Japanese-Russian Territorial Disagreements and Their International Legal Substantiations

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Abstract: The article dwells upon the Russian – Japanese territorial dispute as a possibility of better understanding the similar international legal and geopolitical aspects of other territorial disagreements inherited after World War II. The unresolved territorial disputes have made an important impact on international and regional stability and require a thorough and systemic analysis. The purpose of the essay is to contribute to the formulation of theoretical and practical approaches towards the settlement of existing territorial relations on the basis of a systemic and comparative analysis of the legal and political positions of the disputing parties.

Key words: Japan • Russia • Territorial disagreement • International security • Asia-Pacific Region

INTRODUCTION

In recent times, the territorial dispute between Russia and Japan has become a widely discussed topic in international relations, which among other legal international and geopolitical disputes has resulted from the Second World War. The subject of these territorial relations is an official and open position of Japan on returning of the islands of Small Kuriles range by Russia and, consequently, not all the Kuriles (Ticima), but four of them. They are: Iturup, Kunashir, Shikotan and a group of islands Habomai (Habomaidze) that covers the islands Souder, Uri, Akiru, Sibotzu and Taraku (islands of Polonski, Zelenyi, Juruy, Tanfiliyev and close to them a number of minor islands). In the geopolitical language Russia calls these islands as the Southern Kuriles while Japan in its turn refers to them as the Northern territories, "situated on the North-Eastern coast of Hokkaido" [1].

Thus, even though the current problem does not lead to military confrontation, but remains in the political-legal area, nevertheless, it is far from a solution.

This raises a natural question: is whether Russia should really return the Southern Kuriles to Japan? Or in other words, whether Japan has legal grounds to demand their return?

Essence and Content of the Japanese Demands: Japan considers that its demands concerning the return of the "Northern territories" are just and reasonable. And that is why the Japanese side consistently stresses that the existence of such a territorial problem a-priori does not promote constructive and friendly relations in Japanese-Russian relations.

Let's consider arguments of the Japanese side. Argument number one - Japan appeals to the historical heritage and rather seriously considers that it is traditionally significant and even decisive argument in the on-going territorial dispute. Moreover, by the researchers of the Institute for World Affairs at Kyoto Sangyo University the problem is defined as "historical memory issue for Japan" [2]. In this regards, the Japanese usually refer to the historical written sources which demonstrate the effectual control over the four Northern territories by Japan at the end of XVIII – beginning of XIX century. So, in the book "New history of Hokkaido" it is written that in the 11th year of the Kansei era (1799) the central Japanese government had effective control over these territories via such principalities as Edzo, Nambu and Tsugaru [3]. Moreover, the official Japanese document "Northern territories of Japan" prepared by the Ministry of Foreign Affairs in 1977 contains early Russian-Japanese territorial relations. For example, it contains the data according to which the "Japanese knew about the existence of Sakhalin and Northern territories (Kuril Islands) long before the Russians. Japan has, in fact, developed these Northern areas. But later they had to leave those areas because of invasions by Russians" [4]. So, according to the assertions of the Japanese government these facts clearly show that Northern territories have never belonged to the foreign country and have always been part of the Japanese territory.

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Argument number two - Japan insists on the fact that Northern territories are its native age-old lands which always belonged to it legally and are naturally considered as being an integral part of the country according to the geographical maps and under the international documents of 1543, 1644, 1745, 1855, 1875 and 1905. In particular, Japan claims to these territories on the basis of official state map of the Sekho period, which was drawn in 1644. It is the first geographical map in the world which shows all four islands – Kunashir, Iturup, Habomai and Shikotan [5]. This and other similar maps are to some extent one of the proofs for Japan which show the boundary line in this territorial dispute. If to mention international documents, then the Communist Party of Japan demands the returning to Japan of the whole Kuril archipelago their claims being bases on the Treatises of 1855 and 1875. The party claims that "...the Kuril Islands were not obtained by capturing and aggression, but became part of Japan as a result of peaceful treaties of 1855 and 1875" [6]. Indeed, among the international documents the aforementioned treaties are emphasized by Japan. So, according to the Treaty of Shimoda on trade and borders of 1855 to which the Japanese authorities more often are inclined to refer, the islands Iturup, Kunashir, Shikotan and Habomai have become part of Tokugawa Shogunate and the rest of the Kuriles would belong to Tsarist Russia. "Since then the islands ownership was never disputed by any country until they came under Russian occupation in 1945" [2]. Under the Petersburg Treaty of 1875 the Kuriles completely joined Japan, in exchange of which Japan recognises the Sakhalin Island as part of Russia [7]. Under the Portsmouth Treaty of 1905 which has fixed the defeat of Russia in the Russian-Japanese war, Japan not only secures the rights for all the Kuriles, but also returns the southern part of the Sakhalin Island (to the south of 50°of mid latitude) [8]. So, it means that by referring to the Treatise of 1855 in its claims to Russia about the Northern territories, Japan can take as a starting point the international legal basis of peace treaties of 1875 and 1905. And then, according to this official logic, sovereignty of the country should be spread over the entire Kuril archipelago, including Southern Sakhalin. According to the Japanese newspaper "Yomiuri", the Northern territories today are included in the zone of the Security Treaty the between the USA and Japan (Yomiuri, 1996). With confirmation of the norms prescribed in the previously mentioned international treaties and with the aim of strengthening of Japan’s demands, Japanese Prime Minister Taro Aso during the debates in the Budgetary Commission of the upper chamber of the Parliament on May 20th, 2009 clarified that "the four Northern islands have never been the foreign territory and this is the indigenous Japanese land" [9]. In addition, on June 11, 2009 the upper chamber of the Parliament of Japan unanimously approved the amendments to the Law on special measures promoting the solution of the Northern territories issue, where, they are named as the indigenous lauds of the country [10].

Argument three. The crux of the matter lies in the fact that in substantiation of its claim, Japan gives the facts that the Northern territories have been illegitimately occupied by the Soviet army just six days earlier its capitulation, i.e. after August 15th, 1945, when the Japanese administration declared that it would accept the terms of capitulation and ends the war as a defeated state. It (Japan) assumes that the USSR while of the conference in the Crimea agreed upon with its allies about a war against Japan and on August 8th, 1945 launched large-scale offensive actions against the Japanese army in Manchuria, thus breaching the Treaty Neutrality on signed with Japan in 1941. On October 17th, 2009 Minister of State Lands and Transport of Japan Seiji Maehara made the so-called "visual inspection" of the Northern territories and as his predecessors repeated the thesis about "illegal occupation" of these islands by Russia. In 2011 Ministry of Education allowed to use in high school textbooks on history, geography and social studies formulations about "illegal occupation of Southern Kuril Islands". In particular, in the "New History textbook", (published by several scientists united under the public organization "Community for creation of a new textbook on history"), the authors mention that the Soviet Union indeed "declared a war on Japan and invaded Manchuria" [11]. In April 2008 the Political council of the prominent "Japanese forum on international relations" by the results of annual work of several dozens of specialists made 10 recommendations to the Cabinet of Ministers of Japan. The fourth principle of these recommendations states that "the occupation of the "Northern territories" by the Soviet Union" is an unlawful act from the point of international law" [12]. In the "Blue book on foreign policy of Japan of 2011", the Ministry of Foreign Affairs of Japan has also made conclusions concerning the given territorial aspect. On January 21, 2012 Minister of Foreign Affairs of Japan Koichiro Gemba when answering questions of the newspaper called "Sakei Shimbun" clearly stated that "the occupation of the Northern territories by Russia does not have any grounds under the norms of international law and this position of the government remains unalettrable" [13].
In order to strengthen its position, Japan has stated: "the ally - states of the Atlantic Charter and Cairo Declaration have proposed the principle of "non-expansion of territories", therefore, annexation of Sakhalin and Kuriles by the Soviet Union is illegal". The decisions of Yalta and Potsdam conferences are not binding for Japan, because they are just "treaties of intent". For example, in confirmation of the said above, if not all, but the majority of Japanese scientists consider that the "Yalta agreement does not have any legal binding force for Japan, because it (Japan) did not participate in this conference and did not know about it when the terms of the Potsdam declaration were accepted by Japan 1945" [14]. With such a definition of a legal nature of the Yalta agreement since August 1945 the USA has also inclined to agree, to as well as some Soviet/Russian researchers. As such, the USA since that time on has been asserting that Yalta agreement was just a declaration of aims between the leaders of the allied powers and in itself it was not a document having any legal consensuses. This position concerning the Kuril Islands issues was presented in the full form in the Note of the U.S. State Department of July 1st, 1955, as well as in the Memorandum of September 7th, 1956 concerning Yalta and Kuriles [15]. Soviet/Russian scientist S.M. Punzhin has admitted that the Yalta agreement is just a declaration of aims, but he has specified that it has a binding legal character not for Japan, but for the Soviet Union, USA and Great Britain [16]. As the author has noted, the fact is that the latter two powers have agreed to meet the conditions put forward by the Soviet side at the expense of interests of China and Japan [16]. His legal interpretation of Yalta agreement is totally supported by another Russian scientist B.N. Slavinskii. He also considers that the Yalta agreement is a set of arrangements between the allies conforming their positions for ending the Pacific region war which did not have anything to do with Japan. In other words, Japan was just an object to this agreement.

Further the Japanese suppose that in the San Francisco Peace Treaty of September 8, 1951, the southern islands being "indigenous Japanese territories" and belonging only to Japan, were not included into the notion the Kuriles Islands” and that this Treaty does not directly, indicate to slouch state – Japan or Russia – the specified territories are to be transferred to. And lastly, Japan has repeatedly declared that due to the USSR’s refusal to sign San Francisco Peace Treaty which as Japanese scientists note, was its only political mistake [2], references of Russia as a successor of the former USSR to this international legal act are invalid.

Russia has its own arguments related to the position of the Japanese side. In fact the essence of them is, first of all, that Russia completely disagrees with the Japanese interpretation of the issue and proposes its own proofs. In the opinion of the Russian side, historical rights to the Kuril Islands belong to Russia, because the history shows its (Russia’s) priority in discovering and exploration of the Kuriles. As an evidence, Russia presents an official map published by the government of the Russian Empire during the reign of Catherine II (1796). Another historical document that was presented as an evidence of possessing the islands is the Decree of Catherine II to the Senate in 1779 "On exemption from duties of the population of the Kuril Islands, that have acquired Russian allegiance" [17, pp: 178,179]. Moreover, there is also a memorandum of Russian ambassador N.P. Rezanov in which the Japanese authorities were informed about the length of the Russian border on the Kuril Islands in 1805. Concerning the doctrine of "primordial territories", Russia sticks to the opinion that international law does not regulate such a concept, therefore it is hardly lawful to consider that the legal status of any territory in the XVI or XVII centuries can define its status in the XX or XXI centuries. In this regard Russia considers that Treatises of 1855 and 1875 do not have any modern value and views them as Russia’s territorial concessions to Japan, that were done in that period as a result of coercion of Japan. Japanese aggression in 1904 against Russia revoked all the agreements between them. In the works of Russian authors there is a prevailing viewpoint that the mentioned treaties of the XIX century were dissolved by Japan itself as a result of an armed attack on Russia and the signing of the Portsmouth Peace Treaty in 1905. By the way, Japanese scientist Nada Haruki supports this interpretation as well. He considers that as a result of Russo-Japanese war of 1904-1905 "Japan has lost a moral right to demand from Russia the observance of previously signed treaties" [18, p. 43]. Thus, Russia makes a conclusion that references to the Treatises of 1855 and 1875 as well as to Peace treaty of 1905 are unlawful as a result of aggressive actions of Japan and the border delimitation between Russia and Japan must be carried out on the basis of international legal acts regulating the world order after the World War II [19, p. 231].

Secondly, in Russia, many politicians, scientists, lawyers and specialists on international law agree with the opinion that the Japanese demands concerning the assignation of the northern territories do not have clear enough international legal grounds. According to the item "C" of Article 2 of Peace Treaty between Japan and the USA, signed in San Francisco on September, 8th, 1951,
Japan had refused all rights, competences and claims to the Kuriles, also to the southern part of the Sakhalin and the islands adjoining to it [20]. Besides, in his speech on October 19th of the same year K. Nisimura, Head of the Treaty Department of the Ministry of Foreign Affairs of Japan declared that the notion "the Kuriles" in the Treaty also includes the notion the Southern Kuriles [21, p. 101; 22]. According to the opinion of Russia it means that by making such verbal statement Japan has confirmed its official position concerning these islands. Therefore, it has no right to challenge the given territorial situation as a whole or in part.

Thirdly, in Russia serious attention is paid to the reasoning of Japan that San Francisco Peace Treaty does not indicate whom the Southern Sakhalin and the Kuriles are assigned to. Actually it is true. However, it is necessary to keep in mind the fact that the return of the southern part of Sakhalin to the USSR and assignation of the Kuriles have been predetermined by the decisions of the Yalta (Crimean) Conference of February, 11th, 1945 and the Potsdam Declaration of July, 26th, 1945. In particular, according to the paragraph "A" of items 2 and 3 of the Agreement of the Three Great Powers adopted in Yalta (Crimea) – the Soviet Union, the United States of America and Great Britain - the transfer to the USSR of the southern part of Sakhalin island and all the islands adjoining to it, as well as the Kuriles were considered as restoration of the rights of Russia violated by the treacherous attack of Japan in 1904 [23]. Paragraph 8 of the Potsdam Declaration states that the conditions of Cairo Declaration will be executed and that the Japanese sovereignty will be limited to the Honshu, Hokkaido, Kyushu, Shikoku and less larger islands which will be specified by the Allies (Potsdam Declaration, 1945). Being defaced on September 2nd, 1945, Japan signed the Act on Capitulation in which Japan unconditionally accepted the terms of the Potsdam Declaration [24]. By thus, Japan admitted all the above-stated, but also as Russia beelines, has lost the right to refer to the former northern territories as "illegally occupied". San Francisco Peace Treaty has only fixed the points which the Allies have agreed upon. By the way, neither during its signing, nor during the first years after signing there were not any doubts concerning the content of the concept "the Kuriles". In Russia they believe that "if Japan had has the lawful grounds not to consider any of the listed islands as the Kuriles, it would have declared about it at that time" [25]. As a result, having achieved the transfer of the Kuriles to the USSR and also the returning of Southern Sakhalin, the Soviet administration interpreted these facts as a victorious state. Considering the fact that those documents were formulated after World War II, including the documents concerning the territorial situation in the Far East, Russia does not consider itself obliged "to search for the ways to settle disagreements which have arisen because of the disagreement of Japanese government with territorial changes" [26, p. 118].

The Russian side admits that in Soviet-Japanese relations during the process of summarizing the results of World War II, the decisions of the Yalta and Potsdam conferences on the Far East issues have not been brought together as well as corresponding articles of the San Francisco Peace Treaty. But, at the same time it states that both Yalta and Potsdam agreements of the "Big Three" (USSR, USA and Great Britain) as well as San Francisco Peace Treaty guarantee the rights of the Soviet Union (Russia) on South Sakhalin and the Kuril Islands.

According to the official position of Russia such an affirmative answer proceeds from Japan’s unwillingness to recognise the validity of these international agreements at present. And such unwillingness of Japan cannot be the grounds of international legal disagreements. In such a way the general results of the status quo of the Japanese-Russian territorial relations have been displayed in a comparative aspect. On the basis of their comparative analysis it may be said that Japan and Russian admit the existence of territorial debate between them, then it means they admit the existence of certain territories to whom they belong has not been determined yet. Nevertheless, summarizing the sides’ arguments it may be said that the sides probably will argue on these points for an indefinite time. Hereby, each of them can offer its own, but fundamentally different package of arguments not only of legal, but of historical, geographical, political, practical and economic character as well. But today no matter whose strange it would sound, the problem actually is that in the presence of all the above-stated international legal acts there is no factual direct documentary registration of handing over these islands to the USSR (Russia). In this sense the San Francisco Treaty of 1951 is the obvious conformation this fact. In Russia there is a serious belief that with the intention to confuse the legal aspects of the territorial issue, the USA managed not to include into the document the articles on assigning the Kuriles and the Southern Sakhalin to the Soviet Union, though it had been predetermined in the Yalta Agreement by the three Great Powers on February 11th, 1945 [27, p.23]. According to the Russian side it, is also supported by the fact
(American sources also note this) that on the basis of the Peace Treaty signed in San Francisco, "the USA has legal possibilities for military cooperation with Japan as a counterweight to the Soviet-Chinese cooperation, i.e. since 1950 the USA has carried out serious preparations specifying the clauses on the bilateral basis" [28, p.63]. However, in this case one could definitely say that the Russian side is evidently mistaken in its opinion. As it is known the Senate of the USA in the resolution on the ratification of item "B" Article 2 of the Peace Treaty with Japan, of March 20th, 1952 underlined definitely that "Japan declined all its claims on ...the Kuriles and the Southern Sakhalin..." [29]. However, later in the Note of the Department of State dated September 7th, 1956 it was declared that the USA after thorough studies of historical facts had made quite a different conclusion: Iturup and Kunashir islands along with Habomai and Shikotan are part of Hokkaido and have always been parts of Japan and thus should rightfully be under Japan's sovereignty. This fact proves that since then the USA not considered Habomai and Shikotan islands as the Kuril Islands and that in the Japanese interpretation the notions "Kuril Islands" and "Ticima" are not identical. In other words, if "the Kuril Islands" (Ticima) which Japan has abandoned according to the San Francisco Treaty, includes in the archipelago the whole chain including Shikotan Island" [30], then the territorial debate in bilateral relations "is taken down to the definition of the status of Habomai Island", as the "traditional definitions of the Kuril Islands did not include the term Habomai, they traditionally have been considered as part of the Hokkaido Island" [30, p.163]. However, after years conforming with modern realities, the following question is put: if the Soviet delegation did nevertheless take part in the San Francisco Conference then wouldn't it be more reasonable to put the signature under the American-British project of this treaty? According to the statement of some Russian experts it would have enabled the USSR to strengthen its position (and consequently, the position of modern Russia) on the issue of the disputed territories. In this case it would be possible for Russia to apply the provisions of Article 2 of the treaty to ground its position according to which, as it is already known, Japan has renounced its rights to the Kuriles [25]. It means if the Soviet Union would have signed San Francisco Treaty, then Russia today could have firmly stated that in Article 2 there is not any mention that these territories belong to Japan and moreover, in case with the Kuril Islands it is definite by stated that they are not the Japanese territories.

Clearly, non signing by the Soviet Union of the San Francisco Treaty of 1951 was a serious mistake, which enables Japan to interpret the provisions of Article 2 for its own benefit. If to consider the position of Japan from this point of view, then its demands to return the Northern territories are reasonable as well as its well statement that the Yalta agreement of 1945 was not legally binding for it, then logically the San Francisco Treaty cannot be applied to Russia either because it was not a party to it neither de jure nor de facto. In this regard Korean researcher on international legal aspects of territorial disputes in the Far East No Te Chzhun considers that Japan itself has made a serious mistake with regard to the San Francisco Treaty. He bases his point of view on the fact that Japan in the interpretation of Article 2, uses a controversial approach. For example, when the question of the Taiwan Islands affiliation comes up, Japan refers to the fact that it cannot express its point of view because according to the San Francisco Treaty, Japan has declined any claims on this island, however it does not interpreté in the same way when the issue concerns the Kuril Islands, though such a point of view has been envisaged in the treaty [31, p.21].

The Role of the Soviet-Japanese Joint Declaration of 1956 in the Solution of the Territorial Issue:
Not downgrade the role and value of the lasted documents it should be noted that in the above-stated points the Joint Soviet-Japanese Declaration which was signed by the parties on October 19th, 1956 was not mentioned and came into force after an exchange of ratification documents on December 12th the same year.

Not to underestimate the importance of the Declaration of 1956 for the normalization of Soviet-Japanese relations one should understand that provisions of the given document do not comprise any answers for solving the Japanese-Russian territorial disagreements. So, there is no defined norm about legitimizing the territorial situation in the Far East. The close look at the content of the text of this Declaration first of all enables us to say that Japan started with the intention that it would recognise all the rights of the USSR to dispose of the Southern Sakhalin and the Kuriles. The similar conclusion can also be made concerning the USSR position which adhered to the view that the question whom and what exactly should belong to near the Sakhalin and the Kuriles has been already solved. But judging by the content of the Declaration it becomes clear that its provisions definitely do not fix a new approach to the solution of questions touching upon the territorial rights and interests of Japan and the USSR (Russia).
The important point in the Declaration under consideration is a provision according to which a legal basis for assigning the islands Habomai and Shikotan to Japan is formed. In paragraph 2, item 9 it is said: "...the Union of the Soviet Socialist Republics meeting half-way the wishes of Japan and considering the interests of the Japanese state agrees on assigning the islands Habomai and Shikotan to Japan, however, provided that the actual assignment of these islands to Japan will be made after the conclusion of a Peace Treaty between the USSR and Japan" [32].

This obligation of the Soviet side has been connected with the will to make Japan renounce its participation in any military-political blocks directed against the USSR, the restoration of its military potential and other foreign policy actions which, according to the Soviet government opinion, are able to cause in people quite reasonable anxiety for further development of international relations in Eastern Asia and regions adjoining to it. But, later Japan rejected the Soviet proposal on neutrality, the ideas of its guarantees and peace agreement and cooperation with the USSR, China, the USA, Japan and other states. On January 19th, 1960 Japan and the USA signed the Treaty "On mutual cooperation and security guarantees", thus prolonging the duration of the military-political alliance for twenty years more [33, p.259]. This, according to the Soviet administration meant the considerable change of the position of the Japanese government without consideration of the USSR interests [34, pp. 508-522].

Here it is necessary to pay attention to another circumstance. From the Joint Soviet-Japanese Declaration of 1956 it follows that the obligation of the USSR to assign two islands did not have an indisputable character [35, pp. 68-69]. From the content of Article 9 of the Declaration it follows that both sides view Habomai and Shikotan islands as territories that currently belong to the USSR. From this it follows that the issue is not about the actual return of the islands belonging to Japan, but about the transfer bestowal of the islands, that belong to the USSR. However, Russia has made a statement that Japan in 1957-1959 had not taken advantage of such a provision of the Declaration in 1956, because Peace Treaty has not been signed due to Japan’s delay of signing it and consequently, the act of bestowal of the islands did not take place. It should be noted once more that the transfer of the islands was connected with the realisation of the terms provided in the Declaration and the USSR declared its readiness to meet "the wishes of Japan" and also to take into account "the interests of the Japanese state" depending on the conclusion of the Soviet-Japanese Peace Treaty. Besides, according to Article 1 of the Declaration of 1956 the state of war has already been officially ceased between the USSR and Japan, the peace and good-neighbourly friendly relations were restored; and Article 2 defined the restoration of normal diplomatic and consular relations [32].

Summarising the above-mentioned on the Soviet-Japanese Joint Declaration of 1956, it may be considered that the claims of Japan on the handing over of the Northern territories by Russia, referring to the provisions of this international document, unlikely be satisfied. The matter is that in spite of the fact that the Declaration has been ratified by the two parties and has the status of an international treaty, it cannot be considered today as an international legal basis for raising territorial claims to Russia; moreover, it won’t promote the settlement of the existing problem. The Declaration has just admitted the fact that the territorial dispute is still pendant and cannot be interpreted as Russia’s readiness to admit all four disputed islands as the Japanese territory. Therefore, the territorial delimitation between the two states is on the agenda of succeeding negotiations, the results of which are hard and premature to predict. However, some Japanese scientists and officials say that if "the problem of Habomai and Shikotan was resolved by the Declaration of 1956", then the subject of the current negotiations are the terms and conditions of handing over of Kunashir and Iturup" [36, p.28]. The authors of the recommendations to the Cabinet of Ministers of "Japanese forum on international relations" virtually appeal to the government of Japan to harden its line in relations with Russia especially when it comes to the question of territorial disputes and signing of a peace treaty, which as they conclude can be signed only on terms of Japan and oppose any compromises with Russia [12, p.289]. The fact that the rhetoric of the Japanese side sometimes becomes tough is supported by the statement of Prime Minister of Japan Yoshikiko Noda, made on March 8th, 2012 at the meeting of the Budget Commission of the lower chamber of Japanese Parliament. He stated that for Tokyo the "Compromise of 1956" is unacceptable anymore and Tokyo declines from the provisions of the Declaration on the transfer of the two islands. After all, Shikotan and Habomai Islands comprise only 7% of the disputed territories, while 93% remains as the territory of Russia [37].

With regard to the Joint declaration of 1956 the following question arises: Could it have been reconsidered unilaterally? It is hardly possible to give any
affirmative answer to this question. Nevertheless, it should be noted that it is just the basis for the conclusion of a peace treaty between Japan and Russia. As a separate document, it does not touch upon the legal status of the Kuril Islands (Northern territories) and only reflects different approaches to the issue and various ways of solving it. At the same time, it should be noted that the promise of the transfer of Shikotan and Habomai islands from the very beginning did not have an eventual character, but was denthesized for the conclusion of a peace treaty [16, p.118].

The conclusion of a peace treaty is necessary for both Russia and Japan. The importance of such a treaty is explained by the fact that for both parties it is not only an act which should put an end to their territorial dispute relations but also would become a law-establishing document. This in turn means that the problem of delimitation and demarcation of external borders of Japanese and Russian territories is rigidly linked to the conclusion of a peace treaty.

**CONCLUSION**

The territorial dispute between Japan and Russia in many respects defines the complex and ambiguous relations between the two states. As any other territorial dispute it is an extremely troublesome and versatile, including not only historical-legal, but also military-political and economic-strategic aspects. Nevertheless, in this case it may be only possible to shift some accents and to search for the reason of the unbalanced relations not in an actual territorial problem, but in the inability of official leaderships of the two states to come to a consensus in this direction.

The arguments of the Russian and Japanese authorities, scientists and experts on the belonging of the Northern territories or Southern part of the Kuril archipelago are placed in different time frames. So, if the Japanese focus their attention on the period 1850-1930 (time of considerable expansion of Japan's influence in Asia), the Russian researchers are inclined to choose much later historical periods (the end of World War II). Thus the Japanese representatives basically refer to the Treatise on trade and borders of 1855 according to which the border was defined between the Urup and Iturup islands. The position of Russia is that all four islands were part of the USSR proceeding from the results of World War II, Russia became the assignee and the successor of the Soviet Union. Therefore, the Russian sovereignty over these territories, recognized by the corresponding international legal registration, is not subject to doubts.

The permanent work on the historical-theoretical, geographical and legal justification of belonging of the disputed territories is being conducted by both sides. However, it does not show any prospect for a solution of this question.

The problem of the absence of a peace treaty is connected with the issue under consideration. The conclusion of such a treaty could be promoted by diplomatic methods and means; but, difficulties in its realisation are caused by the Joint Soviet-Japanese Declaration of 1956 in which there was expressed the readiness of the Soviet side to cede the Habomai and Shikotan islands for the sake of the signing a peace treaty. Though in Japan all the time they refer to it as to the founding basis of normalisation of mutual relations development, its provisions, unfortunately, do not suit the Japanese side and now it insists not on voluntary transfer but on "returning of all four illegally occupied islands" at once.

Thus one can't help noting how strange the term "peace treaty" looks. Considering the fact that Russia and Japan are not at war any more with respect to each other and the issue is about drawing the state frontier line on a concrete part, it would be more appropriate to conclude an all - embracing treaty on peace, friendship and cooperation and to consider the territorial question separately. But, as the bilateral contacts show, for Russia as well as for Japan probably it is of great value not the form but the content of the treaty where the results on the settlement of the existing problem should be specified. From this it follows that the only way for a solution of the present territorial question is the conclusion of a peace treaty between Russia and Japan, in which the provisions defining a legal belonging of all four disputed islands and sea water areas adjoining to them will be definitively fixed. In Japan and Russia it is admitted that only the solution of the territorial problem can make it possible come closer to the time of its adopting. And neither of the parties’ top authorities have illusions concerning the possibility of signing the treaty without solving this problem.

The recurrent frictions between Japan and Russia on the territorial dispute have no tangible influence on the state of international security in the Asia-Pacific Region. However, its preservation can trigger destabilization of the situation in future. In particular, it can have a negative influence on the territorial disputes of Japan with other neighboring states – China and South Korea, as well as between other states of the region. That's only at present, in order to keep the situation under control, it is necessary to consider the interstate relations of the parties as a triune matter - economy, security and politics. At the same
time it is necessary to be guided not by emotions and by giving importance only to one party's historical, legal or other claims, but to be ready to conduct direct negotiations, the though difficult and complex the result of which, perhaps, in the lapse of many years will become constructive and compromising, decision based on optimisation of their national interests suitable for both parties.

REFERENCES

23. The Crimean Conference of February, 4-11th, 1945.


