

How to Alleviate the Security Threats
to Northeast Asia
Arising Out of the Takeshima/
Dokdo Islands Dispute :

Applying Lessons Learned from Japan's Other Territorial Conflicts

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Foreword

On June 26 and 27 2009, an international seminar entitled “Dokto, Takeshima, Liancourt Rocks: Rethinking Territorial Disputes in East Asia” was held at the Johns Hopkins University SAIS, organized by The John Hopkins University SAIS Korea Studies Program. The seminar was composed of four panel discussions where issues related to Takeshima/Dokto were taken up from broad perspectives. Nine Koreans or Korean Americans, three Japanese and three Americans were selected as panelists, and in addition nine American scholars joined these panels as discussants. This paper was discussed at the afternoon session of Friday June 26, entitled “Takeshima in Japan” chaired by Professor Soon Won Park of George Mason University. The author tried to explain the rich experience of the territorial negotiations between Japan and Russia, and argued that Japan-Korea territorial disputes on Takeshima/Dokto can borrow from this rich experience so that ultimately Japan and Korea might build up confidence building measures that were built between Japan and

Russia. The author presented a vision of peace and cooperation around the islands as an ultimate vision for the two countries. In author's recollection, this idea was met with unexpected favorable responses not only by American participants but also by Koren or Korean American participants. The paper was first presented to the conference organizers dated June 18, and after the conference was revised and sent again to the organizers dated September 25 2009. Having four years passed since then, it goes without saying that so many things have occurred over the Takeshima/Dokto issue as well as over other territorial issues in East China Sea. Some of the points written in this paper are overtaken by events since September 2009. But the author considers that, although some aspects of territorial disputes require more careful writing, the main thoughts developed here still stand true, and so, rather than trying to rewrite it from the perspectives of October 6 2013, when this "Foreword" is added, he preferred to publish it in the form it was drafted four years ago. All texts below date back to 2009, except purely copyediting revisions.

Introduction

Japan is currently engaged in three territorial issues: Northern territories, Takeshima and Senkaku. On each issue, the position of respective government regarding the fundamental issue of the sovereignty entirely differ each other. This paper does not enter into, nor does it aim to cover, the vast area of historical and legal righteousness of each government's position regarding the sovereignty issue. Once a position is taken and fixated on territorial issue, it becomes extremely difficult for any government to change its position. Holding negotiations is already creating fundamental difficulty. If the positions of the two sides are radically apart, then particularly the party, which actually controls the contested territory

may easily reject holding the negotiations. Such was the case with the Soviet Union during the Cold War in particular from 1978 until 1986. Such is the case for the Korean Government on Dokdo and for the Japanese Government on Senkaku. Even if the negotiations are accepted, it is usually extremely difficult for any government to acknowledge that its own historical views or legal views over the contested territory proved to be wrong.

This paper concentrates on different approach toward the territorial issues which divide countries in Northeast Asia. The paper concentrates on what can be loosely defined as “confidence building measures” surrounding the territorial issue, different from the fundamental “sovereignty issue” that divides respective countries’ position. Confidence building measures can be loosely defined as, first, “concrete measures and agreements” which are related to the territorial issue, but which do not address the resolution of the sovereignty issue and helps developing the confidence of the two diverging parties. The second area which may be included in those confidence building measures are various type of “dialogue and exchanges”, which do not aim and therefore do not entail concrete agreement or measures, but which are intended to improve better understanding on the dividing issue between respective countries. Debates and resolutions in multilateral fora, which are to improve better understanding but which do not have binding effect may be included in that second category as well.

This paper starts by a general comparison of the three territorial issues around Japan. It then draws on the rich experience of Japanese-Soviet/Russian territorial negotiations and will analyze first how the two areas of confidence building measures developed in the long period of negotiations between the two countries. Then it will try to apply the general conclusions drawn from that Russian/Soviet negotiations analysis

to the two outstanding negotiations with China and Korea. The paper ends with a short conclusion summarizing the lessons drawn from that application.

General comparison of Japan's three territorial issues

Comparing with the Northern Territories with Russia

Territorial negotiations have always been at the centrality of bilateral relations between Japan and the Soviet Union/Russian Federation. In cases of Takeshima and Senkaku, seen from Japanese perspectives, each territorial negotiation has rarely been at the centrality of respective bilateral relations, though with different reasons and different historical background. This is the fundamental difference between the Russo-Japanese relations and Korean/Chinese-Japanese relations.

Occupation of the four islands located at the South of the Kurile Islands was for Japan the last vestige of WWII, the symbol of its victim consciousness which it endured as the result of WWII. None of that victim consciousness existed in relation to China and Korea, where the Japanese fundamentally felt a sense of regret and apology for the aggression committed in China and the colonial ruling committed in Korea. Negotiations with the Soviet Union in 1955-56 were done with a view of settling all issues which resulted from Soviet attack to Japan from August 9, 1945. The territorial issue was one of the most serious issues for the settlement of that negotiation. This became the only unresolved issue which hampered the conclusion of a peace treaty. The Japanese position to ask the return of four islands became crystallized then and since then did not waver. In these Cold War days, the territorial issue became entangled with power factors among Cold War adversaries. The Soviet Union agreed to make limited concession in order to entice Japan to become more

detached from the United States. Japan insisted as its minimal demand to get back the four islands and did not mind exacerbation of relations with a Cold War adversary. The territorial negotiations with the Soviet Union played on the whole a useful role to preserve adversary relations between the two countries. After the end of the Cold War when adversarial relations did not serve best respective countries' national interests, serious efforts were made by both sides to improve bilateral relations. The territorial issue naturally became the key issue to find a breakthrough and it has always been at the center of the negotiations. Serious negotiations started from 1985 when Gorbachev came to power in the Soviet Union. Opportunities for a breakthrough were there, but they have been missed one after the other : twice under Gorbachev in 1986-87 and 1988-89 ; twice under Yeltsin in 1991-92 and 1997-98 ; and once under Putin in 2000-01.⁽¹⁾ Present day bilateral relations might be facing a new window of opportunity between Medvedev/Putin and Hatoyama, but, but whenever some talks emerge for the improvement of the relationship, it is always the territorial issue which is at stake.

Takeshima/Dokto with Korea

That situation is vastly different regarding Takeshima. Likewise the Northern Territories, Takeshima was one of the serious issues which had to be resolved in the 14 years of negotiations to establish diplomatic relations between Japan and Korea. The negotiations became much strained in the initial years after the end of WWII, partly because Takeshima was incorporated within the Syngman Rhee line established in 1952. Numerous Japanese fishing boats were captured, fishermen detained

(1) See Kazuhiko Togo, *The Inside Story of the Negotiations on the Northern Territories : Five Lost Windows of Opportunity*, (in Japanese, Tokyo, Shinchosha, 2007)

and some of them died in captivity.⁽²⁾ In July 1953 and August 1954, Japanese Maritime Safety Agency's vessel was shot by Korean border guards.⁽³⁾ In 1965, when Japan and Korea established diplomatic relations, the Syngman Rhee line was abolished but the Takeshima/Dokto issue was left completely unresolved. An Exchange of Notes concerning the resolution of conflicts was concluded and since then the Japanese side claims that the Takeshima issue has to be resolved through negotiations as is prescribed in this Exchange of Notes and proposed that if the two sides are not able to find a solution then the issue be transmitted to the scrutiny of the International Court of Justice. From Japan's perspective, it was recognized that the issue emerged when Japan's national power was at its nadir after its total defeat, and when Japan was not expected to enter into collision with South Korea as fellow spokes linked with the common hub of the United States. The Korean side claimed that it never accepted to negotiate the Takeshima issue, because there was no territorial issue between Japan and Korea and it is axiomatic that there was nothing to take up to the International Court of Justice. Forty four years have passed since then. After the establishment of diplomatic relations, the Japanese side has never brought up this issue to the centrality of bilateral relations. In the official high-level diplomatic exchanges the Japanese side regularly raised this issue, but it never went beyond the confirmation and reminder that Japan has not relinquished its claim. The issue was "put on the shelf" at least seen from the Japanese side.

(2) Figures vary but Park Yuha gives the following: 230 vessels detained, three sunk and 173 kept in Korea. 2791 fishermen detained and five died. Park Yuha, *Wakaino Tameni*, (Tokyo, Heibonsha, 2006), p.193. Japanese Wikipedia states 328 detained vessels, 3929 arrested fishermen, and 44 dead or injured (access June 17, 2009).

(3) http://www.mofa.go.jp/mofaj/area/takeshima/g_senkyo.html (access June 16, 2009)

Since the Japanese government has never given any official explanation it may not be easy to detect that difference between the Northern Territory and Takeshima, both of which the Japanese government claims back. It is also not realistic to expect that the Japanese government gives explanation as to why they lack political energy and determination to claim back the Takeshima islands, because *pro forma* a 20th-21st century government is not in a position to neglect its territorial claim. In my personal view the best way to understand the cause of that fundamental difference of perception between the Northern Territories and Takeshima is that the Northern Territories is the unresolved issue to rectify Japan's lost honor and pain it suffered during WWII. There is a national urge to do something in order to heal the wound of the war. The issue goes deep into the psychology of post-war Japanese, its injured sense of pride and lost identity. Nothing of that sort existed in relations to Takeshima. To the contrary there is a general recognition that Takeshima was negotiated in the context of Korea having gained independence from 35 years of annexation. If Northern territories is a symbolic issue to honor its lost pride and identity under its victim consciousness, Takeshima has been recognized as an issue which took shape when Korea was in the process of overcoming its victim consciousness and Japan acknowledging its perpetrator role. There is very little reason for Japan to claim the islands with the same intensity as it is claiming the Northern Territories from the Soviet Union.

Nevertheless Takeshima issue began to occupy a central role in bilateral Japan-Korea relations recently. It is no exaggeration to say that the latter part of Roh Moo-hyung's presidency from 2005 to 2007 was mostly spoilt by the Dokto issue, as the result of Shimane prefecture's decision on March 16, 2005 to set the date of February 22 as the "Shimane Takeshima Day". President Roh's declaration of diplomatic war against Japan and populace

anger reported through Korean media seemed to have no limit. As we see below, possible collision of Japanese Maritime Security Agency's research vessel and Korean border guard vessels around Takeshima/Dokto in April 2006 nearly brought the two governments into physical skirmishes. Lee Myung-bak's initial honeymoon period with Prime Minister Fukuda did not really last more than a half year. This was due to the modification of the commentary to the Monkasho Guidance of Teaching of junior-high school textbook on Takeshima. The commentary indicated that this is an issue to be taught at school, using a soft language which indicated that Korea had its position as well. But Korean media as well as Lee's government reacted sharply, and until the issue somehow calmed down in the autumn, it became one of the central political issues between the two countries. Given the fact that Japan and South Korea share many power factors as common democracies and common allies to the United States, extreme emotionalism displayed by the Korean side can only be explained from the historical complexity of Japan-Korea relations.

Senkaku/Dyaoyutai with China

Senkaku is again an entirely different story. As a territorial issue for post-war Japan the issue did not exist until the islands were claimed by the Republic of China (Taiwan) on June 11, 1971 and by the People's Republic of China on December 30, 1971.⁽⁴⁾ The islands did not constitute a part of the Japanese territory under Article 2 of the San Francisco Peace Treaty but was a part of the Nansei Shoto under Article 3 thereof put under the U. S. administration.⁽⁵⁾ It is widely interpreted that Chinese claims are done after their growing interest on the oil reservoir, which became publicly

(4) Kazuhiko Togo, *Japan's Foreign Policy 1945-2003: The Quest for a Proactive Policy*, Leiden, Brill, 2005, p. 136

(5) <http://www.mofa.go.jp/mofaj/area/senkaku> (access June 7, 2009)

known by a report issued by ECAFE in 1968. The islands were put under Japan's effective control after the Okinawa Reversion Treaty was put into force in May 1972. Despite the claim they made in December 1971, the Chinese leaders explicitly stated that they have no intention to raise this issue at the time of the establishment of diplomatic relations between Japan and China in September 1972.⁽⁶⁾ Both at the last stage negotiations on the Peace and Friendship Treaty in August 1978⁽⁷⁾ and at the occasion of the exchange of the instruments of ratification in October 1978⁽⁸⁾, Deng Xiaoping expressed that the issue is better handled by the next generation.

(6) Zhou Enlai stated on July 28, 1972 to the President of Komei Party, Yoshikatsu Takeiri, the following in a preparatory meeting to pave the way of Prime Minister Kakuei Tanaka's visit to China in September to establish diplomatic relations: "There is no need to touch the Dyaoyutai islands issue. Chairman Takeiri presumably was not interested either. I was not interested either, but historians became interested in it, particularly with regard to the oil issue, and in Japan Professor Kiyoshi Inoue is very enthusiastic on this issue. But there is no need to look at this issue with emphasis." Akira Ishii et al., *Nichukokko Seijyoka/Nichuheiva Yukojyoyaku Teiketsukoshu*, (Tokyo, Iwanami, 2003), p. 20

(7) Chinese source later indicated that Deng stated to Sonoda, Japanese Foreign minister who visited China to sign the Treaty of Peace and Friendship that "We must not scrutinize this issue now. We have to leave it aside, later find time to discuss, and find a way for mutually acceptable solution with time. If current generation cannot find a solution then the next generation, or the generation thereafter may find a way of solution." Ishii et al., *Nichukokko Seijyoka*, p. 179-80

(8) At the press conference in Tokyo on October 25, 1978 when Deng came to Tokyo on the occasion of exchange of instruments of ratification, he made the following statement to the Japanese press: "...We promised each other on the occasion of the establishment of diplomatic relations that we are not going to discuss this issue... On the occasion of the negotiations of the Treaty of Peace and friendship, we both came to share the view that we are not going to discuss this issue... This matter can be left aside for sometime to come... People in the next generation is wise, so they may find the wisdom to solve it." Tatsuo Urano, *Senkakushoto, Ryukyu, Chugoku*, (Tokyo, Sanwa Shoseki, 2005), p. 248

In a situation where Japan has effective control over the islands and where China's claim does not have any nature of urgent resolution through negotiations or other means, there did not emerge an urgent need from the Japanese side to resolve this issue bringing it to the centrality of the relationship. Since then during the Cold War, the two governments basically contributed to take cautious policy not to bring this issue to the centrality of the relationship. Although on the Chinese side, given the nature of communist party led political structure, the extent of the involvement of the government and individuals remained "uncertain". Already in April 1978 in the leading months toward the conclusion of the Treaty of Peace and Friendship, 100 Chinese fishing vessels surrounded the sea area around the islands, forty of them directly entering into the territorial waters. It was explained as "accidental" at the Peace and Friendship Treaty negotiations.⁽⁹⁾

With the end of the Cold War and the rise of Chinese economic, political and military power, the situation began to change. In February 1992, at the turning point of the wake of the Cold War, the Chinese government established a new territorial water law, and prescribed formally that Dyaoutai was a part of Chinese territory. Some Japanese observers began to assert that Deng's policy to leave the solution to a later generation may have ended on this point.⁽¹⁰⁾ In the changing atmospherics of post-Cold War, some Japanese Nationalist youth constructed a light house in July 1996. This was met by sharp protest by the Chinese government. Demonstrations took place in China, Taiwan and Hong Kong, and Chinese protesters from Hong Kong and Taiwan surrounded the islands. Japanese Maritime Security Agency made efforts to maintain order without causing

(9) Togo, *Japan's Foreign Policy 1945-2003*, p. 136

(10) Shigeo Hiramatsu, "Minamishinakaino Gasudenmondai", *Yomiuri Shimbun*, August 20, 2008.

physical collision.⁽¹¹⁾ And then, against the background of rising political tension caused by Koizumi's repeated visits to Yasukuni, seven Chinese nationalist protesters went ashore of the islands in March 2004 resulting into a swift compulsory deportation.⁽¹²⁾ Last but not least, we have recently observed that the Chinese government has adopted a more open policy of involvement in Senkaku, completely dissociating itself from Deng's legacy. The incident in December 2008 shows it as we see it below.

In total when one looks at current actual situation there are clear traces of Japanese government policy to let Japanese involvement into the islands to a minimum level almost taking a policy of "abandonment" of the islands.⁽¹³⁾ This is a heightened policy of pulling away the Senkaku islands from the centrality of bilateral relations and strikes a sharp contrast to the policy adopted by the Korean government on Dokto. Again because the Japanese government would never acknowledge the existence of such policy one can only speculate the reason of such policy. First, since the islands are under Japanese control, so long as its actual governance is not threatened by any other country's physical force, fundamental position of the Japanese government would be reasonably well secured. Second, provoking China and in its corollary, Taiwan and Hong Kong may well be a high price to pay from the point of view of power and security. It is not worth it. Third, there may not be a prospect of tangible net benefit from actual immediate involvement in Senkaku. Even if there were some, actual

(11) Yusuke Edo, *Senkakushoto*, (Tokyo, Koyu Shuppan, 1996), p. 14-16; Togo, *Japan's Foreign Policy 1945-2003*, pp. 151-152

(12) Tadayoshi Murata, *Senkakuretto Utsurijimamondaiwo domiruka*, (Tokyo, Nihon Kyohosha, 2004), p. 4

(13) Recent situation in Senkaku where virtually Japanese citizens' access is shut down is described in reportage by those "adventurists" who sought access to the islands. Yasushi Nishimuta, *Daremo Kokyowo Shiranai*, (Tokyo, Jyohosenta Shuppanyoku, 2008), pp. 327-374

involvement's cost may be higher than otherwise.

In contrast to Japanese restraint, moves shown at the end of 2008 by the Chinese side seemed to have gone clearly outside the framework of Deng Xiaoping's legacy, not to put the issue of the reversion of Senkaku at the centrality of the relationship. Why did China change its course and began distancing itself from Deng's legacy? Several reasons may be pointed out: first, obvious rise in China's national power which required greater manifestation of its presence throughout the world; second, China's need for energy sources and China's urge to maximize its control of all sea resources around the Chinese continent; third, rising military power, particularly its naval power which self-evidently was requiring its greater manifestation.

In total, as the result of Japan's concentration on the territorial issue with the Soviet Union/Russian Federation, a paradoxical situation has emerged. In the area where this paper intends to focus its analysis, that is the area of confidence building measures in terms of concrete agreements and exchanges there have accumulated vast knowledge and experience not to make the territorial issue an immediate security danger for peace and security in North East Asia. None of the equivalent experience has been developed in relation to Takeshima and Senkaku, and consequently we now see greater danger on security in Takeshima and Senkaku.

Concrete measures and agreements to build confidence with Russia

During the Cold War

Already immediately after Soviet occupation of the four islands, there emerged at least two issues which required concrete settlement. The first issue was *Kombu* (tangle) fishing around the Kaigara island, which

constitutes one island within the group of Habomai islands. Fishermen whose life hold depended on the *Kombu* catch in the Kaigara island, after the establishment of diplomatic relations in 1956, exerted pressure to the representatives of fishery business community and an agreement between Japan's Fishery Association and Soviet State Fishery Committee was concluded in 1963 to allow Japanese *Kombu* catch around Kaigara island. This agreement was renewed yearly, except between 1977 and 1981 due to the fishery talks related to the establishment of 200 miles economic zone as described below.⁽¹⁴⁾

The second issue in question was the visit by the Japanese inhabitants of four islands to the graveyard of their ancestors. After the establishment of diplomatic relations in 1956, former islanders who were deported in 1947 to Hokkaido from the four islands asked very strongly that visits to ancestors' graveyards on the islands be permitted. Soviet side conceded to this request and the first graveyard visit based on a simplified system of certificate, rather than strict visa system based on Soviet border control law took place in 1964. With certain interruption in 1968, 1971–1973, the graveyards visit continued until 1974. But in 1975, the Soviet authority requested the Japanese side to follow strictly Soviet border law and implement grave yards visit based on ordinary visa system and upon refusal by the Japanese side, graveyards visit discontinued for 10 years.⁽¹⁵⁾

One more issue loomed very heavily in the height of the Cold War. In December 1976, the Soviet Union adopted a new law to demarcate its 200 miles fishery zone. In the Cabinet Decision as of February 1977 to

(14) [http://www.city.nemuro.hokkaido.jp/dcitynd.nsf/image/3f6be5587f5678aa4925757d00104949/\\$FILE/%E8%B2%9D%E6%AE%BB%E6%98%86%E5%B8%83%E4%BA%A4%E6%B8%89%E3%80%90%E8%A8%82%E6%AD%A3%E3%80%91.pdf](http://www.city.nemuro.hokkaido.jp/dcitynd.nsf/image/3f6be5587f5678aa4925757d00104949/$FILE/%E8%B2%9D%E6%AE%BB%E6%98%86%E5%B8%83%E4%BA%A4%E6%B8%89%E3%80%90%E8%A8%82%E6%AD%A3%E3%80%91.pdf) (access, June 16, 2009)

(15) http://www.hoppou.go.jp/event/to_graves/index.html (access, June 16, 2000)

implement this new law, a concrete line to demarcate Soviet border was adopted, including an area to cover the waters around the four islands. The Japanese side considered that acknowledging this line would mean acknowledging Soviet unlawful jurisdiction. As a result of fierce negotiations the Japanese side withdrew all fishery vessels from the Soviet 200 miles fishery zone and pressured for a compromise. The Soviet side agreed to conclude a fishery agreement with a mitigating clause so that this agreement would not affect any other issues than fishery.⁽¹⁶⁾

Post-Cold War confidence building measures

The timid accumulation of concrete agreements where reciprocal compromise was expected in order to ensure confidence building began to increase drastically from the time of the end of the Cold War.

The first sign of compromise began to take place after Foreign Minister Shevardnadze's visit to Tokyo in January 1986 and Shintaro Abe's visit to Moscow in May 1986. After these two visits and clear convergence of positions that graveyards' visits have to be revived for humanitarian purposes, the two governments exchanged a Note Verbal in July to resume graveyards visit based on a simplified system of certificate. This practice has been continuing since then.⁽¹⁷⁾

The second major achievement was made in October 1991 in establishing a framework of "no visa visit". Gorbachev visited Japan in April 1991, and in the adopted communiqué it was agreed that "The Soviet side proposed the enhancement of exchanges between the inhabitants of the above mentioned [four] islands and Japanese nationals, establishment of simplified system of no-visa visit by Japanese nationals to these islands, initiation of mutually beneficial economic activities on the islands and that

(16) Togo, *The Inside Story*, pp. 95-97

(17) http://www.hoppou.go.jp/event/to_graves/index.html (access, June 16, 2000)

measures to reduce Soviet armed forces deployed on the islands shall be taken soon. The Japanese side stated that they would continue to discuss these issues.”⁽¹⁸⁾ No-visa agreement was concluded thus in October and since then this practice has been continuing.⁽¹⁹⁾

The third agreement reached was concerning fishery in the territorial waters around the four islands. Territorial waters around the four islands were rich in fishery sources such as crab or sea urchin (*umi*), and Japanese fishermen who traditionally made the catch continued their activities even after the Soviet occupation. The Soviet border guards arrested these fishermen and confiscated their boats and repeated incidents had become incessant source of friction between the two countries. This situation was aggravated particularly after the demise of the Soviet Union when Russian border control became loose. Numbers of “unlawful trespassing and catch”, in accordance with Russian definition, and the danger that the arrest of these fishing boats may develop into physical violence augmented. The two governments began negotiations to conclude an agreement to govern Japanese catch in territorial waters around the four islands in September 1994. The negotiations found a breakthrough in the spring of 1997, when the two sides found a way to overcome the sovereignty issue, which proved to be the most difficult hurdle. The Russian basic position was that these territorial waters were legal and legitimate Russian territory, therefore, it should be clearly written in the agreement that Japanese catch would be conducted in accordance with Russian law. The Japanese basic position was that since this is a territory unlawfully occupied by Russia, Japan cannot accept Russian jurisdiction. After strenuous negotiations, a common meeting of minds emerged that under

(18) Gaimusho, *Warerano Hopporyodo, Shiryohen*, 2004, p. 38

(19) Gaimusho, *Warerano Hopporyodo*, 2004, p. 29-30

the assumption that Russian law is actually applied in this area, the agreement would be concluded without any mentioning of Russian jurisdiction over the territorial waters concerned. The Japanese side will voluntarily follow de facto rules which are implemented in the waters, and the Russian authority would trust that this voluntary observation would be actually implemented. This became the key concept of the agreement, and a treaty to govern Japanese catch in the territorial waters around the four islands was concluded in February 1998. One of the key Japanese negotiators later told that “this is a unique treaty based on ‘trust’ rather than ‘assumed distrust’ which is a common basis of any international agreement.”⁽²⁰⁾ Catches based on this fishery agreement has been implemented orderly since then, except for one incident when in 2006, a Japanese fishing boat was chased by Russian border guard for “illegal catch” and a fisherman was shot dead by a Russian border guard.

The fourth agreement was on humanitarian assistance to the four islands. This concept emerged after a severe earthquake shook Northern Territories in 1994, and a framework agreement was reached along the line of no-visa exchanges to implement humanitarian assistance related to earthquake. This framework was enlarged in September 1998 to include other humanitarian projects than earthquake, entitled as “emergency humanitarian assistance based on no-visa system”. Since then enlarged concept was applied and building of emergency lodging house, combined with lodging space for Japanese visitors, was built in 1998 and a diesel electricity facility was established in 2000. Since 2002, the scope of humanitarian assistance was restricted to assistance which had real emergency nature or medical assistance.⁽²¹⁾ Recently, Russian side began

(20) Togo, *The Inside Story*, pp. 227-232

(21) Gaimusho, *Warerano Hopporyodo*, 2004, p. 30-31

to object that even the medical assistance goes outside the framework of emergency assistance, and the two sides are trying to find a solution.⁽²²⁾ Thus with some turbulence, the scheme continues to be implemented to this day.

The fifth, and probably the last scheme, which is implemented now is what is called “free visits”. This idea was first raised, taking into account the grievances expressed by former inhabitants of Habomai islands. Since the basic structure of no-visa exchanges was that visitors from Japan have to be received by responsible Russian organizations or individuals, Habomai inhabitants fell under a vacuum because there was practically no one living in Habomai islands after Russian occupation.⁽²³⁾ Prime Minister Keizo Obuchi took up this issue in his talk with President Yeltsin in November 1998 and an agreement to implement “free visits”, maximum simplified scheme of former islanders’ visits to the four islands, were created in September 1999. Smooth implementation is ensured since then.⁽²⁴⁾

Bilateral dialogue and exchanges and multilateral exchanges and negotiations on Northern Territories

Bilateral dialogue and exchanges

In the Cold War days, practically there was no dialogue on the territorial issue among government officials, social activists and opinion leaders between the two countries. Socialists, communists and leftists had their own channel of dialogue. The Socialist Party had a more Russia friendly approach and the Communist Party took a more independent approach on

(22) Sankei Shimbun, May 29, 2009

(23) Togo, *The Inside Story*, p. 262

(24) Gaimusho, *Warerano Hopporyodo*, 2004, pp. 31-32

the territorial issue. But neither of them affected government policy. But during the Cold War there was one exceptional channel which slowly established a channel of dialogue among main stream opinion leaders of the two countries. Ichiro Suetsugu, former member of pre-war Japanese intelligence Service, Nakano Gakko, devoted his post-war life to Japan's youth movement and the resolution of territorial issues, became the pioneer of the non-governmental dialogue between the two countries. After the reversion of Okinawa in 1972, he organized a group called the Institute of Security Studies (Anzenhoshomondai Kenkyujyo, ANPOKEN), gathered scholars of conservative-realists, established a channel with the top Soviet think-tank, Institute of International Economics and International Relations (IMEMO) and began initiating a structural dialogue on Japanese-Soviet relations, at the center of which lied the territorial issue. This ANPOKEN-IMEMO dialogue, still continuing to this day, played a vital role particularly in the 1970's and 1980's in enlarging the scope of mutual understanding on the territorial issue between the two countries.

When Gorbachev came to power in 1985 and began his policy of *Perestroika* and *Glasnostj*, free exchanges of views permeated Russian society, and the territorial issue with Japan became no exception. But the first sign of free debate appeared from the Japanese side in response to Gorbachev's major political speech on Asia-Pacific Region made in Vladjvostiok in 1986. Mineo Nakajima, a renowned China specialist, and Haruki Wada, a long time specialist on Russia both voiced their views that rigid assertion of the reversion of four islands in a bunch may not be realistic and a more flexible approach to achieve the reversion in a gradual manner may be realistic. But in the rapidly deteriorating political relations between Japan and the Soviet Union in 1986-88, this Nakajima-Wada contention was soon lost its saliency in the Japanese public debate. Conversely, debates on the territorial issue emerged in Russian media in

1988 and it reached to its peak in 1989 and 1990. Just to outline some of the major writings in the Russian media would include: Kunadze-Sarkisov's joint paper, which underlines the necessity of political will for the resolution and of the adherence to the 1956 Joint Declaration (May 1989)⁽²⁵⁾, Academician Afanashiev's statement in Tokyo that he ultimately supports the reversion of four islands (October 1989)⁽²⁶⁾, eloquent journal debates between Kunadze, Sarkisov, Lukin, and Tuyshetsky showing several differing views to seek a breakthrough in Japanese-Soviet relations (*Aganyok*, May 1990)⁽²⁷⁾, and Kunadze's paper which underlined the moral responsibility of observing 1956 Joint Declaration and ensuring negotiations on Kunashiri and Etorofu (August 1990).⁽²⁸⁾ The Soviet government's position at the time when these views emerged in the Russian press did not formally change. But they constituted the basis of Russian thinking in Gorbachev's visit to Japan in 1991 as well as Russian policy adopted by Yeltsin's government in the first year after the failed coup in August 1991. These public debates in Russia, and ensuing qualitatively deepened dialogue among opinion leaders between the two countries, more than anything else helped better understanding in the Japanese side what kind of flexible approach might Russia take in order to find a breakthrough. These debates found some echoes in Japanese policy measures taken in Yeltsin's second presidency from 1996–1999 and Putin's first year of negotiations with Prime Minister Mori in 2000–01.

(25) Tsuyoshi Hasegawa, *Hoporyodo Mondaito Nichirokankei*, (Tokyo, Chikumashobo, 2000), pp. 154–155

(26) Hasegawa, *Hoporyodo*, p. 164

(27) Hasegawa, *Hoporyodo*, p. 166

(28) Hasegawa, *Hoporyodo*, pp. 166–170

Multilateral exchanges and negotiations

Frank, courageous and creative discussion in non-governmental circles in respective country thus proved to be very useful in energizing the territorial negotiations between Japan and Russia. Enlarging the scope of debate to multilateral fora did not always have such an impact. So long as the debate was confined within academic circle and conducted in scholarly manner it could prove to be useful. A trilateral report by Graham Allison, Hiroshi Kimura and Konstantin Sarkisov "Beyond Cold War to Trilateral Cooperation in the Asia- Pacific Region : Scenarios for New Relationships between Japan, Russia and the United States" presented to the three governments in August 1992 was a commendable effort by academicians of the three countries to recommend a new vision.⁽²⁹⁾ In-depth debates among scholars and policy makers, all attending a conference and submitting papers, which eventually took the form of a book *Japan and Russia : The Tortuous Path to Normalization, 1949-1999*⁽³⁰⁾ was another example how academic debates and writing may contribute to a better understanding among parties.

But when it comes to governmental multilateral debates, the matter becomes highly sensitive and not necessarily constructive. Three G7 summits' handling of Japanese-Soviet/Russian relations gives examples. In July 1990 in Houston, when Europe was in a real turmoil after the fall of the Berlin Wall and the rising tide toward the unification of Germany, Japanese negotiators tried to ensure that this dramatic change should also take place in Asia, notably in the context of Japanese-Soviet relations. The German delegation insisted that provocative statement against Gorbechev should

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(30) Gilbert Rozman, Japan and Russia, *The Tourtuous Path to Normalixzation*,
1949-1999, (New York, St. Martin's Press, 2000)

be withheld, and no mention was made in the Political Declaration. But the Japanese delegation succeeded in letting the chairman state that “we expressed concern that in the Asia-Pacific region, we have not yet observed reconciliation, military withdrawal and relaxation of tension which characterized east-west relations in Europe. In this regard, we support an early resolution of the Northern Territorial issue which is an inevitable measure for the normalization of Japanese-Soviet relations.”⁽³¹⁾ The inclusion of that statement was coincidentally accompanied by Foreign Minister Nakayama’s statement later that “the assistance to the Soviet Union was similar to dump the money into a ditch.” Soviet side responded very negatively to these Japanese reactions, and many additional efforts became needed to overcome the hardened state of negotiations.⁽³²⁾

But in July 1991 in London, the way Japanese delegation handled the matter became much more subtle. Gorbachev’s visit to Japan took place in April of that year and there was a clear progress on the territorial problem. This was the first G7 summit which invited Gorbachev in recognition to the great change he introduced with his policy of *Perestroika* and new thinking diplomacy. The line suggested by the Japanese delegation and accepted by the G7 leaders in the Political Declaration reads as follows : “Our support to the fundamental reform policy in the Soviet Union is firm. We believe that the Soviet New Thinking in its foreign policy, which achieved relaxation of tensions in east-west relations and strengthening of peace and security system in multilateral fora must be applied globally. We hope that this new spirit of international cooperation should be extended to Asia just as in

(31) http://www.mofa.go.jp/mofaj/gaiko/summit/houston90/j16_b.html (access June 16, 2009)

(32) Alexander Panov, *Fushinkara Shinraihe*, (Tokyo, Simul Press, 1992), pp. 37-38

Europe.”⁽³³⁾ Gorbachev later came up with a very positive evaluation of Tokyo visit and London summit, expressing his conviction that had this process been continued the territorial issue between Japan and the Soviet Union would have been resolved soon.⁽³⁴⁾

In July 1992, exactly the opposite situation has arisen. This summit in Munich was the first summit to greet the first President of the Russian Federation, Boris Yeltsin. It was conducted at the height of Russian rapprochement toward Japan in the spring to summer 1992. Yeltsin was a proud leader who could not bear public humiliation. But he was greeted in the Political Declaration with the following: “We welcome Russian commitment that it would implement foreign policy based on the principle of law and justice. We believe that this Russian commitment would become the basis of complete Russian-Japanese normalization through the resolution of territorial problem.”⁽³⁵⁾ Yeltsin took this G7 communiqué as an affront and pressure against him, and this became one of the reasons of the collapse of Russian policy toward Japan in September 1992 by the cancellation of his trip to Japan.⁽³⁶⁾

Senkaku/Dyaoyutai controversies

As analyzed above, present day situation around Senkaku has become volatile. It may be premature to definitively judge that the Chinese government has completely forsaken Deng’s legacy to leave this issue out

(33) http://www.mofa.go.jp/mofaj/gaiko/summit/london91/j17_b.html (access, June 16, 2009)

(34) Mikhail Gorbachev, *Gorbachev Kaisoroku, II*, (Tokyo, Shinchosha, 1996), p. 329

(35) http://www.mofa.go.jp/mofaj/gaiko/summit/munich92/j18_b.html (access, June 16, 2009)

(36) Togo, *The Inside Story*, p.172

from the centrality of the relationship and to let the issue resolved by the generations to follow. But clearly, there are signs that some political forces in the government are advocating more assertive policy. On December 8 2008, two maritime research vessels navigated for nine hours through the territorial waters of Senkaku, despite repeated warning to stay away by the Japanese maritime agency.⁽³⁷⁾ On the same day, Deputy Chief of Maritime Control Department of the State Maritime Agency stated that “In a sea area where there is a conflict on international law, it is important to show the presence in the jurisdictional area and accumulate effective control.” Foreign Ministry spokesman told at the press conference on that day, that “Dyaoyutai is an inherent territory of China, and there is no reason for China to be intervened by another state. Whether to implement a research activities or not, and when to do it, is China’s domestic matter.” This issue has reportedly been seriously discussed at the top leaders Meeting on December 13 in Fukuoka.⁽³⁸⁾ This incident on December 8, 2008 and the two public statements which followed cannot just be ignored as a coincidence. So far the Japanese government position is markedly tamed in contrast to this growing assertiveness by the Chinese government. The policy of “no provocation” by virtually shutting out Japanese citizens’ access still seems to stand. But that situation is fraught with volatility and danger.

The first and obvious approach, which may really be in need is that the two governments begin to talk seriously the need to have some regulated approach so as not to let the issue explode into real collision. The Japanese side might explain that throughout the painful negotiations with the Soviet Union and Russia, it has not resorted to any use of physical presence in the

(37) Sankei Shimbun, December 10, 2008

(38) Asahi Shimbun, December 14, 2008

sea area. That pacifist approach was typical in post-war Japanese foreign policy. But that approach helped to preserve peace in East Asia, however serious Japan's territorial claim to Russia might have been. The Japanese side should make it unambiguously clear that the only way to find a mutually acceptable solution without risking the security situation is to approach the territorial issue through negotiations, based on minimum respect to the status quo. The negotiations need not be taken in a formal manner, but there is an absolute need to talk, at least on the security risk of the territorial issue.

If the Chinese government so desires, the Japanese government should not back away from talking the sovereignty issue. The Gromyko approach to insist that the territorial issue does not exist, therefore it is not willing to talk, just froze the bilateral relationship. Shevardnadze's approach to show readiness to listen has been so instrumental to melt the ice between the two countries. That lesson has to be learnt squarely.

Another area where scope of dialogue between the two governments is opened is the area of joint projects on Senkaku without going into the resolution of sovereignty issue. In fact, a possible joint economic activity on Senkaku has already been proposed for three decades by the Chinese side and not accepted by the Japanese side. After the conclusion of the Peace and Friendship Treaty in 1978, Deng Xiaoping raised this idea to Zenko Suzuki on May 31, 1979. Suzuki was a LDP politician who was known to be close to the then Prime Minister Ohira, and he later replaced Ohira in July 1980 upon Ohira's sudden death. When Suzuki visited Deng in May 1979, Deng, after explaining to Ohira historical Chinese position not to bring this issue at the centrality of the relationship, proposed the following: "We need to leave the [sovereignty] issue aside, and we may consider a joint development of the resources in this area. First of all, both sides need to stay away from propaganda; both sides need to consult and implement

joint development, and not to refer to the sovereignty. As for the technology, naturally the Japanese side would supply.”⁽³⁹⁾ There is no sign that the Japanese side showed any interest in Deng’s idea. To the contrary, on March 6-7, 2006, when it was reported that the Chinese side proposed a joint development of the territorial waters around Senkaku islands within the overall framework of joint development of East Sea energy sources, no positive response seemed to have emerged through the Japanese press.⁽⁴⁰⁾ It was later revealed that the area proposed by China was located just North to the territorial waters around Senkaku, but that negative response toward joint economic activities did not wane.⁽⁴¹⁾ Thus when current framework agreement on East Sea energy development was concluded between the two sides on June 19, 2008, one of the newspapers wrote that “It was a positive result of Japanese diplomacy that it could reject China’s proposal for a joint development around Senkaku islands.”⁽⁴²⁾

This issue of security, sovereignty and joint projects leading to confidence building measures can be and should be taken up not only by governments but also by academics, intellectuals and opinion leaders in second track. Rich experience in Japan-Russia relations may give good food for thought.

Takeshima/ Dokto controversies

One needs to consider seriously, why Takeshima issue began to occupy such a weighty position in Japan-Korea relations. In a way it is puzzling for many Japanese observers, because Korea, unlike Senkaku, is actually

(39) Urano, *Senkakushoto*, p. 248

(40) Asahi Shimbun, March 8-9, 2006

(41) Asahi Shimbun, March 11, 2006

(42) Sankei Shimbun, June 19, 2008

occupying the islands ; Japan, who has been claiming the islands has put it “on the shelf” and has long shown no intention to actually realize its reversion, let alone to use any forces ; and recent developments which exploded South Koreans were largely due to Japanese domestic measures which did not have direct impact on the negotiations between the two governments.

In such a situation one needs to give real thought why this issue has occupied such an important place in bilateral relations. The first reason I can think of is total lack of mutual understanding on what the issue means for the other party. There is total lack of understanding on the Japanese side, that Dokto issue is for the Koreans the most symbolic and representative issue of Japan's colonization. Takeshima's annexation to Shimane prefecture in 1905 was a prelude to Tsushima naval victory against Russia, Japan's enlarging its role as Korean colonizer, which eventually led to its annexation in 1910. Any attempt by the GOJ to explain, educate its people or propagate the existence of the territorial issue and trying to justify its position is instinctively taken as an attempt to justify Japanese colonial ruling. Conversely in Japan, very few people perceive this issue as a symbol of Japanese colonization. As said, there is a general understanding that the resolution of this issue was made taking into account 35 years of Japanese colonization in its background, but to be told that the issue itself is the most representative and symbolic issue of Japanese colonization usually take many Japanese with a surprise. Korean emotional reaction to defend Dokto militarily against possible Japanese invasion usually put many Japanese with awkward feeling. What should be done in that deep perceptual gap? To me the best and probably the only way to overcome this gap is that the two sides would enter into a deeper and better dialogue just to understand each other. Government officials have no reason not to join this dialogue, but given the highly sensitive

political nature of this issue, this dialogue should, at least in the coming years when this issue still might become a boiling pot between the two countries, be conducted exclusively within a framework of academic and non-governmental format. It is not negotiations but a tenacious attempt to improve better understanding.

The second approach one needs to think is a genuine confidence building measures to avoid real security threat. As said, because the Japanese side has currently no intension to claim back in real terms, or display Japan's jurisdictional right over the islands with physical forces, in principle, the territorial dispute should not develop into a real security danger. Still jurisdictional claim sometimes might entail physical encountering. In April 2006, the two governments really faced a very serious situation when physical collision between Japanese official research vessel and Korean border guard vessels became within a real possibility. Korean government had made public plans to propose renaming of seafloor topography near Dokto islets at the International Hydrographic Organization (IHO) in June 2006. Alerted by this move Japanese Maritime Safety Agency decided to send its own research vessels around Takeshima to investigate the seafloor topography so that it can make a counter proposal at the IHO. Korean authority and media responded with the harshest alarm to this Japanese counter-actions. At this point, physical collision between JMSA's research vessels and Korean border guard vessels entered clearly in sight.⁽⁴³⁾ But on April 21 and 22, Vice Minister for Foreign Affairs Shotaro Yachi and his Korean counterpart held intensive talks in Seoul, and reached an agreement that the Japanese side would withdraw its research vessel and Korean side would not propose the renaming of Dokto islets seafloor topography.⁽⁴⁴⁾ This incident left a serious lesson that some kind of

(43) Yomiuri Shimbun, April 20, 2006; Kyodo, April 30, 2006

(44) Kyodo, April 30, 2006

confidence building measures or rule of the game to avoid physical collision in any circumstances is highly desirable.

As to a precedent on confidence building measures on Takeshima/Dokto, a commendable agreement on fishery which shelved the sovereignty issue and created a structure through which fishermen from both countries might conduct their catch in the vicinity of disputed Takeshima/Dokto was achieved. In November 1998 a new fishery agreement was concluded and went into force in January 1999 after its ratification in respective parliament. This treaty dealt with the Takeshima issue with a pragmatic structure. Without naming the sea area around Takeshima by name, it defined the area around the islands by mapping it.⁽⁴⁵⁾ It then specified that in this area each country should retain its jurisdiction over respective citizens. It also specified that each government is obligated to take necessary measures so that its own fishery vessels should respect conditions for the catch, respecting the recommendation given by the joint fishery committee established by the two governments.⁽⁴⁶⁾ The treaty also included a disclaimer that “Any article of this treaty shall not harm each contracting party’s position on any issues of international law other than the fishery.”⁽⁴⁷⁾ Thus the treaty created a structure to allow fishermen of both countries to be engaged in catch at the area where they find catch to be commercially viable. But in reality agreement was hardly reached in the joint fishery committee and the Japanese fishermen began to claim that they were virtually deprived of their fishing right.⁽⁴⁸⁾ Deeply discontented fishermen apparently pressured the Shimane Prefecture to do something about Takeshima, and this apparently led to the establishment of the

(45) Article 9-1 of the 1998 Fishery Treaty

(46) Appendix I-2 of the 1998 Fishery Treaty

(47) Article 15 of the 1998 Fishery Treaty

(48) <http://blog.livedoor.jp/lancer1/archives/50141003.html> (access, June 16, 2009)

Takeshima Day in Shimane in 2005. While frustration is mounting on the part of Japanese fishermen, Constitutional verdict on February 26, 2009 at the Korean Supreme Court gave judgment that the 1998 Fishery Treaty is constitutionally lawful.⁽⁴⁹⁾ What are other key approaches to strengthen confidence building measures around Takeshima/Dokto? Joint scientific research or some joint cultural event? This issue may become the key factor in dealing with these islands issue in the near future. Governments naturally have a key role to play, but second track dialogue among interested parties would have major role to contribute to this direction.

Conclusion

A paradoxical situation is emerging in Northeast Asia. Among the three territorial negotiations in the region it was by far the Japan-Russia disputes on the Northern territories that occupied the time and attention of the negotiators. As the result of this enormous amount of time and energy spent, Japan and Russia now find itself to manage the security danger which the territorial divergence may create. In terms of peace and security of the region this is a positive development. As for the two remaining issues, Takeshima with Korea and Senkaku with China, both issues were not at the centrality of Japan's respective policy toward Korea and China. In case of Korea, since Japan was the claiming part to ask to change the status quo, Japan's relatively reserved position should have been a good ground to take the heat off from the bilateral relations. In case of China Japan was long led to believe by Zhou Enlai and Deng Xiaoping that China does not intend to bring this issue to the forefront of the

(49) <http://japanese.joins.com/article/article.php?aid=111937> (access, June 16, 2009)

relationship. As it turned out to be, in the last decade or so, the Japanese are slowly realizing that this self-intoxicating optimism may prove to be wrong. Any Japanese move, even a relatively minor domestic one, in accordance with Japanese perception, explodes the Koreans with highly emotional militaristic reaction. An issue of seafloor topography runs the risk of physical collision between the border guards and maritime security vessels. Recent move by the Chinese authority gives some doubt that the time of Zhou and Deng's legacy may be completely over. Three measures can be realistically proposed to meet the challenges.

First, among scholars, researchers, academics, intellectuals, opinion leaders, governmental officials in private capacities, there can and there should be a real open and frank discussion on all aspects of the territorial disputes. But this dialogue has to be conducted with a reciprocal spirit of trying to understand other countries position : the basis of its logic, national emotion behind, contemporary political forces, security risk and so on. A third country's individuals' involvement may prove to be useful, but it is advised that it is done with caution and wisdom, because even on an individual level, an overt support of one country's position may run the risk of emotionally provoking the other party. US individuals' involvement may prove to be particularly useful, or dangerous, because both on Takeshima and Senkaku, the U. S. has not been a complete outside party.

Second, it is high-time for the government officials to be a little more courageous and initiative taking to create a framework through which security danger may be avoided. It is almost axiomatic to argue that physical collision has to be avoided at all costs. Non-governmental individuals are well suited to throw out ideas within the context of overall dialogue as mentioned above, but it is government task and responsibility not to let territorial dispute developed into a security danger. For that there is a need to establish a common rule of conduct and behavior.

Third, as these two measures are reasonably well implemented, it may become possible that experts, policy makers and opinion leaders may come up with creative ideas where sovereignty issue is well shelved and concrete ideas of cooperation and joint ventures might develop. Strengthening of confidence building measures becomes the key factor. The ultimate objective of sovereignty resolution may best be achieved after the two countries have gone a certain stage of this mutual confidence building.