DEVELOPMENT OF THE CONCEPT OF MARITIME SECURITY FROM A PERSPECTIVE OF THE INTERNATIONAL MARITIME ORGANIZARTION

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I. Introduction

In recent years, both in domestic society and international society, there is a firm tendency to understand security widely. The author analyzed the term "security" elsewhere[1]. This paper will focus upon maritime security in international society with brief introduction of Japan's practice on security.

It will proceed as follows. First, it will succinctly examine a wider concept of maritime security to confirm the shared "wider concept of maritime security" in international society. Opinions on a wider concept of maritime security will be introduced (II). Second, it will point out agenda that inherently maritime security, being defined widely, brings to international society. A wider concept of maritime security would reflect various values for which many stakeholders may be assumed. A wider concept of maritime security assumes not only a military threat, but also threts caused by, for instance, international crimes at sea, IUU fishing, marine environmental degradation, illegal migration, and so forth. It is different from a traditional concept of maritime security to combat principally military threats. How to prioritize different values and how to compromise conflicting values are a daunting task to maintain and realize maritime security in a wider sense (III). For considering ways for coping with such agenda, this paper will examine, internationally, the functions of the International Maritime Organization (IMO) (IV), and, domestically, Japan's practice (V). Finally, some concluding remarks will follow.

II. Development of the Concept of Maritime Security

1. Widened Concept of Maritime Security

(1) International Society

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*All URLs are visited on the 12th of November 2026.

[1] Atsuko Kanehara, "National Security (in Japanese)," https://cigs.canon/article/20250212_8639.html.

Authorities suggested a widened concept of maritime security.[2] The followings are the typical examples.

> "Maritime security does not confine itself to traditional concept of maritime security in relation to military threats. Maritime security is understood by the measures combatting *military threat, terrorism, weapons proliferation, transnational crime, piracy, environmental/resource destruction, and illegal seaborne migration* (emphasis added).[3]"

Already around a decade ago, this clearly indicated various threats to be considered as the targets that maritime security needs to cope with. Likewise, in the same year of publication, a voice was heard:

> In the twenty-1st century, the concept of maritime security continues to embrace the military interests of States, as well as extending to a range of maritime crimes that may threaten a State's economic, political, social, and cultural values….
>
> Maritime security is best understood as encompassing two key dimensions: (1) traditional security concerns and (2) responses to perceived maritime security

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[2] As to asuccinct survey of authorities, see, Atsuko Kanehara, "The Use of Force in Maritime Security and the Use of Arms in Law Enforcement under the Current Wide Understanding of Maritime Security," *Japan Review*, Vol. 3, No. 2 (2019), https://www.jiia.or.jp/eng/upload/eng/JapanReview_Vol3_No2_05_Kanehara.pdf, pp. 35, 50-51 (hereinafter referred to as Kanehara, "The Use of Force"), and authorities cited in the footnotes. See also, Atsuko Kanehara, "Reconsideration of the Distinction Between the Use of Arms in Law Enforcement and the Use of Force Prohibited by International Law - With an Analysis of the Inherent Significance of This Issue to Japan-," *Japan Review*, Vol. 5 (2023) https://www.jiia.or.jp/eng/upload/eng/JapanReview_Vol5_02_%20Kanehara.pdf, Introduction and pp. 23-24 (hereinafter referred to as Kanehara, "Reconsideration.")

[3] Douglas Guilfoyle, "Maritime Law Enforcement Operations and Intelligence in an Age of Maritime Security," *International Law Studies*, Vol. 93 (2017), p. 299.

threats[4].

This authority explains the reason for the recent wide understanding of maritime security[5]. According to this, not only sovereign States' exclusive interests but also the inclusive interests (common interests) of the world define a wide array of threats such that maritime security is understood widely as that combatting the variety of threats[6]. This is the similar stance to that of this author, as examining in Section III, in that a widened concept of maritime security would relate to various values.

The UN Secretary General demonstrates a similar position by counting seven threats to maritime security: piracy, terrorist acts, illicit trafficking of narcotic drugs and psychotropic substances, smuggling and trafficking of persons by sea, IUU fishing, and damage to the marine environment[7]. Similarly, according to the IMO[8], with the distinction between maritime safety and maritime security, the latter is related to protection against unlawful and deliberate acts[9].

While widening the concept of maritime security is not denied, there is no agreed exact meaning of it. There are also different definition approaches, in this regard.

Yet, despite being widely used, *there is little agreement over its exact meaning*.

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[4] Nathalie Klein, "Maritime Security," in Donald Rothwell, Alex G. Oude Elferink, Karen N. Scott & Tim Stephens (eds.), *The Oxford Handbook of the Law of the Sea* (Oxford University Press, 2017), pp. 582-583. Her previous work also discussed widening the concept of maritime security. Natalie Klein, *Maritime Security and the Law of the Sea*, (Oxford: Oxford University Press, 2011), pp. 1-10.

[5] *Ibid.*, pp. 1-10.

[6] *Ibid.*, p. 8.

[7] UNGA, "Oceans and the Law of the Sea: Report of the Secretary-General" UN Doc A/63/63.

[8] Proshanto K. Mukherjee and Maximo Q. Mejia Jr., "The ISPS Code: Legal and Economic Considerations," in Maximo Q. Mejia Jr. ed., *Contemporary Issues in Maritime Security* (World Maritime University, 2004), pp. 33-34.

[9] Cited by Klein, *supra* n. 4, p. 8, n. 23.

> Not only is there no agreed definition of what 'maritime security' is, but even *the definition approaches differ considerably and notably span from positive to negative conceptualisations of the term.* The former approach 'projects a certain ideal-typical end state that has to be reached'; in this vein, legal doctrine has defined maritime security, for instance, as 'a stable order of the oceans subject to the rule of law at sea'. By contrast, the negative conceptualisation of the term rests on an understanding of maritime security as the absence of specific threats. It is usually complemented and further specified by a list of threats deemed to amount to security challenges at sea – hence, the origin of the term 'laundry list' approach[10].

Thus, as to international law, authorities at least confirm a tendency of widening the concept of maritime security[11].

(2) Domestic Society: Japan's Experience

Regarding the tendency of understanding maritime security widely in domestic society, there is a typical example in recent Japan's experience. As Section IV will deal with Japan's practice, here only the gist of it is introduced, not confining to maritime security[12].

Japan has recently taken legislative measures as follows. The Third Basic Plan on Ocean Policy of 2018 adopted the concept of "comprehensive maritime security."

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[10] Anna Petrig, "Human Rights and Law Enforcement at Sea," in Ruxandra-Laura Boşilcă, Susana Ferreira, and Barry J. Ryan (eds.), *The Routledge Handbook of Maritime Security* (Taylor & Francis Group, 2022), p. 272.

[11] In the similar idea, it is pointed out that mode of "war" is also varied. Shane Fischman, "Redefining Law of War in the Wake of Gray-Zone Conflict's Ubiquity," *University of Pennsylvania Journal of International Law*, Vol. 41, Issue 2 (2019), pp. 523-525.

[12] This author introduced these legislative measures, in *supra* n. 1.

This concept encompasses defence, law enforcement, prevention of illegal exploitation of living and non-living resources, protection of the marine environment, combatting illegal seaborne migration, and so on. This comprehensive concept integrated Japan's ocean policies with respect to each of these issues[13]. For economic security, legislative measures have been taken, such as Act on the Promotion of Ensuring National Security through Integrated Implementation of Economic Measures, and Amendments to the Foreign Exchange and Foreign Trade Act. The Seventh Strategic Energy Plan of 2025 defines energy security. The Act Partially Amending the Food, Agriculture and Rural Areas Basic Act of 2024 purports to develop Japan's food security.

2. International and Domestic Trend of Widening of the Concept of Maritime Security

As an author pointed out, "Yet, despite being widely used, there is little agreement over its exact meaning. Indeed, definitions of the concept are actor, context and region-specific:[14]" Nonetheless, it can be safely said that there has been a shared and recognized trend of widening of the concept of maritime security[15].

There are common elements that authorities are almost in accord to include in

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[13] Atsuko Kanehara, "Japan's Ocean Policy and Free and Open Indo-Pacific Strategy," Lectures Delivered 25 through 29 of September, 2018, in India, Bangladesh, and Sri Lanka, https://www.in.emb-japan.go.jp/itpr_en/00_000740.html; https://www.bd.emb-japan.go.jp/itpr_en/PR20180927.html; https://www.lk.emb-japan.go.jp/itpr_en/00_000678.html.

[14] Petrig, *supra* n. 10, p. 272.

[15] Widening of the concept of maritime security may influence the concept of peace. In this regard, there is an analysis of the provisions of "peaceful purposes reservation" in the UNCLOS, Henrique Marcos, Filho De Mello, Cavalcanti Eduardo, "Peaceful Purposes Reservation in the Law of the Sea Convention and the Regulation of Military Exercises or Maneuvers in the Exclusive Economic Zone," *University of Pennsylvania Journal of International Law*, Vol. 44, Issue 2 (2023), pp. 420-425.

the issue of maritime security, such as law enforcement situation[16] to cope with international crime at sea, particularly serious ones like maritime terrorism. Therefore, the relationship between traditional concept of military security and law enforcement deserves a brief analysis[17].

3. Related Concept: Gray Zone

(1) A Gray Zone between Security Situation and a Tense Situation

While it is difficult to find an agreed definition of "gray zone[18]," it is widely

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[16] Under international law, there is not a solid definition of law enforcement, Kanehara, "The Use of Force," pp. 44-45. 54. See, also, Alfred H. A. Soons, "Law Enforcement in the Ocean—An Overview," *WMU Journal of Maritime Affairs*, Vol. 3 (2004), pp. 3-16. As for a general review of the UNCLOS in relation to its authorizations of law enforcement measures, see, Robert McLaughlin, "Authorizations for Maritime Law Enforcement Operations," *International Review of the Red Cross*, 98 (2) (2016), 465–490.

[17] In this regard, see, for instance, Rekizo Murakami and Masato Mori, "Kaijo Hoancho Ho no Seiritsu to Gaikoku Hosei no Keiju—Kosutogado Ron [The Establishment of Japan's Coast Guard Law and Succession of Foreign Laws—Coast Guard—]," in Soji Yamamoto ed., *Kaijo Hoan Hosei–Kaiyo Ho to Kokunai Ho no Kosaku [Laws on Coast Guard—Interplay between the Law of the Sea and Domestic Law]*, (Sanseido, 2009), pp. 30-31. Regarding the relationship between maritime law enforcement and other related concepts, see, Craig H. Allen, "Limits on the Use of Force in Maritime Operations in Support of WMD Counter-Proliferation Initiatives," *International Law Studies*, Vol. 81 (2006), pp. 77 *et seq.*; Nils Melzer and Gloria Gaggioli Gasteyger, "Conceptual Distinction and Overlaps between Law Enforcement and the Conduct of Hostilities," in Terry D. Gill and Dieter Fleck eds., *The Handbook of the International Law of Military Operations*, 2nd ed., (Oxford University Press, 2015), Chapter 4.

[18] As a succinct analysis of definition of gray zone, see, Rob McLaughlin, "The Law of the Sea and PRC Gray-Zone Operations in the South China Sea: Current Developments," *American Journal of International Law*, Vol. 116, Issue 4 (2022), pp. 824-828.

recognized that there is a gray zone between military situation, and law enforcement situation to control a tense situation, mainly that caused by crimes[19]. Even with lack of an armed attack by the use of force, there is a threat to States by, for instance, invasive acts, cyber attacks, and information manipulation[20]. In this regard, a wide array of acts is assumed, which may cause threat to States, while they are normally conducted by non-State actors, and some of them fall under international crimes at sea[21].

With respect to the category of responding measures to concrete tense situations, opinions could be divided[22]. For instance, for armed robberies, IUU fishing, armed attacks against commercial vessels like the incidents that have been taking place

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[19] As to further analysis of the concept of gray zone, see, Kanehara, "The Use of Force," pp. 51-52; Kanehara, "Reconsideration," p. 48 and footnote 226.

[20] An interesting examination of China's strategy with a concept of "dark law," Stephen Cody, "Dark Law on the South China Sea," *Chicago Journal of International Law*, Vol. 23, No. 1 (2022), pp. 62-78. Particularly, p. 70.

[21] As an examination of this issue in respect to destruction undersea infrastructure, Atsuko Kanehara, "The Protection of Submarine Cables and Pipelines in Armed Conflict in the Indo-Pacific," in Douglas Guilfoyle and Jennifer Maddocks eds., *Armed Conflict and International Law in the Indo-Pacific Region* (Oxford University Press, 2026), pp. 182-188.

[22] For instance, Japan adopted a Cabinet Decision of 1 July 2014, "Development of Seamless Security Legislation to Ensure Japan's Survival and Protect its People" that explains "gray zones." According to this, the gray zones are: first, a situation where an infringement from the outside that does not amount to an armed attack occurs in areas surrounding remote islands, etc., and police forces are not present nearby or police agencies cannot respond immediately (including situations in which police agencies cannot respond because of the weapons possessed by the armed groups, etc.); second, a situation where an attack occurs against the units of the United States armed forces currently engaged in activities which contribute to the defense of Japan and such a situation escalates into an armed attack depending on its circumstances. A provisional translation is available at https://www.cas.go.jp/jp/gaiyou/jimu/pdf/anpohosei_eng.pdf.

in the Red Sea and in other sea areas, which category of measures are to be taken to cope with them? Are they measures of self-defence, or measures of law enfoccement, or other (new) category of responding measures at sea? The decision may depend on actual tense situations, and various factors may be considered to make the decision, such as entities involved, scale and intensity of violent acts, seriousness of prospected damage, and so on.

(2) A Commonly Shared Meaning of a Gray zone

As explained, while there is no agreed definition of gray zone, it is widely recognized that there is a gray zone between military situation, and law enforcement situation to control a tense situation, mainly that caused by crimes[23]. Without going into further detail of the issue of gray zone[24], only what can be said is that with the widening of "maritime security," the distinction between "maritime security" and "(maritime) gray zone" should be blurred[25].

International jurisprudence, while it is under a particular framework of deciding the jurisdiction to entertain the case[26], has indicated that the distinction is

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[23] As to an example of a definition of gray zone in relation to the law of armed conflict, see, for instance, Miles Xavier, "A Sea Change: Problematizing the 'Gray Zone' in the South China Sea," *US-China Law Review*, Vol. 21, No. 8 (2024), pp. 394-404.

[24] As an analysis of gray zone from a perspective of its relation to the principle of non-intervention, Elizabeth K. Kiessling, Gray Zone Tactics and the Principle of Non-Intervention: Can "One of the Vaguest Branches of International Law" Solve the Gray Zone Problem?," *Harvard National Security Journal*, Vol. 12, Issue 1 (2021), pp. 116-163.

[25] From a different viewpoint, as an examination of narrowing "gray zone," and concrete responding measures, see, Raul Pedrozo, "Narrowing 'the Gap': Counter Gray Zone Operation," *International Law Studies*, Vol. 103 (2024), pp. 381-383.

[26] As to jurisdiction to entertain cases of dispute settlement procedure under UNCLOS, Article 298, Pargraph 1 (b)of UNCLOS reads:

blurred between military activities which the jurisdiction of courts and tribunals does not cover, and law enforcement activities which the jurisdiction does[27]. While courts and tribunals tend to understand military activities in a restricted manner[28], there are authorities uttering opposite opinions[29].

Thus far this Section confirmed the tendency to widen the concept of maritime security. Then, next Section will examine merits and demerits of this tendency. The latter sets forth agenda for international society to realize maritime security in a wider sense.

III. Agenda Which International Society Will Face under a Widened Concept of

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> When signing, ratifying or acceding to this Convention or at any time thereafter, *a State may, without prejudice to the obligations arising under section 1, declare in writing that it does not accept any one or more of the procedures provided for in section 2 with respect to one or more of the following categories of disputes*:
> …
> (b) *disputes concerning military activities, including military activities by government vessels and aircraft engaged in non-commercial service, and disputes concerning law enforcement activities* in regard to the exercise of sovereign rights or jurisdiction excluded from the jurisdiction of a court or tribunal under article 297, paragraph 2 or 3 (emphasis added);

When a party to a dispute decline the jurisdiction on dispute concerning military activities, the distinction between military activities and law enforcement is critical to determine the jurisdiction.

[27] For analysis of the recent jurisprudence, see, Kanehara, "Reconsideration," pp.28-34.

[28] *Ibid.*, pp. 33-34.

[29] As to this point, see, for instance, Lori Fisler Damrosch, "Military Activities in the UNCLOS Compulsory Dispute Settlement System: Implications of the South China Sea Arbitration for U.S. Ratification of UNCLOS," *AJIL Unbound*, Vol. 110 (2016), 275; Bernard H. Oxman, "The Regime of Warships under the United Nations Convention on the Law of the Sea," *Virginia Journal of International Law*, Vol. 24 (1984), p. 813.

Maritime Security

1. Merits of Widening of the Concept of Maritime Security

There are merits in understanding maritime security in a wider sense. First, a widened concept of maritime security assumes various threats in addition to the traditional military threat. Therefore, in accordance with a widened concept of maritime security, international society would recognize various kinds of danger (threats) and share them. Second, international society would prepare for prevention of such various kinds of danger (threats).

2. Agenda Which International Society Will Face under a Widened Concept of Maritime Security

(1) Various Interests Involved in Maritime Security

Combating various threats contribute to realization of various interests. Such interests include those for national defence (defending from military threats), law enforcement (e. g. combatting crimes at sea)[30], exercise of national jurisdiction (coping with wrongful acts at sea, such as IUU fishing, and marine environmental pollution), and border protection (preventing seaborne illegal migration). As a result, the stakeholders of such interests necessarily become various.

The situations for which measures for maritime security are required to cope with are not always simple, and it demonstrates plural interests at stake. It may frequently happen that plural interests at stake are conflicting with each other and that they require measures contradicting to each other. This should produce agenda that

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[30] While for law enforcement at sea, maritime safety is a matter of paramount concern, in the context of law enforcement, it is recognized that maritime security is an associated issue. Jinhu Wang, Yichao Wei & Xin Su, "Forcible measures for maritime law enforcement by the coast guard," *Frontiers in Marine Science* (9 September 2025), https://www.frontiersin.org/journals/marine-science/articles/10.3389/fmars.2025.1654808/full, 3.1.

international society will face as soon as it understands maritime security in a wider sense.

Let's put the agenda in a concrete context that international society is experiencing.

(2) Various Interests Involved in Maritime Security in Context

①【The Current Situation of the Strait of Hormuz】

Various interests are at stake, such as military security, combatting international crimes (terrorist attacks) at sea, the freedom and the safety of navigation, the safety of seafarers, implementation of the law of armed conflict[31].

The situation is vulnerable to change, from international armed conflict to cease fire, and the shift from one to another does not take place with clear distinction between them. In such a mixture of situation, the interests at stake are complicatedly intertwined to each other. When the situation is defined as that for which measures of maritime security in a wider sense need to be taken, such measures would be contradictory to each other. For instance, blocking the sea lanes in accordance with the law of armed conflict or for the safety of the sea lanes, would prevent the ocean trade.

②【Destruction of Undersea Infrastructure】

Here also various interests are at stake, such as reparation for destruction of property, combatting international crimes st sea, defending against the use of force if the violent acts of destruction satisfy the requirements for the use of force, and responding to hostile acts at sea. In this case, too, finding a compromise between

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[31] The IMO has taken actions consistently from a perspective of the safety of navigation and seafarers which are within its mandate. For instance, Resolution c. 81 (137) adopted on 8 July 2026, "Resolution on the protection of Vital Shipping Lanes, Including by Upholding and Respecting the Navigational Rights and Freedoms for Commercial Ships When Transiting through Straits Used for International Navigation," c 137/Res.81.

conflicting interests is not an easy task. For instance, to take strict protecting measures for undersea infrastructure, function of communication cables would be prevented. Furthermore, to determine the priority among conflicting interests and among the measures to realize them is also a dauting task.

③ 【Treaty Regimes】

First, let's think about GATT Article XXI, the security exceptions. The provision reads:

> Nothing in this Agreement shall be construed
> (*a*) to require any contracting party to furnish any information the disclosure of which it considers contrary to *its essential security interests*; or
> (*b*) to prevent any contracting party from taking any action which it considers necessary for the protection of *its essential security interests*
> … or
> (*c*) to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter *for the maintenance of international peace and security* (emphasis added),

Realization of a world free market is to be an issue of economic security. When security interests become more and more various, how to seek a balance between those interests and GATT's object, a free market?

Second, international society experienced the Covid-19 pandemic in 2020. International Health Regulations of 2005 were amended in 2014, 2022 and 2024. Article 2 (Purpose and Scope) reads:

> The purpose and scope of these Regulations are to prevent, prepare for, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risk and *which avoid unnecessary interference with international traffic and trade* (emphasis added).

World pandemic should be a threat to "health security," and prevention of it is a to be a general interest of international society. Then, how to seek a balance between the interest in (health) security and international traffic and trade?

These examples raise a question: how to compromise the conflicting interests, when "security" interests are widened; how to determine the priority among the conflicting interests[32].

If there are relevant treaties, these questions may be answered by the consent of parties to the treaties in interpretation and/or amendment of the rules. When it is not the case, what methods and means are needed to compromise conflicting interests and to decide priority among them?

To consider that, next sections will examine as international practice, the contribution of the International Maritime Organization (IMO) to maritime security in wider sense[33], and as domestic practice Japan's experience, in this order.

IV. Contribution by the IMO to Maritime Security in a Wider Sense

1. Distribution of Powers among International Organizations: Decentralizes Structure of International Society

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[32] In addition, as an institutional issue, with widening the concept of maritime security, allocation of mandates and responsibilities, for instance, between self-defence organs and the coast guards requires reconsideration. See, Douglas Daniels, "How to Allocate Responsibilities between the Navy and Coast Guard in Maritime Counterterrorism Operations," *University of Miami Law Review*, Vol. 61, No. 2 (2007), 467–508.

[33] As to the international peace and security, the international organization to deal with them is the UN, principally the Security Council. Hoewever, recent cases the use of force have been conducted by Russia and the United States that are permanent members to the Security Council holding the veto power. In reality, the Security Council is not expected to take necessary measures to combat the situations. Therefore, as an international organization that could be contribute to maritime security in a wider sense, it is meaningful to consider the IMO.

Every international organization and treaty regime have inherent function and mandate. The examples are as follows: the UN has the mandate to maintain and recover international peace and security; UNCLOS and other treaties dealing with international crimes at sea fulfill functions to combat international crimes at sea; there are global and regional fishery organizations have a mandate to cope with the IUU fishing.

Then, what is the contribution that IMO with its mandate can provide to the realization of maritime security in a wider sense?

2. Contribution by the IMO to Realization of Maritime Security in a Wider Sense

(1) Function and Mandate

① Legal Ground for the IMO Competence: Consents of Member States

The IMO can keep support from its member States and international society by precisely adhering to its mandate. With respect to the mandate of the IMO, Article 1 of the Convention on the International Maritime Organization (as Amended)[34] provides for:

> Part 1 – Purposes of the Organization
>
> Article 1
>
> (a) To provide machinery for co-operation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade, and to encourage the general adoption of the highest practicable standards in matters concerning *maritime safety, efficiency of navigation and prevention and control of marine pollution from ships*; and to deal with administrative and legal matters related to the purposes set out in this Article (emphasis added).

[34] Succinct explanation of the development of this convention is available at https://www.imo.org/en/about/conventions/pages/convention-on-the-international-maritime-organization.aspx.

② Home Page of the IMO

The Home Page of the IMO on history of the IMO[35] and on Our Work list both maritime safety[36] and maritime security[37]. As to maritime security it reads:

> The IMO has within its mandate to make trade and travel by sea as safe and secure as possible[38].

Under the item of maritime security, piracy and armed robbery are mentioned.

> The threat posed by piracy and armed robbery has been on the IMO's agenda since the early 1980s. In the late 1990s and the early 2000s the focus was on the South China Sea and the Straits of Malacca and Singapore. More recently, since 2005, IMO has focused on piracy off the coast of Somalia, in the Gulf of Aden and the wider Indian Ocean, and is currently implementing a strategy for enhancing maritime security in West and Central Africa, in line with the region's maritime security agreements[39].

(2) Close Relationship between "Security" and "Safety"

In the documents reproduced above there are several phrases that mention both safety and security. Considering the contexts, the term "security" in these phrases may not be necessarily interpreted to mean the security in the terms "(international) peace and security" for which the UN principally has mandate[40]. Nonetheless, mainly

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35 "Brief History of IMO," https://www.imo.org/en/about/historyofimo/pages/default.aspx.

36 https://www.imo.org/en/ourwork/safety/pages/default.aspx.

37 https://www.imo.org/en/ourwork/security/pages/default.aspx.

38 *Ibid.*

39 *Ibid.*

40 As to the tense situation of the Strait of Hormuz, the IMO has taken actions consistently from a perspective of its mandate. For instance, "Stop Attacking Merchant Ships and Seafarers: IMO Secretary-General to Member States," IMO Media Centre,

relating to the safety of navigation and ocean transport, a close relationship is reasonably expected between safety (of navigation and transport) and security which means that in "(international) peace and security." It is here that a wider concept of maritime security as has been discussed above may obtain raison d' être.

The typical example is the close relationship between the safety of navigation and security in the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) regime. The SUA Convention regime purports to combat international terrorist attacks against vessels. Terrorism is generally conducted by non-State entities. The international criminal law deals with terrorism as an international crime. However, in reality, violent acts of terrorism in their scale and gravity can be comparable to those of the use of force conducted by States. Considering this, it is totally understandable that authorities have discussed a possibility to cope with terrorist attacks by non-State entities by exercising the right of self-defence which usually assumes the use of force by States[41]. Therefore, in the context of international terrorism at sea against vessels, there is a close relationship between the safety of the navigation and transportation to be dealt with by the international criminal law, such as the SUA Convention, and the use of force to be dealt with the Law of the Use of Force, such as the UN Charter. The former is a mandate of the IMO, and the latter is that of the UN.

Considering this point, it is understandable that the Home Page of the IMO on history of the IMO reads:

The IMO has within its mandate to make trade and travel by sea as safe and

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September 16, 2026,https://www.imo.org/en/mediacentre/pressbriefings/pages/stop-attacking-ships-and-seafarers-imo-secretary-general.aspx. See also the Resolution c. 81 (137) adopted on 8 July 2026, *supra* n. 31.

[41] Daniel Bethlehem, "Self-Defense Against an Imminent or Actual Armed Attack by Nonstate Actors," *American Journal of International Law*, Vol. 106 (770), p. 770.

secure as possible.

This is also the case with the problem of destruction of undersea infrastructure. Generally international crimes are assumed as to such destruction. Nonetheless, when the violent act is attributed to a State[42], and/or when it is comparable to the use of force by States, it would become an incident of international peace and security[43].

Therefore, the IMO's mandate can cover, at least, part of the issues of maritime security in a wider sense, which may include the issues of international crimes, and violent acts at sea. In addition, depending on individual cases, the IMO could contribute to maritime security in the traditional sense.

Furthermore, according to the interplay between the IMO and other international treaties and documents the IMO also can enlarge its contribution to maritime security in a wider sense.

(3) Interplay between the IMO Treaties and Other International Documents, in the Field of Maritime Security That Is Understood Widely

There are the following examples in focusing upon the interplay between the IMO and UNCLOS.

① Interplay between UNCLOS and the SUA Convention regime that was adopted under the auspice of the IMO in respect to the definition of "piracy" under UNCLOS and the "unlawful acts" under the SUA Convention regime

② Interplay between UNCLOS and the IMO treaties of SOLAS and COLREG in relation to the safety of ships and the safety of navigation

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[42] As to the issue of attribution, see, Atsuko Kanehara, "The Reassessment of Acts of the State in the Law of State Responsibility - A Proposal of an Integrative Theoretical Framework of the Law of State Responsibility to Effectively Cope with Internationally harmful acts of Non-State Actors," *Recueil des cours*, Vol. 399, (2019), pp. 19-266.

[43] Kanehara, *supra* n. 21, "The Protection of Submarine Cables and Pipelines in Armed Conflict in the Indo-Pacific," pp. 182-188.

③ Interplay between UNCLOS and the IMO treaty of SAR for search and rescue
④ Interplay between UNCLOS and the IMO treaties on the marine environmental protection, in relation to the "internationally agreed rules, standards and recommended practices and procedures," and "competent international organizations" that are provided for under Part XII of UNCLOS on the marine environmental protection. "Internationally agreed rules, standards and recommended practices and procedures" include those adopted under the auspice of the IMO, and the IMO is one of "competent international organizations."

These matters for regulation, namely, international crimes at sea, safety of navigation, rescue at sea, and marine environmental protection can be covered by the wider concept of maritime security. Accordingly, by interplay between the IMO and UNCLOS can promote the IMO contribution to realize maritime security in a wider sense.

3. Strong Expectation on IMO Contribution to Maritime Security in a Wider Sense

Further contribution by the IMO to realization of maritime security in wider sese, by the following two ways: first, by precisely adhering to its mandate based upon the consents of the member States; second, by appropriately expanding its function by further promoting the interplay between the IMO treaties and others, on the one hand, and UNCLOS and other international documents, on the other hand.

This Section analyzed the IMO contribution to maritime security in a wider sense in considering the ways to combat the agenda which widening the concept of maritime security will produce. For the same purpose, next Section will examine Japan's practice of widening the concept of security without confining itself to maritime security.

V. Japan's Practice of Widening the Concept of Security

1. Traditional Meaning of Maritime Security in Japan

The traditional meaning of security—when considered in the context of national security—is defence against armed attacks on the state, which would endanger and cause harm its territory and people. Put simply, it means preventing threats to life. The National Security Strategy of Japan (adopted as a Cabinet Decision in 2022)[44] sets out the objective as follows:

> Japan will maintain its sovereignty and independence, defend its territorial integrity, and secure the safety of life, person, and properties of its nationals Japan will ensure its survival while maintaining its own peace and security grounded in freedom and democracy and preserving its rich culture and traditions. Furthermore, Japan and its nationals will continue to strive so that Japan and its nationals are respected and favorably regarded around the world[45].

Thus in traditional sense, national security refers to defence against threats to life and is based on the assumption of extreme situations. In other words, national security is generally and commonly understood as a term carrying such seriousness and gravity. Furthermore, precisely because the term "national security" is supported by this general and common-sense perception of seriousness and gravity, the following argument is put forward with persuasive force: in the context of national security—that is, defence—even the rights and freedoms of the people, which are guaranteed by the Constitution and are supposed to be safeguarded in "peacetime[46]", may be restricted. Restrictions may be placed on various rights and freedoms, such as freedom of

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[44] Government of Japan, National Security Strategy of Japan (Provisional Translation), Dec. 2022, https://www.cas.go.jp/jp/siryou/221216anzenhoshou/nss-e.pdf.

[45] II Japan's National Interests, Paragraph 1.

[46] Here, peace time indicates a situation where there is no armed attack or threat of force.

expression, property rights and economic freedom. This is clearly demonstrated by the situation of the Japanese people during the Second World War. This is the effect brought about by “national security.” When a threat to “life” looms, the defence of life takes precedence even over the rights and freedoms guaranteed by the Constitution in “peacetime.” Otherwise, it would be impossible to defend life. As the saying goes, “life comes first.” Precisely because “life comes first,” restrictions on rights and freedoms carry persuasive weight. The public therefore accepts such restrictions on their rights and freedoms.

What, then, is the meaning of “security” as it relates to comprehensive maritime security, economic security, energy security and food security for which Japan has recently taken various legislative measures?

2. “Comprehensive Maritime Security” in the Third Basic Plan on Ocean Policy[47]

The Third Basic Plan on Ocean Policy, adopted aa a Cabinet Decision in 2018, established “comprehensive maritime security” as its main pillar. The Fourth Basic Plan on Ocean Policy[48], adopted as a Cabinet Decision five years later in 2023, whilst adding a second main pillar—"building a sustainable ocean”—continues to maintain comprehensive maritime security as its primary pillar.

The content of “comprehensive maritime security” is evident from the measures outlined to achieve it. These measures comprise (1) measures concerning maritime security, such as defense, law enforcement, foreign policy, safety measures for marine traffic and responses to natural disasters originating in ocean, and (2) measures

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[47] Provisional English translation is available, https://www8.cao.go.jp/ocean/english/plan/pdf/plan03_e.pdf.

[48] In Japanese, https://www8.cao.go.jp/ocean/policies/plan/plan04/pdf/keikaku_honbun.pdf. Only the gist of it is available in English, https://www8.cao.go.jp/ocean/english/plan/pdf/plan04_gaiyou_e.pdf.

relating to foundation for contributing to reinforcement of maritime security. The former comprises measures aimed at safeguarding national interests in territorial waters and others, ensuring the stable use of vital sea lanes, and strengthening the international maritime order.

The latter is divided into two categories. The first consists of measures forming basis for maritime security" which include establishing maritime domain awareness (MDA) system, the preservation and management of remote islands, ocean surveys and ocean observations, science and technology, and measures relating to human resource development. The second category is "measures supporting maritime security," which includes measures relating to economic security and the protection of the marine environment. In short, "comprehensive maritime security" encompasses virtually all maritime-related measures in a truly "comprehensive" manner, and this constitutes the substance of "comprehensive maritime security."

The scope of such "comprehensive maritime security" is broad—one might even say excessively so. In my view as a person involved in enacting the Third Basic Act on Ocean Policy, there were two reasons for this. Firstly, there is a negative reason. Apart from defence-related laws and documents, it was necessary to proceed with prudence and caution when addressing "maritime security" head-on in government documents, let alone making it a central pillar of such documents. This was all the more true given the ongoing and escalating tensions in the East China Sea.

Needless to say, due to the history of war, the public harbours deep-seated wariness towards military-related terms such as "defence" and "national security." Taking this into careful consideration, the Third Basic Plan on Ocean Policy did not confine the term "national security" to its traditional meaning of the nation's military defence, nor did it force this interpretation upon the public. Instead, treating "national security" as a term with a broad and diverse scope, the Third Basic Plan on Ocean Policy introduced the concept of "comprehensive maritime security" to the public, so to

speak, in a gradual and measured manner.

Secondly, there are positive reasons. The Third Basic Plan on Ocean Policy is formulated by the National Headquarters for Ocean Policy, which was established under the 2007 Basic Act on Ocean Policy[49]. Article 1 reads:

> The purpose of this Act is, with regard to the oceans, to stipulate the basic principles, to clarify the responsibilities of the State, the local governments, business operators and the citizens as well as to formulate the basic plan with regard to the oceans and other basic matters with regard to the measures on the oceans, *by establishing the Headquarters for Ocean Policy in order to promote measures with regard to the oceans comprehensively and systematically* (emphasis added),

Maritime utilisation covers a wide range of areas—such as navigation, fisheries, environmental protection, resource development and immigration control—and within Japan's "siloed" bureaucratic structure, each of these matters falls under the jurisdiction and responsibility of different ministries and agencies. However, for Japan, which advocates itself as a maritime nation, "comprehensive" maritime policies and plans are indispensable. This is precisely the objective of the Basic Act on Ocean Policy. Consequently, the pillar of "comprehensive maritime security" was established both as a term serving to link diverse measures and to declare the necessity of a comprehensive maritime policy. It is for this reason that measures relating to virtually all aspects of maritime utilisation have been linked and positioned, as described above, as measures pertaining to "comprehensive maritime security."

Nevertheless, even with the establishment of the Headquarters for Ocean Policy—based on the spirit of the Basic Act on Ocean Policy, which recognises the indispensability of a comprehensive maritime policy—there has been no fundamental

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[49] Unofficial English Translation is available, https://www.japaneselawtranslation.go.jp/ja/laws/view/3755.

change to the institutional structure in which relevant ministries and agencies "divide" responsibility for policy implementation. Consequently, what "comprehensive maritime security" protects is safeguarded through defence against individual threats, as envisaged by measures corresponding to the matters "divided among" the relevant ministries and agencies—such as defence, territorial waters guarding, immigration control, safety of navigation, the prevention and suppression of illegal fishing, and marine environmental pollution.

3. Security in Various Fields

(1) Economic Security

Article 1 (Purpose) of the 2022 Economic Security Promotion Act (Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures[50]) states:

> With the increasing complexity of the global landscape and changes in the world's socio-economic structure, and in light of the growing importance of preventing economic activities that cause harm to the security of the nation and its citizens, the Act stipulates that the government formulates a basic policy and introduces necessary systems as economic measures related to ensuring national security, in order to comprehensively and effectively promote economic measures related to ensuring security.

It is clear and specific regarding the content of security, the dangers (situations) to be defended against, and the regulations and restrictions imposed on rights and freedoms of the people. The security referred to in Article 1 of the Act is security in its traditional sense. In other words, it is security whose content has been developed from an

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[50] Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures (Act No. 43 of May 18, 2022), unofficial English translation is available at https://www.japaneselawtranslation.go.jp/en/laws/view/4716.

economic perspective.

The dangers (situations) to be defended against arise from "economic activities that cause harm to the security of the nation and its citizens." Specifically, the measures for defence relate to specified critical products, essential infrastructure services and specified critical technologies. In these areas, legal frameworks and regulations are established under the Act and its subordinate legislation.

(2) Energy Security

> Article 2 (Stable Supply)(1) of the Basic Act on Energy Policy of 2002[51] states: With regard to the matter of securing a stable supply of energy, given that the international situation regarding world energy involves unstable factors and for other reasons, measures must be taken with the basic aim of diversifying energy supply sources, increasing energy self-sufficiency and achieving stability in the energy sector *by undertaking such measures as reducing excessive dependence on specific geographic regions for the import of primary energy sources such as oil, promoting the development of energy resources that are material to Japan, providing for energy transportation systems, promoting the stockpiling of energy and energy use efficiency, and implementing appropriate crisis management concerning energy* (emphasis added).

This is the only provision concerning security. According to this Article, energy security means preventing crises in energy supply. Measures to this end are those aimed at "diversifying energy supply sources, increasing energy self-sufficiency and achieving stability in the energy sector," and the emphasized part of Article 1 above lists specific methods to a certain extent.

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[51] Basic Act on Energy Policy (Act No. 71 of June 14, 2002), Unofficial English translation is available at https://www.japaneselawtranslation.go.jp/en/laws/view/3818.

The Seventh Strategic Energy Plan[52] adopted as a Cabinet Decision in 2025 reads:

> Japan, too, experienced a period of acute energy stress, as the supply-demand balance for electricity tightened and energy prices soared, raising concerns over a potential energy crisis not seen since the oil crisis. In the face of this crisis, we were reminded of the vulnerability of Japan's energy supply system and the persistent challenges to ensuring energy security[53]
>
> For Japan, which depends on the Middle East for more than 90% of its crude oil imports, the deteriorating situation in the Middle East, where critical choke points are concentrated, has a direct impact on energy security and could have a significant impact on Japan's industrial competitiveness[54].

International developments are under close scrutiny, and harmful situations that could lead to a crisis in energy supply would likely include international (armed) conflicts. Should Japan be a party to such a conflict, measures for security in the traditional sense (defence measures) would be invoked. In this respect, energy security overlaps with national security in the traditional sense and could be said to form part of it. If this is the case, it will be necessary to examine and determine in greater detail the relationship between security in the traditional sense and energy security, as well as what specific measures energy security requires from that perspective.

(3) Food Security

An Act Partially Amending the Food, Agriculture and Rural Areas Basic Act

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[52] Agency for Natural Resources and Energy, Strategic Energy Plan (Provisional Translation), Feb. 2025, https://www.enecho.meti.go.jp/category/others/basic_plan/pdf/2025_strategic_energy_plan.pdf.

[53] *Ibid.*, p. 14.

[54] *Ibid.*

(1999) was enacted during the 2024 regular session of the Diet[55]. Article 2 of this Act defines "food security" as "a situation in which high-quality food is supplied at a reasonable price, and, each citizen can obtain such food."

With regard to the risks (situations) that food security is intended to prevent, there are "peacetime" and "'state of emergencies" scenarios. "Peacetime" here has a distinct meaning from the general concept of peacetime—which refers to a state free from armed attack or the threat of force—and can be understood in relation to "state of emergencies." In accordance with the Act on Countermeasures for Difficult Food Supply Situations was enacted in 2024[56]. To cope with the state of emergencies countermeasures will be taken. There are "unforeseen" domestic factors (natural disasters, infectious diseases, incidents or accidents relating to food safety, disruption of supply chains, etc.) and overseas factors (natural disasters and extreme weather, infectious diseases, transport disruptions at ports and other locations, export restrictions by exporting countries, climate change, etc.) that affect the supply of food.

According to this Act, whilst overseas transport disruptions and export restrictions are cited as causes of the risk (situation) of a "difficult food supply," international (armed) conflicts would also be included. If this is the case, the points made regarding energy security apply here as well.

Should Japan be a party to such an international conflict, measures for security in the traditional sense (defence measures) would be invoked. In this respect, food security overlaps with security in the traditional sense and can be said to form part of it. It is therefore necessary to examine and determine in greater detail the relationship

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[55] The Food, Agriculture and Rural Areas Basic Act (Act No. 44 of 2024), an official English translation is available at https://www.japaneselawtranslation.go.jp/en/laws/view/4984 .

[56] Act on Countermeasures for Difficult Food Supply Situations (Act No. 61 of June 21, 2024), an official English translation is available at https://www.japaneselawtranslation.go.jp/en/laws/view/4958.

between national security in the strict sense and food security, as well as what specific measures, from that perspective, food security requires.

4. Some Lessons from Japan's Practice on a Widening the Concept of Security

The enrichment of the concept of security in itself is significant. The importance of protecting the public from multiple angles by recognising and preventing diverse dangers (situations) on the basis of a broadened concept of security cannot be denied.

The term "security' is generally and commonly perceived as carrying a sense of seriousness and gravity. This is because security, by its very nature, involves preventing threats to life and is conceived in terms of extreme situations. The adage "life comes first" has also served to lend persuasiveness to restrictions on the rights and freedoms of the people that are protected by the Constitution. Considering this seriously, is it not essential to be mindful of the seriousness and gravity when using the term "security" in various fields (contexts)?

Comprehensive maritime security, economic security, energy security and food security all encompass elements that constitute part of security in its traditional sense. As long as this remains the case, one cannot rule out the possibility of the circumstances in which restrictions on the rights and freedoms under the Constitution might be required on the grounds of these forms of security. Moreover, the dangers (or situations) to be addressed are not limited to the simple and clear-cut danger (or situation) of a threat to life. They include obstacles to diverse uses of the oceans, threats to the safety of economic activities, and crises in energy and food supplies. Even if the aim is to prevent such dangers or crises, restrictions on rights and freedoms do not necessarily carry persuasive weight. Unlike the saying "life comes first," the assessment of these dangers and crises may be influenced by the diverse values held by individuals. It is by no means certain that everyone will be willing to relinquish their rights and

freedoms—let alone their fundamental human rights enshrined in the Constitution—and accept such restrictions in order to protect themselves from these dangers and crises.

In order to ensure a more comprehensive form of security, whilst guaranteeing that the resulting restrictions on rights and freedoms are proportionate to what they are intended to protect, it is essential to engage in further debate on security, clarify its scope, and foster a shared understanding amongst the public regarding the assessment of these dangers and crises.

To achieve such a goal, institutional development is indispensable to overcome the demerits of the Japan's traditional "siloed" bureaucratic structure under which each of matters falls under the jurisdiction and responsibility of different ministries and agencies. For this reason, as for an ocean policy of Japan, National Headquarters for Ocean Policy was established under the 2007 Basic Act on Ocean Policy. Nonetheless such development required has been still underway.

Concluding Remarks

There is a firm tendency to widen the concept of maritime security both in international society and domestic society, while it is not possible yet to define precise meaning of maritime security in a wider sense.

By enrichment of the concept of maritime security, international society could commonly recognize and share danger (threats) from multiple angles, and to prevent divers threats. Such significance could not be denied.

Nonetheless, to achieve that goal, international society and international law still have inherent limits. They are still facing the agenda that the widened concept of maritime security will produce.

In this regard, there are two kinds of limits of a decentralized international society: substantially, lack of agreed priority among the conflicting interests that form

maritime security in a wider sense; and institutionally, lack of integrative decision-making mechanism to decide the priority among those conflicting interests.

We need to overcome these limits due to the decentralized international society, and to promote in an appropriate manner the maritime security in a wider sense.