

---

---

# INTERNATIONAL LAW STUDIES

— *Published Since 1895* —

## U.S. Recognition of Japanese Sovereignty Over the Senkaku Islands

*Raul (Pete) Pedrozo*

97 INT'L L. STUD. 652 (2021)

Volume 97



2021

---

---

*Published by the Stockton Center for International Law*

ISSN 2375-2831

# U.S. Recognition of Japanese Sovereignty Over the Senkaku Islands

*Raul (Pete) Pedrozo\**

## CONTENTS

I. Introduction.....	653
II. China’s Coercion.....	653
III. A Change in Course.....	655
IV. The Legacy of World War II.....	655
V. Paradox and Policy .....	661
VI. Conclusion .....	664

---

\* Captain Raul (Pete) Pedrozo, USN (Ret.), is the Howard S. Levie Professor of the Law of Armed Conflict at the Stockton Center for International Law, U.S. Naval War College. After his retirement from the U.S. Navy he was a Professor of International Law at the Naval War College and Principal Deputy Staff Judge Advocate, U.S. Indo-Pacific Command. On active duty, he served in senior positions in the Department of Defense, including Staff Judge Advocate, U.S. Pacific Command, and Special Assistant to the Under Secretary of Defense for Policy.

The thoughts and opinions expressed are those of the author and not necessarily of the U.S. government, the U.S. Department of the Navy, or U.S. Naval War College.

## I. INTRODUCTION

Recent Chinese intimidation against Japan over the Senkaku Islands in the East China Sea presents an ideal opportunity for the United States to strengthen the alliance with Tokyo and enhance regional strategic security and stability. On June 22, 2020, the Ishigaki City Council of Okinawa voted to strengthen Japan's administrative control of the Senkaku Islands by reasserting that the islands are Japanese territory and changing their administrative name from "Tonoshiro" to "Tonoshiro Senkaku."<sup>1</sup> The United States should acknowledge the name change and officially recognize the Senkakus as Japanese territory, as it once did before the reversion of Okinawa to Japan in 1972.

## II. CHINA'S COERCION

Prior to the City Council vote, the Chinese Ministry of Foreign Affairs warned Tokyo that the "Diaoyu [Senkaku] island and its affiliated islands are China's inherent territories."<sup>2</sup> Beijing also called on Japan to acknowledge that sovereignty over the Senkakus is disputed, urging Tokyo to "abide by the spirit of the four-principle consensus, avoid creating new incidents . . . , and take practical actions to maintain the stability of the East China Sea situation."<sup>3</sup> The third point of consensus provides that "both sides recognized that they had different views as to the . . . tense situations . . . in the waters of the East China Sea, including those around the Senkaku Islands, and shared the view that, through dialogue and consultation, they would prevent the deterioration of the situation, establish a crisis management mechanism and avert the rise of unforeseen circumstances."<sup>4</sup> The day after the vote, the

---

1. Brad Lendon & Junko Ogura, *Vote in Japan to change status of disputed islands threatens to raise tensions with China*, CNN (June 22, 2020), <https://www.cnn.com/2020/06/21/asia/china-japan-island-dispute-intl-hnk-scli/index.html>.

2. *Id.*

3. *Id.*

4. Japan and China released a four-principle consensus in 2014 to improve relations between the two countries. It includes the following points:

1. Both sides confirmed that they would observe the principles and spirit of the four basic documents between Japan and China and that they would continue to develop a mutually beneficial relationship based on common strategic interests.

Chinese Foreign Ministry issued a strong statement: “Japan’s adoption of the . . . name-changing bill” was a “serious provocation against China’s territorial sovereignty,” and the new law was “illegal, null and void, and cannot change the fact . . . that the Diaoyu Islands belong to China.”<sup>5</sup>

Since mid-April 2020, Chinese government ships have maintained a near continuous presence in the waters off the Senkakus. As of early July, Japan’s 11th Regional Coast Guard Headquarters at Naha, Okinawa, reported sighting Chinese ships in the area for eighty-four consecutive days. In an unprecedented occurrence, on July 4, 2020, two Chinese government ships operated in Japan’s territorial sea off the Senkakus for nearly forty hours, “the longest such intrusion since the islands were nationalized [by Japan] in 2012.”<sup>6</sup> While in the territorial sea west-southwest of Uotsurijima, the Chinese vessels approached a Japanese fishing vessel several times, prompting a Japanese Coast Guard vessel to position itself between the Chinese and Japanese boats to ensure the fishing boat’s safety. On the same day, two other

---

2. Both sides shared some recognition that, following the spirit of squarely facing history and advancing toward the future, they would overcome political difficulties that affect their bilateral relations.

3. Both sides recognized that they had different views as to the emergence of tense situations in recent years in the waters of the East China Sea, including those around the Senkaku Islands, and shared the view that, through dialogue and consultation, they would prevent the deterioration of the situation, establish a crisis management mechanism and avert the rise of unforeseen circumstances.

4. Both sides shared the view that, by utilizing various multilateral and bilateral channels, they would gradually resume dialogue in political, diplomatic and security fields and make an effort to build a political relationship of mutual trust.

Ministry of Foreign Affairs of Japan, Regarding Discussions toward Improving Japan-China Relations (Nov. 7, 2014), [https://www.mofa.go.jp/a\\_o/c\\_m1/cn/page/4e\\_000150.html](https://www.mofa.go.jp/a_o/c_m1/cn/page/4e_000150.html). The phrase “different views” in point 3 of the consensus confirms that Japan and China have different views on “the emergence of a tense situation in recent years in the waters of the East China Sea,” and that Japan’s position on the Senkaku Islands remains unchanged. Nobuhiko Isaka, The House of Representatives, Japan, Written answer to questions about the four-item agreement, Answer 21st, Cabinet No. 187, No. 72 (Nov. 21, 2016), [http://www.shugiin.go.jp/internet/itdb\\_shitsumon.nsf/html/shitsumon/b187072.htm](http://www.shugiin.go.jp/internet/itdb_shitsumon.nsf/html/shitsumon/b187072.htm) (translated using Microsoft Edge Translate function).

5. Xinhua, *China firmly opposes Japan’s so-called name-changing bill concerning Diaoyu Islands*, CHINADAILY.COM (June 23, 2020), <http://www.chinadaily.com.cn/a/202006/23/WS5ef154e9a310834817254c1f.html>.

6. *Chinese ships sail in Japanese territorial waters near Senkakus for 39 hours — longest since 2012*, THE JAPAN TIMES (July 6, 2020), <https://www.japantimes.co.jp/news/2020/07/06/national/china-japan-territorial-waters-senkakus>.

Chinese government vessels were spotted operating in the contiguous zone off the Senkakus.<sup>7</sup>

Japan's Chief Cabinet Secretary Yoshihide Suga responded to the continuous Chinese intrusions, reaffirming that the Senkakus remain under Japanese control and are unquestionably Japanese "territory historically and under international law."<sup>8</sup> Secretary Suga also expressed concern over Chinese activities in the vicinity of the Senkakus, calling China's presence "extremely serious," and stated that Japan would respond to the repeated intrusions "firmly and calmly."<sup>9</sup>

### III. A CHANGE IN COURSE

The United States should take advantage of this new development, acknowledge the name change, and again officially recognize the Senkakus as Japanese territory. After the Second World War, the United States recognized Japanese residual sovereignty over the Senkakus. President Richard Nixon changed the U.S. position in 1972 during the negotiation of the Okinawa Reversion Treaty. But that move was done as part of the Nixon administration's triangular diplomacy to attract China as a counterbalance to ascending Soviet economic might and expanding nuclear arsenal. Today, China is the greater threat and support for Japan as a front-line State balancing China's burgeoning military power is long overdue. Recognizing Japanese sovereignty over the islands would demonstrate strong support for our extremely important ally in the Pacific and would send a clear message to Beijing that the United States will stand up to Chinese aggression in the region and not abandon its allies and partners.

### IV. THE LEGACY OF WORLD WAR II

Following Japan's surrender to the Allies in September 1945, U.S. forces occupied the main Japanese islands, as well as other Japanese territories including the Amami, Okinawa, Miyako and Yaeyame island chains.<sup>10</sup> Although

---

7. *Id.*

8. Lendon & Ogura, *supra* note 1.

9. *Id.*

10. Japan was defined by the Joint Chiefs of Staff as "the four main islands of Japan: Hokkaido (Yezo), Honshu, Kyushu and Shikoku and about 1,000 smaller adjacent islands including the Tsushima Islands." U.S. Joint Chiefs of Staff, J.C.S. 1380/15, Basic Initial Post

U.S. survey and reconnaissance operations initially did not extend beyond Kume Island, in January 1946 the U.S. commander on Okinawa was ordered to extend U.S. operations “to include the Northern Ryukyus south of the 30th parallel North and to include Sakishima Gunto,” which includes the Senkaku Islands.<sup>11</sup> A map issued by the Supreme Commander for the Allied Powers (SCAP) reflected that the Ryukyus were not part of Taiwan.<sup>12</sup> Additionally, a SCAP Memorandum (SCAPIN-677) defined Japan as “the four main islands of Japan (Hokkaido, Honshu, Kyushu and Shikoku) and the approximately one thousand smaller adjacent islands, including the Tsushima Islands and the Ryukyu (Nansei) Islands north of 30° North Latitude (excluding Kuchinoshima Island).”<sup>13</sup>

Thus, official documents issued by the U.S. State Department and the SCAP clearly associated the Senkakus with the Okinawa prefecture.<sup>14</sup> Declassified State Department records also indicate that the United States “rejected *in toto* Chinese claims to the Ryukyus,” raised by Chinese Foreign Minister T.V. Soong in October 1944 and President Chiang Kai-Shek in 1947.<sup>15</sup> A 1951 National Intelligence Estimate (NIE-19) produced by the Central Intelligence Agency similarly concluded that the territorial clauses of the Cairo and Potsdam Declarations required the return of the Ryukyu and Bonin Islands to Japan.<sup>16</sup> Other publications by the U.S. Civil Administration of the Ryukyu Islands confirm that the Senkakus were considered part of the Ryukyu Islands chain.<sup>17</sup>

---

Surrender Directive to Supreme Commander for the Allied Powers for the Occupation and Control of Japan (Nov. 3, 1945).

11. Jean-Marc F. Blanchard, *The U.S. Role in the Sino-Japanese Dispute over the Diaoyu (Senkaku) Islands, 1945–1971*, 161 THE CHINA QUARTERLY 95, 103 (2000).

12. *Id.* at 102 n.35.

13. Memorandum from General Headquarters, Supreme Commander for the Allied Powers (SCAPIN-677) to Imperial Japanese Government, Governmental and Administrative Separation of Certain Outlying Areas from Japan, Jan. 20, 1946. [https://www.cas.go.jp/jp/ryodo\\_eg/shiryo/takeshima/detail/t1946012900101.html](https://www.cas.go.jp/jp/ryodo_eg/shiryo/takeshima/detail/t1946012900101.html).

14. A map issued by the SCAP in December 1947 includes the Sakishima group as part of the Ryukyus and excludes them from the China theatre and Taiwan. Blanchard, *supra* note 11, at 103.

15. *Id.* at 104.

16. *Id.* at 108.

17. *Id.* at 111 n.86. See also EGBERT H. WALKER, RYUKYU ISLANDS: PRELIMINARY NOTES ON THE USE, DISTRIBUTION, AND ADAPTABILITY OF NATIVE AND INTRODUCED TREE SPECIES (1952).

Subsequently, during the negotiations of the San Francisco Peace Treaty, the United States opposed an Allied proposal that Japan renounce sovereignty over the Ryukyus in favor of the United States. The U.S. counterproposal, made by Secretary of State John Foster Dulles, was to allow “Japan to retain residual sovereignty, while making it possible for these islands to be brought into the United Nations trusteeship system, with the United States as administering authority.”<sup>18</sup> The U.S. counterproposal was adopted by the conference.

Each successive U.S. administration recognized Japanese “residual sovereignty” over the Ryukyu Islands. In 1957, the Eisenhower administration reaffirmed Japan’s “residual sovereignty” over the islands, and indicated that the United States would administer the Ryukyus “for a period, and that the sovereignty would then return to Japan.”<sup>19</sup> The Kennedy administration took a similar position, recognizing the Ryukyus as part of Japan, and that the United States looked “forward to the day when the security interests of the free world will permit their restoration to full Japanese sovereignty.”<sup>20</sup> The Johnson administration likewise “reaffirmed Japan’s residual sovereignty over the islands” in a joint communiqué in January 1965.<sup>21</sup>

In 1969, “residual sovereignty” meant that “the United States would not transfer its sovereignty powers [administrative, legislative and judicial] over the Ryukyu Islands to any nation other than Japan.”<sup>22</sup> Moreover, a now-declassified 1971 CIA report indicated that the Senkakus were “generally accepted as being Japanese owned,” and that China had not claimed the islands until 1970, after the release of a report by the United Nations in 1969 indi-

---

18. John Foster Dulles, U.S. Secretary of State, Address at the San Francisco Peace Conference (Sept. 5, 1951), <https://worldjpn.grips.ac.jp/documents/texts/JPUS/19510905.S1E.html>. See also KERRY DUMBAUGH (COORDINATOR), CONG. RSCH. SERV., RL31183, CHINA’S MARITIME TERRITORIAL CLAIMS, IMPLICATIONS FOR THE U.S. 21 (2001), [hereinafter DUMBAUGH, CRS REPORT]; Blanchard, *supra* note 11, at 102, 109, 110.

19. Joint Communiqué of Japanese Prime Minister Kishi and U.S. President Eisenhower (June 21, 1957), <https://worldjpn.grips.ac.jp/documents/texts/JPUS/19570621.D1E.html>; see also Blanchard, *supra* note 11, at 117 n.115.

20. Statement by President John F. Kennedy upon Signing Order Relating to the Administration of the Ryukyu Islands (Mar. 19, 1962), <https://www.presidency.ucsb.edu/documents/statement-the-president-upon-signing-order-relating-the-administration-the-ryukyu-islands>; Blanchard, *supra* note 11, at 118.

21. Blanchard, *supra* note 11, at 118.

22. *Id.* at 109 n.78.

cating that large deposits of oil could be present in the continental shelf between Taiwan and Japan.<sup>23</sup> The CIA report also determined that there was “strong support for the Japanese claim to the Senkakus” based on historical Japanese maps and maps published in Peking and Taipei.<sup>24</sup> Accordingly, the CIA report concluded that Japanese sovereignty claims to the Senkakus were strong, “and the burden of proof of ownership would seem to fall on the Chinese.”<sup>25</sup>

Nonetheless, despite the overwhelming evidence supporting the Japanese claim, the Nixon administration changed the U.S. position on the sovereignty issue to one of neutrality based on strategic calculations in dealing with the Soviet Union. In April 1971, during the negotiation of the Okinawa Reversion Treaty, U.S. officials suggested that “in occupying the Ryukyus and the Senkakus in 1945, and in proposing to return them to Japan in 1972, the U.S. passes no judgment as to conflicting claims over any portion of them, which should be settled directly by the parties concerned.”<sup>26</sup> The State Department agreed with the proposal, noting in a June 1971 cable that “the United States cannot add to the legal rights Japan possessed before it transferred administration of the islands to the United States nor can the United States by giving back what it received diminish the rights of the Republic of China.”<sup>27</sup>

This change in position was not, however, based on the belief that Japan did not retain residual sovereignty over the islands, but was designed to appease the Republic of China over its impending expulsion from the United Nations, and to break the impasse of the ongoing textile negotiations with

---

23. DIRECTORATE OF INTELLIGENCE, CENTRAL INTELLIGENCE AGENCY, THE SENKAKU ISLANDS DISPUTE: OIL UNDER TROUBLED WATERS? 25 (1971) [hereinafter CIA Senkakus Intelligence Report]; K. O. EMERY, ET AL., UNITED NATIONS ECONOMIC COMMISSION FOR ASIA AND THE FAR EAST, GEOLOGICAL SURVEY, GEOLOGICAL STRUCTURE AND SOME WATER CHARACTERISTICS OF THE EAST CHINA SEA AND THE YELLOW SEA 41 (1969).

24. CIA Senkakus Intelligence Report, *supra* note 23, at 18-19.

25. *Id.* at 29.

26. Memorandum from John H. Holdridge of the National Security Council Staff to the President's Assistant for National Security Affairs (Kissinger), Apr. 13, 1971, *reprinted in* 17 FOREIGN RELATIONS OF THE UNITED STATES, 1969-1976: CHINA 1969-1972 at 296 (Steven E. Phillips ed., 2006).

27. Seokwoo Lee, *The 1951 San Francisco Peace Treaty with Japan and the Territorial Disputes in East Asia*, 11 PACIFIC RIM LAW & POLICY JOURNAL 63, 122-23 (2002).



Taipei.<sup>28</sup> Ambassador-at-Large David Kennedy was convinced that the “only way to resolve the issues is to withhold turning the Senkaku Islands over to Japanese administrative control under the Okinawa Reversion Agreement.”<sup>29</sup> Ambassador Kennedy believed that the Republic of China “would lose a great deal more international face if they were to settle for a disadvantageous bargain” in the textile negotiations, and therefore suggested, *inter alia*, that the United States “offer certain concessions to Taiwan” to break the impasse “without causing disastrous side effects for either our industry or the Taiwan Government.”<sup>30</sup>

It is also likely that the Nixon administration’s overtures to China, culminating in the President’s visit to China in February 1972, influenced the decision.<sup>31</sup> During his visit to China, President Richard Nixon met with Chairman Mao Tse-tung and exchanged views on Sino-U.S. relations and world affairs. He later met with Premier Chou En-lai to discuss the normalization of relations between the United States and China, as well as other matters of interest to both sides. In a joint statement following these meetings—the Shanghai Communiqué—the United States acknowledged “that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China” and that the U.S. government “does not challenge that position.”<sup>32</sup> The United States also reaffirmed “its interest in a peaceful settlement of the Taiwan question by the Chinese themselves” and that the United States would progressively withdraw “all U.S. forces and military installations from Taiwan . . . as the tension in the area diminishes.”<sup>33</sup>

---

28. Memorandum From the President’s Assistant for International Economic Affairs (Peterson) to President Nixon, June 7, 1971, *reprinted in* 17 FOREIGN RELATIONS OF THE UNITED STATES, 1969–1976: CHINA 1969–1972 at 341 (Steven E. Phillips ed., 2006) [hereinafter Peterson Memo to Nixon]; *See also* Backchannel Message from the President’s Assistant for International Economic Affairs (Peterson) to Ambassador Kennedy, in Taipei, June 8, 1971, *reprinted in* 17 FOREIGN RELATIONS OF THE UNITED STATES, 1969–1976: CHINA 1969–1972 at 343 (Steven E. Phillips ed., 2006); CIA Senkakus Intelligence Report, *supra* note 23, at 16.

29. Peterson Memo to Nixon, *supra* note 28, at 342.

30. *Id.*

31. DUMBAUGH, CRS REPORT, *supra* note 18, at 22. *See also* Eisuke Suzuki, *The Origin of the Territorial Dispute of the Senkaku Islands*, HOJOROHNIN’S DIARY (Nov. 4, 2013), <http://hojorohnin.hatenablog.com/entry/2013/11/04/132324>.

32. Joint Statement Following Discussions with Leaders of the People’s Republic of China, Shanghai, Feb. 27, 1972, *reprinted in* 17 FOREIGN RELATIONS OF THE UNITED STATES, 1969-1975, CHINA, 1969-1972 at 812-16 (Steven E. Phillips ed., 2006).

33. *Id.*

When President Nixon submitted the Okinawa Reversion Treaty to the U.S. Senate for advice and consent in 1971, Secretary of State William Rogers indicated “that reversion of administrative rights to Japan did not prejudice any claims to the islands,” and that the treaty would not affect the legal status of the Senkakus.<sup>34</sup> In a letter dated October 20, 1971, Acting Assistant Legal Adviser Robert Starr explained the U.S. position regarding the sovereignty dispute:

The United States believes that a return of administrative rights over those islands to Japan, from which the rights were received, can in no way prejudice any underlying claims. The United States cannot add to the legal rights Japan possessed before it transferred administration of the islands to us, nor can the United States, by giving back what it received, diminish the rights of other claimants. The United States . . . considers that any conflicting claims to the islands are a matter for resolution by the parties concerned.<sup>35</sup>

Since that date, successive U.S. administrations have maintained a position of neutrality concerning the dispute.<sup>36</sup>

---

34. LARRY A. NIKSCH, CONG. RSCH. SERV., CRS-96-798, SENKAKU (DIAOYU) ISLANDS DISPUTE: THE U.S. LEGAL RELATIONSHIP AND OBLIGATIONS 3 (1996), [hereinafter NIKSCH]; see also Blanchard, *supra* note 11, at 120.

35. NIKSCH, *supra* note 34; see also *Hearing on Ex. J. 92-1 the Agreement Between the U.S.A. and Japan Concerning the Ryukyu Islands and the Daito Islands Before the Senate Committee on Foreign Relations*, 92nd Cong. 91 (1971).

36. On August 16, 2010, Assistant Secretary of State Philip Crowley reiterated the U.S. position: “The United States does not take a position on the question of the ultimate sovereignty of the Senkaku Islands. We expect the claimants to resolve this issue through peaceful means among them-selves. But Article 5 of the 1960 U.S.-Japan Treaty of Mutual Cooperation and Security states that the treaty applies to the territories under the administration of Japan.” Daily Press Briefing, Philip J. Crowley, Assistant Secretary, U.S. Department of State (Aug. 16, 2010), <https://2009-2017.state.gov/r/pa/prs/dpb/2010/08/146001.htm>; see also Daily Press Briefing, Victoria Nuland, Spokesperson, U.S. Department of State (Aug. 28, 2012), <https://2009-2017.state.gov/r/pa/prs/dpb/2012/08/196986.htm>.

## V. PARADOX AND POLICY

The current U.S. position on sovereignty is nonsensical in that the United States acknowledges Japan's effective administration of the islands, a prerequisite for conferring sovereignty under international law.<sup>37</sup> Moreover, the United States considers its defense obligations under Article V of the Treaty of Mutual Cooperation and Security between the United States and Japan to apply to the Senkakus. Article V provides that "[e]ach Party recognizes that an armed attack against either Party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes."<sup>38</sup> Secretary of Defense James Mattis reaffirmed the U.S. commitment to defend the Senkakus during a meeting with Prime Minister Shinzo Abe in 2017, stating, "I want to make certain that Article 5 of our mutual defense treaty is understood to be as real to us today as it was a year ago, five years ago—and as it will be a year, and 10 years, from now."<sup>39</sup> The Biden administration has likewise reiterated that U.S. defense commitments to Japan are absolute. In a press release on March 14, 2021, the State Department reaffirmed that "the Senkaku Islands fall within the scope of Article V of the U.S.-Japan Treaty of Mutual Cooperation and Security," and that the United States remains "opposed to any unilateral attempts to change the status quo in the East China Sea or undermine Japan's administration of these islands."<sup>40</sup> Nonetheless, while U.S. "neutrality" may be well-intended, it is of little value in reducing tensions between China and Japan over the disputed islands. On the contrary, the lack of support for a critical ally emboldens China to be more assertive in challenging Japan's

---

37. Clipperton Island Arbitration (Mexico v. France), 2 R.I.A.A. 1105 (Arb. Trib. 1931), translated in 26 AMERICAN JOURNAL OF INTERNATIONAL LAW 390 (1932); Island of Palmas Case (Netherlands/U.S.A.), Case No. 1925-01, Award on the Merits (Perm. Ct. Arb. 1928), <https://pcacases.com/web/sendAttach/714>; Legal Status of Eastern Greenland Case (Norway v. Denmark), Judgment, 1933 P.C.I.J. (ser. A/B) No. 53 at 71 (Apr. 5); Western Sahara Advisory Opinion, 1975 I.C.J. Rep. 12 (Oct. 16).

38. Treaty of Mutual Cooperation and Security between the United States and Japan, Jan. 19, 1960, 11 U.S.T. 1632.

39. Phil Stewart & Kiyoshi Takena, *In Japan, U.S. defense chief reaffirms commitment to security treaty*, REUTERS, Feb. 3, 2017, <https://www.reuters.com/article/us-japan-usa-mattis-idUSKBN15111K>.

40. Press Release, U.S. Dep't of State, Reaffirming the Unbreakable U.S.-Japan Alliance, Mar. 14, 2021, <https://www.state.gov/reaffirming-the-unbreakable-u-s-japan-alliance/>.

claims by exploiting the U.S. distinction between sovereignty and administrative control.

Recognizing Japanese sovereignty over disputed territory would not be a novel position for Washington. Since 1956, the United States has stated that Etorofu and Kunashiri Islands (along with the Habomai Islands and Shikotan, which are a part of Hokkaido) “have always been part of Japan proper and should . . . be acknowledged as under Japanese sovereignty.”<sup>41</sup> These islands in the Northern Territories (Kuril Island) have been illegally occupied by Russia since the end of the Second World War. Nonetheless, the United States reaffirmed its position in 2014, supporting Japan’s claims. At the daily press briefing on August 13, 2014, State Department Deputy Spokesperson Marie Harf stated that the United States recognizes Japanese sovereignty over the Southern Kurile Islands.<sup>42</sup>

The United States squandered an opportunity to provide much needed support for Japan in 2012 when the Japanese Government agreed to buy three of the five disputed islands (Uotsuri-shima, Kita-Kojima and Minami-Kojima) from the Kurihara family for ¥2.05 billion (US\$26.2 million).<sup>43</sup> The Cabinet approved the purchase on September 10, 2012, to keep the islands under “peaceful control” after the Kurihara family put the islands on the market.<sup>44</sup> The purchase was ostensibly made to prevent Governor Shintaro Ishihara, the ultra-nationalist governor of Tokyo, from buying and stationing Japanese troops on the islands. Earlier in the year the governor had expressed an interest in purchasing and developing the islands, a move that would certainly have inflamed tensions with China.<sup>45</sup>

---

41. U.S. Secretary of State Aide Memoire to the Japanese Ambassador to the U.S. on Japan-Soviet Negotiations, Sept. 7, 1956, *reprinted in* 23 FOREIGN RELATIONS OF THE UNITED STATES, 1955-1957, JAPAN (David W. Mabon ed., 1991), <https://history.state.gov/historicaldocuments/frus1955-57v23p1/d101>.

42. Daily Press Briefing, Marie Harf, Deputy Spokesperson, U.S. Dep’t of State, Aug. 13, 2014.

43. Chico Harlan, *Japan reportedly agrees to buy disputed islands from private landowner*, THE WASHINGTON POST, Sept. 5, 2012, [https://www.washingtonpost.com/world/reports-japan-agrees-to-buy-disputed-islands-from-private-landowner/2012/09/05/c8c7bc46-f73c-11e1-8398-0327ab83ab91\\_story.html](https://www.washingtonpost.com/world/reports-japan-agrees-to-buy-disputed-islands-from-private-landowner/2012/09/05/c8c7bc46-f73c-11e1-8398-0327ab83ab91_story.html); Masami Ito & Mizuho Aoki, *Government Seen Sealing Senkaku Deal at ¥2.05 Billing*, THE JAPAN TIMES, Sept. 6, 2012.

44. Takashi Mochizuki, *Japan Plans to Buy Islands in Dispute*, THE WALL STREET JOURNAL, Sept. 11, 2012, <http://www.wsj.com/articles/SB10000872396390443921504577643261139002438>.

45. Jane Perlez, *China Accuses Japan of Stealing after Purchase of Group of Disputed Islands*, THE NEW YORK TIMES, Sept. 11, 2012, <http://www.nytimes.com/2012/09/12/world/>

The sale of the islands to the Japanese government prompted a series of diplomatic protests from China and Taiwan, as well as widespread anti-Japanese demonstrations across China.<sup>46</sup> China's Ministry of Foreign Affairs condemned the purchase, indicating that any unilateral action taken by the Japanese regarding the Senkakus was "illegal and invalid."<sup>47</sup> The *People's Liberation Army Daily* likewise labeled the purchase "the most blatant challenge to China's sovereignty since the end of World War II."<sup>48</sup>

Lack of overt U.S. support for the purchase emboldened China to take more aggressive actions, hedging that the Obama administration would not want to further inflame the dispute. Several weeks after the purchase was made, China deposited a chart with the United Nations showing the baselines and outer limits of the territorial sea of China, as well as a list of geographical coordinates of points defining the baselines of China around the Senkaku Islands.<sup>49</sup> Japan protested the Chinese submission on September 24, 2012,<sup>50</sup> prompting China to elevate the status of the dispute to a "core interest."<sup>51</sup>

---

asia/china-accuses-japan-of-stealing-disputed-islands.html. See also MINISTRY OF FOREIGN AFFAIRS OF JAPAN, POSITION PAPER: JAPAN-CHINA RELATIONS SURROUNDING THE SITUATION OF THE SENKAKU ISLANDS, Nov. 9, 2012, [https://www.mofa.go.jp/region/asia-paci/senkaku/position\\_paper\\_en.html](https://www.mofa.go.jp/region/asia-paci/senkaku/position_paper_en.html).

46. MARK E. MANYIN, CONG. RSCH. SERV., R42761, SENKAKU (DIAOUYU/DIAOYUTAI) ISLANDS DISPUTE: U.S. TREATY OBLIGATIONS 1 (2012).

47. Mure Dickie & Kathrin Hille, *Japan Risks China's Wrath over Senkakus*, THE FINANCIAL TIMES, Sept. 10, 2012, <https://www.ft.com/content/babbfa2a-fb2b-11e1-87ae-00144feabdc0>.

48. *China Sends Patrol Ships to Island Held by Japan*, MILITARY.COM, Sept. 11, 2012, <https://www.military.com/daily-news/2012/09/11/china-sends-patrol-ships-to-islands-held-by-japan.html>.

49. U.N. DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA, OFFICE OF LEGAL AFFAIRS, MARITIME ZONE NOTIFICATIONS, Sept. 21, 2012, <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/CHN.htm>.

50. Permanent Mission of Japan to the United Nations, Note Verbale PM/12/303, Sept. 24, 2012, reprinted in UNITED NATIONS, LAW OF THE SEA BULLETIN NO. 80, at 39 (2013), [http://www.un.org/depts/los/doalos\\_publications/LOSBulletins/bulletinpdf/bulletin80e.pdf](http://www.un.org/depts/los/doalos_publications/LOSBulletins/bulletinpdf/bulletin80e.pdf).

51. *China Officially Labels Senkakus a "Core Interest,"* THE JAPAN TIMES, Apr. 27, 2013, <https://www.japantimes.co.jp/news/2013/04/27/national/china-officially-labels-senkaku-a-core-interest/>.

## VI. CONCLUSION

The United States is at a crossroad in the Indo-Pacific region. As China continues to coerce and threaten its neighbors, nations are beginning to question U.S. resolve in the region. Following the cowardly terrorist attacks against the World Trade Center and the Pentagon that killed thousands of Americans on September 11, 2001, President George Bush stood before Congress and the American people, stating clearly that the international community had a choice: “every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists.”<sup>52</sup> Great Britain, a trusted and long-time U.S. ally, responded immediately: “we stand side by side with you now, without hesitation. This is a struggle that concerns us all, the whole of the democratic and civilized and free world.”<sup>53</sup> The same resolve must be applied to curb China’s malign behavior and restore faith in the values and the rule of law the United States has championed since the end of the Second World War. We are either with our friends and allies or we are against them and stand with China. If the United States wants to maintain its influence in the region, it must not hesitate—and a good starting point is to once again recognize Japanese sovereignty over the Senkakus and reject China’s spurious claims.

---

52. *Text: President Bush Addresses the Nation*, THE WASHINGTON POST Sept. 20, 2001, [https://www.washingtonpost.com/wp-srv/nation/specials/attacked/transcripts/bushaddress\\_092001.html](https://www.washingtonpost.com/wp-srv/nation/specials/attacked/transcripts/bushaddress_092001.html).

53. *Bush: 'You Are Either With Us, Or With the Terrorists' - 2001-09-21*, VOA NEWS Oct. 27, 2009, <https://www.voanews.com/archive/bush-you-are-either-us-or-terrorists-2001-09-21>.