Taiwan’s Status: (Part 1) Exploring the Truth of Oct. 25, 1945

台灣地位：﹝第一集﹞探討1945年10月25日的真相

Chinese-style History: The Chinese often claim that Oct. 25, 1945, was “Taiwan Retrocession Day.”In other words, they like to say that the Japanese Surrender Ceremonies held on that date in Taipei amounted to a transfer of sovereignty over Formosa and the Pescadores to China.

中國式歷史：中國人常常主張說1945年10月25日是「台灣光復節」。換句話說，他們喜歡說那天在台北的日軍投降典禮，就等於台灣澎湖的主權過戶給中國。

In support of this claim, the Chinese typically reference the Cairo Declaration, a non-binding press release, issued unilaterally on Dec. 1, 1943, by a group of three belligerents (President Chiang Kai-shek of the Republic of China, President Franklin Roosevelt of the USA, and Prime Minister Winston Churchill of the United Kingdom).

為了支持這樣的主張，他們通常會提到開羅宣言，一個沒有約束力的新聞公報，1943年12月1日由三個交戰國單向發行。(中華民國的總統蔣介石、美國的總統羅斯福總統，還有英國首相邱吉爾。)

The Cairo Declaration was the outcome of the Cairo Conference in Cairo, Egypt, in late November 1943.At that time, victory over the Japanese was not at all assured, and the Allies needed various propaganda instruments for short-term mobilizations of support. The Japanese were advancing steadily in mainland Chinese territory, and many U.S. government officials feared that the Chinese military officers might ask for early peace negotiations in the China Theatre. If that scenario came to pass, large numbers of Japanese soldiers would be freed up and redeployed into the Pacific Theatre, much to the detriment of the USA. Hence, keeping Chiang Kai-shek happy was an important short-term priority.

開羅宣言是在埃及開羅，所舉行開羅會議的成果宣言。在那個時候， 1943年11月下旬，戰勝日本並沒有十足把握，盟軍需要的各種宣傳工具以支持短期的動員。日本人在中國大陸境內穩步推進，許多美國政府官員擔心，中國的軍官可能會提早與日本在中國這個戰區和平談判。如果這種情形發生，大量的日本士兵將被釋放並重新部署到太平洋戰區，對美國十分不利。因此，討好蔣介石成為一個重要的短期優先目標。

Many scholars would argue that the Cairo Declaration is not, in the formal sense, a "legal" document. It was not ratified and, indeed, the missions of the three representatives probably did not have authorizations to conclude any formal policy revisions of such scope. Yet, still other scholars would argue the opposite. The controversy between the different viewpoints has raged since the early 1950s, which is over 60 years.

許多學者會爭論開羅宣言：從正式的角度來講，開羅宣言不是一份“合法”的文件；宣言沒有被正式批准，事實上，這三個代表可能沒有被授權締結這區域內的任何正式政策的修訂。然而，還有一些學者會持相反意見。不同觀點之間的爭論，從1950年代初期到現在一直沒有停過，已經60多年了。

What is the correct way to interpret the effect of this declaration on the events of Oct. 25, 1945? What were the announced views of the leading government officials at that time? An examination of the Act of Surrender in the China Theatre (held in Nanking, on Sept. 9, 1945), and all related surrender documents, as well as published statements of the Allies in the 1940s, 1950s, 1960s, etc. can certainly help us to illuminate the situation in a much clearer fashion.

開羅宣言對於”1945年10月25日”事件之影響的正確解釋是什麼？當時主要政府官員公佈的意見為何？（1945年9月9日在南京舉行），中國戰區的投降法案及所有相關的投降文件進行審查，以及公佈盟軍在20世紀40年代，50年代，60年代等發表的聲明，肯定能幫助我們對整個狀況了解得更加透徹。

The following are Five Items of Proof to say that October 25, 1945, was not “Taiwan Retrocession Day.”

以下有五點可證明，1945年10月25日，不是“台灣光復節”。

1. The Surrender was limited to “Japanese Forces”
2. 投降僅限於“日本軍隊”

The Act of Surrender in the China Theatre (held in Nanking on Sept. 9, 1945), and Supreme Commander for the Allied Powers (SCAP) General Order no. 1 (issued in Tokyo on Sept. 2, 1945), authorized the surrender of Japanese forces, not Japanese territories.

1945年9月9日在南京簽訂的中國戰區投降降書，以及1945年9月2日同盟國最高指揮官（SCAP）在東京頒布的一般命令第一號，是授權接受日本軍隊的投降，而不是日本領土。

The Act of Surrender in the China Theatre and General Order no. 1 were military directives, establishing procedures for demobilizing Japanese forces. They were not meant to settle political issues. The content of these military directives and in particular the assignment of members of the Allied coalition to disarm Japanese forces in certain areas in no way implied that the members had any rights to permanent possession of those areas in the future.

中國戰區投降降書和一般命令第一號，是建立遣散日軍程序的軍事指令，並不能解決政治上的議題。這些軍事指令，尤其是盟軍聯合的成員的分派，去解除日本軍隊在某些地區的武裝，並不意味著這些同盟國軍官或他們所代表的國家，將來有對於這些領土具有永久的所有權。

-- *The Surrender of Japanese Forces in China, Indochina, and Formosa*,

Taiwan Documents Project, 2002

“在中國、東南亞與台灣的日軍投降”

台灣文件資料庫計畫，2002年

1. Japanese v. Chinese Nationality Status

2） 日本人 或 中國國籍

Beginning in 1946, the *Foreign Relations of the United States* series has many entries regarding the legal status of Taiwan and its residents.

從 1946 年開始，美國一系列的“外交關係”(書籍) 有許多條目，有關臺灣和其居民的法律地位。

**Aide-Memoire:** The U.S. Department of State to the Chinese Embassy, Washington DC
**Date:** Nov. 21, 1946
**Subject:** status of Taiwanese persons in Japan

備忘錄： 美國國務院給華盛頓特區中國大使館

日期： 1946 年 11 月 21 日

主題： 臺灣人在日本的國籍

. . . It should, however, be pointed out that from the legal standpoint the transfer of Taiwan's sovereignty remains to be formalized; assumably a treaty of cession will in due course be negotiated which will effect such transfer and which may contain provisions in regard to appropriate change in the national status of Taiwan's residents.

. . .然而，從法律的角度來看，指出臺灣的主權移交有待形式化； 一割讓條約將在適當的時候進行談判，影響此類轉讓，其中可能包含關於臺灣居民的國籍的適當改變。

-- U.S. Dept. of State / Foreign relations of the United States, 1946.

The Far East,   Volume VIII (1946), page 359

美國國務院 / 美國外交關係1946年。
遠東，第八卷（1946），第359頁

1. Taiwan Still Belongs to Japan

3） 臺灣仍然屬於日本

The earliest report on Taiwan’s legal status by the United States’ National Security Council was issued in 1949.

最早關於臺灣的法律地位是在1949年美國的國家安全會議發佈的報告

**Draft Report** by the National Security Council
**Date:** January 19, 1949
**Subject:** U.S. policy with respect to Formosa and the Pescadores

國家安全會議的報告草案

日期： 1949 年 1 月 19 日

主題： 美國對臺灣和澎湖的政策

3. The present legal status of Formosa and the Pescadores is that they are a portion of the Japanese Empire awaiting final disposition by a treaty of peace. The U.S. position regarding the status of the islands is qualified by the Cairo Declaration by the Chiefs of State of the U.S., U.K. and China and the policy which the U.S. has followed since V-J Day of facilitating and recognizing Chinese *de facto* control over the islands.

3.目前臺灣和澎湖的法律地位，就是等待一項大日本帝國的和平條約的最終處置。開羅宣言由美國、 英國、 和中國國家的領袖確認，有關島嶼地位，美國立場是具資格決定的，V-J日(戰勝日本日) 以來美國一直遵循這原則，促使和認定中國能實際控制島嶼。

**--**U.S. Dept. of State / Foreign relations of the United States, 1949.

The Far East: China, Volume IX (1949), page 271

美國國務部 /美國外交關係，1949年。

遠東： 中國，卷九 (1949 年)，第 271 頁

1. The Korean War and Taiwan

4）韓戰和臺灣

After the outbreak of the Korean War on June 25, 1950, President Truman declared that the "neutralization of the Straits of Formosa" was in the best interest of the United States, and he sent the U.S. Navy's Seventh Fleet into the Taiwan Strait to prevent any conflict between the Republic of China and the Red China, effectively putting Taiwan under American protection.

在 1950 年 6 月 25 日，韓戰爆發後杜魯門總統宣佈"福爾摩沙的海峽中立化"，美國最有利，美國海軍第七艦隊派進駐臺灣海峽，防止中華民國和紅色中國有任何衝突，有效地讓臺灣能在美國的保護下。

It was known by U.S. government officials that if Taiwan was already recognized as Chinese national territory, there would be no legal basis for the President to authorize such an action by the Seventh Fleet.

美國政府官員知道如果臺灣被認定為中國國家領土，美國總統會沒有法律依據去授權第七艦隊的保護行動。

[On August 25, 1950] the United States replied to the United Nations Security Council that

 [1950 年 8 月 25 日] 美國答覆聯合國安全理事會，

 "The action of the United States was expressly stated to be without prejudice to the future political settlement of the status of the island. The actual status of the island is that it is territory taken from Japan by the victory of the allied forces in the Pacific.

“美國的行動明確表示，絕不損害該島的未來地位之政治解決。島上的實際地位，是由於太平洋盟軍的勝利，從日本取得的領土。

Like other such territories, its legal status cannot be fixed until there is international action to determine its future. The Chinese Government was asked by the Allies to take the surrender of the Japanese forces on the Island. That is the reason the Chinese are there now."

像其他戰後領土一樣，其法律地位不能被確定，必須直到有國際行動，來決定其未來。中國政府曾被盟軍要求在島上接受日軍投降。這也是為何中國人現在會留在台灣的原因。

-- U.S. Dept. of State, Czyzak Memorandum, February 3, 1961

美國國務院，Czyzak備忘錄，1961年02月03日

1. Future Arrangements for Formosa

台灣未來的安排

It is also quite notable that U.S. Dept. of State documents from as late as August 14, 1950, contained the following commentary and recommendation:

很值得注意的是，即使遲至1950年8月14日美國國務院文件，也包括以下的評述和建議：

. . . in 1944 as a result of the work of a policy planning committee in the Department it was decided that Formosa should be handed over to the Chinese National Government immediately following upon the termination of hostilities. ... I believe that the immediate administrative act affecting the turnover was a military order handing it over to Chinese administration after the surrender of Japan.

1944年國務院委員會政策規劃小組的工作結果，決定讓福爾摩沙在交戰結束後應立即移交了到中國國民政府。......我相信當初是一個軍令導致的即時行政指令，讓日本投降後轉移交給中國行政部門。

From the legal standpoint, of course, title could hardly pass prior to determination of the matter by peace treaty with Japan, the Cairo Declaration being merely a statement of intent.

但從法律的角度來看，在對日本的和平條約尚未敲定前，所有權不可能過戶。開羅宣言只是一個意象表達而已。

It is more and more being considered desirable in the existing circumstances that there be taken some plebiscite of Formosan opinion respecting the future form of government and allegiance in Formosa, with the several following alternatives suggesting themselves:

愈來愈多人認為，以現在 (1950年) 的狀況覺得比較理想的是，福爾摩沙本地人是不是做一個公投，有關未來政府的形態，和未來效忠的對象。已下有幾個主要的選項：

1. Allegiance to Japan,效忠日本，
2. Allegiance to China (regardless of political complexion),效忠中國 (不管中國的政治局面如何)，
3. Immediate independence, or立刻獨立，或
4. A UN trusteeship for a stipulated period of years looking toward ultimate independence.聯合國託管若干年，未來就安排獨立。

-- National Archives and Records Administration

美國國家檔案局

For more insights, please proceed to Part II.

為了解進一步的見解，請看第二部。

Taiwan’s Status: (Part 2) Exploring the Truth of Oct. 25, 1945

台灣地位：﹝第二集﹞探討1945年10月25日的真相

Background to WWII in the Pacific: The U.S. entered the Pacific War against Japan on Dec. 8, 1941. All military attacks against the four main Japanese islands and (Japanese) Taiwan were conducted by U.S. military forces, as confirmed in numerous published sources. The United States is the "conqueror" and hence will be the ***principal occupying power***.

美日太平洋戰爭背景：美國開始參加太平洋戰爭是1941年12月8日。所有攻打日本四島和日屬台灣的軍事行動都是美軍所為，有很多書籍和報告可這樣證實。美國是征服者，所以也是**主要佔領權國**。

In other words, under international law it is the USA which bears the responsibility for the military occupation (including “rebuilding,”“reconstruction,” etc.) of Taiwan.

換言之，在國際法下是美國要負擔佔領台灣的責任，包括重建工作。

In General Order No. 1, issued on Sept. 2, 1945,General Douglas MacArthur gave directions to Chiang Kai-shek of the Republic of China to accept the surrender of Japanese troops in Taiwan. Since there was no functioning Chinese navy or air force in 1945, Chiang’s troops agreed to be transported to Taiwan on U.S. ships and aircraft. Thus, the era of the ROC in Taiwan began in Oct. 1945 with the full assistance and tutelage of the United States.

一般命令第一號，於1945年9月2日核發的，麥克阿瑟將軍指示中華民國的蔣介石來台灣接受日軍投降。因為當時並沒有任何可出任務的中國海軍或空軍，所以蔣介石的這些軍隊就同意由美國的軍艦和飛機把他們運送到台灣。故中華民國在台灣自1945年起的時代，也是在美國的協助和指導之下。

Contrastingly, Chinese history books state that Chiang’s troops came to Taiwan on their own initiative, but that is simply a face-saving exaggeration. In fact, it is important to recognize that Chiang’s troops were exercising *delegated administrative authority* for the military occupation of Taiwan.

相反地，中國的歷史課本就指出：蔣介石的軍隊來台灣是自己的意念、自己的安排。但講這樣的話其實也只是要保留一些面子而已。實際上，很重要的是要了解到，蔣介石的軍隊是在行使授予軍事佔領台灣的行政權力。

The following are an additional Five Items of Proof to say that the leading Allies did not recognize that October 25, 1945, was “Taiwan Retrocession Day.”

以下有進一步五項說明來證明同盟國不承認1945 年 10 月 25 日是"臺灣光復日"。

1. United Nations Commission Proposal

In preparation for the final drafting of the post-war peace treaty, the United States planned to encourage the members of the United Nations to thoroughly investigate Taiwan’s legal status and decide the best course for Taiwan’s future.

6） 聯合國委員會的提案

為了籌備戰後和平條約的最後起草，美國計劃鼓勵聯合國各成員研究台灣的法律地位，並為台灣的未來決定最佳的路線。

**Memorandum:** Secretary of State Acheson to Secretary of Defense Marshall
**Date:** Nov. 11, 1950
**Subject:** The Question of Formosa
備忘錄： 國務卿艾奇遜給國防部長馬歇爾

日期: 1950 年 11 月 11 日

主題： 福爾摩沙的問題

The question of Formosa will shortly come before the Political Committee of the General Assembly.

福爾摩沙的問題不久將會在政治委員會大會之前提出。

. . . Under the procedure we envisage, a United Nations commission would spend the first year in studying the problem, in bringing out all relevant factors and in providing an opportunity for a full exchange of views among the governments concerned. The commission would give careful consideration to the respective Chinese claims to Formosa, to the well-being and wishes of the Formosans themselves, and to the valid interest of the international community in promoting peace and security in the western Pacific area.

。。在我們設想的程序，一個聯合國委員會將花的第一年來研究這個問題，提出所有相關的意見，讓相關的各國政府間有充分交流的機會。委員會關於中國對台灣的主張或台灣本身的意願及福爾摩沙的福祉都會慎重考慮，讓國際社會有效參與促進西太平洋地區的和平和安全。

Draft Resolution on the Problem of Formosa

關於福爾摩沙問題的決議草案

*Noting* . . . that no formal act restoring sovereignty over these territories to China has yet occurred; . . .

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經查，尚未有任何正式動作將這些領土的主權歸還給中國；. . .

-- U.S. Dept. of State / Foreign relations of the United States, 1950.

East Asia and the Pacific,   Volume VI (1950), page 554 - 5

美國國務院 / 美國外交關係，1950年。

東亞和太平洋，卷六 (1950 年)，第 554-5 頁

7) Statement to the Far Eastern Commission

7) 向遠東委員會發表的聲明

 In September and October 1950, the United States proposed in a brief statement to the members of the Far Eastern Commission general principles for a Peace Treaty with Japan.

.在1950 年 9月和10月，美國一份向遠東委員會的成員簡短的聲明，提出了與日本締結和平條約的一般原則。

Later, in an aide memoire dated December 27, 1950, the United States expressed the views that

後來，在1950 年12月27日一份備忘錄中，美國表示以下意見，

 . . . 2. The Cairo Declaration of 1943 stated the purpose to restore 'Manchuria, Formosa and the Pescadores to the Republic of China.' That declaration, like other wartime declarations such as those of Yalta and Potsdam, was in the opinion of the United States Government subject to any final peace settlement where all relevant factors should be considered . . .

. . .2.1943 年的開羅宣言指出，為了恢復“滿洲、福爾摩沙和澎湖歸還中國”。這一聲明，像其他如雅爾達和波茨坦的戰時宣言，美國政府應考慮所有相關因素，尋求任何最終和平解決的觀點。

-- U.S. Dept. of State, Czyzak Memorandum, February 3, 1961

美國國務院，Czyzak備忘錄，1961年02月03日

On February 11, 1945, at Yalta, Churchill, Roosevelt, and Stalin agreed that the USSR would enter the war against Japan on condition, among others, that the southern part of Sakhalin and all the islands adjacent to it "shall be returned to the Soviet Union" and that the Kurile Islands "shall be handed over the Soviet Union." The Yalta agreement like the Cairo declaration has been considered by the United States to be a statement of intention rather than as creating binding international commitments.

1945 年 2 月 11 日，在雅爾達，邱吉爾、 羅斯福和史達林同意蘇聯參加抗日戰爭的條件，其中包括了南部的庫頁島和所有與其相鄰的島嶼“應當返還給蘇聯“，而千島群島”也應交給蘇聯。”雅爾塔協議”就如”開羅宣言”一直被認為是美國的意向聲明，而不是一個具有約束力的國際承諾。

-- U.S. Dept. of State, Czyzak Memorandum, February 3, 1961

美國國務院，Czyzak備忘錄，1961年02月03日

8) General Douglas MacArthur’s Analysis

General Douglas MacArthur stated at a U.S. congressional hearing in May 1951, "legalistically Formosa is still a part of the Empire of Japan."

8）道格拉斯·麥克阿瑟將軍的分析
道格拉斯·麥克阿瑟將軍於1951年5月美國國會聽證會上聲稱，福爾摩沙仍然是大日本帝國的一部分。

-- New York Times,May 5, 1951, at A7; *see also*

Y. Frank Chiang, *One-China Policy and Taiwan*, 28

Fordham International Law Journal 1, 16, n.72 (2004).

紐約時報，1951年05月05日， A7頁；亦可參考

江永芳，*一個中國政策與台灣*，Fordham國際法律期刊，2004年

9)   British Policy Toward Formosa

Some six months before the ROC central government relocated to occupied Taiwan, the United States Ambassador in the U.K. endeavored to verify British views on the Taiwan situation.

9） 英國的福爾摩沙政策

中華民國中央政府遷來佔領臺灣前六個月，美國大使在英國竭力確認英國對臺灣局勢的意見。

**Memorandum:** U.S. Ambassador in the United Kingdom (Douglas) to the U.S. Secretary of State
**Date:** May 25, 1949, London
**Subject:** Problems of Taiwan
備忘錄：美國在英國大使（道格拉斯）給美國國務院秘書
日期：1949年5月25日，倫敦
主題：台灣問題
    SIR: I have the honor to report that very little attention has been given in British official and unofficial circles to the various problems of Taiwan, such as the status of the island itself and the status of any Chinese Government which may be set up there, especially in view of the fact that much of China's resources are reported to have been transferred to the island. There is also a report in London that Generalissimo Chiang Kai-shek and his two sons have left Shanghai for Taiwan but the British Foreign Office has not been able to confirm this. In view of the above facts the Embassy has been endeavoring to obtain some indication of British thinking in regard to Taiwan and the following are the results:
先生： 我榮幸地向大家報告，在英國官方和非官方的圈子對於台灣的各種問題很少關注，如台灣地位和任何可能在那裡設立的中國政府地位，尤其是因為很多中國的資源已轉移到島上的事實。還有在倫敦的一份報告，當年蔣介石和他的兩個兒子已經離開上海前往台灣，但英國外交部一直無法證實這一點。鑑於上述事實，大使館一直努力以獲得關於台灣的一些跡象表明英國的思維，結果如下：

*Official -- Foreign Office*
    Mr. Dening, of the Foreign Office, stated that neither the British Cabinet nor officials of the Foreign Office have given much consideration to the problems of Taiwan and no Foreign Office policy has been established as yet. He stated that should a refugee Chinese government or a Chinese government in exile be set up in Taiwan, which is not yet legally Chinese territory, it is probable that the British Government would simply appoint a British Consulate in Tamsui as an office of the British Embassy in China. His own opinions were that any Chinese government established in Taiwan would be in a very ambiguous position and would present difficult problems to the governments of the world and especially to the United Nations . . .

官方 - 外交部
    外交部的德寧先生說，無論是英國內閣，或外交部的官員提供了很多考慮，台灣沒有外交辦公室政策的問題。他說，應該在台灣設立，中國難民政府或中國流亡政府，法律上台灣尚未成為中國的領土，可能英國政府只會在淡水英國領事館作為在中國的英國大使館辦公室。他自己的意見是認為在台灣成立任何中國政府將是一個很曖昧的處置，將造成世界各國政府的質疑，特別是聯合國。

 . . . on May 5, Deputy Chairman Bowles (Labor), made the following statement: "Formosa, I realize, is the seat of the present Nationalist Government of China. But it is not China. I think it was part of Japan . . . Formosa is a part of Japan, and is not really China, though the Chinese government may be there."   . . .

。。。5月5日，副主席鮑爾斯（勞動），作出以下聲明：“我意識到，福爾摩沙，是目前中國國民政府的所在地，但它台灣不是中國，我認為它是日本的一部分。….台灣是日本的一部分，不是真正的中國，雖然中國政府可能遷移在那裡。“。。

-- U.S. Dept. of State / Foreign relations of the United States, 1949.

The Far East: China Volume IX (1949), pages 341-343

美國國務院，美國/外交關係1949年。
遠東：中國九卷（1949年）， 341-343頁

10) The Status of the Chinese Nationalists in Formosa

Certain questions regarding sovereignty issues were debated in the U.K. Parliament in 1955. An important part of the discussion involved Formosa and the Pescadores.

10）中國國民黨在台灣的地位
在英國議會於1955年進行了關於主權問題的某些問題的辯論，一個涉及台灣及澎湖列島的重要討論。

**Oral Answer:** Joint Under-Secretary of State for Foreign Affairs (Mr. R. H. Turton)
**Date:** May 4, 1955
**Subject:** Far East (Formosa and the Pescadores)
口頭回答： 聯合外交事務國務秘書 （RH特頓先生）

日期： 1955 年 5 月 4 日

主題： 遠東 (福爾摩沙和澎湖)

The case of Formosa is different. The sovereignty was Japanese until 1952. The Japanese Treaty came into force, and at that time Formosa was being administered by the Chinese Nationalists, to whom it was entrusted in 1945, as a military occupation. In 1952 we did not recognise the Chinese Nationalists as representing the Chinese State. Therefore this military occupancy could not give them legal sovereignty nor, equally, could the Chinese People's Republic, which was not in occupation of Formosa, derive any rights from occupation of that territory.

福爾摩沙的情況是不同的。直到 1952 年，主權是日本的。1952 年日本條約生效時，福爾摩沙正由中國國民黨管制，因在 1945年委託中國國民黨作為軍事佔領。在 1952 年我們沒有意識到中國國民黨作為代表中國。因此這種軍事佔不能給他們法律主權，同樣地中華人民共和國，沒有佔領台灣福爾摩沙，即對該領土的佔領沒有任何權利。

[OFFICIAL REPORT, 4th February, 1955; Vol. 536, c. 159.] . . . . the fact is that Formosa is not under Chinese sovereignty. That does not mean that the Chinese Nationalists have no right to be there. Their presence springs from their military occupancy in which they were placed by the Allied Powers in 1945, pending future arrangements.

[官方報告，1955年2月4日; 第536卷，c. 159。] . . . . 事實是，台灣不屬於中國的主權。這並不意味著，中國國民黨無權在那裡。他們的存在只因在 1945 年盟軍安排其軍事佔領，以待未來的安排。

-- *HANSARD 1803 - 2005 / Commons Sitting, 04 May 1955 vol 540 cc1865-74*

英國議事錄1803年至2005年下議院，1955年5月4日，第540 卷， cc1865-74

SUMMARY for items 1 - 10:

1-10 的專案的摘要：

United States Secretary of State John Foster Dulles told the Senate in December 1954, “[the] technical sovereignty over Formosa and the Pescadores has never been settled. That is because the Japanese peace treaty merely involves a renunciation by Japan of its right and title to these islands. But the future title is not determined by the Japanese peace treaty, nor is it determined by the peace treaty which was concluded between the [ROC] and Japan.”

美國國務卿杜魯斯1954年12月告訴美國參議院的委員：「從嚴格的法律意義上來說，福爾摩沙及澎湖的主權是尚未決定過的。那是因為對日本的和平條約之中日本放棄對福爾摩沙澎湖的所有權等權利，但未來的所有權歸屬並沒有在此決定，而且在中華民國與日本間的和平條約也沒有決定。」

-- Dept. of State Bulletin, Dec. 1954, at 896; *see also* Y. Frank Chiang, *One-China Policy and Taiwan*, 28 Fordham International Law Journal 1, 36, n.164 (Dec. 2004); Lung-chu Chen and W.M. Reisman, *Who Owns Taiwan: A Search for International Title*, 81 Yale L.J. 599, 644 (1972).

國務院公告，1954年12月，第896頁；江永芳，*一個中國政策與台灣*，Fordham國際法律期刊，第28期，第1，36卷， 164號，(2004年12月)；陳隆志與萊斯曼，*誰擁有台灣：尋找國際所有權*，耶魯大學法學期刊，第599、644頁，(1972年)。

CONCLUSION:

結論：

There was no “Taiwan Retrocession Day.”

臺灣光復節是不存在的。

For more insights, please proceed to Part III.

為了解進一步的見解，請看第三部。

Taiwan’s Status: (Part 3) Exploring the Truth of Oct. 25, 1945

台灣地位：﹝第三集﹞探討1945年10月25日的真相

Advanced Analysis:

進一步分析：

In General Order No. 1, issued on Sept. 2, 1945, General Douglas MacArthur gave directions to Chiang Kai-shek of the Republic of China to accept the surrender of Japanese troops in Taiwan. The Generalissimo accepted these orders. This has created a "principal - agent relationship." The surrender ceremonies on October 25, 1945, marked the beginning of the military occupation.

一般命令第一號，1945年9月2日由麥克阿瑟將軍指示中華民國蔣介石到台灣接受日軍投降，蔣介石元帥就接受這樣的一個安排，如此就是產生一個主從關係。1945年10月25日的投降典禮就是台灣地區軍事佔領的開始。

Under international law, the occupier (aka “the occupying power” or more specifically “the principal occupying power”) is the **conqueror. I**n consideration of the historical record of military attacks against Taiwan, this will be the United States of America.

在國際法下，佔領者 (也就是佔領權，或更明確的是「主要佔領權」) 是征服者。如果研究攻打台灣的整個歷史記錄，這必須確定是美國。

Although the surrender ceremonies in Taiwan on Oct. 25, 1945, were ostensibly conducted on behalf of the Allies, it must be recognized that the ensuing military occupation of Taiwan was conducted on behalf of the principal occupying power -- the United States of America.

1945年10月25日在台灣的投降典禮，基本上是為同盟國所舉辦的，但接下來的軍事佔領，是為主要佔領權國﹝即，美國﹞所舉辦的。

(Note: Some seven years later, after the coming into force of the San Francisco Peace Treaty, the Allies stopped functioning as a group. However, the operations of the principal occupying power continued.)

﹝備註：七年後，舊金山和平條約生效，同盟國已經停止運作了，但主要佔領權國的運作仍繼續。﹞

Military Occupation

軍事佔領

The fact that Chinese Nationalist forces came to Taiwan to conduct a military occupation is confirmed by many published sources.

中國國民政府來台灣所做的是執行軍事佔領，這是很多出版物所證實的。

11) Chiang Kai-shek was sent to Taiwan for a Military Occupation

蔣介石到台灣是為了軍事佔領

Many nations have also voiced their reservations regarding the legal status of Taiwan. Sir Anthony Eden, the British Foreign Minister, stated on February 4th, 1955 as follows:

很多國家對台灣的國際地位有保留的態度。Eden先生，英國外交部長，1955年2月4日表示如下：

"In [the Fall of] 1945, the administration of Formosa was taken over from the Japanese by the Chinese forces at the direction of the Supreme Commander of the Allied Powers; but this was not a cession, nor did it in itself involve any change of sovereignty. The arrangement made with Chiang Kai-shek put him there on a basis of military occupation pending further arrangements and did not of themselves constitute the territory Chinese. Under the Peace Treaty of April, 1952, Japan formally renounced all right, title and claim to Formosa and the Pescadores; but again this did not operate as a transfer to Chinese sovereignty, whether to the People's Republic of China or to the Chinese Nationalist authorities. Formosa and the Pescadores are therefore, in the view of Her Majesty's Government, territory the de jure sovereignty over which is uncertain or undetermined."

1945年秋天，在同盟國統帥的指示下，中國人從日本人手中接管福爾摩沙島的行政，但這不是領土割讓，也不意味著任何主權的改變。這與蔣介石的安排，他在台灣是一個軍事佔領，要等未來進一步的安排，這樣的情況並不使台灣成為中國的。1952年4月的和平條約，日本正式放棄他對福爾摩莎和澎湖的所有權、權利等等，但這又不是把主權過戶給中國，無論是共產黨的中國或是國民政府的中國。所以福爾摩沙、澎湖在英國女皇政府的見解裡面，主權狀況是未確定或未決定的。

-- **Historical and Legal Aspects of the International Status of Taiwan (Formosa)**

 III. Refutation against PRC and ROC,

6. Legal Aspects of ROC's Rule of Taiwan

by Ng, YuzinChiautong

 1972, World United Formosans for Independence (Tokyo)

**台灣國際地位歷史和法律上的情況**

III、推翻中華人民共和國或中華民國的說法

6.中華民國統治台灣法理的觀點

黃昭堂 著

1972年，台灣獨立建國聯盟﹝東京﹞

12) Oct. 25, 1945 marked the beginning of the Military Occupation

12) 1945 年10 月 25日日標誌著軍事佔領的開始

A CRS Report for Congress contains the following succinct explanation:

美國國會研究部門之報告包含以下簡明解釋：

... after Japan's defeat in 1945, Taiwan and the Pescadores were assigned to the Republic of China for purposes of post-war occupation. Taiwan was still under this occupation four years later, when the ROC government fled to Taiwan after the communist victory in the civil war on mainland China.

... 1945 年日本戰敗後，戰爭後佔領臺灣和澎湖被分配給中華民國。四年後臺灣仍在這種佔領，是因當共產黨在中國大陸內戰中勝利後，中華民國政府逃往臺灣。

-- **Sino-Japanese Relations: Issues for U.S. Policy**

Congressional Research Service Report for Congress, p. 6

December 19, 2008, Washington, D.C.

中日關係: 美國政策的問題

大會，p.6 國會研究服務報告

2008 年 12 月 19 日，華盛頓特區

13) Military Occupation of Taiwan by the Nationalist Chinese (ROC)

13）中國國民黨（中華民國）的台灣軍事佔領

 A comprehensive article in *TheYale Law Journal* agreed that the Japanese surrender ceremonies only marked the beginning of the military occupation.

 耶魯大學法學期刊的一篇綜合而詳細的論文中一致認為，日本投降儀式不僅標誌著軍事佔領的開始。

At the conclusion of World War II, the Supreme Commander of the Allied Command in the Pacific, General Douglas MacArthur, authorized the Nationalist Chinese authorities to accept the surrender of Formosa from the Japanese and to undertake temporarily military occupation of the island as a trustee on behalf of the Allied Powers (led by the United States). Chinese occupation proved unfortunate; maladministration, corruption, atrocities, and deprivations of human rights ensued.

在第二次世界大戰中，在太平洋盟軍司令部，最高指揮官道格拉斯·麥克阿瑟將軍，代表同盟國（美國為首的）授權中國國民黨當局在台灣接受日本投降和暫時的軍事佔領。不幸地;證明中國佔領的管理不善，腐敗，殘暴，和對人權的剝奪接踵而至。

-- **Who Owns Taiwan: A Search for International Title**

by Lung-chu Chen and W. M. Reisman,

*The Yale Law Journal*

Vol. 81, No. 4, p. 611 – 612,March 1972

誰擁有臺灣： 國際標題搜索

由龍朱陳和 W.M.賴斯曼

耶魯大學法學期刊

卷第 81 號 4 p.611-612，1972 年 3 月

14) Military Occupation following the Japanese Surrender

14）日本投降後的軍事佔領

 In discussing cross-strait relations, an article in the *American Journal of International Law* concluded that the PRC was a legitimate government and Taiwan was under military occupation.

在討論兩岸關係，美國國際法雜誌的一篇文章得出結論，中共是一個合法的政府，臺灣只是在軍事佔領之下。

After occupying Taiwan in 1945 as a result of Japan's surrender, the Nationalists were defeated on the mainland in 1949, abandoning it to retreat to Taiwan. In that year the PRC was established.

在 1945 年日本投降後，于 1949 年中國國民黨在內地被擊敗了，撤退佔領臺灣。在那一年中華人民共和國建立。

-- **Resolving Cross-Strait Relations Between China and Taiwan**

by Jonathan I. Charney and J. R. V. Prescott

*American Journal of International Law* July 2000

解決中國和臺灣之間的兩岸關係

由Jonathan I. Charney 和 J.R.V. Prescott著

美國國際法學季刊 2000 年 7 月

15) Taiwan is Occupied Territory

15) 臺灣是被佔領的領土

A 1949 Central Intelligence Agency (CIA) report on the military occupation of Taiwan was originally classified as secret.

關於臺灣的軍事佔領 1949年中央情報局 (CIA) 報告最初被列為機密。

"From the legal standpoint, Taiwan is not part of the Republic of China," a declassified CIA report on Taiwan written in March 1949 says. "Pending a Japanese peace treaty, the island remains occupied territory in which the U.S. has proprietary interests," the report continues.

|  |  |
| --- | --- |
|  | "從法律角度來看，臺灣不是中華人民共和國的一部分" 1949 年 3 月在臺灣寫的中情局的解密報告說。"依日本和平條約，該島仍然是被佔領的領土，其中美國具有專有的利益，"報告繼續。 |

The report says that communist control of the island would have "seriously unfavorable strategic implications" for the US. It says that the native population of Taiwan would welcome release from Chinese control, but was not strong enough to stage a successful revolt.

報告說，中共對該島的控制會對美國的"嚴重不利的戰略影響"。它說臺灣的本土人口將從中國控制中被稀釋，但不是強大到足以成功起義的階段。

When first written in 1949, the report was classified as "secret."
當第一次寫於1949年，該報告被列為“機密”。

"There is a strong sentiment in Taiwan favoring autonomy, but the situation is complicated by the conflicting interests of the native Taiwanese and Chinese Nationalist element," the report says. "The Taiwanese bitterly resent the performance of the Nationalist administration on Taiwan since VJ [Victory over Japan]-day," it adds.
報告說“有利於台灣的自治很強的情緒，但這種情況因台籍和中國國民黨元素的利益衝突複雜化”。“從VJ[戰勝日本日]，”它補充說，現在台灣痛恨不滿國民黨政府的管制。

According to the CIA, the Chinese rulers had exploited the native population "to the limit" without regard for their welfare or the preservation of the island’s resources.

根據美國中央情報局，中國統治者利用了本地出生人口"到了極限"，而不考慮他們的福利或島上的資源的保育。

-- Taipei Times, June 9, 2013, page 1

台北時報，2013年6月9日，第1頁

SUMMARY CONSIDERATIONS

摘要注意事項

1. Three Central Questions

In relation to the military occupation of a particular area, we are faced with three central questions, (all of which must be answered based on the customary laws of warfare):

a) 三個核心問題

就某一特定地區的軍事佔領，我們都面臨著三個中心問題，（所有這些都必須按照戰爭的慣例法來回答）：

1. When did the military occupation begin?

 For Taiwan, the answer is Oct. 25, 1945.

 1.軍事佔領何時開始？

 答：對臺灣而言，是始於 1945 年 10 月 25 日。

1. Who is "the occupying power"?

For Taiwan, the answer is the United States of America. The military occupation will be conducted by a U.S. federal agency – the United States Military Government (USMG). A definition is provided as follows:

2.誰是"佔領權國"？

答：美國是臺灣"佔領權國"。由美國聯邦機構 —— 美國軍事政府 (USMG) 進行的軍事佔領。提供了一個定義，如下所示：

***Military government is the form of administration by which an occupying power exercises governmental authority over occupied territory.***

軍事政府是行政當局，佔領國對被佔領的領土行使政府權力的形式。

Importantly, however, the United States has delegated the military occupation of Taiwan to the military forces under Chiang Kai-shek. This is a principal – agent relationship.

然而，重要的是，美國已經委託蔣介石的軍事部隊軍事佔領臺灣。這是一個主要— 代理關係。

1. When did the military occupation end?

3.軍事佔領何時結束？

To answer this question requires an in-depth knowledge of military occupation issues. For now, let us say that the military occupation of Taiwan did not end with the coming into force of the San Francisco Peace Treaty (SFPT) on April 28, 1952. Further details will be given in later videos.

答：要回答這個問題需要深入了解的軍事佔領問題。現在，讓我們說，軍事佔領台灣並沒有因1952年4月28日舊金山和平條約的生效而結束。進一步細節將在後面的影音會提出。

1. The ROC as a Government in Exile

When the ROC fled to occupied Taiwan in December 1949, it was moving ***outside*** of China’s national territory, and immediately became a government in exile.

b）中華民國為一個流亡在外的政府

當中華民國1949 年 12 月出逃到佔領中的臺灣時，是外遷到中國國家領土以外，因而立即成為了流亡政府。

The actions of governments in exile may be overviewed as follows.

**Actions of governments in exile**
流亡政府的行動

International law recognizes that governments in exile may undertake many types of actions in the conduct of their daily affairs. These actions include:

國際法律承認的流亡政府可能採取許多類型的操作進行其日常的事務。這些行動包括：

* becoming a party to a bilateral or international treaty
* amending or revising its own constitution
* retaining (or "newly obtaining") diplomatic recognition by sovereign states
* issuing identity cards
* allowing the formation of new political parties
* instituting democratic reforms
* holding elections
* allowing for direct (or more broadly-based) elections of its government officers, etc.
* • 成為雙邊或國際條約的締約國
* • 修改或修訂自己的憲法
* • 保留 （或"新近獲得"） 由主權國家的外交承認
* • 頒發身份證
* • 允許形成的新的政黨
* • 實行民主的改革
* • 舉行選舉
* • 允許直接 （或更廣泛地基於) 選舉的其政府人員，等等。

However, none of these actions can serve to

1. legitimatize a government in exile to become the internationally recognized legal government of its current locality.
2. legitimatize a government in exile’s constitution to become the true “organic law” of its current locality.

然而，這些行動沒有能論及

1）將流亡政府合法化，成為其目前所在地的國際公認的合法政府。

2）將流亡政府的憲法合法化，成為其目前所在地的真正的“組織法”。

By definition, a government in exile is spoken of in terms of its native country, hence it must return to its native country and regain power there in order to obtain legitimacy as the legal government of that geographic area.
根據定義，流放政府在其本國而言，它必須返回到它的祖國並重新獲得權力，在那裡獲得該地理區域的合法性。

In other words, for the Republic of China to regain international legitimacy, and to regain the status of a “state” recognized by the international community, it must move back to Nanjing, China, and resume governance there.

換句話說，對於中華民國重新獲得國際合法性，並重新獲得國際社會公認的"國家"的地位，它必須將移回到中國南京，並恢復在那裡的治理權。