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Agreement Between Taiwan and Japan regarding the Islands Dispute in the East China Sea¹

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1. What Is the Diaoyutai Islands' Dispute?

In the East China Sea, there are tiny, uninhabitable islands. The sovereignty of the islands has been disputed by China, Taiwan, and Japan for a long time. China states, “Diaoyu Dao, which is the islands’ name in Chinese, are China’s inherent territory, and Japan grabbed Diaoyu Dao from China (Ministry of Foreign Affairs of the People’s Republic of China, 2015).”

Meanwhile, the Japanese government insists that these islands, which they named the Senkaku Islands, are under the valid control of Japan in the light of historical facts and based upon international law. Therefore, the Japanese government believes “there is no issue of territorial sovereignty to be resolved concerning the Senkaku Island (Ministry of Foreign Affairs of Japan, 2015).”

In the 1970s, Taiwan sent a diplomatic note to Japan to declare that Taiwan had the sovereignty over the islands. Taiwan, not China, is the first state to challenge the Japan’s sovereignty. Under the Nixon administration, the U.S. government contemplated returning the islands to the Japanese administration.

After the World War II, Japan ratified the San Francisco Peace Treaty. In the Article 2(b) of the treaty, “Japan renounced all right, title and claim to Formosa and Pescadores.”²

¹ This paper was presented at the International Conference on Global Ethics of Compromise, EHESS (CESPRA), Paris, in March 2019 [Editor’s note].

However, in the Article 3, the United States was recognized as the sole administering authority over “Nansei Shoto,” including the Ryukyu Islands and the Daito Islands. The U.S. and Japan understood that the Senkaku Islands were being administered as a part of Okinawa by the U.S. Therefore, on June 17, 1971, when the U.S. and Japan signed the agreement concerning the Ryuku Islands and Daito Islands, the U.S. attempted to return the Senkaku islands to Japan. However, since China and Taiwan immediately challenged the Japanese rule of the islands, Nixon urged Taiwan and Japan to resolve the islands dispute peacefully, at the tripartite committee meeting in Soule. China was not invited to the tripartite committee meeting and Taiwan was invited as a legitimate government entity. Although Japan proposed a joint-development plan of the islands at the meeting to Taiwan, since China was outraged the fact that Taiwan was invited as a legitimate governmental representative, the agreement was not successfully established.

After 2008, China has started taking prominent actions to claim its own sovereignty over the islands. The first discovery of the two Chinese vessels in the sea surrounding the islands was on December 7, 2008. Japan considered this incident as “the intrusion into Japan’s territorial sea with the clear intention of violating the sovereignty of Japan attempting to change the status quo through force or coercion” (Ministry of Foreign Affairs of Japan, 2017). According to the 1982 United Nations Convention on the Law of the Sea³, every state has the right to establish the breadth of its territorial sea (Article 3). The sovereignty of a coastal State extends the territorial sea (Article 2). Since Japan officially takes the position that the islands belong to Japan, and there is no dispute over the sovereignty of the islands, Japan considered that the two Chinese governmental vessels “invaded” the Japan’s territorial sea.

The incident occurred on September 7, 2010, intensified the political tension between China and Japan. From Japan’s perspective, the Chinese fishing boat repeatedly ignored the request to leave the territorial sea surrounding the Senkaku Islands and the Japanese coast guard arrested the captain of the Chinese fishing boat (Boat collisions spark Japan-

² Lee, S. (2002). Territorial Disputes among Japan, China and Taiwan Concerning the Senkaku Islands. IBRU.

³ China (1982) and Japan(1983) signed the 1982 United Nations Convention on the Law of the Sea. Taiwan as a “China” lost the seat of the Unites Nations in 1971 and does not ratify the Convention.

China diplomatic row, 2010). After this incident, the number of found Chinese vessels in the territorial and contiguous seas has increased. In 2018, the total number of the Chinese governmental vessels found in the territorial and continuous seas was 685⁴. On the other hand, Taiwan and Japan seem to deal with the issue of the islands dispute differently.

2. Taiwan's claim

Although Taiwan has not changed its position to insist on the sovereignty over the islands since 1971, there was no outstanding incident concerning the islands dispute against Japan until 2012.

On September 23, 2012, in Taipei, about 1000 people gathered and conducted a demonstration⁵ against the Japanese government which nationalized the islands on September 12, 2012.⁶ The Japanese media reported that the people who joined the demonstration were those who supported that Taiwan should unify with China were retired soldiers and that they were not necessarily majority in Taiwan. On 24th of the same month, Taiwanese fishermen conducted a demonstration around the islands with more than 60 vessels.

In 2017, when James Mattis, the 26th United States Secretary of Defense, visited Japan and stated that the U.S. would defend Japan under the U.S.-Japan Treaty of Mutual Cooperation which was applicable to the Senkaku islands, the Taiwan's Ministry of Foreign Affairs (MOFA) showed a concern about his statement and told the local media, "we will continue to communicate with the U.S. and explain our sovereignty claims."⁷

In 2018, when the Japanese Ministry of Education, Culture, Sports, Science and Technology announced that it would keep educate Japanese high-school students that Japan has a sovereignty over the islands, the Taiwan's MOFA also reasserted that Taiwan had sovereignty over the islands.⁸

⁴ The data is available at <https://www.kaiho.mlit.go.jp/mission/senkaku/senkaku.html>.

⁵ <http://www.asahi.com/special/senkaku/TKY201209230212.html>

⁶ <https://www.nikkei.com/article/DGXKZO21005310R10C17A9EA1000/>

⁷ <http://www.taipeitimes.com/News/front/archives/2017/02/06/2003664425>

⁸ <http://www.taipeitimes.com/News/taiwan/archives/2018/07/19/2003696948>

Although the sovereignty issue has not resolved, yet, the contentious events among the islands dispute between Taiwan and Japan have not occurred since the demonstrations in 2012 contrary to the situation between China and Japan. The most significant reason for explaining this difference would be the fishing agreement between Taiwan and Japan, established in 2013.

3. Fishing Agreement

On April 10, 2013, Taiwan and Japan signed the fishery agreement (日台民間漁業取り決め) after the meeting regarding the fishing issues around the islands for fifteen times. On January 24, 2014, they also agreed upon a fishing rule in the area, applied by the agreement (取決め適用水域における操業ルール).

The purposes of the agreement are maintaining peace and stability in the East China Sea; promoting friendship and mutual cooperation; preserving and reasonably utilizing marine resources and creatures; and maintaining an order concerning fishing issues. In order to accomplish the forth purpose, Taiwan and Japan created the “area which neither Taiwanese nor Japanese laws apply” (法令適用外水域) and a “special cooperative area” (特別協力水域). For the area in which neither Taiwanese nor Japanese law applies, it meant that Taiwan and Japan do not impose their own laws on the other state’s fishing area. Thus, Japan does not impose the Japan’s rule and method of the fishing on the Taiwanese fishermen, and vice versa. The special cooperative area was divided further: an area where the Japanese fishing method applies and area in which the Taiwanese fishing method applies. They also agreed to maintain an effective communication, prohibit abandoning fishing tools and taking other fishing tools and establish a rule to avoid troubles for tune fishing. The rules for resolving future issues were established, such as joining an insurance frame, rules regarding troubles about fishing tools, and communication and system when the troubles occur.

This fishery agreement did not resolve the sovereignty issue. The Taiwanese government “insisted on adding a clause to ensure our sovereignty and territorial claims will not be

undermined by the fishery agreement.⁹” Thus, the sovereignty issue of the islands between Taiwan and Japan was shelved but not abandoned, as stated in the East China Sea peace initiative¹⁰.

China commented of this fishery agreement by alerting Japan that they “hope that Japan earnestly abide by its promises on the Taiwan issue and act cautiously and appropriately.”¹¹

4. Why could Taiwan and Japan reach the agreement?

There are some reasons which potentially explain why Taiwan and Japan could reach the agreement. First, Taiwan has its own status issue with China. The Taiwanese government would judge that it is not smart to maintain the contentious attitude toward the issues around the islands against Japan diplomatically. Second, the most practical concern for the Taiwanese was whether or not their fishermen could continue their fishing around the islands. Third, the Taiwanese do not show a strong individualistic nationalistic attribution against Japan, as the Chinese and Japanese did against each other. Forth, Taiwan and Japan share a similar conflict resolution style.

This paper only emphasizes the last two points. According to my empirical research in Taiwan, the Taiwanese did not show the strong nationalistic attribution against Japan.¹² As I stated in my thesis, nationalistic sensation, originated from the World War II issues, involves the islands dispute (Kurokawa, 2017). However, since between the Taiwanese and Japanese, the degree of the individual nationalistic attribution is low, they could have reached the fishery agreement. Furthermore, as an Asian nation, Taiwan and Japan’s conflict resolution style would be similar. “Shelving the issue of the sovereignty (Mondai o tanaage ni suru, 問題を棚上げにする in Japanese)” means that we do not discuss with

⁹https://www.mofa.gov.tw/en/News_Content.aspx?n=539A9A50A5F8AF9E&sms=37B41539382B84BA&s=E80C25D078D837BB

¹⁰ On February 5, 2012, the former president of Republic of China, Ma Ying-jeou, suggested it.

¹¹ <https://www.loc.gov/law/foreign-news/article/japan-taiwan-landmark-fishing-agreement/>

¹² The method and result should be referred Kurokawa, M. (2017) “Nationalism and Islands dispute in the East China Sea”. Retrieved from https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/22629/Kurokawa_oregon_0171N_11817.pdf?sequence=1&isAllowed=y.

this matter at the present moment, but we will talk about this matter when the appropriate time comes. This tactic was also used between China and Japan in 1978 during the negotiations on the Peace and Friendship treaty (Magosaki, 2012)¹³. Now, China does not shelve the issue anymore. It might consider that the appropriate time has already come.

5. Conclusion

The islands sovereignty dispute in the East China Sea has not been resolved since 1970s between China, Taiwan, and Japan. Many studies emphasize that the potential resources underground would make the three nations to dispute hard over the question. However, it is important to understand that the nationalism, originated from the World War II issues, always play a role when it comes to political issues, especially between China and Japan. This point can be supported by a comparison with the Taiwan-Japan's diplomatic relationship regarding the islands dispute. Moreover, it is also crucial to recognize that China, Taiwan, and Japan would share the conflict resolution style in a context of international issues. "Shelving the issue" would be a key to understand these three nation's diplomatic tactics to temporarily compromise international issues.

¹³ Magosaki, U. (2012). Senkaku mondai nihon no go kai. Sekai, November, 87-89.