The Northern Territories/Southern Kuriles and the Treaties That Shaped the Territorial Dispute

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Erik Isaksson
Supervisor: Akihiro Ogawa
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1. Introduction

1.1. Purpose

A number of territorial disputes exist in East Asia and three of them involve Japan. The Senkaku/Diaoyu islands disputed by Japan, the People’s Republic of China and the Republic of China, Takeshima/Dokdo disputed by Japan and the Republic of Korea and the southernmost part of the Kurile Islands that stretch from Hokkaido’s eastern coast to the Russian Kamchatka Peninsula called the Northern Territories in Japan and the Southern Kuriles in Russia, being disputed by the those two states and under effective control by the latter. The Northern Territories/Southern Kuriles dispute will be the subject of this paper. The map below displays the Northern Territories/Southern Kuriles as “Disputed Islands” in relation to the larger Kurile Islands chain and mainland Japan and Russia. A more detailed map of the island chain itself follows.
I studied for a year at Hokkaido University in Sapporo, Japan and became interested in the Northern Territories/Southern Kuriles dispute after a trip to Hokkaido’s easternmost city of Nemuro that lies on the edge of the peninsula aptly called the Nemuro Peninsula beneath the red arrow on the map. A noticeably large amount of signposts along the roads, reading, translated into English “Give us back our Northern Territories” sparked a personal interest in how the dispute came to be and the fundamentals of it. Since the Russian takeover of the Crimean peninsula in the aftermath of the toppling of the pro-Russian government in Ukraine, territorial issues in general and Russian attitudes to them in particular have risen to the top of the agenda of countries that border Russia and countries that are involved in territorial disputes, which makes the issue of the Northern territories/Southern Kuriles a very timely one and worthy of scrutiny. Through studying the scholarship on the Northern Territories/Southern Kuriles dispute, I have identified the Treaty of Peace with Japan of 1951 (hereafter referred to as the San Francisco Peace Treaty, elaborated upon in sections 1.4 and 4.2) and possible mistranslations into the Japanese versions of pre-World War II treaties signed between Japan and Russia as factors that have had an important impact on the dispute. The latter is something that Shichirō Murayama and Haruki Wada have pushed, saying, as will be presented in more detail further on in this paper, that those mistranslations have allowed the Japanese government to argue something that they could not argue using the

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1 Or, as the Japanese signs actually said: “北方領土を返せ” (Hoppō ryōdo o kaese).
original treaty texts. In this paper I will strive to determine how it is possible to interpret two of those treaties signed between Japan and Russia in the second half of the 19th century in relation to the San Francisco Peace Treaty, which is regarded by the articulator of the theory this paper is based on as the more important factor. This is of interest because of the need to understand what the actual treaty texts mean and to what extent they can be construed as supporting one or the other side. I intend for this paper to contribute to the scholarly discourse on the Northern Territories/Southern Kuriles on a linguistic level, determining how it is possible to interpret the above-mentioned treaties.

1.2. Research question

This paper’s research question is the following:

How is it possible to interpret passages in the Treaty of Commerce and Navigation between Japan and Russia (hereafter referred to as the Treaty of Shimoda) of 1855 and the Karafuto-Chishima Exchange Treaty (hereafter the Treaty of Saint Petersburg) of 1875 that have been identified as mistranslated by Shichirō Murayama and Haruki Wada?

1.3. Hypothesis

In this paper I put forward the following hypothesis that I will attempt to prove:

Mistranslations in passages in the Japanese language versions of the bilateral treaties the Treaty of Shimoda and the Treaty of Saint Petersburg have given the Japanese government room to argue a position the original treaty texts do not support.

1.4. Theory

Through this research I aim to expand on Kimie Hara’s theory about how the San Francisco Peace Treaty to a large extent created the territorial disputes involving Japan today. This expansion will consist of adding a linguistic element involving the 19th century treaties to the argument. While Hara’s theory focuses on the creation of the territorial dispute my argument will have more to do how texts have to do with its maintaining.

In short, Hara argues that the ambiguity of the San Francisco Peace Treaty’s wording regarding border demarcations created the territorial disputes with Russia, the two Chinas and the two Koreas. The particulars of this theory, referred to in this paper as Kimie Hara’s San
Francisco Theory, will be introduced in section 4.2 on the San Francisco Peace Treaty. The purpose of the theory is to put the issue of the Northern Territories/Southern Kuriles in an easily explained context; to have a starting point from which the argument I will make can originate, a framework of reference along the way and a final destination to which conclusions can be tied.

1.5. Structure

So far in this section I have introduced the purpose, the research question and hypothesis of this paper and the theory on which I will base it. Introduction of standards and reference system follows in section 1.6. In section 2 I will move on to give a historical background and an overview of the political situation regarding the Northern Territories/Southern Kuriles. In section 3 I will present the method and material I will use in my research.

As for the specific way by which I will present my answer to the research question, I have decided to divide the main part of this paper into three larger sections. Section 4 of this paper will deal mainly with a comparison of the San Francisco Peace Treaty, agreements such as the Yalta Agreement and the treaties of Shimoda, Saint Petersburg and Portsmouth. I will start out in section 4.1 by exploring agreements reached between the allied powers during World War II and what effects they have had on the territorial dispute. This is of relevance because the Russian argument for sovereignty over the Northern Territories/Southern Kuriles is based on these agreements. In section 4.2 I will continue by talking about the San Francisco Peace Treaty and the way the theory I will use in this paper relates to my topic and my research. Section 4.3 will consist of a discussion of how the treaties of Shimoda and Saint Petersburg differ from the San Francisco Peace Treaty and characteristics of the former treaties. In section 4.4 I will summarize the larger section 4, the point of which is to provide the reader with necessary information ahead of the analysis of the treaties of Shimoda and Saint Petersburg in section 5. I conduct the analysis of said treaties in sections 5.1 and 5.2. In section 6, I will once again connect the issue of the Northern Territories/Southern Kuriles to Kimie Hara’s San Francisco Theory and discuss the results of my research. In addition, I will give my view on the two sides’ arguments and the dispute itself and finally discuss the current situation and future prospects.

As the section names reveal, my conclusions are presented in section 7 while section 8 gives a summary of the entire paper. In section 9 I will disclose all references used in this paper.
1.6. Introduction of standards and reference system

1.6.1. Introduction of standards

This section introduces standards I will use in this paper.

The territorial dispute at the center of this paper is in Japanese commonly called “Hoppō ryōdo mondai” (Northern Territories problem) and in Russian “Spor o prinadlezhnosti Kuril'skikh ostrovov” (The dispute about the Kurile Islands). The area itself is called "Hoppō chiiki" (Northern Region”) in Japanese and “Yuzhno-Kuril'skiy rayon” (South Kurile District) in Russian. I have settled on using the term “Northern Territories/Southern Kuriles” to refer to the island group being disputed and “Northern Territories/Southern Kuriles dispute” to refer to the dispute itself. While there are other, simpler ways to refer to the area and the dispute such as “Northern Territories dispute”, “Kurile Islands dispute” etc., I have made the judgment that incorporating both the Japanese name and the Russian name for the islands gives the highest level of impartiality with regards to the dispute. The reason why I do not deem “Kuriles Islands dispute” entirely impartial is because of the Japanese government position that the Northern Territories/Southern Kuriles are not actually part of the Kurile Islands.

The names of the three islands and one island group being disputed by Japan and Russia are displayed using the spelling appearing as of April 23, 2014 on both countries’ pages on the CIA World Factbook: “Etorofu”, “Kunashiri”, “Shikotan” and “Habomai”. The island to the northeast of Etorofu is written “Urup”\(^2\).

Japanese names will be written in Western style with the given name first and the family name second. Translations are my own unless indicated otherwise. This also goes for titles of books published in Japan.

As for international treaties, the standard will be to use the name of the place where the treaty was signed preceded by “Treaty of”. An exception will be the Treaty of Peace with Japan which is referred to as the San Francisco Peace Treaty as that is the name it usually goes by in

\(^2\) In Japanese called (in the same order as they appear above): 拝捉島 (Etorofu tō), 国後島 (Kunashiri tō), 色丹島 (Shikotan tō), and 歯舞群島 (Habomai guntō).

In Russian called (in the same order they appear above): Итуруп (Iturup), Кунашир (Kunashir), Шикотан (Shikotan), острова Хабомаи (ostrova Habomai).
academia. The first time a treaty makes an appearance the full official name in English is given. After the full name, the name the treaty will go by in subsequent references follows in parenthesis.

1.6.2. Introduction of reference system

The reference system I will employ in this paper is the Chicago-style citation, Notes and Bibliography system as introduced on the website in this footnote. I have decided to create this section since I will deviate from my stated citation system in a number of instances. Below is a list of those instances.

1) When the same source appears twice in a row in the footnotes, the second appearance is replaced by “Ibid.”. If the page number is different from the page number in the previous appearance, the second appearance is replaced by “Ibid. [page number]” with the appropriate page number replacing the brackets.

2) Book titles presented in Japanese script will not be written in italics as doing so only makes them more difficult to read.

3) When a publication or website in Japanese is cited in a footnote, after the publication or article name a transcription into the Latin alphabet will follow in parenthesis. After the parenthesis, a translation into English will be given in italics. If the English name is already given in the text, only the name in Japanese and transcription into the Latin alphabet will be given.

4) In the section named “References” I will add “pp.” before the page number for clarity. In the case of books published in Japan I will write the place of publication and publisher in Japanese script with a transcription following within parenthesis. In the “References” section Japanese websites’ names will be given first in the Latin alphabet followed by the Japanese script, divided by a forward slash.

5) In instances where a Japanese language publication or website name has a subtitle, it will be displayed separated from the title by one space bar blank in the Japanese script and two blanks in the Latin alphabet transcription. In the English translation, the subtitle will be

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separated from the title by a colon. The above also applies in cases of website article names that are divided into two or more incomplete or complete sentences. However, in such cases the English translation will also employ blanks instead of a colon.

Original texts in other languages than English will only appear in the footnotes of this paper, the same will be the case with Japanese script. Exceptions to this rule include: the names for the territorial dispute in Japanese and Russian given in section 1.6.2 and the analysis of the Japanese language versions of treaties in the case where it deals with similarities in two Chinese characters in section 5.2. Japanese script will be followed by a Latin alphabet transcription in every case. This dual system makes it easier to read this paper both for readers proficient in Japanese as well as those who are not. Japanese will be transcribed into the Latin alphabet using the Revised Hepburn system. Macrons will not appear over vowels in words that are common occurrences in the English language (primarily place names such as “Tokyo” and “Hokkaido”. Japanese place and country names transcribed into the Latin alphabet will be written with a capital letter (this includes words such as “Nichiro”, in English “Japanese-Russian”).

2. Background

2.1. History

On the Hokkaido prefectural government’s website (the Japanese prefecture to which the Northern Territories/Southern Kuriles would belong if they were under Japanese administration) the history of the area is discussed at length. According to the prefectural government, in the 17th century there was trade of sea otter skin going on between the Matsumae clan of northern Japan and Ainu from Menashi in what is now Nemuro Subprefecture in eastern Hokkaido. The sea otter does not exist in the waters around mainland Hokkaido, thus the prefectural government considers this proof of trade between Matsumae and the Ainu living on the islands disputed today.4

Russia is presented as having started exploring the Kuril Islands in the beginning of the 18th century, crucially “not even once venturing south of the island of Urup just north of Etorofu

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island”\(^5\), the former being the first island to the northeast of the four islands claimed by Japan and the latter the northernmost island of the Northern Territories/Southern Kuriles. In the beginning of the 19\(^{th}\) century incidents in which Japanese sailors were arrested by Russians and vice versa led to negotiations on official boundaries being undertaken. 19\(^{th}\) century Northern Territories/Southern Kuriles history is a history of treaties and the first treaty between the two countries signed in 1855, the Treaty of Shimoda situated the boundary as it related to the Kurile Islands between Etorofu and Urup, placing the four islands disputed today under Japanese sovereignty. This was the first time the land had been regulated by an international treaty.\(^6\)

In the context of Northern Territories/Southern Kuriles history, Sakhalin, known in Japanese as Karafuto, also requires a mention. In the aforementioned treaty, the status of Sakhalin, which is a large island to the north of Hokkaido today belonging to Russia, is specified as being undivided between Japan and Russia as it had been up until that point. In 1875 Japan and Russia signed the Treaty of Saint Petersburg, in Japanese aptly called, directly translated, the Karafuto-Chishima Exchange Treaty because it did just that; it gave Russia sovereignty over Sakhalin while giving all of the Kurile Islands stretching north to the Kamchatka peninsula to Japan. However, the peace treaty concluding the Russo-Japanese War of 1904-05, signed in 1905 and known as the Treaty of Portsmouth gave half of Sakhalin up north until the 50\(^{th}\) parallel back to Japan while letting Russia keep the northern half, effectively dividing the island into two. The last treaty that had effect on the Northern Territories/Southern Kuriles is the one that ended World War II in Asia; the San Francisco Peace Treaty.\(^7\)

2.2. Current political situation

The Japanese government does not consider the Northern Territories/Southern Kuriles to be included in the land that Japan acquired “by violence and greed” and thus would have to give up according to the Cairo Declaration. It neither considers itself bound by the Yalta Agreement that it did not sign. As for the San Francisco Peace Treaty, the Japanese government does not consider the Northern Territories/Southern Kuriles to be part of the

\(^{5}\) Ibid.

\(^{6}\) Ibid.

\(^{7}\) Ibid.
Kurile Islands that Japan gave up by signing it. The official position of the Japanese government is that “These four islands (Etorofu, Kunashiri, Shikotan and Habomai) are inherent territories of Japan, having been handed down from generation to generation by the Japanese people, without ever being territories of other countries.”

The Russian government’s position is that their gaining sovereignty of the four islands was a natural result of World War II. The Russian foreign minister and president indicated in 2004 that an agreement giving Japan the smaller Shikotan and Habomai Islands is still on the table as outlined in the Joint Declaration of 1956. As for the possibility of Japanese nationals traveling to the Northern Territories/Southern Kuriles, there is a non-visa visit regime in place that allows for Russian residents on the islands and Japanese nationals to engage in mutual visits without the need for a visa. At the same time, the Japanese government is urging Japanese nationals not to enter the islands under any other framework than the non-visa program and is working to hinder “economic activities by a third party, which could be regarded as submitting to Russian ‘jurisdiction’” until the dispute is resolved. In September 2013, Prime Minister Abe and President Putin met in Saint Petersburg. Said a Putin spokesman after the meeting: “Both sides expressed an understanding that the solution to the problem of the peace agreement can only be based on the principle that there are no victors or losers.” Before that they had met in Moscow in April and since then they also met in Indonesia in October. The fruit of these meetings in 2013 has been the establishment of so called 2+2 talks between the foreign and defense ministers of Japan and Russia, something

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9 Ibid.


11 “Japan’s Northern Territories.”


Japan previously had only done with the US and Australia. The first of such talks was held on November 2, 2013 in Tokyo.\textsuperscript{15}

3. Method and material

3.1. Method

In this paper I will employ a qualitative method on a macro level based on Kimie Hara’s San Francisco Theory. Document analysis, specifically analysis of international treaties, will be the way by which data is collected. The analyses of the treaties of Shimoda and Saint Petersburg will be based on a linguistic method exploring the meaning of those texts. For this syntactical analysis, Chieco Fujio Düring’s \textit{Japanese grammar}\textsuperscript{16} in which she explains the fundamentals of the language and ways to analyze sentences, will be used as a reference. Independent document analysis will be combined with previous research in order to answer the research question and prove the hypothesis that I have put forward. Since this paper is based on the above-mentioned already existing theory the process will be deductive instead of inductive, making use of a hypothetico-deductive method. However, I have decided not to use surveys, a common tool within the hypothetico-deductive method but rather document analysis, more specifically analysis of international treaties as the main source of data. The reason for this is that I am not researching a group of people that requires me to apply a survey-, interview- or questionnaire-based method. If the research question concerned the contemporary political positions of the two governments, creation of primary data through interviews with government officials would have been a route worthy of consideration. On the other hand, political positions have been extensively documented by third parties as well as the governments themselves, hence I have no doubt that I can make do with capitalizing on existing data for the purpose of ascertaining them. The analyses of the treaties of Shimoda and Saint Petersburg in section 5 of this paper will be compared and contrasted with the arguments made by two Japanese researchers, Haruki Wada and Hiroshi Kimura. I will explain the reasons for the selection of these two scholars in the following section 3.2.1.

\textsuperscript{15}“来年 1 ～ 2 月に次官級協議 北方領土問題で日露外相が一致” (Rainen 1-2 gatsu ni jikankyū kyōgi Hoppō ryōdo mondai de Nichiro gaishō ga itchi) \textit{Vice-ministerial level talks in January or February next year Russian, Japanese foreign ministers in agreement on the Northern Territories issue}, MSN Sankei News, accessed November 12, 2013, \url{http://sankei.jp.msn.com/politics/news/131102/plc13110200340001-n1.htm}.

\textsuperscript{16}Original title: Japansk språklära
3.2. Material

3.2.1. Previous research

With regards to previous research on this issue, the main author of reference for this paper is Kimie Hara, the Director of East Asian Studies at Renison University College, the Renison Research Professor and a management team member of the Japan Futures Initiative at the University of Waterloo, Canada and an Asia-Pacific Journal associate. Professor Hara is the origin of the theory that I will base this paper on. I have read relevant parts of Professor Hara’s works From the Outside Japanese Diplomacy Through the Eyes of a Japanese Researcher: Present, Past and Future\(^\text{17}\), edited by Hara herself and Northern Territories, Asia-Pacific Regional Conflicts and the Åland Experience co-edited by Hara and Geoffrey Jukes for personal understanding of the territorial issue. I will use them both as references in this paper.

In addition to Professor Hara’s publications, I will cite Haruki Wada of Tokyo University and his 2012 book How to solve territorial issues? From Confrontation to Conversation\(^\text{18}\) in sections 5.1 and 5.2 to present the view that the treaties discussed in this paper were mistranslated. I will also reference Professor Emeritus at the Slavic Research Center at Hokkaido University Hiroshi Kimura’s 1993 book The Kurillian Knot: A History of Japanese-Russian Border Negotiations\(^\text{19}\) in section 5.1 and 5.2 as a proponent of the argument that different interpretations of the treaties of Shimoda and Saint Petersburg are possible. The reason why I selected these two researchers, a historian and a political scientist respectively, is their long history of studying the Northern Territories/Southern Kuriles dispute and the comparatively wide availability of their works. While they have many years between them of studying the issue they are also both still active, something that contributed to my choice. By contrast, I have chosen not to use the works of linguist Shichirō Murayama, a frequently cited scholar in the discourse on the Northern Territories/Southern Kuriles, due to his writings being not as available as the above-mentioned Haruki Wada and Hiroshi Kimura. I do,

\(^{17}\) Original title: 「在外」日本人研究者がみた日本外交 [現在・過去・未来] (Zaigai, Nihonjin kenkyūsha ga mita Nihon gaikō genzai kako mirai).

\(^{18}\) Original title: 領土問題をどう解決するか・対立から対話へ (Ryōdo mondai o dō kaiketsu suru ka tairitsu kara taiwa e).

\(^{19}\) Original title: 日露国境交渉史 領土問題にいかに取り組むか (Nichiro kokkyō kōshōshi). Published in English under the title presented in the text. I have used the original Japanese language version for the purposes of this paper.
however, include his name when discussing Haruki Wada’s argument as Wada himself often cites Murayama.

I will use various newspaper articles, editorials etc. from sources such as the *Asahi Shinbun*, *The New York Times* and *The Diplomat* throughout this paper for different purposes, such as pointing to opinions among policymakers and observers of Russo-Japanese relations and the Northern Territories/Southern Kuriles dispute. For section 2.1 describing the history of the Northern Territories/Southern Kuriles I have used a Japanese regional government source. I realize this raises questions about impartiality and bias. However, the information I have presented in the above-mentioned section is uncontroversial and factual information that can easily be checked against other historical accounts, therefore I have decided not to refrain from using that source. In either case, section 2.1 is there to give the reader a historical background of the Northern Territories/Southern Kuriles and will not affect my analysis or answer to my research question.

3.2.2. Primary sources

The primary sources I will use include treaties that affected the Northern Territories/Southern Kuriles and treaties signed between Japan and Russia up until the end of the Second World War. They number four documents. In addition to these I will look at the four agreements that the allied powers reached during the Second World War. The treaties I will explore are the following: the Treaty of Shimoda, the first international treaty signed between the two countries; the Treaty of Saint Petersburg; the Treaty of Portsmouth of 1905 that ended the Russo-Japanese war and finally the San Francisco Peace Treaty. The four agreements are the Atlantic Charter of 1941, the Cairo Declaration of 1943, the Yalta Agreement of 1945 and the Potsdam Declaration of 1945.

All of these treaties and agreements have been accessed through internet resources. Below, I will give a short introduction to each website I used to access the primary sources. The Atlantic Charter, Cairo Declaration and Yalta Agreement have been accessed through the Lillian Goldman Law Library, Yale Law School via its so called Avalon project, a project with a statement of purpose saying it aims to “mount digital documents relevant to the fields
of Law, History, Economics, Politics, Diplomacy and Government."\(^{20}\) The Potsdam Declaration was retrieved from the website of the National Diet Library of Japan, which has as its mission for the period 2012-2016 to collect publications and other materials as a knowledge base that can work as a contribution to the creativity of the Japanese nation and to democracy.\(^{21}\) I will look at The Treaty of Shimoda in two of its incarnations (it was translated into several languages) and they were accessed via the Japanese National Diet Library’s Digital Library from the Meiji Era. On its website one can find a scanned copy of a document published by the Japanese Ministry of Foreign Affairs called, translated into English, “Old treaties compilation, volume 1 part 2”. This document contains treaties Japan signed during the Meiji era and is the source that I use to reference the Treaty of Shimoda. The San Francisco Peace Treaty is from the website of the United Nations Treaty Collection. All international agreements are registered with the United Nations Secretariat which then publishes them.\(^{22}\) The text of the Treaty of Portsmouth was obtained through the New York Times, a very well-known newspaper with a worldwide circulation. On the website of The New York Times Company website is says the “core purpose of The New York Times is to enhance society by creating, collecting and distributing high-quality news and information.”\(^{23}\) The Treaty of Saint Petersburg will also be looked at in two versions. The French language version was obtained from Sophia University, a Jesuit university in Japan with an origin that “can be traced back to more than 450 years ago when the Jesuit missionary Francis Xavier came to Japan in 1549 to spread Christianity in Japan.”\(^{24}\) I cite the Japanese government’s Cabinet Office’s website when discussing the Japanese language version of the Treaty of Saint Petersburg.


4. Comparison of treaties

In this section I will look at the San Francisco Peace Treaty, the Treaty of Shimoda, the Treaty of Saint Petersburg and the Treaty of Portsmouth in order to identify differences and characteristics that potentially have had an effect on the territorial dispute regarding the Northern Territories/Southern Kuriles, as well as provide information necessary to the reader ahead of the analyses in section 5.

4.1. Wartime inter-allied agreements

To start with, I will introduce agreements made during World War II between the allied powers on their goals for the post-war world. The agreements are, in chronological order, the Atlantic Charter, the Cairo Declaration, the Yalta Agreement and the Potsdam Declaration. The necessity of bringing them up in this paper stems from the fact that they constitute the basis of the Soviet/Russian claim to the Northern Territories/Southern Kuriles, further explained below.

The Atlantic Charter of 1941 and the Cairo Declaration of 1943 established the allied powers’ positions of no territorial changes that “do not accord with the freely expressed wishes of the peoples concerned”\(^\text{25}\) and that Japan should be expelled from territories acquired “by violence and greed.”\(^\text{26}\) At the Yalta Conference toward the end of World War II in 1945 it was agreed among the allied powers participating that the Soviet Union would declare war on Japan. In exchange for that they would get the southern part of Sakhalin in addition to the Kurile Islands, both of which were Japanese territories at the time.\(^\text{27}\) In the Potsdam declaration, which put forward the terms for Japan’s surrender and was issued July 26, 1945, it is stipulated that “the terms of the Cairo Declaration shall be carried out and Japanese


sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.”

The Russian argument for sovereignty over the Northern Territories/Southern Kuriles rests on the wartime agreements made between the allied powers regarding the territories. The Soviet Union did as agreed at Yalta, declared war on Japan on August 9, 1945 and then proceeded to invade southern Sakhalin and all of the Kurile Islands, something they had fully accomplished by September 5. The positions of the Japanese government with regards to the Russian argument using the wartime inter-allied agreements to push its case, as outlined in the Japanese Ministry of Foreign Affairs pamphlet “Japan’s Northern Territories: For a Relationship of Genuine Trust” are the following: 1) Japan does not have an obligation to give up the Northern Territories/Southern Kuriles per the Cairo Declaration because they do not constitute land that Japan acquired by “violence and greed”. 2) The Yalta Agreement was nothing more than a statement among the allied powers, not a definitive settlement of a territorial issue. In addition to this, Japan was not a party to the Yalta Agreement. 3) The Soviet invasion of the Kurile Islands was carried out after Japan had accepted the Potsdam Declaration and surrendered and in spite of a neutrality pact in effect between the USSR and Japan since 1941, making the occupation of the islands illegal.

4.2. The San Francisco Peace Treaty

Kimie Hara presents the Northern Territories/Southern Kuriles issue as a problem created multilaterally, much like the other disputes that flared up after the end of World War II in East Asia. The logic behind this thinking is that much like the other territorial disputes involving Japan, those concerning the Senkaku/Diaoyu islands and Takeshima/Dokdo, the dispute regarding the islands off Hokkaido, a bilateral problem between the Soviet Union and its successor state Russia and Japan, in large part sprung out of the San Francisco Peace Treaty; a


31 Ibid.
multilaterally enacted treaty. The reason why the San Francisco Peace Treaty had significance for the Northern Territories/Southern Kuriles issue lies in the way post-World War II border demarcation was handled by the authors of the treaty (principally the United States). Hara notes that there had not been a territorial dispute regarding the Northern Territories/Southern Kuriles before World War II; every time the border had moved it had been through mutual consent between the two directly concerned parties. In the first drafts of the San Francisco Peace Treaty the lines were unambiguous and detailed with regards to small islands such as the Habomais, Shikotan and Takeshima. They were produced with the inter-allied agreements in mind and with a goal to avoid leaving behind seeds for future conflicts. The final treaty text that was signed in 1951 did not look like a product of such thinking. The wording of the Article 2 section of the San Francisco Peace Treaty that deals with the Northern Territories/Southern Kuriles and made it into the final treaty reads like this: “Japan renounces all right, title and claim to the Kurile Islands and to that portion of Sakhalin and the islands adjacent to it over which Japan acquired sovereignty as a consequence of the Treaty of Portsmouth of 5 September 1905”. There is no mention of where the Kurile Islands belong going forward.

According to Hara, the reason why the San Francisco Peace Treaty changed throughout the drafting process from including very detailed border demarcation to including none at all lies in the heightening of East-West Cold War tensions and particularly the outbreak of the Korean War in 1950. These factors made the United States question whether it was in its national interest to have clearly defined borders on the Cold War frontline and construct the San Francisco Peace Treaty in a way that left issues undealt with. Containment of the Communist states rose to the top of the American agenda and the way to achieve this was

36 Hara, "分割された東アジアと日本外交" (Bunkatsu sareta Higashi Ajia to Nihon gaikō; Divided East Asia and Japanese Diplomacy,) 166.
determined to leave issues unresolved. The so called Acheson line, announced by the US in January 1950, put Japan within the American defense sphere.\(^{37}\) All of Japan’s territorial disputes run along this line: The Northern Territories/Southern Kuriles dispute with the communist Soviet Union, the Takeshima/Dokdo dispute with the communist Korean peninsula and the Okinawa/Senkaku/Diaoyu dispute with China which too was turning communist. The line of “constructed” territorial disputes ran like a wall against the communist part of East Asia. However, as a result of the Korean War, the Korean Peninsula ended up only half communist with China in the same situation, divided by the Straits of Taiwan. In this way, to those wishing to safeguard Japan from communism, the 38\(^{th}\) parallel and Straits of Taiwan became a second containment line.\(^{38}\) Hara argues that the reason why islands such as the Spratlys and Paracels in the South China Sea, constituting a “wall” for the defense of the Philippines, were in the end not given to China was also because of the need to contain communism.\(^{39}\) In the end, after the Canadian government argued having some territorial boundaries specified and some unspecified was unfair, all boundaries were made undecided in the treaty.\(^{40}\)

As for the Kurile Islands, the US gave them a lot of consideration because of their connection to the issue of Okinawa, Hara argues.\(^{41}\) Okinawa was of utmost importance to American geopolitical calculations and the connection lied in the fear that if the Northern Territories/Southern Kuriles issue was resolved, there would be great pressure on the US for the speedy repatriation of Okinawa to Japan. In 1956, this resulted in the so called Dulles Warning when it looked like a peace treaty would be signed between Japan and the USSR over the return of the Habomais and Shikotan.\(^{42}\) In short, the perceived need to contain communism, political linkage between the different issues and non-participation in the San Francisco Peace Treaty of nations affected directly by the territorial disputes (the USSR, Korea and China) were the conditions under which the same treaty was signed and the

\(^{37}\) Ibid.

\(^{38}\) Ibid., 167.

\(^{39}\) Ibid., 168.

\(^{40}\) Ibid., 169-170.

\(^{41}\) Ibid.

\(^{42}\) Ibid., 170-171.
conditions that created territorial disputes such as the Northern Territories/Southern Kuriles dispute. The above is what I refer to as Kimie Hara’s San Francisco Theory.

Looking at the San Francisco Peace Treaty excerpt above, it is obvious there is no specification as to where the Kurile Islands belong; only that Japan is to renounce sovereignty over them. Furthermore, Chapter VII, article 25 of the San Francisco Peace Treaty states that the treaty will on non-allied power states, allied powers being defined in the treaty as its signatories, “not confer any rights, titles or benefits”. The USSR did not sign the San Francisco Peace Treaty, making it ineligible to be a recipient of territory from Japan per the aforementioned Chapter VII, article 25.

### 4.3. Pre-World War II treaties

The ambiguity with regards to border demarcation and recipients of territory is one clear difference between the Russo-Japanese treaties from the 19th and early 20th century concerning the Kurile Islands and Sakhalin Island and the San Francisco Peace Treaty. The following are translations into English of the parts concerning the Kurile Islands in the two treaties signed by Japan and Russia in 1855 and 1875. “Hereafter the border between Japan and Russia shall lie between the islands of Etorofu and Urup” (Treaty of Shimoda, 1855).

In exchange for the rights to Sakhalin Island being ceded to Russia as stated in article 1, the Russian emperor shall cede to the Japanese emperor the currently in Russian possession so called Kurile Islands, including 1) Shumshu […] 18) Urup and all sovereignty that comes with their possession. The border between the two countries shall therefore be placed in the channel separating Cape Lopakta on the Kamchatka Peninsula and Shumshu Island. (Treaty of Saint Petersburg, 1875)

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43 Ibid., 161-171.
44 “No.1832. Treaty of Peace with Japan. Signed at San Francisco, on 8 September 1951.”
45 Hara, “分割された東アジアと日本外交” (Bunkatsu sareta Higashi Ajia to Nihon gaiiko) Divided East Asia and Japanese Diplomacy, 170.
The difference between the excerpts from the San Francisco Peace Treaty and the Treaty of Shimoda and the Treaty of Saint Petersburg above are striking in that the two latter actually mention border demarcation while the San Francisco Peace Treaty does not do that at all, settling with Japan renouncing sovereignty over the island group.

In the context of pre-World War II Russo-Japanese treaties, the Treaty of Portsmouth of 1905 also requires a mention; the only reason it would not be is that it did not affect the border demarcation of the Kurile Islands or the territorial dispute discussed in this paper. As mentioned in section 1.2.1, the Treaty of Portsmouth, named so because it was concluded at the Portsmouth Naval Shipyard in Maine, the United States was the treaty that ended the Russo-Japanese War of 1904-05. In terms of territory it did not affect the Kurile Islands, all of which at this point were in Japanese possession since the Treaty of Saint Petersburg, but it did change the status of Sakhalin, the island north of Hokkaido belonging to Russia today. Since the time of the Treaty of Saint Petersburg and up until that point Sakhalin had been Russian territory; the Treaty of Portsmouth gave the southern half of the island, land stretching up to the 50th parallel, to Japan. Relevant to this paper is that like the Treaty of Shimoda and the Treaty of Saint Petersburg and unlike the San Francisco Peace Treaty, the Treaty of Portsmouth is precise in its wording when it comes to where borders are to be drawn and where sovereignty is to belong. It is a recurring dynamic which admittedly likely has more to do with the imperfectness of the San Francisco Peace Treaty than any kind of supposed flawlessness of the pre-World War II treaties.

These discrepancies together with the fact that unlike the earlier treaties, both parties involved in the Northern Territories/Southern Kuriles dispute did not sign the San Francisco Peace Treaty are two outstanding differences between the three treaties enacted in the 19th century.

Original Japanese language text: "全露西亜国皇帝陛下ハ第一款ニ記セル樺太島（即薩哈嚫島）ノ権理ヲ受シテ其後胤ニ至ル迄現今所領「クリル」群島即チ第一「シュムシュ」島[...]第十「ウルップ」島共計十八島ノ権理及び君主ニ属スル切の権理ヲ大日本国皇帝陛下ニ譲リ而今而後「クリル」全島ハ日本帝國ニ属シ東察加地方「ラバッカ」岬ト「シュムシュ」島ノ間ナル海峡ヲ以て両国ノ境界トス” (Zen Roshiakoku kōtei heika wa dai ichi jō ni shiruseru Karafuto tō (sunawachi Sagaren tō) no kenri o ukeshi dai to shite shikōin ni itaru made genkon shoryō Kuriru shotō sunawachi dai ichi Shumushu tō [...] dai jū hachi Uruppu tō tomo kei jūhattō no kenri oyobi kunshi ni zokusuru issai no kenri o Dai Nipponkoku kōtei heika ni yuzuri jikon jigo Kuriru zenōtō wa Nihon teikoku ni zokushi Kamusakka chihō Rapakka misaki to Shumushu tō no aida naru kaikyō o motte ryōkoku no kaikyō to su).
and the beginning of the 20th century governing the Kurile Islands on the one hand and the San Francisco Peace Treaty on the other.

To end and summarize this section, fundamentally, in this dispute there are two conflicting arguments: The Japanese argument is that 19th century treaties give Japan sovereignty over the islands and the Russian one that the Atlantic Charter, Cairo Declaration, Yalta Agreement and Potsdam Declaration, essentially Japan’s defeat in the Second World War, resulted in the USSR receiving the Kuriles. Since there are aspects to the arguments of both the Japanese side and the Russian side that make sense to a layman (the Russian one that Japanese defeat in World War II connects to loss of territory and the Japanese one that the Northern Territories/Southern Kuriles had never belonged to any other state than Japan spring to mind) it is not too difficult a task to arbitrarily pick a side and push that side’s argument effectively. In general it is a matter of whether one emphasizes the results of the Second World War or the 19th century history of the islands.

4.4. Different interpretations

In sections 4.2 and 4.3, I introduced the passages that deal with the Northern Territories/Southern Kuriles in the San Francisco Peace Treaty, the Treaty of Shimoda and the Treaty of Saint Petersburg. In addition, even though it did not affect the Northern Territories/Southern Kuriles dispute directly, for reference I also brought up the Treaty of Portsmouth.

Haruki Wada cites the Japanese government’s pamphlet “Japan’s Northern Territories” as one evidence that the Japanese government pushes a different version of what islands constitute the “Kurile Islands” that Japan gave up at San Francisco, a version that says the four islands Japan designates as its Northern Territories, namely Etorofu, Kunashiri, Shikotan and the Habomai islets, are not included in the “Kurile Islands”. The reason why the Japanese government does this is that if they recognized the Northern Territories as part of the “Kurile Islands”, their argument for the Northern Territories/Southern Kuriles’ return to Japan would be faced with an insurmountable rebuttal in Chapter II, article 2c of the San Francisco Peace

49 “Asia’s Other Island Spat...Between Japan and Russia.”
50 Ibid.
51 Haruki Wada, 領土問題をどう解決するか 対立から対話へ (Ryōdo mondai o dō kaiketsu suru ka tairitsu kara taiwa e) How to solve territorial issues? From confrontation to conversation, (Tokyo: Heibonsha, 2012), 75.
Treaty which reads in part, as introduced in section 4.2: “Japan renounces all right, title and claim to the Kurile Islands.” The reason they are able to do this has to do with the treaties of Shimoda and Saint Petersburg, which they are misreading, according to Wada.

In the current climate, with Russia exercising effective control over the Northern Territories/Southern Kuriles since World War II ended, the Japanese negotiating position is not strong. It could have been stronger however if there were consensus regarding the definition of the “Kurile Islands”. The reason why a difference in viewpoints with regards to this definition has been allowed to exist lies in the very treaties signed over a hundred years ago. Compared to the ambiguity of the San Francisco Peace Treaty, the Treaty of Shimoda and the Treaty of Saint Petersburg may seem like very enlightening documents. There are however, factors that make them appear less so. As is brought up in section 4.2, the San Francisco Peace Treaty does not clearly state, in fact does not state at all, where sovereignty over the Kurile Islands belongs. What it clearly does state is that Japan does not have the right to the Kurile Islands, one may argue. However, as mentioned above, the Japanese government’s claim to the Northern Territories/Southern Kuriles is based on a different definition of what islands make up the island group known as the Kurile Islands. The argument made by Haruki Wada is that differences in translation in the Treaty of Shimoda and the Treaty of Saint Petersburg give an opening to these differing interpretations. In the next section I will explain what these differences consist of and discuss whether they must necessarily be interpreted in the way Wada interprets them.

5. Treaty discrepancies and their significance

5.1. The treaty of Shimoda

In the Treaty of Shimoda, the official text written in Dutch produced by the Russians, translated into English, reads “The whole island of Etorofu belongs to Japan and the whole

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52 “No.1832. Treaty of Peace with Japan. Signed at San Francisco, on 8 September 1951.”
53 Wada, 領土問題をどう解決するか (Ryōdo mondai o dō kaiketsu suru ka) How to solve territorial issues?, 105-116.
54 Ibid.
55 Wada, 領土問題をどう解決するか (Ryōdo mondai o dō kaiketsu suru ka) How to solve territorial issues?, 106.
island of Urup, together with the rest of the Kurile Islands, to the north, belongs to Russia.”\textsuperscript{56}

The following is the Japanese language version of the same treaty translated into English: “The whole island of Etorofu belongs to Japan and the Kurile Islands to the north of (and including) the whole of the island of Urup belong to Russia.”\textsuperscript{57} The difference is that the words “the rest” are omitted from the Japanese version, making it look like the definition of the Kurile Islands is restricted to the islands north of Etorofu. It is on this definition of the Kurile Islands excluding the Northern Territories/Southern Kuriles that the Japanese government is basing its case for sovereignty over the Northern Territories/Southern Kuriles.\textsuperscript{58} If the four southernmost islands are not part of the Kurile Islands Japan gave up after World War II, they reasonably belong to Japan per the 1855 Treaty of Shimoda, it is argued.

In order to answer the question of how the Treaty of Shimoda can be interpreted with regards to the territorial dispute, one has to ask the question whether or not the Japanese would be able to argue that the Northern Territories/Southern Kuriles do not belong within the definition of the Kurile Islands based on the original version of the Treaty of Shimoda. I do think the original Dutch language text could also arguably be used to make the point that they do not by arguing that the sentence “with the rest of the Kurile Islands, to the north” talks about the Kurile Islands as being only the islands from Urup northward. That there is a “the rest of the Kurile Islands” in the Dutch language version does not constitute per se evidence that the Northern Territories/Southern Kuriles are part of those Kurile Islands; the treaty does not say that. On this point, I am largely in agreement with Hiroshi Kimura of the Slavic Research Center at Hokkaido University who in his book \textit{The Kurillian Knot: A History of Japanese-Russian Border Negotiations} argues that the sentence “with the rest of the Kurile Islands, to the north” can be interpreted as excluding the island of Urup (and not in addition to

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\textsuperscript{56} Ministry of Foreign Affairs, Treaties Bureau, “旧条約彙纂 第1巻 第2部” (Kyū jōyaku isan dai ikkan dai nibu) \textit{Old treaties compilation, volume 1, part 2}, 523.

Original Dutch language text: “Het geheel eiland Itorofu behoort aan Japan en het geheel eiland Oerop, met de overige Koerilsche eilanden, ten noorden, behoren tot Russische bezittingen.”

\textsuperscript{57} Ibid. Original Japanese language text: “「エトロフ」全島は日本に属し「ウルップ」全島はより北の方「クリル」諸島は魯西亜に属す” (Yetoropu zentō wa Nihon ni zokushi Uruppu zentō sore yori kita no hō Kuriru shotō wa Roshia ni zokusu).

\textsuperscript{58} “北方領土の経緯” (Hoppō ryōdo no keii) \textit{History of the Northern Territories}, Japanese Ministry of Foreign Affairs, accessed April 29, 2014, \url{http://www.mofa.go.jp/mofaj/area/hoppo/hoppo_keii.html}.
\end{flushleft}
Urup also Etorofu) and speaking of the islands to the north of Urup as the rest of the Kurile Islands.\(^{59}\)

Kimura brings up the question of mistranslation as part of his chapter on the Treaty of Shimoda. He takes issue with the argument of now deceased Shichirō Murayama of Kyushu University that an error was committed in the translation process.

According to Kimura, Murayama's argument is 1) that the passage saying ”the rest of”, is an attributive to the noun ”the Kurile Islands” 2) that ”the rest” refers to all of the islands except for two islands named explicitly in the text, Etorofu and Urup 3) “to the north”, is included in the text and follows “the rest of the Kurile Islands” to make clear that while the islands south of Urup are also part of the Kuriles, the islands the text refers to when saying ”the rest of the Kurile Islands” are the northern islands and not the northern and the southern ones in the Kurile chain.\(^{60}\) In short, the argument is that ”the rest of the Kurile Islands, to the north” refers to the northern part of the Kurile Islands chain as opposed to the entire Kurile Islands chain. This is contrary to the interpretation that the Japanese government goes by.\(^{61}\)

Kimura’s view is that Murayama’s argument has value as a criticism of the conventional wisdom at the Ministry of Foreign Affairs but that there are other ways to interpret the text. In his opinion, an interpretation of the text that holds that “the rest of the Kurile Islands, to the north” excludes only the island of Urup and not both Urup and Etorofu is not only valid, but even more natural an interpretation than Murayama’s. It is viable to argue that “the rest of the Kurile Islands, to the north” excludes only Urup because, according to Kimura, it makes little sense to say that it excludes a word (Etorofu) that is even separated from it by a comma.

Kimura also makes a mention of Shigeru Hakamada of Aoyama Gakuin University who argues that you do not have to decide whether the Kurile Islands include the four contested islands if you read the Treaty of Shimoda clause’s “(the islands) to the north” as being merely a general mention of the geographical location of the islands being discussed and not


\(^{60}\) Ibid., 55.

\(^{61}\) Ibid., 56.
something that is there to differentiate the Kuriles to the north of Urup from the Kuriles to the south of Urup.  

I agree with Kimura’s argument to the extent that it tries to prove how the Dutch language text can actually be used to argue the same thing as the Japanese government is arguing using the Japanese language text. However, when he attempts to argue that his interpretation is even more natural-sounding an interpretation than Murayama’s, I am of a different opinion. There is no evidence presented or explanation given to why Kimura’s interpretation is more worthy of the epitath “natural way of interpreting” than Murayama’s interpretation is. I have the same reservations about Kimura’s argument as Kimura has about Murayama’s. I believe his version is valid, but not the only possible one. I would like to stress that the wording in both Dutch language version and the Japanese language version of the Treaty of Shimoda is ambiguous as to its meaning.

For an opposing view, Haruki Wada articulates in his 2012 book *How to solve territorial issues? From Confrontation to Conversation* a position that says the treaties of Shimoda and Saint Petersburg were unmistakably mistranslated.

Wada begins his passage on the Treaty of Shimoda by talking about the 19th century history of Russia sending envoys to request the opening of Japan and the end of the national isolation policy of the Shogunate. The first envoy came to Hokkaido bringing back a drifter in 1792. The second envoy arrived in Nagasaki in 1804 but was thrown out after half a year waiting without hearing from the emperor. The third envoy and the one that finally managed to strike an accord with Japan and sign the Treaty of Shimoda in 1855 was Admiral Putyatin, a year after Commodore Perry of the United States had beaten him to it. Worth pointing out, as Wada does, is that unlike the Japanese-American negotiations, the Japanese-Russian ones had

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62 Ibid.
63 Ibid., 57.
64 Ibid.
65 Ibid., 56.
66 Original title: 領土問題をどう解決するか 対立から対話へ (Ryōdo mondai o dō kaiketsu suru ka tairitsu kara taiwa e).
67 Wada, 領土問題をどう解決するか (Ryōdo mondai o dō kaiketsu suru ka) *How to solve territorial issues?*, 104.
68 Ibid., 105.
to deal with border demarcation, a particularly tricky issue as demonstrated so far in this paper. Before arriving, Putyatin was ordered to “with regards to the Kurile Islands” push for the border to be placed between Urup and Etorofu in negotiations with the Japanese. That was, as I have made clear in this section, where the border eventually ended up when the treaty was finalized. The directive gives an indication of the Russian viewpoint at the time about how far the Kurile Islands stretched: that they include the Northern Territories/Southern Kuriles.

As I mentioned earlier in this section, between the Japanese language version and the original Dutch language version, there is a difference in that the words “the rest” are missing from the former version. The reason why this “the rest” is not included, could have to do with a simple misreading of one Chinese character in the translation process, writes Wada. In the translation that was made of the Dutch language official treaty at the time it was drafted (not the Japanese translation being used by the Japanese government today), the words “the rest” are written using the Chinese character 他. Wada argues that in contemporary documents it was a common occurrence to mistake the character 他 for 地. The latter means “ground” or “land” and they do indeed look alike, the difference is the left part of both characters. The Japanese language version says “the Kurile Islands to the north of that (Etorofu)” while the translated version from the negotiations (the one that is closest to the Dutch language official version) says “The other Kurile Islands that lie to the north.” If the character 他 (hoka), meaning ”other” was mistaken in the translation process for the character 地 (chi), meaning land, making the Japanese language raw version from the treaty conference read “sono chi no kita ni aru Kuriru shotō” (The Kurile Islands that lie to the north of that land”) instead of ”sono hoka no kita ni aru Kuriru shotō” (The other Kurile Islands that lie to the north”) it makes for a satisfying reason for why the translator would create a text that does not include the words “sono hoka”.

My view of Wada’s argument is that his findings regarding the missing “the rest” is of value and an interesting finding in itself, but it does not change the fact that the Dutch language text

69 Ibid.
70 Ibid., 105-106.
71 Ibid., 107-108.
72 Ibid., 106-108.
can be used just as effectively as the Japanese language text to argue that the Northern Territories/Southern Kuriles do not belong within the Kurile Islands definition. Even if it is true that “the rest” is missing because of the reason Wada argues, and somehow one could discredit the usage of the mistranslated Japanese language version of the Treaty of Shimoda as a flawed version because of its discrepancies compared to the original, the Japanese government could start using the Dutch language text in the way I described on page 21 of this paper to push its argument.

5.2. The treaty of Saint Petersburg

As for the Treaty of Saint Petersburg and the factor that makes it appear less enlightening, that too is found in the way translations have been handled. The original treaty was written in French and refers to the 18 islands north of the Northern Territories/Southern Kuriles in a way that sounds like they are a part of the Kurile Islands; not that they constitute all of them. The English translation of the French language text follows.

In exchange for the cession to Russia of the southern part of Sakhalin island as laid out in Article I, His Majesty the Emperor of All Russia, for all His heirs to come cedes to His Majesty the Emperor of Japan the group of islands called the Kuriles currently in His possession and all sovereignty rights associated with them so that now the Kurile group belongs to the Empire of Japan. 73

The reason why the same article introduced in section 4.3 looks different from the one above is that what I have introduced here is French language version and the version introduced in section 4.3 is the Japanese language version. In the Japanese language version, the word “group” where the text refers to the 18 islands north of the Northern Territories/Southern Kuriles is only represented by the words Kurile Islands 74 which certainly makes it look like the Japanese language version is talking about the 18 islands north of the Northern


74 Original Japanese language text: “クリル群島” (Kuriru guntō)
Territories/Southern Kuriles as “The Kurile Islands” instead of “the group of islands that is called the Kuriles”, as is the case in the French language version. The difference between “group of islands called the Kuriles” and “Kurile Islands” is arguably that the former expression leaves it open that there could be other islands outside of the group of islands in question that are also called “the Kuriles” while the latter expression indicates the islands being discussed are the islands that constitute all of the Kurile Islands. This could potentially be used to argue that the Northern Territories/Southern Kuriles do not constitute a part of the Kurile Islands that Japan gave up at San Francisco.

As explained earlier in this section, the paragraph in the Japanese language version of the treaty of Saint Petersburg that looks different from the French language original version is paragraph 2 and the exact wording in question is, translated into English “the group of islands called the Kuriles currently in His possession”75. Hiroshi Kimura takes issue with Haruki Wada’s argument that the attributive “currently in his possession” grammatically qualifies only “islands called the Kuriles” and does not qualify the word “group”. He argues that the interpretation holding that “currently in his possession” qualifies “group of islands” makes for a much more natural sentence than the one Wada puts forward.76 I believe it is easy to agree with Kimura that his version looks more natural since having “currently in his possession” qualify “group of islands” and “called the Kuriles” as a separate qualifier to “group of islands” creates a sentence that makes more sense grammatically. That being said, there is nothing in the Treaty of Saint Petersburg that invalidates Wada’s interpretation, no clause defining what word this and that attributive clause grammatically qualifies or the like. One can argue in different directions with regards to the grammatical construction of the sentences in the treaty as much as one likes, what matters in the end, as was the case with the Treaty of Shimoda, when one is asking the question “How can the Treaty of Saint Petersburg be interpreted?” is whether or not the Japanese government could use the original French language text to argue the same thing it is currently arguing using the Japanese language text. If it could, mistranslations or discrepancies cannot be construed as having given the Japanese government room to argue something they could not argue using the original treaty texts.

75 Original French language text: “groupe des Îles dites Kouriles qu’Elle possède actuellement”

Original Japanese language text: “現今所領「クリル」群島” (genkon shoryō Kuriru guntō)

76 Kimura, 日露国境交渉史 (Nichiro kokkyō kōshōshi) The Kurillian Knot, 65.
To determine whether or not the Japanese government could use the French language version in the same way it is using the Japanese language version, let’s take another look at the clause that deals with border demarcation in the Treaty of Saint Petersburg. The first one is the Japanese language version and the one that follows is the French language original version, both translated into English.

In exchange for the rights to Sakhalin Island being ceded to Russia as stated in article 1, the Russian emperor shall cede to the Japanese emperor the currently in Russian possession so called Kurile Islands, including 1) Shumshu […] 18) Urup and all sovereignty that comes with their possession.  

In exchange for the cession to Russia of the southern part of Sakhalin island as laid out in Article I, His Majesty the Emperor of All Russia, for all His heirs to come cedes to His Majesty the Emperor of Japan the group of islands called the Kuriles currently in His possession and all sovereignty rights associated with them so that now the Kurile group belongs to the Empire of Japan.

Now, let’s once again go through the real difference. The disputed sentence is in the middle; in the Japanese language version “the currently in Russian possession so called Kurile Islands” and in the French language version “the group of islands called the Kuriles currently in His possession”. Comparing the two extracts above one might come under the impression that naming the islands is something that is only done in the Japanese language version and that the part saying “now the Kurile group belongs to the Empire of Japan” only appears in the French language version. The reason for the first discrepancy is simply the way I have decided to translate the French version into English. The French version names the islands in the sentence after the sentence declaring the exchange of Sakhalin for the Kuriles. As for the second discrepancy, Wada writes that the translation into Japanese of the treaty was a liberal

77 “樺太千島交換条約” (Karafuto Chishima kōkan jōyaku) Karafuto Chishima exchange treaty.

Original Japanese language text: “全露西亜国皇帝陛下第一款ニ記セル樺太島(即薩哈爾島)ノ権理ヲ受シ代テシテ其後胤ニ至ル迄現今所領「クリル」群島即チ第一「シュムシュ」島[... ]第十八「ウルップ」島共計十八島ノ権理及び君主ニ属スル切ノ権理ヲ大日本国皇帝陛下ニ譲リ(Zen Roshiakoku kötei heika wa dai ichi jö ni siruseru Karafuto tō (sunawachi Sagaren tō) no kenri o ukeshi dai to shite shikōin ni itaru made genkon shoryō kuriru shōtō sunawachi dai ichi Shumushu tō [...] dai jō hachi Uruppu tō tomo kei jūhattō no kenri oyobi kunshu ni zokusuru issai no kenri o Dai Nipponkoku kötei heika ni yuzuri)


Original French language text: En échange de la cession à la Russie des droits sur l’île de Sakhaline, énoncée dans l’Article premier, Sa Majesté l’Empereur de toutes les Russies, pour Elle et Ses héritiers, cède à Sa Majesté l’Empereur du Japon le groupe des îles dites Kouriles qu’Elle possède actuellement avec tous les droits de souveraineté découlant de cette possession, en sorte que désormais ledit groupe des Kouriles appartiendra à l’Empire du Japon.
one because of the perceived need in Japan to present the exchange of Sakhalin for the Kurile chain as a win when it was easy to view renouncing sovereignty over large Sakhalin in exchange for a group of tiny islands as a loss for Japan. He makes the case that that is why a sentence that was not in the original French language version was added to the Japanese language version; to make it look like Japan got a big win out of the tradeoff: in English “All of the Kurile Islands belong to Japan”. Wada writes that this being a blatantly political addition disqualifies the Japanese language version as a credible treaty. I view that as a slightly questionable reason to disqualify a treaty; international treaties are by definition geopolitical constructs and it is difficult to separate them from the political realm. What’s more, as is made clear in the extracts above, there is a part of the French language version that states “the Kurile Islands belong to the Empire of Japan”. “All of the Kurile Islands belong to Japan” could simply be an attempt to translate “The Kurile Islands belong to the Empire of Japan”.

Looking at the disputed sentence, it is easy to identify right away that the difference lies in the inclusion or exclusion of the words “group of islands”. What does it do to the dispute then, not to include these words? They clearly are missing from the Japanese language version. The answer, I believe, is not a lot. As was the case with the Treaty of Shimoda, the Treaty of Saint Petersburg’s wording, in its original text as well as its translations, is ambiguous as to its meaning. It is imaginable that the Japanese government would argue the same thing as it is now even if there were no Japanese language version but only the French language one. It is possible to read the French language text and conclude that, as Kimura argues, “currently in his possession” qualifies “group of islands” and not “islands called the Kuriles”. Using this logic, the Japanese government could argue the French language version is simply stating that the islands in Russian possession, incidentally called the Kuriles, are to be given to Japan. They would thereby be interpreting the treaty as saying only the islands north of and including Urup (the islands that the treaty gave Japan) constitute the Kurile Islands, or at least as saying the extent of the Kurile Islands is undefined in the Treaty of Saint Petersburg. They would, in short, be able to make the same argument using the French language version as they currently are making using the Japanese language version.

79 Original Japanese language text: “クリル全島は日本に属し” (Kuriru zentō wa Nihon ni zokushi).
80 Wada, 領土問題をどう解決するか (Ryōdo mondai o dō kaiketsu suru ka) How to solve territorial issues?, 111-112.
81 Kimura, 日露国境交渉史 (Nichiro kokkyō kōshōshi) The Kurillian Knot, 65.
6. Discussion

6.1. Kimie Hara’s San Francisco Theory

Kimie Hara’s San Francisco theory argues that the territorial disputes in East Asia have their origin in the San Francisco Peace Treaty and its ambiguities with regards to border demarcation. In this paper, I decided to accept this theory as true and used it as the basis of my research. Here I will discuss my results through the lens of Kimie Hara’s San Francisco theory, consider what they mean and how they connect to events today in the very developing and timely issue that is the Northern Territories/Southern Kuriles dispute.

I attempted to determine the significance of what Haruki Wada and Shichirō Murayama have argued are mistranslations of the Treaty of Shimoda and the Treaty of Saint Petersburg. With regards to that issue, my conclusion is that since the Treaty of Shimoda and the Treaty of Saint Petersburg are ambiguous in their original Dutch language and French language versions respectively, there is nothing that prevents the government of Japan to base their argument for sovereignty over the Northern Territories/Southern Kuriles on those original versions, making the questions of mistranslated or not, mistranslated versions valid or not, moot points.

Throughout the course of writing this paper I have started trusting the theory I assigned as my guiding light more and more. Starting reading about and getting more familiar with the issue of the Northern Territories/Southern Kuriles, I placed a large amount of trust in what I decided to call Kimie Hara’s San Francisco Theory. I had but one doubt about the idea that the territorial disputes involving Japan were created by the San Francisco Peace Treaty and that was the mistranslations in the Treaty of Shimoda and the Treaty of Saint Petersburg that also seemed like they could be the root of the problem in the case of the Northern Territories/Southern Kuriles. However, my conclusion that they did not because of the state of affairs with regards to the mistranslations discussed above vindicates the theory I have been using and in my eyes confirms its credibility.

The way I see it, the watershed moment that was the signing of the San Francisco Peace Treaty constituted nothing less than a paradigm shift on the East Asian geopolitical scene. In comparison, the pre-World War II treaties did not have a major effect on the way the dispute has played out, at least not as far as mistranslations into Japanese goes. But if the
discrepancies among the different versions of the treaties of Shimoda and Saint Petersburg did not play a role, how do you define those treaties in the context of the history of treaties signed between Japan and Russia? I believe it is fair to say that to the extent that they affected the modern Northern Territories/Southern Kuriles dispute they were rather minor players. However, it is not possible to contrast the treaties of Shimoda and Saint Petersburg to the San Francisco Peace Treaty and characterize that treaty as a big player when it comes to treaties of greater importance that have been signed between Russia and Japan. This is of course because, as laid out in section 4.2, the Russian Federation’s predecessor the Soviet Union did not sign the San Francisco Peace Treaty.\(^82\) To this day there is no peace treaty between Russia and Japan, I believe precisely because of the Northern Territories/Southern Kuriles issue. A more fitting “context” would therefore be the context of the history of the Northern Territories/Southern Kuriles dispute or the history of treaties that had an effect on the Northern Territories/Southern Kuriles dispute. Nevertheless, the argument that they had little effect compared to the San Francisco Peace Treaty does not change.

But was it not, according to my argument, the purported mistranslations or discrepancies that turned out not to have had any effect on the territorial dispute, as opposed to the treaties themselves? The scholarly debate surrounding the treaties of Shimoda and Saint Petersburg relating to the Northern Territories/Southern Kuriles issue boils down to the issue of discrepancies in treaty versions. The debate over legally valid versions, in which Haruki Wada argues the Treaty of Saint Petersburg is not worth citing in its translated, Japanese-language form,\(^83\) admittedly raises a question separated from the mistranslations issue. However, I believe that question becomes a non-issue if one draws the conclusion that the Japanese government could use the original version to argue its viewpoint as efficiently as it is using the Japanese-language version.

While I do agree that citing a document that does not have any legal credibility to a certain extent corrupts the debate climate around the territorial issue, the Japanese government’s potential use of the original French and Dutch language version of the treaties of Shimoda and

\(^82\) Hara, “分割された東アジアと日本外交” (Bunkatsu sareta Higashi Ajia to Nihon gaikō) *Divided East Asia and Japanese Diplomacy*, 170.

\(^83\) Wada, 領土問題をどう解決するか (Ryōdo mondai o dō kaiketsu suru ka) *How to solve territorial issues?*, 112.
Saint Petersburg to push the flawed argument that Haruki Wada refers to as a sophism
d would, I believe, corrupt it as much as it has become corrupted by its use of the Japanese
language version. I can imagine a scenario in which the Japanese government would lose
credibility if it switched to base its argument on the text in the original treaty version because
it would be arguing with the Russian side about interpretations of the exact same text as
opposed to two slightly differing texts. On the other hand, I have not found many traces of a
discussion on a governmental level that talks about which version the two sides are using to
push their argument, thus this rather speculative idea is probably not worth much attention.

6.2. Where do the islands belong?

As I write in section 4.4, a summary of the positions staked out by the two sides would be that
the Russian argument focuses on the result of the Second World War, inter-allied agreements
such as the Yalta Agreement and, implicitly, the fact that Japan was on the losing side and the
Soviet Union on the winning side while the Japanese argument emphasizes the fact that the
islands had never been another state’s territory. My goal with this research was never to take a
stand on the question of to which side the Northern Territories/Southern Kuriles belong but
for full disclosure I have decided to give my view anyway. No matter how I approach the
issue, I cannot help but come back to the San Francisco Peace Treaty. It may be true that the
United States planned to give the Soviet Union the entire Kurile Islands chain and made that
clear through the inter-allied agreements during the Second World War but the fact remains
that the treaty that gave Japan back sovereignty over its own land does not award the Kurile
Islands to any state and certainly not the Soviet Union. That is, I believe, confirmed by the
fact that there is a clause in that same treaty, in its Chapter VII, article 25, that explicitly states
“the present Treaty shall not confer any rights, titles or benefits on any State which is not an
Allied Power as herein defined”85, together with a “declaration” the United States added to its
ratification of the treaty which states that “nothing the treaty contains is deemed to diminish
or prejudice, in favor of the Soviet Union, the right, title, and interest of Japan, or the Allied
Powers as defined is said treaty, […] the Kurile Islands, the Habomai Islands, the Island of
Shikotan, or any other territory, rights, or interests possessed by Japan on December 7, 1941,
or to confer any right, title, or benefit therein or thereto on the Soviet Union”86 and that

84 Ibid., 76-77.
85 “No.1832. Treaty of Peace with Japan. Signed at San Francisco, on 8 September 1951.”
86 Ibid.
“nothing in the said treaty, or the advice and consent of the Senate to the ratification thereof, implies recognition on the part of the United States of the provisions in favor of the Soviet Union contained (sic!) in the so-called 'Yalta agreement' regarding Japan of February 11, 1945.”

The legal value of the United States’ “declaration” seems even to a layman such as me debatable, as it was included after the signing process had ended and while the signatories were working on their ratifications. However, as an indication of the American viewpoint regarding the Kurile Islands at the time it makes for quite an unambiguous statement going as far as denying the validity of the Yalta Agreements provisions regarding the Kurile Islands. While the declaration may be of debatable legal value, article 25 can surely not be construed as such as it is included as a clause in the actual treaty that was signed in San Francisco.

Would the territorial dispute surrounding the Northern Territories/Southern Kuriles have been easier to resolve had the Soviet Union signed the San Francisco Peace Treaty? It is imaginable that there would never have been a territorial dispute if both parties had agreed to sign the San Francisco Peace Treaty, in other words they would have made sure to resolve it before signing the Peace Treaty. The reason why that did not happen was that the Cold War was flaring up and East-West geopolitical considerations were among the most important considerations to be made by the principal drafter of the San Francisco Peace Treaty, the United States.

The problem, to me, seems to lie in the San Francisco Peace Treaty and its ambiguous, or rather lack of, border demarcations and indications of where territories belong to a larger extent than discrepancies between translated versions and original versions of the treaties of Shimoda and Saint Petersburg.

6.3. The situation today and the future

In From the Outside, Kimie Hara writes about how the international order we find ourselves in since entering the 21st century, just having left one defining paradigm, the Cold War and trying to stake out a future in a paradigm that is defined by a different sort of confrontation, to an extent resembles the one the world found itself in after the end of World War II when the

87 Ibid.
88 Hara, introduction, 3-4.
San Francisco Peace Treaty was drafted.\(^8\) While Vladimir Putin’s Russia had already invaded neighboring Georgia at the time, the big event that was the Crimean annexation and as of May 2014 still ongoing standoff between the EU and the US on the one hand and Russia on the other over Ukraine had not yet happened by the time Hara wrote *From the Outside*. That has seen relations between Russia and the West deteriorate to their lowest point since the end of that paradigm known as the Cold War and has led Western observers to discuss the advent of a new Cold War.\(^9\) While the rise of China and the North Korean missile threat is seen by observers\(^1\) as the main reason for the movement towards a reinterpretation of the constitution in terms of Japan’s right to collective self-defense, as I mentioned in section 1.1 Russian attitudes to territorial issues is a timely issue and I believe the collective self-defense debate has to be viewed in the context of all territorial issues that Japan is involved in, including the one I have dealt with in this paper.

As I touched on in section 2.2, the offer to return the smaller island Shikotan and the tiny island group the Habomai islets is still on the table\(^2\) and if the Japanese government dropped its “all or nothing” policy a resolution to the territorial dispute and the signing of a peace treaty between Japan and Russia does not seem like a distant prospect to me. The recognition by both the Abe administration and the Putin administration that a resolution to the dispute should be based on a “draw” with no losers and no winners\(^3\) seems like a constructive way to move toward a resolution. Then again, as of May 21, 2014, President Putin’s most recent remarks regarding the Northern Territories/Southern Kuriles dispute paint Japan as trying to

\(^8\) Hara, “分割された東アジアと日本外交” (Bunkatsu sareta Higashi Ajia to Nihon gaikkō) *Divided East Asia and Japanese Diplomacy*) 174.


\(^2\) “Kuril islands dispute between Russia and Japan.”

\(^3\) “Putin, Abe agree ‘no winners, losers in island row: Kremlin,”
As Haruki Wada writes, in international diplomacy arguments that are based on sophisms and unsound reasoning will not have the power to convince your adversaries. Comments like the rewrite history ones by Putin should be recognized as counter-productive to a resolution to the Northern Territories/Southern Kuriles dispute. Instead of coming up with counter-arguments to the idea the Japanese government has that the history of the disputed islands give Japan natural sovereignty, Putin’s comments lower the discourse to more of a blame game.

7. Conclusion

I am of the viewpoint that while the two treaties of the 1800s that affected the border between Japan and Russia with regards to the Kurile Islands, the Treaty of Shimoda and the Treaty of Saint Petersburg, have been a problematic factor in the territorial dispute regarding the Northern Territories/Southern Kuriles by employing ambiguous language as to their real meanings, mistranslations have played no part in this and the San Francisco Peace Treaty constitutes the real problem. This section presents the reasoning behind that conclusion.

As for the point of contention, whether the treaties of Shimoda and Saint Petersburg were actually mistranslated or not, after looking at arguments presented by Haruki Wada and Hiroshi Kimura in sections 4.1 and 4.2 I make the judgment that Haruki Wada’s case contains credible explanations for how the Japanese language versions of the treaties came to look like they do. However, I can only agree with Wada to the extent that he shines light on the reasons for the discrepancies in wording. If one wants to prove that these discrepancies are the defining factors in the 19th century treaties with regards to the territorial dispute, one must prove that the Japanese government could not argue the same thing as it does today, that the Northern Territories/Southern Kuriles are not part of the Kurile Islands, by using the original Dutch and French language texts of the Treaty of Shimoda and Treaty of Saint Petersburg, respectively. This paper has not found evidence in the scholarly discourse on the treaties of Shimoda and Saint Petersburg that disputes this assertion and therefore proposes, based on the

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95 Wada, 領土問題をどう解決するか (Ryōdo mondai o dō kaiketsu suru ka) How to solve territorial issues?, 74.
argument made in section 5, that the treaties of Shimoda and Saint Petersburg are ambiguous in all its language versions and could all be used to argue for the position that the Japanese government is arguing.

By drawing the above conclusion regarding the mistranslations of the treaties of Shimoda and Saint Petersburg, the hypothesis that I presented in the beginning of this paper is proven to have been wrong. The hypothesis was based on, after having studied previous research on the Northern Territories/Southern Kuriles, a conviction that the discrepancies between the different treaty versions are so big they must have been a factor in the Japanese government’s ability to argue what it is arguing. Looking closer at the treaties myself made me conclude that my first instinct was actually wrong.

The theory that I based this paper on, articulated by Kimie Hara, argues that the territorial disputes involving Japan, including the Northern Territories/Southern Kuriles dispute, were born out of the San Francisco Peace Treaty and the ambiguity with which territorial boundaries were dealt with in that same treaty. As shown in section 4.2, every time the border between Japan and Russia had been moved up until World War II, it had been moved by mutual consent between the two concerned parties; it was only after Japan had become central in the geopolitical struggle known as the Cold War and rapprochement between ally Japan and adversaries the Soviet Union, Communist China and Communist Korea became viewed as unwelcome by the American geopolitical calculus that the Northern Territories/Southern Kuriles became the object of a territorial dispute. Based on the facts presented in section 4 and the argument presented in section 6 regarding Kimie Hara’s San Francisco theory, I propose that the 19th century treaties were written, in all of their different incarnations, using language that is open to different interpretations, interpretations that the Japanese government could use to push their argument even in the absence of a translated Japanese language version. This is not because the treaties of Shimoda and Saint Petersburg were mistranslated, but because they were ambiguous in their wording from the outset.

8. Summary

As shown in this paper, the modern Northern Territories/Southern Kuriles dispute has been shaped by treaties signed from 1855 through 1951 and impacted by the Japanese government’s use of arguably flawed translations into Japanese of those same treaties. Mistranslations and the ambiguity that defines the San Francisco Peace Treaty shines light on
the imperfectness of those treaties and the effect they are still having on the state of affairs today. This paper’s research question was “How is it possible to interpret passages in the Treaty of Commerce and Navigation between Japan and Russia (hereafter referred to as the Treaty of Shimoda) of 1855 and the Karafuto-Chishima Exchange Treaty (hereafter the Treaty of Saint Petersburg) of 1875 that have been identified as mistranslated by Shichirō Murayama and Haruki Wada?” and it attempted to prove the hypothesis that mistranslations in passages in the Japanese language versions of the bilateral treaties the Treaty of Shimoda and the Treaty of Saint Petersburg have given the Japanese government room to argue a position the original treaty texts do not support.

I started out by introducing the paper’s purpose, research question, hypothesis, method, structure, standards, material and theory. The method was a qualitative method on a macro level employing document analysis using a linguistic approach for analysis of treaty texts. Materials used have been the treaties that were analyzed along with previous research by scholars such as Kimie Hara, Haruki Wada and Hiroshi Kimura. The theory this paper employed was dubbed Kimie Hara’s San Francisco Theory. This theory, stipulating that the San Francisco Peace Treaty of 1951 essentially created the territorial disputes involving Japan, became the basis of this paper.

After introducing method, materials and theory I gave a historical background followed by an account of recent political developments. I proceeded to giving the arguments being made by both governments as they relate to agreements made between the allied powers during World War II, the San Francisco Peace Treaty and the treaties of Shimoda, Saint Petersburg and Portsmouth. The way in which the treaties of Shimoda and Saint Petersburg’s different language versions have corrupted the climate of the territorial dispute with translations into Japanese that say other things than what was stipulated in the original versions was illuminated and in order to take a stand on the question of whether the treaties actually had been mistranslated I consulted two scholars with a history of researching Russo-Japanese relations.

After looking closely at the Treaty of Shimoda and the Treaty of Saint Petersburg and the arguments presented by Hiroshi Kimura and Haruki Wada, I concluded that while the two treaties of the 1800s, the Treaty of Shimoda and the Treaty of Saint Petersburg were written using ambiguous language, this is true in all of its different versions and mistranslations play
no part in the Japanese government’s ability to argue what they are arguing. Thus, the hypothesis that I presented in the beginning of the paper was in the end disproven.

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