

# Historical International Court of Justice

*São Paulo Model United Nations 2018*



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# INTRODUCTION

Dear Delegates,

We, the chairs of the historical ICJ committee are here to present ourselves before this committee to emphasize the value of international debate in achieving solutions to the most pressing global issues. As your chairs, we will always have high expectations on the level of debate from the delegates. We are aspired to see vibrant and well-constructed debates, up to discretion, from all the country assigned. The Historical ICJ will strive to achieve the maintenance of peace and security on an international scale and we are thrilled to see all of you meet this goal.

If there are any inquiries, please do not hesitate to consult with us.

Best of luck,

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## **SCOPE OF THE COMMITTEE**

The International Court of Justice is the principal judicial organ of the United Nations founded in 1945 by the UN charter. The committee works to settle legal disputes between member states and to give advisory opinions to authorized UN organs and specialized agencies. The ICJ is composed of fifteen judges elected by the General Assembly and Security Council from a nomination list and all 193 United Nations members are automatically parties to the court's statute.



*International Court of Justice*

[https://en.wikipedia.org/wiki/International\\_Court\\_of\\_Justice](https://en.wikipedia.org/wiki/International_Court_of_Justice)

## PROCEDURES OF THE ICJ

The procedures of International Court of Justice (ICJ) differ from the average Model UN committee. As a result, we have prepared a list of procedures below that delegates should follow at all times. In addition, here is a link for the [Rules of Court](#) inside the committee.

1. Opening Statements (Opening Speech) - The President and Vice-President will present the case to the Court. The session of the Court will be declared formally open by the President after the presentation. Then, the Judges present their general legal opinions on the case in alphabetical order.

3. Preliminary Round Table Discussions (unmoderated caucus) - This time is meant for informal discussions about the case, with a time limit of an hour and a half. This time may be used to discuss the relevant legal issues with other judges and to prepare a list of questions to be resolved. Thereafter, once debate commences, a judge may be added to the speaker's list only by passing a written request to one of the chairpersons. After the judge finished his/her speech, the judge may add himself to the speaker's list again by passing a written request to one of the chairpersons. The speaker's list will be continuously open.

4. Deliberations The Court will have an opportunity to discuss the case. The Court should try to agree on the facts and the legal issues to be resolved. This is also the time when Notes are drafted by the judges. The Court will proceed following a speakers list and by motioning for moderated caucuses or suspension of the meeting. All motions will be accepted at the discretion of the President.

5. Formal Deliberations After the introduction of a Note, the Court moves to Formal Deliberations to discuss it. During this time, no new Note may be presented. Questions can be posed and judges will justify their positions. This is an important opportunity to influence members of the Court who are not in favor of the Note. The Court will proceed following a newly-composed speakers list and by motioning for moderated caucuses and suspension of the meeting. All motions will be accepted at the discretion of the President. Formal Deliberations are closed, as soon as a motion to Vote for Judgment passes.

(Procedure taken from the official document of MUN ICJ procedure)



*An Italian Black shirt unit is being reviewed by Marshal Rodolfo Graziani on the Ethiopian-somaliland front*

<https://www.timesofmalta.com/articles/view/20160313/life-features/The-Italian-invasion-of-Abyssinia-and-the-situation-in-Malta-in-1936.605533>

## Topic A: Italian Invasion of Abyssinia

## CASE INFORMATION

### *Note of Court Date*

The court session will take place in 1945, when the International Court of Justice was founded. It is important to note that the ICJ was actually founded after the invasion occurred, however, it wasn't until 1947 (two years after the organization was founded), that Ethiopia gained independence from Italy. This means that when the debate occurs, Ethiopia will still be under Italy's control.

### *Aims of the Court*

The aim of the court is to decide which party (Ethiopia or Abyssinia) is the aggressor of the conflict and the appropriate consequences that should be imposed on the aggressor. In addition, the court will decide if the attack was a

## BACKGROUND INFORMATION

Throughout the 19th century and part of the 20th century, many European superpowers, such as Germany and Italy, were trying to expand their territory and establish colonies in countries such as those in Africa. After the unification of Italy, the Kingdom had desires to expand their territory and occupy countries such as Abyssinia (Ethiopia), which had not yet been colonized. Italy had attempted to conquer Abyssinia in 1896, however they were defeated.

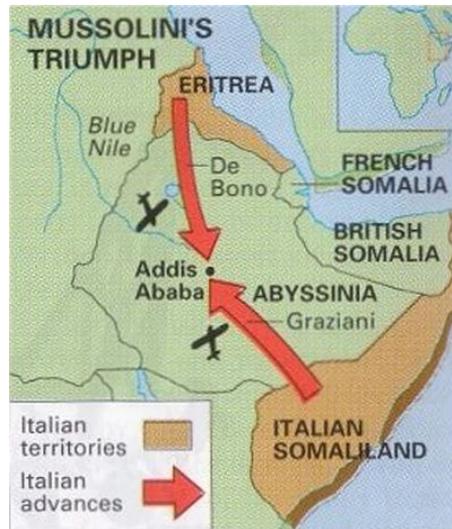
In 1922, however, Mussolini became the prime minister of Italy and had the objective of expanding the country's territory, which also meant trying to occupy Abyssinia. Since there were domestic political difficulties in Italy during the 1930s, by invading Abyssinia, Mussolini was hoping to draw away attention from such issues. Besides this, Abyssinia did contain mineral resources and land for unemployed Italians. Also, Italy did not have as many colonies as other European nations, so this way they could expand their international presence. However, the Kingdom already did have some colonies in Africa, such as Italian Somaliland and Eritrea, which bordered Abyssinia.

Another important thing to note is that Italy was part of the League of Nations, an intergovernmental organization founded in 1920 (after World War 1) whose main goal was to maintain world peace (like the United Nations). The Abyssinia crisis, which will be discussed in the next sections, did show the weakness of the organization.

### *Abyssinia Crisis*

On August 2nd, 1928, the Italo-Ethiopian Treaty of 1928 was signed between Italy and Abyssinia. The treaty did establish friendly relations between the two nations and set the border between Ethiopia and bordering Italian Somaliland as being 21 degrees parallel to the

Benadir coast. In reality, Italy had no intentions of respecting the treaty in the near future as they wanted to invade Abyssinia.



*A map which shows Ethiopia and Italian Somaliland*

[http://web.mit.edu/cascon/cases/case\\_sek.html](http://web.mit.edu/cascon/cases/case_sek.html)

In 1930, the Italians constructed a fort at the Walwal Oasis, located in the Ogaden desert, which was on the border between Ethiopia and Italian Somaliland. In November of 1934, the Ethiopian Military arrived in the area and asked the Dubats (Somali troops which worked for the Italians) stationed at the fort to immediately leave. However, they refused to leave and alerted the commander of a fort nearby.

The following day, an Anglo-Ethiopian boundary commission (consisting of both British and Ethiopian members) and Italian troops arrived at the fort. The boundary commission sided with Ethiopia, however, in order to avoid an incident, the British members left the area. However, Ethiopian members of the commission remained at the fort.

In the following month, there was a conflict between both sides (Italian troops and Ethiopian troops) which resulted in over 150 deaths. As a result, on December 6th, the Emperor of Ethiopia spoke out against the aggression and requested compensation from Italy.

As a result of the actions taken by Italy, in January of 1935, Ethiopia went to the League of Nations for arbitration of the dispute. The organization decided to exonerate both parties. Over the next few months, Italy kept increasing tensions in the area through their actions (e.g. mobilizing troops) and the two parties constantly had to go to either the League of Nations or The Hague for arbitration.

Between January and October of that year, there were two significant events. Firstly, the Franco-Italian Agreement of 1935 was signed on January 7th. This agreement gave Italy control of French Somaliland and also allowed Italy to take control of Ethiopia without any resistance from France. The reason the French signed this agreement was because they were hoping that Italy would provide military support against Germany. Another notable event

would be when in June 1935, the United Kingdom tried to broker a peace deal between Italy and Abyssinia. The attempts were ultimately unsuccessful.

Finally, on October 3rd, 1935, Abyssinia was invaded by the Italian military. The Italian government did not declare war so as a result, the Abyssinian government did. This started a war known as the Second Italo-Ethiopian War. A few days after the start of the war, on October 7th, 1935, the League of Nations did recognize that Italy was the aggressor in this situation and started to impose sanctions on the nation. However, the big idea is that the League was ineffective at ensuring peace since such a conflict broke out on their watch. The conflict continued to be ongoing since Ethiopia never officially surrendered. It wasn't until September 15th, 1947, when the Treaty of Peace with Italy was signed, that the conflict finally ended. However, until the treaty was signed, Ethiopia was under Italy's control.

## **Position of Major Countries & Blocs**

### **Abyssinia (Ethiopia)**

Abyssinia was conquered by Italy in October of 1935. The country was against the invasion and would hope for consequences to be taken against Italy. They would also want their land back.

### **Italy**

As the Kingdom of Italy was ruled by a fascist leader, they ended up practicing imperialism which meant conquering other nations. As mentioned in the previous sections, the nation invaded and occupied Abyssinia. Even though the League of Nations did exist at the time, one of the reasons they were able to conquer Abyssinia was because other nations turned a blind eye. However, to summarize, in this case, Italy was the “instigator” of the conflict.

### **United Kingdom**

During the period of the invasion, the United Kingdom sided towards Ethiopia in certain situations, however, overall, turned a “blind eye” on Italy’s activities. For example, they reaffirmed Ethiopia’s territory during the Walwal incident, however, they didn’t prevent the invasion from occurring since they turned a blind eye.

### **France**

Even though France did not necessarily “approve” of the invasion, during this period of time they turned a “blind eye” on Italy. In fact, they signed the Franco-Italian Agreement which allowed Italy to invade Abyssinia. In general, France was looking out for their own interests, meaning that they supported Italy since they were hoping to receive help to fight against Germany.

## TIMELINE OF EVENTS

**August 2nd, 1928:** The Italo-Ethiopian Treaty of 1928 is signed between Italy and the Ethiopian Empire (Abyssinia). An important aspect of the treaty is that the border between Ethiopia and Italian Somaliland is established as being 21 leagues parallel to the Benadir coast.

**1930:** Italy builds a fort inside Ethiopia's territory (beyond the agreed 21 leagues) at the Walwal Oasis.

**November 1934:** The Ethiopian Military arrives at the fort in Ogaden and asks the troops stationed there (working for the Italian military) to leave. The troops refuse to leave and ended up alerting Italian troops at a different fort. An Anglo-Ethiopian boundary commission arrived the following day and sided with the Ethiopians, however, British members left the area due to the arrival of more Italian forces (the British did not want to start a conflict).

**December 5th-7th, 1934:** A conflict between the Italian and Ethiopian troops at Walwal broke out which resulted in over 150 deaths. As a result, the Emperor spoke out against the aggression occurring and requested compensation.

**January 1935:** Ethiopia goes to the League of Nations for arbitration of the dispute that occurred (Abyssinia Crisis). A few days later, the Franco-Italian Agreement was signed between France and Italy.

**June 23rd-24th, 1935:** The United Kingdom unsuccessfully tries to broker a peace agreement between the two nations.

**October 3rd, 1935:** The Italian Military invades Abyssinia without declaring war which causes the nation to declare war on Italy.

**December 1935:** The Hoare-Laval Plan is secretly proposed but then subsequently dropped after citizens learned more about the plan.

**1940:** Italy is control of  $\frac{3}{4}$  of Ethiopia

**September 15th, 1947:** The Treaty of Peace With Italy is signed between Italy and Ethiopia, thus ending the war.

## GUIDING QUESTIONS

- Was the invasion against international law?
- Who was the aggressor in this conflict?
- Should the aggressor face any consequences?
- If so, what consequences should the aggressor face?
- Should Italy give up control over Abyssinia?

## DEFINITION OF KEY TERMS

**Italo-Ethiopian Treaty of 1928:** A treaty which was created in 1928 between Italy and Abyssinia. An important aspect of the treaty is that the border between Ethiopia and Italian Somaliland is established as being 21 leagues parallel to the Benadir coast.

**Imperialism:** a major part of fascist Italy; involves the practice of a nation invading or acquiring territory through military force, purchase of the territory, or diplomacy in order to expand their influence or power.

**League of Nations:** The League of Nations was a formal intergovernmental organization which was founded in 1920 and headquartered in Geneva, Switzerland. The goal of the organization was to maintain world peace, however, the crisis showed how ineffective the organization was. In 1946, the organization ceased to exist.

**Dubats:** The term used to refer to soldiers from Italian Somaliland which worked for the Italian government after World War 1.

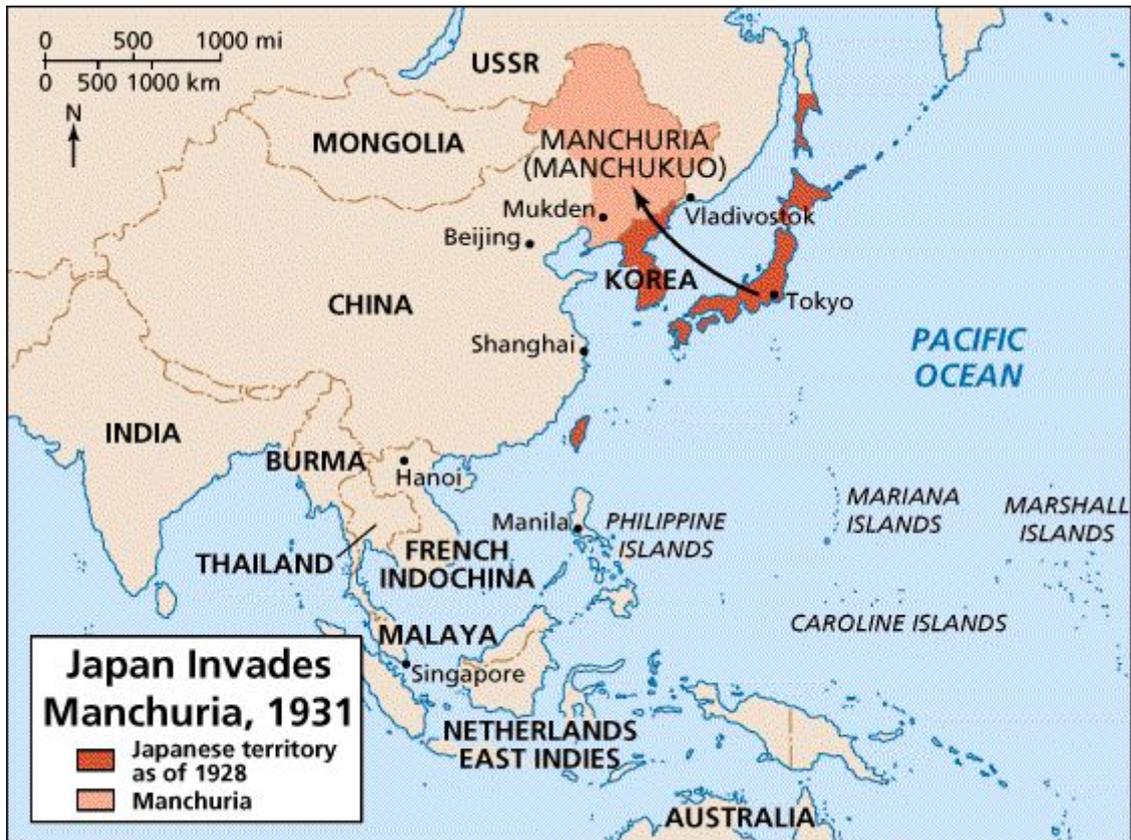
## FURTHER RESEARCH

- BBC GCSE Bitesize (Abyssinia and Manchuria)
  - <http://www.bbc.co.uk/schools/gcsebitesize/history/mwh/ir1/manchuriarev3.shtml>
- University of Montana Article
  - <https://scholarworks.umt.edu/cgi/viewcontent.cgi?article=9685&context=etd>
- Google Drive Folder With Additional Articles
  - <https://drive.google.com/drive/folders/18LfkCRo6LxZ6tkcQByOle7LqyZJJRVIT?usp=sharing>

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- "The League of Nations and the Italo-Ethiopian Conflict." University of Montana, University of Montana, scholarworks.umt.edu/cgi/viewcontent.cgi?article=9685&context=etd.
- Whittall, Daniel. "Colonial Fascism." *History Today*, vol. 60, no. 10, Oct. 2010, p. 44. EBSCOhost, search.ebscohost.com/login.aspx?direct=true&db=ulh&AN=54590633.

## Topic B: Japanese Invasion of Manchuria



*Invasion of Manchuria by the Kwantung Army of the Empire of Japan.*

<https://br.pinterest.com/>

### *Note of Court Date*

This court session is taking place after the Japanese Invasion of “Manchukuo”/ Manchuria (approximately in late 1932, early 1933), there is still uncertainty as to what are Japan’s future aims and objectives.

### *Aims of the Court*

This court aims to establish the responsibility of Japan in such invasion by accessing the reasons for the use of force and the possible justifications. It should also, if Japan is found guilty of such actions, provide for the adequate measures that should be taken against such state and any other that might have been allied in such actions.

## Japan's Background & Relations with China

Japan has always had a very militaristic past with its Samurai and Emperor history. In the late 19th and early 20th century Japan was one of the most technologically advanced countries in the East and by then had already fought many successful wars including one against China in respects to Korea (the Sino-Japan war in 1894-5) and one against the power nation that was the USSR, yet Japan was able to brutally defeat them (1905).

In that period Japan had also begun to increase its relationships with western nations but was often frustrated by their lack of cooperation and their sense of superiority. Japan was also a very fast growing nation expanding at a rate too fast for its small territory. That being said they saw “Manchukuo” as a area with lots of Natural resources and most importantly large territories to grow out their population.

After the First world war Japan grew significantly in military and political power as they had presented China with a long list of demands and were able to seize several Chinese ports for their use. They had also acquired territory from Germany and had annexed Korea.

However, recently (1929) had also been suffering at a cause of the Great Depression that reduced their exports to the West. This had caused severe unemployment and contraction of the Japanese economy (20% decline of GNP in 2 years). Japan was facing severe political unrest which was proving the inefficiency of their government. at this point the Kwantung Army, who were stationed in Liaodong Peninsula believed that controlling Manchuria was essential to for Japan's long-term needs.

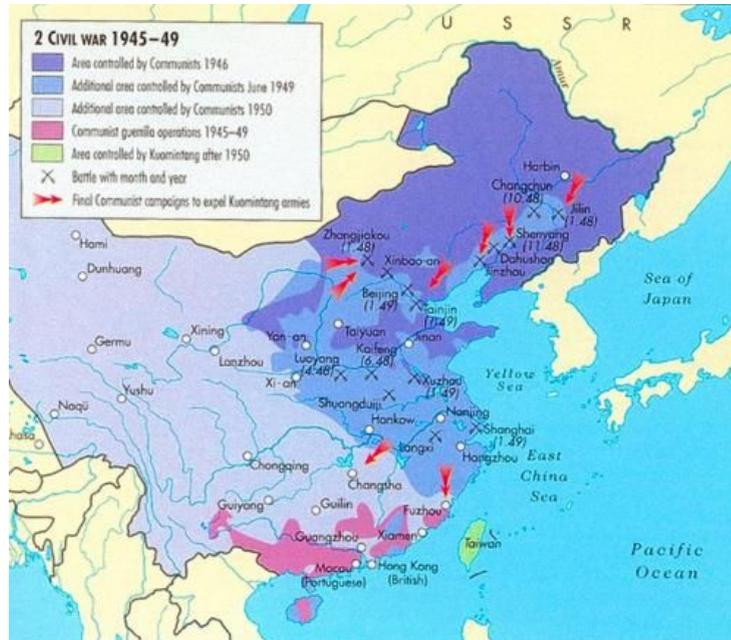


*Japan: The “Return to Militarism”*

[www.thediplomat.com](http://www.thediplomat.com)

## China (Civil War)

During this same period China was facing severe inner political conflicts, during its Civil war. The disputes were between the **CCP** (communists) that were making their way up from the South and the nationalists (**KMT**) that were trying to gain more power from the North. At the time of invasion China was in the mix of its civil war and so it struggled to adequately defend its borders, they were not prepared or in conditions to fight a war against another nation and neither to fend off an invasion.



Map of the Chinese Civil War from 1945 to 1949, showing areas controlled by the Communists over time, and the final position of the Nationalists in Taiwan.

<https://mapsontheweb.zoom-maps.com/>

## The Manchurian Crisis



Japanese experts inspect the scene of the 'railway sabotage' on South Manchurian Railway

[www.wikipedia.org/wiki](http://www.wikipedia.org/wiki)

Japan used the excuse of the explosion of a Bomb (conspiracies that actually the Japanese were those that explode dynamite near the tracks) on the **South Manchurian railway** near Manchuria's biggest city, to go in and occupy the area. The explosion conveniently took place near a garrison of Japanese soldiers that were protecting the railway. Previously the Japanese has already seen issues with the Kwantung's Army leadership, and were going to replace it and so the new general was about to take charge the Manchurian Crisis occurred.

The Kwantung Army used the bomb as an excuse to invade and take over Manchuria, it was also used as a justification for their later further extensions into the Chinese territory. occupy the whole of Manchuria. After their initial attack they were soon joined by the Japanese army that was stationed in Korea. They began by invading the south-east of China's Manchuria and later moved to take control of the whole area and making it a 'puppet state' of Japan called 'Manchukuo'.

Despite the Chinese attempts and the union of the polar chinese groups(CCP and GMT) to create a joint force in a final attempt to fight back Japan in the **Second United Front** Japan remains in control of the area and is making extensive use of their resources land and after their trial phase that began only months after the invasion thousands of Japanese began to migrating to the area.

*(Note: the outline of the most significant events can be found in the timeline below and in the links provided.)*

## Definition of Key Terms

**KMT or GMD:** Chinese nationalist party led by Chaing Kai-shek

**CCP:** Chinese communist Party led by Mao

**Kwantung Army:** The portion of Japanese Forces that held the biggest responsibility in the invasion of Manchuria.

**Manchukuo:** “was a puppet state of the Empire of Japan in Northeast China and Inner Mongolia from 1932 until 1945. It had limited international recognition and was de facto under the control of Japan.”

**The South Manchuria railway:** “The South Manchurian Railway, railway line built to connect what were then the South Manchurian sea towns of Lüshun (Port Arthur) and Dalian (Dairen) on the Liaodong Peninsula (now combined as the city of Dalian) with the Chinese Eastern Railway running across Manchuria (now Northeast China) from Chita in Siberia to the Russian seaport of Vladivostok. The line was a source of friction between the Chinese, Japanese, and Russians throughout the first half of the 20th century.” - Encyclopaedia Britannica

**Second United Front:** The front put up by the Chinese (joint force of both communists and Nationalists ) to try and remove Japan from Manchuria

## Timeline of Events

**1929:** Depression hits Japan, founding a new interest in investments along the South Manchurian Railway, leading the Japanese army to bolster their presence in the region

**Thursday, September 10, 1931:** Emperor Hirohito summons Japanese Navy General Kiyokazu for questioning about the state of military discipline in Manchuria

**Thursday, September 17, 1931:** Army Minister General Minami Jiro and Army Chief of Staff Kanaya Hanzo advise Kwantung Army leader General Honjo Shigeru to heed Tokyo's instruction not to proceed with the occupation of Manchuria

**Friday, September 18, 1931:** The Mukden incident occurs, and Japan blames China immediately as the aggressor.

**Saturday, September 19, 1931:** Chinese resistance lead by Marshal Zhang Xueliang is crushed promptly by the Japanese, and by morning Japanese forces has already occupied Mukden and strategic points around the area.. China's small air force is destroyed and over 7,000 chinese troops are faced by a mere 500 Japanese soldiers.. The Chinese troops, mostly irregulars or new conscripts, were no match for the experienced Japanese troops and fled.

**Monday, September 21, 1931:** a meeting is held by the Japanese cabinet at the house of Prime Minister Wakatsuki Reijiro regarding the bolstering of the Kwantung Army troops by the troops of the Chosun Army of Japan in Korea. Army Minister General Minami Jiro demands up to 5,000 additional troops, and then audaciously states that he didn't need approval from Japanese cabinet as the majority of the Japanese Army Chiefs had already agreed with him. Foreign Minister Shidehara Kijuro and Finance Minister Inoue Junnosuke object strongly, voicing fears of increasing international tension and a misinterpretation of Japan's actions. The meeting ends inconclusively in the afternoon.

**Friday, September 25, 1931:** the League formally begins deliberation on the Mukden incident and the Manchurian occupation Monday, October 5, 1931 - China asks the League for the withdrawal of Japanese troops from Manchuria before the League of Nations meeting on October 13.

**Source:**

Adapted version of <http://ww2timelines.com/japan/incidents/31mukdenincident.htm>

## Position of Major Countries

**Japan** - When the Kwantung Army of the Empire of Japan invaded Manchuria immediately following the Mukden incident. Followed by the war, the Japanese established the puppet state of Manchukuo and the eastern part of Manchuria and most of the Korean peninsula was under Japanese control.

**United States** - As Japan continued to industrialize, America imposed sanctions on it preventing it from trading with America for metal and oil. This later resulted in Japan furthering its territory in China and South-East Asian.

**Korea/China** - The Korean peninsula has been under Japanese control, Korea wants independence over Japan and has empathy for Manchuria. In relation to the Korean peninsula, Manchuria is also seeking for independence from the Japanese empire.

## FURTHER RESEARCH

[https://www.researchgate.net/profile/Anke\\_Scherer/publication/40536289\\_Japanese\\_emigration\\_to\\_Manchuria\\_local\\_activists\\_and\\_the\\_making\\_of\\_the\\_Village-Division\\_Campaign/links/551306fb0cf2eda0df2e0d2f/Japanese-emigration-to-Manchuria-local-activists-and-the-making-of-the-Village-Division-Campaign.pdf](https://www.researchgate.net/profile/Anke_Scherer/publication/40536289_Japanese_emigration_to_Manchuria_local_activists_and_the_making_of_the_Village-Division_Campaign/links/551306fb0cf2eda0df2e0d2f/Japanese-emigration-to-Manchuria-local-activists-and-the-making-of-the-Village-Division-Campaign.pdf)

<https://thediplomat.com/2014/04/japan-the-return-to-militarism-argument/>

<https://www.thinglink.com/scene/658112265077129218>

[https://en.wikipedia.org/wiki/Mukden\\_Incident](https://en.wikipedia.org/wiki/Mukden_Incident)

<http://humanum.arts.cuhk.edu.hk/NanjingMassacre/NMchron.html>

<http://ww2timelines.com/japan/incidents/31mukdenincident.htm>

## GUIDING QUESTIONS

- What were the true intentions of Japan?
- Were there any political motives for the invasion?
- Can Japan be blamed for the invasion?
- If so what would be the most effective punishment for Japan?
  
- What should be the consequences for Manchuria?
- Under whose rule will it remain?
- How will the government be established? Officials will come from which state
  
- Should the International community recognize Manchuria as now belonging to Japan.
- Should other nations take measures of precaution against Japan?