

Declaration lacks legal power

Written by Coen Blaauw
Friday, 06 December 2013 07:44

I was intrigued by the article about a conference on Sunday to commemorate the 70th anniversary of the Cairo Declaration (“Declaration ‘intended to return Taiwan to ROC,’” Dec. 2, page 1).

“It is a ‘very big mistake’ to think that the Cairo Declaration was only a press communique. Both the US and Japan have included the Cairo Declaration, the 1945 Potsdam Declaration and the 1945 Japanese Instrument of Surrender in their official collection of treaties,” President Ma Ying-jeou (馬英九) said at the conference in Taipei, adding that all three documents are legally binding.

I do not know about Japan, but the US has definitely not included the Cairo Declaration in its official collection of treaties. How do I know that? Because an assistant archivist for records services at the US National Archives, where the declaration is held, wrote to me: “The National Archives and Records Administration has not filed this declaration under treaties... The declaration was a communique and it does not have [a] treaty series (TS) or executive agreement series (EAS) number.”

It is true that the declaration was more than a press communique, but it was not a treaty.

So what was it?

It was a “Declaration of Intent.” Nothing more, nothing less.

This “Cairo Declaration of Intent” was created in Cairo at a meeting on Dec. 1, 1943 between Winston Churchill, Franklin Roosevelt and Chiang Kai-shek (蔣介石), and has been used for the past 70 years by China and Taiwan as a wafer-thin legal foundation for their claims that Taiwan is part of China.

The reality is that although it was important at that time, the declaration does not have any legally binding power allowing Taiwan or China to derive to any territorial claims.

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Source: [Taipei Times - Letter 2013/12/05](#)