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JAPAN-RUSSIA TERRITORIAL DISPUTES AND
NORTHEAST ASIAN STABILITY

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PROCEEDINGS

RICHARD BUSH: Why don't we go ahead and get started. Thank you all for coming today. It's a great pleasure to have you here. Sorry about the weather. I'm Richard Bush, the Director of the Center for Northeast Asian Policy Studies here at Brookings. One of our most important programs in the Center is a Visiting Fellows Program.

And the presentation today is by one of those Visiting Fellows, Mr. Tadaatsu Mohri -- or Mohri Tadaatsu -- who is a rising star in Japan's Ministry of Foreign Affairs. He's a Russia hand, like somebody here at Brookings. And he's going to talk today about his research project, and the results he's gained. It's on Japan-Russia Territorial Disputes and Northeast Asian Stability.

I think you will find that Mr. Mohri's research is very interesting because it focuses not only on the substance of these disputes, but also the process for resolving them.

Let me say, before I forget that we appreciate the generous support of the Center for Global Partnership, which helps support the Visiting Fellow from Japan. So, without further ado -- Mohri-san?

TADAATSU MOHRI: Thank you, Richard. And thank you very much, everyone, for coming. I'm sorry for the weather. But I'm so happy to be here, giving you a lecture -- giving you a presentation about my study.

It's about Japan-Russian territorial disputes. And I'd like to put more focus on the approaches or sequences of the negotiations so that Japan and Russia can find a constructive way to conduct their talks regarding this very difficult issue.

My presentation happened to be this timing, after President Dmitry Medvedev's visit to one of the disputed four islands, Kunashiri. And it's a really interesting time for Japan, and Japanese-Russia hands, to observe -- to see the development afterwards, and guess the real intentions of Moscow's leadership.

This is a picture taken by Medvedev himself (laughs). He put it on his blog and said that Russia has many beautiful places like this. And he drove the SUV by himself, you know, taking similar posture like Putin, who drove a Formula 1 car or drove a long distance by his Russian car, Kalina, to Chita (inaudible). But he got similar approaches to show himself confident and, you know, very lovely man to his public, domestic audience. And he also visited the fishery -- fishing company and factory. This is a picture when he tries to eat some salmon roe. And he commented, "It's very tasty."

Well, I think his visit to Kunashiri is really deeply calculated. But we have to (inaudible). This is basically aimed at the domestic consumption, to show

Medvedev as a political figure quite confident and strong in front of their domestic constituencies.

But, as a Russia hand, I guess that this has a more deeper calculations on Russia's side. And recently, we see many news regarding how Russia's attitude toward the importance of economic cooperation with Japan. For example, Japanese press are worried about the canceling of the president of the Russian railroad to Japan, which was scheduled at the time of Medvedev's visit to Yokohama for the APEC summit. And several contracts were scheduled to be signed, but it was postponed. It's a very interesting message, and it's mixed. But, again, I think we need some more time to consume all the information and mixed signals. To read correctly Russia's mind, we need to wait a bit more.

And today, I'd like to talk about these -- along this outline. And what I'd like to make most is that -- well, since we have observed this year Senkaku incident and, afterwards, this President Medvedev's visit to Kunashiri -- any territorial problem, or any problem related to territorial sovereignty, easily becomes a political question, highly political question.

And to achieve peaceful solution of territorial dispute, negotiators of both sides need to reduce tension because any solution by negotiation is based on compromises. And to have -- so the negotiators have to convince their domestic audience that compromising solution best serves their national interests. But before getting to that point, we need a careful approach to create mutual trust and control the tension of the domestic politics.

So I'd like to take up the Sino-Russian border demarcation as a successful example of that kind of effort. Russia and China settled their 4,300 kilometer border in 2004. Finally.

And, well, of course there were several conditions that pushed the two governments toward the agreement. But I think that their success was due to effective approaches they took during the negotiation, and their careful way to create and enhance the mutual trust between the negotiators of both sides. Without that kind of mutual trust, negotiators cannot make politically sensitive deals. So I'd like to briefly look at the Sino-Russian border demarcation negotiation history. Then I'd like to proceed to the second item, which is the comparison between the Sino-Russian case and the Japan-Russian case, and try to draw some lessons which Japan can learn from the successful precedents. And after that, as a third item, I'd like to take up the role of the United States in this Japan-Russian problem. I believe that the U.S. has been involved deeply in the formulation of this problem, in the beginning. And, afterwards, it also had a substantial influence during the Cold War, and even the post-Cold War period. And I think U.S. can contribute to the solution of the problem hugely. And at the same time, it will be very helpful or beneficial to the U.S. itself to see Japan and Russia settle the long-time disputes among themselves.

And one of the key items I'd like to introduce is cooperation on law enforcement -- which is not striking, and which is not so shining, doesn't look so forceful to the public. But it's a very concrete item and practical issue. People need to eliminate or prevent crime. And where border disputes exist, it's easy to find room for illicit economy, because when the two countries' stance on the legitimacy of the law is frail, in that area it's easy for the actors of illicit economy to find room to exploit it. So most of the cases where the territorial disputes exist, we can find elements of cross-border crime. And taking that agenda as a common interest would make possible initial steps for cooperation. And thus, you might be able to develop the mutual trust between the governments.

And, finally, at the end of my presentation, I'd like to draw some conclusion. And I would like to discuss, are there any lessons that Japan can learn from the successful precedents between China and Russia.

So let us proceed to the first part of my presentation, which is the Sino-Russian border. The Soviet Union collapsed in December 1991, as you well know. And what happened is drastic changes of the former USSR borderlines. This is the western part of the Sino-Russian border. This is Russia. And their western border is very short. And rather they have a longer borderline between Kazakhstan and China, Kyrgyzstan and Uzbekistan. And these lines were controlled by Soviet border guards. But those countries became suddenly independent states. They had no border guards of their own. So Russia first had to cooperate closely with those countries to effectively control those lines. At the same time, Russia faced the -- this map doesn't show, but -- internal, former internal lines which Russia became to have between, you know, itself and Kazakhstan and Central Asian part, and the western part of -- the European part of the country. So the challenge was so multifold for the Russian side. And this is the eastern part of the Sino-Russian border, and they had to demarcate. It's a very long borderline.

And the initiative was taken by Mikhail Gorbachev still when the Soviet Union was tackling on their -- at the time of the Soviet Union, he started to take up the issue. Because he needed to substantially reduce the Soviet troops which was deployed along the border with China. And he wanted to allocate national resources to more urgent priority of the Soviet Union at that time, which was the economy.

And against this background, the Soviet Union signed a boundary agreement with China for the eastern sector in May 1991. And afterwards, the Soviet Union collapsed, but Yeltsin followed the path. The agreement of 1991 was ratified in March 1992, and the Joint Border Demarcation Commission started their work. This was the main vehicle which created the mutual trust -- the Joint Border Demarcation Commission.

Well, I already explained Russian side's intention, but on China's side, it also coincided with the need of settlement of its border with Russia. When Tiananmen Incident happened in 1989, China needed foreign friends who could support or who could be friendly to China. And Deng Xiaoping's economic reform policy was challenged

internally, so they had to protect the leadership's efforts for reform. In that sense, in that context, I think for China's side, a high priority for the leadership was internal, domestic policy stability. So China preferred to have a border settlement with foreign countries, including Russia and Kazakhstan, Kyrgyzstan, and Tajikistan. Also, Chinese leaders were eager to gain support for Kazakh, Kyrgyz, Tajik governments, because in '90s there was the Xinjiang incidents -- demonstrations and riots -- in this area. And internally, it could be a very dangerous element. And Beijing really wanted to cooperate with those countries to keep the order inside the country. That was another driving force for China to come to terms with the former USSR countries.

And in the process of a Sino-Russian border -- mainly this eastern part -- cooperation to solve illegal Chinese migrants to Russia's Far East played a significant role. It became very political issue in this area in eastern part of Russia. I will discuss it a bit later. But Russian government and Chinese government applied a very pragmatic approach regarding the illegal migration issue. Also they conducted very quiet works in the Joint Border Demarcation Commission and, incrementally, achieved the progress in the negotiation.

So I'd like to further examine the illegal migration issues, and also the negotiation approach overall taken by China and Russia.

This is another picture, map of the Sino-Russian borders. And this is the picture taken when they finally settled the border issue in the year 2004. And this map shows how the most contested part, across the Khabarovsk area, the Bolshoi Ussuriysky Island and Tarabarov Island, was divided between the two countries. And it's almost, you know, 50 percent taken by China and 50 percent taken by Russia. Before the settlement, it was mainly controlled by -- all of them were controlled by Russia.

So, next -- illegal migration issue. In the late 1990s, illegal Chinese migrants to Russia's Far East became a highly political issue. Political leaders of Russian regions along the border with China used this issue as a political tool to challenge the central authority. It was a time of the dissolvment [sic] of the central authority, and Yeltsin took the course to -- you know, to give the authority to local government, "As much as you like." And so they took opportunity to grab the power as much as possible.

And for the eastern regions' leaders, it was quite easy to utilize, exploit the issue of Chinese illegal migrants to the region. And also, poor law enforcement during the confusion after the Soviet Union's collapse allowed the spread of all sorts of crime, including illegal acts by migrants such as trafficking. And, well, local leaders made a very strong comments against the Chinese migrants, and also the local newspapers overly exaggerated the stories, criminal stories, committed by the Chinese migrants. So the overall atmosphere of Russia's eastern part's public opinion became quite negative against China in the '90s. And that endangered the process of border demarcation negotiations.

But, well, so it was mainly because of poor law enforcement on Russia's side and local challenge against Russia's central authority, which means it was really -- in reality, this was an internal problem of Russia, not the real threat caused by Chinese migrants. It was overly exaggerated, and it was utilized by local politics on the Russian side.

So after Putin came to power, and he strengthened the law enforcement internally, the problem came back under control gradually. Also, Putin reestablished the vertical power structure between the center and the regions. So the regions' leaders could no more utilize this issue as a political tool to strengthen their own political authority.

But at the same time, China also cooperated well with the Russian government. There was a series of practical agreements, like simplified visiting scheme for Chinese merchants who visit the border area, and also related agreements, like agreements on transfer of the convicted nationals to each other. There are a series of it. They have a compilement [sic] of the many agreements between them.

That's one part. And the other element I'd like to draw your attention is incremental approach taken by both governments.

Well, it's quite easy to look at it like this way. Their agreement was reached stage by stage. In the beginning, as I already told you, '91 agreement on the eastern sector, and they set up a Joint Demarcation Commission. Also, they agreed upon the basic principles to be followed in the course of negotiation. And '94 agreement for the western sector followed it. And there was also a treaty on good neighborly friendship cooperation was concluded, which enhanced the friendly atmosphere between the nations. And finally, they reached agreement on the most difficult part of the eastern sector, which I already showed on the map.

So in the beginning, the agreement was a basic one. They agreed on the easy part and the most contested parts were left for later stage. And finally they conducted very careful joint work in the Border Demarcation Commission, and reached a final agreement in 2004. And there was a 2008 additional protocol regarding handing over those two areas which I showed you on the map. And this is the picture when they finally signed and exchanged additional protocol in 2008.

And the treaty on the -- the 2001 Treaty on Good Neighborly Friendship and Cooperation was signed on July 2001. Well, regarding this treaty, some Russian experts argue that this treaty created a new type of alliance, characteristic to the post-bipolar world. And this treaty created, started, or launched Sino-Russian strategic partnership.

Although I think that we should not ignore the growing anxiety among Russian policy-makers over China's quick rise, and there is a certain concern regarding the power imbalance between China and Russia. So whether we can call this relation simply as a new type of alliance, I'm rather skeptical. But it is true that this treaty

enhanced the positive atmosphere between those countries, and it was quite supportive to the -- for conducting the difficult negotiations of border demarcation.

And I'd say that also, in the China-Russia case, the '91 agreement set the basic principles they should follow afterwards, so, in general, they have a largely common expectation on the outcome. So both China and Russia's negotiators could design a common scenario of how to reach the final agreement by joint incremental efforts so they could orchestrate a series of actions based on pragmatism. And its prime example is the Joint Border Demarcation Commission. Pragmatism was the key to avoiding politicization of these sensitive issues.

And it's also pragmatism that enabled them to bring the deteriorated situation of the illegal migrant issue back to control. In the course of their joint efforts, two governments' officials developed sufficient level of mutual trust, and that mutual trust further helped the process move forward step by step.

Also, there is another element I'd like to note regarding this negotiation -- that which is emphasis on international law. In addition to the technicality of demarcation work, the Russian government placed a lot of emphasis on international law in explaining their agreement with China to the domestic audience.

Well, the Russian Constitution prohibits the change of their borders. So this point was challenged when Russian government tried to get the ratification from the parliament. So the Russian government's logic is that -- well described by Mr. Kireyev, who headed Russia's delegation to the border demarcation negotiation, he afterwards wrote his memoirs, or his record of negotiations, in which he writes, "The border settlement with China is based on the existing treaties on border with China, and generally accepted rules of international law, principles of equality, mutual understanding, and mutual concessions. From the viewpoint of international law, if a borderline has not been determined before concluding a treaty, the treaty cannot change something that did not exist. In other words, there were no changes in Russia's border and territory, from the legal point of view."

He means that -- well, Russia and China surely had previous agreements, like agreements in 1869, or afterwards, a couple of very ancient agreements, but it generally sets the line as the river and they did not decide which line should be drawn on the river. So, afterwards, since Russia's controlling power was relatively strong to China's, in fact, Russia controlled almost all of the islands on the river. And there was no legal instrument which describes which islands belonged to which side, and which navigation line could be a dividing line between the two countries.

So Kireyev insisted that -- so these new treaties just defined the exact line between the two countries, not setting the new border. So it doesn't contradict the Russian Constitution. That makes sense. But Russia, in fact, made political compromises on this issue. It's clear, as Professor Iwashita of Hokkaido University repeatedly insisted in his articles. Because, as I mentioned, almost all of the disputed

islands were controlled, in fact, by Russia. But at the end of the negotiation, those islands were divided almost evenly to each side -- which is very political compromise. It's not just about, you know, having exact navigation line on the river. But you have to hand over control of those islands to the other side. And also, we have already seen the most contested part of the islands -- you know, one of the islands, Bolshoi Ussuriysky Island -- was cut in half. That line cannot be described by legal arguments. It's by compromise.

But it was only by legal arguments that the Russian government could pass the agreement with China for ratification. So they used, in some aspects, this legal arguments to defend their deal to their domestic audience.

One more element I'd like to note is the fight with cross-border crime, and on its future. Well, as I already described, fighting with cross-border crime, in the case of China and Russia, it was illegal migrant issue, was quite major -- had a quite major effect in the course of negotiations. And furthermore, I expect that their cooperation should be developing, because Russia needs China's economic power and labor force to develop the eastern Siberia and Far East. And China also needs resources from Russia's Far East. So their relation is naturally complementary. And if their interactions develop, of course there are more chances of cross-border crime, and they have to cooperate more.

One significant area they are now tackling on is narcotics. Well, there is a flow from Afghanistan through Russia to China, the flow of narcotics. And Shanghai Cooperation Organization repeatedly issues their declaration to seriously cope with this problem. We haven't seen much development, tangible results yet, but we have to expect more from those countries, member countries, of the Shanghai Cooperation Organization to seriously tackle this problem. And, of course, the major players in that will be China and Russia.

So let's go to the comparison of the -- with the Japan-Russian case. In the beginning, I'd like to point out some differences. One is the biggest one. The first one is the biggest one. Unlike the China-Russian border, Japan-Russian border didn't see fundamental changes after the collapse of the Soviet Union. Rather, their potential military threats were reduced after the collapse of the Soviet Union. So the territorial issues with Japan is not a priority issue for Kremlin. So they could set aside the issue for a moment, and wanted to focus more on issue on the European front or Central Asian front. And that was possible.

And factual differences I note is in China-Russian case, the disputed islands, or disputed lands on the river, on the eastern sector of China-Russian is about 1,000 square kilometers. In the case of Japan-Russian, the total of four islands -- it's written only in Japanese. Sorry about that. This is Etorofu. This is Kunashiri, which Medvedev visited. And Shikotan and Habomai, the smaller two parts the Soviet Union agreed to hand over, transfer, after the signing of peace treaty. And, in total, those comprise more than 5,000 square kilometers. So it's five times larger.

And of course, as you know, that historical backgrounds are totally different. And in the case of Japan, also we have to note that emotional elements on the side of Japan arising the Soviet attack in breach of the Japan-Soviet Neutrality Pact, and occupation of these islands after Japan expressed its Bill of Surrender. And also forced labor of 600,000 Japanese in Siberia, as much as 11 years after the end of war. So that kind of emotional aspect also constitutes a part of the problem on the side of Japan.

But despite these differences, I'd like to also shed some light on the common aspects of the border demarcation negotiations, and try to seek commonly applicable elements to Japan-Russian issues.

One is the incremental approach. And it's interesting already to note that the Soviet Union already, back in 1978, proposed a treaty on good neighborly [sic] and friendship, and proposed its draft. But at that time, naturally, Japan rejected this idea because -- well, there was basically a mutual lack, totally they lacked mutual trust. And it was natural that the Japanese side took this proposal as a mere attempt to avoid the solution of the problem.

But quite recently, Vyacheslav Nikonov, he's the president of the Russian foundation Russkiy Mir, issued an article after his visit to Asia-Pacific countries. And Nikonov is a very famous Russian political opinion leader, and closely linked to very influential politicians in Moscow. In that article, he proposed to conclude treaty on "peace, friendship and security," or a treaty on "good neighborhood and cooperation" between Japan and Russia. And he insists that that kind of a treaty would provide basis and principles of their bilateral relationship. And it's very, for me, interesting to note his remarks on that part. Because given Nikonov's close ties to political leaders in Moscow, we can take it that this is -- Russian side is sending a signal to Japan.

But of course, afterwards, you know, we face a new face after President Medvedev's visit to Kunashiri. So we have to read their intention more carefully. But this article was issued this summer, August 2010. So at that time they were sending this kind of signal.

And looking back the history, Russia and China relationship was far from friendly, and not to mention their military clash in 1969. It was only the intentional efforts by the two sides that produced and gradually solidified the negotiation ground. And we have already seen, the main vehicle for that was the Joint Border Demarcation Commission. And also, statements by leaders and practical cooperation on cross-border crime issues effectively supplemented it.

Based on the growing sense of mutual trust and common goal, Russia and China made legally-binding commitments, step by step. And one step forward enhanced their mutual trust, which enabled further challenging next steps. Incremental approach of this kind should be workable in many cases which is politically very sensitive, including Japan-Russian territorial problem, I believe.

And one of the practical agendas for creating mutual trust is the fight against cross-border crime. And in my view, Japan and Russia also have a reasonable chance to develop their joint work in this field.

And next element I'd like to note, or compare, is the role of the international law. Well, as we've seen, the Russian government relied on Russian legal argument to avoid politicization of the issue at home. And also, at the same time, Russia's political leadership seems also to heavily rely on or give -- place a lot of emphasis or importance to the role of rule of law. Putin and Medvedev quite often refer to rule of law. And as Putin once recalled for "dictatorship of law," their notion could be substantially different from the Western standard. But still, it provides some grounds for the predictability. And in the context of the negotiation, we might be able to find a common language with Russian counterparts.

In negotiations with Russians, their adherence to international law could help us to find common terms of reference. And also at home, Russian negotiators might be able to find strong logic to prove a case on compromising agreements.

Again, I'd like to refer to Genrikh Kireyev, who headed the Russian delegation at that time. He writes that, "The establishment of unilateral control does not constitute the basis for a border which, as we know, is a bilateral entity, and should be regulated with bilateral instruments." It's very interesting to note, because Japan and Russia do not have a bilateral instrument on border after World War II.

More recently, we observed Russia's emphasis on international law in the case of a maritime boundary demarcation treaty with Norway. It was signed this year, on September 15th. And Russia, one time, insisted on a sectoral approach to divide the Arctic area. But in this recent agreement, it accepted agreement based on a median line with Norway. And median-line approach is repeatedly applied by the judgments of the International Court of Justice.

Russia further tries to urge Canada to follow its suit in the use of international law. In a joint op-ed on a Canadian newspaper, Russian Foreign Minister Sergey Lavrov and Norwegian Foreign Minister Gahr Støre reiterated the indispensable role of United Nations Convention on the Law of the Sea. And, well, this kind of posture, heavy emphasis on international law, is a very interesting element to note.

Well, although this Norwegian case is mainly related to the exploitation of the natural resources, mainly gas and oil, in the Bering Sea and Arctic Sea, still Russia's attitude for international law attracts our attention.

In the 1990s, Japan emphasized the negative legacy of Stalinism to promote Russia's support for solution of the problem. Well, this logic worked to a certain extent with regard to Yeltsin, because Yeltsin was personally committed to eliminate the negative remnants of the Stalinism. His father was convicted and served

forced labor in Siberia for three years, so it was personally touchy, attracting setting of agenda at the time.

But I think today it is more debatable in Russia how to define the historical role of Stalin. The Kremlin wants to highlight Russia's victory in World War II to unite the nation. And the four islands disputed with Japan symbolize Russia's victory in the Eastern Front. So ideological denial of Stalinism would not be persuasive enough for Russia's constituency to accept a compromising variation of the solution. Today's Russia is more pragmatic. Legal arguments have a better chance to provide Russian leaders with a compelling grounds to their domestic audience.

Next is cross-border crime. This was taken from the Russian news agency RIA-Novosti. And it's really fair, they describe here, it's a factual background of the territorial disputes between the two countries. And they also note, introduce the 1956 agreement, in which the Soviet Union agreed to transfer to the two islands after the signing of the peace treaty. So their explanation is really according to the facts. And it's interesting to note how this kind of legal background could help us to find mutual grounds in the future.

So, in cross-border crime, in the case of Japan and Russia border, mainly it has been illegal fishing activities by Japanese fishermen in the area. And the maritime area south of the four islands is very rich in fishing resources. It's one of the three biggest fishing areas in the world. And you can take crabs and sea urchins and a lot of sort of high-priced fish.

And in the '70s, there were a time of Japanese report ships. Well, "report ship" is a ship which -- it's a kind of spy ship. Japanese fisherman bring with them information about Japan -- like its economy or where the Japanese Self-Defense Forces are located, how is their police agencies structured. And on the sea, near to the four islands, they passed information to the Russian border guard, Soviet border guard. In return, they are informally allowed to fish, without taking any permit.

Afterwards, in the '80s, Japanese fishermen, you know, shrewd people introduced a new type of ship, very small one, with very strong two or three engines, which was called "special attack ship," which runs very, very fast. So you can run away from any of the coast guard. You know, once you notice the coast guard coming, you can run away. You know, it was very, you know, lucrative business at that time. But after the Soviet Union collapsed, and Russia introduced their new controlling ship, which is powerful enough to catch them, this type of business went away.

And following that reform, we found troubling time, because there happened a series of shootings by Russian border controls at the Japanese illegal fishermen. And sometimes it caused human injury. And one time, a fisherman was shot dead. So it became a very political, sensitive issue, especially in Japan, because Japanese people believe that this is our land and our sea, and there is no reason that Russian Coast Guard shoot and hurt Japanese citizens.

So the two governments struggled to solve the problem, and concluded a framework agreement of 1998 -- which, without touching the sovereignty issue, we created a framework according to which Japanese fishermen can do their fishing activities legally in the area south of the four islands.

And this picture, this is a poor Japanese ship detained by Russian Coast Guard. I don't know for what it's now utilized, but it's still located on the side of -- well, in the port of Kunashiri Island. And this is Japan's Coast Guard ship. The name is Kunashiri (laughs).

This is a picture of crab festival in Nemuro City. It's a yearly event, very popular one. And many tourists visit for eating crab, to the area.

Coincided with the entering into force of the 1998 agreement, cooperation between the Japan Coast Guard and Russian border guards started steady development. And they concluded -- they signed a memorandum on cooperation in September 2000. And the improvement of their working relationship brought clear positive effects, according to my experience in the Embassy of Moscow.

For example, in the 1990s, when a Japanese fishing boat was detained by the Russian Coast Guard, well, Japanese Embassy in Moscow always made inquiry to the Ministry of Foreign Affairs of Russia, what happened, really, and "We'd like to have your correct information from the Russian side." And "How is the health condition of those detained?" But, you know, after that inquiry, we had to wait at least one night, because the Foreign Ministry writes, then, their inquiry to, you know, other related agencies, and has to wait for the information to come back to themselves before returning to us and explain what happened. But now it's totally different. Today, our attache from Japan Coast Guard can right away dial the number he knows. He knows who to contact in Russian Coast Guard. And within a day, the Russian Coast Guard person in charge of the matter can meet us and explain what happened, on exact map -- you know, what time, and which location Japan fishing vessel did which kind of activities. And they took a series of this kind of, this kind of measures to, you know, as a warning, but they didn't follow, so they detained the ship at which point. It's very clear. And sometimes -- or we often find their explanation is more well -- can be more true than the Japanese version because sometimes the Japanese fishermen distort the facts to defend themselves.

So we found out that the direct human contact, or the direct human connection with Russian agencies like Coast Guard makes a huge difference, quite amazing difference in Russia. And even today, illegal fishing along the four islands remains a serious problem because now it's not mainly committed by Japanese fishermen, but it's rather committed by the Russian groups, but with presumably partially supported by Japanese importers. And Russian side repeatedly offers Japanese government to make a -- you know, to conclude a treaty or agreement on cooperation mechanisms to prevent this.

Well, if crabs illegally caught in this area disappear from the market, the local economy would lose this kind of a huge economic benefit. And looking back at the history, I can be, you know, pretty much sympathetic with local residents of the area because for them the four islands and water adjacent to it was their land and their water, and still is. But it is, in fact, controlled by Russian side, and they think it's illegal. But anyway, after World War II, they lost effective control to the area. They lost their fishing activities area. And the local economy heavily dependent on the fishing products in the area is, you know, having a very tough time since then, for more than 60 years. And now, if they are going to lose all of that, they have to find some different way to make their living. It's really challenging for human beings to, you know, change their lifestyle totally. Or they might have to, you know, move to a different part of the country and find a new job, new friends. It should be difficult.

But -- so I think there are many reasons for sympathy. But illegal acts should be stopped, in any case. Allowing crime will not lead to any positive results in the longer term. So I personally believe that, sooner or later, we will have to take more strict measures to eliminate this problem.

There are couple more elements that I could note. One is non-applicable element of Sino-Russian case to Japan's case. Well, in short, it's Japan's democracy and free media.

Japan has a well developed civil society with freedom of speech. So it is practically impossible to keep the whole negotiation process in secret. In this light, China and today's Russia have a different setting from Japan. I suppose it's far easier for them to control information with regard to -- on the negotiation process in relation to society. They also have control, local public opinion -- well, they also have to control the local public opinion on the result of the negotiation. But during the negotiation, probably they would have a better hand to control -- keep the negotiation process in secret.

And also, relationship with the legislative body, parliament, also makes a contrast between Japan and these two countries. Well, Russia and Yeltsin struggled to -- very struggled to handle Duma. But today, Kremlin doesn't have to worry much about ratification of an agreement if it has a clear consent of Putin and Medvedev. And we don't have to mention here to China.

In the case of Japan, legal arguments, or emphasis on the technicality of the problem, would never be sufficient to persuade the domestic audience and get approval of the Diet. Japanese government would really have to make a convincing case to win support for the agreement. And this implies that Russia will have to be more flexible to make a real deal happen and approved in Japan. In that sense, I think that Japan and Russia face much higher hurdles than Sino-Russian case. But anyway, in such a different situation, cooperative steps in practical fields, such as fight with cross-border crime, will be an ideal starting point -- which I wanted to mention under the title of "Merits of Cooperation."

The merits of human contacts I already explained to you, using my experience in the Moscow Embassy. And also, we'd like to note that under Putin-Medvedev's Russia the influence of so-called "power ministries," the former KGB agencies, increased a lot. And they have a strong say in the policy-making procedure, especially when it relates to national security. And territorial problems surely relates to national security. So we should expect that their influence is substantial when Russia makes a decision on a territorial issue. So, having a direct tie with those agencies should be quite useful channel for Japanese government.

Next is the role of U.S. And, well, the so-called "Northern Territories issue" is a part of the world that Dulles and Yoshida built. It was -- U.S. was the main architect of the San Francisco Peace Treaty of 1951. And it was very generous and fair treaty. But at the same time, Japan had to renounce a huge amount of territories which it owned before the war. And in its article 2(c), Japan renounced all right, title, and claim to the Kuril Islands. But meaning of the "Kuril Islands" is not defined at the time.

And the drafter of the treaty left the definition unclear, although several comments were made already at the San Francisco Peace Conference. And at the Peace Conference, for example, the U.S. delegate, John Dulles, referred to the question and said, "Some question has been raised as to whether the geographical name 'Kuril Islands' mentioned in Article 2(c) includes the Habomai Island. It is the view of the United States that it does not." Well, so it shows that U.S. was clearly aware of the problem, but it was left behind.

And the dispute over the four islands was consolidated over the period of the Cold War. Because both sides belonged to different, opposite camps, there was no reason for Japan and Russia to seek a middle ground -- just, you know, having a conflicting posture was enough. So it was quite simple at the time.

And on Japan's side, stern rhetoric was constantly repeated throughout the Cold War period. And this produced a mood in, you know, domestic politics that it is a betrayal to the nation even just to discuss the compromising solutions on the sovereignty issue.

And the U.S. always supported Japan's position, of course, as an ally, and made it clear by public statements, if necessary. And we are grateful for that. But the time has changed, I'd say. And now we also have to look at the Japan-U.S. alliance in a broader context. U.S. could play an important role to solve this problem in the broader context of the alliance.

With the rise of China, Asian countries will face fundamental changes of regional order. The countries in the region have to shape a new policy to ensure stability and prosperity, incorporating the growing power of China in a positive way. And, of course, U.S. will have to lead the process, cooperating, coordinating with other key players like Japan, Republic of Korea, Russia, India, and ASEAN countries. And in this effort, Japan -- which shares common values and interests with the U.S. -- is crucial. And

by helping Japan to solve the problem of the past, the U.S. can strengthen support of Japanese people for the alliance. Japan, if it's released from constraints of the past, will have greater freedom of action. Thus, we will see much greater chances for regional stability.

And in this context, we can consider a couple of U.S. approaches, hypothetical ones. I borrowed these concepts from Dr. Richard Bush's book regarding the Taiwan Strait. And I'd say that there are three different hypothetical approaches in this context. One is opting out. The second is context creation. And the third is intermediation.

And "opting out" is an approach that the U.S. to stay out of the issue and let the negotiations totally up to Japan and Russia. And "context creation" means shaping the environment in which both Japan and Russia can mitigate each other and interact more. And here, direct U.S. involvement is not necessary. "Intermediation" involves some level of U.S. activity as a go-between, in order to encourage a solution.

And in the past two decades, I think Washington's attitude seemed basically based on opting out approach -- of course, except for the time when the Clinton Administration tried some context creation approach in the late 1990s.

But if we further apply Richard's -- Dr. Bush's -- concepts, intermediation could take several forms. First, simply as a messenger. And second is intellectual facilitation, in which mediator offers its analysis of the, you know, the dialogue between the two sides involved. And the third is a process facilitation -- for example, providing a venue for talks. And the fourth is a mediation on substance. And these four forms are mutually exclusive. But the fifth one, role as a guarantor for a settlement concluded by the parties, supplements those four options.

And today, I think Japan and Russia can talk directly over highly sensitive issues, such as territorial issues, and those two countries can understand each other's intention quite well enough. So the first three forms are not relevant here. The fourth form, mediation on substance, might need more examination. U.S. does not have constraints of domestic politics, unlike Russia or Japan, in this case. So we might expect that the U.S. is in a better position to think objectively to shaping the possible compromising solution. And at the same time, U.S. has a strong interest to promote Northeast Asian region -- I mean, Northeast Asian stability.

But even if the Russia-U.S. relations succeeded in a re-set under the Obama Administration, Moscow would not believe Washington as an honest broker on this matter. And it is quite natural that the U.S. will take the side of Japan, which is an ally to it. And it has been doing so. So I assume that the U.S. would not be able to act as a neutral mediator, but rather as a supporter of Japan's interest. So, as a result, Russia would be very reluctant to accept U.S. mediation on substance. And also, strong U.S. involvement in this case increases risk of failure. When it fails, it would have a deep negative impact on Japan-U.S. alliance as well. And this problem causes strong

emotional reaction, both in Japan and Russia. So, in total, I assume the disadvantages of the U.S. mediation on substance would surpass its advantages.

However, the fifth form, number five, the “guarantor” role, could be effective. The U.S. might be able to encourage the deal to be approved in both countries, which will be -- you know, the approval by the Diet and the parliament would be especially challenging task for Japanese negotiators. So if the U.S. could send a welcoming message to support that deal get passed, then I would say that U.S. could play a very significant role as a guarantor of a settlement.

Well, based on all of the above, all of these things I said, I think the context creation approach would be more seriously considered by the U.S. And the U.S. has influence, historical background, and a positive interest to be engaged in this problem. And besides that, the U.S. could be an effective guarantor of a future deal, since it bears major responsibility in enhancing stability of this region. And here again, cooperation on law enforcement may become the first stepping stone.

The U.S. has been conducting very insightful and effective program in this field. INL is Bureau of International Narcotics and Law Enforcement Affairs of the State Department. And they have a Russia program and cooperate with Russian officials in IPR, cyber-crime, child pornography, and so on. And it's quite beneficial, because you can expose Russian officials and, you know, in case of the U.S. it's not applicable, but in the case of Japan, domestic agencies -- for example, police agencies -- to international cooperation. It's very enlightening procedure, effective. And it would bring about improvement on the working level, which is a very beneficial thing to society of Russia and international world as well.

And so here is my conclusion -- taking too much time (laughs). Fundamental change has not happened, but we might expect that's coming in the future. So we have to be prepared for that.

An incremental approach is worth to explore. And legal arguments could be helpful to Russian negotiators. And U.S. may try context creation more actively. And it could also guarantee a settlement in the future.

And fighting with cross-border crime is an ideal starting point, if it's a contentious and a very political issue -- in the context of a political issue. So Japan should be able to join the efforts to assist Russians in its improvement of law enforcement.

Thank you very much for your attention.

(Applause.)

DR. BUSH: Why don't you stay up here. Thank you very much for that very comprehensive presentation. We have a little time for sort of formal Q&A. And so we'll immediately open the floor. And I'd like to call on Gil Rozman first.

QUESTION: I want to compliment Mohri-san for his reinterpretation of Sino-Russian agreement because in Japan that was first interpreted by Kimura Hiroshi in a very distorted manner. And even Iwashita-san, a much improved interpretation, didn't really get very much into the politics of that.

But I think you're approaching it probably so much from the Russian side that you may be missing what China thought was critical to this deal. And recent writings in China that would say this was a deal made by a weak China in the context of - for mainly security gains. And that they were turning to Russia in regard to the view of the U.S. being too powerful, and trying to get a deal that would limit U.S. power and strengthen the potential for an agreement between two countries dealing with the power of the U.S.

And clearly the parallel here is China. And isn't it likely that Medvedev went to Kunashiri with the notion that China and Japan have an intensified border dispute, and he was signaling to the Japanese, "Well, now you better take us more seriously. And understand that you should be making a deal with us, because you are dealing now with the rise of China." And so, isn't really the security context critical?

And the decision that touched off the Sino-Russian -- Soviet -- agreement in the late 1980s, by Deng Xiaoping, was to start with an overall framework and a decision, "Well, really, we have a way of dealing with this. We're going to leave the three islands for a time, and solve everything else through a demarcation commission." And doesn't Japan have to essentially make a similar starting-point decision, rather than incrementally hoping that it can just deal with side issues? And so isn't something like the 2001 potential deal between Japan and Russia still something of value as a kind of starting point to make a breakthrough to get on to these additional steps?

MR. MOHRI: Thank you very much, Professor Rozman. And I appreciate your points on China's side. I think I have to deepen my knowledge about China's evaluation of the outcome of the negotiation further.

And on the Japan-Russian negotiation, I think -- well, as you are well aware, I was on the negotiation team at the time, and we set up a border demarcation commission between Japan and Russia. But from that point, we couldn't go so much further. Because in the case of China and Russia, they had a very long border so there's a theme they can always tackle on -- you know, basically it's a marking borderline on each part. And in the case of Japan and Russia, it should be a very short border. And initially, we have not, you know, decided which parts should be demarcated. Japan said that it's north of Iturup (Etorofu), and Russia has a different approach.

So border demarcation -- or, you know, the concept of a border demarcation -- it's not deciding, you know, the returning the islands or keeping the islands. But rather it's a demarcation as a joint effort.

I think it is still a quite effective approach. I believe -- so in the future, if you come back to the real negotiations with Russia, I think we have to go through the similar process we have taken in the year 2000, 2001.

But currently, I think we have to take a step back to look at the overall strategic picture between the two countries -- especially after President Medvedev's visit to Kunashiri. I think Japan's side has to be careful to read Russia's intention, which way Kremlin wants to proceed with the negotiations -- or not. And then we will be able to develop our thoughts on how to then create a vehicle for reaching an agreement in the future.

DR. BUSH: Munkh-Ochir?

QUESTION: Thank you. I'll start with a short, maybe very ignorant but fundamental question. We know that you've talked a lot about compromise. (Inaudible) the topic of compromise (inaudible) and on the four islands reach the end state. What is the end state for Japan to resolve this problem? Do you want to revert back to the 1956 proposal, which was offered by Khrushchev but later repudiated by (inaudible)? Or do you still want to go (inaudible) rather than two islands -- two smaller islands?

MR. MOHRI: Thank you very much, Ochir. I left the core problem unmentioned intentionally in this presentation. And there is a serious discussions within the Japanese government how to proceed further. And one option so deeply debated internally, and also in the academic world, is approach based on '56 Joint Declaration. And I think, theoretically, it's one of the pragmatic approach. But it also clearly contradicts the official position we have -- the Japanese government repeated to, you know, to maintain so far.

So if we're going to decide to change our position in such a major way, there should be a careful preparation and deep analysis -- not only with regard to this territorial problem, but also with regard to the overall bilateral relations with Russia.

DR. BUSH: Tom Oku?

QUESTION: I'm Tom Oku, Bank of Tokyo Mitsubishi Japan. (Inaudible)

MR. MOHRI: Yes. Thank you for giving me a chance of clarification. I was not sayin in the fishing activities. Although recently, it's less and less profitable as a business. But anyway, if they'd like to continue their fishing activities under the existing agreement and framework, that's welcome.

I was mentioning that illegal fishing activities, and illegal imports of crabs and sea urchins from the area, there are, well, groups related to organized crime group which makes a big profit by illegally importing crabs from the area and sell it in Japanese domestic market. And that also constitutes a substantial part of local economy. And, you

know, in that case, the fishing activities itself were conducted by Russian group. Recently not only Russians, but people from different areas -- they hire other countries' citizens and let them engage in activities.

And the Russian government would like to prevent that type of activity, and wanted to conclude agreement with Japanese government to prevent it. But, well, along with the theories of technical and legal problems, also I assume that Japan's fishery agency has a concern of domestic politics regarding economy of Nemuro. And if they take steps forward and strengthen their control over the illegal crabs, then Nemuro's economy, which is still -- which is already in a tough, tough situation now, would be worse. And for them it would be really challenging to maintain the size of their population in the area. So in that sense, it's a very political question in domestic Japan.

DR. BUSH: I'd like to ask a question that's related to Professor Rozman's. And that involves introducing the concept of opportunity costs. I think you've explained very well why it's difficult for Russia and Japan to reach an agreement. But what is the cost that each is running by not reaching a deal? Who is bearing the greater cost?

MR. MOHRI: I think both. But especially recently, with the rise of China, we need better cooperation in shaping this region's order in coming decades. But the existence of this problem, you know, constrains our efforts -- positive efforts -- to setting up forward-looking agenda.

And on the side of Japan, the costs also, I would say, such a huge human resources and, well, sometimes budget of Foreign Ministry of Japan in this issue frankly say that -- well, including me. I'm a Russian specialist, a Russia hand. Well, we have a very large community of Russia hands which in a sense natural, because Russia is a very important neighbor to us. But all of us are deeply involved in this kind of issue, territorial issues, which doesn't create any positive agenda for Japan's diplomacy, rather protecting our position. And it's really time-consuming.

On the side of Russia, I assume that recently the Medvedev visit is related to the efforts to de-link the issue of economy and territorial problem. And it's true that partially, that recently Japanese companies are not, you know, constrained their investment to Japan because of this territorial problem. But still, overall, the existence of this problem negatively affects Japan's, Japanese view on Russia. And it also negatively affects the enhancement of our friendly relationship in overall terms. Always, if you take opinion poll, Japanese people are rather skeptical about Russia's intentions and our bilateral relationship -- which stems mostly from, you know, the noises arising out of this territorial problem. So once it will be resolved, I think we would have a far larger area of activities in a positive way.

DR. BUSH: Loren?

QUESTION: Yes. I wonder if you could address (inaudible) trade balances and investment (inaudible) pipeline. Whatever has happened to that? And how does that have a bearing on the problem (inaudible).

MR. MOHRI: Yes. Exactly. You're right that Japan's trade volume with Russia is expanding, which is partly due to Japanese government position. Because after -- well, say, sometime in the late '90s, we changed the policy linking the economy to the territorial issue.

We would like to see the positive linkage, if the economy develops -- so that our economical tie develops simultaneously as the progress in the territorial issue. We'd like to see that. But we do not place a negative linkage we used to take in the Cold War time -- which is if there is no progress on the territorial issue, we would not cooperate in the economic field. That's not our position anymore. And we are trying to enforce, or encourage private sectors to, you know, strengthen the business with Russia these days.

About the ESPO pipeline, I would say it was a very good deal for Japan's energy security. And Russia is committed to construct the final part, as including final part to the Pacific Ocean of the pipeline.

China wanted to, you know, have outlet of the pipeline only to their country in the beginning, but Russian side really understood that if you construct that kind of a landlocked pipeline, you cannot sell oil or gas to other countries. So in the negotiation of a price, the buyer would have a better hand. So Russian side strategically decided to have a main outlet to Pacific Ocean so that they can export anywhere, depending on the offered price. And that led to increase of Japan's energy security, and we are very much happy with having energy cooperation enhanced with Russians.

At the moment, I think it's still the -- Russians are having mainly with, well, on gas, they're having a problem with negotiation over price with China. And regarding the gas, they already started exporting. And it's solely depending on the offered market price. So some part, Japanese companies bought, some part was bought by Chinese or South Korean companies. It's really depending on the market conditions.

But anyway, if we have a closer outlet to Japan, and they're not only depending on the oil imported from Middle East, that surely provides us more options in the future. And our government really welcomes the ESPO pipelines realized.

DR. BUSH: We should --

QUESTION: Did delivery begin already from the (inaudible)?

MR. MOHRI: Yes. The pipeline itself was not finalized to the outlet part. But they transport the oil from middle by Russian railroad so they can export it. And some of them were already exported to other countries.

DR. BUSH: We should probably bring the formal session to an end. But I'm sure Mohri-san will be happy to hang around and you can chat with him informally. I want to thank you again for your presentation, and for your efforts to find a mutually acceptable way to dispose of this issue that has hung around for many decades now. So, thank you very much.

MR. MOHRI: Thank you very much. Thank you all for coming.

(Applause.)

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