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The Senkaku Islands*

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I. Geographical Scope

The Senkaku Islands were incorporated into Japan in 1895. “The Senkaku Islands” is the collective term that refers to a group of islands that includes Uotsuri Island, Kitakojima Island, Minamikojima Island, Kuba Island (Kobisho Island), Taisho Island (Sekibisho Island), Okinokitaiwa Island, Okinominamiwa Island, and Tobise Island. The islands lie about midway between Okinawa’s Naha area and China’s Fuzhou. Their total land area is about 6.3 sq. km, with the largest island, Uotsuri Island, having about 3.6 sq. km. Apart from the period when Japanese people inhabited it, the Senkaku Islands were, and are still, uninhabited. The islands were thought to have no valuable natural resources, and therefore, escaped the world’s attention. This changed in the autumn of 1968, when the United Nations Economic Commission for Asia and the Far East (ECAFE) (now renamed ESCAP) released a report of a geophysical survey led by Japanese, Korean, and Taiwanese scientists of the vast area of the East China Sea. The ECAFE report concluded the possibility of prolific oil reserves on the seafloor roughly 200,000 sq. km northeast of Taiwan. This drew the attention of the international community to the Senkaku Islands. By late 1970, China began to claim territorial title over the islands.

II. History of Territorial Title

i. The legal status prior to incorporation into Japanese territory

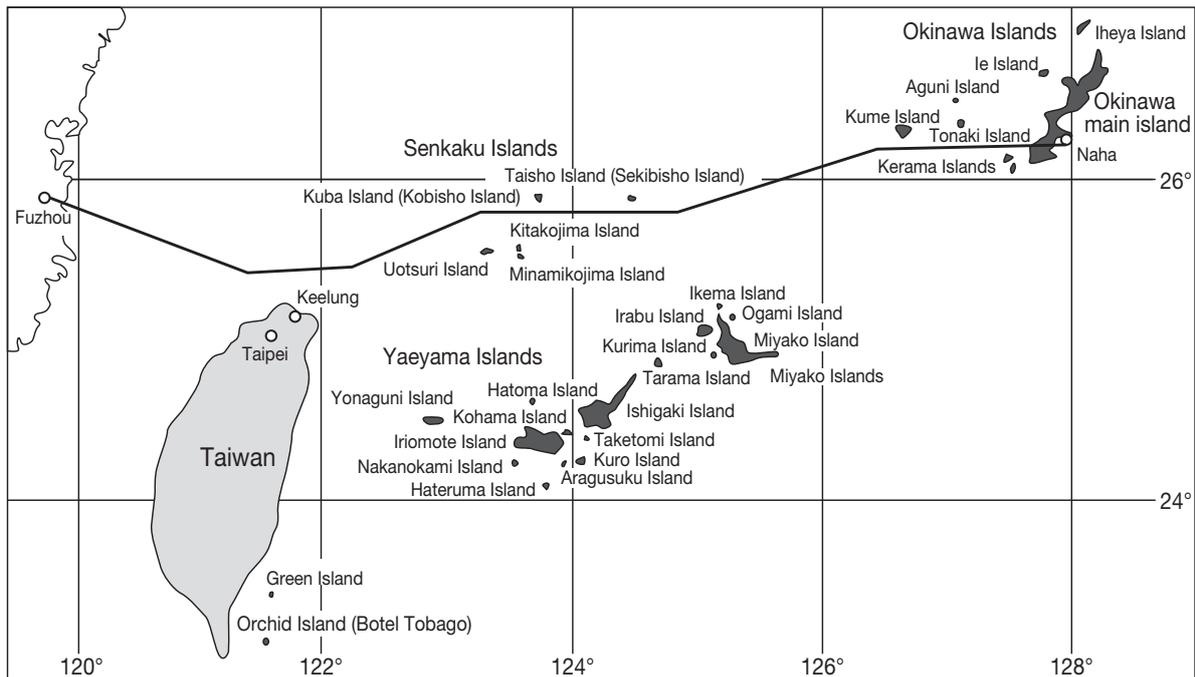
The Senkaku Islands, known in China as the Diaoyu Islands, lie between China and Ryukyu. The existence of the islands had been known by both Chinese and Ryukyu people for a long time. Nonetheless, it was only after the late 19th century that the islands became an issue.

The first formal negotiations between the Ryukyu Kingdom and China took place in 1372. Soon after, Emperor Taizu of the Ming Dynasty (Zhu Yuanzhang) overthrew the Yuan Empire and acceded to the throne, and he dispatched a mission to the Ryukyu Kingdom to notify the unification of China and to urge the kingdom’s submission to the Ming court. Responding to and accepting this notice of the Emperor called *Shouron* (invitation), the Ryukyu King of Chuzan dispatched an envoy to the Ming court in the same year. When small neighboring states dispatched envoys to the Ming court and pledged their allegiance as a response to the invitation, the Ming court called this act *Nyukou* or *Choukou*. The gifts presented to the Ming court at the time of *Nyukou* were called *Koumotsu* or *Houmotsu* (tributes) and the ships to the court were called *Choukousen*, *Nyukosen*, or *Shinkousen* (tribute ship). Envoys to the court were also called *Choukoushisetsu* (tributary mission). In return for the tributes, the Ming Emperor issued an imperial decree that conferred the title of the kings of tributary states as the kings of their nations

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by granting *Sakuhou* (investiture). As this tribute-investiture relationship between Ryukyu and China formalized incrementally, the preparations for and the formality of tribute and investiture ceremonies were considered as highly important national events in Ryukyu. Customarily, Ryukyu sent envoys called *Seifushi* for the entreaty for investiture to China two years after the demise of the previous Ryukyu king. There were two major ceremonies to receive the investiture: the funeral for the previous king (*Ronsai*) and the conferment of the title of the new king (investiture, *Sakuhou*). China dispatched investiture missions to Ryukyu 23 times during the 500 year period spanning from 1372 to 1879, the year that the Meiji government abolished the Ryukyu domain, set up Okinawa Prefecture, and prohibited tribute relations between Ryukyu and China. Of these 23 instances, 15 took place during the Ming Dynasty, and 8 took place during the Qing Dynasty. Vice versa, Ryukyu dispatched ships for various purposes to China other than tribute ships, particularly during the Ming Dynasty. For example, Ryukyu dispatched ships called *Seppousen* to Fuzhou, the capital of Fuzhou Province, to escort Chinese investiture ships prior to their departure from Fuzhou City. Ryukyu also dispatched ships called *Shaonsen* to escort Chinese investiture missions on their return voyages from Ryukyu to China in order to express its appreciation, as well as *Keigashisen* (celebratory ships) for some celebratory events. During the Ming Dynasty, Ryukyu dispatched ships on as many as 171 instances. As this number indicates, Ryukyu ships travelled to China far more often than Chinese ships to Ryukyu. During the Ming Dynasty, Ryukyu also conducted trade with Korea and Southern Ocean countries. As a result, Ryukyu flourished as a trading hub, making the Ryukyu people well acquainted with the sea routes in the waters surrounding Ryukyu, in particular, the sea routes between Ryukyu and China. At the time, in navigating from Fuzhou to Ryukyu, after passing the current Island of Taiwan, all of the islands on its route to Kume Island were uninhabited and Kume Island was the first inhabited island on the sea route from Fuzhou. Moreover, it was recognized that Kume Island was the southwest boundary of the Ryukyu people's habitat on the Fuzhou-Ryukyu sea route. In order to be considered as a part of the territory of the Ryukyu Kingdom of the time, i.e., the 36 islands of Ryukyu, an island had to be inhabited and had a duty to pay tribute to the king's court in Shuri, a capital of Ryukyu. Only those islands that satisfied these conditions were marked as territories under the administration of the king. In this light, Kume Island was the southwestern boundary of Ryukyu, and Hateruma Island and Yonaguni Island of the Yaeyama Islands were the far southern areas of Ryukyu.

The route taken by tribute ships (between China and the Ryukyu Kingdom from the 16th century [Ming Dynasty] to the 20th century)



Kikan Okinawa [Quarterly Okinawa], *Senkaku Retto Tokushugo* [Senkaku Islands Special Edition], p. 92.

Chinese investiture missions not only absorbed all the knowledge on the Ryukyu Kingdom, but also customarily kept records of all their experiences and knowledge, such as the conditions of the sea navigation, all ceremonies, and the situation in the Ryukyu Kingdom. These records served as a guideline for subsequent missions. The earliest record of the investiture missions in existence is Chen Kan's *Shi Liuqiu lu* (Records of the Imperial Missions to Ryukyu) (1535), in which we can see the descriptions of islands such as the Diaoyu Islands, Kobisho Island, and Sekibisho Island for the first time in these records. Today, there exist 13 such records including *Shi Liuqiu lu*, ranging up to the last mission conducted by Zhao Xin for the investiture of Sho Tai, the last king of Ryukyu.

Of all of the records, the following two records are particularly important in terms of the influence they had on other records and their usefulness. The first is Chen Kan's *Shi Liuqiu lu* from the Ming Dynasty. As the oldest record in existence, it was highly valued as a primary source and served as a guideline to the succeeding missions and records. The second is Xu Baoguang's *Zhongshan Chuanxin lu* (Records of the Imperial Mission to Zhongshan). This record serves as a representative example of the mission records during Japan's Edo Era and as a guideline for many scholars and intellectuals. In Chen Kan's records, it is written, "On the eleventh night, Gumi Shan [Gumi Mountain, or Kume Island] came into view. The island belongs to Ryukyu." In Xu Baoguang's records, it is written, "Steered to Gumi Shan, a sacred mountain which is the southwest boundary of Ryukyu." According to the navigation records returning to China, investiture ships that left Naha Port, after passing the Machi and Gumi mountains, took a sea route north of the Kobisho Island, Sekibisho Island, the Diaoyu Islands, and Shoryukyu, and then south of the mountains of Nanba, Fengwei, Yu, Tai, and Lima as they entered Dinghai in Fujian and proceeded to Zhen Min An. In the volume titled "Zhenlu (Course)" in Xu Baoguang's *Zhongshan Chuanxin lu*, Xu refers to the title of the islands for the first time on his journey from Ryukyu, when the Nanba Shan [Nanba Mountain] becomes visible in the distance, the island that belongs to Wenzhou, Zhejiang Province.

Xu Baoguang's delegation departed to China on February 16, 1720. On February 24, he wrote, "In the morning, steering southwest of the compass for one *geng* (about 60 miles), we arrived in Yu Shan [Yu Mountain] and Fengwei Shan [Fengwei Mountain]. These two mountains belong to Taizhou. The investiture ship left the compass to the same direction and headed to Nanba Mountain in Wenzhou. The Yu and Fengwei Mountains are located 500 Chinese miles from Nanba Mountain." Xu Baoguang made no reference to the title of the islands comprising the present day Senkaku Islands, which were located on the sea route to the two mountains. On the other hand, with regard to Yu Mountain and Fengwei Mountain, he wrote for the first time that "both mountains belong to Taizhou." This is consistent with the records which investiture missions and other envoys noted regarding navigation to Ryukyu, namely that Kume Island corresponded to the southwestern boundary of Ryukyu. Zhao Xin, the last investiture mission which arrived in Ryukyu in 1866, cites in his record the conditions of the return route of the previous investiture mission in 1838. He then states that "outlying mountains of China came into sight but Nanba Mountain hasn't" around 7 o'clock on October 18, after departing Naha Port on October 12, 1838, and passing Gumi Mountain on the following day. The record presents no explanations of the islands along the sea route on the way to the outlying mountains of China. The records of the return voyage included no references to the Senkaku Islands, aside from islands near the present day island of Taiwan. Descriptions such as "Nanba Mountain in Wenzhou" and "outlying mountains of China" are equivalent in meaning to the descriptions "the island belongs to Ryukyu" and "a sacred mountain, which is the southwest boundary of Ryukyu." They are inextricably linked. In general, islands cited in the records served merely as navigation aids. It is thus unreasonable to rely on these records to claim that territorial boundaries had been already set clearly between China and Ryukyu at the time.

Back in the Ming Dynasty, a maritime defense zone was allegedly set up against Japanese pirates called *Wakou* that were raiding the coastlines of China. The scope of the zone is shown in the "Map of Coastal Mountains" in Volume I of *Chou Hai Tu Bian* (An Illustrated Compendium on Coastal Defense), edited by Hu Zongxian, who was appointed Minister of Defense and the Commander-in-chief against *Wakou* pirates in 1556. While Volume IV of *Chou Hai Tu Bian*, "Map of the Coast of Fujian Province," illustrates Pescadores Islands, it does not mark Taiwan, as well as Keelung Island northeast of Taiwan, Pengjia Islet, and the Senkaku Islands in the map. Other more recent sources, including the Luoyuan County Annal (1614 during the Ming Dynasty) and the Ningde County Annal (1718 during the Qing Dynasty) (local government publications), indicate that at the time, the Senkaku Islands were not included in the administrative control of these counties in Fujian Province. Further still, the Senkaku Islands are not charted in the "Map of Fujian's Coastal Defenses" in Volume I of another government publication called *Chongzuan Fujian tongzhi* (Recompiled General Annals of Fujian) (1838 during the Qing Dynasty). In any case, at the time that the *Wakou* were most violent between 1553 and 1559, China had to focus on mainly defending the coastal areas of its mainland. Consequently, the Ming could not reach its defense capabilities even to the Pescadores Islands. While *Wakou* travelled quite freely between mainland China and Ryukyu, particularly between Miyako and Yaeyama Islands, it has not been confirmed in either Chinese or Ryukyu historical records whether Ming's military ships pursued *Wakou* and reached Ryukyu.

During the Sino-Japanese negotiations regarding the so-called Ryukyu issue in 1879, both states seemed to affirm that the Senkaku Islands were not included in the "36 islands of Ryukyu." However, as was noted earlier, the so-called 36 islands of Ryukyu under the territorial scope of the Ryukyu Kingdom at the time were limited to the inhabited islands, with a duty to pay tribute to the king's court in Shuri. Therefore, only islands under this condition were cited in Ryukyu's historical records and records of

imperial missions as the territories of Ryukyu. As far as what is evident in the local annals of Fujian Province and Taiwan Province during the Ming and Qing dynasties, the Senkaku Islands were not included in the scope of administrative control of either Fujian Province or Taiwan Province. Equally, it can be said that the Senkaku Islands were not included in the administrative control of Ryukyu based on the fact that the Senkaku Islands were excluded from the 36 islands of Ryukyu with the criteria of being an inhabited area with a duty to pay tribute.

ii. Territorial acquisition through occupation

1. Process of territorial incorporation

In 1879, the Meiji government abolished the Ryukyu domain and set up Okinawa Prefecture. After a proposal of the governor of Okinawa Prefecture to the central Meiji government in 1885, the government conducted surveys of the Senkaku Islands through the authorities of Okinawa Prefecture and through other means, taking as long as ten years. After having carefully ascertained that there had been no trace of control over the Senkaku Islands by the Qing Empire, via a Cabinet Decision on January 14, 1895 the Japanese government decided to erect national markers on the islands by placing the Senkaku Islands under the jurisdiction of Okinawa Prefecture.

On October 9 of 1885, upon the proposal of governor of Okinawa Prefecture about the erection of national markers in the same year, Interior Minister Aritomo Yamagata consulted with Foreign Minister Kaoru Inoue and asked his opinion on the proposal before submitting the issue to a cabinet meeting. Inoue's response dated October 21 stated that these islands are in proximity to the national border with the Qing Dynasty, they are smaller islands compared to the Daito Islands, and "in particular, their names are being attached by the Qing Dynasty. Moreover, recent articles appearing in Chinese newspapers are circulating rumors that the government of Japan is occupying islands that are situated in the vicinity of Taiwan and belong to China. These articles have raised suspicions against Japan and drawn the attention of the government of China. If Japan were to openly erect territorial markers and take other actions under these circumstances, this would invite further suspicion on the part of China. At this time, on-site investigations should therefore be limited to surveying the bays and reporting in detail on the possibility of developing the land of these islands; and the erection of territorial markers and the commencement of the development of these islands should be postponed until a future opportunity."

After 1885, it is alleged that Japanese private citizens, including Tatsushiro Koga, had landed on the islands and that field surveys had been conducted on the Senkaku Islands by the warships *Kongo* in 1887 and *Kaimon* in 1895. The Qing Dynasty did not protest these activities. Despite the critical opinions to Japan in Qing newspapers, as can be seen from Inoue's response, the Qing government appears not to have taken any action. It is sufficient to infer from these facts that the Qing Dynasty did not recognize the Senkaku Islands as its own territory.

The Senkaku Islands were incorporated into Japanese territory before April 17, 1895, the day of the signing of the Treaty of Shimonoseki that provided for the cession of Taiwan to Japan as a result of the Sino-Japanese War. Therefore, the Senkaku Islands have never been treated as part of Taiwan.

2. Scope of the incorporated Senkaku Islands

The governor of Okinawa Prefecture submitted proposals on three instances: the first in 1885; the second on January 13, 1890 "Regarding the jurisdiction of Uotsuri Island and two other islands;" and the third on November 2, 1893. As a result, the Cabinet Decision on January 14, 1895 was made as follows: "Regarding the matter submitted by the Minister of Home Affairs for deliberation: In recent years, certain persons

have sailed in the direction of the uninhabited islands known as Kuba and Uotsuri situated northwest of the Yaeyama Islands Okinawa Prefecture, with the intent to engage in fishing and other activities. Given the need to control such activities, there is no hindrance to determining that the said islands come under the jurisdiction of Okinawa Prefecture and permitting the erection of jurisdictional markers as requested in the petition of the Okinawa Prefectural Governor.” An order dated January 21 was issued to the governor of Okinawa Prefecture, “Approved the proposal concerning the erection of markers as requested.” In addition to Uotsuri Island and Kuba Island (Kobisho Island) which were mentioned in the Cabinet Decision, the so-called Senkaku Islands include Sekibisho Island known as Kumeaka Island in Okinawa, as well as two small islands north and south of Uotsuri Island coupled with reefs. Since the islands of Minamikojima Island and Kitakojima Island, along with the reefs of Tobise Island, Okinominamiwa Island, and Okinokitaiwa Island, are a part of the same island chain with Uotsuri Island and Kuba Island (Kobisho Island), it is considered that these small islands and reefs were under the scope of the territorial incorporation as well, even without explicit mention in the Cabinet Decision. A district system was introduced in Okinawa Prefecture based on the imperial edict of April 1, 1896. And under the system, both Uotsuri Island and Kuba Island were incorporated into Yaeyama District shortly afterwards, and were designated as state-owned land along with Minamikojima Island and Kitakojima Island. However, only in July 25, 1921, Kumeaka Island (Sekibisho Island) was designated as state-owned land and was listed in the national land register and renamed Taisho Island. Simultaneously, even then, it is unnatural to conclude from this fact that Kumeaka Island (Sekibisho Island, Taisho Island) was incorporated into Japanese territory in 1921. The Cabinet Decision of 1895 was made based on the proposals submitted by the governor of Okinawa Prefecture. Given that the governor’s proposals in 1885 and 1890 include Sekibisho Island by referring to “Uotsuri Island and two other islands,” there is no particular reason to distinguish and exclude Sekibisho Island from the scope of the Cabinet Decision. After the decision, Koga started developing Kuba Island (Kobisho Island), and in May 1900, went to Sekibisho Island and erected wooden markers on the island. The sea area around Sekibisho Island has strong currents, making it difficult for ships to land on the island even on normal sunny days. Moreover, Sekibisho Island did not have appeal in terms of exploitation since the island seemed not to have valuable resources, and the entire island was a rugged mountain, making it inappropriate for human settlement. These factors explain the delay in Sekibisho Island’s designation as state-owned land.

3. State practice after the territorial incorporation

After the Senkaku Islands were incorporated into Japanese territory by the Cabinet Decision of January 14, 1895, Tatsushiro Koga filed an application on June 10 of the same year to lease state-owned lands. In September of the following year, the Japanese government granted Koga permission to lease four islands – Uotsuri Island, Kobisho Island, Kitakojima Island, and Minamikojima Island – for 30 years free of charge for the purpose of promoting their development.

In 1895, the peace treaty of the Sino-Japanese War, the so-called Treaty of Shimonoseki, was concluded and the instrument of ratification for the treaty was exchanged on May 8 of the same year. Pursuant to Article 5 of the treaty plenipotentiary, Sukenori Kabayama of the Japanese delegation, and plenipotentiary Li Ching-fang of the Chinese delegation, signed the “Note on the delivery of Taiwan” on June 2. On this occasion, the following conversation took place between minister resident Jun Mizuno of Japan and plenipotentiary Li Ching-fang of China regarding the scope of the islands appertaining or belonging to Taiwan (Translator’s note: provisional translation):

Li: Is it not necessary to list in the index the names of the islands described as islands appertaining or belonging to Taiwan? In the Treaty of Peace, the area of the Pescadores Islands is clearly demarcated with latitude and longitude coordinates. However, the treaty does not specify the area of the islands appertaining or belonging to Taiwan. I worry that it may bring a dispute if Japan, at a later time, will point to the islands near Fujian Province and assert that they are islands appertaining or belonging to Taiwan.

Mizuno: If we list the names of the islands as you say, there may be islands that are omitted from the list, or islands which do not have any names, in which case this would mean that such islands do not fall under the jurisdiction of either government. That is an inconvenient result. In addition, in nautical charts, maps, and other sources, it has been recognized officially, referring to the islands near Taiwan, that these islands belong to Taiwan. The Japanese government will never claim that the islands near Fujian Province belong to Taiwan. I will convey this issue especially to H.E. Governor-General Kabayama on the return ship. Needless to say, the Pescadores Islands lie between Fujian Province and Taiwan. Your concern will be proved unfounded, your Majesty.

Li: Agreed.

The maps and nautical charts of Taiwan published in Japan before 1895 identified without exception that Taiwan extended up to the Pengjia Islet. Both Japan and China seemed to share the view that the Senkaku Islands were not included in the “islands appertaining or belonging to Taiwan as recognized officially in nautical charts, maps, and others materials,” i.e. the islands of which at the time of Taiwan’s delivery and the issue was raised.

III. Developments after World War II

i. China’s requisition of Taiwan

In regard to areas such as Taiwan and other territories, China began the process of “reversion” of “Taiwan and Pescadores Islands” to China, as provided for in the territorial clause of the Potsdam Declaration soon after Japan accepted the Declaration on August 14, 1945. On August 29, it already appointed the Governor-General of the Taiwan Provincial Administrative Executive Office and the Garrison Command. On September 20, shortly after the signing of the Japanese Instrument of Surrender on September 2, the Taiwan Provincial Administrative Executive Office Organization Regulation was promulgated. In October, specific steps towards the requisition of Taiwan began to be taken. On October 25, by the formal procedures for the requisition called “surrender ceremony,” Taiwan was formally restored to China as its territories. China introduced the same administration system in Taiwan as in its other territories. In this manner, areas such as Taiwan were incorporated into China only through a domestic procedure based on the territorial clause of the Potsdam Declaration, prior to the signing of the peace treaty.

ii. U.S. military and civil administration

With respect to the occupation of Okinawa, the U.S. Forces landed on Kerama Islands on March 26, 1945 and then on the main island of Okinawa on April 1. Following Japan’s surrender, the U.S. Navy military government promulgated Proclamation No. 1-A “To the People of the Islands of Nansei Shoto and Adjacent Waters” on November 26, 1945 for the Miyako, Yaeyama, and Amami Islands. Shortly afterward, the U.S. Forces began to occupy the Miyako Islands and the Yaeyama Islands in December

and the Amami Oshima Islands in January of the following year. Actual military rule was enforced in the Miyako Islands on December 8 and in the Yaeyama Islands on December 28. During the military occupation of Okinawa, the United States succeeded the administrative areas of the former Okinawa Prefecture as they had existed. When the General Headquarters (GHQ), the Supreme Commander for the Allied Powers (SCAP) issued a memorandum called “Political and Administrative Separation of Certain Outlying Areas from Japan” on January 29, 1946, the Ministry of Foreign Affairs of Japan informally submitted to the GHQ a list of the islands comprising the Nansei Shoto Islands. The list named Sekibisho Island, Kobisho Island, Kitajima Island, Minamijima Island, and Uotsuri Island as comprising the “Senkaku Islands” and included the islands within Okinawa Prefecture. These series of events all took place after China’s incorporation of Taiwan and other areas into its territory.

There is no evidence that China lodged protests of any kind against these events, despite being fully aware of them as a member of the allied powers. Furthermore, literature compiled by Taiwan Province after World War II identified that Pengjia Islet, situated slightly north of the main island of Taiwan, constitutes the northern end of Taiwan Province. Maps published in Taiwan and Beijing excluded the Senkaku Islands from Chinese territory and marked them as a part of the Ryukyu Islands.

In contrast, even under the U.S. civil administration following U.S. military occupation, Japan undertook numerous significant initiatives in the form of activities of the U.S. Civil Administration of the Ryukyu Islands and the Government of the Ryukyu Islands. First, the Law Concerning the Organization of the Gunto Islands (Military Government Ordinance No. 22), the Provisions of the Government of the Ryukyu Islands (Civil Administration Ordinance No. 68), and the Geographical Boundaries of the Ryukyu Islands (Civil Administration Proclamation No. 27) defined areas under the jurisdiction of authorities, including the U.S. Civil Administration of the Ryukyu Islands and the Government of the Ryukyu Islands, by indicating latitude and longitude coordinates, and righteously included the Senkaku Islands in these areas. Secondly, in 1951, the U.S. Navy set up maritime areas for bombing training exercises in the Kobisho and Sekibisho Islands, with the former designated as a special exercise area. State-owned land Taisho Island (Sekibisho Island) was designated as an exercise area after April 16, 1956. For the privately-owned land of Kuba Island (Sekibisho Island), the U.S. Civil Administration concluded Basic Lease GRI Nr.183-1 on July 1, 1958 between its agent, the Ryukyu Government, and the landowner, Zenji Koga. Accordingly, the lease was paid to Koga. The Ryukyu Government had been levying a fixed asset tax on the four islands owned by Koga, and after the Basic Lease was concluded, it began to withhold taxes from the revenue earned from the utilization of military land in Kuba Island. According to an understanding reached between the Japanese and U.S. governments during the Okinawa reversion negotiations, they agreed that the Japanese government would provide firing ranges in Taisho and Kuba Islands to the U.S. Forces in Japan as facilities and districts under the Japan-U.S. Security Treaty, and the Japan-U.S. Status of Forces Agreement after the islands were restored to Japan.

Thirdly, Japan took measures against the dismantlement of submerged ships in Minamikojima Island by Taiwanese people in August 1968. On August 12, an officer of the Immigration Agency of the Legal Department of the Ryukyu Government discovered that Xingnan Engineering, a Taiwanese salvage company, had set up a tent workshop and cranes for the dismantlement of submerged ships. As the company did not have a permit to enter the area, the agency ordered the intruders to immediately leave the area, and recommended that the company apply for entry into the area. Taiwanese workers soon exited and applied for entry into Minamikojima Island. On August 30, 1968 and on April 21, 1969, the company received a permit to enter the area with the approval of the High Commissioner of the Ryukyu Islands. The High Commissioner issued a permit retroactively by allowing Taiwanese workers to enter the area

from August 1, 1968 to October 31, 1969, and permitted them to bring some equipment and facilities into the area as well. No state protested this matter. Incidentally, the head of the salvage company had licenses including a dismantlement license issued by the Taiwanese Ministry of Communications, as well as an exit permit issued by the Taiwanese garrison head office. This, along with the absence of protests, provides sufficient grounds to presume that Taiwanese authorities did not consider Minamikojima Island as its territory.

From July 8 to 13, 1970, the Ryukyu Government erected a territorial signboard on the Senkaku Islands (on December 30, 1971, Radio Peking criticized these moves, saying that in doing so the government “tried to create an established fact that it ‘owns’ these islands”). On December 4 of the same year, albeit informally, for the first time China claimed the title of the Senkaku Islands as the Xinhua News Agency criticized the joint development of resources on the continental shelf in the East China Sea by the three countries of Japan, Taiwan, and the Republic of Korea. On December 29, the People’s Daily also reported that “Japan is trying to incorporate into its territory even some islands and waters that belong to China, including the Diaoyu Islands” and that “islands, including the Diaoyu Islands, Kobisho Island, Sekibisho Island, Minamikojima Island, and Kitakojima Island, have been the territories of China, similar to Taiwan, since ancient times.” (Translator’s note: provisional translation) In other words, China never made territorial claims and never lodged effective protests from 1945 to 1970. To put it differently, Japan exercised state control over the Senkaku Islands in a peaceful and continuous manner for 25 years after WWII.

IV. Situation after the Okinawa Reversion Agreement

i. The statement of the Ministry of Foreign Affairs of the People’s Republic of China and the basic view of the Ministry of Foreign Affairs of Japan

The Okinawa Reversion Agreement between Japan and the United States was signed on June 17, 1971. In the same year, for the first time the Chinese government formally claimed the title of the Senkaku Islands. China’s claims are set out in the Statement of the Ministry of Foreign Affairs dated December 30, 1971, which sums up the assertions of the Chinese government. On March 8 of the following year, Japan released “The Basic View of the Ministry of Foreign Affairs.”

The statement of the Ministry of Foreign Affairs of the People’s Republic of China dated December 30, 1971 reads as follows:

Over the past years, regardless of historical facts and the firm opposition of the Chinese people, the Eisaku Sato administration has repeatedly claimed that Japan has “sovereignty” over Diaoyu Island and its affiliated islands, which, in fact, belong to China, and the Japanese government has worked hand in glove with American imperialism in an attempt to seize Chinese territory. Recently, the US congress and the Japanese cabinet concluded the Okinawa Reversion Agreement, arbitrarily including the Diaoyu Islands among territories to be reversed to Japan. This is a blatant violation of China’s territorial sovereignty and will not be tolerated by the Chinese people.

The “reversion of Okinawa” is a hoax perpetrated by the US and Japanese governments. It is also a critical step in the reinforcement of military collusion between the two countries and the accelerating resurgence of Japanese militarism. The Chinese government and people have always supported the valiant struggle of the Japanese people to oppose this hoax and achieve the full and unconditional return of Okinawa. We are also firmly opposed to any actions taken by US and Japanese

reactionaries to barter China's Diaoyu Islands and use Chinese territory to sow dissension between the Chinese and Japanese people.

The Diaoyu Islands have been China's territory since ancient times. As early as in the Ming Dynasty (1368-1644), they were placed under the jurisdiction of China's naval defenses as affiliated islands of Taiwan. They were never under the jurisdiction of Ryukyu, today's Okinawa. The demarcation line between China and Ryukyu always lies between Chiwei Islet and Kumejima Island. The area has always been a fishing ground for fishermen from China's Taiwan. However, during the First Sino-Japanese War of 1894, Japan illegally occupied the Diaoyu Islands and in April 1895 forced the Qing court to sign the unequal Treaty of Shimonoseki that ceded to Japan "the island of Formosa (Taiwan), together with all islands appertaining or belonging to the said island of Formosa", as well as the Penghu Islands. Today, the Sato administration is using this invasion as evidence of Japan's "sovereignty". This is simply the mindset of robbers.

After World War II, the Japanese government illegally handed over the Diaoyu Islands, which are affiliated to China's Taiwan, to the US, and the latter unilaterally proclaimed its "administrative rights" over the area. There were no legal grounds whatsoever for this action. On June 28, 1950, soon after the founding of the People's Republic of China, the then Chinese Foreign Minister Zhou Enlai made a solemn statement on behalf of the Chinese government, strongly protesting the American imperialists' deployment of its Seventh Fleet to invade Taiwan and the Taiwan Straits and declaring that the Chinese people are determined to "recover Taiwan and all other territories belonging to China". Now, the US and Japanese governments are once again trying to make backroom deals over the Diaoyu Islands. Such a wanton violation of Chinese territorial sovereignty will certainly arouse the strong indignation of the Chinese people.

The Ministry of Foreign Affairs of the People's Republic of China solemnly affirms that Diaoyu Island, Huangwei Islet, Chiwei Islet, Nanxiao Island, Beixiao Island and the other islands are affiliated to Taiwan. They have been, along with Taiwan, an inherent part of Chinese territory since ancient times. The inclusion of China's Diaoyu Islands among the "reversed areas" of the Okinawa Reversion Agreement signed by the US and Japan is totally illegal and will never alter China's sovereignty over the territory. The Chinese people are determined to liberate Taiwan! We will also recover sovereignty over the Diaoyu Islands and other islands affiliated to Taiwan!

Against the claim, the Japanese Government issued "The Basic View on the Sovereignty over the Senkaku Islands" of the Ministry of Foreign Affairs on March 8, 1972. The core elements are identical to the government's written response to Diet questions on the Senkaku Islands dated November 12, 1971. It reads as follows:

From 1885 on, surveys of the Senkaku Islands had been thoroughly made by the Government of Japan through the authorities of Okinawa Prefecture and by way of other methods. Through these surveys, it was confirmed that the Senkaku Islands had been uninhabited and showed no trace of having been under the control of China. Based on this confirmation, the Government of Japan made a Cabinet Decision on 14 January 1895 to erect a marker on the Islands to formally incorporate the Senkaku Islands into the territory of Japan.

Since then, the Senkaku Islands have continuously remained as an integral part of the Nansei Shoto Islands which are the territory of Japan. These islands were neither part of Taiwan nor part of the Pescadores Islands which were ceded to Japan from the Qing Dynasty of China in accordance with Article II of the Treaty of Shimonoseki which came into effect in May of 1895.

Accordingly, the Senkaku Islands are not included in the territory which Japan renounced under Article II of the San Francisco Peace Treaty. The Senkaku Islands have been placed under the administration of the United States of America as part of the Nansei Shoto Islands, in accordance with Article III of the said treaty, and are included in the area, the administrative rights over which were reverted to Japan in accordance with the Agreement Between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands signed on 17 June 1971. The fact outlined herein clearly indicates the status of the Senkaku Islands being part of the territory of Japan.

The fact that China expressed no objection to the status of the Islands being under the administration of the United States under Article III of the San Francisco Peace Treaty clearly indicates that China did not consider the Senkaku Islands as part of Taiwan. It was not until the latter half of 1970, when the question of the development of petroleum resources on the continental shelf of the East China Sea came to the surface, that the Government of the China and Taiwan authorities began to raise questions regarding the Senkaku Islands.

Furthermore, none of the points raised by the Government of China as “historic, geographic, or geological” evidence provide valid grounds, in light of international law, to support China’s arguments regarding the Senkaku Islands.

On May 15, 1972, the Okinawa Reversion Agreement entered into force, and administrative control over the Ryukyu Islands and Daito Islands was returned to Japan.

ii. Exchanges before and after the conclusion of the Japan-China Treaty of Peace and Friendship and the current situation

A Joint Statement between Japan and China was issued in September 1972. Amid the talks between the two countries for the conclusion of the Treaty of Peace and Friendship agreed upon in the statement, the following question and answer session took place at the Diet in October 1975 (October 22, 1975, Budget Committee, House of Representatives):

Ryosaku Sasaki, Budget Committee member: First, I would like to ask the Ministry of Foreign Affairs. With regard to the issue of the Senkaku Islands, it is stated in the Hirasawa paper that during the negotiations on the China-Japan Treaty of Peace, “an implicit understanding was reached to shelve the issue by not referring to the issue in the treaty.” The Ministry of Foreign Affairs, could you please tell us if this is or is not the situation?

Kiichi Miyazawa, Minister of State: We of course do not agree with the conclusion of the Hirasawa paper. The view regarding the Senkaku Islands in his paper is also different from the one we have. It is an erroneous view in our opinion. (Sasaki asks, “Can you just please answer my question?”) As I stated moments ago, it is an erroneous view. It is not true that the issue is being “shelved” during the Japan-China negotiations on the treaty.

In the early morning of April 12, 1978, a large number of Chinese fishing vessels appeared in the territorial waters around the Senkaku Islands. The Japan-China negotiations on the Treaty of Peace and Friendship that had just been resumed were temporarily suspended. On April 15, Vice Premier Geng Biao stated, "The Senkaku incident was incidental. The settlement of this issue of small islands should be left to the future." After the statement, all Chinese fishing vessels were cleared from the territorial waters around the Senkaku Islands. Later, the negotiations resumed in Beijing and Foreign Minister Sunao Sonoda arrived in Beijing on August 8. After his talks with Foreign Minister Huang Hua on August 9 and with Vice Premier Deng Xiaoping on August 10, the Japan-China Treaty of Peace and Friendship was signed on August 12. At a press conference following the signing, Foreign Minister Sonoda stated in his opening remarks, "Regarding the issue of the Senkaku Islands, I explained the position of the Japanese Government during my talks with Vice Premier Deng Xiaoping in the afternoon of the 10th. The Vice Premier responded that the Chinese Government would never repeat confrontations like the recent incident." Deng's comment was repeatedly brought up during the treaty deliberations at the Diet. During the Committee on Foreign Affairs of the House of Representatives on October 13, Foreign Minister Sonoda stated as follows: "I explained the position of Japan regarding the Senkaku Islands. I told that we feel disturbed by incidents like the previous one, and strongly requested the Chinese Government to prevent such incidents. Vice Premier Deng Xiaoping responded that the incident was incidental and that they would never engage in such an incident." On the following day, October 14, Foreign Minister Sonoda stated, "Vice Premier Deng Xiaoping stated clearly at an official meeting that the previous incident was incidental and that they would never engage in such incidents. This is in the record of discussion. I believe these incidents will not occur in the future."

Vice Premier Deng Xiaoping visited Japan from October 22 to 29 for the exchange of the instrument of ratification of the Japan-China Treaty of Peace and Friendship. On October 25, he held a press conference at the Japan Press Center and commented on territorial title of the Senkaku Islands: "When we normalized diplomatic relations between our two countries, both parties promised to leave the issue aside. At this time of negotiation on the Treaty of Peace and Friendship, we agreed to leave the issue aside in much the same way...I think it is better to avoid the issue when our countries have negotiations. Even if this means the issue is temporarily shelved, I don't think I mind. I don't mind if it's shelved for ten years."

Then, on January 16, 1979, Minister of Transport Kinji Moriyama stated at a press conference as follows: "In order to build facilities in the Senkaku Islands of Okinawa Prefecture where the issue has not been ultimately addressed with China, the Okinawa Development Agency will start conducting surveys in FY1979. To support this survey, the Japan Coast Guard will consult with the Okinawa Development Agency to build a temporary heliport in Uotsuri Island (uninhabited island) of the Senkaku Islands." As a result, the issue of territorial title over the Senkaku Islands was again raised at the 87th session of the Diet. In connection with the 30 million yen survey cost and the issue of the heliport construction, Foreign Minister Sonoda stated, "It is in the interest of Japan to quietly continue its current valid control over the islands. However, if the heliport is going to be constructed as an evacuation area or for the safety of the residents and fishermen in the area, then construction should proceed without provoking China as much as possible. It is problematic if the heliport is being constructed to show off our valid control" (Committee on Cabinet, House of Representatives). Foreign Minister Sonoda further stated that while the Senkaku Islands were Japanese territory, provocative actions were not desirable (May 30, Committee on Foreign Affairs, House of Representatives). Nonetheless, it led Director Shen Ping of the Department of Asian Affairs of China's Ministry of Foreign Affairs to summon the Chargés d'Affaires ad interim Shoichi Ban of

the Japanese embassy in China to the Chinese Ministry of Foreign Affairs and to verbally express his regret on May 29. The full text of Xinhua News Agency's May 29 article regarding the protest lodged by Director Shen Ping of the Asian Affairs Department is as follows (Translator's note: provisional translation):

This morning, Shen Ping, Director of the Department of Asian Affairs of the Ministry of Foreign Affairs of the People's Republic of China, met with Shoichi Ban, Japanese Chargés d'Affaires ad interim to China. Discussion took place on the Japanese government's recent dispatch of the patrol vessel "Soya," for the transport of personnel and equipment to China's Diaoyu Islands, establishment of a temporary heliport, and dispatch of survey missions and vessels.

Islands including the Diaoyu Islands have been part of the territory of China since ancient times. On December 30, 1971, the Chinese Ministry of Foreign Affairs issued a statement to this effect. However, China and Japan have different views regarding the issue of the attribution of island territories, including the Diaoyu Islands. When diplomatic relations were normalized between China and Japan, and when the Treaty of Peace and Friendship was concluded, the two parties agreed to leave this issue aside from the broad perspective of the China-Japan friendship, and to settle the issue in the future.

In accordance with this agreement, Director Shen Ping noted, "Japanese side is clearly betraying the aforementioned bilateral understanding. We are forced to express regret over the actions of Japan. Moreover, we do not deem that Japan's actions have legal value."

Shen Ping also stated, "We would like the Japanese Government to respect the understanding that our countries' leaders reached on the issue of Diaoyu Islands from a broad perspective, and to take measures to refrain from all activities that undermine the bilateral friendship and neighborly cooperative relations."

Regarding the above protest, Foreign Minister Sonoda responded at the Diet that, "As long as our counterpart lodged a protest, we are compelled to understand that China interpreted our action as an activity intended to demonstrate our valid control" (May 30, Committee on Foreign Affairs, House of Representatives).

Even after May 15, 1972 when administrative control over the Nansei Shoto Islands was reverted to Japan, Japan Coast Guard patrol vessels and aircraft have continued to patrol the areas around Okinawa in the same manner as before, including the Senkaku Islands. They still regulate intrusion into territorial waters and illegal fishing in such waters. Recently, the following question was asked at the Diet: "What is the present agreement between Japan and China regarding the title of the Senkaku Islands? How do the two states understand the current situation?" Director-General Kunihiko Saito of the Treaties Bureau of the Ministry of Foreign Affairs responded as follows (November 8, 1988, Committee on Foreign Affairs, House of Representatives):

It is true that the Chinese side has proposed the idea of shelving the issue. However, as the Senkaku Islands are part of the territory of Japan under its valid control, the idea of shelving is entirely inconceivable from Japan's perspective. There was no agreement between Japan and China on shelving the issue.