

**FY2015 Ministry of Foreign Affairs Foreign/Security Affairs Research Project Grant
(for Extended General Projects)**

**“Issues Facing the Rule of Law in the Indo-Pacific
and Maritime Security” (Country Profile)”**

1. Background to project

The National Security Strategy formulated by the Japanese government in December 2013 positioned Japan as a maritime nation that would strive to ensure “open and stable seas,” and focused on maritime security as a central issue. Among the specific maritime security issues pointed out in this Strategy were responding to unilateral changes to the status quo by force, safeguarding sea lanes, and ensuring the freedom of overflight in international waters. It went on to suggest approaches that Japan should take, including creating a stable international environment, constructing a comprehensive defense structure, strengthening territorial security, and taking a leading role in maintaining and developing “open and stable seas” in accordance with international laws and rules.

The fact that maritime security issues have come to the forefront is related to recent changes in the global power balance. The UN Convention on the Law of the Sea provides the legal infrastructure underlying today’s open maritime legal order, but enforcement has largely relied on US power to maintain order on the world’s seas. As noted in the National Security Strategy, however, emerging powers such as China and India have increased their presence in the international community whereas the US is losing its relative leadership status in maintaining the existing international order. This has led to some littoral country asserting excessive maritime jurisdiction in an attempt to alter the status quo. A similar phenomenon can be seen on land as well, as typified by Crimea and eastern Ukraine.

Thus, the liberal international order based on international law and rules is facing major challenges. Tensions over land and sea territory are rising in particular in the Indo-Pacific region. At the heart of these tensions is China, which is engaged in aggressive maritime expansion. Not only is China coming into dispute with neighboring countries due to its excessive claims of maritime jurisdiction in the western Pacific, but China is also seeking to escalate its activities in the Indian Ocean in the name of “a maritime Silk Road.”

To take on a leading role to ensure open and stable seas in these circumstances, Japan will need to pursue issue resolution by combining an international law approach of examining the problems inherent in international law itself with a regional research approach of comparing countries’ maritime security policies and conducting fact-finding surveys on confidence building and crisis management efforts in the region. Naturally, an inter-disciplinary academic approach is essential for research on maritime security, as it involves a mix of complex factors, and the required analyses span a broad spectrum, including international law, regional research, and security.

2. Purpose of project

This project will set up an “International Rule Review Group” (International Law Research Group) to deal with issues of international law, and a “Country-specific Policy Review Group” (Regional Research Group) to compare the maritime security policies of countries in the Indo-Pacific region. Although these groups will conduct their respective research independently, they will also collaborate organically by mutually sharing their research and holding joint research group sessions. Their objective is to formulate

policy recommendations that promote the three principles of the rule of law and maintain open and stable seas in the Indo-Pacific region. They will also seek to build an intellectual community of maritime security experts from Japan and the countries of the Indo-Pacific region.

3. Implementation mechanism

① International Law Research Group (International Rule Review Group)

(Group Leader: Kazuhiro Nakatani, Professor, The University of Tokyo)

This Research Group will analyze the legal aspects of issues that must be addressed to realize the three principles of the rule of law at sea.

② Regional Research Group (Country-specific Policy Review Group)

(Group Leader: Tsutomu Kikuchi, Professor, Aoyama Gakuin University)

This Regional Study Group will prepare a “country profile” for each of the major maritime nations in the Indo-Pacific region, and will analyze and evaluate efforts being made within regional frameworks to establish/maintain the rule of law.