

IN THE INTERNATIONAL COURT OF JUSTICE

RUSSIA,)
APPLICANT)
V.)
JAPAN,)
RESPONDENT)

MEMORIAL OF THE RUSSIAN FEDERATION

COMES NOW the Russian Federation and for their Memorial to the Court
states the following:

STATEMENT OF LAW

1. International law recognizes three methods of lawfully acquiring territory: discovery, occupation, and conquest.
2. The Soviet Union and Japan signed a Neutrality Pact on April 13, 1941 stating that if a third country declared war upon on of the signatories, the other country was obliged to maintain a position of neutrality on the conflict. Japan breached this obligation by allying itself with Germany, a country that had already declared war on the Soviet Union.
3. The Potsdam Declaration, agreed to by the Allied powers of World War II (except for the Soviet Union) and the state of Japan, restricts Japan's territory to the "home" islands and other such minor islands as determined by the Allied Powers at a later date.
4. By signing the 1951 San Francisco Peace Treaty, Japan formally renounced all

claim to the Kuril Islands. Since the disputed islands are part of the Kuril island chain, Japan has no legal claim to the islands.

5. Article 36 of the Vienna Convention states that rights may be given to third States (those that did not sign treaties) if the treaty signatories intend to extend that right to the third State, and if the third State assents.

6. In the Yalta Agreement of 1945, the Allied powers agreed that "the Kuril Islands shall be handed over to the Soviet Union." Under the Vienna Convention, Russia does have a legal claim to the islands.

STATEMENT OF FACT

The first boundary line between Japan and Russia was drawn through the Kuril Islands, between the islands of Etorofu and Uruppu at the Treaty of Shimoda in 1855. The Treaty of St. Petersburg, signed in 1875, amended the Treaty of Shimoda by giving Japan full right to the entire Kuril island chain, and Russia the island of Sakhalin. During World War II Russia and Japan signed a Neutrality Pact which obligated each to be neutral in the case of a conflict with a third party. Japan did not live up to this role, and declared itself to be in alliance with Germany after Germany had declared war on Russia. As a result of this and other factors, the Soviet Union declared war on Japan, seizing the Kuril islands in the process. In 1951 Japan signed a peace agreement in which it agreed to give up its claims over the Kurile island chain. Later, however, Japanese leaders claimed that the islands of Iturup, Kunashir, Shikotan, and the Habomai island group were inherently part of Japan and were not intended to be covered under the peace agreement. In 1956 talks were held between Japan and the Soviet Union, and the U.S.S.R. agreed to give Shikotan and Habomai to Japan once a peace treaty had been signed.

STATEMENT OF JURISDICTION

The Court does not have the jurisdiction to hear this case because Japan does not have the standing to plead this case. In signing the Potsdam Declaration and the 1951 San Francisco Peace Treaty Japan waived and renounced all rights and claims to the Kuril Islands. Since Japan does not have sovereignty and has no legal right to claim sovereignty to the Kuril Islands, it can not become an Applicant to this Court regarding any issue involving the Kuril Islands.

ARGUMENTS

I. Neither Japan nor Russia can claim the right of prior discovery over the Kuril Islands.

The origins of the first settlers on the Kuril Islands are unclear: they may have been Russian, Japanese, or Dutch. Whatever the case, the evidence is conclusive that all three groups arrived at roughly the same time in history. The Kuril Islands, then, are no more historically Japanese than they are historically Russia. Legally, no claim of historical rule should carry much weight in this case, for both sides have at one time or another renounced their right to rule over the Kuril Islands (Russia in 1855, Japan in 1951).

II. Japan has no legal claim to administer the Kuril Islands.

It has already been noted that in 1951 Japan renounced all claims of rule over the Kuril Islands. If it can be proven that the disputed islands are part of the Kuril Islands, then Japan has no right to administer the Kurils.

Although the Japanese government claimed later that the disputed islands were historically part of Japan, in October of 1951 the Japanese Foreign Ministry admitted that Iturup and Kunashir were included in the statement. Japan therefore admits that it has no

justification to rule.

A further point is that Japan does not dispute Russia's control over the rest of the Kuril Island chain, simply Iturup and Kunashir. However, there is no real difference that sets these two islands apart. Japan must either claim the entire island chain or be forced to concede Russia's legitimate authority to rule.

III. Russia's authority to rule the Kurils.

The Russian Republic's authority over the islands of Iturup and Kunashir springs from international law: more specifically, from conquest and occupation. Russia first seized the Kuril Island chain during World War II, rightfully exercising its prerogative as a nation in a state of war against Japan.

At the end of World War II and in its aftermath, the Potsdam and San Francisco conferences were held, where Japan renounced any authority it might have over the Kurils. Although both the agreements make no reference to what was going to be done with the islands, the text of the Yalta Agreement between the Allied Powers clearly states that the Kuril Islands were to be given to Russia. Under the auspices of the Vienna convention, Russia is fully within its rights to expect administration of the Kurils.

SUMMARY AND PRAYER FOR RELIEF

Japan has no standing before this court in any manner referring to the Kuril Islands. No country has historical authority over the Kurils. However, Japan has relinquished its right to rule. Russia, on the other hand, bases its claim from principles of international law. Wherefore, Russia prays that the Court will find that Russia has legitimately exercised its right to govern the the Kuril Islands of Iturup and Kunashir, and that Russia has operated within the bounds of international law.