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**Panel 3 – Japan's Experience on
Maritime Policy Formulation**

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Atsuko Kanehara, “How to Ensure the Safety of the Japan Coast Guard While Maintaining Its Nature as a Police Organ When It Conducts Missions in Collaboration with the Japan Maritime Self-Defense Force under the Control Guidelines,”

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The Control Guidelines of April 28 of 2023

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Talking Points

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Japan's Experience on Maritime Policy Formulation

- 1. Focus on Japan's Maritime Policy to Cope with "a Grey Zone"**
- 2. Control Guideline of April 28 of 2023**
- 3. Future Agenda for Japan's Maritime Policy to Cope with a Grey Zone**

1. Focus on Japan's Maritime Policy to Cope with "a Grey Zone"

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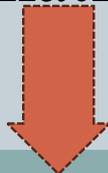
(1) A Wider Sense of a Grey Zone

A grey zone between security situation and a tense situation

① "A tense situation"

Even with lack of an armed attack by use of force, there is a threat to States by, for instance, invasive acts, cyber attacks, and information manipulation

A wide array of acts that may cause threat to States, while they are normally conducted by non-State actors, and some of them fall under international crimes at sea



1. Focus on Japan's Maritime Policy to Cope with "a Grey Zone"

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"A tense situation"

e. g. armed robbery, IUU fishing (👉 the presentations in this Conference)

e. g. Armed attacks against commercial vessels in the Red Sea



Opinions divided

Measures to cope with : Self defence? Responding measures at sea?

② "A commonly shared meaning of a grey zone"

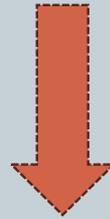
A grey zone between (military) security situation and law enforcement situation

1. Focus on Japan's Maritime Policy to Cope with "a Grey Zone"

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(2) Special Significance of a Grey Zone between (military) Security Situation and Law Enforcement Situation for Japan

A grey zone between (military) security situation and law enforcement situation



Seamless responses to such a grey zone by law enforcement measures and self-defence measures are critically important.

BUT!

In Japan: a strict distinction between the police organ, the Japan Coast Guard (JCG), and a defence organ, the Japan Maritime Self Defence Force (JMSDF)

1. Focus on Japan's Maritime Policy to Cope with "a Grey Zone"

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Article 25 of the Japan Coast Guard Law

Nothing contained in this Law shall be construed to permit the Japan Coast Guard or its personnel to be trained or organized as a military establishment or to function as such.

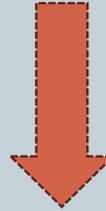
Restriction on the Use of Weapons by the JCG

Article 7 of the Police Duties Execution Act

In the event that there is probable cause to deem it necessary for the arrest of a criminal or the prevention of a criminal's escape, for self-protection or the protection of others, or for suppression of resistance to the performance of public duty, a police official may use a weapon within the limits judged reasonably necessary in the situation.

1. Focus on Japan's Maritime Policy to Cope with "a Grey Zone"

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The JCG must maintain its nature as a law enforcement organ or a police organ with strict limitation on its use of weapons to the extent that allows it to accomplish its police function.

2. Control Guidelines of April 28 of 2023

(1) Control Guidelines (Guidelines)

The JCG has been ceaselessly conducting monitoring and surveillance of Chinese vessels that have periodically entered Japan's territorial sea surrounding the Senkaku Islands for more than two decades, over which both China and Japan have claimed territorial sovereignty.

Due to the provocative conduct of such Chinese vessels, the tension in the sea area has been seriously heightened.

Against this background and other factors, the Japanese government adopted **three strategic documents on Japan's security** on the 16th of December 2022. In line with this, for the implementation of the control of the Minister of Defense over the JCG under Article 80 of the Self-Defense Forces Law, the Japanese government adopted the said Control Guidelines.

2. Control Guidelines of April 28 of 2023

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The three strategic documents on Japan's security issued on the 16th of December 2022

The National Security Strategy of Japan

The National Defense Strategy

The Defense Buildup Program

2. Control Guidelines of April 28 of 2023

Article 80 of the Self-Defence Force Law

1. In the event the whole or part of the Self-Defense Forces is ordered into operation under the provisions of Paragraph 1, Article 76 (limited to No. 1), or Paragraph 1, Article 78, the Prime Minister may, if deemed especially necessary, place the whole or part of the Coast Guard under the control of the Minister of Defense (slightly corrected).
2. In the event, the whole or part of the Coast Guard has been placed under control according to the provisions of the preceding paragraph, the Prime Minister shall place it under the command of the Minister of Defense as prescribed by Cabinet Order.

2. Control Guidelines of April 28 of 2023

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(2) Missions of the JCG under the Guidelines

The Control Guidelines designate various missions which the JCG and JMSDF will conduct in collaboration with each other.

The Guidelines:

For the JCG to exercise its abilities, its main roles under contingency are taking measures to protect nationals and to protect lives at sea, particularly being able to play to its strength as a police organ. Such a discharge of the JCG's roles of saving lives and evacuating residents at a maximum is useful for the JMSDF as it allows the JMSDF to further concentrate on its frontal strategy.

3. Future Agenda for Japan's Maritime Policy to Cope with a Grey Zone

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(1) How to Ensure the Safety of the JCG as a Police Organ in Discharging its Obligations set under the Guidelines in an Armed Conflict?

- ① Military objectives?
- ② Auxiliary vessels?
- ③ Carrying an International Distinctive Sign to Indicate Its Civil Defense Missions?

3. Future Agenda for Japan's Maritime Policy to Cope with a Grey Zone

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There might be a large number of evacuees coming toward Japan via the sea from neighboring countries, such as Taiwan.

The JCG and the JMSDF held a joint drill on the 22nd of June 2023, under the scenario of control by the Minister Defense in accordance with the Guidelines.

During the joint drill, the JCG vessel flew special flags that carry the international distinctive sign of an equilateral blue triangle on an orange background (Article 66, Paragraph 4 of the 1977 Additional Protocol I, Section III. 1. and 2)

3. Future Agenda for Japan's Maritime Policy to Cope with a Grey Zone

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(2) Ongoing Discussion on the Implementation of the Guidelines

Ambiguity remains.

For instance, where, in what sea areas, the JCG will operate, and how the JCG will precisely discharge its function that the Guidelines expect.

(3) Necessity of Understanding by Allies and Other States That Japan Will Collaborate with in an Armed Conflict

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**Thank You So Much for Your Very
Kind Attention!**