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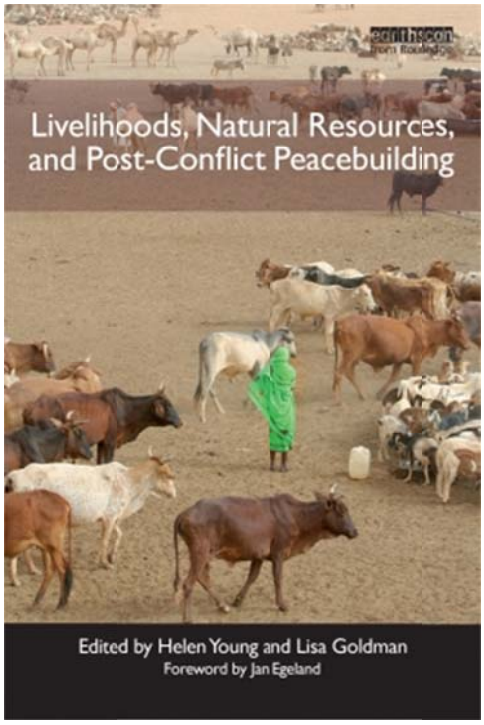

Fisheries Policies and the Problem of Instituting Sustainable Management: The Case of Occupied Japan

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Fisheries policies and the problem of instituting sustainable management: The case of occupied Japan

Harry N. Scheiber and Benjamin Jones

In the aftermath of World War II in the Pacific, a key immediate objective for the Allied occupation of Japan, operating in effect under orders from the U.S. government, was to reconstruct Japan's commercial fisheries. This policy, designed to provide for domestic food supplies during a food crisis at the war's end, comprised an urgent response to a pressing emergency. But beginning only a year after the end of hostilities in 1945, the policy would be significantly broadened to include, by 1949, a comprehensive reform of ownership structure in the coastal fisheries sector. And throughout the occupation, which ended in 1952, the Allied command's cadre of natural resource experts also promoted a vital long-term objective: to promote and (as they naively hoped) to ensure, for future years, marine fisheries sustainability and conservation through a comprehensive reform of Japan's fisheries management policies regarding both coastal and distant-water (high seas) fishing enterprises.

This chapter examines the post-conflict period in Japan following World War II. The first section provides an overview of the occupation command's objectives and associated sustainability goals with respect to Japan's fisheries. The chapter continues by looking back to the Japanese economy preceding the war, including Japan's dependence on fisheries and the maritime lifestyle as an essential component of Japanese culture and economy, and the devastation suffered by the fishing industry during wartime. The third section analyzes the

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development and evolution of policies governing fisheries and whaling after the war, and the section following analyzes factors that influenced the direction of these policies and institutional developments. The next two sections of the chapter offer a discussion of the lessons learned from the redevelopment of Japan and the Pacific region during the post-conflict and long-term recovery period, and what can be done differently in future post-conflict situations to promote more sustainable resource-based policy development. The final section of the chapter considers the unintended consequences of the occupation-era fisheries policies and a comparative perspective of the conduct of other states during this period.

SUSTAINABILITY GOALS IN POST-WORLD WAR II JAPAN

The occupation command's objectives with regard to fisheries were pursued within the context of the larger U.S.-led policies for the occupation. One goal was a program to restructure and, later, to rapidly rebuild the Japanese economy—an objective that gained new urgency with the outbreak of the Korean War. Second was a set of efforts to promote the reintegration of Japan into the community of nations, including its participation in the post-war development of multilateral institutions for economic, financial, and resource management coordination.

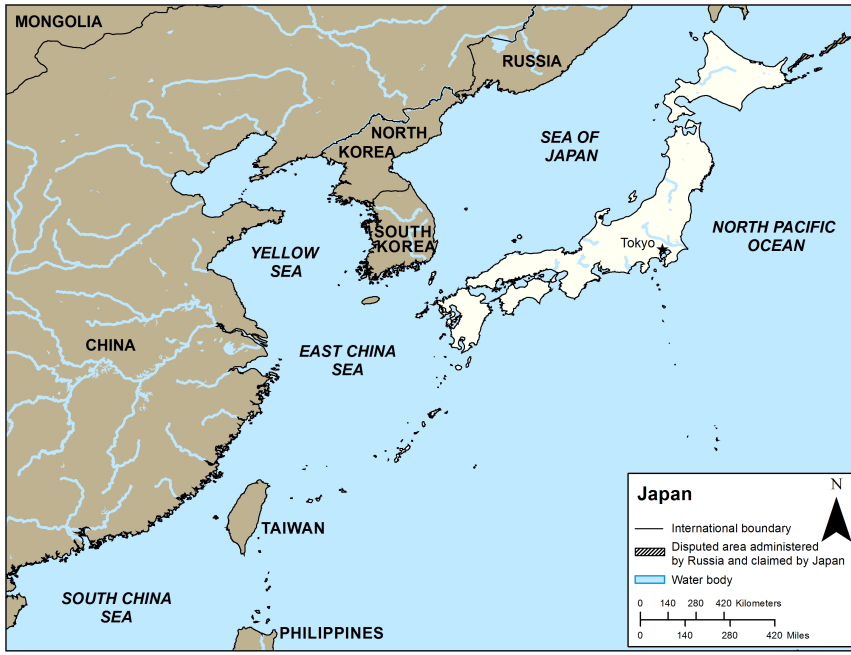
The occupation initially was intended to be guided on basic policy by the Far Eastern Commission, consisting of representatives of fourteen Allied nations and meeting in Washington, D.C. It was largely ineffective except as a debating forum, however, as the U.S. government and General Douglas MacArthur as Supreme Commander for Allied Powers (SCAP) essentially controlled policies and their implementation. MacArthur blatantly ignored a small body called the Allied Council, which met regularly in Tokyo, essentially rendering it a nullity. The entire bureaucracy of civilian experts and military officers charged with running programs to guide and implement economic reconstruction and social reforms came under the control of MacArthur and the U.S. government. The occupation authority's policies to revive Japan's fisheries—that is, not only policies for rebuilding the coastal and distant-water commercial fisheries but also later programs that were expanded to reintroduce Japan's whaling fleets into the western Pacific and Antarctic regions—achieved full success within four years, at least as measured by the volume of the catch. And there was equal success in the political realm, as the occupation under MacArthur's leadership—and in accord with U.S. foreign policy under President Harry Truman—steered Japan toward the restoration of its full sovereignty at the signing of a peace treaty in 1952.[1]

[1] The peace treaty—formally known as the San Francisco Peace Treaty—signified the end of World War II between Japan and the Allied powers. The treaty was signed by forty-eight nations on September 8, 1951, in San Francisco, California, and entered into force on April 28, 1952. For the complete text of the document, see http://treaties.un.org/doc/Publication/UNTS/Volume%20136/volume-136-I-1832-English.pdf.

The program for the reform of Japan's fisheries management policies, however, had a different outcome. Although not an entire failure, it fell seriously short of its objectives. When national sovereignty was restored in 1952, one of Japan's first diplomatic actions was to sign the International North Pacific Fisheries Convention (INPFC). The convention was a tripartite fisheries management scheme for salmon and several other stocks in the Northeast Pacific, previously exploited by Canada and the United States—an agreement by which scientific determinations of sustainable yield would be honored, with Japan consenting to abstain from fishing for specified species or stocks being fished by the other two powers and determined to be at maximum yield. The convention gave protection to the fishing interests of Canada and the United States, and to that degree it did advance significantly the application of sustainable management practices for salmon and other important fish stocks in the Northeast Pacific. Ironically, under the terms of the agreement, Japan was left free of any treaty-based legal restraints when it turned immediately to full-bore expansion of its distant-water marine fisheries enterprises in all other major ocean fisheries areas of the world. These distant-water fishing efforts thus went forward largely without self-imposed sustainability-oriented controls by Japan and entirely without multilateral regulation for protection of the natural resources that came under exploitation.

The long-term result of the occupation's restoration of Japanese industrialized whaling operations was to enable Japan to contribute to the notorious depletion and endangerment of whale stocks in Antarctic and Pacific waters. This occurred because the occupation had positioned Japan, as a member of the International Whaling Commission (IWC), not only to exert its influence against conservationist measures (as it continues to do today) but also to legitimize its professedly "scientific" whaling activities outside the quotas of the IWC. Japan's aggressive stance on whaling has not softened as decades have passed; and its "scientific" take of whales continues even now.

The implementation of sustainability goals in post-conflict Japan was in key respects unlike other post-conflict situations that are the subject of companion studies in this book. A major difference was that, although the Japanese economy had been decimated by war's end and new pressures on food supply were caused by the return of the defeated armed forces and civilians who had resettled in Japan's imperial colonies, the occupation authority did not have to deal with civil conflict, tribal claims and rivalries, or a threat posed by armed militias or their equivalent. On the contrary, the occupation authority's control of civilian life was comprehensive, strongly administered, and largely accepted by Japan's new political leadership without potentially revolutionary popular resistance. Democratic governance was introduced quickly, under the new 1946 Constitution of Japan, although the authorities did have to cope with significant instability owing to sharp ideological, class-based, and interest-group conflicts—but even these serious tensions were expressed politically and, on the whole, were well contained within the new mechanisms of the political system. Moreover, even



Notes: The Yellow Sea is also known as the West Sea. The Sea of Japan is known as the East Sea (in South Korea) and the East Sea of Korea (in North Korea). In the Philippines, the South China Sea is known as the West Philippine Sea.

though occupation officials steadily yielded an increasing range of authority to the elected Japanese government, MacArthur's headquarters exerted continuous influence through the technique of robust "guidance," in addition to reserving a veto power over high-level policy and the legislative processes in the Diet, Japan's bicameral legislature.

Also distinguishing Japan's situation from others where protracted internal conflict had depleted and degraded natural resources was the fact that the resources in question—the fish and whale stocks—had not been damaged by the conflict; indeed, the diversion of labor and effort to wartime military and naval activities had effectively lessened or eliminated the pressure on the fish and whale stocks. What had to be achieved, and was quickly done, was to restore the capacity to exploit these resources. Whether the exploitation would give priority to the objective of sustainability, or instead would be pursued without regard to long-term sustainability of the resource, was a matter on which the occupation authorities sought to give specific direction. Yet for a variety of reasons, not least being the rapid restoration of Japanese sovereignty over this as well as all other issues of national policy, only a fraction of the sustainability objectives that had initially appeared to constitute a feasible reform program were achieved.

IMPACT OF WORLD WAR II ON JAPAN'S FISHING INDUSTRY

In the years preceding World War II, Japan was the world's leading marine fisheries nation, accounting annually for 20 to 25 percent of the global harvest from ocean waters. The Japanese fishing industry employed more than 1.5 million workers during the 1930s, using more than 350,000 fishing vessels, and was a major source of economic activity in coastal regions. Japan maintained significant coastal fisheries, but it was also a major player in global deepwater fishing as the country's fishing fleets operated in areas that reached into Soviet offshore waters to the north, to many areas in the western Pacific, and off the coasts of Mexico and South America. The fishing fleets had also followed the Japanese military conquests in East Asia, operating intensively in Korean and Chinese coastal waters. The Japanese had been criticized in the 1930s for their aggressive overfishing tactics and disregard for systematic management for sustained yield. Japan also had won notoriety for its unrestrained Antarctic whaling methods, which flouted self-imposed limits adopted by other whaling nations, and for withdrawing in 1941 from the multilateral North Pacific Fur Sealing Convention, which had been in operation since 1911.

Wartime devastation brought low the Japanese fishing industry, with the loss of more than half of the tonnage of the country's deepwater fishing fleet. The remaining fishing vessels and equipment were left largely in poor condition. Moreover, the home population faced severe food shortages in the immediate post-conflict period, and fish was a highly important source of protein for the Japanese consumer. As Supreme Commander, MacArthur began his oversight of the occupation at a moment of extreme uncertainty. The dissolution of the wartime government and the destruction of the fishing fleets posed grave challenges for resource management in the near term. And many of the Allied powers, aggrieved as they were by Japan's aggressive fisheries policies in the pre-war period, urged SCAP to constrain Japanese access to distant waters and to impose upon the defeated power a new (conservationist) paradigm in fisheries management.

The post-conflict resource management picture was complicated, however, by the diversity of actors involved. These actors included not just MacArthur and the SCAP administration operating in Tokyo, but also policymakers in Washington and other Allied nations, as well as their counterparts in the Japanese government. Also influential were the members of the carryover Japanese bureaucracy responsible for regulating the Japanese fishing industry and other leaders within the fishing industry. These various parties approached the post-conflict occupation period with differing expectations and goals, and these goals evolved over time. Their policy differences were complicated further by disparities in power, access to organs of policy reform, and legal status of the various actors.

EVOLUTION OF POST-WAR FISHERIES AND WHALING POLICIES

There were three somewhat overlapping stages of policy with regard to fisheries resources during the occupation years from 1945 to 1952. Initially, from 1945

to 1946, priority was given to alleviating severe protein shortages by reopening coastal fisheries. Hence, SCAP placed priority on the rebuilding of the Japanese fishing fleet, allocating fuel and scarce materials to the construction of both small and large modernized fishing vessels. In 1946, MacArthur also authorized and underwrote the reintroduction of Japanese whaling in Antarctic waters, a move hotly opposed—though in vain—by the other Allied nations. From 1948 onward, moreover, SCAP justified continuing expansion of Japan's distant-water fishing operations on grounds it would enhance the country's export earnings and help relieve the burden of occupation costs for the American taxpayer.

In a second policy phase, climaxing in 1949, SCAP successfully pressed for reforms that would complement the productivity push in fisheries policy. Occupation officials sought to develop a more progressive-minded bureaucracy, including experts in scientific fisheries management, and sponsored new teaching and research facilities. Most dramatically, in 1949 the occupation pushed through a radical democratization of the coastal fishing industry, reversing the centralized system imposed by the militarist regime in the pre-war period. Further SCAP reforms sought to reduce the environmental and cross-border political costs of excessive overfishing in coastal waters by instituting a variety of limitations upon the operation of coastal fishing vessels (these restrictions did not extend, however, to high seas fishing vessels).

The third policy stage, 1950 to 1952, embraced broadening objectives with respect to fisheries activities. One policy goal was to include the fishing industry as part of a larger effort to integrate Japan into the emerging international legal framework for trade, communications, and finance. Also, Japan's fishing industry and bureaucracy were asked to adopt policies that embodied prevailing scientific practices in fisheries management, which focused at that time on the principle of maximum sustained yield.

Japan's integration into international management schemes culminated in the country's accession to the IWC in 1951 and to the terms of the INPFC of 1952—the U.S.-Canadian-Japanese agreement for the Northeast Pacific that required Japan to abstain for a number of years from any fishing in the managed sector for salmon and other specified stocks.

Restoration of the Japanese fishing industry

In the early days of the occupation, SCAP fisheries policy was driven by a need to address vulnerabilities in the Japanese food supply and the unwillingness and incapacity of Allied nations to supply Japan with adequate replacement foodstuffs. Increasing fisheries production was recognized as a vital pillar of the peacebuilding process. Hence in September 1945, MacArthur expanded the fishing zone within which Japanese vessels were authorized to operate, extending the zone out to sea in the western Pacific beyond the strict twelve-mile limitations imposed initially (see figure 1 for Japanese fishing boundaries, after World War II). This zone expansion facilitated a profitable reactivation of larger fishing vessels and created employment for thousands of experienced deepwater fishermen,

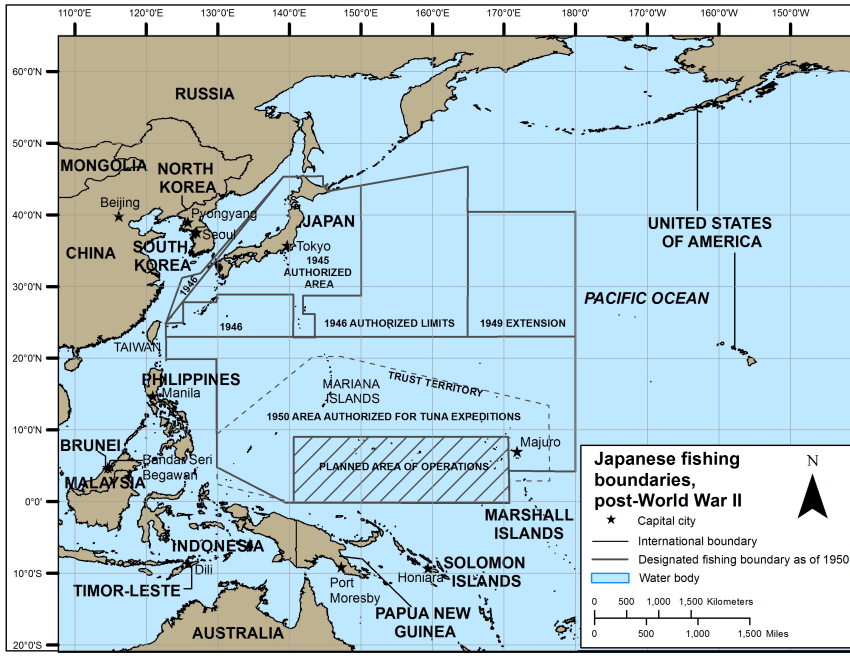


Figure 1. Japanese fishing boundaries, post–World War II

Source: Supreme Commander for Allied Powers files, U.S. National Archives.

Notes: The Trust Territory included a large expanse of territory in the western Pacific Ocean that was administered by the United States as a UN trusteeship following World War II. As the UN-appointed administrator of the area, the United States oversaw activities in the Trust Territory, and under this jurisdiction, monitored and carried out military actions within the Planned Area of Operations. The Planned Area of Operations was the area designated for planned activities of the Supreme Commander for Allied Powers—in this instance, for possible expansion of waters authorized for Japanese fishing operations. The area remained under control of the U.S. Navy, which then was forbidding any operations there by Japanese vessels. Governance of the territory was based on the Code of the Trust Territory established in 1952. Administration of the area by the United States continued until 1986. The United Nations dissolved the Trust Territory in 1990.

many of them returned war veterans. Further expansions of the fishing zone followed, and by 1949 production from the enlarged zone had reached 80 percent of the pre-war Japanese harvest.

The priority given to shipbuilding, including materials allocations by SCAP and preferential loans by the central government, impelled a rise in tonnage of Japan's fishing fleet from 46,000 in 1946 to more than 1 million by 1948. An intentional side benefit of this prioritization was that it strengthened the productive capacity of Japanese shipyards and thus enabled the rebuilding of the Japanese merchant fleet in the late 1940s. At the same time, it frustrated the ambitions of Australia and other Allied nations to have the shipyards dismantled and turned over to them as war reparations. These governments generally favored strict limits on Japanese distant-water fishing and whaling; they were concerned about uncontrolled competition from Japan in the exploitation of their offshore coastal resources as well as high seas fisheries.

General MacArthur and other SCAP officials defended the SCAP whaling program as a matter of justice as well as a key element for reconstruction. However, Allied observers on whaling expeditions reported that Japanese whalers concentrated on maximizing their yield of meat and blubber at the expense of the yield of oils, and they objected to Japan's persistent targeting of young whales. SCAP vigorously asserted its will nonetheless; when the occupation ended, Japan's whaling industry was in a strong competitive position internationally, both in terms of its vessels and skilled work force, and with respect to its assured legal position in the whaling regulatory system.

Beyond the need to withstand criticism from the Allies, SCAP fisheries policy also had to confront its own success in the form of severe resource depletion within the authorized zone. Within three years of the 1946 expansion of SCAP-set boundaries, the heavy fishing efforts by Japanese vessels in the East China Sea resulted in a drastic drop in harvests. Overexploitation of fisheries resources in the authorized zone threatened the future viability of Japan's fishing industry and amplified voices critical of SCAP policy among Japan's neighbors. In the end, SCAP compromised by imposing on the Japanese a policy of relocating fishing away from the East China Sea, where depletion threatened to throw both the fishing industry and marine ecosystem into crisis. SCAP then turned westward and southward to expand the authorized zone on the high seas.

Having achieved its objective of domestic food security, SCAP justified zone expansion as the means for Japan to generate export earnings, providing new dollar revenues for the weakened Japanese economy and in turn reducing the financial burden of the occupation for the American taxpayer. In a shift of policy, high seas tuna fisheries became one of Japan's most lucrative export industries in the later years of the occupation, responding to an extraordinary rise in demand in the American consumer market. SCAP also encouraged the opening of permanent trade offices for Japan in several American cities to expedite the exportation of Japan's fish products and, later, textiles to the United States.

While resource sustainability issues polarized the Allied nations and inflamed the passions of Japan's neighbors, the resurgent fishing industry may have played a substantial role in preventing the outbreak of internal political conflict. Rising fish harvests also counterbalanced black market price pressures on food products. In subsequent stages of SCAP fisheries policy, the production-maximizing attitudes of SCAP officials hardly diminished. Yet the pro-industry voices in SCAP would be partly counterbalanced by the commitment of natural resource experts in the occupation authority to achieve genuine reforms in Japanese fishing law and practice.

Domestic legal reform and the democratization of the coastal fishing industry

While SCAP prioritized economic recovery and support to the fishing industry in the first three years of the occupation, SCAP's civilian experts never formally

abandoned the project of fisheries law reform. Indeed, the chief fisheries officer at SCAP, William Herrington, had maintained from the early days of the occupation that fisheries reform was necessary from the perspectives of resource sustainability, long-term health of the Japanese fishing industry, and the goal of normalizing Japan's relations with foreign nations. Occupation officials thus pursued a coordinated policy approach that prioritized both full utilization of the fishing fleet and acceptance of scientific fisheries management by the Japanese government and industry.

Beginning in 1948, this vision for the long-term future of Japanese fisheries became clear, as the SCAP Fisheries Division articulated in public statements its plan for reforms. The essence of the plan was to incorporate into Japanese fisheries policy a model of fisheries management already being applied in certain areas of Northern Europe and the United States—the model that made the concept of maximum sustainable yield (MSY) central to fisheries management. This model required a professionalized fisheries agency that would oversee regulation and coordinate research performed by scientists with training in biology and the dynamics of fish populations. Moreover, this plan involved a corporativist dimension derived from the model that the U.S. State Department was promoting domestically, consisting of a merger of public- and private-sector efforts. That is, fishing industry leaders and fisheries scientists would be jointly involved in developing regulatory programs designed to accomplish MSY—and at the same time to reduce the influence of politicians and nonexpert bureaucrats in the policy process.

While this approach to reform emphasized adoption of best scientific management practices being advocated in Europe and North America, it also had a practical political objective—namely, to advertise to the community of nations that Japan was no longer the predatory fishing power that it was commonly regarded as being. At the same time, a reformed Japanese presence in the waters of the SCAP zone would enhance the chances of gaining support for the readmission of Japan to global ocean fishing, on an equal basis with all other nations. SCAP made no secret of this objective, and occupation officials worked assiduously to promote in Washington the idea that Japan's return to distant-water fishing was a desideratum. In SCAP headquarters, this was seen as a policy imperative, integral to the achievement of occupation objectives.

The post-conflict governance of Japan was a hybrid institutional structure, involving SCAP control working in coordination with a progressively more autonomous civilian government (itself under SCAP tutelage). Occupation authorities faced a significant challenge with regard to the administrative implementation of reforms by the civilian government. This challenge derived in large measure from the remarkable perpetuation of the pre-war bureaucracy, including the great majority of its leadership and nearly all of the bureaucratic rank and file. Left alone by the purges of militarists conducted in the occupation's initial year, the bureaucracy tended to work in its established mode. Its personnel operated within largely the same ideological and administrative parameters as they had done under the militarist regime and even earlier: Japan's civil servants remained largely

faithful to established norms and attitudes. In the area of fisheries policy, this meant that the bureaucrats were wed to prioritizing the maximization of production and to the strategic expansion of their high seas fishing industry. They viewed scientific fisheries management principles with great suspicion as being a means for the Allies to quash potential competition from Japan in the high seas fisheries. Late in the occupation years, the bureaucracy in Tokyo seized upon SCAP's promotion of fishing for the generation of export earnings as their opportunity to integrate and coordinate the export-oriented planning, production, and marketing of fisheries products by all major segments of the fisheries and fish-processing industries.

The program for institutional reform was advanced significantly in 1948 by legislation establishing the Fisheries Agency within the Ministry of Agriculture and Forestry, presumably to enhance the influence of professional fisheries managers. But the agency's existence alone could not prevent powerful fishing interests from seeking to obstruct the process of resource policy reform. And without legal reform, even progressive bureaucrats would have little capacity to alter the practices of the Japanese fishing industry.

A more enduring achievement came in the form of the 1949 Fishery Law, passed by the Diet, which restored community fishing rights in coastal communities. The 1949 law created local cooperatives and federations of cooperatives, ending the reign of the pre-war fishing "associations"—organizations dominated by boss control under the influence of the militarist central government and overseeing thousands of tenant-operated fishing units. Consequently, tenant-operated fishing units were virtually eliminated by 1951. The newly established cooperatives were designed to achieve Herrington's goal of advancing democratization of coastal fishing rights. By mid-1950, some 4,721 cooperatives had been formed, with active membership of nearly 750,000 workers and owners. Each member of the cooperative had a single vote regardless of wealth. The law also authorized a flow of government loans to the villages to accelerate the transition toward community organization and to upgrade the coastal fishing fleet and its gear.

The 1949 law also provided for the expansion and development of fisheries research in Japan's national laboratories and universities, a measure seen at SCAP as a crucial prerequisite for training a new generation of scientists and managers devoted to sustainability principles.

Additionally, the 1949 law and complementary legislation enacted in 1950 (the Law for the Prevention of Exhaustion of Marine Resources) tightened the system of licensing for distant-water fishing. These laws vested authority in the Ministry of Agriculture and Forestry to order construction of new fishing vessels. Moreover, the ministry was authorized to order reductions in the size of fishing fleets (including the removal of older vessels from service) in areas where fishing yields were in decline and where it was assumed that dangerous pressure was being exerted upon the fisheries stocks.

SCAP officials pressed hard for these fleet reductions to be implemented. In consequence, Japan did reduce the number of fishing vessels operating in the outer coastal waters, the northern reaches of the East China Sea, and the Sea of Japan (known to South Koreans as the East Sea). Over a two-year period, some 30 percent of the trawling fleet's tonnage was taken out of operation in these areas. The actual result of the new policy, however, was much less than a 30 percent reduction in the intensity and production in trawler fishing, since the vessels retired from service were the oldest and least efficient in the fleet. (This foreshadowed a persistent feature of vessel retirement programs globally in many nations during later years: merely reducing tonnage or number of ships does not in itself guarantee a reduction of yields.) Meanwhile, the policies to scale back the fishing effort in the East China Sea expedited a sharp buildup of Japan's distant-water tuna and salmon fleets, as they took advantage of rich new export opportunities in the American market.

When SCAP officials recognized that monitoring and effective enforcement were essential for the success of any management reforms, they placed an increased focus on enforcement of boundary limits in 1949. Predictably, the bureaucracy proved sluggish in its implementation of the reforms, and the Japanese government failed to provide for effective enforcement of licensing restrictions. Moreover, declining yields and overcrowding of SCAP zone waters encouraged at least some Japanese vessels to slip over zone boundaries, causing serious conflict with the Republic of China (Taiwan) and the Soviet Union; clashes at sea resulted in deaths of Japanese fishermen and confiscation of vessels. Mindful that U.S. strategy for peacebuilding in East Asia could be seriously jeopardized by such incidents at sea, the U.S. Navy dispatched patrols to the East China Sea fishing area and to the areas outside Soviet waters, north of Hokkaido (Japan's second largest island and northernmost prefecture). In sum, when early achievement of the SCAP objective of inspiring the Japanese government to monitor and enforce fishing boundaries proved illusory, it was these naval patrols that restored some measure of orderly fishing operations and avoidance of further conflict at sea.

Concurrently with legal reform, SCAP sent Japanese industry leaders and government officials to consult with scientific experts and fisheries managers in the United States, and in the capacity of observers to international and regional meetings on fisheries policy. The consultations in the United States were explicitly meant to educate Japanese leaders in American principles of scientific fisheries management and corporativist policy processes. SCAP also sought to have the Japanese government send its most progressive-minded resource specialists abroad, in hopes that such international experience would strengthen their prestige at home. Yet even these strategies ran into stiff resistance, both among Allied nations and with the conservative senior Japanese bureaucrats. Allied nations were unsettled by SCAP's efforts to include Japan as an observer and participant in international agency meetings, fearing that inclusion would deprive the Allied powers of a valuable bargaining chip when it came time to conclude a formal peace

treaty. Internally, conservative Japanese elites in industry and government were suspicious of the newly appointed experts and administrators, often hampering their operations or even derailing their careers.

Building the international framework for fisheries development

With the outbreak of the Korean War in 1950, the balance of power between SCAP and the Japanese government began to shift heavily in favor of the latter—both because Japan was a staging area for Allied combat operations and because Japan's support was deemed essential for emerging U.S. and Allied security policies in Asia. The government, under Prime Minister Shigeru Yoshida, made effective use of the leverage that it had gained to push for greater autonomy from Allied control. Such assertiveness had a severely detrimental impact on fisheries policy reforms, at the same time that the Japanese industry and its champions in government were escalating their demands for restoration of high seas fishing rights on an equal basis with other nations. Additionally, even the fiercest Allied critics of the Japanese fishing industry, including the Australians and other Commonwealth powers, tempered their opposition as the Korean War accelerated, recognizing the political importance of aligning behind the U.S. position on Japanese economic recovery.

SCAP officials acted decisively in 1951 and 1952 to shape the international legal framework for the restoration of Japanese fishing rights, capitalizing on the political moment to structure Japanese participation in the international fishing arena on drastically better terms than seemed possible at the end of World War II. Moreover, SCAP sought to resolve these issues prior to the 1952 peace conference, recognizing the danger that Allied opposition might pose to the conclusion of the peacebuilding process during multilateral negotiations.

As the occupation went on, two major international developments involving Japanese fisheries policy took place: the 1952 ratification of the tripartite INPFC, and the preparation of Japan to join the IWC, which would enable Japan to become active in the shaping of IWC regulations but also subject to its rules.

Movement toward an early resolution of Japanese distant-water fishing rights began in earnest during the 1951 visit of John Foster Dulles as special U.S. envoy to meet with the Yoshida government about the terms of the prospective peace treaty. The Japanese fishing industry feared efforts (already begun) by Allied nations to write strict limits on Japanese distant-water fishing operations into the peace treaty. Similarly concerned, Japanese government officials promised to adopt stricter regulation of Japanese distant-water fishing for conservationist purposes, if the United States would commit to protection of Japanese fishing rights. Prime Minister Yoshida issued a public letter pledging Japan's voluntary abstention from fishing in other nations' territorial and coastal fishing waters, but specifying explicitly that the promise applied only to fisheries subject to maximum yield exploitation and a conservationist management regime. This letter in turn

mirrored the basic structure of the tripartite INPFC draft that was then being circulated for study among the governments of the United States, Canada, and Japan. The thrust of such voluntary abstention was to protect North American Pacific fisheries, as the United States and Canada had conservationist management programs in place in their salmon, halibut, and other fisheries.

The other Allied nations in the Pacific region were unable to benefit from such an abstention by Japan, under the INPFC principles, since they had not previously established conservationist management regimes. Although Yoshida was criticized in Japan for accepting such an abrogation of traditional freedom of the seas and compromise of Japanese fishing interests, in fact the abstention principle left Japan effectively immunized against pressures by other coastal nations (lacking conservation regimes in place) to keep the Japanese fleets out of their offshore fisheries in the period following the peace treaty.

The INPFC was important to the cause of sustainability in international fisheries relations since its terms provided for scientific management evaluated periodically by experts from the three state parties, and because the exclusion of Japan was made contingent on findings that a specific fish stock was not being exploited to the full extent permitted on the MSY principle. (In this sense, the agreement was also important historically because it presaged a key element of the regulatory approach and structure that would be incorporated into the 1958 Geneva Convention on Living Resources of the High Seas, and ultimately in the 1995 UN Fish Stocks Agreement.) While the INPFC commitment to sustainability gave some protection to fish stocks in Northeast Pacific waters, the agreement did little in immediate terms to protect the fishery interests of other nations against the expansionist designs of the Japanese fleets.

One self-proclaimed achievement for SCAP officials was the preparation of Japan to become a signatory to the IWC, which it did in 1951. While the inclusion of Japanese whaling vessels in Antarctic expeditions had done much to galvanize Allied opposition to SCAP reform policy, SCAP officials saw Japan's accession to the IWC as evidence of the success of the occupation authority's reform agenda. SCAP also hailed the inauguration of a Japanese scientific program for the study of whale populations. These ostensible achievements, however, proved but a prelude to lax IWC regulation that accommodated a devastating expansion of intensive Antarctic whaling, including prominently the operations of Japan's whaling fleets.

FACTORS AND CONSTRAINTS AFFECTING OUTCOMES

Post-war fisheries policy reforms in Japan yielded decidedly mixed outcomes. While the Japanese fishing industry exceeded its pre-war strength by the end of the peacebuilding process, when the peace treaty was concluded and the occupation ended in 1952, efforts to implement principles of sustainable resource management in Japanese fisheries were considerably less successful. There are several reasons why these outcomes occurred.

First, SCAP policy efforts in the early years of the occupation were almost exclusively concentrated on rebuilding the Japanese fishing industry for domestic consumption and export trade. If the policy had sought to undertake serious reform efforts earlier in the process, sustainability principles might have been incorporated into all SCAP fisheries policies from the outset. However, even enthusiastic proponents of scientific management based in the SCAP Natural Resources Section had to accept the decision to prioritize Japan's economic recovery. Power disparities between SCAP and the Far Eastern Commission (which from its base in Washington, D.C., found it impossible to restrain or redirect MacArthur and the occupation) as well as asymmetrical power relationships between the United States and the individual Allied governments further limited the range of possible outcomes. The priorities decided upon in the White House, the U.S. cabinet departments, and SCAP headquarters were decisive and virtually beyond effective challenge. Moreover, the main thrust of most Allied objections to SCAP policies was not primarily conservationist; rather, the Allies wanted to slow down Japanese fisheries expansion, with permanent limits placed on the scope of both fishing and whaling activities for many years in the future.

Second, the reformist program dimension of SCAP fisheries policies was troubled by the very success of the initial economic recovery program that had quickly rebuilt capacity of the fleet. The extraordinarily rapid revival of Japan's coastal and distant-water fishing enterprises resulted in a dangerously overheated fishing industry by 1949–1950, and SCAP was faced with a situation that required expansions of the authorized fishing zone, that is, the expansion of Japan's operations in an ever-increasing range of distant waters. Fishing was not merely an important source of protein, but it was regarded by SCAP as a vitally important source of employment in the stressed Japanese economy of the occupation years. Promotion and protection of the fishing industry became a vital element in SCAP's economic reconstruction program and the larger peacebuilding process.

Third, the retention of a conservative bureaucratic elite hamstrung efforts by SCAP officials to enforce vigorously the reform laws, and in particular the regulations for operations at sea. The vision of an industry leadership dedicated to sustainability, working cooperatively with a refashioned bureaucracy composed of progressive, conservation-minded scientific experts, proved to be impossible in the changing political circumstances—especially once the Korean War began and the U.S. government began its determined push in 1949–1950 for an early peace treaty. Consequently, by the time serious conservation initiatives were undertaken that would affect the scope and nature of fisheries policy reform in 1949 and 1950, legal reform objectives and international scientific standards were pitted against a retrenched and fast-growing fishing industry.

The Japanese fishing industry was not monolithic; its several sectors had diverse priorities and interests. Nonetheless, the industry was largely united in exerting its political clout to retain, as much as possible, the traditional model of Japan's fishing policies, which favored expansion of fishing operations and rising production levels. The sustainability goals advocated by the SCAP experts

were given lip service but little more, except on the few occasions—such as the retirement of vessels and reduction of fishing effort in the East China Sea—when SCAP headquarters definitively decided on a new or revised policy that the Diet and cabinet had to accept. Such interventions were few in number and, over the entire course of the 1945–1952 period, of much less consequence than the economic support (complemented by a championing of Japan's fishing and whaling ambitions) that SCAP provided to the industry.

CONCLUSION

What can be learned from this experience of a defeated country, with a war-devastated economy, undergoing rehabilitation under control of an occupying power that ruled a mixed industrial-agricultural-fisheries economy and controlled a population that mounted no armed resistance to governance and management of its natural resources?

Several factors account for the obvious uniqueness, as compared to other experiences examined in this book, of the post-conflict situation in Japan. Among the most important factors were the social and cultural norms that colored the responses of the defeated population to the occupation authorities and the authorities' role in declaring the terms of resource management policy, and also the positive advantages of an experienced and administratively skilled Japanese bureaucracy, no matter how conservative the influence it might seek to wield. Of great importance, too, was the political stability resulting from the U.S. decision to retain the emperor while denying his divinity, while dismantling and transforming the hierarchical political and social structure and establishing the institutional and legal basis of a democratic constitutional order. Essential to the enterprise, moreover, were the vast fiscal resources that the United States was willing to invest in recovery policies.

Unlike experiences elsewhere, the post-conflict resource regime under the occupation in Japan was, at least initially, characterized by an effectively enforced command-and-control style. Although, as noted above, a multilateral advisory and policy-setting structure was established by the Allies in 1945, in fact General MacArthur operated with almost exclusive reference to U.S. government instructions on basic policy, and his SCAP headquarters was the locus of decision making at the very nexus of all operational implementation. The SCAP policies embraced the further and more basic objective of defending Japanese interests—in regard to marine fishing and whaling, but also more comprehensively—against the pressures from other Allied nations to reduce American support of rapid economic reconstruction in Japan and the country's participation in the emerging institutional order of the global economy. These pressures from governments that registered basic objections to the occupation strategies were fully defeated by U.S. intransigence until 1950, when the geopolitics in East Asia changed once the Korean War began and U.S. policy became centered on obtaining maximum possible consensus for the peace treaty and its terms.

The experience of Japan in the post-war period was thus highly fact-specific, rooted in a rapidly evolving environment of Cold War geopolitics, and with the United States in the controlling position of guiding policy formation and action by SCAP. The number and importance of such clearly unique elements are a reminder of the perils of seeking to form generalized principles from this complex historical period.

Still, admitting the historically contingent elements of the occupation, there are several lessons that can perhaps be taken from the case of occupied Japan with regard to resource management policy in post-conflict situations.

Balancing long-term objectives against short-term imperatives

It is desirable that economic recovery policies based upon resource exploitation should be explicitly counterweighed by sustainable resource management. Failure by the ruling authority in Japan to articulate from the outset the norms and advantages of resource conservation and sustainable use diminished the effectiveness of reform advocacy at a later time. The obligation to preserve a resource heritage for use by future generations is, no doubt, a "hard sell" in a crisis situation when food and material shortages, let alone a possible breakdown of social order, dominate policy making. Still, the values of resource conservation and the need for scientific management, with explicitly defined sustainability goals, need to be integrated into policy (and highlighted in the rhetoric of leaders and policymakers) in the earliest stage of peacebuilding. As to the specific regulatory approach, clearly defined limits informed by scientifically defensible judgments should be placed upon the allocation of labor and capital of industries that intensively exploit resources, and on the operations of these industries.

The successful 1949 coastal fisheries rights reforms in Japan suggests that where an indigenous tradition exists that reflects commitments to sustainability and conservation, it can be revitalized and incorporated into the overall strategies of the resource management regime. When, however, unregulated resource exploitation is adopted in order to assure short-term political stability, the political gains that advance the peacebuilding process may well involve a long-term cost of environmental degradation and political instability arising from overproduction and possible collapse of the primary industries involved.

The bureaucratic dimension

The existence of an entrenched bureaucracy in a post-conflict country can enhance stability and expedite coordination of resource management policy, but the enduring pre-conflict ideology among civil servants in such a bureaucracy can be an intractable obstacle to reform. The Japanese fisheries bureaucracy revealed in the post-conflict period the same mistrust of any policy for sustainable management of fisheries resources beyond the coastal area that it had manifested in

the pre-war period. Mere reorganization of the bureaucracy under the Fisheries Agency, with the installation of a few progressive officials, did not alter the conservative, output-maximizing orientation of the bureaucrats who survived the war and the purge of 1945–1946. This produced serious problems for the implementation and enforcement of legal reforms, and it required frequent interventions by SCAP officials to guide the reform process. Moreover, because of the early focus on economic recovery, the entrenched bureaucracy—having embraced fully the work of promoting revival of the marine fishing sector—was in a position of sufficient political strength to mount significant resistance to later reform efforts. In any post-conflict peacebuilding effort, sensitivity to the possibilities of such hostility to reforms from a carry-over bureaucracy and concern with the internal politics of the civil service is essential. It is presumably advisable to carry forward institutional restructuring at the same time as new substantive policies for resource management are being put in place.

Despite the strength of the post-conflict regime, SCAP officials charged with natural resources administration were unable to achieve more than very attenuated success in selling the Japanese marine fishing industry and government officials on the basics of sustainable fisheries policy and scientific management. Ironically, these officials completely succeeded in restoring the fishing and whaling sectors of Japan to their pre-war areas of activity on the high seas and to pre-war levels of production. Despite efforts at vigilance on the part of SCAP resources officers, the reliance on the civilian government bureaucracy to enforce sustainability policies (however rudimentary) did much to undermine policy goals.

SCAP policies and their outcomes were much more promising with regard to the historic coastal fisheries and fishing communities. Artisanal and near-coastal marine fisheries were subjected to deep structural reforms, dismantling the 1930s' centralized regime that had disenfranchised small operators. Like the land reforms, the substantial restoration of traditional fishers' rights in coastal communities, and the organization of cooperatives, constituted one of the occupation's most celebrated achievements in moving Japan toward a more democratic distribution of economic resources and decision-making authority.

Although occupation officials' efforts to promote sustainable resource management to Japanese industry and bureaucracy were in large measure frustrated by conservative resistance in the government and industry stratagems, a dramatic increase in scientific research capacity was achieved by SCAP during this same period. New and improved fisheries research facilities, strengthening of fisheries sciences education, and mentorship of the newer generation of fisheries management officials were the instruments of some significant change in this regard. The SCAP natural resources officials also believed it essential to bring Japan integrally, and as an equal, into the institutions created as infrastructure for the post-war legal and economic order. This newly instituted infrastructure included the IWC, re-established in 1946; the U.S. government insisted upon the admission

of Japan to the IWC to complement the occupation's controversial revival of Japanese industrial whaling in the Antarctic and Pacific waters.

The balance sheet on multilateralism

The advantages and costs of multilateralism need to be assessed in the design of post-conflict interventions. In occupied Japan, SCAP's dominance over the policy-making process gave General MacArthur enormous discretion in prioritizing administrative actions in pursuit of various policy goals, to the detriment of the Allied governments that had a stake in the outcomes of occupation policies. If SCAP had been more concerned in accommodating the interests and demands of the several Allied partners most deeply interested, the imposition of well-designed and strongly administered policies for fisheries sustainability might well have been the result. This is not to deny that authentic multilateralism in administration of post-conflict situations can all too easily have negative effects as well. Indeed, the intransigence of SCAP and the U.S. government in resisting Allied demands for a more restrictive approach to Japanese fisheries expansion reflected the larger policy of resistance by SCAP and the United States to the demands of Australia, New Zealand, the Philippines, and China for a much harsher, thoroughly punitive approach to the treatment of the Japanese population and its economic recovery ambitions in the post-conflict years.

LOOKING BACKWARD ON THE RESULTS

In the time that has passed since the end of military occupation and restoration of full sovereignty in 1952, some unintended consequences have followed. Japan resumed its whaling practices in a manner disruptive to multilateral regulatory efforts—even within the limited constraints of IWC rules—that continues to this day. This is especially so given its industry's notoriously cynical actions under the scientific research exception. Even in the exclusive economic zone (EEZ), the Japanese government has done little to protect whale and dolphin populations, or even its own artisanal tuna fishing industry based in small coastal communities. Japan's policies on high seas fisheries sustainability have consistently resisted effective multilateral cooperation for sustainability or resource conservation, at least until eleventh-hour reversals as the result of intensive international pressures—as happened, for example, with Japan's initial (and long-sustained) opposition to the United Nations efforts that culminated in adoption of the large-driftnet ban and, later, the Fishery Stocks Agreement in the mid-1990s. The same holds true with regard to Japan's extended period of reluctance to become a party to the highly important Western and Central Pacific Fisheries Convention, a multilateral agreement signed in 2000 and designed to control overfishing of Pacific tuna under UN policy for multilateral regulation of high seas fisheries.

Long unreceptive to the most promising efforts at stopping illegal, unreported, and unregulated (IUU) fishing and the transfer at sea to the Tokyo market of

illegally harvested fish and whale products, Japan was discovered (and officially admitted) in 2006 to have been complicit in its fleet's drastic overfishing of the southern bluefin tuna, to the point where experts doubt now that the stocks will recover for decades, if ever. None of this is to say that other fishing powers have a clean record with regard to sustainability and respect for enforcement efforts. (On this point, one only has to recall the once-staunch resistance of nations other than Japan to the imposition of a moratorium on whaling; the delay of many years on the part of the European Community nations and bureaucracy to act effectively against IUU fishing and, more generally, the overfishing problem; and, most recently, the refusal of some major European fishing powers to accept a moratorium, or even effective quotas, for protection of the threatened Atlantic tuna). In sum, Japan took full advantage of the benign occupation policies to regain its prominent role in global fishing, and has now taken full advantage of the fragmented, largely ineffective, and in some regards chaotic condition of the international regulatory framework.

From a broader perspective, however, rather than focusing only on Japan's record, one must weigh the almost universal failure of the fishing regimes of the coastal nations, since the signing of the UN Convention on the Law of the Sea, to protect and successfully sustain the most valuable fish stocks within their EEZs. And on the high seas, factors such as the rise in use of flags of convenience in marine fishing, the noncompliance with multilateral regulatory regimes by non-member state flag vessels, and the outright evasion of regulation and control by fishing vessels of any ownership or flag are of fundamental importance as sources of the IUU problem that now plagues so many fishing areas on the world's oceans. Japan has been only one actor among many in the perpetuation of many of these problems, and only one among many in resisting—though in important instances, reversing course to support—effective multilateral solutions.

ADDITIONAL SOURCES

Although the following materials were not cited, they have been listed here since they complement the main source—Harry N. Scheiber, *Inter-Allied Conflicts and Ocean Law, 1945–53: The Occupation Command's Revival of Japanese Whaling and Marine Fisheries* (Taipei, Taiwan: Institute of European and American Studies, Academia Sinica, 2001)—and have contributed to the conceptual development of the chapter.

Cohen, T. 1987. *Remaking Japan: The American occupation as new deal*, ed. T. Passin. New York: Free Press.

Dower, J. 1999. *Embracing defeat: Japan in the wake of World War II*. New York: W. W. Norton.

Scheiber, H. N. 1986. Pacific Ocean resources, science, and law of the sea: Wilbert M. Chapman and the Pacific fisheries, 1935–70. *Ecology Law Quarterly* 13:381–534.

———. 2004. Japan, the North Atlantic Triangle, and the Pacific fisheries: A perspective on the origins of modern ocean law. *San Diego International Law Journal* 6 (1): 27–112.

Scheiber, H. N., K. Mengerink, and Y-H. Song, 2007. Ocean tuna fisheries, East Asian rivalries, and international regulation: Japanese policies and the overcapacity/IUU fishing conundrum. *University of Hawaii Law Review*, 30:97–165.

Scheiber, H. N., and A. Watanabe 2010. Occupation policy and economic planning in postwar Japan. In *Economic planning in the post-1945 period*, ed. E. Aerts and A. S. Milward. Leuven, Belgium: University of Leuven Press.