* 1951, Vol. 6, 831; Text of remarks by Sir Alvary Gascoigne, UK Ambassador at meeting with Mr. Dulles and Mr. Allison, 29 January 1951, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH; Notes on conversation between Ambassador Dulles and British Ambassador, 6 February 1951, *Ibid.*

demanded economic restrictions in the treaty against potential competition from Japan. Meanwhile, New Zealand – although it believed that leaving Japan economically weak was unwise – opposed the rebuilding of the Japanese navy, arguing that Japan’s martial characteristics were still very much alive and that it could always use sea lanes to attack others. Hence, New Zealand favored treaty terms that would restrict Japan’s shipbuilding industry.<sup>625</sup>

Meanwhile, although the Philippines did not oppose Japan’s rearmament, it too insisted on adequate guarantees against the latter’s possible re-emergence as a military threat. Moreover, it demanded that the Japan’s merchant vessels, together with industrial equipment and technical services, should be given as reparations, which would have undermined Japan’s shipbuilding and shipping capacity. Later (on 15 March 1951), the Philippines also added that it did not wish Japan to possess a navy.<sup>626</sup>

Hence, by early 1951, it had become clear that Dulles would have to address the security and commercial concerns of Australia, Britain, New Zealand and the Philippines in order to avoid formal restrictions on Japan’s shipping and shipbuilding industry.<sup>627</sup> Confident that he could find a viable solution, Dulles assured Yoshida on 7 February 1951 that the peace treaty would pose no restrictions on this industrial sector.<sup>628</sup> To Dulles’ surprise, however, convincing other countries turned out to be much more difficult than he expected.

On 12 March 1951, Britain once again argued that Japan had excess shipbuilding capacity and that the British industries must be protected against competition. Furthermore, on 21 March 1951, Robert H. Scott (Undersecretary of Far Eastern Affairs from the British Foreign Office) explained to Allison that, in addition to commercial concerns, Britain also worried that the “innate characteristic of Japan” (its martial nature) had not changed since the war and hence

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<sup>625</sup> McIntyre, *ANZUS Pact*, 14-28; New Zealand’s views concerning a peace treaty with Japan, 9 February 1951, RG59, Entry A1 1252, Lot 54D423, New Zealand, accessed via NIKH; Statement by the Australian Minister for External Affairs (Spender), 15 March 1951, RG59, Entry A1 1252, Lot54D423, Australia, accessed NIKH.

<sup>626</sup> Joint meeting of Senate Committee on Foreign Relations and House Committee on Foreign Affairs attended by the Acting Secretary of Foreign Affairs on Saturday, 10 February 1951, on the proposed Japanese peace treaty, *op. cit.*; 2784: Cowen to Dulles, 15 March 1951, RG59, Entry A1 1252, Lot54D423, Manila I, accessed via NIKH.

<sup>627</sup> *FRUS* 1951, Vol. 6-1, 900-3; Memorandum of Conversation: Recent trip of Ambassador Dulles to the Far East, 1 March 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH.

<sup>628</sup> Memorandum Prepared by the Dulles Mission, 3 February 1951, *FRUS* 1951, Vol. 6, 849-54.

many of Japan's shipyards could still be used for aggressive purposes. He therefore argued that a restrictive clause might be valuable in preventing potential Japanese aggression in the future.<sup>629</sup>

On both occasions, however, the US expressed disagreement. The US did not believe that Japan had surplus capacity that could be dismantled, pointing to the fact that Japan's merchant fleet had virtually been destroyed during the war. Additionally, because shipping in general was in short supply after WWII, the US believed that dismantling Japan's shipbuilding facilities could only contribute to further worldwide shortages. Indeed, the US argued that Japan's surplus shipbuilding capacity was vital to American security, considering the new shipping demands created by the Korean War. Furthermore, the Japanese government could not afford to destroy its shipbuilding capacity, lest this cause popular discontent. The US also observed that Japan's shipbuilding output was naturally constrained due to its reliance on imports of steel, which was already in short supply, and on the raw materials from Southeast Asia required to construct steel. Hence, Britain need not worry about competition from Japan. Finally, the US noted that it was being lobbied by its own shipping interests to destroy some of Japan's ship-building capacity.<sup>630</sup> Indeed, the National Federation of American Shipping had protested against the expansion of Japanese shipping on the grounds that it could create difficulties for the American industry.<sup>631</sup> Accordingly, since the US government was resisting this domestic pressure for the sake of Japan, Britain should follow suit.

While no agreement was reached at this stage, an updated draft peace treaty was produced on 23 March 1951 and distributed to the relevant powers. When Dulles went public to explain the "essentials" of the peace treaty at Whittier College on 31 March 1951, he stressed the need to avoid restricting Japan's shipping and shipbuilding capacity. Dulles claimed that impairing Japan's economy would incite "great public bitterness" in Japan and cause an "inhuman burden" on the Allies as Japan would continue to rely on their financial support.<sup>632</sup>

To recall, the British Commonwealth had already in late 1947 agreed on the need to allow Japan to achieve a self-sustaining level of economic livelihood. Hence, Dulles' pleas to be

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<sup>629</sup> Aide-memoire, 12 March 1951, *FRUS* 1951, Vol. 6-1, 913; Aide-memoire, 13 March 1951, RG59, Entry A1 1252, Lot 54D423, United Kingdom [I], accessed via NIKH; Memorandum of Conversation, 21 March 1951, *Ibid.*; *FRUS* 1951, Vol. VI, 936; Japan (draft treaty), 31 July 1951, LO2/575.

<sup>630</sup> *Ibid.*; Memorandum of Conversation: Japanese peace treaty, 20 March 1951, RG59, Entry A1 1252, Lot 54D423, China [January 6 - November 29, 1951], accessed via NIKH; Japan: Working Party on the Japanese Peace Treaty, 21 March 1951, CAB21/3267, NA.

<sup>631</sup> Cohen, *Political process and foreign policy*, 72.

<sup>632</sup> *Bulletin* 614 (9 April 1951), 579.

mindful of Japan's economy must have reverberated with Australia and New Zealand. Nevertheless, this did not mean that they no longer had qualms about Japan's possible re-emergence as a threat. Although this would eventually be resolved when the US agreed to offer a security guarantee (see Chapter 3), until this (ANZUS Pact) finally materialized, Australia and New Zealand continued to express concerns about Japan's shipping and shipbuilding capacity. Indeed, even after Truman made a public statement on 18 April 1951 of his intention to continue working on this pact, Australia and New Zealand proposed that Japan should convert its shipbuilding capacity to other industrial uses. The State Department, however, responded that it saw "no justifiable economic grounds" for such a move and opposed adopting any such compulsory terms. The State Department also argued that the problem of shipping and shipbuilding could not be resolved "other than through economic approach."<sup>633</sup> In other words, ships were an economic rather than a security question. Also, it noted that since both countries had already agreed that there should be no economic restrictions on Japan, they should not insist on impeding the growth of Japan's shipping and shipbuilding industry, lest it damage economic reconstruction.

Meanwhile, South Korea demanded (on 26 April 1951) the return of "certain vessels" that had been confiscated by Japan during the colonial period. If this were not possible, then the treaty should include specific provisions for "some form of compensation by Japan."<sup>634</sup> Numerous Korean-registered ships had been anchored in Japan when the conflict suddenly ended, but had subsequently been prohibited by SCAP from crossing the sea back to Korea. Unsurprisingly, Korean ship-owners wanted these vessels back; otherwise, some compensation had to be made. These were portrayed as "just claims" that were important for South Korea's economic life. However, the US had been prioritizing Japan's economic recovery since 1949, and these vessels, however small, were seen as essential. Thus, as Korea's demand meant the removal of important assets from Japan, the US naturally rejected it.<sup>635</sup>

Around this time, the US and Japan each produced (respectively on 18 June 1951 and 25 June 1951) studies of Japan's current and future shipbuilding requirements. While the details

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<sup>633</sup> Statement by the President on the Security of the Far East, 18 April 1951, accessed via HSTL, <https://www.trumanlibrary.gov/library/public-papers/85/presidents-news-conference>; Allison to Dulles, 25 April 1951; Aide Memoire, 25 April 1951; Japanese peace treaty, 25 May 1951, RG59, Entry A1 1252, Lot 54D423, New Zealand, accessed via NIKH.

<sup>634</sup> Limb to Dulles, 26 April 1951, Rhee Papers, accessed via NIKH.

<sup>635</sup> Lee Dongjun, "The Question of Claims and Shipping Issue between Korea and Japan," 67-110.



cannot be covered in full, both governments agreed that Japan did not have excess shipbuilding capacity and should be able to manufacture 500,000 tons of ships every year in order to restore its prewar living standard. Britain was informed accordingly by the US on 3 July 1951.<sup>636</sup>

Britain, however, believed that both Japan and the US were inflating Japan's shipping requirements. According to a Cabinet paper, dated 30 July 1951, an output of 400,000 tons per year, instead of 500,000, was more realistic. In other words, the Cabinet still believed that Japan's shipbuilding capacity was excessive and that if it were not reduced it would lead to "intensified" competition with Britain, a prospect that was causing "widespread anxiety" within the British shipbuilding industry. Nevertheless, the Cabinet decided not to demand any formal treaty restriction, since the US would oppose it regardless of British opinion. Britain was also mindful of the shipping needs created by the Korean War. Furthermore, it recognized that Japan had to be able to find "some economic means" to support its population, lest the country fall into economic distress and be exploited by the communists. Finally, the Asian members of the Commonwealth – Ceylon, India and Pakistan – were "strongly opposed" to restricting Japan's shipbuilding capacity.<sup>637</sup> As explained in Chapter 6, both Britain and the US were trying to secure as many Asian representations in the peace treaty as possible, and hence had to be sensitive to their opinions.

Still, Britain could not leave the issue unaddressed, as the British shipbuilders and ship operators were "extremely vocal." Hence, Britain sought ways "outside the treaty" to curb Japan's shipbuilding capacity by requesting that Japan voluntarily limit its shipbuilding capacity.<sup>638</sup> The US was duly informed of this proposal on 2 August 1951.<sup>639</sup> New Zealand also suggested that Japan voluntarily reduce its "excess" shipbuilding capacity.<sup>640</sup> Accordingly, the US brought the Britain and New Zealand proposal before Japanese officials. The latter responded that, out of its 810,000 tons of annual shipbuilding capacity, some 133,000 tons capacity had been suspended or discontinued and that Japan was willing to take steps to assure that this

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<sup>636</sup> Japan's future shipbuilding requirements, 18 June 1951, RG59, Entry A1 1252, Lot 54D423, New Zealand, accessed via NIKH; Japan's shipbuilding capacity, 25 May 1951, *Ibid*; Japanese peace treaty: Japanese shipbuilding capacity, 30 July 1951, CP(51)234, CAB129/47, NA.

<sup>637</sup> Cabinet paper, 30 July 1951, CP(51)234, CAB129/47, NA; Cabinet conclusions, 1 August 1951, CM57(51), CAB128/20, NA.

<sup>638</sup> *Ibid*.

<sup>639</sup> 6747: Holmes to Acheson, 22 June 1951, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH; 676: Gifford to Acheson, 2 August 1951, *Ibid*.

<sup>640</sup> US response to New Zealand Comments on 3 July 1951 Japanese peace treaty draft, RG59, Entry A1 1252, Lot 54D423, New Zealand, accessed via NIKH.

capacity would not be restored.<sup>641</sup> The US also made another token concession to Britain, as Article 12(D) stipulated that Japan could not cite its “balance of payments” or its “external financial position” as a reason for discriminating against foreign shipping.<sup>642</sup> Meanwhile, although Australia was not entirely happy with the treaty crafted by the US, it acknowledged that the document was a “grim necessity” and it made no further demands for restriction.<sup>643</sup> It should be noted that by this point the ANZUS treaty had been finalized (10 July 1951). Thus, it could be argued that since the security concerns of both Australia and New Zealand had been addressed, they were now willing to drop other demands.<sup>644</sup> By early August 1951, the discussion over Japan’s shipping and shipbuilding capacity was finally over.

## Conclusion

To conclude, the Japanese peace treaty did not restrict Japan’s shipping and shipbuilding, because the US worked vigorously to dissuade other countries from pursuing this line. Ever since shifting the emphasis from demilitarizing Japan to reconstructing its economy, the need to revive the latter’s shipping and shipbuilding industry to foster trade was stressed in the US. In order to convince other governments – particularly Australia, Britain and New Zealand – the US sought to address the security concerns of Japan’s Pacific neighbors, by providing security guarantees, while framing Japan’s shipping and shipbuilding industry as an economic question rather than a military one. At the same time, the US obtained Japan’s voluntary restriction of some of its shipbuilding capacity and extended token concession (Article 12-D). Ultimately, these actions, combined with the wide consensus among America’s allies on the need for Japan to rebuild its economy, allowed the US to silence demands for limiting Japan’s shipping and shipbuilding capacity, thereby removing one more obstacle that could have hampered proceeding promptly with a lenient peace settlement.

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<sup>641</sup> New Zealand, undated, *Ibid.*; Australia, undated, RG59, Entry A1 1252, Lot54D423, Australia, accessed NIKH.

<sup>642</sup> 6201: Acheson (Dulles) to Morrison, 28 June 1951, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH.

<sup>643</sup> 26: Bi-weekly news summary for period July 3-16, 1951, 23 July 1951, RG59, Entry A1 1252, Lot54D423, Australia, accessed via NIKH; 42: Sources of opposition in Australia to terms of Japanese peace treaty, 27 July 1951, *Ibid.*

<sup>644</sup> McIntyre, *ANZUS Pact*, 332-48.

## Chapter 9. The Question of Fisheries and the Japanese Peace Treaty

This chapter traces the formation of Article 9 of the Japanese peace treaty, which dictated Japan's postwar fishing activities. Article 9 did not impose any restrictions on Japan's fishing activities and simply obligated Japan to negotiate fisheries agreement with concerned countries.<sup>645</sup> Considering the fact that many countries – as well as many American fishermen – had strongly advocated a stern treaty provision to limit Japan's fishing grounds after the war, this was another surprising development. Why did the treaty not incorporate any restrictions against Japan's fishing activities? This owed to the fact that the US, the most powerful actor in crafting the peace treaty, was committed to the principle of *mare liberum* (freedom of the seas) and was against creating any legal precedent that might damage this. At the same time, the US also wanted an early peace settlement that was geared towards rebuilding Japan's economy and thought it best to address the specific questions related to Japanese fisheries through a separate agreement.

This topic is significant in three respects. To begin with, considering the importance of the question of post-war Japanese fisheries during the peace treaty negotiation – fish in general is an important topic for Japan, not only because it constitutes an integral part of Japan's everyday diet, but also because of its relevance to maritime law as elaborated in the section below – there is a surprising lack of analysis of this issue. While the existence of the issue has been acknowledged by a number of authors, again a detailed examination is lacking.<sup>646</sup>

Of course, Japan's post-war fishing activities have been researched extensively as a stand-alone topic by a number of scholars, most notably Harry Scheiber, a legal historian of oceanic regime and maritime law. These studies offer an excellent overview of the various international conflicts – as well as the domestic debate within the US between the government and the fishermen of the American West Coast – involving Japan's deep-sea fishing in the Pacific. However, these studies are not strictly about the Japanese peace treaty; instead, the focus is broader taking in fisheries (environmental) regimes and oceanic law.<sup>647</sup> In the case of Smith

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<sup>645</sup> Article 9: "Japan will enter promptly into negotiations with the Allied Powers so desiring for the conclusion of bilateral and multilateral agreements providing for the regulation or limitation of fishing and the conservation and development of fisheries on the high seas."

<sup>646</sup> Nishimura, *San Francisco Peace Treaty*, 159-60; Dunn, *Peace-making and the Settlement with Japan*, 119, 139, 167-8; Cohen, *Political Process and Foreign Policy*, 18, 70-73, 253-74; Hosoya, *San Francisco Peace Treaty*, 251-2.

<sup>647</sup> Harry N. Scheiber, *The Inter-Allied Conflicts and Ocean Law, 1945-53: The Occupation Command's Revival of Japanese Whaling and Marine Fisheries* (Taipei: Academica Sinica Institute of European and American Studies,

and Shimizu, the question of Japan's postwar fisheries is narrated as one part of the overall US occupation concern about securing resources (food) for Japan.<sup>648</sup> This chapter attempts to add to these findings by examining the question of postwar Japanese fisheries specifically within the context of the Japanese peace settlement.

Secondly, this chapter seeks to narrate the postwar Japanese fisheries issue from a more international angle. Japan's fishing activity in the Pacific was a multilateral problem that involved several different countries, including Australia, Canada, Indonesia, Korea, New Zealand, the Philippines and the US. While existing studies have examined the discussion on fisheries between Japan and foreign governments, these studies are rather "compartmentalized" in that each author tends to focus on Japan's interaction with a specific country or group of countries. Hence, for instance, the aforementioned books and articles tend to focus heavily on Japan's dialogue with the United States without sufficiently taking into account the viewpoints of Asian countries. Others focus specifically on South Korea and touch very lightly on the viewpoints of western countries.<sup>649</sup> Taking this into account, this study attempts to provide a more comprehensive account and try to understand the viewpoints of all the countries concerned.

Thirdly, the question of postwar Japanese fisheries is unique in the sense that it was the only issue over which Dulles faced formidable domestic opposition.<sup>650</sup> This is rather surprising, as the Japanese peace treaty in general did not receive a lot of attention from the American general public. Furthermore, the fisheries issue was the only issue in which other strong personalities played a key role. This is noteworthy in that the Japanese peace treaty in general

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2001); Harry N. Scheiber, "Origins of the Abstention Doctrine in Ocean Law: Japanese-U.S. Relations and the Pacific Fisheries, 1937-1958," *Ecology Law Quarterly* 16-1 (1989): 23-95; Roger D. Smith, *Japan's International Fisheries Policy: Law, Diplomacy and Politics Governing Resource Security* (London: Routledge, 2015).

<sup>648</sup> Sayuri Guthrie-Shimizu, "Occupation Policy and the Japanese Fisheries Management Regime, 1945-1952," in *Democracy in Occupied Japan: the US Occupation and Japanese Politics and Society*, edited by Mark E. Caprio and Yoneyuki Sugita (New York: Routledge, 2007), 48-66; Roger D. Smith, "Food Security and International Fisheries Policy in Japan's Postwar Planning," *Social Science Japan Journal* 11-2 (2008): 259-276.

<sup>649</sup> 조윤수 [Cho Yunsu], "평화선과 한일어업협상: 이승만정권기의 해양질서를 둘러싼 한일 간의 마찰 [Rhee Line and Korea-Japan Fisheries Talks: the maritime governance and bilateral conflict during the Rhee Administration]," in *The De-classification of Records on Korea-Japan Normalization and Re-examination of the Bilateral Normalization Process Vol. 2*, edited by Kookmin University Institute of Japanese Studies (Seoul: Sönin, 2010), 421-46; 히구치 도시히로 [Higuchi Toshihiro], "동지나해 · 황해 수산자원 질서재편에서 GHQ-SCAP 천연자원국과 한일관계 [Maritime Resources of East China Sea and Yellow Sea, the Natural Resources Section and Korea-Japan Relations]," *Ibid.*, 447-70; 山内康英 · 藤井賢二, "日韓漁業問題多相的な解釈の枠組み," in *歴史としての日韓国交正常化(脱植民地化編) [History of Korea-Japan Normalization and Decolonization]*, edited by 李鍾元·木宮正史·浅野豊美 [Lee Jong Won, Kimiya Tadashi and Asano Toyomi] (東京: 法政大学出版局, 2011), 351-86.

<sup>650</sup> Cohen, *Political process and foreign policy*, 210.

was Dulles' one-man project, in which he exercised tremendous liberty over decision-making. In terms of fisheries, however, Wilbert Chapman and William C. Herrington would greatly influence Dulles' decisions.

### **Bad Press, Normative Changes, Conservation and Voluntary Restraint**

Before discussing Article 9 of the Japanese peace treaty, it is necessary to revisit certain developments from the past that would later have an important impact on the shaping of the fisheries terms of the treaty. To begin with, during the prewar era Japanese fisherman had received a "bad press" from various countries bordering the Pacific Ocean. This was most pronounced on the American West Coast, particularly among Alaskan salmon fishers. To elaborate, advances in fishing technology in the interwar period allowed Japanese fishing vessels to travel farther away from their coastal waters and by 1937 they were able to enter Bristol Bay (Bering Sea) off Alaska for salmon. Until then, Alaskan salmon had been fished exclusively by American vessels under strict government regulation. Salmon was designated by the US government as a resource that needed protection. In order to avoid depletion, how much and what kind of salmon could be caught was circumscribed. The Japanese fishermen, on the other hand, were free from such regulations. This naturally caused an outcry from American fishermen, who demanded that the US government expel the Japanese ships from "our [American]" waters. A portrait of Japan's fishing practices as being predatory and ruthless was painted in trade-press articles, scholarly studies and political debates.<sup>651</sup> The fact that Japan refused to join the International Whaling Convention added to this negative image.<sup>652</sup>

This bad press manifested itself again during the Japanese peace treaty talks, and the American West Coast fisheries interest strongly advocated that restrictive fishing terms should be included in the treaty. The attitude of the American fishing lobby was significant in that it had the ability to muster Congressional support and pose a real threat to the treaty. Hence, the American delegates in charge of the treaty negotiations had to be sensitive to their concerns.<sup>653</sup>

The second important development was the erosion of the three-mile principle. During the early twentieth century the US and most other countries adhered to the idea that a country's sovereignty over the seas was limited to those areas that lay within three miles from its coastline;

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<sup>651</sup> Scheiber, "Origins of the Abstention Doctrine in Ocean Law," 29-37.

<sup>652</sup> Guthrie-Shimizu, "Occupation Policy and the Japanese Fisheries Management Regime," 48-66.

<sup>653</sup> Cohen, *Political process and foreign policy*, 254.

waters beyond this limit (the “high seas”) were not owned by anybody and therefore open to everybody (referred to as *mare liberum*). However, the appearance of Japanese fishing boats in the salmon fishing areas of the Bristol Bay – which were located outside the three-mile limit – led American fishers to demand that the federal government extend offshore jurisdiction beyond the traditional three-mile limit in order to keep the Japanese out of these waters. This sentiment was shared by a good number of Senators, as well as State Department officials. This lobbying eventually led to the “Truman proclamation” of 28 September 1945 which was the first public declaration of the US’s intention to review its adherence to the three-mile rule. This question of whether or not a country’s offshore jurisdiction should be extended beyond three miles would manifest itself frequently during the peace treaty negotiations.<sup>654</sup>

The third important development was the increasing significance of “conservation,” as shown in the Truman proclamation. In order to avoid the depleting of fisheries resources, Truman publicly stated his intention to establish “conservation zones” on the “high seas.” These “conservation zones,” even though they would be located on the “high seas,” would be under US jurisdiction if the fisheries had been developed by the US.<sup>655</sup> In short, offshore jurisdiction could be extended beyond three miles to keep foreign vessels out in the names of conservation. During the Japanese peace treaty negotiations, those advocating restrictive fisheries terms against Japan would frequently cite conservation as a justification. It should be noted that Truman himself never actually followed up on his declaration to create any “conservation zones.” Instead, he was committed to maintaining the three-mile rule. However, following Truman’s statement, Mexico (29 October 1945), Chile (23 June 1947), Peru (1 August 1947) and Costa Rica (2 November 1949) proclaimed “conservation zones” off their coastal waters, extending their maritime borders beyond the three-mile limit. Hence, conservation was increasingly becoming an important political discourse, and consequently the US worked enthusiastically to obtain a Japanese commitment to conservationist principles.<sup>656</sup>

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<sup>654</sup> Scheiber, “Origins of the Abstention Doctrine in Ocean Law,” 32-3; Guthrie-Shimizu, “Occupation Policy and the Japanese Fisheries Management Regime,” 51-2; Smith, “Food Security and International Fisheries Policy,” 263-4.

<sup>655</sup> Presidential Proclamation 2668 with respect to coastal fisheries in certain areas of the high seas, 28 September 1945, accessed via NARA, <https://www.archives.gov/federal-register/codification/proclamations/02668.html>.

<sup>656</sup> Higuchi, “Maritime Resources of East China Sea and Yellow Sea,” 447-70; Scheiber, “Origins of the Abstention Doctrine in Ocean Law,” 32-4; Guthrie-Shimizu, “Occupation Policy and the Japanese Fisheries Management Regime,” 51; Dunn, *Peace-making and the Settlement with Japan*, 167-8.

The fourth important development was the emergence of the idea of voluntary restraint. In response to the angry reaction among the Alaskan salmon fishers towards Japan's fishing activities in the Bering Sea, Cordell Hull (Secretary of State) had asked Hirota Koki (Japanese Minister of Foreign Affairs) in 1938 to restrain Japanese fishermen from entering these areas. In order to avoid damaging US-Japan relations, already tense at the time from the ongoing Sino-Japanese conflict, the Japanese government grudgingly consented in March 1938. This "voluntary restraint" set an important precedent for the Japanese peace treaty negotiators and would be revived once again in 1951.<sup>657</sup>

To recap, there were four important developments before the Japanese peace treaty negotiations began that would profoundly affect the question of postwar Japanese fisheries: the bitter resentment of the American fishermen towards the Japanese fishermen for invading their seas; the challenge to the existing principle of the three-mile rule (*mare liberum*); the emerging debate on need for "conservation" of maritime resources; and the idea of voluntary restraint. It was against this backdrop that the treaty terms for postwar Japanese high seas fisheries were discussed.

### **The Question of Fisheries and the Japanese Peace Treaty, 1945-1947**

Japan's fishing industry was in a very sorry state at the end of the war, with many boats either sunk or heavily damaged. Furthermore, the SCAP on 20 August 1945, almost immediately after Japan's surrender, prohibited the ocean sailing of all Japanese ships, including fishing vessels. Consequently, the fish catch dropped by half in the immediate postwar period. Combined with the massive inflow of overseas expatriates, Japan began to experience serious food shortages. Alarmed by these developments, the Japanese government requested the SCAP to relax its controls. The SCAP responded quickly. On 14 September 1945, the SCAP allowed wooden ships to fish within 12 miles of Japan's coasts. This was quickly followed by another directive on 27 September 1945 – the so-called "MacArthur Line" – that allowed Japan to fish in certain areas on the high seas. Thereafter, the SCAP incrementally expanded the permissible fishing areas for

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<sup>657</sup> Guthrie-Shimizu, "Occupation Policy and the Japanese Fisheries Management Regime," 51-2.

Japan; within one year after the beginning of the occupation, Japan had recovered many parts of its prewar fishing grounds on the high seas, accounting for 80% of its catch.<sup>658</sup>

Hence, from very early on, the US worked to allow Japan to re-enter its former fishing grounds. The immediate reason was the importance of tackling food shortages in Japan, not only for humanitarian concerns, but also because hunger provided an ideal breeding ground for communism.<sup>659</sup> Additionally, the US believed that rebuilding Japan's fishing capacity would lessen its own financial burden. It should also be noted that the US was committed to the principle of *mare liberum* and – with the notable exception of a few individuals – wished to eventually restore Japan's open and equal access to the high seas.<sup>660</sup>

The pressure from Japanese fishing interests for the relaxation of controls was very strong and SCAP, to a certain extent, had to respond to this. While food shortages were a powerful driving force, Japan was also equally motivated by sentimentality and pride. Many of the prewar fishing grounds in the Far East, which were important sources of mackerel, salmon and tuna – in particular, the waters surrounding the Korean peninsula, Russia (the Kurile Islands and Southern Sakhalin), Taiwan, South Pacific and the Bristol Bay area – had been developed extensively by Japanese fishermen who naturally wanted to recover them.<sup>661</sup>

Here, a brief explanation of the aforementioned “MacArthur Line” is necessary, as it was one of the most important developments during the early occupation phase. This was an arbitrary line set by the SCAP to govern how far Japanese vessels were permitted to travel to fish on the high seas. Since its introduction on 27 September 1945, the MacArthur Line was revised twice – once on 22 June 1946 and again on 19 September 1949 – each time expanding the area open to Japanese vessels for fishing.<sup>662</sup> Although the MacArthur Line was intended to maximize food production for Japan, it also contained two restrictive elements that would later affect the treaty negotiations. To begin with, in the name of conservation, it sought to prevent potential overexploitation of the high seas fisheries; hence, Japan's fishing grounds remained proscribed.

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<sup>658</sup> 水産庁 [Fisheries Agency], 水産庁 50 年史 [50 Years of Fisheries Agency] (東京 [Tokyo]: 水産庁 50 年史刊行委員会 [50 Years of Fisheries Agency Publication Committee], 1998), 61-2; Smith, “Food Security and International Fisheries Policy,” 262; Scheiber, “Origins of the Abstention Doctrine in Ocean Law,” 37-9; Higuchi, “Maritime Resources of East China Sea and Yellow Sea,” 449.

<sup>659</sup> Dower, *Embracing Defeat*, 33-64, 87-120; Schaller, *Occupation of Japan*, 20-106.

<sup>660</sup> Smith, “Food Security and International Fisheries Policy,” 262-3.

<sup>661</sup> Cho, “Rhee Line and Korea-Japan Fisheries Talks,” 424-6; Scheiber, “Origins of the Abstention Doctrine in Ocean Law,” 39.

<sup>662</sup> Fisheries Agency, *50 Years of Fisheries Agency*, 62.



At the same time, it sought to avoid disputes with neighboring countries. Thus, Japan was prohibited from fishing too close to the waters off China, Korea, the Philippines and Russia. Not surprisingly, Japan sought to undo the MacArthur Line, while certain countries, such as Korea, wished to maintain it in order to protect their own fishing interests.<sup>663</sup>

The fact that the US increasingly adopted a lenient fisheries policy toward Japan was not welcomed by other countries. One of the earliest conflicts occurred when the SCAP allowed Japan to resume whaling off Antarctica in 1946 to increase food production. Various FEC members, especially Australia, expressed objections to this. This opposition was rooted in mistrust, due to Japan's past failure to join conservation agreements and recent war experience. Australia, for instance, believed that Japan's fishing operations had been a cloak for spying activities and other preparations for war. The US responded that the whaling was a "temporary" measure, and that any future Japanese whaling operations would be subject to prior consultation and strict adherence to international conservation agreements. With this assurance, the Allied complaints subsided. The truth of the matter, however, was that the State Department and MacArthur were opposed to restricting Japan's fishing grounds, as they wanted a "liberal policy toward the Japanese economy" that ensured stable access to food.<sup>664</sup> This line portended an inevitable clash between the US and other countries regarding the fisheries terms for the peace treaty.

It was against this backdrop that the first draft peace treaty was developed. According to Article 49 of the draft 1947 peace treaty, Japan was to observe the terms of present and future international fishery conservation agreements "whether or not Japan is a party." In the absence of such agreements, Japanese fishermen operating in certain areas of the high seas were obligated to observe the relevant state conservation regulations that applied there.<sup>665</sup>

In some ways, Article 49 was punitive, as Japan was obligated to respect and adhere to other countries' conservation regulations, while no reciprocal obligation was imposed on other

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<sup>663</sup> SCAPIN1033: Area Authorized for Japanese Fishing and Whaling, 22 June 1946; SCAPIN2046: Area Authorized for Japanese Fishing and Whaling, 19 September 1949, accessed via NDL; Higuchi Toshihiro, "Maritime Resources of East China Sea and Yellow Sea," 450-1, 460-1; Cho Yunsu, "Rhee Line and Korea-Japan Fisheries Talks," 424-6; Pak Ch'angkön, "From MacArthur Line to Rhee Line," 37-9, 41.

<sup>664</sup> Blakeslee, *The Far Eastern Commission*, 106-7; Fisheries Agency, *50 Years of Fisheries Agency*, 68-70; Policy with respect to Japanese Fishing, 14 February 1947, *FRUS* 1947, Vol. 6, 179-82; Harry N. Scheiber, "Origins of the Abstention Doctrine in Ocean Law," 40, 44; Smith, "Food Security and International Fisheries Policy," 263-5.

<sup>665</sup> Draft Treaty of Peace for Japan, 7 November 1947, RG59, Entry A1 1230, Drafts by Ruth Bacon (3 of 6), pages: 49, accessed via NIKH.

countries. Overall, however, it was lenient in the sense that the treaty did not prohibit Japan from entering any particular area of the high seas; it was largely in conformity with the principle of *mare liberum*. Obligating Japan to follow conservationist practices was most likely meant as a cushioning device to sell the idea of granting it equal and free access to the high seas to those countries that held grudges against its fishermen. This idea of obligating Japan to uphold conservationist practices in return for granting freedom of the seas would eventually be adopted in the final treaty.

### **The Reverse Course and Fisheries Talk, 1948 to 1950**

To recall, between 1947 and 1949, the US shifted its policy from demilitarizing Japan to rebuilding its economy. Accordingly, the State-Army-Navy-Air Force Coordinating Committee (SANACC) on 16 December 1948 observed that fisheries were an important source of not only food but also foreign exchange for Japan. Hence, Japan should “eventually” be permitted access to “all high seas areas” with no limitation on the type and size of the Japanese fishing fleet.<sup>666</sup> Meanwhile, Sebald added that the peace treaty should avoid any fisheries terms that were more restrictive than those the Soviet Union might offer, lest Japan start to “play off the Soviet Union against the western powers.”<sup>667</sup> This naturally strengthened the case of those advocating a liberal fishing policy for Japan.

These developments were accompanied by a gradual weakening of those in the State Department who advocated the extension of maritime jurisdiction beyond the traditional three-mile limit. This was especially true after the US clashed with Mexico over tuna fisheries off the Mexican coast. The Eastern Pacific off the coast of Mexico was a rich source of tuna, much coveted by fishermen from the American West Coast. The problem was that several Latin American countries, especially Mexico, wanted to protect this area from foreign vessels. For this purpose, Mexico referred to the Truman proclamation of 1945 and argued that, just as the US was willing to extend its maritime jurisdiction to protect its fisheries, so Mexico also wished to designate certain areas beyond the three-mile limit as a “conservation zone” to keep American fishermen out. The US thus found itself in a quandary. If the US sought to keep Japanese fishermen out of the Bristol Bay area by extending its maritime jurisdiction, the Mexicans would

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<sup>666</sup> Blakeslee, *The Far Eastern Commission*, 116; Wilde to McCoy, 29 December 1948, *FRUS* 1948, Vol. 6, 931.

<sup>667</sup> Hara, *Cold War Frontiers*, 88.

use the same formula to keep American trawlers from Mexican waters. This was not a welcoming prospect for the US. As a result, the State Department started to distance itself from the Truman proclamation and instead stressed America's adherence to the traditional three-mile principle.<sup>668</sup>

Concomitantly, the idea of adopting any restrictive fisheries terms in the Japanese peace treaty also became less favored. Of course, there still was a minority opinion that wanted to adopt a more regulatory approach. The most notable figure was Wilbert McLeod Chapman, the special assistant to the Under-Secretary of State for Fisheries and Wildlife. Chapman had strong ties with the American West Coast fisheries. Unsurprisingly, he sought to curtail the activities of the Japanese fishing fleet in the North and East Pacific, especially in the Bristol Bay area, where American fisheries interests were most at stake. For this purpose, he drafted a bilateral fisheries treaty to be signed with Japan based on a formula of "mutual forbearance," which prevented both parties from fishing within 150 miles of each other's coastline.<sup>669</sup>

However, when Chapman's draft treaty was conveyed to the SCAP in October 1949, MacArthur rejected it, arguing that the restrictive nature of the treaty could become a precedent for other countries to exclude Japan from their waters. MacArthur also cited the Atlantic Charter and the Potsdam Declaration, which committed the American government to the principle of equal access to raw materials for all countries. MacArthur claimed that violating the Atlantic Charter would damage American leadership in Japan and the rest of world.<sup>670</sup> The Far Eastern specialists and economic policy makers in the State Department backed MacArthur and advocated Japan's freedom to undertake fishing activities on the high seas of the Pacific.<sup>671</sup> Canada was also against Chapman's formula, albeit for different reasons (see footnote), and this strengthened the case for the advocates of *mare liberum*.<sup>672</sup> And as will be explained below, Chapman himself would also later move away from the restrictive approach, so as to protect

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<sup>668</sup> Scheiber, "Origins of the Abstention Doctrine in Ocean Law," 41-2, 45, 51, 55-6; Smith, "Food Security and International Fisheries Policy," 265-8, 270.

<sup>669</sup> Guthrie-Shimizu, "Occupation Policy and the Japanese Fisheries Management Regime, 1945-1952," 57.

<sup>670</sup> Scheiber, "Origins of the Abstention Doctrine in Ocean Law," 46-7.

<sup>671</sup> Guthrie-Shimizu, "Occupation Policy and the Japanese Fisheries Management Regime, 1945-1952," 58.

<sup>672</sup> Canada was worried that Chapman's formula would invite jealousy from other British Commonwealth countries, as it would prohibit Japanese vessels from entering the waters near Canada, thus protecting Canadian interests, while no equivalent restrictions applied for Australia or New Zealand (Scheiber, "Origins of the Abstention Doctrine in Ocean Law," 52).

American tuna interests off the coast of Mexico. In short, the opponents of *mare liberum* increasingly lost ground.

These developments led to the emergence of a new “subtractive” approach to fisheries. Prior to the “reverse course,” the SCAP took an “additive” approach; the departure point was that Japan was wholly prohibited from the high seas, and the SCAP would add piecemeal exceptions and allow Japan gradually to enter certain areas that had previously been off-limits. In contrast, the departure point now was that Japan was entitled to unrestricted access to the high seas, and it would only be prohibited from entering certain areas in exceptional cases. This was expressed at a FEC meeting of 24 May 1949, when the US argued that while other member states were welcome to forbid the entry of Japanese fishing boats to certain areas of the high seas, such restrictions had to be backed by clear “security reasons” or “legitimate conservation measures.” Otherwise, Japan should be free to fish on the high seas.<sup>673</sup> The final peace treaty ultimately embodied this “subtractive” approach.

However, the growing consensus within the US government for *mare liberum* was opposed by a formidable lobby of American fishermen from Alaska and West Coast. After WWII, a coalition of fishery interests in the American West Coast – including boat owners, fishermen and cannery operators – had formed the Pacific Fisheries Conference (PFC) in 1946 to defend Bristol Bay from Japan’s fishing vessels. The PFC was a powerful lobbying group with strong ties to Congress. For Dulles, addressing the concerns of the PFC proved to be very important, lest the Senate reject the Japanese peace treaty.<sup>674</sup>

In order to obtain support for Japan’s free access to the high seas from other governments and the domestic American fisheries lobby, the State Department thought it best to obtain written assurances from Yoshida that Japan would observe conservationist principles. In response, the Japanese Foreign Ministry issued a letter to the State Department on 20 March 1950, indicating its intention to accede to the International Whaling Convention and to join other international agreements for regulating halibut and tuna. It also indicated Japan’s willingness to voluntarily restrain its fishermen from entering the Bristol Bay area, just as it had done in 1938.<sup>675</sup> This letter would eventually allow Dulles to isolate the fisheries problems from the peace treaty and prevent any restrictive terms that could damage Japan’s free access to the high seas.

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<sup>673</sup> Webb to Sebald, 1 June 1949, *FRUS* 1949, Vol. 7-2, 760.

<sup>674</sup> Scheiber, “Origins of the Abstention Doctrine in Ocean Law,” 34, 58.

<sup>675</sup> *Ibid.*, 53-4.

## Overcoming International and Domestic Pressure against *Mare Liberum* for Japan

By the time the Japanese peace treaty discussions revived, it had become a foregone conclusion that the terms dictating Japan's postwar fisheries would be premised on the principle of *mare liberum*. In order to ensure Japan's free and equal access to the high seas, Dulles first sought to isolate the question of fisheries from the peace treaty. This was no easy task, as the most vocal opposition came from the British Commonwealth, America's closest partner in the treaty negotiations. Indeed, the Commonwealth view on postwar Japanese fisheries did not exactly conform to the principle of *mare liberum*. For instance, when the British Commonwealth members convened in London in May 1950 to discuss the Japanese peace settlement, the member states agreed that the treaty should oblige Japan to observe existing international conventions and make other conservation arrangements. The British Commonwealth also entertained the idea of allocating specific fishing areas to Japan.<sup>676</sup>

Dulles also had to wrestle with the domestic lobby, the PFC, which continued to make strong demands for a restrictive fisheries policy. Here there emerged another formidable individual, who would pose a significant challenge to Dulles, Edward Allen. Allen, a lawyer and the vice chairman of PFC, was a staunch defender of American fishing interests. His position was clearly outlined in a letter he sent to Dulles on 23 June 1950. In this communication, Allen pointed out that the maritime resources of the Northeastern Pacific, specifically sardines, herring, tuna, halibut and salmon, were an important source of income for American and Canadian fishermen. The problem was that these resources were often found outside "territorial waters," which meant that anybody was free to catch them. The Japanese fishermen had "ruthlessly" exploited this freedom in the past and if they were not "in some way" restricted, then they would again devastate the fisheries. Allen therefore opposed an "unrestricted peace treaty" and demanded that some form of regulation be adopted, either through the peace treaty or some "concurrent" agreement. The formula that Allen envisioned was reminiscent of Chapman's earlier "mutual forbearance" proposal, in which the Japanese and US/Canadian fishermen would

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<sup>676</sup> Commonwealth Working Party on Japanese Peace Treaty, 17 May 1950, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH.

“stay out of each other’s coastal fisheries” that had been respectively conserved and developed.<sup>677</sup>

Surprisingly, the fisheries issue did not initially receive a lot of attention from foreign governments. Indeed, when Dulles distributed his seven principles – which stated that Japan would “adhere to multilateral treaties” dealing with fishing – to FEC member states in September 1950, with the exception of Canada, no strong opinions were expressed.<sup>678</sup> Instead, Dulles had to confront senatorial inquiries from Harry P. Cain (Republican, Washington) and William F. Knowland (Republican, California), both representing West Coast fishing interests, who asked him if the treaty would protect US fishing rights. In response, Dulles explained that he wished to tackle the question of fisheries separately from the peace treaty.<sup>679</sup>

Meanwhile, perhaps aware of the strength of the PFC, Japan sent a fishing industry delegation to the US to confer with the PFC on 9 November 1950.<sup>680</sup> The Japanese delegation admitted that its fishermen wished to enter the North American coastal waters in order to increase fishery production. Furthermore, it stated its opposition to any treaty restrictions that would limit Japan’s high-seas fishing, since this might create an “unfortunate precedent” for other countries to also forbid its vessels from entering other specified areas on the high seas. Nevertheless, the delegation acknowledged its past indifference to conservation and expressed its willingness to enter into a “binding (and reciprocal) agreement”, separately from the peace treaty, that would keep Americans and Japanese from entering each other’s coastal waters.<sup>681</sup>

Following this conversation, the PFC released a resolution on 29 November 1950, demanding the adoption of a provision in either the peace treaty or another concurrent agreement to “ensure that Japanese fishermen will stay out of the fisheries of the Northeast Pacific.”<sup>682</sup> This demand – which essentially called for mutual forbearance – was repeated by Miller Freeman

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<sup>677</sup> Allen to Dulles, 23 June 1950, RG59, Entry A1 1252, Lot 54D423, Fisheries, accessed via NIKH; “International Aspects of Fishery Conservation” by Edward W. Allen (June, 1950), *Ibid.*; Edward W. Allen, “International Law and Fisheries,” *Ibid.*

<sup>678</sup> *FRUS* 1950, Vol. 6, 1297.

<sup>679</sup> Meeting minutes between Cain and Dulles, 15 September 1950, RG59, Entry A1 1252, Lot 54D423, Fisheries, accessed via NIKH; Knowland to Webb, 15 September 1950, *Ibid.*

<sup>680</sup> The Japanese delegation members were: Susumu Nikaido (National Diet Fisheries Committee), Taii Iiyama (former Head of the Fisheries Agency) and Kenjiro Chikaraishi (Ministry of Foreign Affairs).

<sup>681</sup> Freeman to Acheson, 9 November 1950, RG59, Entry A1 1252, Lot 54D423, Fisheries, accessed via NIKH; Report to Secretary Acheson on Fishery Treaty Talks with Japanese Fishermen, 15 December 1950, *Ibid.*

<sup>682</sup> Resolution concerning Treaty with Japan (adopted by Pacific Fisheries Conference November 29, 1950), *Ibid.*

(PFC Chairman) and Allen on 11 December 1950 and 12 January 1951, respectively.<sup>683</sup> In light of these pressures, on 15 December 1950 Knowland proposed incorporating a mutual forbearance formula in the peace treaty, in which Japan would “refrain from entering the developed fisheries of the other signatory powers” while other countries would refrain from entering the developed fisheries of Japan. Knowland also suggested that the treaty obligate Japan to join the International Convention for the Regulation of Whaling that had been signed at Washington in December 1946.<sup>684</sup>

However, Chapman – who had now moved away from his earlier regulatory approach – opposed Knowland’s proposal. In his letter to Dulles on 4 January 1951, Chapman explained that mutual forbearance would not only set a precedent for other countries to restrict Japan’s high seas fisheries, but could also possibly delay the peace settlement. Instead, Chapman advised that Dulles divorce the fisheries question from the treaty and address it through separate agreements between Japan and the concerned countries.<sup>685</sup> Chapman also proposed reviving the 1938 voluntary restraint formula. Before Dulles embarked on his trip to Tokyo, Chapman delivered (on 10 January 1951) a draft statement to be handed to Yoshida. The core idea was that Yoshida would make a public declaration that Japan would promptly negotiate appropriate fisheries agreements with concerned countries for conservation purposes. Until such time, the Japanese government would voluntarily prohibit its vessels from entering those fishing grounds in the Bristol Bay area that had been developed by Canada and the US.<sup>686</sup>

Perhaps in order to facilitate an early peace settlement, Yoshida accepted Chapman’s draft statement with some revisions. According to Yoshida’s memorandum to Dulles (dated 7 February 1951), Japan recognized the importance of conservation efforts to prevent the exhaustion of high seas fisheries and would “as soon as practicable” enter into negotiations with other countries. However, Yoshida insisted that this should be after the peace treaty came into effect. In the meantime, Japan would “as a voluntary act” prohibit fishing operations in “presently conserved fisheries,” including the “eastern Pacific Ocean and Bering Sea [Bristol Bay].”<sup>687</sup> Yoshida’s statement was made public on 13 February 1951.<sup>688</sup> Japan was now formally

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<sup>683</sup> Freeman to Knowland, 8 December 1950, *Ibid*; Allen to Dulles, 12 January 1951, *Ibid*.

<sup>684</sup> Knowland to Dulles, 15 December 1950, *Ibid*.

<sup>685</sup> Chapman to Dulles, 4 January 1951, *Ibid*; Chapman to Fearey, 4 January 1951, *Ibid*.

<sup>686</sup> Fearey to Allison, 10 January 1951, RG59, Entry A1 1252, Lot 54D423, Fisheries, accessed via NIKH; Chapman to Dulles: Japanese Fishery Problem, 10 January 1951, *Ibid*.

<sup>687</sup> Yoshida to Dulles, 7 February 1951, *Ibid*.

committed to conservation and voluntary restraint, in return for its eventual free access to the high seas.<sup>689</sup>

Unfortunately for Dulles, however, Yoshida's promises did not yield immediate results. Instead, on 14 February 1951, soon after Yoshida's statement, the Michigan Wholesale Grocers Association complained to Senator Arthur Vandenberg (Republican, Michigan) that Japanese fishing activities had led to a "considerable depletion" of salmon and a concomitant rise in production costs and retail price. To remedy the situation, the Association argued that the peace treaty should restrict Japanese fishing vessels from entering Alaskan territorial waters. Although Vandenberg doubted the practicability of the Association's proposal, he nevertheless cautioned Dulles that "some protection measures" were necessary for American fisheries.<sup>690</sup>

In response, Dulles worked vigorously to sell his agreement with Yoshida to the West Coast Senators and Representatives in the hope of avoiding any restrictive fisheries clause in the peace treaty.<sup>691</sup> Meanwhile, Chapman sought to court the PFC, since this meant that the entire West Coast fishing interest could be won over. Thankfully, these efforts began to bear fruit. On 15 March 1951, Chapman informed Dulles that there was now a general agreement in the American fisheries industry that an arrangement with Japan should be made separately from the peace treaty. This was an important step towards preventing a restrictive fisheries clause.

However, Chapman was also aware that the grievances of the American West Coast fishing interests were still strong and unresolved. Hence, he recommended that the State Department should start working immediately on a fisheries agreement with Japan – although its signature would have to wait until the peace treaty came into effect – lest the fishing interests become impatient.<sup>692</sup> In order to facilitate agreement with Japan, Chapman produced a draft "International Convention for the Fisheries of the North Pacific Ocean" on 15 March 1951, incorporating the principle of voluntary restraint.<sup>693</sup>

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<sup>688</sup> Dulles to Yoshida, 7 February 1951, *Ibid.*; Dulles-Yoshida letter on fisheries, 13 February 1951, *Ibid.*

<sup>689</sup> Scheiber, "Origins of the Abstention Doctrine in Ocean Law," 65-6.

<sup>690</sup> Vandenberg to Dulles, 21 February 1951, RG59, Entry A1 1252, Lot 54D423, Fisheries, accessed via NIKH.

<sup>691</sup> The Senators included: Warren Magnuson (Democrat, Washington), Harry P. Cain (Republican, Washington), Guy Cordon (Republican, Oregon), William Fife Knowland (Republican, California). Representatives included: Hugh Burnton Mitchell (Democrat, Washington), Henry M. Jackson (Democrat, Washington), Tor Carl Tollefson (Republican, Washington), Harris Ellworth (Republican, Oregon), Cecil Rhodes King (Democrat, California) and Edward Lewis Bartlett (Democrat, Alaska).

<sup>692</sup> Chapman to Dulles, 15 March 1951, RG59, Entry A1 1252, Lot 54D423, Fisheries, accessed via NIKH; Selling Dulles-Yoshida Exchange of Letters on Fisheries, 6 March 1951, *Ibid.*

<sup>693</sup> Draft International Convention for the Fisheries of the North Pacific Ocean, 15 March 1951, *Ibid.*



Just as Chapman had warned, the PFC sent a letter to Acheson on 21 March 1951, insisting that the State Department should “at once” start drafting the future fisheries agreement with Japan.<sup>694</sup> Furthermore, a joint memorandum was adopted by the Senators and Representatives from Oregon, demanding a safeguard against Japanese incursions into American waters.<sup>695</sup> The negotiation process for this trilateral agreement warrants a separate analysis, and thus will not be dealt with in this chapter. Here, it suffices to say that in response to this mounting pressure, the State Department from April 1951 began discussion on the terms of the fisheries agreement with Japan.

In addition to the domestic outcry, Dulles also had to wrestle with other governments that had qualms about a non-restrictive fisheries clause. Even while Dulles was working on his exchange of letters with Yoshida, Gascoigne remarked that Japan had in the past been “guilty of poaching, overfishing and using their fishing vessels for intelligence purposes.” It was therefore “reasonable” to restrain Japan through the peace treaty.<sup>696</sup> Fortunately for Dulles, Britain on 13 March 1951 informed Washington that if the US opposed adopting any restrictive treaty terms, then Britain was open to negotiating a separate fisheries convention with Japan. This was precisely the formula that Dulles was working on and the US gladly expressed agreement.<sup>697</sup>

Amid the on-going debate on Japan’s future fishing activities, a new draft peace treaty was developed on 23 March 1951 and circulated to other governments for comment. Article 9 of this draft simply stated that Japan would promptly negotiate separate conventions with the concerned governments for protecting high seas fisheries.<sup>698</sup> Otherwise, no restrictions were incorporated. Dulles defended this policy by arguing that trying to permanently regulate Japan’s high-seas fisheries in the treaty would delay its conclusion, as it would require coordinating the conflicting views of multiple countries. The better alternative therefore was to work on a series of bilateral agreements with Japan. As a cushioning device, Dulles also stressed the fact that Yoshida had committed himself to negotiating fisheries agreement after the conclusion of the peace treaty and that Japan would voluntarily restrain its activities in the meantime.<sup>699</sup>

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<sup>694</sup> Pacific Fisheries Conference to Acheson, 21 March 1951, *Ibid.*

<sup>695</sup> Stockman to Dulles, 20 March 1951, *Ibid.*

<sup>696</sup> Meeting minutes between Gascoigne and Dulles, 29 January 1951, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH.

<sup>697</sup> Aide-memoire, 13 March 1951, RG59, Entry A1 1252, Lot 54D423, United Kingdom [I], accessed via NIKH.

<sup>698</sup> *FRUS* 1951, Vol. 6-1, 947.

<sup>699</sup> Essentials of a Peace with Japan, 31 March 1951, *Bulletin* 614 (9 April 1951), 579.

Britain, whose responses were sent on multiple occasions between April and June 1951, meandered between proposing and withdrawing a provision that obligated Japan to restrain fishing in certain areas of the high seas until an international agreement had been signed. While the US agreed that Japan should voluntarily restrain its fishing operations until the conclusion of international fisheries agreement, the US was against documenting this in the peace treaty. As an alternative, the US wanted the British Commonwealth countries to come to some type of understanding directly with the Japanese separate from the peace treaty. Yoshida was also consulted to see if he would be willing to make a “further voluntary declaration” to restrain fishing in the conserved areas.<sup>700</sup> He complied and on 13 July 1951 publicly committed Japan to voluntarily restrain its activities in the presently conserved areas in “all waters” until the signing of the fisheries arrangements with concerned countries.<sup>701</sup> Afterwards, Britain no longer made an issue out of the fisheries clause.

Meanwhile, South Korea was vehemently opposed to Dulles’ lenient fisheries policy. On 26 April, 9 July and 19 July 1951, South Korea demanded that the MacArthur Line remain in effect, at least until Japan entered into the international fisheries agreement. South Korea’s demands had multiple dimensions. To begin with, fishing was an important source of foreign exchange for Korea after WWII, and hence Japanese fishing off the Korean coast was perceived as an economic threat. Equally important was the fact that Koreans had been harboring envy and bitterness towards Japan’s fishing practices stretching back to the late nineteenth century. On the one hand, the Japanese fishermen, who enjoyed better fishing technology than Koreans, had been able to reap considerable profit; on the other hand, their voracious catch caused the near-exhaustion of Korean fisheries. As if to fan the flames, throughout the postwar occupation period, Japanese fishermen frequently crossed the MacArthur Line to fish near the Korean coast, especially during the Korean War, when the American military was focused on fighting the war and fisheries supervision became looser. South Korea also felt that Japan’s growing deep-sea fishing indicated the potential re-emergence of a military threat, citing the fact that many of the former naval officers and seamen had been transferred to fisheries training institutes. Dulles,

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<sup>700</sup> Treaty of Peace with Japan, 7 April 1951, FO371/92538, FJ1022/222, NA; Pridham to Fearey, 11 May 1951, RG59, Entry A1 1252, Lot 54D423, Fisheries, accessed via NIKH; Remaining unagreed treaty provisions, June 1951, RG59, Entry A1 1252, Lot 54D423, United Kingdom [II], accessed via NIKH; Scott to Swinnerton, 22 June 1951, FO371/92558, FJ1022/579, NA.

<sup>701</sup> Statement of the Japanese Government on High Seas Fisheries, 13 July 1951, RG59, Entry A1 1252, Lot 54D423, Fisheries, accessed via NIKH.

however, rejected South Korea's request, arguing that the US had gone a long way to silence "great pressure" from both other countries and American fishing interests and that any changes at this point would cause a "very serious delay" in the treaty. The State Department also secretly confided that South Korea's request could damage Japan's economic recovery. Instead, South Korea was advised to negotiate a bilateral fisheries agreement with Japan.<sup>702</sup>

While Korea's request was rejected, this did not mean that its concerns were totally disregarded. Indeed, they were taken quite seriously by the State Department, as indicated in Herrington's letter to Dulles of 23 July 1951. In this letter, Herrington explained that Korea had legitimate concerns about Japanese fishing activities. He pointed out that Japanese fishing boats, which were "much superior" to those of Korea, had the potential to "swarm into water surrounding Korean Peninsula" and deplete the stocks of fish that South Korea depended upon. Hence, Herrington suggested that the US offer its good offices to arrange "some international agreement" between Korea and Japan for the management of the fish resources of this area.<sup>703</sup>

Canada also expressed some concerns. On 23 July 1951, A.D.P Heeny (Acting Secretary of State for the Canadian Ministry of External Affairs) informed Washington that while Canada welcomed Japan's voluntary restraint, its concerns were not entirely resolved.<sup>704</sup> Canada wished to engage in more detailed discussions about the future conservation agreement with Japan.<sup>705</sup> To recall, the State Department had started working on a fisheries convention with Japan since April 1951; perhaps in response to Canada's demands – combined with the fact the PFC on 29 July 1951 once again stressed the need to prevent "Japanese invasion" – the American fisheries experts invited Canadian officials to partake in discussing the future of Japan's fisheries problem.<sup>706</sup> These discussions would eventually culminate in a trilateral convention between

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<sup>702</sup> Limb to Dulles, 26 April 1951, Rhee Papers, accessed via NIKH; Memorandum of Conversation (Dulles and South Korean Ambassador Yang Yuch'an), 9 July 1951, *FRUS* 1951, Vol. 6-1, 1183-4; Memorandum of Conversation (Dulles and Yang), 19 July 1951, *FRUS* 1951, Vol. 6-1, 1203-5; Cho Yunsu, "Rhee Line and Korea-Japan Fisheries Talks," 423, 427-8; Pak Ch'angkön, "From MacArthur Line to Rhee Line," 229-31; Comments on Korean Note Regarding US Treaty Draft, 9 May 1951, RG59, Entry 1252, Lot54D423, Korea [October, 1948 - August 16, 1951], accessed via NIKH.

<sup>703</sup> Herrington to Dulles, 23 July 1951, RG59, Entry A1 1252, Lot 54D423, Fisheries, accessed via NIKH.

<sup>704</sup> Invitation to Japanese peace treaty conference, 23 July 1951, RG59, Entry A1 1252, Lot54D423, Canada, accessed via NIKH.

<sup>705</sup> US response to Canadian comments on the draft Japanese peace treaty, 26 July 1951, RG59, Entry A1 1252, Lot54D423, Canada, accessed via NIKH.

<sup>706</sup> Allen to Dulles: "International Law and Fish," 22 August 1951, RG59, Entry A1 1252, Lot 54D423, Fisheries, accessed via NIKH; US response to Canadian comments on the draft Japanese peace treaty, 26 July 1951, RG59, Entry A1 1252, Lot54D423, Canada, accessed via NIKH.

Canada, Japan and the US (International Convention for the High Seas Fisheries of the North Pacific Ocean) signed on 9 May 1952.

Between May and August 1951, Australia, the Netherlands and the Philippines also demanded revising Article 9 to restrict Japan's high seas fisheries until the signing of an international fisheries agreement. All three countries wished to prevent Japanese fishermen from operating off their territorial waters; the Netherlands and Australia were particularly worried about the tuna and trochus shell site off New Guinea that they had respectively developed. The US, however, was against inserting any provision governing fishing on the high seas, as this would delay the treaty's conclusion. Instead, the US stressed that concrete solutions should be found outside the treaty through separate arrangements and that the three governments should be satisfied with Japan's commitment to voluntary restriction in the meantime. Perhaps because fishing was not the priority for the three governments they quickly relented.<sup>707</sup>

By the end of August 1951, the multilateral fisheries talks were therefore over. The US had successfully prevented any formal restriction of Japan's postwar high seas fisheries. This was a major accomplishment for the US and those advocating *mare liberum*.

## Conclusion

To conclude, Article 9 of the Japanese peace treaty was a product of hard bargaining between two opposing schools of thought. One group wished to protect the principle of *mare liberum* and apply the same principle (free and equal access to the high seas) to Japan. The other group wished to challenge the traditional notion of the three-mile rule and to curb Japanese fishing activities in the high seas in the name of conservation. Dulles and many other State Department officials belonged to the former, while many non-US governments and the American West Coast fishing lobby belonged to the latter. In order to ensure that Japan would eventually be granted free and equal access to the high seas, while also paving the way for a prompt conclusion of

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<sup>707</sup> Elizalde to Acheson, 1 June 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH; Philippine comment on US March draft, 25 June 1951, *Ibid.*; 3851: Harrington to Acheson (Dulles), 1 June 1951, RG59, Entry A1 1252, Lot54D423, Manila I, accessed via NIKH; 186: Cowen to Acheson, 13 July 1951, *Ibid.*; Aide-memoire (Dutch response to 3 July 1951 draft treaty), 3 August 1951, RG59, Entry A1 1252, Lot 54D423, Netherlands, accessed via NIKH; Aide-memoire (response to Dutch requests of 3 August 1951), 10 August 1951, *Ibid.*; Memorandum of Conversation, 3 August 1951, *Ibid.*; 45: Jarman to Acheson, 8 August 1951, RG59, Entry A1 1252, Lot 54D423, Canberra, accessed via NIKH; Sebald to Dulles, 10 August 1951, RG59, Entry A1 1252, Lot54D423, Australia, accessed NIKH; Acheson to Spender, 11 August 1951, *Ibid.*; 336: Sebald to Dulles, 16 August 1951, *Ibid.*; Herrington to Dulles, 14 August 1951, *Ibid.*; 336: Dulles to Sebald, 16 August 1951, *Ibid.*; Hara, *Cold War Frontiers*, 136.

peace with Japan, Dulles came up with a two-pronged solution. The first was to divorce the issue of fisheries from the peace treaty and simply state Japan's intention to negotiate separate conservation agreements with concerned countries. The second was to obtain Japan's commitment that until such an arrangement could be signed, it would voluntarily restrain from fishing in areas that were developed and conserved by other countries. This approach, aided by the fact that fishery control was not the most pressing issue for some governments, ultimately allowed Dulles to proceed promptly with a lenient peace.

Article 9 indicated the triumph of *mare liberum*. At the same time, Japan's fishing industry was able to avoid being permanently crippled.<sup>708</sup> However, it was also a controversial formula that favored American and Japanese interests over those of other countries and later led to complications, the details of which will be discussed in the last chapter.

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<sup>708</sup> Harry N. Scheiber, "Origins of the Abstention Doctrine in Ocean Law," 68.

## Chapter 10. The Territorial Terms and Undefined Ownership

Perhaps no other aspect of the peace treaty produced consequences that have been as long-lived and visibly controversial as its territorial terms. Indeed, the questions of ownership regarding the “Northern Territories” (Etorofu, Kunashiri, Shikotan and Habomai islands), Tokdo/Takeshima (Liancourt Rocks) and Taiwan, for instance, have outlived the era of US-Soviet rivalry that first begot them and continue to pose a challenging diplomatic agenda for China, Japan, Korea and Russia. The Ryukyu Islands (Okinawa), whose sovereignty was reverted back to Japan in 1972, also continue to plague US-Japan relations due to the presence of American military bases and have created controversy over ownership of the Daiyou/Senkaku islands between the PRC, the ROC and Japan. There is also the “South China Sea” dispute, involving two island groups – the Spratly and Paracel islands – which continues among Brunei, Malaysia, the Philippines, the PRC, the ROC and Vietnam. Taking this into account, this chapter seeks to understand how these controversies originated.

According to Article 2 of the Japanese peace treaty, Japan simply “renounces all right, title and claim” to “Formosa and the Pescadores” (Taiwan), “Kurile Islands,” “Antarctic area,” “Spratly Islands” and “Paracel Islands.” Who therefore has sovereignty over them is unclear. Likewise, Japan simply concurred to the idea of placing the Ryukyus under a UN trusteeship system, but who owned the islands was never specified. Of course, Antarctica is not owned by anybody, and hence no ownership was stipulated. Also, as will be explained in the conclusion, the Liancourt Rocks were not even mentioned in the treaty, and the dispute over its ownership continues to this day.<sup>709</sup> This naturally leads to the question: why did the treaty not clarify ownership over these island territories?

This chapter argues that territorial ownership was left intentionally vague, as the US wanted to avoid a “domino” effect. In other words, aware that clarity for one territory would require clarity for all, the US opted for a consistent “vagueness for all” approach. This was a politically convenient solution that had multiple advantages for the US, most importantly safeguarding its own influence in the Pacific, while denying it to the Soviet Union.

This study is significant in two respects. To begin with, as already noted above, it has contemporary significance, as the territorial disputes resulting from the peace treaty continue in

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<sup>709</sup> The Treaty of Peace with Japan, 8 September 1951, *op. cit.*

the Asia-Pacific. Better understanding of how these problems originated will perhaps contribute to the formulation of a potential solution. Secondly, it adds to the existing literature by reconstructing the narrative through a different angle. Simply put, there is hardly any comprehensive analysis of how the individual terms for the different islands under Article 2 were inter-related. There is a plethora of studies that focus on specific island territories. For instance, John J. Stephans, David Rees, Kimura Hiroshi, Fiona Hill and Brad Williams examine the historical development of the dispute between Japan and Russia over the Kuril islands.<sup>710</sup> Meanwhile, the questions relating to Okinawa have been examined by such authors as Watanabe Akio and Robert Eldridge.<sup>711</sup> The territorial dispute between Korea and Japan over the Liancourt Rocks has been written about extensively by Chōng Pyōngchun.<sup>712</sup> All of these works, however, tackle the specific islands individually and thus do not sufficiently explain how the terms agreed over one specific island affected the others. Of course, there have been some attempts to link the treatment of the different islands. Hasegawa Tsuyoshi and Wada Haruki, for example, examine the link between the Kuril islands and Ryukyus.<sup>713</sup> However, they do not sufficiently explain how the Kurils and the Ryukyus were also related to other islands, such as Taiwan and the Spratly/Paracel groups.

In 2007, Hara Kimie wrote a groundbreaking analysis that sought to examine all the territories that were addressed in the Japanese peace treaty. Hara convincingly argues that the territorial terms of the treaty were determined by the US-Soviet rivalry, and that the relevant clauses were deliberately phrased to serve the interests of the free world while undermining those of the communist bloc. The most salient feature of Hara's work is that she examines the roles of other governments that had hitherto been overlooked, including all the British Commonwealth countries, China, Korea and the Philippines.<sup>714</sup> However, Hara's main framework is the Cold War and its impact on the fate of the islands. This chapter takes a slightly different angle by

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<sup>710</sup> Stephan, *The Kuril Islands*; Rees, *Kuriles*; Kimura, *Kurillian Knot*; Hill, "Soviet-Japanese territorial dispute"; Brad Williams, *Resolving the Russo-Japanese Territorial Dispute: Hokkaido-Sakhalin relations* (New York: Rutledge, 2007).

<sup>711</sup> Akio Watanabe, *The Okinawa Problem: a chapter in Japan-U.S. relations* (Carlton: Melbourne University Press, 1970); Eldridge, *The Origins of the Bilateral Okinawa Problem*.

<sup>712</sup> Chōng, *The Liancourt Rocks*.

<sup>713</sup> Hasegawa Tsuyoshi, *The Northern Territories Dispute and Russo-Japanese Relations* (Berkeley: University of California Press, 1998); Wada Haruki, "The San Francisco Peace Treaty and the Definition of the Kurile Islands," in *Japan and Russia: the tortuous path to normalization, 1949-1999*, Gilbert Rozman et. al. (New York: St. Martin's Press, 2000), 15-31.

<sup>714</sup> Hara, *Cold War Frontiers*.

focusing on the idea of “undefined ownership,” a formula that predated the Cold War, and is therefore structured and narrated differently.

### **The Mandate Islands, the Ryukyus, and the Spratly and Paracel Islands**

The first island groups to which the formula of undefined ownership was applied were the Mandate Islands, the Ryukyu Islands, and the Spratly and Paracel Islands. The so-called Japanese Mandate Islands referred to a group of islands in the southern Pacific – the Caroline Islands, Mariana Islands and Marshall Islands (commonly referred to as Micronesia) – that Japan gained from Germany after WWI. With the Pacific War – combined with the increasing importance of air power in modern warfare and the need to consider American strategic objectives from a more global perspective – these islands became intricately linked to American security interests.<sup>715</sup> Indeed, during the Pacific War, the JCS opined that the Mandates should come under US control and form a part of a chain of naval and air bases, stretching from Hawaii to the Philippines and the Bonin Islands. Roosevelt too showed interest in building permanent bases upon them. Combined with the fact that Australia and New Zealand, for their own security, also favored US control over these islands, securing American influence became ever more important. It should be noted that the Mandate Islands also had commercial value as stopping points on an important maritime transportation route. After many months of internal bickering over the appropriate form of control over the islands – the military proposed outright annexation, which the State Department opposed – the US at the end of WWII settled on a compromise solution: UN trusteeship. Under the guise of international supervision, trusteeship would allow the US to exert influence over these islands without the appearance of overt imperialism.<sup>716</sup>

It was against this backdrop that UNSC Resolution 21 was adopted on 2 April 1947. According to this resolution, the Japanese Mandate Islands were placed under the “Trusteeship System” (Article 1), with the US as the “Administering Authority” (Article 2) that was entitled “to establish naval, military and air bases” (Article 5). And while the ultimate aim was to work towards the “independence” of the islands (Article 76-b), trusteeship over them could “not be

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<sup>715</sup> Louis, *Imperialism at Bay*, 68-87.

<sup>716</sup> *Ibid.*, 259-73, 366-377, 475-496, 512-531; Stacie L. Pettyjohn, “Perimeter Defense in Depth, 1943–1949,” in *U.S. Global Defense Posture, 1783–2011* (Washington: RAND Corporation, 2012), 49-60; Hara, *Cold War Frontiers*, 100-23.



altered...or terminated without the consent of the Administering Authority” (Article 12).<sup>717</sup> In other words, the US secured a blank cheque over the islands.

The terms regarding the Mandated Islands in the peace treaty were phrased in accordance with UNSC Resolution 21. According to Article 6 of the 1947 draft treaty, Japan “renounces all rights and titles to the former Japanese Mandated Islands.”<sup>718</sup> Since the trust territories were not really owned by anybody, the rightful owners of the islands were not defined. This term would remain unchanged and was ultimately adopted in the final peace treaty. Equally important, this set a precedent for the use of unspecified ownership for other controversial islands in subsequent years.

As in the case of the Japanese Mandate Islands, the military – and particularly the Navy – also emphasized, even during the Pacific War, the strategic importance of securing US control over Okinawa for building bases there. However, the State Department opposed outright annexation, since it did not want to generate criticism that the US sought territorial aggrandizement.<sup>719</sup> While no concrete agreement was reached between the military and civilian sector, the Ryukyus by the end of the war came under US military control and were practically treated as another country, separate from Japan.<sup>720</sup> Even after the war, the JCS lobbied for Okinawa to be brought under “exclusive US strategic control” (JCS 570/40, 23 October 1945).<sup>721</sup> However, the State Department remained cautious and once again stressed that the “Ryukyu Islands should be regarded as minor islands to be retained by Japan” (SWNCC 59/1, 24 June 1946).<sup>722</sup>

The State Department’s attitude was reflected in the 1947 draft peace treaty, which included the Ryukyus within Japan’s territorial limits.<sup>723</sup> As already noted in the first chapter, MacArthur immediately protested against this, arguing that Okinawa was strategically important for the US and thus had to be retained under American control. Moreover, even certain members of the British Commonwealth, in particular Australia, supported the idea of placing the Ryukyus

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<sup>717</sup> UNSC Resolution 21, 2 April 1947, accessed via UN, <http://unscr.com/en/resolutions/21>.

<sup>718</sup> Treaty of Peace with Japan, 5 August 1947, RG59, Entry A1 1230, Treaty (Bacon, Ruth)-1, accessed via NIKH.

<sup>719</sup> Rozman et. al., *Japan and Russia*, 12-9.

<sup>720</sup> Watanabe, *The Okinawa Problem*.

<sup>721</sup> James F. Schnabel, *History of the Joint Chiefs of Staff: The Joint Chiefs of Staff and National Policy, 1945-1947* (Washington: Office of Joint History, JCS, 1996), 150.

<sup>722</sup> SWNCC 59/1: Policy Concerning Trusteeship and Other Methods of Disposition of the Mandated and Other Outlying and Minor Islands formerly controlled by Japan, 24 June 1946, accessed via Northern Marianas Humanities Council, <http://nmhcdigitalarchive.org/fromTheWhiteHouse/01Truman/1946/0624%20Reid.pdf>.

<sup>723</sup> Treaty of Peace with Japan, 5 August 1947, *op. cit.*

under a trusteeship with the US as the sole authority.<sup>724</sup> The military branches of the US government too favored this level of control, possibly through a strategic trusteeship with the US as the administering authority. The State Department, however, continued to express reservations. Not only would the Soviet Union almost certainly veto such an arrangement, but also the whole concept of trusteeship – which was geared towards eventual “independence” – implied permanent separation from Japan.<sup>725</sup>

However, on 5 November 1948, Truman approved NSC 13/1, which stated that the US should retain Okinawa and build bases there “on a long-term basis.”<sup>726</sup> On 6 May 1949, a new draft, NSC 13/3, was approved by Truman. It stated that the official US policy was to retain Okinawa and maintain facilities there as long as the JCS deemed it necessary. Also, in order to legitimize American long-term control over the islands, it was stated that “international sanction” should be sought.<sup>727</sup> The peace treaty was revised accordingly and, as mentioned in Chapter 2, the September 1949 draft peace treaty stated that the Ryukyu Islands would be placed under a UN trusteeship, although to whom the islands ultimately belonged was not specified.

It is interesting to note that the ROC at one point demanded that the Ryukyu Islands be given to China. On 2 June 1948, John Leighton Stuart (US Ambassador to the ROC) informed Washington that the ROC Parliament had decided that the Japanese peace treaty should stipulate that the Ryukyu Islands would be “returned” to China.<sup>728</sup> However, as explained in Chapter 4, many in the State Department by 1949 believed that the ROC would fall to the communists anytime; it thus did not make sense to entrust a strategically important island chain to a regime that might soon disappear. Furthermore, the State Department noted on 29 July 1949 that there was a possibility that the PRC might also claim ownership over the Ryukyus.<sup>729</sup> Since the goal was to avoid the Ryukyus from falling to the communists, the best course of action was simply to secure the US control over the island rather than giving it to “China.”

Meanwhile, Japan enthusiastically sought to maintain its sovereignty over the island chain. For instance, Ashida Hitoshi (Japanese Foreign Minister) on 6 June 1947 publicly stressed the “sentimental value” of Okinawa for Japan and expressed hope for its restoration.

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<sup>724</sup> *FRUS* 1947, Vol. 6, 476, 533-4; *FRUS* 1948, Vol. 6, 706-12.

<sup>725</sup> Cargo to Gerig, 5 April 1948, *FRUS* 1948, Vol. 6, 722-4.

<sup>726</sup> *Ibid.*, 877.

<sup>727</sup> *FRUS* 1949, Vol. 7-2, 731.

<sup>728</sup> *FRUS* 1948, Vol. 6, 800.

<sup>729</sup> *FRUS* 1949, Vol. 7-2, 820-5.

Subsequently, Asakai Kōichirō (Director of General Affairs, Central Liaison Office) conferred with Atcheson on 3 July 1947 and passed on to him a study completed by the Foreign Ministry, which included a detailed overview of Okinawan history, religion and people in order to reinforce the call for its return. In addition, the “Ashida memorandum” – which contained nine essential requirements for the Japanese peace treaty – that was delivered to SCAP in July 1947 implicitly demanded the return of Okinawa. Although the memorandum was rejected on the grounds that it was not appropriate for the vanquished to make demands on the victors, this must have sent a clear message to the US that Japan expected the Ryukyus to be returned, thus strengthening the wisdom of leaving their ownership unspecified. In this way, the US could retain its influence over the islands in a way that did not openly conflict with the Japanese claim of sovereignty.

Although of a different nature, the Spratly and Paracel Islands – a group of islands located in the Pacific, surrounded by Malaysia, the PRC, the ROC, the Philippines and Vietnam – also met the same fate. The islands are, due to their strategic significance as maritime communications route, bound to cause territorial disputes. Even at the time of the Japanese peace treaty negotiations, China and France were arguing over territorial ownership. This dispute stretched back to the nineteenth century, when France began to assert its authority over Southeast Asia and eventually clashed with China, whose sailors had visited the islands for centuries. Amid the on-going controversy, the Japanese had taken over the islands by force during the Sino-Japanese War.<sup>730</sup> By the end of the war, with Japan driven out of the islands, the dispute between China and France re-emerged.

Aware of this complex history, the Inter-Divisional Area Committee on the Far East (IDACFE) that was debating territorial questions for the peace treaty on 14 February and 25 February 1946 agreed that the treaty should simply eliminate Japanese sovereignty over the islands and maintain the antebellum “status quo,” leaving the French and the Chinese to resolve their differences.<sup>731</sup> Accordingly, the 1947 draft peace treaty was phrased in such a way as to

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<sup>730</sup> Chang Teh-Kuang, “China's Claim of Sovereignty over Spratly and Paracel Islands: A Historical and Legal Perspective,” *Case Western Reserve University Journal of International Law* 23-3 (1991): 399-420.

<sup>731</sup> Minutes of the Inter-Divisional Area Committee on the Far East: Disposition of the Paracel and Spratly Islands, 14 February 1946, RG59, Entry A1 1230, Box 1, Minutes of the Inter-Divisional Area Committee on the Far East, accessed via NIKH; Minutes of the Inter-Divisional Area Committee on the Far East: Disposition of Spratly Islands, Disposition of the Paracel Islands, Disposition of Southern Sakhalin and the Kurile Islands, 25 February 1946, *Ibid.*

obligate Japan to renounce the islands without specifying ownership.<sup>732</sup> This was maintained until the 29 December 1949 draft (Article 8).<sup>733</sup> Interestingly, this term disappeared temporarily with the advent of Dulles, only to be revived when the French demanded the return of this clause in June 1951.

It should be noted that the disposition of Antarctica was also discussed within the State Department in 1947. Japan had hitherto shown interest in the region, partly because of its whaling industry. However, the advent of Japanese whalers into the Antarctic region in the early twentieth century, combined with Japan's consistent refusal to adhere to conservation protocols for whaling – as well as the military threat it posed during the war – caused considerable disquiet in Australia and New Zealand. After the war, the latter two countries tried to influence the US to prevent Japanese whalers from returning to the Antarctic.<sup>734</sup> As explained in Chapter 9, the US refused to prohibit Japanese whaling activities after the war due to economic reasons. However, the State Department did obligate Japan to renounce “all territorial claims in the Antarctic” (Article 8).<sup>735</sup> Since Antarctica was not owned by anybody, no ownership was specified.

In sum, by the time the US first attempted to convene a Japanese peace conference, the draft treaty had adopted a formula of Japan's renunciation of territorial sovereignty without specifying ownership for four island groups: the former Japanese Mandate Islands, Ryukyu Islands, the Spratly and Paracel Islands, and Antarctica. It would remain that way for these islands. This formula would later be applied to Taiwan and the Kuril Islands as well. It is to this question that we now turn.

### **Detaching Taiwan from “China”**

According to the 1943 Cairo Declaration, “Formosa and the Pescadores shall be restored to the Republic of China.”<sup>736</sup> This was reaffirmed in the 1945 Potsdam Declaration.<sup>737</sup> Accordingly, the 1947 draft peace treaty stipulated that Japan “cedes to China in full sovereignty the island of

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<sup>732</sup> Article 7: “Japan hereby renounces all claims to...the Paracel Islands and Reefs (Hsisha), Spratly or Storm Island, and all other islands and reefs in the South China Sea (Treaty of Peace with Japan, 5 August 1947, RG59, Entry A1 1230, Treaty (Bacon, Ruth)-1, accessed via NIKH).

<sup>733</sup> Treaty of Peace with Japan, 29 December 1949, RG59, A1 1252, Lot 54D423, Treaty Drafts, 1949 - March 1951, accessed via NIKH.

<sup>734</sup> Hara, *Cold War Frontiers*, 124-41.

<sup>735</sup> Treaty of Peace with Japan, 5 August 1947, *op. cit.*

<sup>736</sup> Cairo Communique, 1 December 1943, accessed via NDL, [https://www.ndl.go.jp/constitution/e/shiryō/01/002\\_46shoshi.html](https://www.ndl.go.jp/constitution/e/shiryō/01/002_46shoshi.html).

<sup>737</sup> Potsdam Declaration, 26 July 1945, *op. cit.*

Taiwan.”<sup>738</sup> Over time, however, this would change with the expulsion of the ROC from mainland China.

As explained in Chapter 4, Acheson believed that the ROC was doomed and discreetly sought to facilitate its disappearance. Hence, placing Taiwan under the Chinese Nationalists was viewed as unwise. One must be careful to note, however, that while both Truman and Acheson took a realist approach and were willing to let the Chinese Nationalists run their course, neither of them felt happy to see the PRC consolidate control over the mainland or welcomed communist control of Taiwan.<sup>739</sup> In fact, Taiwan had to be denied to the communists if possible. Although the State Department did not believe that communist control of Taiwan would critically threaten American security, this did not mean that the island’s strategic value was completely discounted. The Pentagon was especially vocal in this, arguing that communist control of Taiwan would have “serious” repercussions for US security; this was stressed multiple times, on 24 November 1948, 10 February 1949 and 17 August 1949.<sup>740</sup> The State Department expressed its agreement twice on 14 January and 19 January 1949.<sup>741</sup>

Additionally, the State Department was cautious about approaching the PRC. To recall, NSC 48/2 (30 December 1949) stated that the US would recognize the PRC only if it were “clearly in the United States interest to do so.” And even if the US recognized the PRC, this did not mean “approval” of the Communist regime.<sup>742</sup> Hence, while the US was against placing Taiwan under the ROC, neither was it keen to see it under PRC control.

Instead, the State Department entertained the idea of detaching Taiwan from “China” and establishing an autonomous Taiwanese state. This was evidenced in NSC 37/2, signed personally by Truman on 4 February 1949, which stated that the US should “discreetly” explore the possibility of supporting a “Formosan autonomous movement.”<sup>743</sup> Of course, the prospect of an autonomous Taiwan was extremely dim, since the Taiwanese independence movement was too weak and Chiang’s regime too strong.<sup>744</sup> Also, to recall from Chapter 4, there existed a

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<sup>738</sup> Treaty of Peace with Japan, 5 August 1947, *op. cit.*

<sup>739</sup> Tucker, *Patterns in the Dust*, 181.

<sup>740</sup> NSC 37: Strategic Importance of Formosa, 24 November 1948, *FRUS* 1949, Vol. 9, 261-2; NSC 37/3: Strategic Importance of Formosa, 10 February 1949, *Ibid.*, 284-5; NSC 37/7: The Position of the US with respect to Formosa, 17 August 1949, *Ibid.*, 376-7.

<sup>741</sup> *Ibid.*, 265-7, 271-5.

<sup>742</sup> *FRUS* 1949, Vol. 7-2, 1215-20.

<sup>743</sup> *FRUS* 1949, Vol. 9, 281-2.

<sup>744</sup> Warren I. Cohen, “Acheson, His Advisers and China, 1949-1950,” in *Uncertain Years: Chinese-American relations, 1947-1950*, ed. Dorothy Borg and Waldo Heinrichs (New York: Columbia University Press, 1980), 26-7.

formidable “China Lobby” that continued to enthusiastically support the ROC, which meant that Chiang was still a significant force to reckon with. Regardless, supporting the nascent idea of an independent Taiwan became official US government policy in early 1949. In light of this, it also did not make sense to place Taiwan under the jurisdiction of any particular government.<sup>745</sup>

Also important to note is the fact that, as explained in Chapter 4, by the end of 1949 the possibility existed that “China” might not even be represented in the peace treaty. Taking this into account, the November 1949 draft peace treaty was premised on the idea that Taiwan should not be ceded to “China” if it did not sign the treaty.<sup>746</sup> Hence, even before the treaty negotiations entered their formative phase, the State Department was becoming increasingly convinced of the wisdom of not defining the ownership of Taiwan. This idea was later passed on to Dulles.

It should also be noted that Dulles – his ardent anti-communism and sympathy for the ROC notwithstanding – shared the idea of detaching Taiwan from China. In a letter he sent to Vandenberg on 6 January 1950, Dulles argued against allowing Taiwan to revert to China, since this would relegate the island into a “battleground between the Red regime and the Nationalist Army.” He further stated that the Formosans had a “distinctive economic, social and cultural life and for about two generations have had no political ties with China.” Additionally, he stressed that the opinion of the locals should be respected, rather than letting the big powers dictate the fate of the island. Dulles, therefore, argued that the final disposition of Taiwan should be determined by either the peace treaty or a UN trusteeship, rather than transferring it unconditionally to either China.<sup>747</sup>

After the outbreak of the Korean War, preventing Taiwan from being transferred to the ROC became even more important. To elaborate, the US tried to localize the Korean conflict and stop any spill-over that could lead to a wider conflict.<sup>748</sup> For this purpose, the US sent the 7th Fleet into the Taiwan Straits to prevent any further armed clashes between the Chinese Nationalists and Communists.<sup>749</sup> Dulles agreed with this policy. In fact, he had written to

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<sup>745</sup> *The China White Paper, August 1949* (Stanford: Stanford University Press, 1967).

<sup>746</sup> Treaty of Peace with Japan, 2 November 1949, *op. cit.*

<sup>747</sup> Dulles to Vandenberg, 6 January 1950, Vandenberg, Arthur H., 1950; John Foster Dulles Papers, Box 51, Reel 17, PUL.

<sup>748</sup> William Whitney Stueck, *The Korean War: an international history* (Princeton: Princeton University Press, 1995), 127-66.

<sup>749</sup> John Lewis Gaddis, “The Strategic Perspective: the Rise and Fall of the 'Defensive Perimeter' Concept, 1947-1951,” in *Uncertain Years: Chinese-American relations, 1947-1950*, ed. Dorothy Borg and Waldo Heinrichs (New York: Columbia University Press, 1980), 87-90; Statement by the President on the Situation in Korea, 27 June 1950, accessed via HSTL, <https://www.trumanlibrary.gov/library/public-papers/173/statement-president-situation-korea>.

Acheson on 18 May 1950, even before the outbreak of the Korean War, suggesting that the US should “neutralize Formosa, not permitting it either to be taken by the communists or to be used as a base of military operations against the mainland.”<sup>750</sup> Certain Republican Senators (Taft, Millikin, Wherry, Bridges, Wiley and Smith) at a meeting with Dulles on 23 May 1950 also expressed concern about potential ROC military provocations against the mainland and wished to prevent this through the “neutralization” of Formosa.<sup>751</sup>

This neutralization of Taiwan, in turn, made it even more important not to specify ownership of the island. Bluntly put, if Taiwan were given back to the ROC, then Chiang Kaishek would think that the island was his and that he could do whatever he pleased. Because the whole point was to discourage the ROC from taking hostile action against the PRC, Dulles wanted to make it clear to Chiang that Taiwan was not necessarily his possession and that he did not have a free hand, especially if it involved armed provocation against the mainland. It is a small wonder then that Dulles decided not to recognize Taiwan as being Chinese Nationalist territory in the Japanese peace treaty. Dulles had solid backing from the administration. Truman publicly made it clear in his 27 June 1950 statement that the future status of Taiwan would be decided by “a peace settlement with Japan, or consideration by the UN.”<sup>752</sup>

Thus, by the time the US started to negotiate the Japanese peace treaty with other governments in September 1950, the idea of Taiwan’s reversion to either China was already ruled out. There was simply no merit to transferring the island’s sovereignty to any particular Chinese government; instead, there were multiple reasons for not defining the island’s ownership. As will be explained below, this in turn strengthened the case for leaving the ownership of the “Northern Territories” unspecified as well.

### **The Emergence of the “Northern Territories” Question**

The “Northern Territories,” as they are termed in Japan, refer to four island groups that lie between Hokkaido and Kamchatka: Etorofu (Iturup), Kunashiri (Kunashir), Shikotan and Habomai. These islands are significant economically and strategically; they are an important

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<sup>750</sup> *FRUS* 1950, Vol. 1, 314-6.

<sup>751</sup> Memorandum of Conversation (Taft, Millikin, Wherry, Bridges, Wiley, Smith, Knowland and Dulles), 23 May 1950, RG59, Entry A1 1252, Lot 54D423, Congressional (Miscellaneous), 1950-52, accessed via NIKH.

<sup>752</sup> Statement by the President on the Situation in Korea, 27 June 1950, *op. cit.*

source of fish and minerals, and Russia maintains military bases there.<sup>753</sup> Both Japan and Russia have unsurprisingly been claiming sovereignty over them for decades since the end of WWII.

This on-going territorial dispute can be attributed to the fact that the ownership was intentionally left unspecified in the Japanese peace treaty. In order to understand why the ownership was never clarified, it is first necessary to examine historical developments before the end of WWII. The question of territorial ownership can be traced back to the nineteenth century, when Japan and Russia began to formally demarcate their territorial boundaries. Prior to this, these islands were inhabited by the Ainu people. The first agreement that sought to clarify the border was the 1855 Shimoda Treaty, which recognized Etorofu and the islands lying southward as being Japanese territories.<sup>754</sup> The second agreement was the 1875 St. Petersburg Treaty, which recognized Japanese sovereignty over all of the Kuril Islands, in exchange for Russian sovereignty over the whole of Sakhalin. The next significant agreement was signed after the Russo-Japanese War. The Treaty of Portsmouth, signed in 1905, added South Sakhalin to Japan's empire.<sup>755</sup> Considering this historical development, it is fair to argue that the four islands (Northern Territories) were legally recognized as Japanese territory from the outset of Russo-Japanese relations in the modern era. The only territory that can be considered to have been conquered through Japanese aggression was South Sakhalin.

No further discussion of the four islands took place until 1943. When Stalin was consulted at the time of the Cairo Conference about the future of the Japanese Empire, he demanded that the "Kurile Islands" be "turned over" to the Soviet Union.<sup>756</sup> These discussions culminated in the 1943 Cairo Declaration, which stated that Japan would be "expelled" from the territories that it had taken "by violence and greed."<sup>757</sup> This declaration did not specifically mention the Kuril Islands, but the Soviet Union would later invoke it to deny Japan's sovereignty over the four islands. As the Allies continued to discuss postwar plans, Stalin, at the end of 1944, reiterated his desire to reclaim the Kuriles. Subsequently, the February 1945 Yalta agreement stated that the Soviet Union would enter the war against Japan "on condition" that the Kurile

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<sup>753</sup> Stephan, *The Kuril Islands*, 2-3.

<sup>754</sup> Japan Kaijō Gijutsu Anzenkyoku [Maritime Technology and Safety Bureau], *Treaties and Conventions Concluded Between Japan and Foreign Nations, Together with Notifications & Regulations Made from Time to Time, 1854-1870* (Yokohama: Daily Japan Herald Office, 1871), 8-9.

<sup>755</sup> Joint Compendium of Documents on the History of Territorial Issue between Japan and Russia, accessed via Japanese MOFA, <https://www.mofa.go.jp/region/europe/russia/territory/edition92/period2.html>.

<sup>756</sup> Pacific War Council Meeting Minutes, 12 January 1943, *FRUS* 1943 (The Conferences at Cairo and Tehran), 869.

<sup>757</sup> Cairo Communiqué, 1 December 1943, *op. cit.*



Islands would be “handed over” to the Soviet Union.<sup>758</sup> The last significant agreement was the July 1945 Potsdam Declaration, which limited Japan’s territory to “Honshu, Hokkaido, Kyushu, Shikoku, and such minor islands as we [Allies] determine.”<sup>759</sup>

It is important to note that these wartime agreements by no means refuted Japanese sovereignty over the four islands. In fact, the Yalta agreement stated that the islands would be “handed over,” not “returned,” to the Soviet Union, thus implying that Japan maintained rightful ownership over them. Additionally, when and how, and precisely which islands would be transferred to the Soviet Union were never clarified.<sup>760</sup> This was an intriguing contrast to South Sakhalin, where Russian sovereignty was “violated by the treacherous attack of Japan in 1904” and thus would be “returned” to the Soviet Union.<sup>761</sup> In short, Japan continued to be recognized as the rightful owner of the “Northern Territories” until the end of WWII.

The question of territorial sovereignty became more complex towards the end of the war, as the Soviet Union began to occupy the islands. On 8 August 1945, the Soviet Union declared war on Japan and began to land forces in the Kuril island chain on 18 August 1945. By 5 September 1945, it was in control of the four islands.<sup>762</sup> The Soviet occupation of the Kurils was aided by the fact that General Order No.1 (Instruments for the Surrender of Japan) stipulated that the Japanese forces in the “Kurile Islands” should surrender to the Soviet Union.<sup>763</sup> Soon after the war, the SCAP also issued a directive (SCAPIN 677) on 29 January 1946, which deprived Japan of all administrative rights in the “Kurile (Chishima) Islands, the Habomai (Hapomaze) island group...and Shikotan Island.”<sup>764</sup>

Of course, with the arrival of the Soviets, the Japanese residents living in the four islands were expelled, during which they experienced theft, physical assault and the requisitioning of their property.<sup>765</sup> Because of this wartime past, the Kuril Islands became tied to national prestige and security for both Japan and the Soviet Union, thus making it more important for both them to

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<sup>758</sup> Kimura, *Kurillian Knot*, 43-4; “Agreement regarding Japan, 11 February 1945,” accessed 28 April 2018 via Yale University, <http://avalon.law.yale.edu/wwii/yalta.asp>.

<sup>759</sup> “Cairo Conference 1943, 1 December 1943,” accessed 28 April 2018 via Yale University, <http://avalon.law.yale.edu/wwii/cairo.asp>.

<sup>760</sup> Marc Gallicchio, “The Kuriles Controversy: US diplomacy in the Soviet-Japan Border Dispute, 1941-1956,” *Pacific Historical Review* 60-1 (1991): 76.

<sup>761</sup> Yalta Agreement, 11 February 1943, accessed via NDL, <https://www.ndl.go.jp/constitution/e/etc/c04.html>.

<sup>762</sup> Kimura, *Kurillian Knot*, 50.

<sup>763</sup> General Order No. 1, 2 September 1945, accessed via NDL, <https://dl.ndl.go.jp/info:ndljp/pid/9885063>.

<sup>764</sup> SCAPIN 677, 29 January 1946, accessed 30 May 2018 via Japanese MOFA, [https://www.mofa.go.jp/mofaj/area/takeshima/pdfs/g\\_taisengo01.pdf](https://www.mofa.go.jp/mofaj/area/takeshima/pdfs/g_taisengo01.pdf).

<sup>765</sup> Williams, *Territorial Dispute*, 26.

legitimize their territorial claim. The loss of these islands was a reminder of defeat for Japan, while it was a recovery of lost prestige for the Soviet Union following the humiliation of the Russo-Japanese War.

The Japanese government's efforts to reclaim the four islands began soon after the end of the Pacific War. For instance, Ashida Hitoshi (Japan's Foreign Minister at the time) on 7 June 1947 publicly expressed the hope of recovering Japan's sovereignty over the "small islands along the east coast of Hokkaido."<sup>766</sup> In addition, a short historical overview was drafted in November 1946, highlighting that Japan had been enjoying lawful ownership of the four islands – and later all the islands between Hokkaido and Kamchatka – through a series of agreements with Russia dating back to 1875. Records indicate that this paper was handed to the US sometime between 1946 and 1947, as the US drafters of 1947 peace treaty had this in hand.<sup>767</sup>

The US criticized Ashida for making this statement, expressing its displeasure at a vanquished country having the temerity to tell the victors what to do.<sup>768</sup> Internally, however, the US stance was gravitating towards Japan. This was first evident in the 1947 draft peace treaty. When the draft treaty was completed on 5 August 1947, the Northern Territories were not listed as being part of the Kurils that were to be relinquished by Japan. This interpretation was repeated in the 7 November 1947 draft.<sup>769</sup> Hence, by the end of 1947, the State Department officials in charge of writing the peace treaty had adopted a position that the four islands should be retained by Japan.

This policy reflected the fact that a number of State Department officials wished to acknowledge Japanese sovereignty over the four islands. Indeed, even during the war, the Country or Area Committee (CAC), an ad hoc organization tasked with developing plans for the postwar world, had contended on 28 December 1944 that the Northern Territories should be retained by Japan, arguing that the Shimoda Treaty and the St. Petersburg Treaty had recognized them as being Japan's territory. The CAC also cited the importance of the islands for fishing, which was "essential" for Japan's "diet" and "export trade."<sup>770</sup> After the war, Charles Bohlen

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<sup>766</sup> Hope for Okinawa is held in Japan, 7 June 1947, *NYT*.

<sup>767</sup> Minor islands adjacent to Japan proper (Part I. The Kurile Islands, the Habomais and Shikotan), November 1946, RG59, Entry A1 1230, Peace Treaty – 1947, accessed via NIKH.

<sup>768</sup> Hasegawa, *Northern Territories*, 84.

<sup>769</sup> Treaty of Peace with Japan, 5 August 1947, *op. cit.*; Draft Treaty of Peace for Japan, 7 November 1947, RG59, Entry A1 1230, Drafts by Ruth Bacon (2 of 6), accessed via NIKH.

<sup>770</sup> Japan: Territorial Problems (The Kurile Islands), 28 December 1944, *FRUS* 1945, Conferences at Malta and Yalta, 379-83.

(State Department Counselor) on 12 August 1947 wrote to Lovett, recommending that while the US should honor the Yalta agreement, this ought to be done “orally” rather than in writing; as Hara Kimie argues, this indicated that the US did not intend to acknowledge the Soviet ownership of the Kuriles.<sup>771</sup> Additionally, on 14 October 1947, Kennan stated that the “southernmost islands of the Kurile archipelago would be retained by Japan,” making it clear that he did not favor Soviet possession of all the islands.<sup>772</sup>

To recall, from 1947 onwards, the US increasingly emphasized the need to revive Japan’s economy and safeguard its security. Against this backdrop, the US continued to refine its argument to support Japan’s claims over the “Northern Territories.” When another draft treaty was developed on 8 January 1948, Hugh Borton noted that the Yalta agreement did not specifically define what was meant by the “Kuril islands” and opined that a “narrow interpretation” would enable Japan to retain the Northern Territories.<sup>773</sup> Later on 23 March 1948 Samuel Boggs (Special Adviser on Geography, Office of Intelligence Research) expressed similar opinion, adding that Shikotan and Habomai were “geographically” an “extension of...Hokkaido” and not part of the Kurils. It was “equally possible,” he continued, to consider Etorofu and Kunashiri as an “extension of Hokkaido.”<sup>774</sup>

Meanwhile, on 9 November 1948, Sebald in a letter to Marshall (Secretary of State) expressed his concern that the Soviet Union could aid the communists in nearby Hokkaido in waging “intensive psychological warfare.”<sup>775</sup> A similar opinion had been expressed on 14 September 1947 by Robert L. Eichelberger (Commanding General of Eighth US Army in Japan) to Suzuki Tadakatsu (Director of Yokohama Liaison Office).<sup>776</sup> The implication was clear: the Soviet occupation of the Kurils posed a threat to both Japan and the US. This obviously made the Soviet retention of the disputed islands distasteful to the US. The US also realized that any formal acknowledgement of the Soviet ownership would be tantamount to assisting the communists. It therefore became paramount for the US to craft the peace treaty in a way that weakened the Soviet claim.

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<sup>771</sup> *FRUS* 1947, Vol. 6, 487; Hara, *Cold War Frontier*, 84.

<sup>772</sup> *Ibid.*, 538.

<sup>773</sup> *FRUS* 1948, Vol. 6, 657.

<sup>774</sup> Boggs to Hamilton, 23 March 1948, *Ibid.*, 688-9.

<sup>775</sup> *Ibid.*, 888-9.

<sup>776</sup> DJFP: Treaty of Peace with Japan Preparatory Work, 286.

Against this backdrop, on 1 June 1949, Webb (Acting Secretary of State) informed the SCAP that there would be no final determination of Japan's territorial sovereignty in the absence of a peace settlement and that the US should avoid any action that could weaken the Japanese claim to the islands in question.<sup>777</sup> The fact that this statement was made by the Acting Secretary of State was a clear indicator that the State Department's position had now transitioned to formally supporting Japan's ownership of these islands. It also implied the US intention to weaken the Soviet claim.

In the process of updating the draft peace treaty in late 1949, the State Department officials further clarified the US position regarding the Kurils question. It first noted the danger of explicitly supporting Japanese sovereignty over the Northern Territories. Although the US was sympathetic to the Japanese claim, this could not be made too apparent, since the Soviets might accuse the US of "bad faith." Not only did the Yalta agreement promise the handing over of the Kuril Islands to the Soviet Union, but also Russian forces had been occupying the islands for since the end of the war "without challenge or objection by the US." The US was also afraid that reversion of any parts of the Kuril Islands to Japan might endanger the plan to retain Okinawa under US control.<sup>778</sup> Secondly, while there was wide consensus that Shikotan and Habomai did not belong to the Kurils and thus were legitimately Japanese, unfortunately, the same could not be said about Etorofu and Kunashiri.<sup>779</sup> The implication was that, in order to leave open the possibility of detaching all four islands from the Kurils, it was best not to define the Kurils too specifically. Thirdly, the State Department stated that if the Soviet Union did not sign the peace treaty, then there was no reason to obligate Japan to hand over the Kuril Islands. Instead, the disposition of the islands could be determined later by the states concerned, including the treaty's signatories.<sup>780</sup> This formula, in which the Soviet ownership of the Kurils was made contingent upon its participation in the peace treaty, would be later adopted by Dulles in 1950 and 1951.

### **The Territorial Questions during the Early Phase of Shuttle Diplomacy**

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<sup>777</sup> *FRUS* 1949, Vol. 7-2, 762.

<sup>778</sup> Commentary on Draft Treaty of Peace with Japan, 2 November 1949, RG59, Entry A1 1230, Treaty-Draft-11/2/1949, accessed via NIKH.

<sup>779</sup> Conrad E. Snow (Assistant Legal Adviser for Political Affairs of the Far Eastern Division), 25 November 1949, *FRUS* 1949 vol. 7, 904-6; Allison to Fearey, 23 February 1950, *op. cit.*

<sup>780</sup> Treaty of Peace with Japan, 29 December 1949, *op. cit.*

By the time Dulles took the reins of the Japanese peace treaty negotiations in mid-1950, the US had already applied the formula of unspecified ownership to the former Mandate Islands, Ryukyu Islands, Spratly and Paracel Islands and Antarctica. Taiwan and the Kuril Islands quickly followed suit. When the draft peace treaty was updated under Dulles' leadership on 7 August 1950, the terms for the Kuril Islands and Taiwan were amended so that their fate would be determined by the Big Four (Britain, China, the Soviet Union and the US). If this initiative failed, then the question would be referred to the UNGA for a decision.<sup>781</sup> This was reiterated in the updated draft treaty and the seven points that were developed on 11 September 1950.<sup>782</sup> As Hasegawa asserts, this was a clear departure from the Yalta agreement.<sup>783</sup> Unlike the Yalta terms, which had promised to hand over the Kuril Islands to the Soviet Union, Dulles now implied that this might not happen. Meanwhile, Dulles also made it plain that Japan must "agree to U.N. trusteeship, with the U.S. as administering authority, of the Ryukyu and Bonin Islands."<sup>784</sup>

When the seven points were distributed to the FEC member states for review in late 1950, the Soviet Union went public on 20 November 1950 and denounced Dulles' plans for going against the Yalta agreement. Moscow further argued that Dulles' formula for Taiwan and the Ryukyu Islands violated both the Cairo and Potsdam Declarations; the Soviet Union demanded that Taiwan be restored to the PRC, while criticizing the trusteeship scheme over the Ryukyus as constituting "territorial expansion."<sup>785</sup> The Soviet position was echoed almost verbatim by the PRC in December 1950.<sup>786</sup> India, whose response was delivered to Washington on 21 December 1950, was largely in agreement with the Soviet and the PRC over the Kuril Islands and Taiwan. However, India endorsed the idea of a UN trusteeship over Okinawa, provided that the treaty clarified the island's eventual reversion to Japan.<sup>787</sup> India, PRC and the Soviet Union would repeat their positions in March and May 1951.<sup>788</sup>

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<sup>781</sup> *FRUS* 1950, Vol. 6, 1268.

<sup>782</sup> *Ibid.*, 1296-1303.

<sup>783</sup> Hasegawa, *Northern Territories*, 81-6.

<sup>784</sup> *FRUS* 1950, Vol. 6, 1296-1303.

<sup>785</sup> *Bulletin* 596 (4 December 1950), 881-2.

<sup>786</sup> Nishimura, *San Francisco Peace Treaty*, 72-4.

<sup>787</sup> India's preliminary views on US memorandum on Japanese peace treaty, 21 December 1950, RG59, Entry A1 1252, Lot 54D423, India, accessed via NIKH.

<sup>788</sup> Remarks of the Government of USSR on Matter of USA Draft Peace Treaty with Japan, 7 May 1951, RG59, A1 1252, Lot 54D423, USSR (I), accessed via NIKH; Views of the Government of India on provisional draft of Japanese peace treaty prepared by the US Department of State on 28 March 1951, undated, RG59, Entry A1 1251, Lot 78D174, accessed via NIKH; Chou addresses note to Roschin stating China's support for Russia on peace pace, 26 May 1951, RG59, Entry A1 1252, Lot 54D423, China [January 6 - November 29, 1951], accessed via NIKH;

In response to the Soviet Union, the US went public on 28 December 1950 to defend its position regarding the territorial terms. The US argued that the disposition of Taiwan and the Kuril Islands – in compliance with the Cairo Declaration, Yalta agreement and Potsdam Declaration – were subject to a final peace settlement, where “all relevant factors should be considered.” Furthermore, since the UN Charter prevailed over “any other international agreement,” Article 77 of the UN Charter – which stipulated that a trusteeship system “shall apply” to the territories that may be “detached from enemy states as a result of the Second World War” – could not be ignored. Hence, UN involvement in the fate of the Kurils and Taiwan was justified. The US also argued that the trusteeship scheme for Okinawa was within the purview of the victors, since the Potsdam Declaration stated that Japan’s “minor islands” would be determined by Britain, China and the US. Again citing the UN Charter Article 77, the US also argued that the trusteeship scheme was not “territorial expansion.”<sup>789</sup>

The response from the anti-communist bloc, which were received anywhere between October 1950 to March 1951, was varied. While there was unanimous endorsement of the UN trusteeship arrangement for the Ryukyus, there were conflicting opinions regarding the disposition of Kurils and Taiwan. Regarding the former, only the Philippines and the ROC agreed with Dulles. In contrast, Britain wished to clarify Soviet sovereignty over the Kurils, while Australia worried that Dulles’ approach would cause a permanent territorial dispute between Japan and the Soviet Union.<sup>790</sup>

Meanwhile, all respondents had some qualms about Dulles’ approach to Taiwan. Britain expressed a preference for clarifying the island’s ownership, instead of “leaving the matter up in the air” as had been proposed. The Philippines, on the other hand, proposed UN trusteeship. Australia expressed “serious reservations” about the Chinese Nationalist claims over the island, as it was “very unhappy” to continue recognizing the ROC and was reluctant to strengthen that government’s standing by handing over Taiwan. Hence, it suggested that the “best solution” was

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Chou supports USSR on Japanese peace, 29 May 1951, *Ibid.*; 1679: Chinese communist statement regarding Japanese peace treaty, 1 June 1951, *Ibid.*

<sup>789</sup> *Bulletin* 601 (8 January 1951), 65-6; The UN Charter, accessed via UN, <https://www.un.org/en/charter-United-nations/>.

<sup>790</sup> *FRUS* 1951, Vol. 6-1, 886; Joint meeting of Senate Committee on Foreign Relations and House Committee on Foreign Affairs attended by the Acting Secretary of Foreign Affairs on Saturday, 10 February 1951, on the proposed Japanese peace treaty, *op. cit.*; *FRUS* 1950, Vol. 6, 1372-3; Koo to Dulles, 22 January 1951, *op. cit.*; Tucker, *Patterns in the Dust*, 22-5; *FRUS* 1951, Vol. 6-1, 831; Text of remarks by Sir Alvary Gascoigne, UK Ambassador at meeting with Mr. Dulles and Mr. Allison, 11:00 a.m., January 29th, Tokyo, *op. cit.*; British Embassy to State Department, 12 March 1951, *FRUS* 1951, Vol. 6, 910-911.

to require Japan to renounce title without indicating to whom sovereignty had been transferred. While insisting that Taiwan was “historically, ethnically, legally and in fact a part of Chinese territory,” the ROC also believed that a simple statement of Japan’s renunciation of its sovereignty over Taiwan would suffice.<sup>791</sup> Similarly, Canada suggested that Japan should simply renounce its claims to both the Kurils and Taiwan, leaving the issue of their disposition to be settled “outside the treaty,” to which the US admitted that this course “might eventually have to be adopted.”<sup>792</sup>

The question of territorial disposition was further complicated by Japan’s reaction. Yoshida sent Dulles an unsigned memorandum on 31 January 1951, demanding that the Ryukyus be returned to Japan as soon as the trusteeship was over and that the local islanders in the meantime should retain Japanese nationality.<sup>793</sup> Furthermore, in an undated letter sent to Dulles during his trip to Tokyo, Kinoshita Tatsuo (Chairman of the Fisheries Committee of the Japanese House of Councilors) argued that the “islands” – which Kinoshita did not specify, but most likely referring to the Ryukyu and the Kuril Islands – were Japanese by “historical title” and “not by aggression” and thus should remain Japanese territory.<sup>794</sup> Ino Dan (Liberal Party, Director of Japan-America Association) also sent Dulles a petition calling for the reversion of Habomai and Shikotan, arguing that they were not part of the Kuril chain.<sup>795</sup> For Dulles, who kept insisting that the peace treaty should be acceptable to Japan, these demands could not be ignored.

Fortunately for Dulles, the Japanese government on 16 March 1951 expressed agreement with the idea that the Soviet ownership of the Kuril Islands should be conditional on Russian participation in the peace treaty. However, in case the Soviet Union did not become party to the treaty, Japan “hoped” that any stipulation regarding the disposition of the Kuril Islands would be omitted. Japan also argued that what exactly constituted the Kuril Islands should be “defined by the powers concerned, including Japan.”<sup>796</sup> This was very much in line with what Dulles thought, as he believed that the exact definition of the “Kurile Islands” should be arranged either

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<sup>791</sup> *Ibid.*

<sup>792</sup> 701: Riddell to Pearson, 6 October 1950, RG25, 1940 Central Registry, General Registry, Peace treaty with Japan, Part 8, 1950/06/16-1950/10/31 (File 50051-40), accessed via INH.

<sup>793</sup> *FRUS* 1951, Vol. 6-1, 833-5.

<sup>794</sup> Kinoshita to Dulles: conclusion of fishery agreements and removal of restrictions on fishing areas, petition for, February 1951, RG59, Entry A1 1252, Lot 54D423, Fisheries, accessed via NIKH.

<sup>795</sup> Fearey to Dulles, 3 February 1951, RG59, Entry A1 1252, Lot54D423, Islands [February 3 - August 14, 1951], accessed via NIKH.

<sup>796</sup> Bond to Acheson, 16 March 1951, *FRUS* 1951, Vol. 6-1, 929.

bilaterally between Japan and the Soviet Union or decided by the ICJ.<sup>797</sup> Dulles therefore informed Japan on 20 March 1951 that the Kurils would be left undefined, and that if the Soviet Union would “definitely” not sign the treaty, then the US would consider eliminating any reference to the islands from the treaty.<sup>798</sup>

Subsequently, the updated draft treaty that was distributed to the FEC governments on 23 March 1951 obligated Japan to “hand over to the Soviet Union the Kurile Islands” (Article 5).<sup>799</sup> An exact definition of what constituted these islands was again left unspecified. It appears that Dulles’ intention was to give a token concession to Britain and India by making Japan “hand over” the Kurils to the Soviet Union on one hand, while discreetly weakening the Soviet claim on the other and sowing the seeds of Russo-Japanese conflict by leaving the “Kurile islands” undefined. After all, as Hasegawa and Wada note, discord between the Soviet Union and Japan over the ownership of the islands was exactly what Dulles intended.<sup>800</sup> Dulles also repeated that in case the Soviet Union refused to sign the treaty, the references to the Kurils might be eliminated.<sup>801</sup>

Regarding Taiwan, the US accommodated the suggestions made by Australia, Canada and the ROC, and now left the final determination of the island unspecified. Japan was obligated simply to renounce “all rights, titles and claims” to Taiwan.<sup>802</sup> The idea of delegating the question of Taiwan to the UN was dropped. Dulles reasoned before the Senate Foreign Relations Committee on 19 March 1951 that there was a “real possibility” that the UN would recommend turning the island over to the “Chinese Communists” and hence it was preferable to leave its status “undecided.”<sup>803</sup> Meanwhile, the terms regarding the UN trusteeship over the Ryukyu Islands were maintained, as this was one island chain that the US was not willing to give up and none of the friendly governments were opposed.

On 31 March 1951, Dulles updated the public on the progress of the treaty’s development. Dulles emphasized that Japan would simply renounce its sovereignty over Taiwan, while agreeing to the UN trusteeship over Okinawa. And while the Kuril Islands were “allotted to

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<sup>797</sup> Dulles to Bond (Tokyo), 12 March 1951, *Ibid.*, 908.

<sup>798</sup> Dulles to Sebald, 20 March 1951, *Ibid.*, 935.

<sup>799</sup> *FRUS* 1951, Vol. 6-1, 945.

<sup>800</sup> Hasegawa, *Northern Territories*, 198; Wada, “The San Francisco Peace Treaty and the Definition of the Kurile Islands,” 25.

<sup>801</sup> Webb’s meeting minutes, 21 March 1951, *FRUS* 1951, Vol. 6-1, 942-3.

<sup>802</sup> *FRUS* 1951, Vol. 6-1, 945.

<sup>803</sup> *Ibid.*, 932.



Russia at Yalta and are actually in Russia's possession," validation of the Soviet ownership would depend on the latter's participation in the peace treaty.<sup>804</sup> It is fair to argue that by March 1951, all of the territorial terms were finalized, with the exception of the Kuril Islands. This would take another several weeks of discussion with other governments.

### **The Final Revision and Uniform Application of Undefined Ownership**

For the next several months, Dulles tried to coordinate the different foreign responses to the March 1951 draft. The Chinese Nationalists sent its response on 24 April 1951, complaining that while the "Kurile Islands" were to be "handed over" to the Soviet Union, no equivalent provision was made for the ROC regarding Taiwan. The ROC re-emphasized that Taiwan was its rightful territory and demanded that there should be an express reversion. The only acceptable alternative was to state that Japan renounced its title and not mention ownership at all for both the Kuril Islands and Taiwan.<sup>805</sup> These views were later repeated on 23 May and on 29 May 1951.<sup>806</sup>

In response, the US decided to keep the terms on Taiwan unchanged, simply stating that Japan renounced the island but without mentioning its transfer to China. While the Cairo Declaration promised to restore Taiwan to China, "so many things have happened since that time." Therefore, the Cairo Declaration should not be considered as binding and instead should be "definitely rejected."<sup>807</sup> At the same time, the ROC response seems to have convinced Dulles of the wisdom of the uniform application of undefined ownership to all of the controversial islands; indeed, the ROC proposal that there should be no mention of the ownership of either Taiwan or the Kurils was later (on 3 July 1951) cited by Dulles as being one of the reasons for leaving the ownership of the "Kurile Islands" unspecified. From this moment onwards, any deviation from "undefined ownership" for one particular island would necessitate change for all the others and thus had to be avoided.<sup>808</sup>

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<sup>804</sup> *Bulletin* 614 (16 April 1951), 577.

<sup>805</sup> ROC Embassy to State Department, 24 April 1951, *op. cit.*

<sup>806</sup> Memorandum about the Chinese Government's Views on the Provisional Draft of a Japanese Peace Treaty, 23 May 1951, RG59, Entry A1 1251, Lot 78D174, accessed via NIKH; Memorandum of Conversation: Japanese peace treaty, 29 May 1951, RG59, Entry A1 1252, Lot 54D423, China [January 6 - November 29, 1951], accessed via NIKH.

<sup>807</sup> Draft response to Chinese Embassy memorandum on draft Japanese peace treaty, 18 May 1951, *Ibid.*

<sup>808</sup> Memorandum of Conversation: Japanese peace treaty, 29 May 1951, *Ibid.*; Points advanced by Chinese Nationalist government in notes of April 24 and May 23, which have been met in June 14 draft, 14 June 1951, *Ibid.*; Points advanced by Chinese Nationalist government in notes of April 24 and May 23, which have been met in July 3 draft, 3 July 1951, *Ibid.*

Meanwhile, New Zealand commented that, if the Soviet Union decided not to sign the treaty, Japan should simply renounce its title to the Kuril Islands without specifying their ownership. However, in case the Soviet Union did sign the treaty, the Soviet claims would be recognized, but even then “only if” it evacuated from Shikotan and the Habomai Islands. New Zealand’s formula essentially sought to weaken, if not forestall, the Soviet claim over the Kurils. This certainly was an encouragement for Dulles. New Zealand also secretly expressed the hope that Japan’s “irredentist” feelings would lead to bitter contention with the Soviet Union. The US perhaps gleefully noted that this would “not be regarded as...evil.”<sup>809</sup>

Australia, whose response arrived on 25 May 1951, expressed its support for the US proposal to simply obligate Japan to renounce sovereignty over Taiwan. Furthermore, it stated that the rights of Japan should not be diminished or prejudiced in favor of a state that did not sign and ratify the treaty.<sup>810</sup> Since Dulles was not expecting the Soviet Union to sign the peace treaty, it is likely that Australia’s response further convinced Dulles of the wisdom to simply eliminate any reference to the Soviet Union regarding the Kuril Islands.

To recall, South Korea, one of the recipients of the March 1951 draft, responded on 26 April 1951 with the demand that Tsushima be returned to Korea. Taking note of the fact that Japan was obligated to hand over the Kuril Islands to the Soviet Union, South Korea demanded “equality of treatment” and that Japan should accordingly “renounce all right, title and claim to the Islands of Tsushima and return them to the Republic of Korea.”<sup>811</sup> The US responded that South Korea’s claims to Tsushima was “weak” and therefore rejected it (see Chapter 5).<sup>812</sup> It is likely that South Korea’s response further discouraged the US from mentioning Soviet ownership of the Kuril islands.

The Philippines, meanwhile, responded on 31 May 1951, agreeing with the idea that the Soviet claim to the Kurils should only be validated upon its participation in the peace treaty. The Philippines added that if the Soviet Union refused to sign, then the terms regarding the Kurils should be deleted, so as to ensure the “status of territories now under Soviet control would remain in doubt and a desire to recover them would remain in Japanese mind.” In short, the

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<sup>809</sup> Allison to Dulles, 25 April 1951, RG59, Entry A1 1252, Lot 54D423, New Zealand, accessed via NIKH.

<sup>810</sup> Japanese peace treaty, 25 May 1951, *Ibid.*

<sup>811</sup> Letter from Lim Ben C. to Dulles, 26 April 1951, *op. cit.*

<sup>812</sup> Comments on Korean Note Regarding US Treaty Draft, 9 May 1951, *op. cit.*

Philippines also proposed driving a wedge between Japan and the Soviet Union over the Kuril Islands.<sup>813</sup> This was exactly what Dulles had in mind.

Perhaps the most urgent task for Dulles was to iron out differences with Britain, the most important partner in negotiating the Japanese peace treaty. As evidenced in its draft peace treaty of 7 April 1951, which was developed independently from the US, Britain still wished to obligate Japan to cede “in full sovereignty” the Kuril Islands to the Soviet Union and Taiwan to “China.” Interesting to note is that Britain included Shikotan and Habomai as being within Japan’s territorial limits; only the islands situated northwards from Kunashiri onwards were to be separated from Japan.<sup>814</sup> On 5 June 1951, Dulles proposed to Kenneth Younger (the Acting Foreign Secretary) that the treaty should simply state that Japan would relinquish its title over the Kuril Islands and Taiwan, with no mention of who these islands now belonged to. Britain agreed. This “ambiguity” formula was later incorporated into the revised US-UK draft treaty of 14 June 1951.<sup>815</sup>

Britain had its own reasons for agreeing to the formula of ambiguous ownership, as revealed in a letter it sent to India in August 1951. To begin with, it argued that any reference to the transfer of Taiwan to “China” could lead to “serious legal as well as practical difficulties” to the point that “it would be impossible to reach agreement.” Britain also added that the PRC’s attitude was unfriendly, as it was hindering the Korean Armistice negotiations. Hence, there was no incentive to support the PRC. With regards to the Kuril Islands, Britain felt that there was no need to do any favors to the Soviet Union, as the latter’s conduct throughout the negotiations process had been obstructive. Britain even argued that it would be “understandable” to omit any statement of Japan’s renunciation of sovereignty over the Kuriles and simply allow “separate negotiation between Japan and the Soviet Union.” After all, the Kuril Islands “did not directly concern the other signatory powers.” However, in order not to ignore the Soviet interests and to honor the Yalta agreement, Britain thought that a simple acknowledgement of Japan’s renunciation of sovereignty over the islands was sufficient.<sup>816</sup>

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<sup>813</sup> Letter from Elizalde to Acheson, 1 June 1951, *op. cit.*

<sup>814</sup> Memorandum of Conversation: Pacific security arrangement, 30 March 1951, RG59, Entry A1 1252, Lot 54D423, United Kingdom [I], accessed via NIKH; Memorandum of Conversation, 12 April 1951, *Ibid.*; Treaty of Peace with Japan, 7 April 1951, FO371/92538, FJ1022/222, NA.

<sup>815</sup> 6377: Gifford to Acheson, 5 June 1951, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH; 6409: Gifford to Acheson, 6 June 1951, *Ibid.*; Dulles to Acheson, 5 June 1951, *FRUS* 1951, Vol. 6-1, 1106.

<sup>816</sup> Britain’s proposed response to India, undated, RG59, Entry A1 1252, Lot 54D423, India, accessed via NIKH.

The last significant meeting for Dulles was with the French government. On 11 June 1951, when Dulles met with the French to discuss the Japanese peace treaty, Jean Chauvel (French Representative at the UN) suggested that Japan should simply renounce its rights over the Kuril Islands without specifying ownership. Dulles happily responded that he would “sympathetically consider this suggestion.”<sup>817</sup> France also demanded that Japan should renounce any claim to the “two small partly submerged islands to the East of Hainan.” France was referring to the Spratly and Paracel islands that had disappeared from the treaty draft when Dulles took over the negotiation efforts. It is notable that France did not demand specifying French or Indochinese ownership, but simply Japan’s relinquishment. Dulles accepted this proposal and the Spratly and Paracel island chains were re-included in the treaty.

According to the 14 June 1951 combined Anglo-American draft peace treaty, Article 2 simply stipulated “Japan renounces all right, title and claim” to the Kuril Islands, Taiwan, the former Mandate Islands and Spratly Island and the Paracel Islands without any reference to ownership; in the case of the Mandate Islands, the UN trusteeship would apply in accordance with UNSC Resolution 21 (2 April 1947). Article 3 stated that Japan would concur to a UN trusteeship system for the Ryukyus.<sup>818</sup> This marked the end of the discussion regarding the territorial terms of the peace treaty.

### **Conclusion and Commentary on Liancourt Rocks**

To conclude, the US adopted the formula of undefined ownership for the Mandate Islands, Kuril Islands, Okinawa, Taiwan, and the Spratly and Paracel Islands, as this was the most politically expedient method for safeguarding US security interests. It not only legitimated US control over the Mandate Islands and Okinawa, but also allowed Taiwan’s status to be ambivalent, thus in an abstract sense preventing it from falling to the communists or being used by the Nationalist Chinese to provoke armed conflict against the mainland. Meanwhile, it also allowed the US to challenge Soviet sovereignty over the Kuril Islands, while discreetly supporting the Japanese claim to the four southernmost islands (the Northern Territories). This solution was the product of intense negotiations with multiple governments spanning over several months. It was a very delicate formula, in which change to one island could lead to change in others and disturb the

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<sup>817</sup> *FRUS* 1951, Vol. 6-1, 1114.

<sup>818</sup> *Ibid.*, 1120.

whole balance. There was, though, a significant cost, as India (on 23 August 1951) refused to sign the Japanese peace treaty on the grounds that leaving the future of Taiwan and the Kurile Islands undecided was neither “just [n]or expedient.”<sup>819</sup>

Before closing the chapter, there is one more island group that deserves attention: the Liancourt Rocks. Termed Tokdo in Korean and Takeshima in Japanese, these two rocks are situated between Korea and Japan. Since the end of the Pacific War, both countries have claimed sovereignty over them. The Liancourt Rocks issue has been fairly well-researched, and hence this chapter will not go into the details; instead, it examines the possibility that the fate of these rocks was also impacted by the formula of undefined ownership.

To briefly overview the issue, soon after the war, the Japanese government enthusiastically lobbied the SCAP in order to secure ownership over the Liancourt Rocks. However, the Korean government was equally adamant about safeguarding its sovereignty over the island, since it was tied to national prestige and security. Not only did Korea believe that the Liancourt Rocks was historically Korean; it was also one of the first areas that Japan had taken over – for the purpose of keeping an eye on the Russians – before swallowing the whole peninsula. Within the US, Sebald and Rusk were ardent supporters of Japan’s point of view. However, Dulles had been one of the “midwives,” who helped create the South Korean government in 1948 as part of the US delegation for the UN Temporary Commission on Korea (UNTCOK) and he could not ignore Korea’s demands. The peace treaty went through a number of revisions, first stipulating the Liancourt Rocks as one of the islands to be relinquished by Japan, then recognizing it as Japanese territory in the 29 December 1949 draft, and then ultimately disappearing from the peace treaty entirely, leaving the dispute to be resolved between Korea and Japan.

According to the existing findings by Hara Kimie and Chŏng Pyŏngjun, the absence of any terms governing the Liancourt Rocks in the peace treaty was due to three main factors. For one, Japan could depend on Sebald, who was very sympathetic to Japan and did not view Korea favorably. More importantly, amid the growing rivalry with the Soviet Union, the US wished to ignore technical details and sign the peace treaty as soon as possible. Finally, Korea made a major diplomatic blunder by packaging the demand for the Liancourt Rocks with a claim to P’arangdo (Socotra Rock), a small outcrop off the coast of Cheju Island (Quelpart) that is hardly

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<sup>819</sup> M.K. Kirpalani to Dulles, 23 August 1951, RG59, Entry A1 1252, Lot 54D423, India, accessed via NIKH.

visible during high tide and thus not easily identifiable. The Koreans at the time were not able to give the exact coordinates for P'arangdo and thus failed to prove its location let alone its existence, which damaged the credibility of its demand.<sup>820</sup>

It seems fair to argue, however, that concern that any final decision on the Liancourt Rocks could destroy the delicate balance of Article 2 also played an important role. If the ownership of the Liancourt Rocks were specified, then this could have led to a chain reaction, in which India, the ROC, the PRC and the Soviet Union would demand precise ownership of the Kuril Islands, Okinawa and Taiwan. In order to avoid this, not mentioning the Liancourt Rocks was perhaps the most convenient and sensible option for the US.

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<sup>820</sup> Hara, *Cold War Frontiers*, 14-49; Chõng, *The Liancourt Rocks*.

## Chapter 11. The San Francisco Peace Conference and Its Aftermath

This final chapter examines the San Francisco peace conference, which took place between 4 September 1951 and 8 September 1951. This is another aspect of the Japanese peace settlement that has been largely overlooked; only Van Aduard has made any effort to analyze the conference proceedings and narrate it as having been a trial of strength between the free world and the communist bloc.<sup>821</sup> Perhaps this neglect is not surprising, since this conference was overwhelmingly a formality and did not resemble a “peace conference” in the traditional sense. There was no negotiation. Each participant simply commented on what it thought about the peace treaty. It therefore appears as if there is nothing significant to say about this conference, other than the fact that the treaty was signed.

However, there was something more to this conference than simply signing the treaty. To begin with, fifty-one governments took part, making it one of the most truly international events in history. More importantly, it was a conference that marked a total diplomatic defeat for the communist participants – Czechoslovakia, Poland and the Soviet Union – as all the other governments rallied behind the US to express their support for the American-dictated peace. This fascinating episode remains sadly under-explored in the existing historiography. While Hosoya Chihiro, Hasegawa Tsuyoshi and Kimura Hiroshi have examined some parts of the conference, their narratives mainly limit themselves to the roles of the US and the Soviet Union; hence, what the Middle East and Latin America had to say about the treaty, for example, is totally neglected.<sup>822</sup> Additionally, although Sparkman’s reminiscence of the Japanese peace treaty gives a meaningful sense of the Soviet Union’s isolation at the conference, it too ignores the roles played by the Middle East and Latin America.<sup>823</sup> Even Van Aduard fails to give a comprehensive explanation of the part played by the different participants, as he only cites the presence of Cuba and the Dominican Republic. Taking this into account, this chapter pays attention to all the governments present at the conference and reconstructs the developments at San Francisco from a more international perspective.

The second goal of the chapter is to understand why the conference did not break down. It is common knowledge that the Soviet Union sought to disrupt it but failed. As briefly

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<sup>821</sup> Van Aduard, *Japan*, 223-8.

<sup>822</sup> Hosoya, *San Francisco Peace Treaty*, 267-72.

<sup>823</sup> Sparkman, “Notes on the Japanese Peace Treaty,” 109-16.

mentioned above, this was largely because the Soviets failed to rally any support from the other participants. Additionally, however, there was a procedural aspect. As Hasegawa Tsuyoshi, Kimura Hiroshi and Ronald McGlothlen point out, the US adopted a parliamentary procedure with which the Soviets were completely unfamiliar.<sup>824</sup> However, these claims are not backed by a detailed explanation of what exactly this “parliamentary procedure” consisted of and how it deprived the Soviet Union of any meaningful diplomatic maneuver. And while Van Aduard correctly points out that the “Rules of Procedure” adopted at the conference prevented the Soviet Union from re-opening the treaty negotiations and torpedoing the peace conference, his findings have been forgotten and neglected over the years.<sup>825</sup> Hence, this chapter re-introduces Van Aduard’s long-forgotten finding and elaborates on certain actions that the US took prior to the conference – which even Van Aduard fails to mention, due to his lack of access to internal US records – and the “Rules of Procedure” that were adopted in the first plenary session.

### **Pre-Conference Maneuvers to Prevent Further Negotiation**

To reiterate, the San Francisco peace conference was not convened to negotiate a peace treaty. To make sure that all the participants understood this, even before the peace conference, the US stressed that the conference was for signing the treaty alone. When the invitation to the San Francisco peace conference was presented to the Washington embassies of fifty-one governments on 20 July 1951, for example, the State Department orally informed each recipient that the conference was “for the purpose of signing” the treaty, not for negotiating.<sup>826</sup> Accepting the invitation thus implied a tacit understanding that they would not try to amend the terms of the treaty. The same message was conveyed to the three Indochinese states that were belatedly invited in August 1951.

Had the Soviet Union refused to attend, the conference might have been concluded much more smoothly and without clamor. However, on 12 August 1951, the Soviet Union accepted its

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<sup>824</sup> Ronald L. McGlothlen, *Controlling the Waves: Dean Acheson and US Foreign Policy in Asia* (New York: Norton, 1993), 47; Hasegawa, *Northern Territories*, 99; 木村汎 [Kimura Hiroshi], “ソ連と対日講和” [The Soviet Union and the Japanese Peace Settlement], in *The San Francisco Peace Treaty*, ed. Watanabe Akio and Miyasato Seigen (Tokyo: University of Tokyo Press, 1986), 336.

<sup>825</sup> Van Aduard, *Japan*, 218-9.

<sup>826</sup> *FRUS* 1951, Vol. 6-1, 1199; *Bulletin* 631 (30 July 1951), 186-7; Conference for the Conclusion and Signature of the Treaty of Peace with Japan, 20.



invitation.<sup>827</sup> This obviously raised concerns within the American government, since it was readily apparent that the Soviet Union, which had been opposing the American-led peace settlement, would cause difficulty at the conference.<sup>828</sup> Perhaps as a preemptive action, the text of the proposed peace treaty was released to the public on 15 August 1951, giving a clear message that this draft was final. The next day, on 16 August 1951, the US also went public by acknowledging the Soviet acceptance of the invitation and reiterating that the San Francisco peace conference was for the “conclusion and signature” of the treaty and “not a conference to reopen negotiations on the terms of the peace.”<sup>829</sup>

However, no matter how firm the US was with regards to the Soviet Union, it could not hope for success without the support of other governments. Thankfully for the US, as examined in the previous chapters, most of the principal negotiating states (FEC members) had been generally supportive throughout the negotiation process, thus enabling the US to craft the terms to its liking. There was also wide-spread disillusionment with the Soviet Union. Indeed, as soon as it became known that the Soviet Union would participate in the peace conference, most of the non-Soviet members of the FEC expressed their displeasure. Australia, Britain, France (and Vietnam), the Philippines and the Netherlands were all united in their cynicism that the Soviet Union wanted to cause trouble and disrupt the conference. The ROC too, although excluded from the conference, shared this sentiment.<sup>830</sup> In the case of Japan, with the exception of the Japanese Communist Party and the left wing of the Japanese Socialist Party – both of which were now marginalized – there were expressions of concern from the government, parliament and the media that the Soviet Union might disrupt proceedings and delay the signing of the treaty.<sup>831</sup>

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<sup>827</sup> 106: US Embassy (Moscow) to State Department, 13 August 1951, RG59, Entry A1 1252, Lot 54D423, USSR(II) Part I, accessed via NIKH.

<sup>828</sup> Memorandum of Conversation (Truman and Webb), 13 August 1951, *FRUS* 1951, Vol. 6-1, 1267.

<sup>829</sup> *Bulletin* 635 (27 August 1951), 348-9.

<sup>830</sup> 847: Homes to Acheson, 13 August 1951, RG59, Entry A1 1252, Lot 54D423, London, accessed via NIKH; 655: Cowen to Acheson, 15 August 1951, RG59, Entry A1 1252, Lot 54D423, Philippines, accessed via NIKH; 654: Cowen to Acheson, 15 August 1951, RG59, Entry A1 1252, Lot 54D423, Manila II, accessed via NIKH; 55: Jarman to Acheson, 16 August 1951, RG59, Entry A1 1252, Lot 54D423, Canberra, accessed via NIKH; 236: Rankin to Acheson, 17 August 1951, RG59, Entry A1 1252, Lot 54D423, Taipei, accessed via NIKH; 181: Chapin to Acheson, 17 August 1951, RG59, Entry A1 1252, Lot 54D423, The Hague, accessed via NIKH; 139: Netherlands' press reaction to Russian attendance at Japanese peace treaty conference in San Francisco, 20 August 1951, RG59, Entry A1 1252, Lot 54D423, Netherlands, accessed via NIKH; Memorandum of Conversation: Korea and Indochina, 29 August 1951, RG59, Entry A1 1252, Lot 54D423, France, accessed via NIKH; 410: Gullion to Acheson, 18 August 1951, RG59, Entry A1 1252, Lot 54D423, Saigon, accessed via NIKH; 411: Gullion to Acheson, 18 August 1951, *Ibid*; 511: Gullion to Acheson, 29 August 1951, *Ibid*.

<sup>831</sup> 321: Sebald to Acheson, 14 August 1951, RG59, Entry A1 1252, Lot 54D423, Tokyo [August 1-31, 1951], accessed via NIKH; 322: Sebald to Acheson, 14 August 1951, *Ibid*.; 328: Sebald to Acheson, 15 August 1951, *Ibid*.

This prevalent anti-Soviet sentiment would manifest itself again at the conference itself, when it was expressed by the non-FEC governments as well.

### **The San Francisco Peace Conference**

In order to understand why the San Francisco peace conference was a resounding defeat for the Soviet bloc, one must first examine the latter's position when it accepted the invitation. As Kimura Hiroshi and Hasegawa Tsuyoshi point out, the main purpose of the Soviet Union was to undo the US-led peace settlement. If needed, the Soviet Union did not mind seeing the conference disintegrate. To elaborate, on 20 August 1951, the Soviet Politburo decided to make a number of demands at the conference, including: PRC participation, the withdrawal of all foreign, including US, troops from Japan, the prohibition of any US-Japan military alliance and the inclusion of demilitarization and democratization clauses in the peace treaty. Furthermore, the Soviet Union hoped to mobilize support from Burma, India and Indonesia to denounce the US-led peace treaty, and at the same time, sought to lure the Philippines away by demanding better terms for reparations. If these tactics failed, then the Soviet Union would refuse to sign the treaty and publicly attack its terms.<sup>832</sup>

Unfortunately for the Soviet Union, its hopes to garner support from the Asian states evaporated almost immediately, as Burma and India, the two most likely countries to side with it, declined to attend the conference.<sup>833</sup> Also, as will be explained below, the Soviet Union failed to find a receptive audience among the other attendees at the peace conference, as those Asian governments that did participate either held grudges against it or simply welcomed the US-led peace settlement. Hence, the Soviet strategy to turn the Asians against the US failed.<sup>834</sup>

Another important reason behind the Soviet failure to disrupt the conference was the shrewd procedural strategy employed by the US at the first plenary session to prevent any form of negotiation. At the first plenary session of the San Francisco peace conference (5 September 1951), Acheson (the presiding officer and "temporary president" of the conference) once again stressed that the conference had been convened "for conclusion and signature" of the peace treaty and not for negotiation. Acheson then moved to formalize this by proposing, together with

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<sup>832</sup> Hasegawa, *Northern Territories*, 96-9; Kimura, "The Soviet Union and the Japanese Peace Settlement," 320-1, 326-7, 331, 334, 337.

<sup>833</sup> Conference for the Conclusion and Signature of the Treaty of Peace with Japan, 20.

<sup>834</sup> Kimura, "The Soviet Union and the Japanese Peace Treaty," 327.

Britain, the “Rules of Procedure.” There were two critical devices that were designed to enable the US to run the conference in the way it intended. The first was Article 1 of the “Rules of Procedure,” which stipulated that the conference was to be conducted “in accordance with the terms of the invitation” extended by the US.<sup>835</sup> To recall, the invitation made it clear that the conference was for the signing of the treaty, not for negotiating; Article 1 would formalize this.

Secondly, Article 3 empowered the “permanent President of the Conference,” who would be elected via a simple majority vote, to preside over “all meetings of the conference” and to decide on “all questions” raised during the conference; in short, the permanent president would determine what could be talked about at the conference. This was accompanied by Article 19, which entitled the permanent president to control the right of the delegations to speak at the conference; in short, he could either allow or prevent speech.<sup>836</sup> Hence, as long as the US secured the title of the “permanent President,” it could run the show as it liked.

Not surprisingly, the Soviet bloc – consisting of Czechoslovakia, Poland and the Soviet Union – was unhappy with the proposed “Rules of Procedure” and sought to amend it. Poland immediately on 5 September 1951 suggested the establishment of a special ad hoc committee for the purpose of studying the “Rules of Procedure” and developing an alternative. This was opposed by Cuba and Dominican Republic, who wished to quickly adopt the “Rules of Procedure” and move on with the conference. When Acheson asked the representatives to vote on what they wished to do, the Polish proposal was rejected by 44 against and 3 for. In contrast, the Cuban-Dominican Republican proposal was supported by 38 countries and subsequently the “Rules of Procedure” was formally adopted by the vote of 48 for and 3 against.<sup>837</sup>

This marked a diplomatic defeat for the Soviet bloc. Not only was the US able to formalize the idea that negotiations were not allowed at the conference, but also the Soviet Union was opposed by governments other than the US and Western Europe. It should also be noted that Article 7 of the “Rules of Procedure” strictly limited the states represented at San Francisco to those invited by the US. Simply put, no additional governments would be invited to the conference, thus preventing the Soviet Union from inviting the PRC. When the Soviet Union still insisted on inviting the PRC, Acheson put the question before the entire conference, and the

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<sup>835</sup> Conference for the Conclusion and Signature of the Treaty of Peace with Japan, 22, 37.

<sup>836</sup> *Ibid.*, 22, 25.

<sup>837</sup> *Ibid.*, 45, 60-1, 64-5, 68

former was publicly shamed when its proposal to discuss this invitation was voted down with 46 governments opposing it.<sup>838</sup>

Soon after the “Rules of Procedure” was adopted, Acheson was elected the permanent president by a vote of 43 out of 51 votes.<sup>839</sup> The US was thus able to secure a blank cheque on how to run the conference and defeat the Soviet Union. And as the conference unfolded, it became increasingly clear that the Soviet bloc was almost entirely isolated, as virtually all other governments supported the US.

At the conference, the communist bloc deplored the fact that the treaty was negotiated via “shuttle diplomacy” instead of the Council of Foreign Ministers, calling it a violation of the Potsdam Agreement. The Soviet bloc also denounced the economic terms of the treaty as ensuring an American monopoly that was designed to subordinate Japan into a “slavery-like dependence” on the West. Worse still, it was as an instrument that sought to subordinate the former allies to a “Pax Americana in the Far East.” Furthermore, the Soviet Union pointed out that the peace treaty ignored the legitimate claims of states that had suffered from Japan’s aggression and lacked the remedies required to rectify the latter’s past wrongdoings. Lastly, it denounced the “aggressive military alliance” between Japan and the US as not only constituting a continuation of the occupation, but also endangering the security of the Soviet Union and the PRC.<sup>840</sup> In short, the peace treaty prepared by the US was unacceptable.

Accordingly, the Soviet bloc demanded a number of revisions to the peace treaty. The Soviet bloc first insisted that the PRC had to be invited to the conference, arguing that all of its former belligerents must be represented. Secondly, regarding territorial disposition, Taiwan should revert back to the PRC and Soviet ownership of the Kuril Islands should be made explicit per the Cairo Declaration and Yalta Agreement. Thirdly, Okinawa should be returned to Japan rather than being turned into an American “colony.” Fourthly, there should be a demilitarization clause to prevent the re-emergence of Japanese expansionism; this was accompanied by a demand that the democratization clause should be revived to forestall resurgence of a “Fascist” Japan. Fifthly, it demanded that all foreign troops be withdrawn from Japan. Finally, the Soviet bloc argued that the reparations clause must be amended, so that the “amount and the sources” of

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<sup>838</sup> *Ibid.*, 69-70.

<sup>839</sup> *Ibid.*, 72.

<sup>840</sup> *Ibid.*, 53-5, 104-5, 107-9, 112-4, 120-1, 164-82, 263-74.

reparations to be paid would be determined by the PRC, Indonesia, the Philippines and Burma.<sup>841</sup>

This Soviet rhetoric was obviously meant to appeal to the former victims of Japan's aggression, especially the Asian countries. Unfortunately for the Soviet Union, nobody at the conference was receptive to its propaganda. Instead, the very Asian countries that the Soviet bloc intended to lure were either apathetic or outright hostile. Ceylon, for instance, attacked the Soviet Union for trying to exclude "not only Ceylon, but even India and Indonesia and Burma and the Philippines" from the treaty negotiations by insisting that the decision-making power be limited to the Big Four. Ceylon further denounced the Soviet attempt to re-open negotiations of the treaty terms as simply delaying the peace progress. Ceylon also argued that if the Soviet Union insisted on the return of the Ryukyus, then it should also be willing to return South Sakhalin and the Kuril Islands to Japan. Pakistan also supported the US, arguing that the peace treaty, despite its "imperfections," was nevertheless a "good treaty" that would eradicate the seeds of another war, and expressing its willingness to sign it.<sup>842</sup>

The Philippines and Vietnam were the two most likely apostates, as they were not particularly happy with the reparations clause. However, the Philippines made it clear that it did not wish to torpedo the treaty, while Vietnam was all too happy that it had been invited to sign the treaty. Cambodia, while stressing the importance of reparations, endorsed the peace treaty and expressed its willingness to sign it. Laos, even though it also suffered from Japan's aggression, did not even bring up the question of reparations and simply expressed its "full approval" of the treaty and willingness to sign it. Indonesia simply expressed the hope that it could arrange a satisfactory reparations agreement with Japan and did not expressly denounce the treaty. In short, none of the Asian states lent a sympathetic ear to the Soviet bloc.

The three communist participants also had to bear vicious verbal assault or pro-American remarks from the other delegates. To begin with, the FEC member states were all united against the Soviet Union. Not only did they expressly endorse the US-led peace treaty, but also, in the case of the British Commonwealth, unleashed bitter accusations against the Soviet Union. Australia ridiculed the Soviet Union for its obsession with a punitive treaty when it had only fought Japan for a few days, while the countries that had fought the hardest were willing to

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<sup>841</sup> *Ibid.*, 115-6, 120, 164-82, 263-74.

<sup>842</sup> *Ibid.*, 55-7, 147-50, 182-8.

commit to a generous peace. Furthermore, Australia argued that the Soviet Union had no right to talk about reparations, since the whole reparations scheme had been impaired due to the Soviet “looting” of Manchuria after the war. Australia also demanded to know why the Soviet Union insisted on democracy and human rights in Japan, when these very values were being denied within the communist bloc.<sup>843</sup> New Zealand joined the accusation, pointing out that the Soviet Union had failed to repatriate its Japanese POWs, while Canada argued that the exclusion of the PRC was its own doing for committing “aggression” in Korea.<sup>844</sup>

As the co-sponsor of the treaty and the conference, Britain also defended the treaty by rebutting the Soviet accusations. While regretting the absence of China, Britain argued that the question of Chinese representation would have unduly delayed the Japanese peace settlement. Britain also stated that the territorial provisions, contrary to Soviet contention, were based on wartime agreements. In the case of Okinawa, Britain pointed out that the treaty did not remove Japanese sovereignty. Meanwhile, it noted that the US-Japan security arrangement was necessary to protect the latter as an unarmed country from external threats. Regarding Japan’s remilitarization, Britain argued that the former’s inherent right of self-defense was recognized by the UN Charter. Britain also complained that the communist bloc was hypocritical for being so concerned about Japan’s possible re-emergence as a threat, when communist aggression was taking place in Malaya, Korea and Indochina.<sup>845</sup>

The other members of the FEC – France, the Netherlands and the Philippines – all expressed agreement with the treaty terms, albeit with reservations in the case of the Netherlands and the Philippines.<sup>846</sup> But perhaps there was nothing surprising with the fact that the non-Soviet members of the FEC were united in their support for the US-led Japanese peace settlement. What was truly notable about the San Francisco peace conference was the fact that other governments were equally supportive of the US, with many expressing anti-Soviet statements.

In the case of Europe, Greece and Luxembourg fully endorsed the treaty. While Belgium and Norway expressed certain reservations – over future Japanese commercial competition and whaling activities, respectively – they nevertheless supported the treaty. In the case of the

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<sup>843</sup> *Ibid.*, 243-52.

<sup>844</sup> *Ibid.*, 199, 215-9.

<sup>845</sup> *Ibid.*, 88, 90-5.

<sup>846</sup> The Netherlands wished to restrict Japan’s fishing activities and make sure that the civilian POWs from wartime Dutch East Indies would be properly compensated (Conference for the Conclusion and Signature of the Treaty of Peace with Japan, 189-98).

African participants – Ethiopia, Liberia and South Africa – they all gave their blessing without expressing any reservations. The Middle East was divided between those who expressed full support of the treaty and those who supported it with reservations. Egypt, while expressing support for the treaty, made three important reservations: it expressed displeasure that foreign troops would be stationed in Japan, reflecting its own bitterness about the British troop presence on its own soil; it also believed that the final territorial disposition must be adjudicated by the UNGA based on the opinions of the locals; and it wished to withhold extending MFN treatment to Japan. Lebanon, Iraq, Syria and Saudi Arabia subscribed to this view. On the other hand, Iran and Turkey fully endorsed the treaty and expressed their willingness to sign it.<sup>847</sup>

The responses of certain Latin American governments were equally intriguing. The most notable enthusiast was El Salvador. The Salvadoran delegation expressed “great pleasure” in signing the peace treaty. Additionally, it opposed Taiwan reverting back to the PRC, arguing that this would lead to “bloody resistance” on the island and threaten the peace of Korea and Japan. El Salvador also challenged the legitimacy of Soviet ownership of the Kuril Islands, arguing that the de facto occupation did not mean de jure ownership; El Salvador formally proposed that the final disposition of the Kuril Islands must be determined in accordance with local opinion. Meanwhile, Cuba disagreed with the Soviet Union that the US-led peace settlement would lead to a resurgence of Japanese militarism, arguing that Japan was already democratic and its future ties to the UN were a sufficient safeguard against any future threat. Nicaragua also defended the treaty, while denouncing the Soviet demand to invite the PRC, an aggressor in the Korean War. The rest of the Latin American states – Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Paraguay, Peru, Uruguay and Venezuela – all agreed with the terms of the peace treaty, its imperfections notwithstanding, and expressed their willingness to sign.<sup>848</sup>

The Japanese delegation was the last to speak at the conference. Japan expressed its hope that many countries would sign the treaty, so that it could recover diplomatic relations with them. Regarding some of the controversial treaty terms, Japan sided with the US, and welcomed the UN trusteeship over Okinawa and the security alliance with the US. Japan also stressed its view that Habomai and Shikotan were not part of the Kuril Islands and that the Soviet Union was

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<sup>847</sup> Conference for the Conclusion and Signature of the Treaty of Peace with Japan, 141-2, 144-6, 151-61, 204-15, 233-7, 252-61.

<sup>848</sup> *Ibid.*, 97-102, 129-34, 135-41, 151-4, 161, 207-8, 212-5, 241-3, 274-6.

occupying them illegally; it further added that Etorofu and Kunashiri had always been Japanese. With regards to reparations, Japan simply stated that it would “carry them out,” hoping to assuage some of the Asian states.<sup>849</sup>

To conclude, the Soviet bloc was completely isolated at the San Francisco peace conference, as all the other participants rallied behind the US. Although certain governments expressed reservations, they nevertheless supported the US-led Japanese peace settlement. Most notably, Soviet hopes to lure certain governments away were completely dashed. The final blow to the Soviet Union was the fact that the peace treaty was subsequently signed on 8 September 1951 by all the participants, with the sole exception of Czechoslovakia, Poland and the Soviet Union.

Perhaps the Soviet refusal to sign the treaty was a foregone conclusion, since it thought that there was nothing to be gained from signing. Unfortunately, as both Kimura Hiroshi and Hasegawa Tsuyoshi observe, this was a big mistake. By not signing the treaty, the Soviet Union not only excluded itself from all of the benefits of the treaty, but it also weakened its position regarding the Kuril Islands.<sup>850</sup> The Soviet bloc, in other words, left the conference empty-handed.

## **Conclusion**

The San Francisco peace conference was a clear and a humiliating defeat for the Soviet bloc. This owed to the fact that the US employed clever procedural tactics to forestall any attempts from the conference participants, especially the Soviet Union and its satellites, from re-opening the treaty to negotiation. At the same time, there already existed a prevalent feeling of animosity among the principal negotiating powers against the Soviet Union. This, combined with the fact that India and Burma – the two potential governments that could have sided with the Soviet Union – declined to attend the conference, greatly weakened any prospect of successful Soviet maneuvers against the US-led peace settlement. At the conference itself, it became clear that none of the participants – except Czechoslovakia and Poland – were sympathetic to the Soviet Union; instead, they all expressed support and signed the treaty.

Meanwhile, the US congratulated itself for developing a treaty that purportedly served the interests of the international community and Japan. In his welcoming speech on the first day

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<sup>849</sup> *Ibid.*, 277-81

<sup>850</sup> Hasegawa, *Northern Territories*, 99-100; Kimura, “The Soviet Union and the Japanese Peace Settlement,” 317-9, 328-9.



of the conference (4 September 1951), Truman celebrated the agreement that his government had created as being a “good treaty” that sought to prevent another war and contribute to international peace. It was a treaty of “reconciliation, which looks to the future, not the past.”<sup>851</sup>

At the second plenary session (5 September 1951), Dulles further elaborated on the specifics of the treaty. He explained that the treaty took a non-punitive approach, in order to break the “vicious cycle of war-victory-peace-war.” Hence, the treaty imposed no discrimination or limitation upon Japan’s economy. He also defended the liberal reparations terms, arguing that harsh reparations would have crippled Japan’s economy, led to bitterness and paved the way for further aggression. He also added that the US should not be made to indirectly finance for Japan’s reparations payments. In addition, he defended the absence of any democratization and demilitarization clauses, arguing that these should be left to Japan to implement voluntarily, rather than through compulsion.<sup>852</sup>

At the same time, Dulles justified the security provisions as being necessary, as Japan was still disarmed and would not be able to maintain its independence when confronted with an external threat. Hence, the treaty acknowledged Japan’s inherent right to self-defense under the UN, while the US had responded positively to its request to enter into a bilateral security arrangement. Dulles also stressed that the treaty (Article 5-a-ii) would prevent Japan from re-emerging as a threat by obligating it to observe the terms of the UN Charter, namely that Japan would “refrain...from the threat or use of force” against any state.<sup>853</sup>

Regarding the territorial terms, Dulles claimed that they conformed with both the wartime agreements and the surrender terms in that they limited Japan’s sovereignty to the four main islands and minor islands as to be determined by the Allies. Regarding the “Kuril Islands,” Dulles suggested that any dispute about what this term entailed should be referred to the International Court of Justice.<sup>854</sup> With regards to the Ryukyus, Dulles explained that the UN trusteeship was a compromise that sought to bridge the gap between those Allies who had urged outright renunciation of Japan’s sovereignty over the islands and others who supported their restoration. He stressed that Japan still retained “residual sovereignty” over the islands.<sup>855</sup>

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<sup>851</sup> Conference for the Conclusion and Signature of the Treaty of Peace with Japan, 33.

<sup>852</sup> *Ibid.*, 74-5, 77, 79, 82-3.

<sup>853</sup> *Ibid.*, 80.

<sup>854</sup> *Ibid.*, 78.

<sup>855</sup> *Ibid.*, 78.

Regarding the thorny question of Chinese representation, Dulles argued that the whole question could have led to a prolonged discussion and jeopardized the whole peace settlement. The best option, therefore, was to exclude China altogether. However, this did not mean that China's interests were being overlooked, as Article 26 of the treaty gave the latter the right to conclude a peace treaty with Japan.<sup>856</sup> China (in the form of the ROC) would indeed sign a separate peace treaty later in 1952.

Hence, although not a perfect treaty, the US justified the agreement as a "good" one that served the interests of Japan as well as those of the international community. However, the treaty was more complicated than that. To begin with, for a treaty that addressed a war in Asia, the participants were overwhelmingly non-Asian. In fact, the treaty resembled a pact between Japan and the Americas, a prospect that Dulles had desperately tried to avoid. Moreover, besides Australia, Britain, France, the Netherlands and the US, these non-Asian states had not been directly involved in the Pacific War. Also, one could not miss the irony that for a treaty that purported to serve the interest of the international community, it failed to enlist the support of three major countries, two of whom were former Allies: India, PRC and the Soviet Union. To recall, India believed that the territorial terms infringed Japan's sovereignty over the Ryukyus and went against the legitimate interests of the communist governments over Taiwan and the Kurils. India also expressed displeasure at Article 6 of the treaty, which provided for the stationing of the US troops in Japan, arguing that this represented the imposition of a foreign presence on Japan.<sup>857</sup> As for the latter two communist states, there was no merit for them in signing a treaty that was designed to undermine their interests. The absence of Burma, the largest of the mainland Southeast Asian country that refused to sign the treaty on the grounds of unacceptable reparations clause, also could not go unnoticed.

The interests of nearly one-third of humanity were thus passed over in the treaty, which immediately raised the question of how representative the Japanese peace settlement was in terms of reflecting the interests of major stakeholders. One could certainly debate if India and the Soviet Union deserved to be represented in the Japanese peace treaty. After all, India was never occupied by Japan and the damage it experienced was dwarfed in comparison to other countries, such as China, while the Soviet Union only entered the war a week before its end. However,

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<sup>856</sup> *Ibid.*, 85-6.

<sup>857</sup> M.K. Kirpalani to Dulles, 23 August 1951, *op. cit.*

similar doubts could be raised about the Latin American states, whose contribution was relatively non-existent, but who were still recognized as parties to the treaty. One could also point out that the PRC was not even a country during the war and hence its right to sign the treaty was questionable from a legal point of view. However, the fact that Indochina was able to sign the treaty makes the credibility of this argument dubious. The treaty, therefore, was a partisan one that lacked the legitimacy in the eyes of many. And as explained in the next chapter, the treaty also left a complicated legacy.

## **Conclusion**

### **Summary Review**

This study has attempted to construct a fuller and more international narrative of how the Japanese peace treaty was negotiated. To recap, the US first made an attempt to convene a peace conference for Japan in 1947. Unfortunately, this initiative failed for two reasons. First, there was a procedural dispute between the Soviet Union, backed by the ROC, and the US, supported by all the other FEC members. While the former wanted the Big Four to negotiate the treaty with veto rights, the latter wished to consult all members of the FEC with a simple two-thirds majority voting procedure. Secondly, with the escalating rivalry between the US and the Soviet Union, the spirit of wartime cooperation that used to underpin US foreign policy had by 1947 yielded to an increasingly confrontational attitude. Against this backdrop, the US by early 1948 temporarily abandoned the plan for a peace settlement and instead started focusing on Japan's economic reconstruction.

Thereafter, the Japanese peace settlement entered a dormant phase, which lasted roughly between 1948 and 1949. While there were no official negotiations during this period, there were nevertheless important developments that would later affect the peace treaty. To begin with, the US continued to refine the terms it envisioned for the treaty. During that process, a new lenient peace treaty emerged, which was intended to avoid imposing any harsh economic or political terms on Japan and was geared towards containing the Soviet Union. This was a drastic transformation that contrasted sharply with the draft treaty that was developed in 1947. Additionally, a plan for negotiating the treaty via "diplomatic channels" (or "shuttle diplomacy") rather than through traditional means emerged. Thus, by March 1950 the idea of a peace conference in a traditional sense had been abandoned. All the while, the US hid its reluctance to move forward with the treaty by placing the blame on the Soviet Union for insisting on following the Big Four route for the Japanese peace settlement and marginalizing the majority of FEC members.

The peace settlement started to regain momentum in 1949, as Acheson, the newly appointed Secretary of State, began to pay more attention to Japan. However, whereas the State Department wished to push forward with the Japanese peace settlement, the Defense Department opposed it. The tug-of-war between the two departments continued for months and was only

resolved after the outbreak of the Korean War, which dramatically increased the need to return Japan to self-sufficiency, both economically and militarily. As a compromise solution, Acheson agreed to sign a parallel bilateral security treaty that would allow the US to station its troops throughout Japan; only with this assurance did the Pentagon finally agree to engage in formal peace treaty discussions.

Subsequently, the US moved quickly to consult other governments and negotiate the terms of the peace treaty, first with the FEC member states and later with Burma, Ceylon, Indonesia, Pakistan and South Korea. Most importantly, the US also conferred with its former enemy, Japan. Between late 1950 and mid-1951, which can be described as the formative months, Dulles, who was appointed to lead the negotiations, worked vigorously to convince the non-communist governments to rally behind the US-led peace settlement, while also mustering congressional support to facilitate its ratification. He shrewdly employed a mixture of appealing to anti-communist camaraderie, stressing the importance of rebuilding Japan's economy so as to lift the burden of financial support from the US and promising security guarantees to those countries concerned about Japan's potential re-emergence as a threat. Although the Soviet Union was consulted out of formality, the US never made a whole-hearted effort to listen seriously to what it had to say. After ten months of patient and delicate diplomatic maneuvers, Dulles finally had a complete peace treaty by 13 August 1951.

In order to make sure that the treaty was signed without any revisions, the US sent the invitation to the San Francisco peace conference on the condition that the participants did not reopen the treaty for negotiation. At the peace conference, which lasted for five days between 4 September and 8 September 1951, the US successfully adopted a procedure that not only blocked any attempt to amend the peace treaty, but also allowed it to run the conference to its liking. This conference proved to be a humiliating defeat for the Soviet Union. The communists were neither able to make any changes to the peace treaty nor disrupt the conference. More importantly, the Soviet bloc was completely cornered, as all other governments were united in support of the US. Not surprisingly, the three communist participants – Czechoslovakia, Poland and the Soviet Union – refused to sign the treaty. The remaining 48 nations and Japan, on the other hand, signed the peace treaty on 8 September 1951, subsequently ratified it in the coming years, thereby terminating the state of war, both factually and legally.

As Miller and Schonberger point out, the Japanese peace treaty was largely tailored to America's needs and interests, firmly anchoring Japan to the West and being premised on a future rapid buildup of the latter's economy and armed forces for the purpose of combating the Soviet Union.<sup>858</sup> The fact that the US crafted the treaty to serve its own interests is not surprising. After all, safeguarding national interests is what governments do. Additionally, Dulles firmly believed that what was good for the US must be good for the rest of the world. Hence, while Dulles was ready to listen sympathetically to other governments, what ultimately mattered was that the treaty conformed to American interests, because a good treaty for the US must also be a good treaty for all other governments.<sup>859</sup>

One problem with this assessment, however, is that it neglects the fact that the peace treaty was an international instrument that was negotiated between multiple governments. Hence, when evaluating this treaty, simply asking what it meant for the US is not enough. One must also ask what the peace treaty meant for other countries as well.

Certainly, the treaty had some merits for other governments. Although not exactly in the form or amount they envisioned, the FEC members – other than India and the Soviet Union – had some share of the cake. For instance, Australia, New Zealand and the Philippines were able to obtain a security guarantee. In the case of the latter, it also secured entitlement for reparations; the alternative would have been not receiving any. In addition, thanks to the Philippines, Indonesia (1957) and Vietnam (1953) were also able to sign reparations agreements with Japan. Even Burma, which refused to sign the treaty and later entered into a separate peace agreement on 25 September 1954, was able to sign a reparations agreement with Japan in 1955.<sup>860</sup> Furthermore, Article 14 – which was premised on the tacit understanding that Japan would repay the initial American aid provided during the early phase of the occupation – was later used by the US to create a counterpart fund in Japan and steer the latter to assist with the economic development of Southeast Asia and Korea.<sup>861</sup> Britain and the Netherlands were granted limited compensation rights for their former military POWs, while Canada was able to secure a tripartite fisheries agreement with Japan and the US. The ROC, as will be explained below, was able to

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<sup>858</sup> Miller, *Cold War Democracy*, 125; Schonberger, *Aftermath of War*, 157, 278.

<sup>859</sup> Pruessen, *John Foster Dulles*, 104-5, 174, 194, 476.

<sup>860</sup> Fifield, *Southeast Asia*, 80-1, 138-41, 321-2; Borden, *The Pacific Alliance*, 204; Yoshikawa, *Japanese-Filipino Reparations Talks*, 92-114; Pluvier, *South-East Asia*, 195.

<sup>861</sup> Asano, "The Dissolution of the Japanese Empire and Korea-Japan Normalization," 47-51.

sign a separate peace treaty and, as a result, eventually obtained Japan's recognition as the legitimate representation of China.

Such merits notwithstanding, it is doubtful whether the peace treaty can be considered as a success on all fronts for all of the concerned Powers. During the negotiations, many governments had been clearly frustrated with the way in which the treaty was developing. What resulted from the peace treaty was equally controversial. For Japan, its diplomatic maneuvers were seriously proscribed, especially in its dealings with the communist bloc. Most troubling for many other governments was that the peace treaty, as Hosoya notes, was less about a "postwar settlement" than about "Cold War politics."<sup>862</sup> In other words, in the name of combating communism, a number of questions about Japan's past were either ignored or inadequately addressed. Consequently, the peace treaty bequeathed an extremely delicate regional order, which was replete with potential conflicts, some of which emerged early while many others remained sealed during the Cold War but then surfaced following the collapse of the Soviet Union.

This troubled legacy can partly be attributed to the US, which sought to convince the other interested countries to look to the future rather than the past in an effort to quickly conclude a non-punitive peace and build Japan as an anti-communist bastion. Nevertheless, it would be wrong to simply frame the treaty as an American-dictated peace that ignored the opinions of others. Rather, the peace treaty was a multilateral construct that involved more than thirteen different countries. And in the process of coordinating and resolving disagreements with those governments, the US did not get all that it wished for, as exemplified by the fact that it could not invite the ROC – and to lesser extent South Korea – to San Francisco and had to give up no-reparations formula. But more importantly, the lesson here is that the various controversies that exist today in Asia-Pacific can be and ought to be understood from a broader and more novel point of view. Due to its complexity and scope, this necessitates an in-depth discussion.

### **The Troubled Legacy of the San Francisco Peace Treaty**

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<sup>862</sup> Hosoya, *San Francisco Peace Treaty*, 4-5.

As Nishimura, Swenson-Wright and Chōng note, the peace treaty was negotiated not simply between the US and the other victors, but also between the US and Japan.<sup>863</sup> Certainly, the US and Japan were not equals and the latter was not in a position to force its desiderata on the US. Nonetheless, there was serious dialogue between the US and Japan, and the former made real efforts to accommodate the wishes of the latter. Hence, for instance, against the wishes of some of the Allies, no restrictions were imposed on Japan's shipping and shipbuilding capacity, and almost no restrictions applied to its deep-sea fishing activities. Yoshida and his cabinet were also able to achieve two of Japan's most important goals: independence and putting rearmament on hold to concentrate on economic development.

Nevertheless, not everybody in Japan was satisfied. As Igarashi points out, during the negotiations there was an ongoing battle between what could be called the pro-Western faction and the neutralists. The former wished to align Japan with the US and were willing to agree to a "partial peace" that excluded the communist and neutralist blocs. The latter preferred an "overall peace" with all the nations concerned and sought to avoid siding with any particular bloc. Eventually, the pro-Western faction won the battle, and even today Japan's pro-American stance is very apparent.<sup>864</sup> The Japanese peace treaty was therefore a disappointment for those who wanted a neutral Japan.

Of course, some conservatives also had qualms about it. Indeed, when the treaty was put before the Diet for ratification, there were 63 abstentions from the ruling Liberal Party and 14 abstentions from the Democratic Party; also 3 of the Democratic Party members voted against it. The conservatives were particularly unhappy about the fact that Japanese sovereignty over the Ryukyus was left ambiguous; in fact, all members across the political spectrum unanimously expressed regret about this.<sup>865</sup> Yet, Japan could take solace from the fact that the treaty did not deny Japan's sovereignty over the Ryukyus.

High-seas fisheries was another area that left a tricky legacy for Japan. As explained in Chapter 9, in order to ensure speedy conclusion of peace, Dulles isolated the specific questions pertaining to Japan's postwar fisheries from the peace treaty. This was premised on the condition that Japan refrained from fishing in certain areas of the high seas, until it signed conservation

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<sup>863</sup> Nishimura, *San Francisco Peace Treaty*; Swenson-Wright, *Unequal Allies?*, 48-105; Chōng, *Liancourt Rocks*, 513-6.

<sup>864</sup> Igarashi, *Japanese Peace Settlement*, 167-265.

<sup>865</sup> Kataoka Tetsuya, *The Price of a Constitution: the origin of Japan's postwar politics* (New York: Crane Russak, 1991), 75-128; Watanabe, *The Okinawa Problem*, 98-101.



agreements with the concerned governments. Although self-imposed and temporary, this was nevertheless a form of economic restriction that could have been avoided had it not been for the vicious attacks by the formidable American West Coast fishing interests. The subsequent developments were equally complex. The trilateral fishing agreement signed between Canada, Japan and the US on 9 May 1952 reaffirmed the principle of the freedom of the seas and was intended to set a favorable precedent for Japan's subsequent agreements with other governments. Nevertheless, this did not mean Japan could fish wherever it wished.<sup>866</sup> Japan agreed to "abstain" from catching halibut, herring and salmon from the Bering Sea area (more precisely, the areas beyond line of meridian 175° West Longitude).<sup>867</sup>

Japan also entered into a fisheries agreement with the PRC. Perhaps because of the Japanese material assistance to the UN war effort in Korea, the PRC seized a total of 158 Japanese fishing vessels operating in the East China Sea and Yellow Sea and detained a total of 1,909 fishermen between 1950 and 1954. Unsurprisingly, the Japanese fishing companies appealed to their government to seek the repatriation of these vessels and their crews and to ensure safe access to these fishing grounds. Subsequently, an agreement was concluded on 15 April 1955 between Beijing and Tokyo to regulate fishing activities in the East China Sea and Yellow Sea; perhaps fortunately for Japan, this agreement was also premised on *mare liberum*.<sup>868</sup> A similar development took place with the Soviet Union. On 20 March 1956, the so-called "Bulganin Line" was proclaimed by Moscow, covering the Sea of Okhotsk and waters stretching from Kamchatka to the Kuril Islands, on the reasoning that unregulated Japanese fishing could otherwise threaten maritime resources. The establishment of the Bulganin Line meant that Japan had to obtain Soviet approval to catch fish in these areas and the Japanese fishing interest was happy. Subsequently, Tokyo and Moscow negotiated and signed a fishing agreement on 15 May 1956. This fishing agreement was also premised on the principle of *mare liberum*, more so than the 1952 trilateral agreement, as it did not even adopt an abstention clause.<sup>869</sup>

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<sup>866</sup> Smith, *Japan's International Fisheries Policy*, 46-50.

<sup>867</sup> International Convention for the High Seas Fisheries of the North Pacific Ocean, 9 May 1952, accessed via UN, <https://treaties.un.org/doc/Publication/UNTS/Volume%20205/v205.pdf>.

<sup>868</sup> Choon-Ho Park, "Fishing under Troubled Waters: the Northeast Asia fisheries controversy," *Ocean Development and International Law* 2-2 (1974): 110-22; Smith, *Japan's International Fisheries Policy*, 54-6.

<sup>869</sup> Fisheries Agency, *50 Years of Fisheries Agency*, 101-4; Smith, *Japan's International Fisheries Policy*, 51-4.

South Korea's case was more unique, as here the attempt to ensure Japan free access to the high seas backfired. To recall, South Korea demanded that the MacArthur Line be maintained in the post-treaty era, in order to protect its fishing interests from the more advanced Japanese fishing vessels. When the US rejected this plea, South Korea declared its own conservation zone along the eastern coast on 18 January 1952. Conventionally called the "Rhee Line" (or "Peace Line"), this was meant to substitute the "MacArthur Line" and protect Korean fishing interests. Thereafter, over 300 Japanese fishing vessels were captured and over 4,000 Japanese fishermen were detained in Korea, causing outrage in Japan. Not surprisingly, Japan and South Korea started to negotiate. However, unlike in the Chinese and Soviet cases, Japan had to wait for more than a decade until an agreement was signed. It was only with the normalization of relations in 1965 that a fishing agreement was signed and the Rhee Line officially lifted. This agreement was different from the aforementioned ones in that the two countries mutually recognized that their territorial waters extended 12 miles from the coast, reflecting the growing challenge to the traditional three-mile rule under *mare liberum*.<sup>870</sup>

In sum, on one hand, the peace treaty gave Japan relative freedom to fish in all high seas. While the treaty did create momentum for Japan to sign a series of fisheries agreements in the subsequent years, these agreements were premised on *mare liberum* and did not significantly threaten Japan's high seas fisheries. It was not until 1982 when the UN Convention on the Law of the Sea – which recognized a country's Exclusive Economic Zone to up to 200 miles – was signed (effective in November 1994) that Japan's maritime freedom was seriously challenged. On the other hand, the San Francisco peace treaty embittered other countries, as it seemed indifferent to their concerns about Japan's fishing activities, as exemplified in South Korea's reaction. While this study cannot go much into detail, Indonesia and the Philippines were also unhappy about the prospect of unrestrained Japanese fishing off their coasts. In other words, the Japanese peace settlement left a complex and contentious legacy in high seas fisheries.

Meanwhile, there were other, more concerning, aspects of the treaty that seriously undermined Japan's sovereignty. To reiterate, Japan's relations with the Soviet bloc were strained for decades. This first became clear when Japan attempted to restore diplomatic relations

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<sup>870</sup> Park, "Fishing under Troubled Waters," 98-110; Cho, "Rhee Line and Korea-Japan Fisheries Talks," 421-46; Higuchi, "Maritime Resources of East China Sea and Yellow Sea, the Natural Resources Section and Korea-Japan Relations," 447-70; Agreement on Fisheries between the Republic of Korea and Japan, 22 June 1965, accessed via ROK MOFA.

with the Soviet Union. In trying to normalize relations with the Soviet Union in 1956, Japan entertained the idea of relinquishing its claim over some of the “Northern Territories” to Moscow. Not only did this amount to formally recognizing Soviet sovereignty over some of those islands, but also clarifying Japanese sovereignty over certain areas that had been left intentionally vague. This threatened to destroy the delicate balance achieved through the ambiguity formula (Article 2); also concerning was that once Japan reclaimed some of those islands, there was a real possibility that Japan might demand the same about the Ryukyus, which could endanger the US control of Okinawa. Hence, the US sought to frustrate Tokyo’s plan, arguing that it would equally demand any territorial concession that might be extended to the Soviet Union and threatening to annex Okinawa. Consequently, the “Northern Territories” question had to be sidelined and no peace treaty was signed. Instead, Japan had to content itself with a Joint Declaration that simply ended the state of war and reopened diplomatic exchanges with Moscow.<sup>871</sup>

Sadly, there still is no peace treaty between Japan and Russia, as they continue to disagree on the Kuril question. While the US certainly shares the blame for hindering Japan’s earlier efforts to establish peace with the Soviet Union, it is also important to note that the Kuril conundrum was collectively made. As explained in Chapter 10, all FEC members made some contribution to leaving the ownership of the Kurils unclear. Hence, as unrelated as it may seem, Japan and Russia are not able to sign a peace treaty because of Canada, which first suggested the ambiguity formula, and Australia also cannot escape responsibility, since it supported the retention of US troops in Okinawa. The point here is not to blame any country; it is to highlight that the territorial disagreement between Japan and Russia had multilateral origins.

Japan also had to wait until 1972 to normalize relations with the PRC, even though there were many elements in the former, especially businesses, which wanted to improve relations with the mainland. This was partly because the peace treaty steered Japan in this direction. To recall, only the US and the Philippines wished to invite the ROC to the San Francisco peace conference, while all other FEC members believed that the PRC should be represented. Regardless of this overwhelming support for the PRC, the US prevented the PRC representation by demanding that Japan should be able to choose with which China it wished to sign a separate peace treaty at a later date. Of course, this was a nominal freedom, as the US had no intention of

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<sup>871</sup> Gallicchio, “The Kuriles Controversy,” 95-7; Hill, “A Disagreement between Allies,” 30-42.

allowing it to establish formal diplomatic ties with the PRC. The peace treaty, in other words, was premised on the idea that Japan would sign a peace treaty with the Nationalist Chinese and not the Communists. Yoshida himself was firmly resolved against signing a peace treaty with the PRC, thus making Japan's alignment with the ROC a foregone conclusion. However, it would be naïve to assume that there was no US pressure. Indeed, regardless of Yoshida's openly anti-communist attitude, Dulles was concerned about Yoshida's possible apostasy – especially as the latter at the Diet hearing on 23 October 1951 had hinted at the possibility of setting up an overseas liaison office in Shanghai – and pressed for a written assurance that Japan would not enter into official relations with mainland China. Yoshida faithfully complied and Japan subsequently signed a peace treaty with the ROC on 28 April 1952, essentially recognizing that government as the legitimate representation of “China,” which in turn became a nuisance for Japan's later attempts to normalize relations with the PRC. At the same time, whatever limited trade relations that Japan enjoyed with the PRC during this period were seriously handicapped, as these transactions had to be strictly private with no implications of government involvement. Furthermore, as part of the pro-American camp, Japan had to comply with the directives from the CoCom (Coordinating Committee for Multilateral Export Controls) and CHINCOM (China Command), which greatly restricted tradable goods.<sup>872</sup>

This episode, together with Japan's troubled relationship with the Soviet Union (Russia), challenges the notion of a lenient peace. Few will dispute that the peace treaty was generous and highly favorable to Japan, as it discarded any draconian military or economic restrictions and was geared towards reconciliation rather than punishment. Yet, the peace treaty hampered Japan's ability to engage with the Soviet bloc. On the one hand, this is not surprising, as the overarching principle of the treaty was to combat communism. On the other hand, the fact that Japan's foreign policy was restricted should surely lead to the conclusion that the peace treaty should not be interpreted as being entirely lenient. This certainly does not mean that the treaty was punitive. At the same time, however, it is an oversimplification to unconditionally eulogize the treaty as being benevolent.

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<sup>872</sup> Inoue, *The Political History of Sino-Japanese Normalization*, 29, 108-536; Hosoya Chihiro, “From the Yoshida Letter to the Nixon Shock,” in *The United States and Japan in the Postwar World*, Akira Iriye and Warren I. Cohen (Lexington: University Press of Kentucky, 1989), 21-35; Warren I. Cohen, “China in Japanese-American Relations,” *Ibid.*, 36-60.

The peace treaty left an equally complex legacy for the other countries, especially China, one of the most unfortunate characters in this story. To recall, both the PRC and ROC were excluded from the peace treaty – not by their own will, but rather by outside powers – which was deeply humiliating for both Chinas. What followed was no less encouraging. In accordance with Article 26 of the San Francisco peace treaty, coupled with pressure from Dulles and Yoshida’s own anti-communist conviction, Japan chose to negotiate a peace treaty with the ROC, which culminated in the Treaty of Taipei. This treaty developed in a way that was contrary to what the ROC had hoped. Most notably, the ROC wanted to ensure that the treaty was premised on the assumption that the ROC was the legitimate government of China and that its jurisdiction therefore extended to the Chinese mainland. However, the Americans, British and the Japanese were against this idea. Consequently, the issue of whether the ROC represented the entire Chinese nation or simply Taiwan was left unclear. Furthermore, Taipei’s effort to sign a treaty that was substantially on equal terms with that signed in San Francisco was frustrated, as Japan wished to avoid adopting any terms that might implicate or aid the Chinese Nationalist claims over the mainland and the US remained reluctant to intervene on the ROC’s behalf. Hence, the ROC had to settle for much less than the San Francisco peace treaty, forgoing its demands for MFN treatment and reparations.<sup>873</sup>

The San Francisco peace treaty was thus a troubling experience for the Chinese Nationalists. Not only was the ROC treated like a disposable asset for the Japanese peace settlement, but also during the subsequent bilateral negotiations, Japan (the former vanquished) was able to press the ROC (the former Ally and a victor) to make major concessions that compromised its prestige and sovereignty. The ROC was thus a victor in name only, and who really emerged from the war as a victor became questionable. Of course, the ROC was not an innocent victim and shared the blame for its own misfortune. After all, its political ineptitude was what had led to its downfall on the mainland in the first place, which in turn significantly curtailed its diplomatic standing. Also important to note is the fact that the settlement did not leave the ROC totally empty-handed; as mentioned above, Japan by signing a peace treaty with the ROC essentially recognized the Chinese Nationalists as the legitimate government of

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<sup>873</sup> Chen, *Japan’s Post-War China Policy*, 40-125; Schonberger, *Aftermath of War*, 278; Hosoya, “Japan, China, the United States and the United Kingdom,” 259; Ruane, “The Origins of the Eden–Dulles Antagonism,” 141-156.

China.<sup>874</sup> Equally important is to recall that this Chinese misfortune – which may seem like a problem simply between the two Chinas, Japan and the US – had a more multilateral dimension. As explained in Chapter 4, the ROC was excluded from the San Francisco peace treaty, because all FEC members (the principal parties to the treaty) except the Philippines and the US opposed its representation.

The PRC did not fare any better. Unlike the ROC, the PRC was ignored during the peace treaty negotiations. Furthermore, the PRC's prospects for establishing formal relations with Japan were effectively ended when the latter signed a peace treaty with the ROC, recognizing the Chinese Nationalists as the legitimate government of China. It had to wait two decades before finally normalizing relations with Japan. And by the time the PRC and Japan were working to formalize relations, the former's freedom to maneuver was greatly restricted, as it could not ignore the already-existing framework: the San Francisco peace treaty and the Treaty of Taipei. This was unfortunate, as the PRC was being constrained by agreements that it neither took part in nor approved. More importantly, it inhibited the PRC's ability to demand indemnification from Japan.

The PRC, "in the interest of the friendship" with Japan, renounced its "demand for war reparations" when it normalized relations with Japan on 29 September 1972. The peace treaty later signed between Japan and the PRC on 12 August 1978 did not even mention reparations. While Japan formally stated that it was "keenly conscious" of the "responsibility for the serious damage that Japan caused in the past to the Chinese people through war and deeply reproaches itself," it accepted neither any responsibility for reparations nor promised any other concrete actions to rectify the past.<sup>875</sup> This was another legacy of the San Francisco peace treaty. To recall, the reparations clause did not make it clear if Japan accepted its responsibility to indemnify the Allied victims and, furthermore, the ROC had already renounced its reparations demands. Hence, there was no legal basis under the San Francisco treaty for the PRC to obligate Japan to accept the responsibility for the wartime damage. Consequently, the issue of the wartime past was left largely unsettled for both Chinas.

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<sup>874</sup> Inoue, *The Political History of Sino-Japanese Normalization*, 35-6, 41-73.

<sup>875</sup> Joint Communiqué of the Government of Japan and the Government of the People's Republic of China, 29 September 1972, accessed via Japanese MOFA; Treaty of Peace and Friendship between Japan and the People's Republic of China, 12 August 1978, accessed via Japanese MOFA; Chae-jin Lee, "The Making of the Sino-Japanese Peace and Friendship Treaty," *Pacific Affairs* 52-3 (1979): 420-45; Caroline Rose, *Sino-Japanese relations: towards a future-oriented diplomacy* (New York: Routledge, 2004), 45-9.

Of course, the PRC also played a role in leaving the past unsettled, as it prioritized promptly normalizing relations with Japan above anything else due to its continuing animosity towards the Soviet Union. Furthermore, the PRC was more interested in delegitimizing the ROC rather than gaining reparations. Indeed, at a meeting with Tanaka Kakuei (Japanese Prime Minister) on 25 September 1975, Zhou Enlai (PRC Premier) recognized the “hardships that reparation causes” and expressed willingness to renounce it. However, Zhou did make an issue out of Japan’s argument that since the ROC renounced reparations, the PRC should do likewise.<sup>876</sup> In other words, the problem for the PRC was not reparations itself, but rather the idea that its rival regime’s (ROC’s) decisions should necessarily dictate PRC’s behavior.<sup>877</sup> Only in the mid-1990s, more than two decades after normalizing relations with Japan, did the PRC government respond to the surging public anger towards Japan’s past atrocities, such as the Nanjing massacre, and its present insensitivity to Chinese grievances by recognizing individual rights to claim compensation from Japan and erecting memorials in remembrance of wartime victims.<sup>878</sup>

Nevertheless, there is no denying that the San Francisco peace treaty – and the fact that the PRC was excluded from it – acted as a legal constraint on how far the PRC could require Japan to redress its past. Again, it is important to note that this had an international dimension. Had the Allies been more forceful in demanding reparations, the treaty might have adopted a more forceful indemnification responsibility for Japan. Instead, the Philippines engaged in a lone battle to convince the US to move away from the no-reparations formula, while other Western Allies were either indifferent to or willing to comply with the US demands to minimize the economic burden on Japan.

The Japanese peace settlement also placed South Korea in a tricky situation in its relations with Japan. To recall, South Korea was excluded from the treaty and subsequently had to negotiate directly with Tokyo to normalize relations. The normalization talks were fraught

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<sup>876</sup> Record of the second meeting between Prime Minister Tanaka and Premier Zhou Enlai, 26 September 1972, accessed via Wilson Center Digital Archive.

<sup>877</sup> In place of reparations, the PRC won a long-term loan agreement that was signed with Japan in 1978 and paved the way for an Overseas Development Assistance (ODA) program that contributed tremendously to the PRC’s modernization. Refer to: Reinhard Drifte, “The Ending of Japan’s ODA Loan Programme to China—All’s well that ends well?,” *Asia-Pacific Review* 13-1 (2006): 94-117.

<sup>878</sup> Yinan He, “The Bitter Legacies of the 1972 Sino-Japanese Normalization Talks,” Wilson Center Cold War International History Project Blog Post, 13 March 2017, <https://www.wilsoncenter.org/blog-post/the-bitter-legacies-of-the-1972-sino-japanese-normalization-talks>.

with numerous controversies. For one thing, Seoul was in an extremely weak bargaining position, as the country was devastated by the war with the communist north, while Japan had already emerged from the ashes of conflict and was on the path of rapid economic growth. Unsurprisingly, South Korea had to settle for much less than it wished for, fueling widespread and at times violent demonstrations by Korean public. It was amid this inauspicious atmosphere that the “Treaty on Basic Relations between Republic of Korea and Japan” was signed on 22 June 1965.

One of the most controversial aspects of the “Basic Relations Treaty” that fueled public outrage was Article 2, which stated that the 1910 annexation treaty was “already null and void.”<sup>879</sup> This wording essentially allowed South Korea and Japan to interpret the legality (or illegality) of the annexation to their own convenience. Whereas Korea maintains that Japan’s annexation of Korea was illegitimate from the beginning, Japan claims that it was valid up until the latter’s defeat in 1945.<sup>880</sup> This conflicting interpretation owes to the fact that the annexation treaty was never formally repealed. South Korea was thus forced into a lonely battle to delegitimize it. Whatever the case, the sheer fact that the normalization treaty gave Japan pretext to claim the annexation as having been legal was a significant blow to South Korea’s pride.

Furthermore, while Japan paid some \$600 million to South Korea as part of a “claims” dispute, this money was never labelled “reparations” or “restitution.” Instead, Japan argued that this was a gift to celebrate Korea’s independence and to foster the new bilateral economic partnership.<sup>881</sup> The premise was that there was no wrongful past to be compensated for between the two countries. Japan maintains this position today and it is a source of continuing bitterness in Korea. Japan was also able to get South Korea to agree that the “problem concerning property, rights and interests...and concerning claims” was “settled completely and finally.”<sup>882</sup> Japan takes this literally and argues accordingly that there are no issues left unresolved between the two countries.

Throughout the Cold War, South Korea was careful not to make an issue out of Japan’s past, and instead focused on developing the economy and staying vigilant against the communist

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<sup>879</sup> Treaty of Basic Relations between the Republic of Korea and Japan, 22 June 1965, accessed via ROK MOFA.

<sup>880</sup> Min Pyong-gi, “The San Francisco Peace Treaty and the Korea-Japan Relations,” *The Journal of Asiatic Studies* 8-3 (1965): 1-26; Yi, *Square One*.

<sup>881</sup> For details, refer to: Chang, *The Past Unsettled*, 651-821.

<sup>882</sup> Agreement on the Settlement of Problem concerning Property and Claims and the Economic Cooperation between the Republic of Korea and Japan, 22 June 1965, accessed via UN, <https://treaties.un.org/doc/Publication/UNTS/Volume%20583/volume-583-I-8473-English.pdf>.



threat. However, with the end of the US-Soviet rivalry and democratization of Korea, the South Korean public's anger against its own government and Japan in handling the questions of the past became explosive. Perhaps in response to this formidable public outcry that has been increasing in intensity from the 1990s onwards, the South Korean Supreme Court in October 2018 finally ruled that the 1965 "claims" settlement had not properly addressed the problems of Japan's "illegitimate" colonial past and ordered the Korean branch of Nippon Steel (successor of Yawata Steel) to pay indemnification.<sup>883</sup> While this is a major victory for the former wartime victims, it has come at the significant cost of seriously damaging bilateral relations with Japan.

Important to remember is that while the "history issues" between Korea and Japan are often framed as a "bilateral" problem, examining the San Francisco peace treaty reveals them to be actually multilateral. One of the reasons that Korea-Japan relations became so acrimonious is arguably that Korea was excluded from the peace treaty. Had South Korea signed the 1951 treaty, it theoretically would have been recognized as a belligerent and entitled to war reparations. Although the US in all likelihood would have blocked Korea from demanding an indemnity and the latter would have given in, there is a difference between giving up one's rights voluntarily and being deprived them altogether. South Korea's case belongs to the latter scenario, contributing to the feeling that it had not been properly heard and that there still is a wrongful past to be settled. The exclusion of the South Korea, meanwhile, was an international decision that involved Britain, Japan, South Korea and the US. It is also worth noting that South Korea's case is not exceptional in a sense that the Chinese and the Europeans (British, Dutch and the French) also had qualms about Japan's wartime past. In short, Korea's "history issue" cannot be isolated from this broader issue of Japan's unsettled past with other countries.

The postwar disposition of Japan's former territories also caused considerable antagonism between Japan and her neighbors. As explained in Chapter 10, the ownership of a number of controversial island territories was left unresolved in the peace treaty. Consequently, Japan and its neighbors still wrestle with some bitter disputes. The Kuril Islands dispute, as mentioned above, continues to be a thorny issue between Japan and Russia, as each continues to claim its sovereign rights over them, and this has prevented the two countries from signing a

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<sup>883</sup> 대법원 판결 2013 다 61381 [South Korean Supreme Court Ruling, case number 2013 다 61381], 30 October 2018, accessed via 대법원 [Supreme Court of Korea], [https://www.scourt.go.kr/sjudge/1540892085928\\_183445.pdf](https://www.scourt.go.kr/sjudge/1540892085928_183445.pdf).

peace treaty until today.<sup>884</sup> Japan also continues to wrestle with South Korea over the Liancourt Rocks. South Korea has effectively occupied the islands since the end of the war, while the former has persistently demanded that the issue be brought before the ICJ. While it may seem comical that two uninhabitable rocks could cause outrage, this issue is taken seriously in both countries. Indeed, 22 February is celebrated as “Takeshima Day” in Shimane Prefecture to commemorate Japan’s sovereignty over the Liancourt Rocks, while some Koreans in recent years have been changing their permanent address in their official registry to “Tokdo.”

Japan is also embroiled in another territorial dispute with “China” over a chain of islands called Senkaku/Diaoyutai, with the former claiming the islands to be an extension of the Ryukyus and the latter claiming it to be part of Taiwan. The dispute began in the early 1970s after oil deposits were found near the islands; the seas surrounding the islands are also rich fisheries and an important maritime navigation route. Not surprisingly, Japan, PRC and ROC have claimed sovereign rights over them. It has also taken on a military dimension as the PRC, in an effort to strengthen its sovereignty over the area, has declared an Air Defense Identification Zone over the waters surrounding the islands, thus obligating any commercial aircraft entering that zone to notify Beijing. This zone overlaps with that of Japan. Both countries also have military vessels patrolling the area, further escalating tensions and raising concerns about a potential armed clash.<sup>885</sup>

Although Japan is not involved, the South China Seas disputes involving the Spratly and Paracel islands also continue between Brunei, Malaysia, the Philippines, the PRC, the ROC and Vietnam. The tension has been gradually escalating since the 1960s and have become more serious in recent years, as China (PRC) appears to be militarizing the area and the US is beginning to become more assertive in opposing the Chinese actions. While the PRC claims that Chinese sovereignty over the islands stretch back for many centuries, this is not shared by other governments, including the US, which recently denounced the PRC claims over the islands as having “no legal grounds.”<sup>886</sup>

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<sup>884</sup> Seokwoo Lee, “The 1951 San Francisco Peace Treaty with Japan and the Territorial Disputes in East Asia,” *Pacific Rim Law and Policy Journal Association* 11-1 (2002): 97.

<sup>885</sup> Unryu Sukanuma, “Japan and China: Senkaku/Diaoyu and the Okinawa/Liuqiu problems,” in *The San Francisco System and its Legacies: continuation, transformation and historical reconciliation in the Asia-Pacific*, Hara Kimie et. al. (New York: Routledge, 2015), 55-78; Hara, *Cold War Frontiers*, 158-83.

<sup>886</sup> Press Statement by Michael Pompeo (Secretary of States): U.S. Position on Maritime Claims in the South China Sea, 13 July 2020, accessed via State Department, <https://www.state.gov/u-s-position-on-maritime-claims-in-the-south-china-sea/>

It is important to remember that all members of the FEC, not simply the US, contributed to the formation of the territorial clauses of the Japanese peace treaty and thus to the on-going territorial disputes. The implication is that while these territorial disputes (except South China Seas) may appear to be a bilateral problem, they have multilateral origins. Hence, for instance, the dispute over the Liancourt Rocks is also an American creation. After all, its ownership was left unspecified partly because it wished to secure control over the Mandate Islands and the Ryukyus. Likewise, France cannot escape the South China Seas disputes, as it was the main force behind reviving the terms on Spratly and Paracel Islands and leaving their ownership ambiguous. Similarly, Australia is indirectly involved in the origins of the Senkaku dispute, as it contributed to leaving the ownership of the Ryukyus and Taiwan undefined; according to this formula, whether the Senkaku belongs to the Ryukyus or Taiwan, it is ultimately unclear who owns any of them. The lesson here is that territorial disputes in Asia-Pacific would require a detailed and more international understanding of how they came about.

### **Final Remarks**

The various controversies aside, the Japanese peace treaty was a landmark in postwar world history. Its legacies still reverberate today. The treaty is also a reminder that postwar Japan cannot be isolated from the broader world. Developments in Japan impacted the region surrounding it, as well as those far away; the same was true the other way around, as various developments outside Japan affected the country in profound ways. This is still true. This valuable lesson should not be forgotten for all those who care about Japan and the region. This is especially important, as scholars have recently begun to raise the possibility of creating a post-San Francisco system order. In other words, will the San Francisco system be replaced by something else? If so, what kind of regional order will this be and when will this happen? This is no simple question, as there are too many factors – which are often too unpredictable – that affect the world we live in. But facing this uncertain future, it is always useful to keep in mind that any questions involving Japan require a broad lens and the ability to analyze the situation from a more international angle.

## **Appendix A**

### **TREATY OF PEACE WITH JAPAN**

Whereas the Allied Powers and Japan are resolved that henceforth their relations shall be those of nations which, as sovereign equals, cooperate in friendly association to promote their common welfare and to maintain international peace and security, and are therefore desirous of concluding a Treaty of Peace which will settle questions still outstanding as a result of the existence of a state of war between them;

Whereas Japan for its part declares its intention to apply for membership in the United Nations and in all circumstances to conform to the principles of the Charter of the United Nations; to strive to realize the objectives of the Universal Declaration of Human Rights; to seek to create within Japan conditions of stability and well-being as defined in Articles 55 and 56 of the Charter of the United Nations and already initiated by post-surrender Japanese legislation; and in public and private trade and commerce to conform to internationally accepted fair practices;

Whereas the Allied Powers welcome the intentions of Japan set out in the foregoing paragraph;

The Allied Powers and Japan have therefore determined to conclude the present Treaty of Peace, and have accordingly appointed the undersigned Plenipotentiaries, who, after presentation of their full powers, found in good and due form, have agreed on the following provisions:

#### **CHAPTER I: PEACE**

##### **Article 1**

- (a) The state of war between Japan and each of the Allied Powers is terminated as from the date on which the present Treaty comes into force between Japan and the Allied Power concerned as provided for in Article 23.
- (b) The Allied Powers recognize the full sovereignty of the Japanese people over Japan and its territorial waters.

#### **CHAPTER II: TERRITORY**

##### **Article 2**

- (a) Japan recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.
- (b) Japan renounces all right, title and claim to Formosa and the Pescadores.
- (c) Japan renounces all right, title and claim to the Kurile Islands, and to that portion of Sakhalin and the islands adjacent to it over which Japan acquired sovereignty as a consequence of the Treaty of Portsmouth of 5 September 1905.
- (d) Japan renounces all right, title and claim in connection with the League of Nations Mandate System, and accepts the action of the United Nations Security Council of 2 April 1947, extending the trusteeship system to the Pacific Islands formerly under mandate to Japan.
- (e) Japan renounces all claim to any right or title to or interest in connection with any part of the Antarctic area, whether deriving from the activities of Japanese nationals or otherwise.

(f) Japan renounces all right, title and claim to the Spratly Islands and to the Paracel Islands.

### **Article 3**

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° 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.

### **Article 4**

- (a) Subject to the provisions of paragraph (b) of this Article, the disposition of property of Japan and of its nationals in the areas referred to in Article 2, and their claims, including debts, against the authorities presently administering such areas and the residents (including juridical persons) thereof, and the disposition in Japan of property of such authorities and residents, and of claims, including debts, of such authorities and residents against Japan and its nationals, shall be the subject of special arrangements between Japan and such authorities. The property of any of the Allied Powers or its nationals in the areas referred to in Article 2 shall, insofar as this has not already been done, be returned by the administering authority in the condition in which it now exists. (The term nationals whenever used in the present Treaty includes juridical persons.)
- (b) Japan recognizes the validity of dispositions of property of Japan and Japanese nationals made by or pursuant to directives of the United States Military Government in any of the areas referred to in Articles 2 and 3.
- (c) Japanese owned submarine cables connection Japan with territory removed from Japanese control pursuant to the present Treaty shall be equally divided, Japan retaining the Japanese terminal and adjoining half of the cable, and the detached territory the remainder of the cable and connecting terminal facilities.

## **CHAPTER III: SECURITY**

### **Article 5**

- (a) Japan accepts the obligations set forth in Article 2 of the Charter of the United Nations, and in particular the obligations
  - (i) to settle its international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered;
  - (ii) to refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the Purposes of the United Nations;
  - (iii) to give the United Nations every assistance in any action it takes in accordance with the Charter and to refrain from giving assistance to any State against which the United Nations may take preventive or enforcement action.
- (b) The Allied Powers confirm that they will be guided by the principles of Article 2 of the Charter of the United Nations in their relations with Japan.

- (c) The Allied Powers for their part recognize that Japan as a sovereign nation possesses the inherent right of individual or collective self-defense referred to in Article 51 of the Charter of the United Nations and that Japan may voluntarily enter into collective security arrangements.

#### **Article 6**

- (a) All occupation forces of the Allied Powers shall be withdrawn from Japan as soon as possible after the coming into force of the present Treaty, and in any case not later than 90 days thereafter. Nothing in this provision shall, however, prevent the stationing or retention of foreign armed forces in Japanese territory under or in consequence of any bilateral or multilateral agreements which have been or may be made between one or more of the Allied Powers, on the one hand, and Japan on the other.
- (b) The provisions of Article 9 of the Potsdam Proclamation of 26 July 1945, dealing with the return of Japanese military forces to their homes, to the extent not already completed, will be carried out.
- (c) All Japanese property for which compensation has not already been paid, which was supplied for the use of the occupation forces and which remains in the possession of those forces at the time of the coming into force of the present Treaty, shall be returned to the Japanese Government within the same 90 days unless other arrangements are made by mutual agreement.

### **CHAPTER IV: POLITICAL AND ECONOMIC CLAUSES**

#### **Article 7**

- (a) Each of the Allied Powers, within one year after the present Treaty has come into force between it and Japan, will notify Japan which of its prewar bilateral treaties or conventions with Japan it wishes to continue in force or revive, and any treaties or conventions so notified shall continue in force or be revived subject only to such amendments as may be necessary to ensure conformity with the present Treaty. The treaties and conventions so notified shall be considered as having been continued in force or revived three months after the date of notification and shall be registered with the Secretariat of the United Nations. All such treaties and conventions as to which Japan is not so notified shall be regarded as abrogated.
- (b) Any notification made under paragraph (a) of this Article may except from the operation or revival of a treaty or convention any territory for the international relations of which the notifying Power is responsible, until three months after the date on which notice is given to Japan that such exception shall cease to apply.

#### **Article 8**

- (a) Japan will recognize the full force of all treaties now or hereafter concluded by the Allied Powers for terminating the state of war initiated on 1 September 1939, as well as any other arrangements by the Allied Powers for or in connection with the restoration of peace. Japan also accepts the arrangements made for terminating the former League of Nations and Permanent Court of International Justice.
- (b) Japan renounces all such rights and interests as it may derive from being a signatory power of the Conventions of St. Germain-en-Laye of 10 September 1919, and the Straits Agreement of

Montreux of 20 July 1936, and from Article 16 of the Treaty of Peace with Turkey signed at Lausanne on 24 July 1923.

- (c) Japan renounces all rights, title and interests acquired under, and is discharged from all obligations resulting from, the Agreement between Germany and the Creditor Powers of 20 January 1930 and its Annexes, including the Trust Agreement, dated 17 May 1930, the Convention of 20 January 1930, respecting the Bank for International Settlements; and the Statutes of the Bank for International Settlements. Japan will notify to the Ministry of Foreign Affairs in Paris within six months of the first coming into force of the present Treaty its renunciation of the rights, title and interests referred to in this paragraph.

#### **Article 9**

Japan will enter promptly into negotiations with the Allied Powers so desiring for the conclusion of bilateral and multilateral agreements providing for the regulation or limitation of fishing and the conservation and development of fisheries on the high seas.

#### **Article 10**

Japan renounces all special rights and interests in China, including all benefits and privileges resulting from the provisions of the final Protocol signed at Peking on 7 September 1901, and all annexes, notes and documents supplementary thereto, and agrees to the abrogation in respect to Japan of the said protocol, annexes, notes and documents.

#### **Article 11**

Japan accepts the judgments of the International Military Tribunal for the Far East and of other Allied War Crimes Courts both within and outside Japan, and will carry out the sentences imposed thereby upon Japanese nationals imprisoned in Japan. The power to grant clemency, to reduce sentences and to parole with respect to such prisoners may not be exercised except on the decision of the Government or Governments which imposed the sentence in each instance, and on recommendation of Japan. In the case of persons sentenced by the International Military Tribunal for the Far East, such power may not be exercised except on the decision of a majority of the Governments represented on the Tribunal, and on the recommendation of Japan.

#### **Article 12**

- (a) Japan declares its readiness promptly to enter into negotiations for the conclusion with each of the Allied Powers of treaties or agreements to place their trading, maritime and other commercial relations on a stable and friendly basis.
- (b) Pending the conclusion of the relevant treaty or agreement, Japan will, during a period of four years from the first coming into force of the present Treaty
  - (1) accord to each of the Allied Powers, its nationals, products and vessels
    - (i) most-favored-nation treatment with respect to customs duties, charges, restrictions and other regulations on or in connection with the importation and exportation of goods;
    - (ii) national treatment with respect to shipping, navigation and imported goods, and with respect to natural and juridical persons and their interests - such treatment to include all matters pertaining to the levying and collection of taxes, access to the courts, the making and performance of contracts, rights to property (tangible and intangible), participating in juridical entities constituted under Japanese law, and generally the conduct of all kinds of business and professional activities;

- (2) ensure that external purchases and sales of Japanese state trading enterprises shall be based solely on commercial considerations.
- (c) In respect to any matter, however, Japan shall be obliged to accord to an Allied Power national treatment, or most-favored-nation treatment, only to the extent that the Allied Power concerned accords Japan national treatment or most-favored-nation treatment, as the case may be, in respect of the same matter. The reciprocity envisaged in the foregoing sentence shall be determined, in the case of products, vessels and juridical entities of, and persons domiciled in, any non-metropolitan territory of an Allied Power, and in the case of juridical entities of, and persons domiciled in, any state or province of an Allied Power having a federal government, by reference to the treatment accorded to Japan in such territory, state or province.
- (d) In the application of this Article, a discriminatory measure shall not be considered to derogate from the grant of national or most-favored-nation treatment, as the case may be, if such measure is based on an exception customarily provided for in the commercial treaties of the party applying it, or on the need to safeguard that party's external financial position or balance of payments (except in respect to shipping and navigation), or on the need to maintain its essential security interests, and provided such measure is proportionate to the circumstances and not applied in an arbitrary or unreasonable manner.
- (e) Japan's obligations under this Article shall not be affected by the exercise of any Allied rights under Article 14 of the present Treaty; nor shall the provisions of this Article be understood as limiting the undertakings assumed by Japan by virtue of Article 15 of the Treaty.

### **Article 13**

- (a) Japan will enter into negotiations with any of the Allied Powers, promptly upon the request of such Power or Powers, for the conclusion of bilateral or multilateral agreements relating to international civil air transport.
- (b) Pending the conclusion of such agreement or agreements, Japan will, during a period of four years from the first coming into force of the present Treaty, extend to such Power treatment not less favorable with respect to air-traffic rights and privileges than those exercised by any such Powers at the date of such coming into force, and will accord complete equality of opportunity in respect to the operation and development of air services.
- (c) Pending its becoming a party to the Convention on International Civil Aviation in accordance with Article 93 thereof, Japan will give effect to the provisions of that Convention applicable to the international navigation of aircraft, and will give effect to the standards, practices and procedures adopted as annexes to the Convention in accordance with the terms of the Convention.

## **CHAPTER V: CLAIMS AND PROPERTY**

### **Article 14**

- (a) It is recognized that Japan should pay reparations to the Allied Powers for the damage and suffering caused by it during the war. Nevertheless it is also recognized that the resources of Japan are not presently sufficient, if it is to maintain a viable economy, to make complete reparation for all such damage and suffering and at the same time meet its other obligations. Therefore,



1. Japan will promptly enter into negotiations with Allied Powers so desiring, whose present territories were occupied by Japanese forces and damaged by Japan, with a view to assisting to compensate those countries for the cost of repairing the damage done, by making available the services of the Japanese people in production, salvaging and other work for the Allied Powers in question. Such arrangements shall avoid the imposition of additional liabilities on other Allied Powers, and, where the manufacturing of raw materials is called for, they shall be supplied by the Allied Powers in question, so as not to throw any foreign exchange burden upon Japan.
2. (I) Subject to the provisions of subparagraph (II) below, each of the Allied Powers shall have the right to seize, retain, liquidate or otherwise dispose of all property, rights and interests of
  - (a) Japan and Japanese nationals,
  - (b) persons acting for or on behalf of Japan or Japanese nationals, and
  - (c) entities owned or controlled by Japan or Japanese nationals, which on the first coming into force of the present Treaty were subject to its jurisdiction. The property, rights and interests specified in this subparagraph shall include those now blocked, vested or in the possession or under the control of enemy property authorities of Allied Powers, which belong to, or were held or managed on behalf of, any of the persons or entities mentioned in (a), (b) or (c) above at the time such assets came under the controls of such authorities.
- (II) The following shall be excepted from the right specified in subparagraph (I) above:
  - (i) property of Japanese natural persons who during the war resided with the permission of the Government concerned in the territory of one of the Allied Powers, other than territory occupied by Japan, except property subjected to restrictions during the war and not released from such restrictions as of the date of the first coming into force of the present Treaty;
  - (ii) all real property, furniture and fixtures owned by the Government of Japan and used for diplomatic or consular purposes, and all personal furniture and furnishings and other private property not of an investment nature which was normally necessary for the carrying out of diplomatic and consular functions, owned by Japanese diplomatic and consular personnel;
  - (iii) property belonging to religious bodies or private charitable institutions and used exclusively for religious or charitable purposes;
  - (iv) property, rights and interests which have come within its jurisdiction in consequence of the resumption of trade and financial relations subsequent to 2 September 1945, between the country concerned and Japan, except such as have resulted from transactions contrary to the laws of the Allied Power concerned;
  - (v) obligations of Japan or Japanese nationals, any right, title or interest in tangible property located in Japan, interests in enterprises organized under the laws of Japan, or any paper evidence thereof; provided that this exception shall only apply to obligations of Japan and its nationals expressed in Japanese currency.
- (III) Property referred to in exceptions (i) through (v) above shall be returned subject to reasonable expenses for its preservation and administration. If any such property has been liquidated the proceeds shall be returned instead.
- (IV) The right to seize, retain, liquidate or otherwise dispose of property as provided in subparagraph (I) above shall be exercised in accordance with the laws of the Allied

Power concerned, and the owner shall have only such rights as may be given him by those laws.

- (V) The Allied Powers agree to deal with Japanese trademarks and literary and artistic property rights on a basis as favorable to Japan as circumstances ruling in each country will permit.
- (b) Except as otherwise provided in the present Treaty, the Allied Powers waive all reparations claims of the Allied Powers, other claims of the Allied Powers and their nationals arising out of any actions taken by Japan and its nationals in the course of the prosecution of the war, and claims of the Allied Powers for direct military costs of occupation.

### **Article 15**

- (a) Upon application made within nine months of the coming into force of the present Treaty between Japan and the Allied Power concerned, Japan will, within six months of the date of such application, return the property, tangible and intangible, and all rights or interests of any kind in Japan of each Allied Power and its nationals which was within Japan at any time between 7 December 1941 and 2 September 1945, unless the owner has freely disposed thereof without duress or fraud. Such property shall be returned free of all encumbrances and charges to which it may have become subject because of the war, and without any charges for its return. Property whose return is not applied for by or on behalf of the owner or by his Government within the prescribed period may be disposed of by the Japanese Government as it may determine. In cases where such property was within Japan on 7 December 1941, and cannot be returned or has suffered injury or damage as a result of the war, compensation will be made on terms not less favorable than the terms provided in the draft Allied Powers Property Compensation Law approved by the Japanese Cabinet on 13 July 1951.
- (b) With respect to industrial property rights impaired during the war, Japan will continue to accord to the Allied Powers and their nationals benefits no less than those heretofore accorded by Cabinet Orders No. 309 effective 1 September 1949, No. 12 effective 28 January 1950, and No. 9 effective 1 February 1950, all as now amended, provided such nationals have applied for such benefits within the time limits prescribed therein.
- (c) (i) Japan acknowledges that the literary and artistic property rights which existed in Japan on 6 December 1941, in respect to the published and unpublished works of the Allied Powers and their nationals have continued in force since that date, and recognizes those rights which have arisen, or but for the war would have arisen, in Japan since that date, by the operation of any conventions and agreements to which Japan was a party on that date, irrespective of whether or not such conventions or agreements were abrogated or suspended upon or since the outbreak of war by the domestic law of Japan or of the Allied Power concerned.
- (ii) Without the need for application by the proprietor of the right and without the payment of any fee or compliance with any other formality, the period from 7 December 1941 until the coming into force of the present Treaty between Japan and the Allied Power concerned shall be excluded from the running of the normal term of such rights; and such period, with an additional period of six months, shall be excluded from the time within which a literary work must be translated into Japanese in order to obtain translating rights in Japan.

### **Article 16**

As an expression of its desire to indemnify those members of the armed forces of the Allied Powers who suffered undue hardships while prisoners of war of Japan, Japan will transfer its assets and those of its nationals in countries which were neutral during the war, or which were at war with any of the Allied Powers, or, at its option, the equivalent of such assets, to the International Committee of the Red Cross which shall liquidate such assets and distribute the resultant fund to appropriate national agencies, for the benefit of former prisoners of war and their families on such basis as it may determine to be equitable. The categories of assets described in Article 14(a)2(II)(ii) through (v) of the present Treaty shall be excepted from transfer, as well as assets of Japanese natural persons not residents of Japan on the first coming into force of the Treaty. It is equally understood that the transfer provision of this Article has no application to the 19,770 shares in the Bank for International Settlements presently owned by Japanese financial institutions.

#### **Article 17**

- (a) Upon the request of any of the Allied Powers, the Japanese Government shall review and revise in conformity with international law any decision or order of the Japanese Prize Courts in cases involving ownership rights of nationals of that Allied Power and shall supply copies of all documents comprising the records of these cases, including the decisions taken and orders issued. In any case in which such review or revision shows that restoration is due, the provisions of Article 15 shall apply to the property concerned.
- (b) The Japanese Government shall take the necessary measures to enable nationals of any of the Allied Powers at any time within one year from the coming into force of the present Treaty between Japan and the Allied Power concerned to submit to the appropriate Japanese authorities for review any judgment given by a Japanese court between 7 December 1941 and such coming into force, in any proceedings in which any such national was unable to make adequate presentation of his case either as plaintiff or defendant. The Japanese Government shall provide that, where the national has suffered injury by reason of any such judgment, he shall be restored in the position in which he was before the judgment was given or shall be afforded such relief as may be just and equitable in the circumstances.

#### **Article 18**

- (a) It is recognized that the intervention of the state of war has not affected the obligation to pay pecuniary debts arising out of obligations and contracts (including those in respect of bonds) which existed and rights which were acquired before the existence of a state of war, and which are due by the Government or nationals of Japan to the Government or nationals of one of the Allied Powers, or are due by the Government or nationals of one of the Allied Powers to the Government or nationals of Japan. The intervention of a state of war shall equally not be regarded as affecting the obligation to consider on their merits claims for loss or damage to property or for personal injury or death which arose before the existence of a state of war, and which may be presented or re-presented by the Government of one of the Allied Powers to the Government of Japan, or by the Government of Japan to any of the Governments of the Allied Powers. The provisions of this paragraph are without prejudice to the rights conferred by Article 14.
- (b) Japan affirms its liability for the prewar external debt of the Japanese State and for debts of corporate bodies subsequently declared to be liabilities of the Japanese State, and expresses its intention to enter into negotiations at an early date with its creditors with respect to the

resumption of payments on those debts; to encourage negotiations in respect to other prewar claims and obligations; and to facilitate the transfer of sums accordingly.

#### **Article 19**

- (a) Japan waives all claims of Japan and its nationals against the Allied Powers and their nationals arising out of the war or out of actions taken because of the existence of a state of war, and waives all claims arising from the presence, operations or actions of forces or authorities of any of the Allied Powers in Japanese territory prior to the coming into force of the present Treaty.
- (b) The foregoing waiver includes any claims arising out of actions taken by any of the Allied Powers with respect to Japanese ships between 1 September 1939 and the coming into force of the present Treaty, as well as any claims and debts arising in respect to Japanese prisoners of war and civilian internees in the hands of the Allied Powers, but does not include Japanese claims specifically recognized in the laws of any Allied Power enacted since 2 September 1945.
- (c) Subject to reciprocal renunciation, the Japanese Government also renounces all claims (including debts) against Germany and German nationals on behalf of the Japanese Government and Japanese nationals, including intergovernmental claims and claims for loss or damage sustained during the war, but excepting (a) claims in respect of contracts entered into and rights acquired before 1 September 1939, and (b) claims arising out of trade and financial relations between Japan and Germany after 2 September 1945. Such renunciation shall not prejudice actions taken in accordance with Articles 16 and 20 of the present Treaty.
- (d) Japan recognizes the validity of all acts and omissions done during the period of occupation under or in consequence of directives of the occupation authorities or authorized by Japanese law at that time, and will take no action subjecting Allied nationals to civil or criminal liability arising out of such acts or omissions.

#### **Article 20**

Japan will take all necessary measures to ensure such disposition of German assets in Japan as has been or may be determined by those powers entitled under the Protocol of the proceedings of the Berlin Conference of 1945 to dispose of those assets, and pending the final disposition of such assets will be responsible for the conservation and administration thereof.

#### **Article 21**

Notwithstanding the provisions of Article 25 of the present Treaty, China shall be entitled to the benefits of Articles 10 and 14(a)2; and Korea to the benefits of Articles 2, 4, 9 and 12 of the present Treaty.

### **CHAPTER VI: SETTLEMENT OF DISPUTES**

#### **Article 22**

If in the opinion of any Party to the present Treaty there has arisen a dispute concerning the interpretation or execution of the Treaty, which is not settled by reference to a special claims tribunal or by other agreed means, the dispute shall, at the request of any party thereto, be referred for decision to the International Court of Justice. Japan and those Allied Powers which are not already parties to the Statute of the International Court of Justice will deposit with the

Registrar of the Court, at the time of their respective ratifications of the present Treaty, and in conformity with the resolution of the United Nations Security Council, dated 15 October 1946, a general declaration accepting the jurisdiction, without special agreement, of the Court generally in respect to all disputes of the character referred to in this Article.

## **CHAPTER VII: FINAL CLAUSES**

### **Article 23**

- (a) The present Treaty shall be ratified by the States which sign it, including Japan, and will come into force for all the States which have then ratified it, when instruments of ratification have been deposited by Japan and by a majority, including the United States of America as the principal occupying Power, of the following States, namely Australia, Canada, Ceylon, France, Indonesia, the Kingdom of the Netherlands, New Zealand, Pakistan, the Republic of the Philippines, the United Kingdom of Great Britain and Northern Ireland, and the United States of America. The present Treaty shall come into force of each State which subsequently ratifies it, on the date of the deposit of its instrument of ratification.
- (b) If the Treaty has not come into force within nine months after the date of the deposit of Japan's ratification, any State which has ratified it may bring the Treaty into force between itself and Japan by a notification to that effect given to the Governments of Japan and the United States of America not later than three years after the date of deposit of Japan's ratification.

### **Article 24**

All instruments of ratification shall be deposited with the Government of the United States of America which will notify all the signatory States of each such deposit, of the date of the coming into force of the Treaty under paragraph (a) of Article 23, and of any notifications made under paragraph (b) of Article 23.

### **Article 25**

For the purposes of the present Treaty the Allied Powers shall be the States at war with Japan, or any State which previously formed a part of the territory of a State named in Article 23, provided that in each case the State concerned has signed and ratified the Treaty. Subject to the provisions of Article 21, the present Treaty shall not confer any rights, titles or benefits on any State which is not an Allied Power as herein defined; nor shall any right, title or interest of Japan be deemed to be diminished or prejudiced by any provision of the Treaty in favour of a State which is not an Allied Power as so defined.

### **Article 26**

Japan will be prepared to conclude with any State which signed or adhered to the United Nations Declaration of 1 January 1942, and which is at war with Japan, or with any State which previously formed a part of the territory of a State named in Article 23, which is not a signatory of the present Treaty, a bilateral Treaty of Peace on the same or substantially the same terms as are provided for in the present Treaty, but this obligation on the part of Japan will expire three years after the first coming into force of the present Treaty. Should Japan make a peace settlement or war claims settlement with any State granting that State greater advantages than

those provided by the present Treaty, those same advantages shall be extended to the parties to the present Treaty.

**Article 27**

The present Treaty shall be deposited in the archives of the Government of the United States of America which shall furnish each signatory State with a certified copy thereof.

## Appendix B

ACJ	Allied Council for Japan
ANZUS	Australia, New Zealand, United States Security Treaty
AS	Associated States
CCP	Chinese Communist Party
CFM	Council of Foreign Ministers
DJFP	Documents on Japanese Foreign Policy
DOS	Department of State
DRV	Democratic Republic of Vietnam
FEAC	Far Eastern Advisory Commission
FEC	Far Eastern Commission
FRUS	Foreign Relations of the United States
GPO	Government Printing Office
HSTL	Harry S. Truman Library
IDACFE	Inter-Divisional Area Committee on the Far East
JACAR	Japan Center for Asian Historical Records
JCS	Joint Chiefs of Staff
KPG	Korean Provisional Government (Taehanminguk Imsi Chǒngbu)
LAC	Library and Archives of Canada
LOC	Library of Congress
MOFA	Ministry of Foreign Affairs
NA	The National Archives (Kew, UK)
NARA	The National Archives and Records Administration
NBC	National Bulk Carriers, Inc.
NDL	National Diet Library (Japan)
NLK	National Library of Korea
NIKH	National Institute of Korean History
NSC	National Security Council
OFEA	Office of Far Eastern Affairs
PFC	Pacific Fisheries Conference
PPS	Policy Planning Staff
PUL	Princeton University Library
ROC	Republic of China
ROK	Republic of Korea
SCAP	Supreme Commander of Allied Powers
SEATO	Southeast Asia Treaty Organization
UN	United Nations
UNGA	United Nations General Assembly
UNSC	United Nations Security Council





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