

## **Peace Treaty with Japan and Legal Status of Taiwan under the Situation of Cold War in East Asia**

Tsui-lien Chen

### **ABSTRACT**

This article traces the peace settlement with Japan and how Taiwan's status was considered and dealt with in the context of the East Asian Cold War and geopolitics. Following the establishment of the People's Republic of China in 1949, the Cold War in East Asia escalated, and the US government decided to revive Japan to curb the spread of Communism. For this reason, accelerating negotiations on the peace settlement to end the occupation of Japan was necessary. At the same time, the US did not want Taiwan to fall into the hands of hostile camps, and the Seventh Fleet needed to have a legal ground for its intervention in the Taiwan Strait after the outbreak of the Korean War, it was thus decided in the San Francisco Peace Treaty that Taiwan's sovereignty ownership would remain 'frozen' or undetermined.

Owing to its defeat in the civil war, the Kuomintang government could only side with the propositions of the US, and even proposed that Japan needed only to renounce Taiwan and Penghu without specifying the ownership of sovereignty in the peace treaty. Despite harboring varied interests, both China and the US gradually came to a consensus to freeze Taiwan's legal status in the peace treaty.

However, with interests different from those of the US, the UK advocated the return of Taiwan to the People's Republic of China in accordance with the Cairo Declaration. These two powers had serious conflicts over China's representation and the Taiwan issue. After continuous negotiations, they finally reached the "Dulles-Morrison Agreement" in June 1951. One of the key points in the Agreement was Taiwan's future remaining undetermined in the peace treaty. In short, the San Francisco Peace Treaty 'froze' Taiwan's legal status and abrogated the Cairo Declaration.

Pressured by the US, Japan chose to conclude a bilateral peace treaty with the Republic of China under two principles. One was that the contents of the peace treaty must

be the same as those of the San Francisco Peace Treaty; and the other was that the treaty was applicable only to the area under the control of the Kuomintang government. Although the Kuomintang government had attempted to stipulate their ownership of Taiwan's sovereignty in the draft treaty, it was immediately discovered and opposed by the US. Article 10 of the Sino-Japanese Peace Treaty stipulated that nationals of the Republic of China include residents of Taiwan and Penghu, but both China and Japan emphasized that this has nothing to do with the ownership of sovereignty.

**Keywords:** Cold War, San Francisco Peace Treaty, Sino-Japanese Peace Treaty, Legal Status of Taiwan