

The Japan Forum on International Relations

March 31, 2023

Introduction

As China and other emerging nations actively engage in maritime expansion and other activities,

the international community has been asserting the illegality of their actions from the standpoint of

international law; however, some countries continue to disregard this persistent warning. In addressing

this situation, the international community, instead of resorting to hasty military action, should

consider establishing a global consensus regarding oceanic affairs such that every nation must (i.e., is

incentivized to) abide by the common rules.

Based on the above considerations, the Japan Forum on International Relations (JFIR)

implemented the research project "Multi-faceted Approach to Reinforcing a Maritime Order in East

Asia: Shaping and Rallying Maritime "Public Opinion" under the supervision of ITO Go,

distinguished research fellow at JFIR and professor at Meiji University, during the 3-year period

starting in fiscal 2020.

The project led to the compilation of policy recommendations, which are presented here.

The views expressed in these policy recommendations are those of the abovementioned project,

and they do not necessarily represent the views of JFIR.

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Mayu Watanabe, President

Policy Recommendations

Multifaceted Development of the Oceanic Order: Toward the Creation and Expansion of Public Consensus Regarding Oceans

Recommendation 1: Japan should prioritize its policy objectives and establish a system of strategic support through subsidies specifically targeting local communities, through human resource development, through technology assistance, and so on.

The government's Third Basic Plan on Ocean Policy calls for the appropriate management of fishery resources as well as the transformation of the fishing industry into a growth industry. However, these two objectives may not necessarily be compatible with each other; thus, the resource allocation method will differ depending on which objective is emphasized. The government should clarify its policy objectives and provide cooperation and support specifically to the fishing industry so that the nation can protect its fishing grounds by successfully resisting foreign forces that disregard sustainability. When building offshore wind power facilities in the exclusive economic zone (EEZ), national and local governments should create a system that leads to a win—win relationship with fishermen. With regard to the overall management of coastal areas, the government should, as a priority policy measure, establish laws that publicly support the creation of *satoumi* (coastal areas where biological productivity and biodiversity are increased through human interaction), an endeavor that is already taking place in various parts of the country.

Recommendation 2: Japan should provide strategic oceanic education and foster public opinion with a well-defined target.

One of the principles of the Third Basic Plan on Ocean Policy is to gain public understanding for the promotion of ocean-related policy measures. Specific measures include the use of Marine Day (a national holiday) and online media. However, simply raising public awareness about oceanic affairs is not sufficient as a means of supporting the activity of local communities and private-sector enterprises; it is also necessary to foster public opinion and form a consensus regarding specific priority issues in line with the strategic target. Moreover, it is important to educate people on specific initiatives pursued by scientists, local communities, businesses, and so on to facilitate the transfer of financial resources to these activities and incorporate them into the nationwide economic and social framework.

Recommendation 3: Japan should consider a comprehensive approach to oceanic security that transcends the "trilemma."

Oceanic security cannot be established in isolation; it can be implemented reliably only when

the spatial and temporal environment in which it is implemented is stable (i.e., environmental conservation) and when the economic foundation is established (i.e., economic development). In addition, all these initiatives are intricately intertwined, making individual solutions difficult. For this reason, efforts to strengthen each individual initiative may not be sufficient. The situation in which these issues are intertwined—resulting in a "trilemma" involving the economy, environment, and security—must be addressed in a comprehensive or integrated manner so that comprehensive oceanic security, as well as comprehensive oceanic governance that results from it, can be achieved.

Recommendation 4: Japan should strengthen its call for a rule-based order as China maintains maritime expansion.

On September 11, 2012, the Japanese government, by a Cabinet decision, made Uotsuri, Kitakojima, and Minamikojima national property for the peaceful and stable management of the Senkaku Islands. Ten years have passed since then, during which time China, claiming the Senkaku Islands as its own, has become increasingly aggressive in its efforts to undermine Japan's effective control of the islands. In 2022, China Coast Guard vessels entered Japan's contiguous zone almost daily—on 336 days—and the Japanese territorial sea on 37 days. The number of times that Chinese vessels entered Japanese territory has almost doubled over the past 10 years. On March 1, 2021, China's Ministry of National Defense said that it was legitimate and lawful for China Coast Guard vessels to conduct law enforcement activities in China's territorial waters and that these activities would become routine going forward. Under these circumstances, a change has occurred in the activities of China Coast Guard vessels continuing to enter Japan's territorial waters—a development that Japan cannot overlook. In August 2020, the China Coast Guard adopted a policy under which it would, in principle, immediately chase any Japanese fishing vessel found on Japanese territorial waters around the Senkaku Islands. China defines the waters where its Coast Guard operates as "waters under the jurisdiction of the People's Republic of China" (Article 3 of the Coast Guard Law). China's action violates the United Nations Convention on the Law of the Sea and is ambiguous under international law. The country is attempting to exercise illegal jurisdiction over the nine-dash line in the South China Sea and over the waters surrounding the Senkaku Islands in the East China Sea. It is thus necessary that the Japan Coast Guard further strengthen its vigilance and the Japanese government strongly call for a rule-based order by urging China to comply with the UN Convention on the Law of the Sea through multilateral and bilateral negotiations.

Recommendation 5: Japan should create laws regulating oceanic scientific research.

It is important for Japan to not allow Chinese oceanographic research vessels to freely conduct research activities in Japan's EEZ around the Okinotorishima Island. For this purpose, it should regulate oceanic scientific research in the nation's EEZ in accordance with Japanese law, strengthen

patrols in the waters surrounding Okinotorishima to enforce such regulations, and properly manage Okinotorishima so that it can maintain its status as an "island."

Recommendation 6: Japan should revise the Self-Defense Forces Act to drastically strengthen the nation's defense capabilities.

It is necessary for Japan to precisely define the law enforcement activities of the Japan Coast Guard for the sake of national security and then appropriately and effectively deal with so-called grayzone situations in a seamless fashion. Self-Defense Forces should be allowed to use their self-defense capabilities to deal with rights violations that may not necessarily rise to the level of the "systematic and planned use of force by an outside power." Specifically, the nation should revise the Self-Defense Forces Act or establish a new law so that the Self-Defense Forces can halt rights violations that may not necessarily constitute the systematic and planned use of force by an outside power. The legal revision should involve the addition of an "action to eliminate territorial integrity infringement" as a new activity of the Self-Defense Forces, although the provision in Article 76, Paragraph 1 of the Self-Defense Forces Act concerning defense deployment and the current interpretation regarding the matter should be maintained. It would be feasible to change the government's interpretation of Article 76, Paragraph 1 of the Self-Defense Forces Act regarding the circumstances in which the government can order a defense deployment, so that the nation could seamlessly deal with gray-zone situations. However, the matter is of great importance to the people of Japan as it relates to critical national security concerns. Thus, it would be more desirable to revise the Self-Defense Forces Act or enact a new law in a way that ensures a democratic process, namely through deliberations in parliament, where people's representatives gather.

Recommendation 7: Japan should strengthen efforts to secure reliable oceanic transportation.

It is extremely important to ensure not only a stable supply of energy resources, food, and strategic goods but also reliable oceanic transportation, which is the primary means of transportation for these goods, to strengthen Japan's economic security and its supply chain's resilience. Japan should make efforts during normal times to reduce dependence on foreign countries for oceanic transportation by increasing the number of Japan-registered vessels and raising the nation's shipping capacity, thereby minimizing the impact on oceanic transportation in the event of a crisis.

Recommendation 8: Japan should ask the nation's international cruise ship operators to plan their voyages by choosing routes through waters where Japanese passengers can view oceanic hotspots.

Japan should strengthen its influence regarding oceanic affairs with foreign governments,

international organizations, and people of foreign countries. For this purpose, the government should request international cruise liners operated by Japanese shipping companies incorporated under Japanese law—whose passengers are mostly Japanese and whose ships are of Japanese registry—to organize voyages in such a way that allows passengers to observe the areas of concern, such as Japan's remote islands. For example, ASUKA II, operated by NKY Cruises Co., Ltd. allowed passengers to view the Okinoshima Island from a distance on their way back from a round-the-world cruise in 2014.

Recommendation 9: Japan should build a relationship with "countries of convenience" as partners sharing the same ideals.

Japan should consider forming a partnership with countries with which Japanese shipping companies register their vessels, so that the nation can more effectively accomplish its diplomatic objectives. For example, the Republic of Marshall Islands, which maintains a free association with the United States in defense and diplomacy, could become a potential partner of Japan from a diplomatic standpoint. Singapore, which has signed an Economic Partnership Agreement with Japan, already has a close relationship with it in international commerce. At the private-sector level, Japanese shipping companies use Singapore not only as a country of vessel registry but also for establishing subsidiaries with regional headquarters for cargo collection and with regional head office functions for operational management, and for vessel management. Elsewhere, Japan has been conducting dialogue with Panama over the use of the Panama Canal. In addition, Nippon Kaiji Kyokai concluded a strategic partnership agreement with Liberia on October 3, 2011 in the area of vessel technology.

Recommendation 10: Japan should establish a mechanism for transdisciplinary cooperation to accumulate and utilize scientific data to solve the ocean debris problem for the sustainable use of ocean resources.

Ocean plastic waste is undoubtedly a major problem that must be tackled worldwide. It is necessary that many people continue to take an interest in this issue and make long-term commitments to solve this problem. With the world's attention on this issue, it is important to establish an adequate research mechanism, accumulate scientific data, create a system for utilizing such data, and constantly disseminate new information. It is also vital to consider establishing a mechanism in which solving the debris problem benefits both individuals and society. To this end, it is important that related research and analysis be recognized as a transdisciplinary endeavor involving a variety of people (stakeholders) and not simply as a task of certain researchers and government officials. It is hoped that a mechanism will be created to turn waste management into a new industry, rather than merely an effort to clean up economic activities, and that science and technology will be widely shared through standardization to support this new industry.

Recommendation 11: Japan should pursue various initiatives that contribute to the promotion of the blue economy—including the use of blue carbon—in an agile manner, thereby contributing to the rapid diffusion of technologies and knowledge and the formation of international rules, without isolating itself from the rest of the world.

The blue economy, which is attracting international attention, is increasingly being discussed in East Asian Sea countries as an important policy measure and theme of international cooperation. Japan should pursue various initiatives that contribute to the promotion of the blue economy—including the use of blue carbon—in an agile manner, thereby contributing to the rapid diffusion of technologies and knowledge and the formation of international rules without isolating itself from the rest of the world. East Asian Seas countries have many items on their policy agenda, such as geopolitical security, trade, energy, and food. Japan will be increasingly called upon to add the blue economy to their agenda and flesh out its content.

Recommendation 12: Japan should reaffirm the highly public nature of its fishing industry, which contributes to food security and land conservation, and pursue initiatives to position fisheries within the multifaceted development of the oceanic order.

Japan's offshore and deep-sea fisheries are an important source of food supply, accounting for at least 50% of the nation's total marine fisheries production. Preserving the fishing industry, which is a "border industry," is an issue that cannot be ignored from a security standpoint. However, Japanese fishing fleets are facing a difficult operating environment as fishing powers such as China and Russia seek to maintain or expand their influence in the waters around Japan.

Bilateral fishing negotiations such as the new Japan-China fisheries agreement and the Japan-Taiwan Private Fisheries Agreement also exert some impact. Japan's mainstay bottom trawling and purse seine fisheries in the East China Sea continue to be affected by declining catches as fishing grounds become smaller. In addition, Taiwan's fishing activity around the Senkaku Islands exerts a strong pressure on Japanese fishermen.

The Japanese fishing industry cannot fully handle the deterioration in the external environment, which includes diplomatic elements. Now that the United Nations Convention on the Law of the Sea is in effect, it is the government's duty to protect fishing grounds in the EEZ. However, as the Japanese fishing industry continues to shrink, fishermen's voices are now rarely heard in the public sphere or in the political arena. Thus, the Japanese government is rarely called to the task of protecting the nation's fishing industry.

Against this backdrop, it is essential that Japan create and expand public consensus regarding oceanic affairs. When it comes to the fishing industry, it is necessary for the nation to create an environment that facilitates a reevaluation of the fishing industry's highly public nature. Specifically, this endeavor requires (1) a strong recognition that the Japanese fishing industry, which supplies food

essential to people, is important for national security; (2) an understanding and appreciation of the irreplaceable role that the industry plays as it operates in the seas surrounding the nation (i.e., near the borders, since Japan is an island nation); and (3) an appropriate evaluation of the industry's role in preserving the nation's long coastlines and many of its remote islands in cooperation with fishing villages. Thus, to sustain the fishing industry, which supports the multifaceted development of the oceanic order, Japan must create measures to foster people's understanding and appreciation of the industry's highly public nature.