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Seeking Further Cooperation for Strengthening the Rule-Based Order at Sea in Asia

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Introduction

The rise of China has a huge impact on Asian countries. As the Chinese economy grows, its political and military power also grows substantially. Assertive Chinese activities in the South China Sea escalated from April 2020 after the Chinese government completed its COVID-19 containment operations. A Chinese Coast Guard vessel dispatched to the Paracel Islands rammed into and sank a Vietnamese fishery boat,[1] which the Vietnamese government protested firmly. The Chinese government established new administrative districts, *Nansha* (Spratly Islands) and *Xisha* (Paracel Islands) under the *Sansha* district

[1] Khanh Vu, "Vietnam protests Beijing's sinking of South China Sea boat," *Reuters*, April 4, 2020, https://www.reuters.com/article/us-vietnam-china-southchinasea/vietnam-protests-beijings-sinking-of-south-china-sea-boat-idUSKBN21M072.

located on Woody Island.[2] In responding to those events, the Philippines government decided to freeze the termination of the Visiting Forces Agreement,[3] which allows the presence of U.S. forces in the Philippines to counter Chinese assertion in the South China Sea. Eventually, U.S. Secretary of State Michael R. Pompeo announced a change to the "U.S. Position on Maritime Claims in the South China Sea" on July 13th, asserting that the United States deemed Chinese activities in the South China Sea as completely illegal.[4] This action was then replicated by Australia.[5]

Chinese assertive activities are clearly opposed to the concept of a Free and Open Indo-Pacific (FOIP), which has been endorsed by Japan, the United States, and Australia. Prime Minister Shinzo Abe first introduced FOIP at the sixth Tokyo International Conference on African Development (TICAD VI) in Kenya in 2016. The concept stemmed from the need to connect Asia, which was rapidly growing, and Africa, which was full of potential growth, via the Pacific and Indian Oceans to foster future trade and prosperity. In order to realize this concept, the Japanese government set out the following three pillars:

1. Promotion and establishment of the rule of law, freedom of navigation, and free trade;
2. Pursuit of economic prosperity;
3. Commitment to peace and stability, including capacity building of maritime law enforcement.[6]

In November 2017, Prime Minister Abe and President Trump confirmed that "a free and open maritime order based on the rule of law is a cornerstone for peace and prosperity" and endorsed those three points.[7]

This paper briefly argues why further international cooperation in maritime law enforcement capacity building in Asia is necessary. First, it examines the evolution of the

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[2] Liu Xin, "Sansha city establishes two districts for better management," *Global Times*, April 18, 2020, https://www.globaltimes.cn/content/1186004.shtml.

[3] Diplomatic Note, the Department of Foreign Affairs of Philippines to the Embassy of the United States of America, Manila No.2020-2622 dated June 1, 2020, shared to Twitter by Teddy Locsin Jr., the Philippine Foreign Secretary on June 2, 2020, https://twitter.com/teddyboylocsin/status/1267786798731628545.

[4] Press Statement by Michael R. Pompeo, Secretary of State, "U.S. Position on Maritime Claims in the South China Sea," United States Department of State, July 13, 2020, https://www.state.gov/u-s-position-on-maritime-claims-in-the-south-china-sea.

[5] Australia's Declaration to the United Nations No. 20/26 dated July 23, 2020, https://www.un.org/depts/los/clcs_new/submissions_files/mys_12_12_2019/2020_07_23_AUS_NV_UN_001_OLA-2020-00373.pdf.

[6] Address by Prime Minister Shinzo Abe at the Opening Session of the Sixth Tokyo International Conference on African Development, Ministry of Foreign Affairs of Japan, August 27, 2016, https://www.mofa.go.jp/mofaj/afr/af2/page4_002268.html.

[7] "Japan-U.S. Working Lunch and Japan-U.S. Summit Meeting," Ministry of Foreign Affairs of Japan, November 6, 2017, https://www.mofa.go.jp/na/na1/us/page4e_000699.html.

Japan Coast Guard's (JCG) capacity building programs in Asia and briefly describes similar efforts on the part of the United States. Then, it argues that Japan-U.S. cooperation in capacity building remains essential not only to enhance the regional capabilities of maritime law enforcement but to realize the shared value of FOIP, in particular, maintaining the rules-based order in the region.

JCG's Contribution to Maritime Law Enforcement Capacity Building in the Region

The JCG has been fully committed to the third pillar of FOIP, providing capacity building for maritime law enforcement to various nations across Asia. The history of capacity building by the JCG dates back to 1970 when the JCG initiated a hydrographic survey in the Malacca-Singapore Strait. The Strait is a narrow and shallow channel connecting the eastern edge of the Indian Ocean to the South China Sea and, by extension, the rest of East Asia. The JCG carried out the hydrographic survey to identify navigational threats, such as uncharted sunken shipwrecks and shallow sandbanks, as well as to improve the accuracy of charts, and map out navigable waters.[8] Besides that first effort, the JCG hosted a seminar to equip littoral states with the theories and practical knowledge for hydrographic surveys. Subsequently, the JCG extended the scope of its capacity-building efforts to include navigational safety, search and rescue, and response to oil-spill incidents. Such efforts to ensure maritime safety and protect the marine environment became the foundation for mutual understanding and confidence between the JCG and the authorities in the littoral states.

Next, the Japanese government recognized that maritime security cooperation was essential. In the late 1990s, the number of maritime piracy and armed robbery cases had surged in Southeast Asia. Japan also faced these threats of piracy and armed robbery since the piracy prone area was a part of vital sea lanes used for trade and communication by Japan. More than 90% of oil and gas at this point was carried to Japan by sea. Therefore, a 1999 pirate attack against the M/V *Alondra Rainbow*, a general cargo ship registered in Panama but owned by a Japanese company, was a wake-up call for Japanese public opinion. The ship was attacked right after leaving an Indonesian port and hijacked. Pirates cast off all crew members, including the Japanese captain and chief engineer, in a life raft out at sea. The pirates sold the aluminum ingots stored in the cargo deck and changed the ship's

[8] *Kaijo Hoancho 50 Nenshi* (Japan Coast Guard 50 Years Annual Report), Tokyo: Japan Coast Guard, 1998; Takeo Okubo, *Uminari no Hibi* (Days of Sea Roar), Tokyo: Kaiyou Mondai Kenkyukai, 1978.

name to *Mega Rama* to operate the ship in the Indian Ocean. Eventually, the pirates were found and arrested by the Indian Coast Guard.[9]

As a result of this incident, the JCG extended maritime security capacity building. In April 2000, the JCG hosted a conference, the "Regional Conference on Combating Piracy and Armed Robbery against Ships," for the first time in Tokyo.[10] The following conference found that there should be a regional organization to share piracy information and build capacity broadly to deal with piracy and armed robbery. In 2006, the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) Information Sharing Center was inaugurated in Singapore. Simultaneously, the JCG initiated a seminar series on Maritime Law Enforcement (MARLEN) in 2001 to enhance the knowledge and practical skills of maritime law enforcement agencies in the region. Later, the seminar expanded its scope of participants to include nations in both East Africa and Oceania.

Moreover, the JCG decided to establish a dedicated capacity building team at its headquarters. Through experience in hosting these seminars and exercises in different countries, the JCG learned that needs and demands vary substantially from state to state. In order to respond to those needs and demands precisely, the need to have a dedicated team at the headquarters increased. As a result, the Mobile Cooperation Team (MCT), modeled after the U.S. Coast Guard (USCG) Mobile Training Team, was activated in 2017.[11] The team responds to the demands of recipient organizations and provides tailored capacity building programs for recipient countries.

Lastly, the JCG further expanded its scope of capacity building to assist in policy formulation for other nation's new coast guard agencies. In Asia, a trend to establish coast guard organizations separate from navies and other maritime organizations developed in the late-1990s. For example, the Philippine Coast Guard was separated from the Philippine Navy in 1998. The Malaysian Maritime Law Enforcement Agency was established in 2005 by integrating relevant maritime agencies. The Vietnam Coast Guard was separated from the Vietnamese Navy in 2013. For those newly established coast guard agencies, enhancing the capabilities of promising officers has become a top priority. Reflecting these demands, the JCG collaborated with the National Graduate Institute for Policy Studies to launch a one-year master's course, the Maritime Safety and Security Policy Program in 2015. In this course, students study professional knowledge, including international law, international relations, and security studies, as well as practical

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[9] For more detailed information, see Jayant Abhyankar, "Piracy, Armed Robbery and Terrorism at Sea: A Global and Regional Outlook." in *Piracy, Armed Robbery and Terrorism and Securing the Malacca Straits*, *ed.* Graham Gerard Ong-Webb, 1-22. Singapore: ISEAS Publishing, 2006.

[10] *Kaijo Hoan Report 2001* (JCG Annual Report 2001), Tokyo: Japan Coast Guard, 2002.

[11] *Kaijo Hoan Report 2018* (JCG Annual Report 2018), Tokyo: Japan Coast Guard, 2019.

knowledge related to coast guard operations. Participating students are required not only to deepen their understanding of theories in these fields but also to acquire the ability to implement them in daily operations. This program sets these officers up for success in their respective fields.[12] As Prime Minister Abe addressed in his speech at the 73rd Session of the United Nations General Assembly, the significance of this program is that it serves as a core component of FOIP because it promotes the common value of a rule-based order in the maritime domain.[13]

The U.S. Contribution to Maritime Law Enforcement Capacity Building in the Region

The United States has played a critical role in supporting different coast guard agencies. For example, USCG schools accept more than 200 international participants from 75 different nations every year and provide various technical, management, and leadership skills necessary for coast guard operations.[14] Among other things, the International Maritime Officers Course, exclusively for international participants in their mid-carrier, has been the core program for maritime law enforcement officers since 1995. There are around 550 alumni of this program from 94 different countries.[15] Moreover, the USCG has been expanding its commitment to Asia in recent years. The U.S. government funds the U.S.-based training of Philippines Coast Guard officers. In 2015, the U.S. government-sponsored education for six officers, but in the last three years it has been funding the education for an average of 60 officers per year.[16] In addition to the above, the USCG Mobile Training Teams are dispatched to various host countries and offer a variety of courses, including boarding officer courses in different levels and courses on small boat operations and maintenance. The number of participants in these courses averages about 2,500 from 60 countries.[17] These efforts to provide capacity building to strengthen maritime law enforcement significantly contribute to maintaining good order at sea in the Indo-Pacific.

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[12] For more information on this program, visit https://www.grips.ac.jp/en/education/inter_programs/maritime/.

[13] Prime Minister Shinzo Abe, "Address by Prime Minister Abe at the Seventy-Third Session of the United Nations General Assembly," Speech delivered at the 73rd Session of the United Nations General Assembly, September 25, 2018, https://japan.kantei.go.jp/98_abe/statement/201809/_00005.html..

[14] "Training & Technical Assistance," the United States Coast Guard, https://www.dco.uscg.mil/Our-Organization/Director-of-International-Affairs-and-Foreign-Policy-CG-DCO-I/Training/.

[15] "International Maritime Officers School," the United States Coast Guard, https://www.forcecom.uscg.mil/Our-Organization/FORCECOM-UNITS/TraCen-Yorktown/International-Training/International-Maritime-Officers-School/.

[16] Jay Tristan Tarriela, "What Is the US Coast Guard's Role in the Indo- Pacific Strategy?," *The Diplomat*, June 21, 2019, https://thediplomat.com/2019/06/what-is-the-us-coast-guards-role-in-the-indo-pacific- strategy/.

[17] Supra note 21.

The effort of the USCG does not remain within the human resource development field but includes the deployment of USCG cutters for joint exercises in the region and the provision of equipment and assets for littoral states. In recent years, the USCG has increased deployment of cutters to the West Pacific region, maritime exercises, and official port visits. In 2019, USCG Cutter *Bertholf* was deployed to the Indo-Pacific region under the control of the US Navy's 7th Fleet based in Yokosuka for six months. The objectives of this deployment were to enforce international sanctions over North Korea and to conduct joint exercises with coast guards and navies in the region, thereby reinforcing their capabilities, and demonstrating the rule-based order in the West Pacific.[18] *Bertholf* joined the maritime search and rescue exercise with the Philippines Coast Guard near the Scarborough Shoal, where China and the Philippines clashed in 2012, prior to its official port visit for the first time for seven years.[19] Subsequently, USCG Cutter *Stratton* was deployed for similar missions to Yokosuka again to engage with strategic partners, including regional cooperation in law enforcement, capacity building, and various exercises. *Stratton* visited a port in Malaysia as a part of maritime training activities.[20] Moreover, the United States contributed to establishing the National Coastal Watch Center (NCWC) in the Philippines. The NCWC enables authorities to observe maritime activities in the vast area of seas under its jurisdiction by the integration of different sea and land sensors as the shared maritime domain awareness system among relevant agencies. Lastly, the U.S. government has handed over different types of patrol boats to authorities in the region. Most recently, the U.S. government donated 16 high-speed patrol boats (45-foot) to the Vietnam Coast Guard in 2019.[21]

Seeking Further Cooperation for Realization of the Shared Value of "Free and Open"

Although these two coast guards support enhancing the regional law enforcement capability, international cooperation has not yet been reached sufficiently. Interaction between two coast guards is essential to complement resources each other, for the first

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[18] Capt. John J. Driscoll, "National Security Cutter Conducts National Defense Mission," Proceedings of Marine Safety and Security Council, *The Coast Guard Journal of Safety and Security at Sea*, Spring 2020, Vol. 77(1). https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjT59-D_7rrAhWOfd4KHWBeAdUQFjAGegQICBAB&url=https%3A%2F%2Fwww.dco.uscg.mil%2Fportals%2F9%2FDCO%2520Documents%2FProceedings%2520Magazine%2FArchive%2F2020%2FVol77_No1_Spring2020.pdf%3Fver%3D2020-06-24-174602-383&usg=AOvVaw3RV8ZG3V2uCdSEAAbIX_SK.

[19] "U.S., Philippine Coast Guards Conduct Joint Search and Rescue Exercise," The US Embassy in the Philippines. https://ph.usembassy.gov/us-philippine-coast-guards-conduct-joint-search-and-rescue-exercise/.

[20] Dzirhan Mahadzir, U.S. Coast Guard Eyes Expanded Operations in Western Pacific, *USNI News*, August 16, 2019. https://news.usni.org/2019/08/16/u-s-coast-guard-eyes-expanded-operations-in-western-pacific.

[21] "United States Transfers Six Patrol Boats to Vietnam Coast Guard Region III," The US Embassy and Consulate in Vietnam. https://vn.usembassy.gov/pr20190401-united-states-transfers-six-patrol-boats-to-vietnam-coast-guard-region-iii/.

place. For example, the biggest challenge for JCG is often a lack of human resources. In order to provide technical seminars and exercises, there must be resource officers. Those officers are subject matter professionals who can speak different languages and therefore communicate with foreign participants. Unfortunately, the JCG lacks a sufficient amount of resource officers. Due to other relevant services of each coast guard agency, this issue is common among allied countries, which limits the ability to expand educational opportunities and upgrade the capacities of recipient countries.

Thus, international cooperation among contributing nations is essential to complement resources and to avoid duplication and maximize capacity-building efforts. For example, the JCG MCT team held a joint exercise in collaboration with the USCG mobile team in 2017 in Manila. The exercise included participants from Indonesia, Malaysia, the Philippines, and Vietnam. JCG instructors oversaw the operation of high-speed small boat operations while the USCG instructors oversaw maintenance of those boats, which was one of the primary concerns of participating countries. Both sets of instructors became confident in the synergy and effectiveness of such joint exercises. This collaboration contributed to fostering further mutual understanding and building confidence at the individual level to benefit organizations overall.

Strengthening cooperation is also necessary to address the improvement of comprehensive maritime law enforcement capability in each state. For example, maritime assets are essential for activities at sea, but not often sufficient for the authorities in the region. Japan had provided 10 multi-role patrol ships (44m type) until 2018 and promised to provide another two larger patrol ships (94m type) in 2016 to the Philippines Coast Guard. In 2017, two JCG patrol ships (1,000-ton type) were donated to the Malaysian Coast Guard. In addition to the high-speed boats handed over from the United States, the Japanese government further concluded the Loan Agreement to give 6 patrol ships to the Vietnam Coast Guard. The authorities in Southeast Asia need not only human resources but maritime assets. However, these ships alone are not enough. The structural approach through international cooperation is the key to cover both human and asset resources to maximize the capability of each coast guard organization in the region.

Lastly, but most importantly, capacity building for regional authorities is not just for providing training and assets. Through close cooperation in offering seminars and exercises, Japan, the United States, and other like-minded countries are able to collectively show recipient countries in the region the significance of the fundamental values of FOIP, including the rule of law, freedom of navigation, and the rules-based order in the maritime domain. Maritime law enforcement capacity building aims not only to enhance the capability of individual countries to exercise jurisdiction and maintain maritime order, but also for those countries to contribute in upholding the shared values at the heart of FOIP. Japan and the United States are expected to take the initiative and demonstrate leadership to maximize the effort of expanding and realizing these fundamental values. Those steps

have been taken, but with China's challenge to international order, we must wonder whether it will be enough or if both countries need to invest more.

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