

AJISS-Commentary

The Association of Japanese Institutes of Strategic Studies

IIPS

Institute for International
Policy Studies

JIIA

The Japan Institute of
International Affairs
(Secretariat)

RIPS

Research Institute for
Peace and Security

Editor:

Akio Watanabe

Editorial Board:

Masashi Nishihara
Naoko Saiki
Taizo Yakushiji

Online Publisher:

Yoshiji Nogami
President, JIIA

No.58. 4 February 2009

JAPAN SHOULD IMMEDIATELY DISPATCH NAVAL SHIPS OFF SOMALIA

Hideaki Kaneda

The dramatic increase in the number of pirates in the Gulf of Aden south of the Arabian Peninsula and off the coast of Somalia has caused the United Nations to issue three Security Council resolutions since June 2008, authorizing the international community to use military power to protect commercial ships from piracy. Around twenty countries, including NATO/EU member states, India, Russia and China, have already dispatched naval vessels, with South Korea expected to join them soon. There are high expectations for Japan to do something as well, but Japan has been slow to move.

The views expressed in this piece are the author's own and should not be attributed to The Association of Japanese Institutes of Strategic Studies.

Among the over 2,000 Japan-related ships (Japanese-flag vessels, vessels operated by Japanese companies, vessels with Japanese crews, and vessels carrying Japanese cargos) that sail through the piracy-prone waters annually, more than ten ships have been attacked by the pirates. The news has attracted considerable public attention in Japan, but the government and the ruling parties have been slow to react partly due to a “divided” Diet, in which the opposition parties control the Upper House. Prime Minister Taro Aso said his government would consider taking active anti-piracy measures last October when a lawmaker from the largest opposition party, the Democratic Party of Japan, pressed for the government’s stance at a meeting of the Lower House Special Committee on Anti-terrorism Measures. The lawmaker insisted that securing sea lanes against the pirates off Somalia was vitally important for Japan. However, no major development has been observed since then.

Under such circumstances, the Japanese Ship-owners' Association and several Japanese think-tanks have jointly issued a policy appeal, calling on the government to dispatch Maritime Self-Defense Force (MSDF) units as soon as possible. Reflecting this and other moves, the government and the ruling parties have been considering measures along the following two scenarios.

The first scenario is to dispatch MSDF units, such as P-3C patrol aircraft and destroyers, as soon as possible within the framework of existing law. This approach views anti-piracy measures not as a defense mission but as a guard mission, which has no geographical constraints. Guarding the waters close to Japan is the primary duty of the Japan Coast Guard (JCG) but, when it comes to remote seas such as those off Somalia, dispatched vessels need to be capable of staying at sea for long durations. Moreover, given that other countries have dispatched naval vessels to the waters off Somalia, where the pirates are heavily armed, it would be more appropriate for Japan to dispatch MSDF units under the Maritime Security Operation stipulated by Article 82 of the SDF Law.


The second scenario is to enact a new law designed to defend against the pirates during this ordinary Diet session and send MSDF units under this law. The law would take the form of a permanent law authorizing the JCG and the MSDF to use weapons in self-defense as well as in the cases when pirates use

weapons to resist, for the purpose of countering piracy against Japan-related ships as well as foreign ships and crews. The law would also contain a clause revising the relevant domestic legislation to ensure consistency with the UN Convention on the Law of the Sea.

The first scenario would enable Japan to take swift measures, but the problem is that the current interpretations of existing law allow the MSDF to protect Japan-related ships only. To make Japan's anti-piracy activities a truly international mission in line with the spirit of the UN resolutions, Japan needs to review the legal interpretations to enable more flexible operations so that the MSDF could protect foreign ships and crews as well. The second scenario could enable the MSDF to perform anti-piracy tasks in much the same way as other countries in terms of duties and authority. However, since passing a law would take a certain time, the actual dispatch would not happen soon. In either case, the plans must prepare rules of engagement stipulating when and how the MSDF members are allowed to issue warnings to and shoot at pirate ships.

I think the best plan is that the Aso administration immediately orders the MSDF to conduct anti-piracy operations within the existing law (under a Marine Security Operation), and then prepare and enact the new law as soon as possible. In doing so, the government should make it clear as a policy-making decision (such as by adopting a resolution at a Security Council meeting or a Cabinet meeting) that, as soon as the new law takes effect, the MSDF's anti-piracy operations will follow. At the end of last year, Prime Minister Aso ordered Defense Minister Yasukazu Hamada to speed up the ministry's review of a dispatch of MSDF units to the waters off Somalia under the Maritime Security Operation. The government also plans to submit the new law during this ordinary Diet session. If so, the government should immediately begin making the preparations necessary to dispatch the MSDF.

What is important is for the "maritime nation" of Japan to respond to the urgent appeal of domestic voices, and act in nonpartisan cooperation to send MSDF units immediately in order to secure the safety of maritime transportation, which is the lifeline of our nation. This is also to express our willingness to assume the international responsibilities demanded by the UN resolutions, for

Japan has enough capabilities to do so. I fear that further delay in deciding on the MSDF dispatch will lead to a decline in Japan's international reputation and heavily damage national interests. 

Hideaki Kaneda is on the Board of Directors of the Research Institute for Peace and Security (RIPS). He is also a Director of the Okazaki Institute, Tokyo. This article originally appeared in Japanese as RIPS' Eye, No. 105 (January 9, 2009).