FORWARD

In the post-Cold War era, international disputes have taken on a new and distinctive character. During the Cold War, an ideological confrontation between the United States and the Soviet Union prevailed, while conventional threats to security occurred in a context in which the availability of nuclear weapons maintained a balance of power. In the post-Cold War era, while conventional security threats have decreased, they have been replaced by nonconventional threats of regional, ethnic, religious and resource disputes, terrorism and piracy.

Another trend to note is that the focus of disputes during the Cold War era, which mostly occurred on land, has begun to shift to the seas. Various aspects of maritime disputes, including maritime resources, sea lanes of communication, maritime delimitation, and maritime security, which were mainly in the background during the Cold War era, are now beginning to be manifested in overt conflicts, with low-intensity maritime disputes appearing with increased frequency. With inter-state conflicts growing particularly more acute in Northeast Asia regarding important interests in the ocean, e.g., maritime territorial sovereignty and maritime resources, there is the possibility of these conflicts turning into high-intensity disputes.

Together with these issues, non-conventional maritime security threats, especially the maritime terrorism and piracy that has been on the rise since the 9/11 terrorist attack, are becoming significant threats to the international trade order and to free navigation. To deal with such non-conventional maritime security threats, the international community, under a US-led initiative in its capacity

1 This paper is solely the opinion of the authors and does not represent in any way the position of the Korean Coast Guard.
as the world’s largest economy and status as a superpower, is strengthening the existing international legal regime and concluding new agreements to strengthen worldwide cooperation for their implementation.

Unfortunately, the United Nations Convention on the Law of the Sea (UNCLOS), which provides the basic framework for this new maritime order, is now found to have many imperfections and limits in supporting the international efforts to respond to the needs of maritime security. Its provision on piracy in particular is much too limited and thus divorced from reality, and it contains no provisions regulating maritime terrorism. Further, while there are increasing concerns over the proliferation of weapons of mass destruction (WMD) through the seas, it is difficult to gain agreement for revision of the conventional international legal framework (embodied in UNCLOS) that emphasizes freedom of navigation so as to respond effectively to these newly arising threats to security. This has led to the international community to either form new maritime security regimes\(^3\) apart from UNCLOS which has been driven by the US following the events of 9/11, or else to strengthen existing regimes.

With such changes in international maritime security and the emergence of new threats, it became necessary for the three northeast Asian states of Korea, China and Japan, whose national economies and welfare are overwhelmingly dependent upon seaborne trade, to find in their legal systems ways that would support their participation in a new maritime security regime and their domestic implementation.

This study compares and evaluates how the global maritime security regimes for the confrontation of piracy, port and vessel security, and maritime terrorism are being accommodated by the legal systems in Korea, China and Japan, as well as how the legal groundwork for the implementation of such maritime security regimes is being laid out.

**Piracy**

*Current Occurrences of Piracy and Counter-Efforts*

Despite continued vigorous efforts of the international community to eradicate piracy, such acts and the harm it has caused has been on the rise. The costs incurred are colossal. As one study shows, direct costs, i.e. the ransom demand for kidnapped sailors and vessels, insurance premiums, detour costs, procurement of defense equipment and the operation of the navy, in addition to indirect

\(^3\) The term “maritime security” strongly connotes military involvement, in contrast to the term “maritime safety” which focuses on the equipment, qualifications and standards for the safety of navigation of ship and related workers. This paper uses the term “maritime security” in order to include non-military measures against maritime threats.