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Maritime Trends

Japan is a maritime nation surrounded by sea, and depends on maritime transportation for importing energy resources. In this sense, securing maritime traffic safety is vital for the nation's existence. At the same time, ensuring the stable use of the maritime domain as infrastructure supporting international logistics is recognized as a primary concern for the international community.

Nevertheless, some countries unilaterally claim their rights or take actions based on their own assertions that are incompatible with the existing international order, leading the principle of the freedom of the high seas to be violated unduly. On the other hand, piracy seen at various locations has become a threat to maritime traffic.

1 Trends Related to the "Principle of the Freedom of the High Seas"

The UN Convention on the Law of the Sea (UNCLOS)¹ provides for the principles of freedom of navigation in the high seas and freedom of overflight. Nevertheless, in the waters and airspace in the periphery of Japan, especially the East and South China Seas, it has become increasingly common for countries to unilaterally assert their rights or take actions, based on their own assertions which are incompatible with the existing international order. This has caused situations of undue infringement upon such principles.

(1) East China Sea

Numerous cases of acts which go against the principles of freedom of navigation and freedom of overflight have been recently seen in the East China Sea. For example, there was the case in January 2013, when a Chinese naval vessel directed its fire-control radar at an MSDF destroyer navigating on the high seas (30th), and another case in which a Chinese naval vessel is suspected to have directed its fire-control radar at a helicopter carried onboard an MSDF destroyer (19th). The directing of a fire-control radar is generally an act carried out prior to using firearms, and directing it at an opponent is a dangerous act that may have unintended consequences.²

On November 23, 2013, the Chinese Government announced that it would establish "the East China Sea Air Defense Identification Zone (ECS ADIZ)," including the Senkaku Islands as if they were a part of China's territory.

China's Ministry of National Defense announced that it would require aircraft flying in the zone to follow their instructions and warned that China's armed forces would adopt "defensive emergency measures" in the event that aircraft refuse to follow the instructions. Japan is deeply concerned about such measures, which are profoundly dangerous acts that unilaterally change the status quo in the East China Sea, escalating the situation, and that may cause unintended consequences in the East China Sea. Furthermore, the measures unduly infringe the freedom of over flight. Japan is demanding China to revoke any measures that could go against the principle of freedom of over flight. The United States, the Republic of Korea (ROK), Australia, and the EU, too, have expressed concern about China's establishment of such zone. Increased activities by Chinese military aircraft have been confirmed in recent years in the airspace close to the various southwestern islands of Japan, including the main island of Okinawa, and the expansion of these activities may be an attempt to enforce ECS ADIZ. Moreover, in May and June of 2014, fighters of the PLA flew abnormally close to aircraft of the MSDF and ASDF, which were flying over the East China Sea.³

(2) South China Sea

Such actions have also been seen frequently in the South China Sea. Chinese naval vessels have obstructed the

- 1 The UN Convention on the Law of the Sea (UNCLOS) was adopted as a comprehensive treaty on the law and order of the seas in 1982 and entered into force in 1994 (Japan concluded it in 1996).
- 2 Regarding this issue, the U.S. issued statements saying "actions such as this escalate tensions and increase the risk of an incident or a miscalculation, and they could undermine peace, stability, and economic growth in this vital region (February 5, 2013, Department of State Daily Press Briefing)" and that "we were briefed by our Japanese allies on the incident and we've satisfied ourselves that it does appear to have happened (February 11, 2013, Department of State Daily Press Briefing)."
- 3 Other than that, there were multiple incidents in March 2011 of Chinese helicopters and other aircraft apparently of the State Oceanic Administration flying close to Japan Maritime Self-Defense Force destroyers which were engaged in monitoring and surveillance in the East China Sea. Moreover, in June 2016, a Chinese fighter is speculated to have conducted a dangerous act by approaching a U.S. Air Force reconnaissance aircraft at a high speed over the East China Sea, and in May 2017 an incident allegedly occurred where Chinese fighters obstructed the route of an aircraft of the U.S. Forces.

navigation of U.S. naval vessels⁴ and Chinese aircraft have also obstructed the flight of U.S. military aircraft.⁵ In December 2016, an unmanned underwater vehicle belonging to the U.S. Navy was momentarily seized in the South China Sea by a vessel of the PLA Navy. These cases are dangerous acts that could cause unintended consequences.

Additionally, China has gone ahead with land reclamation on seven features on a massive and rapid scale on the Spratly Islands since 2014. In July 2016, the “historical rights” asserted by China as the basis of the “nine dash line” were denied in the arbitration award between the Philippines and China, and the illegality of China’s reclamation activities was acknowledged. However, China has clearly stated its intention not to comply with the award, and continues militarization of the features by developing batteries and other military facilities and various infrastructure that can be used for military purposes, such as runways, harbors, hangars and radar facilities. Moreover, in July and August 2016 after the arbitration award between the Philippines and China was rendered, an H-6K bomber of the PLAAF conducted combat air patrols in the airspace around Scarborough Shoal, with China’s Ministry of National Defense announcing that it would conduct these patrols regularly from now on. This shows the PLA has been intensifying its operation in the South China Sea. Under these circumstances, a further increase in China’s aerial presence in the area could lead to the establishment of a “South China Sea Air Defense Identification Zone” in the future.

Furthermore, Chinese government vessels have obstructed fishing and other vessels of other countries approaching the features, etc. by ring warning shots and water cannons at the vessels. Claimants as well as the international community including the United States have repeatedly said they are deeply concerned about China’s unilateral changes of the status quo, further advancement of efforts to create a fait

accompli, and assertive and dangerous acts that could cause unintended consequences.

(3) Unintended Contingency Avoidance Initiatives

Despite these numerous acts that could pose risks to securing the stable use of oceans and airspace, in recent years progress has been made on efforts to avert and prevent unintended consequences in the seas and skies. First, at the Japan-China Summit Meeting held on May 9, 2018, Japan and China agreed to establish a “Maritime and Aerial Communication Mechanism between Japan-China Defense Authorities” with the aim of avoiding unintended confrontations between the naval vessels and aircraft of the SDF and PLA.

As for multi-national initiatives, in April 2014, navies of participating countries of the Western Pacific Naval Symposium (WPNS), including Japan, the United States, and China, adopted the Code for Unplanned Encounters at Sea (CUES).⁶ CUES sets forth a code of conduct such as procedures and communication method to ensure safety for unexpected encounters by vessels or aircraft of the navies of each country. In November 2014, the United States and China agreed on measures pertaining to mutual notification of military activities, together with rules of behavior to avert collisions in waters and airspace in accordance with CUES and other frameworks. In September 2015, the two countries announced an agreement concerning an additional annex stipulating rules of behavior to avert air encounters. Between ASEAN and China, official discussions have been held between on the establishment of the Code of the Conduct of Parties in the South China Sea (COC).

It is strongly hoped that these initiatives designed to avert and prevent unintended consequences in the seas and skies will supplement the existing international order, and that the countries concerned, including China, refrain from unilateral actions that heighten tension and act on the basis of the principle of the rule of law.

2 Addressing Piracy

Piracy seen at various locations has become a threat to maritime traffic. The number of maritime piracy and armed robbery incidents (hereinafter referred to as piracy incidents) in the world⁷ came to a peak of 445 in 2010, 439 in 2011, and 197 in 2012, indicating a downtrend (the number stood

at 201 in 2018). The decline has depended heavily on the fall in the number of piracy incidents in waters off the coast of Somalia and in the Gulf of Aden.

The number of piracy incidents in waters off the coast of Somalia and in the Gulf of Aden rose rapidly from 2008

4 In March 2009, Chinese ships, including a naval vessel, a maritime research ship of the SOA, a Bureau of Maritime Fisheries’ patrol ship, and fishing vessels, approached a U.S. Navy acoustic research ship operating in the South China Sea to obstruct its operations, while in December 2013, a Chinese naval vessel cut across the bow of a U.S. Navy cruiser operating in the South China Sea at point blank range.

5 In August 2014, a Chinese fighter is speculated to have flown abnormally close to and obstructed a U.S. Navy patrol aircraft over the South China Sea. Furthermore, in May 2016, Chinese fighters are speculated to have flown abnormally and dangerously close, to within around 15 meters, of a reconnaissance aircraft of the U.S. Navy over the South China Sea.

6 This code is not legally binding and does not supersede the annexes of the Convention on International Civil Aviation and other international treaties.

7 The numbers of piracy incidents cases cited in the main text are based on a report by the International Maritime Bureau of the International Chamber of Commerce.

to 218 in 2009, 219 in 2010, and 237 in 2011, following a persistent uptrend, accounting for more than a half of the global total and attracting great international concern as a threat to safe navigation. In the recent years, however, the number of piracy incidents in waters off the coast of Somalia and in the Gulf of Aden has remained low as a result of various initiatives taken by the international community including Japan (the number stood at three in 2018; see Part III for Japan's initiatives).

The international counterpiracy initiatives in waters off the coast of Somalia and in the Gulf of Aden include counterpiracy operations by the Combined Task Force 151 (CTF151), a multinational force that was created in January 2009 by the U.S. Force-led Combined Maritime Force (CMF)⁸ based in Bahrain. So far, the United States, Australia, the United Kingdom, Turkey, the Republic of Korea, Pakistan and other countries have participated in the CTF151, conducting zone defense operations to counter piracy. The EU for its part has conducted Operation Atalanta to counter piracy since December 2008. In the operation, naval vessels and aircraft dispatched by EU member countries escort ships and monitor the waters off the coast of Somalia. It has been decided that the operation will continue until the end of 2020.

In addition, some countries have conducted their exclusive operations outside the abovementioned frameworks. Since December 2008, for example, China has deployed naval vessels for counterpiracy operations in waters off the coast of Somalia and the Gulf of Aden.

While the number of piracy incidents in waters off the coast of Somalia and in the Gulf of Aden has remained low thanks primarily to such international initiatives, Somalia's unstable security and poverty as fundamental factors behind piracy have not been resolved.

Meanwhile, in Africa, piracy incidents occurred in the Gulf of Guinea (the number of incidents was 82 in 2018). The international community has continued counterpiracy initiatives in this region.

The number of piracy incidents in Southeast Asian waters came to 60 in 2018. Traditionally, maritime armed robbery incidents, including the theft of cash, crewmembers' belongings, ship equipment and other items, have accounted for most of piracy incidents in the waters. In recent years, however, they included grave incidents in which crewmembers were kidnapped for ransom purposes in the Sulu Sea and the Celebes Sea off the Philippines.

Counterpiracy measures in Asia include international information sharing and cooperation based on the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP),⁹ which was worked out at Japan's initiative and put into force in 2006. In addition, Indonesia, Malaysia, Singapore, and Thailand conduct the Malacca Strait Patrols.¹⁰ The cases of abduction for ransom have been confirmed in the Sulu Sea and the Celebes Sea. In order to respond to this, Indonesia, Malaysia and the Philippines began sea patrols in the area in June 2017, and air patrols in October of the same year.

3 Trends in the Arctic Ocean

The area north of latitude 66 degrees 33 minutes is called the Arctic Region. The Arctic Region includes Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden and the United States. These eight are called Arctic countries. In 1996, the Arctic countries established the Arctic Council to promote cooperation in their common challenges, including sustainable development and environmental protection in the Arctic Region.

In recent years, moves towards the utilization of trans-Arctic navigation routes and the development of natural resources in the Arctic Ocean have gained momentum in line with a decline in sea ice. From the perspective of security, the

Arctic Ocean has traditionally been used for the deployment of strategic nuclear forces and as their transit route. With the decrease in sea ice in recent years, ships have been able to navigate for a longer period of time and more extensively than before. It is therefore considered that the region could be used for deploying maritime forces or maneuvering military forces in the future. In this situation, moves to deploy new military capabilities in the ocean are seen.

In the Russian Federation's National Security Strategy revised in December 2015, Russia continues to maintain that it would secure its interests in resource development and use of the sea route.

⁸ CMF is a multinational force, which operates to promote maritime security, stability, and prosperity, under the U.S. Central Command. Forces from 32 countries participate in CMF, and the CMF Commander concurrently serves as the Commander of the U.S. Fifth Fleet. CMF is comprised of three combined task forces: Combined Task Force 150 (CTF-150), which is tasked with maritime security operations; Combined Task Force 151 (CTF-151) with counter-piracy operations; and Combined Task Force 152 (CTF-152) with maritime security operations in the Persian Gulf. The Japan Self-Defense Forces deploy units to CTF-151.

⁹ The contracting parties to ReCAAP are the following 20 countries: Australia; Bangladesh; Brunei; Cambodia; China; Denmark; India; Japan; the ROK; Laos; Myanmar; the Netherlands; Norway; the Philippines; Singapore; Sri Lanka; Thailand; the United Kingdom; the United States; and Vietnam.

¹⁰ The Malacca Strait Patrols are comprised of: the Malacca Strait Sea Patrols which commenced in 2004; aircraft patrol activities which commenced in 2005; and information sharing activities which commenced in 2006.

Russia has been developing natural gas on the Yamal Peninsula. In 2018, liquefied natural gas produced on the peninsula was transported to China for the first time via an Arctic Ocean route. As for military arrangements, Russia has set up a joint strategic command for each of the four military districts to unify all of ground, maritime, air and other forces. In 2014, Russia created the Northern Joint Strategic Command reportedly to integrate the Northern Fleet with ground and air forces and cover waters, remote islands and the Arctic coast between the Barents Sea and the East Siberian Sea. In the Arctic Region, Russia is constructing 10 airfields. As for military operations, the Northern Fleet has annually conducted a long-distance navigation to the Novo Sibirski Islands since 2012. Russia has intensified other Arctic military operations including SSBN submarines' strategic nuclear deterrence patrols and long-range bombers' patrol flights.

In its Arctic Strategy published in 2019, the U.S. DoD expressed their concern against actions of China and Russia in the Arctic region,¹¹ and the DoD would form the basis for a mutual approach to maintaining a secure and stable Arctic region. In the Arctic Strategy released by the U.S. DoD in 2013, the United States expresses its desire for the Arctic to become a secure and stable region where U.S. national interests are safeguarded, the U.S. homeland is protected, and nations work cooperatively to address challenges. The United States reportedly plans to increase the number of U.S. Marines in Norway on a rotation basis from about

300 to about 700 from 2017. In October 2018, it sent an aircraft carrier to the Arctic Region for the first time in 27 years for air drills in the Norwegian Sea ahead of the NATO exercise "Trident Juncture 2018". In December 2016, then U.S. President Obama decided to ban new drilling for oil and natural gas in a majority of U.S. territorial waters in the Arctic to protect marine resources, showing a negative stance towards resource development. However, President Trump signed an executive order repealing this decision of then U.S. President Obama in April 2017.¹²

Aside from coastal states in the Arctic Ocean, 13 countries including Japan, China, the ROK, the United Kingdom, Germany and France have observer status in the Arctic Council. Notably, China has shown active involvement in the Arctic Ocean, deploying the polar research vessel Xue Long to the Arctic Ocean for nine times since 1999.¹³ In January 2018, they published a white paper titled "China's Arctic Policy" in which they claimed to be one of the geographically closest states to the Arctic Circle with rights pertaining to the development of resources. They also announced their intention to build a "Polar Silk Road." In September 2015, it was reported for the first time that five Chinese naval vessels sailed in the Bering Sea between the Arctic Ocean and the Pacific and sailed in the U.S. territorial waters near the Alewtian Islands. Focus will be on whether or not such activities would have any relation to the PLA Navy's future advancements into the Arctic Ocean.

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- ¹¹ As for Russia, the U.S. DoD points out in its Arctic Strategy that Russia is strengthening its presence above the Arctic Circle by deploying Arctic units and establishing new military bases. Moreover, Russia has reportedly threatened to use force against vessels that fail to abide by Russian regulations. The DoD pointed out that Russia could utilize its military capabilities in an effort to deny access to disputed Arctic waters or resources. As for China, the DoD pointed out in its strategy that its operations of icebreaking vessels and civilian research activities could support a future Chinese military presence in the Arctic Ocean including deployment of submarines to the region, and also pointed out that it was attempting to gain a role in the Arctic in ways that may undermine international rules and norms, and there is a risk that its predatory economic behavior globally may be repeated in the Arctic. In May 2019, during his visit to Finland, Secretary of State Pompeo made a speech concerning Arctic policy, in which he stated that all relevant parties should follow the same rules and expressed caution against efforts by China and Russia to expand into the Arctic region.
- ¹² As regards activities of other coastal nations, Canada states that the Arctic is a priority region under its policies in Canada's Northern Strategy (released in 2009), and in December 2016 Canada announced a moratorium on the development of oil and natural gas in its territorial waters in the Arctic Ocean. Denmark and Norway have also developed the Kingdom of Denmark Strategy for the Arctic 2011-2020 (released in 2011) and the Norwegian Government's High North Strategy (released in 2006), respectively, which outline their stances of attaching importance to the Arctic, including the perspective of security.
- ¹³ In 2012, Xue Long became the first polar research vessel to sail across the Arctic Ocean. In 2013, a cargo vessel Yong Sheng became the first Chinese commercial ship to cross the Arctic Ocean. Canadian scientists took part in Xue Long's voyage to the Arctic Ocean in 2017, and they succeeded for the first time in trial navigation of the Arctic Northwest Passage (along the north coast of Canada). Currently, China is believed to be building its second polar research vessel.