

Manila Dialogue Presentation Report: The Rule of Law and the Functions and Duties of Law Enforcement Agencies

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1. Introduction

The rule of law is considered a fundamental principle in both domestic and international societies, and it is frequently discussed in relation to the oceans as well. This paper briefly examines the meaning of the “rule of law” at sea, and, in relation to this, the significance of the Japan Coast Guard (JCG) being a law enforcement agency¹.

The impetus for this brief essay stems from the author's participation in the Second Manila Dialogue (hereafter Manila Dialogue)², held in Manila, Philippines, November 5-7, 2025, where she spoke at the concluding plenary session, Plenary Session 7³. Although 2025 marked the second Manila Dialogue⁴, similar conferences have been held previously⁵. These meetings have provided a continuous opportunity for relevant countries and stakeholders to share concerns and engage in discussion. The second iteration saw participation from 270 experts (including academics, policymakers, think tanks, and media representatives) from 25 countries⁶.

* All URLs were last accessed 27 of November, 2025.

¹ The author is a member of “Compass Voice”, External Expert Network of the Japan Coast Guard that was established on the 19th of September, 2025.

<https://www.kaiho.mlit.go.jp/doc/compass-voice.html> (in Japanese).

² Official Home Page, <https://scsdialogue.org/>.

³ Plenary Session 7: Takeaways - Fireside Chat on The South China Sea and Perspectives on Defending the Rules-based Order.

⁴ Regarding 2024 Manila Dialogue, see <https://2024.scsdialogue.org/>.

⁵ For instance, on December 1-2, 2022 in Manila, the Pacific Forum hosted “U.S.-Japan-Philippines Trilateral Maritime Security Dialogue: Strengthening Deterrence and Defense in the East and South China Seas,” with support from the U.S. Defense Threat Reduction Agency (DTRA). The organizer of the Manila Dialogue, WPS (We Protect Our Sea) has a close relationship with the Pacific Forum. This author participated in the Dialogue of 2022, too.

⁶ The Conference Report will be issued, and as of now, the number of the participating

The purpose and theme of the Manila Dialogue are as follows: “...focusing on promoting adherence to international law and identifying sound, pragmatic, and actionable policy prescriptions for littoral states surrounding the South China Sea, as well as other interested states and non-state actors. Delegates will debate issues, pitch innovative ideas, and offer recommendations to ensure that the rule of law, not coercion and the use of force, prevails in resolving disputes, thus, safeguarding regional peace and stability”⁷.

The aspect of the Manila Dialogue that struck me most as its primary significance is its focus on “the rule of law” and “rule-based” as key concepts⁸, centering on the law enforcement agencies of various nations and their mutual cooperation⁹. In my experience, particularly at domestic and international conferences focused on maritime security, military agencies—in Japan's case, the Maritime Self-Defense Force (JMSDF)—are typically assumed to be the primary key players. At such conferences, these key players and experts on their functions and missions become the primary participants. Of course, there is no objection to this. However, at such conferences, law enforcement agencies like coast guards often do not receive sufficient focus on their functions and missions. As a result, law enforcement agencies tend to be perceived as merely complementary or auxiliary to military agencies. While maintaining maritime order and ensuring maritime security are closely interrelated, each has its own distinct significance. Even when discussing their close connection or cooperation between the two agencies, the foremost prerequisite is recognizing their respective unique significance. The Manila Dialogue can be seen as a meeting that clearly recognized this point by focusing on maritime law enforcement agencies and sought to share this understanding. This holds significant importance for the functions and missions of the JCG, which builds a unique relationship with the JMSDF, essentially establishing a distinct relationship with Japan. The author has discussed the unique relationship between the JCG

nations and participants are according to the post by the organizer,
https://www.linkedin.com/posts/jeffrey-ordaniel-b40703184_such-an-honor-to-lead-what-has-become-one-activity-7393973388362493952-y2CQ?utm_source=share&utm_medium=member_ios&rcm=ACoAABoRO1cB3WNQclsUM6JwIZT41nswxVezy9g.

⁷ *Op. cit.*, supra n. 2.

⁸ *Ibid.*

⁹ The following two sessions dealt with particularly coast guards. Special Lunch Roundtable: Advancing the ASEAN Coast Guard Forum (ACGF) as an ASEAN Regional Mechanism, and Plenary Session 6: Maritime Capacity-Building for a Rules-based, Equitable and Sustainable Maritime Order in the Indo-Pacific. <https://scsdialogue.org/agenda/>.

and JMSDF in various contexts. Based on this point awareness, the following discussion will explore the key concepts of “rule of law” and “rule-based,” and how they form the core of the JCG's functions and missions.

2. The Meaning of the “Rule of Law”

(1) The Rule of Law

The rule of law has been repeatedly referenced in many contexts, and it is arguably an axiom that few would dispute. However, the rule of law does not necessarily possess a single, unambiguous meaning. A detailed discussion of the meaning of the “rule of law” and its establishment exceeds the scope of this author's capabilities. Studies on how the rule of law is a concept established and developed under domestic law¹⁰, and how it is discussed in international law and various other contexts¹¹, are left to several excellent scholarly works. Instead, this paper considers it useful and necessary to clarify the meaning of the rule of law at sea.

(2) The Rule of Law at Sea

As this paper discusses the functions and duties of the JCG, a maritime law enforcement agency, it focuses on the rule of law at sea. In this regard, the three principles declared in the Keynote Address by Mr. Shinzo Abe, Prime Minister of Japan at the 13th IISS Asian Security

¹⁰ For a succinct and precise introduction of the “rule of law” with explanation of its development, see Simon Chesterman, “Rule of Law,” *Max Planck Encyclopedia of International Law*, <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1676>, article last updated: June 2025.

¹¹ J Waldron, “Are Sovereigns Entitled to the Benefit of the International Rule of Law?” *European Journal of International Law*, Vol. 22 (2011), pp. 315–43; I Hurd, “The International Rule of Law and the Domestic Law Analogy,” *Global Constitutionalism*, Vol. 4 (2015), pp. 365–395; M Kumm, “International Law in National Courts: The International Rule of Law and the Limits of the Internationalist Model,” *Virginia Journal of International Law*, Vol. 44 (2003), pp. 19–32; KE Davis, “What Can the Rule of Law Variable Tell Us About Rule of Law Reforms?,” *Michigan Journal of International Law*, Vol. 26 (2004), pp. 141–61; H Owada, “Reconceptualization of the International Rule of Law in a Globalizing World,” *Japanese Yearbook of International Law*, Vol. 51 (2008), pp. 3–20; Eifuku Seiya, “Significance of “the Rule of Law” in International Society (Kokusai Shakai ni Okeru ‘Ho no Shihai’), <https://www.nids.mod.go.jp/publication/briefing/pdf/2018/201812.pdf>.

Summit, Shangri-La Dialogue¹² are frequently cited. These are the following three principles:

- (i) making and clarifying claims based on international law,
- (ii) not using force or coercion in trying to drive their claims,
- (iii) seeking to settle disputes by peaceful means.

Regarding international law and the rule of law in the international community, the Diplomatic Bluebook 2024, which introduces Japan's foreign policy, explains as follows

The rule of law is, generally, the concept that recognizes the superiority of the law over all forms of power. It is an essential cornerstone of a fair and just society within a country. At the same time, it contributes to peace and stability in the international community and constitutes the basis of the international order that consists of friendly and equitable relations between states. In the international community, under the rule of law, we must not allow rule by force, and all countries must observe international law in good faith, and there must be no unilateral attempts to change the status quo by force or coercion. Japan promotes strengthening of the rule of law as one of the pillars of its foreign policy, and promotes rule-making in various fields as well as ensuring their proper implementation¹³.

The same section of the 2017 Diplomatic Bluebook refers to the three principles declared by Prime Minister Abe as follows:

Japan regards efforts to strengthen the rule of law as one of the pillars of its foreign policy. It opposes unilateral attempts to change the status quo by coercion and strives to maintain its territorial integrity, secure its maritime and economic rights and interests, and protect its citizens. For example, Japan raises the “Three Principles of the Rule of Law at Sea,” advocated by Prime Minister Abe, at various opportunities including international conferences such as the UN General Assembly, and undertakes initiatives to promote the rule of law in the international community. At the G7 Ise-Shima Summit held in May, the “Three Principles” were supported by G7 leaders and resulted in the shared recognition among the G7 countries. From the perspective of promoting the rule of law in the international community, Japan continues to contribute to the peaceful settlement of disputes

¹² https://www.mofa.go.jp/fp/nsp/page18e_000087.html

¹³ Chapter 3, Diplomacy to Defend National Interests through Co-creation with the World, 6 The Rule of Law in the International Community, https://www.mofa.go.jp/policy/other/bluebook/2024/en_html/chapter3/c030106.html.

between states based on international law, formation and development of a new order of international law, and the development of legal systems and human resources in various countries¹⁴.

The way Prime Minister Abe's Three Principles are referenced in each issue of the Diplomatic Bluebook since 2018 differs. Therefore, the Diplomatic Bluebook does not clarify how the Japanese government views the relationship between the three principles declared by Prime Minister Abe as the rule of law at sea and the rule of law within a broader context of Japan's foreign policy.

At the Second Manila Dialogue, in the Sixth Plenary Session, Vice Commandant for Operations KANOSUE provided an explanation of the JCG's achievements in capacity building support for countries on the Indo-Pacific Coast and other neighboring countries¹⁵. The Vice Commandant for Operations introduced the three principles declared by Prime Minister Abe as the rule of law at sea¹⁶.

This author also introduced these three principles during her intervention at last year's First Manila Dialogue and again when speaking at the Second Manila Dialogue, as described later. Therefore, in this brief paper introducing the significance of the Manila Dialogue regarding coast guards as law enforcement agencies, it is appropriate to assume the three principles declared by Prime Minister Abe as the rule of law at sea.

Moreover, the Manila Dialogue structures its agenda around topics that directly or indirectly address these three principles¹⁷. This indicates that the three principles advocated by Prime

¹⁴ Chapter 3, Japan's Foreign Policy to Promote National and Worldwide Interests, 6. The Rule of Law in the International Community, (1) Strengthening of the Rule of Law for the Diplomacy of Japan,

<https://www.mofa.go.jp/policy/other/bluebook/2017/html/chapter3/c030106.html>

¹⁵ https://www.kaiho.mlit.go.jp/e/topics_archive/article7860.html. The Embassy of Japan in the Philippines reported the participation of Ambassador Endo and Vice Commandant for Operation Kanosue, https://www.ph.emb-japan.go.jp/itpr_en/11_000001_020821.html.

¹⁶ He remarked that maintaining maritime order based on the rule of law is essential for regional and global peace and stability, *op. cit.*, *supra* n. 15.

¹⁷ The agenda is as follows.

Plenary Session 1: History Versus International Law? - Understanding Historic Rights and Modern Maritime Zones in the South China Sea

Plenary Session 2: Diplomatic Roundtable - The South China Sea as 'Global Commons'

Plenary Session 3: Securing Submarine Cables in the South China Sea - A Konrad-

Minister Abe are being shared and established among the participating countries and participants of the Manila Dialogue. The following sections introduce the Manila Dialogue, including the author's comments and questions¹⁸, focusing on several sessions. The perspective is the rule of law and the significance of coast guards with functions and duties to maintain maritime order.

3. 2025 Manila Dialogue

(1) Plenary Session 1: History Versus International Law? - Understanding Historic Rights and Modern Maritime Zones in the South China Sea

The theme of this plenary session is, “The South China Sea dispute is often framed as a clash between history and the modern international law of the sea. For instance, there is an argument that China’s so-called ‘historic rights’ either contradicts or supports the maritime entitlements established under the United Nations Convention on the Law of the Sea. This panel will examine *the tensions between history and law* (emphasis added)¹⁹.” The speakers discussed legal issues and historical facts regarding the South China Sea dispute, which the

Adenauer-Stiftung (KAS) Philippines Special Plenary Session

Plenary Session 4: Securing Freedom of Navigation and the Rule of Law through Cross-Regional Defense Cooperation

Plenary Session 5: Transparency as Policy - Safeguarding the Information Space Against Malign Influence Operations

Parallel Session A: The Nexus of Maritime Security and Economic Security Angles

Parallel Session B: Assessment of Dispute Management and Risk Reduction in the South China Sea

Special Lunch Roundtable: Advancing the ASEAN Coast Guard Forum (ACGF) as an ASEAN Regional Mechanism

Plenary Session 6: Maritime Capacity-Building for a Rules-based, Equitable and Sustainable Maritime Order in the Indo-Pacific

Plenary Session 7: Takeaways - Fireside Chat on The South China Sea and Perspectives on Defending the Rules-based Order

Op. cit., *supra* n. 9.

¹⁸ For clarifying the objective and purpose of the author’s questions and comments, certain explanation is added in appropriate and necessary cases.

¹⁹ *Op. cit.*, *supra* n. 9.

arbitral tribunal rendered the epoch-making award on the 12th of July, 2016²⁰.

Regarding “the tensions between history and law” this author intervened from a legal perspective. The gist is as follows.

While China was absent from the arbitral tribunal’s procedure, it issues voluminous Position Paper and Note Verbal. According to them, China itself seeks for a ground for its historic rights in customary international law. Therefore, there is not a simple tension between history and law regarding the South China Sea dispute.

The arbitral tribunal declared that the Chinese historic rights are contradictory to international law, the United Nations Convention on the Law of the Sea (UNCLOS). My point is that customary international law is not a tool to legally justify any claims that are contradictory to international law²¹.

As an international law expert, I emphasized the “flexibility and resilience” of the international legal world that does not allow to easily depart from it. By giving a legal ground for its historic rights by customary international law, China itself admits this point. When we think “the rule of law” in relation to the law of the sea, and even international law, in general, we can rely on this “elastic coverage” of international “law²².”

(2) Plenary Session 2: Diplomatic Roundtable - The South China Sea as 'Global Commons'

This session dealt with the South China Sea as vital global commons that underpins international trade, energy flows, food security, and ecological sustainability. Ensuring that it remains open, stable, and governed by international law is a shared interest not only for

²⁰ Award on the merits, PCA Case N° 2013-19 IN THE MATTER OF THE SOUTH CHINA SEA ARBITRATION - before - AN ARBITRAL TRIBUNAL CONSTITUTED UNDER ANNEX VII TO THE 1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA - between - THE REPUBLIC OF THE PHILIPPINES - and - THE PEOPLE’S REPUBLIC OF CHINA, <https://pcacases.com/web/sendAttach/2086>.

²¹ As to this issue, see Atsuko Kanehara, “Validity of International Law over Historic Rights: The Arbitral Award (Merits) on the South China Sea Dispute,” *Sophia Law Review [Jochi Hogaku Ronshu]*, Vol. 61, No. 1/2, (2017), pp. 28-35

²² In relation to the claims of territorial sovereignty, as to my similar arguments, see Atsuko Kanehara, “The Arguments Based on ‘Law’ in Territorial Disputes,” in Atsuko Kanehara and Masaharu Yanagihara eds., *Japan’s Territory under International Law*, Brill, English Translation from a Book edited by the same editors, originally published in Japanese, (2024), Chapter 5.

coastal states but also for the wider international community²³.

Japanese Ambassador H. E. Endo was the speaker for this session along with ambassadors of France, Germany, Australia, and Canada. H. E. Endo introduced Japan's cooperation with the nations in the South China Sea in various points²⁴.

The author commented specifically on Japan's cooperation with South China Sea nations as follows.

UNCLOS adopts a complex zone system, detailing the allocation of rights and jurisdiction among coastal states, flag states, and strait-bordering states. Respecting these allocations of rights is essential for cooperation²⁵. The Straits of Malacca and Singapore are vital lifelines for Japan as sea lanes for transporting natural resources. This is because Japan has extremely scarce domestic natural resource production and relies on imports for such resources.

Therefore, Japan is a keen stakeholder in maintaining peace and order in the Straits of Malacca and Singapore.

For international and regional cooperation to maintain peace and order in these straits, particularly countering piracy and armed robbery are crucial. Implementing this cooperation requires respecting the sovereignty that bordering States hold over the territorial waters of the Malacca Strait and Singapore Strait. This involves balancing the rights and interests of the strait-bordering States and user States.

In November 2001, then Prime Minister Koizumi proposed the creation of a legal framework to promote regional cooperation in order to effectively address the problem of piracy in Asia. Under Japan's leadership, negotiations were initiated to develop the agreement, which was adopted in November 2004 and entered into force in September 2006. This is the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP)²⁶.

²³ *Op. cit., supra* n. 9.

²⁴ The Embassy of Japan in the Philippines issued a succinct report on his presentation, *op. cit., supra* n. 15.

²⁵ Article 43 of UNCLOS provides for the cooperation between bordering States and user States for navigational and safety aids and other improvements and the prevention, reduction and control of pollution.

User States and States bordering a strait should by agreement co-operate:

(a) in the establishment and maintenance in a strait of necessary navigational and safety aids or other improvements in aid of international navigation; and (b) for the prevention, reduction and control of pollution from ships.

²⁶ Introduction of ReCAAP by the Ministry of Foreign Affairs,

ReCAAP is a cooperative agreement primarily focused on information gathering and information sharing. In other words, it means that user States will not intervene in the sovereign matters of bordering States “beyond this” for the sake of maintaining maritime peace and order. Such limitations exist in the form of cooperation under international law. As the South China Sea is a “Global Commons,” bordering States, as sovereign nations, are also expected to exercise their sovereignty in ways that contribute to realizing the common interests of the international community²⁷.

(3) Plenary Session 3: Securing Submarine Cables in the South China Sea - A Konrad-Adenauer-Stiftung (KAS) Philippines Special Plenary Session

This agenda is explained as follows. “Subsea cable sabotage has emerged as a particularly alarming gray zone tactic globally. A noticeable uptick in subsea cable damage reports, often coinciding with reports of suspicious vessel activity by Chinese- and Russian flagged ships, has been observed in the Baltic Sea, in the East and South China Sea (especially around Taiwan), and the Red Sea in recent years. ...Within this context, this KAS Philippines plenary session will discuss why the protection of subsea cables is a critical maritime security concern especially in the South China Sea and explore practical measures to enhance the resilience and defense of these vital systems²⁸.”

Damage to undersea infrastructure (intentional damage) has also occurred in the South China Sea, and near Japanese waters, damage to Taiwan's submarine cables has repeatedly occurred. Global attention is focused on this issue, making the Manila Dialogue's coverage highly significant. During this session, speakers from the UK and South Asian countries presented specific case studies and discussed responding measures with legal grounds. The author is conducting research on this issue²⁹. Based on this research, the following

https://www.mofa.go.jp/policy/piracy/pagewe_000001_00086.html.

²⁷ For required contribution contribution by sovereign States to international order, see Atsuko Kanehara, “Double Aspects of Being a Sovereign State: Positive and Passive Aspects,” https://cigs.canon/en/article/20240611_8159.html

²⁸ *Op. cit.*, *supra* n. 9.

²⁹ Reports on the author's presentations on this issue at international conferences, “PROPOSAL OF LEGAL FRAMEWORK(S) FOR PROTECTION OF UNDERSEA INFRASTRUCTURE BASED UPON THE RIGHT TO PROTECT USES OF SEA,” https://cigs.canon/en/article/20251110_9394.html; ENFORCEMENT AND OTHER PREVENTIVE MEASURES FOR PROTECTION OF UNDERSEA INFRASTRUCTURE : A RIGHT TO PROTECT USES OF OCEAN,”

comment was made.

Undersea infrastructure serves diverse functions. Moreover, the stakeholders affected by damage to undersea infrastructure, the modes of sabotage, and the responsible entities are also diverse. Sabotage against undersea infrastructure can become an issue of international crime and also international security. Here comes the issue of a gray zone³⁰.

Therefore, theorizing a single, definitive legal response is not straightforward. Identifying a specific perspective is both useful and essential for devising responding measures with legal grounds³¹.

(4) Plenary Session 4: Securing Freedom of Navigation and the Rule of Law through Cross-Regional Defense Cooperation

The object and purpose of this session is as follows. “Freedom of navigation and the rule of law are indispensable pillars of peace, stability, and security in the South China Sea. Yet these principles face persistent challenges from coercive actions and unlawful assertions of maritime claims. This panel will explore whether and how cross-regional defense cooperation—through joint patrols, combined exercises, visiting forces agreements, maritime domain awareness initiatives, and other arrangements—can help reinforce international law and safeguard navigational freedoms³².”

This session focused on the infringement of freedom of navigation in the South China Sea, discussing regional and international cooperation, including the significance of a Code of Conduct for ASEAN countries. The author, having not been given an opportunity to speak during this session, made the following comment on freedom of navigation during the subsequent Plenary Session 7³³.

https://cigs.canon/en/article/20251001_9274.html.

³⁰ With respect to this point, see Atsuko Kanehara, “Factors Producing ‘Grey Zones’ in Maritime Security,” 『國際海洋資訊』 International Ocean Information Journal published by the Ocean Affairs Council of Taiwan (Summer, 2025), pp. 107-112, (reproduced) https://cigs.canon/en/article/20250728_9061.html.

³¹ For details, see Atsuko Kanehara, “The Protection of Submarine Cables and Pipelines in Armed Conflict in the Indo-Pacific,” in D. Guilfoyle and J. Maddocks eds, *Armed Conflict and International Law in the Indo-Pacific Region*, Oxford University Press, (2025), Chapter 8, forthcoming.

³² *Op. cit.*, *supra* n. 9.

³³ Regarding the author’s view that infringements on freedom of navigation should be theorized as responses based on “right to protect uses of sea,” see Atsuko Kanehara, “The

Regarding the freedom of navigation, no one would dispute its importance. All nations, all individuals, would acknowledge it. Nonetheless, what about combating measures against infringements upon the freedom of navigation? Consider the discussions at the UN Security Council addressing infringements against the freedom of navigation and the safety of navigation in the Red Sea.

The M/V Galaxy Leader was violently attacked by Houthi rebels in the Red Sea at the end of 2023³⁴. Similar incidents occurred in the same sea area and others. These are clear infringements on the freedom of navigation and the safety of navigation.

Following the Galaxy Leader incident, on January 11, 2024, the US and UK initiated military strikes against Houthi bases in Houthi-controlled areas within Yemeni territory. This occurred immediately after the adoption of UN Security Council (SC) Resolution 2722³⁵ on January 10, 2024³⁶. Paragraph 3 of the resolution states:

Affirms that the exercise of navigational rights and freedoms by merchant and commercial vessels, in accordance with international law, must be respected, and takes note of the right of Member States, in accordance with international law, to defend their vessels from attacks, including those that undermine navigational rights and freedoms (emphasis added).

With respect to “the right,” within the SC³⁷, at least three distinct categories of opinion have been voiced³⁸. First, there is a view that “the right” means and/or includes the right of self-

Houthi Rebels’ Attack against Japan-Related Vessel in the Red Sea: An Idea of ‘the Right to Protect Uses of Sea’ (hereinafter referred to as Kanehara, “the Right to Protect”).

https://cigs.canon/en/article/20241224_8535.html.

This constitutes a common legal theory not only for addressing infringements on freedom of navigation and safety of navigation in the Red Sea, but also for countering violent obstruction against Japan’s whaling on the high seas. Atsuko Kanehara, “Japan’s Request of Extradition of the Founder of Sea Shepherd: Recovery and Maintenance of the Common Interests of International Society and the Inherent Interests of Japan, a Sovereign State,” https://cigs.canon/en/article/20240826_8292.html.

³⁴ Regarding this incident, see Kanehara, “the Right to Protect,” p. 1.

³⁵ Resolution 2722 adopted by the Security Council at its 9527th meeting, on 10 January 2024, The Security Council, S/RES/2722 (2024)

<https://documents.un.org/doc/undoc/gen/n24/009/28/pdf/n2400928.pdf>.

³⁶ For a succinct analysis of this resolution, see Kanehara, “the Right to Protect,” pp. 2-4.

³⁷ Security Council, U.N. Doc. S/PV.9532, (Jan 12, 2024).

³⁸ Kanehara, “the Right to Protect,” pp. 4-8.

defence. The US³⁹ and UK⁴⁰ took this position.

Second, there is an opinion denying the right of self-defence in Red Sea situations. Taking this position, the Russian Federation (Russia) stated, for example, "May I remind members that 'freedom of navigation' is regulated by the 1982 United Nations Convention on the Law of the Sea.... But even if we were talking about pirates, the Convention gives the right to detain a pirate vessel and bring the crew to trial rather than bomb yet another country back into the Stone Age⁴¹."

Third, not only denying the right of self-defence as the second category of opinion, some States explain what they can do under international law, including the law of the sea. As the third category of opinion, Switzerland not only denied the right of self-defence but also pointed out concretely possible measures to be taken under the resolution as follows.

"Switzerland shared its legal assessment of the resolution's operational paragraph 3, referring to: 'the right of Member States, in accordance with international law, to defend their vessels from attacks, including those that undermine navigational rights and freedoms'. In our view, that right is strictly limited to military measures to intercept attacks against merchant vessels and warships in order to protect said vessels and the persons on board⁴²."

Thus, while there is universal international consensus on the freedom of navigation, international opinion is divided on how to address infringements upon that freedom, including the legal basis for such responses. If we are to discuss regional and international cooperation for the freedom of navigation, it is precisely this issue of differing views on the manner of response that should be addressed.

(5) Special Lunch Roundtable: Advancing the ASEAN Coast Guard Forum (ACGF) as an ASEAN Regional Mechanism, and Plenary Session 6: Maritime Capacity-Building for a Rules-based, Equitable and Sustainable Maritime Order in the Indo-Pacific

These two sessions dealt with the significance of the role and function of coast guards, law enforcement organs.

The Special Roundtable convened the heads of maritime law enforcement agencies from Indonesia, the Philippines, Malaysia, and Cambodia to discuss practical pathways for

³⁹ *Op. cit.*, *supra* n. 37, pp. 4-6, 11.

⁴⁰ *Ibid.*, p. 11.

⁴¹ *Ibid.*, pp. 2-4, 11.

⁴² *Ibid.*, p. 9.

advancing the ASEAN Coast Guard Forum (ACGF)⁴³. Plenary Session 6 discussed the status of maritime capacity-building programs in the region, including training, technology-sharing, provisions of patrol ships and maritime domain awareness capabilities, and sustainable fisheries management for advancing a rules-based, equitable, and sustainable maritime order in the Indo-Pacific⁴⁴.

In this Plenary Session 6, Vice Commandant for Operations KANOSUE of Japan, after introducing the Prime Minister Abe's Three Principles of the rule of law at sea, explained JCG's achievements in capacity building support for countries on the Indo-Pacific Coast and other neighboring countries. He also remarked that maintaining maritime order based on the rule of law is essential for regional and global peace and stability, continuing to work towards the realization of a Free and Open Indo-Pacific through international cooperation and collaboration⁴⁵.

Complementing Vice Commandant Kanosue's remarks on the regional cooperation against piracy, this author explained the occurrence of the incidents of not only piracy but also armed robbery in the South China Sea for combating which Japan has cooperated with the South China Sea countries. She reiterated former Prime Minister Koizumi's leadership in establishing the ReCAAP⁴⁶. Further, she introduced Japan's MDA (Maritime Domain Awareness). The National Headquarters for Ocean Policy of Japan⁴⁷ decided to strengthen MDA capacity⁴⁸, concurrently with the enactment of the Third Basic Plan on Ocean Policy of Japan⁴⁹.

(6) Plenary Session 7: Takeaways - Fireside Chat on The South China Sea and Perspectives on Defending the Rules-based Order

This session summarized the two-day discussions of the 2025 second Manila Dialogue.

The agenda reads: "...In recent years, however, the very notion of a "rules-based order" has

⁴³ *Op. cit.*, *supra* n. 9.

⁴⁴ *Ibid.*

⁴⁵ *Op. cit.*, *supra* n. 15.

⁴⁶ *Op. cit.*, *supra* n. 26.

⁴⁷ This author served for six years from 2016 to 2022 as Councilor for the National Headquarters of Ocean Policy of Japan, appointed by Prime Minister. In that capacity, she contributed to the enactment of the Third Basic Plan on Ocean Policy.

⁴⁸ https://www8.cao.go.jp/ocean/policies/mda/pdf/h30_mda_main.pdf

⁴⁹ The provisional English translation is available at;
https://www8.cao.go.jp/ocean/english/plan/pdf/plan03_e.pdf.

come under increasing scrutiny. This session will examine these debates through the lens of current developments in the South China Sea—ranging from the unlawful assertion of maritime claims and coercive maneuvers at sea to questions surrounding the continued authority of the United Nations Convention on the Law of the Sea (UNCLOS)⁵⁰.”

The author was among the three discussants for this session. At the beginning, upon the moderator’s request, she raised three points. First, she introduced and reaffirmed the three principles that Prime Minister Abe declared relating to the rule of law at sea. In addition, by pointing out that the entire agenda of the Manila Dialogue reflects the three principles significantly, she appreciated the organizer’s wise agenda setting⁵¹. The object and purpose of this session are also clearly based upon the three principles.

Second, in terms of “rule-based” that is a key concept of this Manila Dialogue, it is needed to consider not only “existing laws,” but also “new laws” to be created. A prime example for requirement for new international law rules is the problem of sabotage against undersea infrastructure. The Manila Dialogue addresses this in “Plenary Session 3: Securing Submarine Cables in the South China Sea - A Konrad-Adenauer-Stiftung (KAS) Philippines Special Plenary Session” deal with this. In 1982 when UNCLOS was adopted, while it contains several provisions on undersea infrastructure, it could not have anticipated the technological development and functional expansion of such undersea infrastructure⁵². As discussed in Plenary Session 3, new international law rules are urgently required to combat the frequent incidents of sabotage against undersea infrastructure. Therefore, when discussing a “rule-based” order, we must consider not only existing laws but also necessary creation of new rules to cope with recent incidents.

Third, as introduced above⁵³, this author made a comment on the freedom of navigation, and responding measures against infringements on the freedom of navigation with their legal grounds.

4. Concluding Remarks

In the final session, after many interventions from the floor, as concluding remarks, this author explained Japan’s strong interests in the issues in the South China Sea as a participant from a country belonging to the East China Sea, and emphasized the significance

⁵⁰ *Op. cit.*, supra n. 9.

⁵¹ *Op. cit.*, supra n. 17.

⁵² 3. (3) .

⁵³ 3. (4) .

of the Manila Dialogue.

As to Japan's strong interest, she raised the two points. First, Japan has closely monitored what is happening in the South China Sea, because similar situations are highly likely to occur in the East China Sea. Second, as an indispensable sea route, particularly for ocean shipping of natural resources, the stability and security of the South China Sea is truly a critical issue. This is because Japan heavily depends on importing natural resources due to its lack of domestic production of natural resources.

Regarding the significance of the Manila Dialogue, she emphasized the two following points. First, the Manila Dialogue discharges the role of fostering "*opinion juris*-normative conscience" among its wide range of participants. "*Opinion of juris*-normative conscience" is the one of the two requirements for generating customary international law⁵⁴. As she explained, international society and the South China Sea region are facing the necessity of new international rules to cope with and to combat current incidents that existing international law rules do not cover, such as sabotage against undersea infrastructure. Customary international law is one of the two principle legal sources of international law along with treaties. For establishing new customary international rules and for promoting of adoption of new treaty rules, "*opinion juris*-normative conscience" is indispensable. Without this, neither customary rules nor effective treaty rules can be expected. International law and "*opinion juris*-normative conscience" generally presuppose a State-to State relationship. Nevertheless, the "*opinion juris*-normative conscience" strongly fostered by the 1.5 Track of the Manila Dialogue efficiently and significantly support "*opinion juris*-normative conscience" among States. In this sense, we cannot overemphasize the importance of the Manila Dialogue with its broad range of participants.

Second, the Manila Dialogue appropriately focuses upon the significance of law enforcement organs for the realizing and maintaining a "rule-based" maritime order. Many domestic and international conferences which deal with maritime security generally place greater emphasis on military and self-defence organs. Even when law enforcement organs are also touched upon, in some cases they are given a sort of complementary, or auxiliary status to military and self-defence organs. However, law enforcement organs are fulfilling their own inherent tasks and function. They are for the maintenance of maritime order by combatting domestic and international illegal conducts.

As Vice Commandant for Operation Kanosue explained in the Plenary Session 6, in Japan the relationship between the JCG and the JMSDF is characteristic⁵⁵. The former never holds

⁵⁴ The other requirement is State practice.

⁵⁵ This author has on several occasions introduced this relationship. For instance, see

military nature⁵⁶, even when it collaborates with the JMSDF in conflict situations⁵⁷. In this context, Vice Commandant emphasized the importance of the tasks and functions of the JCG⁵⁸. This point deserves attention in a wider and more general context, and this relates to the significance and importance of the Manila Dialogue⁵⁹.

It is true that for maritime security, collaboration between coast guards and military organs is indispensable, and in some cases the former is incorporated into the latter as a complementary organ. However, the point is that in discussing such collaboration, as an indispensable presupposition, we need to recognize the inherent tasks and functions of law enforcement organs. Not only for combating illegal acts at sea, but also for avoiding unnecessary escalation toward conflict situations, law enforcement organs have been serving. A gray zone issue acquires its significance by recognizing each task and mission to coast guards, law enforcement organs, on the one hand, and military organs, JMSDF, on the other hand.

The Manila Dialogue excels in precisely illuminating the significance of law enforcement organs for maritime safety and maritime security.

Atsuko Kanehara, “Urgently Advocating a Precise Understanding of the Principle of Proportionality: From the Perspective of the Inherent Situation of the Japan Coast Guard and the Japan Maritime Self-Defence Force,”

https://cigs.canon/en/article/20251029_9345.html; A report of this author’s presentation on this issue, Research Director Atsuko Kanehara participated in the Malaysia Maritime Security Conference 2025, which was held on the 21st of May 2025, in Malaysia, https://cigs.canon/en/article/20250701_9009.html.

⁵⁶ This is in accordance with Article 25 of the JCG Act. Article 25 stipulates: “Nothing in this Act shall be construed to permit the JCG or its officers and employees to be organized for, be trained for, or perform the functions of an armed force (translated by the author).

⁵⁷ 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,” *Japan Review*, Vol. 6, No. 2 (2024), pp. 47-79.

⁵⁸ 3. (5) , and *op. cit.*, *supra* n. 15.

⁵⁹ 1. Introduction.