

# Legal Protection of Japanese Merchant Vessels in Regional Conflicts

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## Abstract

This article explores potential threats to Japanese shipping from regional conflicts on the Korean Peninsula, across the Taiwan Strait, and in the South China Sea, as well as the rights and duties of Japanese shipping in the law of maritime neutrality. Regional conflicts would directly impact Japanese merchant ships and seafarers, imposing stress on Japan's trade relationships and economy. In each of these scenarios, if Japan is not a party to the conflict, it acquires specified rights and duties under the law of maritime neutrality, prize law, and the law of naval warfare. One of the world's leading maritime powers, nearly 99 percent of Japan's foreign trade volume is transported by sea. Japan views the sea lanes as the "common property of the world." Protecting freedom of navigation and neutral rights within an international framework of ocean governance is a "lifeline" for Japan and is beneficial to all countries and regions. As a flag state, Japan should assert and fulfill its rights and obligations during armed conflict at sea in any regional contingency. This article reviews three regional contingencies, assesses the potential impact of each on the Japanese economy, and analyzes the applicable international maritime law that protects Japanese shipping.

## Introduction

A war in East Asia would be detrimental to Japan's shipping industry, weaken Japan's economy, and potentially endanger its security. Japanese shipping is essential to the country's economic prosperity and military security and is an essential element of the global trading system. This article focuses on the rights and duties of Japanese ships and seafarers in international conflict at sea when Japan is a neutral state. International maritime law in war confers rights on Japan's ships and seafarers as well as corresponding duties.

Part 1 explores Japan's reliance on maritime trade and its role as a major maritime power.<sup>1</sup> Part 2 examines three regional contingencies that could threaten Japanese shipping and, by extension, Japan's security. These are a war on the Korean Peninsula, a war across the Taiwan Strait, and a conflict in the South China Sea. The latter two conflicts directly involve China, adding geopolitical complexity. Part 3 turns toward the role of international maritime law in ensuring the safety of Japanese ships and seafarers. This article presumes that Japan would be a neutral state in these conflict scenarios and would acquire rights and duties under the law of maritime neutrality. Part 4 concludes with some measures to reduce risks to Japanese ships and seafarers.

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<sup>1</sup> James Kraska, Using UNCLOS as a Force Multiplier for American Power, *Opinio Juris*, June 14, 2012, <https://opiniojuris.org/2012/06/14/using-unclos-as-a-force-multiplier-for-american-power/>.

## 1. Japan's Reliance on Maritime Trade

Comprised of some 14,000 islands, Japan is one of the world's leading maritime nations. This geography means Japan's economy relies on international shipping, and it is a global leader in this industry. Nearly 99 percent of Japan's trade is transported by sea, including essential resources like oil, natural gas, and raw materials, as well as advanced manufacturing imports and exports. Japan ranks among the top 10 in the Liner Shipping Connectivity Index, a measure of physical connectivity with the world economy through maritime trade.<sup>2</sup> Japan has 5,200 ships flying its flag, although all but 300 are engaged in coastal trade. This makes Japan the tenth largest flag registry in the world.<sup>3</sup> Greece, China, and Japan account for over 40 percent ownership of the world fleet by deadweight tonnage and nearly one-third by vessel count.<sup>4</sup> Likewise, Japan ranks third behind China and Greece in total fleet value by ownership and eleventh by registration.<sup>5</sup> Japan's largest shipping company, NYK Line (Nippon Yusen Kaisha), operates over 820 ships, including container ships, bulk shipping carriers, and tankers. The LNG fleet will expand to more than 130 vessels by early 2029, from 89 today, reflecting the huge demand by China, Japan, and Korea for new energy sources.<sup>6</sup> NYK is also the world's largest roll-on/roll-off (RO/RO) carrier, with a capacity of 660,000 vehicles, or over 17 percent of the global car transportation fleet.<sup>7</sup> Mitsui OSK Lines (MOL) operates a fleet of 935 vessels, including dry cargo ships, LNG carriers, RO/RO car carriers, oil tankers, and container ships.<sup>8</sup> Kawasaki Kisen Kaisha (K Line) operates a fleet of more than 500 dry cargo ships, container ships, LNG carriers, and RO/RO ships.<sup>9</sup> In April 2018, MOL's container shipping operations merged with NYK Line and K Line, and the combined operations were rebranded as Ocean Network Express, with NYK holding a 38 percent stake, and MOL holding a 31 percent stake in the joint venture.<sup>10</sup>

Japanese shipyards build 13 per cent of global shipping.<sup>11</sup> In ship construction, with 11

<sup>2</sup> UN Doc. UNCTAD/RMT/2025, United Nations Conference on Trade and Development, 2025 Review of Maritime Transport: Staying the Course in Turbulent Waters (2025), p. 102.

<sup>3</sup> UN Doc. UNCTAD/RMT/2025, United Nations Conference on Trade and Development, 2025 Review of Maritime Transport: Staying the Course in Turbulent Waters (2025), p. 51. The top states in order are Liberia, Panama, Marshall Islands, Hong Kong, Singapore, China, Malta, the Bahamas, Greece, and Japan.

<sup>4</sup> UN Doc. UNCTAD/RMT/2025, United Nations Conference on Trade and Development, 2025 Review of Maritime Transport: Staying the Course in Turbulent Waters (2025), p. 52.

<sup>5</sup> UN Doc. UNCTAD/RMT/2025, United Nations Conference on Trade and Development, 2025 Review of Maritime Transport: Staying the Course in Turbulent Waters (2025), p. 53.

<sup>6</sup> Shery Ahn and Tsuyoshi Inajima, Japan's Nippon Yusen to Expand LNG Fleet as Global Demand Climbs, Bloomberg, September 18, 2025, <https://www.bloomberg.com/news/articles/2025-09-18/nippon-yusen-plans-50-lng-tanker-fleet-growth-by-2029>; UN Doc. UNCTAD/RMT/2025, United Nations Conference on Trade and Development, 2025 Review of Maritime Transport: Staying the Course in Turbulent Waters (2025), p. 20.

<sup>7</sup> Ken Belson, Around the World With 5,500 Cars, New York Times, July 13, 2012, <https://www.nytimes.com/2012/07/15/automobiles/around-the-world-with-5500-cars.html>.

<sup>8</sup> Mitsui OSK Lines (MOL), Corporate Profile, <https://www.mol.co.jp/en/corporate/profile/>.

<sup>9</sup> "K" Line Summary of Business Briefing on June 3, 2025, [https://www.kline.co.jp/en/ir/library/event/bb\\_s\\_2025.html](https://www.kline.co.jp/en/ir/library/event/bb_s_2025.html).

<sup>10</sup> UN Doc. UNCTAD/RMT/2025, United Nations Conference on Trade and Development, 2025 Review of Maritime Transport: Staying the Course in Turbulent Waters (2025), p. 45.

<sup>11</sup> UN Doc. UNCTAD/RMT/2025, United Nations Conference on Trade and Development, 2025 Review of Maritime Transport: Staying the Course in Turbulent Waters (2025), p. 57.

percent of tonnage, Japan ranks third globally, after South Korea and China.<sup>12</sup> Chinese shipyards produce 54.6 per cent of global shipping tonnage while Korean shipyards produce 28 per cent. Japan also plays a significant role in shaping the law of the sea. As a Category “A” member of the Council of the International Maritime Organization (IMO) since its establishment, Japan is one of only 10 such states elected by the IMO Assembly. These states have the greatest interest in providing international shipping services. Category A members form part of the Council’s leadership structure and serve as the executive organ for supervising IMO work between Assembly sessions. The member States of the IMO adopt generally accepted international rules and standards for the safe, secure, and environmentally sound operation of ships. For example, Japan proposed close cooperation within the IMO to respond to the threat of Houthi attacks on international shipping in the Red Sea and Gulf of Aden.<sup>13</sup>

Ensuring neutral rights of navigation is a core Japanese national interest. The security of key sea lanes along Japan’s Western periphery of the First Island Chain is a significant element of the country’s national security. Japan has promoted a Free and Open Indo-Pacific (FOIP) (自由で開かれたインド太平洋 or *jiyū de hirakareta Indotaiheiyo*) to promote peace, stability, and prosperity across the region by making the oceans free and open as “international public goods.” Regional stability is a product of a “rules-based international order, including the rule of law, freedom of navigation and overflight, peaceful settlement of disputes, and promotion of free trade.”<sup>14</sup> Shipping routes facilitate the delivery of energy from the Middle East, basic materials from Australia and North America, and enable trade with Southeast Asia and Europe. As an island nation with few domestic energy resources, Japan imports nearly all its crude oil and a significant portion of its LNG. A conflict could lead to higher energy prices, disrupted industrial supply chains, and plummeting exports.

Japan’s economic security relies heavily on the smooth flow of maritime trade, primarily through the disputed waters of East Asia. In 2023, over 99 percent of the country’s total trade by volume and about 70 percent by value was transported by ship.<sup>15</sup> Maritime trade is essential to Japan’s export industries and the importation of basic materials. For example, Japan is the world’s top importer of raw copper and, just behind China, second in cobalt imports.<sup>16</sup> This trade flow enters or departs ports in Japan from three main sea lines of communication (SLOCs): the East China Sea (ECS) route, the South China Sea (SCS) route, and the narrower passages through the Tsushima East Channel between Tsushima and Kyūshū; and the Tsushima West Channel (Korea Strait) and Osumi Strait. Japan is also dependent on routes passing through the Bashi Channel, then proceeding along the southern side of the First Island Chain to reach ports on the Pacific coast such as Osaka, Kobe, Tokyo and Yokohama. These narrow passageways are astride or near potential conflict zones in the Korean Peninsula, Taiwan, and the South China Sea.

Japan can harness its shipping fleet to meet the needs of the nation and address critical vulnerabilities, including supply chain disruptions, technological dependencies, and threats to national infrastructure amid geopolitical tensions. The 2022 Economic Security Promotion Act

<sup>12</sup> UN Doc. UNCTAD/RMT/2025, United Nations Conference on Trade and Development, 2025 Review of Maritime Transport: Staying the Course in Turbulent Waters (2025), p. 50.

<sup>13</sup> S/RES/2722 (2024) (10 January 2024).

<sup>14</sup> Ministry of Foreign Affairs of Japan, A New Plan for a Free and Open Indo-Pacific, Dec. 3, 2025, [https://www.mofa.go.jp/policy/page25e\\_000278.html](https://www.mofa.go.jp/policy/page25e_000278.html).

<sup>15</sup> Maritime Bureau, Ministry of Land, Infrastructure, Transport and Tourism 2024, <https://www.mlit.go.jp/en/maritime/index.html>.

<sup>16</sup> UN Doc. UNCTAD/RMT/2025, United Nations Conference on Trade and Development, 2025 Review of Maritime Transport: Staying the Course in Turbulent Waters (2025), pp. 26–27, <https://unctad.org/publication/review-maritime-transport-2025>.

created the System for Ensuring Stable Provision of Specified Essential Infrastructure Services.<sup>17</sup> The law is designed to use the shipping sector to respond to natural disasters or to help maintain public safety. It is unclear whether the law can be applied in an armed conflict. Nonetheless, the law includes international maritime cargo as a designated sector, allowing the government to screen prior notifications from service providers regarding critical port or transshipment facilities. The government may issue recommendations or binding orders for preventive measures if risks of external interference arise that could disrupt stable shipping services. For emergencies involving supply shortages of essential goods, the Act enables the government to issue direct instructions to transporters for shipping specified quantities of goods to designated locations, providing another mechanism for controlling distribution and transportation.<sup>18</sup> During armed conflict, it would be a new application of the law for the Government of Japan to direct shipping to avoid areas of danger, mandate re-routing of vessels, and ensure critical supply chains are resilient.

A major armed conflict in any of these maritime areas could cause immediate and possibly existential disruptions to Japanese shipping, even if Japan is not directly involved in the fighting. Moreover, Japan has minimal strategic depth, unlike the United States, Australia, or Canada. Section 2 explores how armed conflict at sea in each scenario could threaten Japan's merchant fleet, energy imports, industrial capacity, and food security. In these scenarios, Japanese ships and seafarers have protections and corresponding rights and duties under the law of the sea during peacetime, as reflected in the United Nations Convention on the Law of the Sea (UNCLOS), and under the law of naval warfare during armed conflict.<sup>19</sup>

## 2. Regional Conflict Scenarios and Japanese Shipping

Amid rising regional tensions, three primary conflict scenarios pose existential threats to SLOCs vital to Japan's security and economic stability. These are: (1) a renewed war on the Korean Peninsula between North Korea and South Korea; (2) a Chinese military operation against Taiwan involving blockade or invasion; and (3) an escalation of disputes in the SCS between China and neighboring states like Vietnam or the Philippines. Each scenario presents distinct but overlapping risks to Japanese shipping as a neutral state: hostile attacks and collateral damage; the risk of interdiction or obstructed transit; and increased insurance and operating costs due to

<sup>17</sup> The System for Ensuring Stable Provision of Specified Essential Infrastructure Services described in Chapter III of the Act on the Promotion of Ensuring National Security through Integrated Implementation of Economic Measures (Act No. 43 of 2022), [https://www.cao.go.jp/keizai\\_anzen\\_hosho/suishinhou/infra/doc/infra\\_setsumeikai\\_eng.pdf](https://www.cao.go.jp/keizai_anzen_hosho/suishinhou/infra/doc/infra_setsumeikai_eng.pdf).

<sup>18</sup> Act on Emergency Measures for Stabilizing Living Conditions of the Public Act No. 121 of 1973), <https://www.japaneselawtranslation.go.jp/en/laws/view/2802/en>. See also Anderson Mori & Tomotsune, Updates of the Economic Security Promotion Act, Mar. 13, 2024, [https://www.amt-law.com/en/insights/trending-news/publication\\_0028359\\_en\\_001/](https://www.amt-law.com/en/insights/trending-news/publication_0028359_en_001/).

<sup>19</sup> United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 397 (hereafter "UNCLOS"), [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/UNCLOS-TOC.htm](https://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm). The law of naval warfare is reflected in numerous sources, including the 1907 Hague Conventions and the 1949 Geneva Conventions. See Dietrich Schindler and Jiri Toman, *The Laws of Armed Conflicts*, 4th ed., Leiden/Boston, M. Nijhoff, 2004, pp. 1055-1178 and 1409-1430. See also *The Newport Manual on the Law of Naval Warfare* (Second Edition), 105 *International Law Studies* 1 (2025) (hereafter, "Newport Manual"), <https://digital-commons.usnwc.edu/ils/vol105/iss1/1/>; *San Remo Manual on International Law Applicable to Armed Conflicts at Sea* (Louise Doswald-Beck ed., 1995) (hereafter "San Remo Manual"), <https://ihl-databases.icrc.org/en/ihl-treaties/san-remo-manual-1994>; and *Institute of International Law, The Laws of Naval Warfare Governing the Relations between Belligerents* (1913) (*Oxford Manual of Naval Warfare*), reprinted in *The Laws of Armed Conflicts* 1123 (Dietrich Schindler & Jiri Toman eds., 4th ed. 2004), <https://ihl-databases.icrc.org/en/ihl-treaties/oxford-manual-1913>.

re-routing and prolonged instability. The experiences of World War II and the Korea War indicate the threat of drifting mines significantly impacts the navigation of vessels. These scenarios also carry additional risks of involving the United States and other regional allies in the conflict. In international law any Chinese attack against Japanese merchant ships likely constitutes an armed attack, triggering Japan's right of self-defense and commensurate U.S. treaty obligations to aid in collective self-defense.<sup>20</sup> However, the Japanese government's recognition of an armed attack in terms of domestic law is "organized and premeditated use of force against Japan," which suggests a narrower standard.<sup>21</sup>

Any of these conflicts could also draw in Russia, as it increasingly cooperates with China in naval exercises.<sup>22</sup> Russia has longstanding territorial disputes with Japan over the Northern Territories. Moscow has an incentive to pull the United States into a broader regional conflict with China to distract Washington from the war in Ukraine, just as China has an incentive to keep the United States bogged down in Ukraine, supporting a war against Russia to distract from its power play in East Asia.<sup>23</sup> China, Russia, and North Korea could support each other in unpredictable ways. It is noteworthy that China and North Korea have a Treaty on Friendship, Cooperation and Mutual Assistance.<sup>24</sup>

Regional maritime conflicts can have devastating consequences for international shipping. The experience of the Iran-Iraq "Tanker War" from 1980 to 1988 suggests that merchant ships operating in a region during armed conflict are in grave danger.<sup>25</sup> Iraq conducted most of the attacks during the war, about 61 percent, primarily using anti-ship missiles like Exocets fired from aircraft. Iran relied more on sea mines and speedboat attacks with rockets. Approximately 411 merchant ships, including 239 oil tankers, were struck by mines, missiles, or suffered other attacks during the Tanker War.<sup>26</sup> Of these ships, around 81 were sunk or declared constructive total losses, including 55 oil tankers. Four hundred civilian mariners were killed, 167 wounded, and 37 missing at sea.

<sup>20</sup> Article 5, U.S.–Japan Security Treaty and Charter of the United Nations, Article 51.

<sup>21</sup> James Kraska and Yusuke Saito, *The Law of Military Operations and Self-Defense in the U.S.-Japan Alliance*, 73 *Naval War College Review* (2020), pp. 90–91, <https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=8129&context=nwc-review>.

<sup>22</sup> Seth G. Jones, *China and Russia Bolster Their 'No Limits' Alliance*, *Wall Street Journal*, December 18, 2025, [https://www.wsj.com/opinion/china-and-russia-bolster-their-no-limits-alliance-c6bc6e49?mod=hp\\_opin\\_pos\\_3](https://www.wsj.com/opinion/china-and-russia-bolster-their-no-limits-alliance-c6bc6e49?mod=hp_opin_pos_3); Michael Peck, *China and Russia Conduct Joint Sub Patrols – Should America Worry?*, *Defense News* (October 25, 2025), pp. 28–29.

<sup>23</sup> Emma Burrows, *Russia is Helping China Prepare to Attack Taiwan, RUSI Report Says*, *Defense News* (November/December 2025), pp. 42–43.

<sup>24</sup> *Treaty on Friendship, Cooperation and Mutual Assistance between the People's Republic of China and the Democratic People's Republic of Korea 1961*. See *China – DPRK Relations*, Embassy of the People's Republic of China in the Democratic People's Republic of North Korea, April 3, 2007, <https://kp.china-embassy.gov.cn/eng/zcgx/zcgxgk/#:~:text=they%20signed%20the-,Treaty%20on%20Friendship,%20Cooperation%20and%20Mutual%20Assistance%20between%20China%20and%20the%20DPRK>; Lee Seong Hyon, *China-N. Korea defense treaty*, *The Korea times*, July 26, 2016, <https://www.koreatimes.co.kr/opinion/20160726/china-n-korea-defense-treaty>. For Russian – North Korean relations, see Kim Tong Hyung and Aniruddha, Ghosal, *Russia and North Korea sign partnership deal that appears to be the strongest since the Cold War*, *Associated Press News*, June 19, 2024, <https://apnews.com/article/vladimir-putin-kim-jong-un-russia-north-korea-summit-ukraine-a6b8d2c12de7ee2ab6716d4747c9850e>.

<sup>25</sup> George K. Walker, *The Tanker War, 1980-1988: Law and Policy*, 74 *International Law Studies* (2000), 36–39.

<sup>26</sup> Martin S. Navias and E. R. Hooton, *Tanker Wars: The Assault on Merchant Shipping During the Iran-Iraq Crisis, 1980-1988*; Ronald O'Rourke, *The Tanker War*, *Proceedings of the U.S. Naval Institute* (May 1988) Vol. 114/5/1,023, <https://www.usni.org/magazines/proceedings/1988/may/tanker-war>.

Any future conflict in East Asia poses even more risks for merchant ships operating in the region. The amount of firepower in the Western Pacific is staggering, and belligerents may accidentally or intentionally attack merchant ships. China has built the world's most sophisticated and redundant anti-ship missile complex on the planet. Beijing has approximately 2,700 ballistic missiles.<sup>27</sup> It also possesses 2,000–3,000 anti-ship cruise missiles,<sup>28</sup> for a total of at least 4,700 advanced sea-attack munitions. To shield against this threat, the U.S. Navy has approximately 13,000 to 15,000 defensive interceptors deployed worldwide, spread across about 8,000 vertical launch system (VLS) cells.<sup>29</sup> In a real combat scenario, the United States could likely deploy only a fraction of its VLS capability to the Western Pacific.

Meanwhile, the JMSDF adds around 2,000 to 2,500 interceptors in about 700 to 800 VLS cells.<sup>30</sup> Together, the United States and Japan have about 15,000 to 17,500 defensive interceptor missiles. At least two, and as many as four, interceptors are needed to guarantee the kill of just one ballistic or cruise missile, with redundancy providing a margin of error. China possesses a clear saturation advantage. Two to four interceptors are required per incoming missile due to hypersonic maneuvering, decoys, and salvo density, so China could likely deplete U.S. and Japanese defenses in a single large-scale strike wave, leaving Allied warships and merchant vessels critically vulnerable within hours. Furthermore, the U.S. inventory is diminished by recent conflicts, including the use of approximately 300 defensive interceptor missiles to thwart Houthi attacks in the Red Sea.<sup>31</sup> The slow production rates of defensive interceptor missiles further shift the advantage to China, which may be poised to overpower sea-based defenses in any regional conflict.<sup>32</sup> In such a case, merchant ships in the region will have to rely on China's good intentions and affirmative compliance with neutral rights under international law. Yet, as China does not comply with maritime law in peacetime, it is unclear whether it would do so during armed conflict.<sup>33</sup>

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<sup>27</sup> This figure includes about 900 short-range ballistic missiles (SRBMs), 1,300 medium-range ballistic missiles (MRBMs), 500 intermediate-range ballistic missiles (IRBMs), such as the DF-26 "Guam Killer," and 150–300 hypersonic DF-17/27s.

<sup>28</sup> Mainly the YJ-12 and YJ-18 (Yingji [Eagle Strike]-18) cruise missiles. See Missiles of China, CSIS, <https://missilethreat.csis.org/country/china/> and <https://missilethreat.csis.org/missile/yj-18/>.

<sup>29</sup> These are comprised of 350 to 400 SM-3s, 1,200 to 1,300 SM-6s, 7 to 8,000 SM-2s, and 4 to 5,000 Evolved Sea Sparrow Missiles (ESSMs).

<sup>30</sup> These are comprised of 250 to 300 SM-3s, 100 to 200 SM-6s, 800 to 1,200 SM-2s, and 500 to 800 ESSM. Rupert Schulenburg, Japan set to enhance its anti-ship missile inventory, IISS, Jan. 17, 2025, <https://www.iiss.org/online-analysis/missile-dialogue-initiative/2025/01/japan-set-to-enhance-its-anti-ship-missile-inventory/>.

<sup>31</sup> Geoff Ziezulewicz, Navy Just Revealed Tally Of Surface-To-Air Missiles Fired In Ongoing Red Sea Fight, TWZ, Jan. 14 2025, <https://www.twz.com/news-features/navy-just-disclosed-how-many-of-each-of-its-surface-to-air-missiles-it-fired-during-red-sea-fight>; Mike Fredenberg, US missile depletion from Houthi, Israel conflicts may shock you, Responsible Statecraft, Aug. 7, 2025, <https://responsiblestatecraft.org/missile-depletion-us-navy/>.

<sup>32</sup> The United States produces about 125 to 180 SM-6 interceptors annually, plans to increase yearly production to 300 per year by 2028. John R. Roby, Huntsville will gain from Navy's missile needs as \$333M contract awarded, Alabama.com (AL.com), Jan. 12, 2025, <https://www.al.com/news/huntsville/2025/01/huntsville-will-gain-from-navys-missile-needs-as-333m-contract-awarded.html>.

<sup>33</sup> Liu Zhen and Dewey Sim, China, for example, has notoriously rejected the South China Sea Arbitration. Wang Yi underlines Beijing's rejection of 2016 South China Sea ruling, South China Morning Post, July 12, 2025, <https://www.scmp.com/news/china/article/3317953/wang-yi-reiterates-chinas-rejection-south-china-sea-ruling>.

## 2.1 Protecting Japan in the Constitutional Order

Japanese shipping holds a vulnerable position: Japan is close to all major flashpoints, reliant on uninterrupted SLOCs, and politically limited by Article 9 of the Constitution and a culture of anti-militarism that precludes building an extensive force of offensive weapons.<sup>34</sup> The original interpretation is not that Japan “cannot build” military forces, but that the Constitution limits the degree of force to the “minimum necessary level.” In Article 9 the phrase means “minimum necessary capability” (必要最小限度の実力 or hitsuyo saisho gendo no jitsuryoku). Another phrase prohibits “war potential” (戦力 or senryoku). The cabinet legislation bureau defines this term as force exceeding the minimum necessary level, disallowing intercontinental ballistic missiles (ICBMs). The article acknowledges the “right of self-defense” (自衛権 or jieiken). Japan possesses this right as a sovereign state and Article 9 does not renounce it. The constitutional limitation is only on offensive capability, not a strong or extensive defensive complex. In short, Japan cannot possess “offensive weapons,” (攻撃的兵器 or kougetiteki heiki), but can field high-technology defensive assets under the “exclusively defense oriented policy” framework (専守防衛 or senshu bouei).<sup>35</sup> One should bear in mind that the 2014/2015 “Reinterpretation” modified this second view to allow for “limited” collective self-defense in survival-threatening situations, but using “minimum necessary” force. (必要最小限度). Until 2014 the government adhered to the “1981 View” that collective self-defense was unconstitutional. Prime Minister Abe’s Cabinet overrode this interpretation by issuing a decision stating that Article 9 does not prohibit “measures for self-preservation.” The Cabinet argued that if an attack on a foreign country (like the United States) threatens Japan’s own survival, it is effectively defending itself by helping that ally. This approach bridged the gap between “individual” and “collective” defense. In 2015, the legislation package was passed by the Diet to operationalize the 2014 decision. It officially created a new category of emergency: the survival threatening situation (存立危機事態 or sonritsu kiki jitai). To remain consistent with the “minimum necessary” logic of 1972, the government established three new conditions (武力行使の新3要件): threat to survival, last resort, and minimum necessary

<sup>34</sup> The Constitution of Japan, promulgated on November 3, 1946; came into effect on May 3, 1947, Prime Minister of Japan and His Cabinet, [https://japan.kantei.go.jp/constitution\\_and\\_government\\_of\\_japan/constitution\\_e.html](https://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html); James Kraska and Yusuke Saito, The Law of Military Operations and Self-Defense in the U.S.-Japan Alliance, 73 *Naval War College Review* (2020), pp. 90–91, <https://digital-commons.usnwc.edu/nwc-review/vol73/iss3/8/>

<sup>35</sup> Government of Japan (House of Representatives), Points on the Interpretation of Article 9 (憲法9条解釈のポイント), <https://tile.loc.gov/storage-services/service/ll/llgldr/2016295698/2016295698.pdf>. (pls see point 3); Government View on Article 9 (1972/Showa 47 View): 「憲法第9条は、同条第2項において『戦力』の保持を禁止しているが、これは、自衛のための『必要最小限度の実力』を保持することまでも禁止する趣旨のものではなく、この限度を超える実力を保持することを禁止するものである。」 and Government View on Collective Self-Defense (1981/Showa 56 View): 「国際法上、国家は、集団的自衛権、すなわち、自国と密接な関係にある外国に対する武力攻撃を、自国が直接攻撃されていないにもかかわらず、実力をもって阻止する権利を有しているものとされている。…しかしながら、憲法第9条の下において許容されている自衛権の行使は、あくまでも我が国を防衛するため必要最小限度の範囲にとどまるべきものであると解しており、集団的自衛権を行使することは、その範囲を超えるものであって、憲法上許されないと考えている。」

force.<sup>36</sup>

The new approach confronts strategic reality. The intersection of these structural vulnerabilities with rapidly modernizing adversarial capabilities in Pyongyang and Beijing represents the single most significant strategic risk to Japan's prosperity in the coming decade. These scenarios illustrate Japan's vulnerability in an increasingly lethal maritime space. While efforts like boosting LNG imports from North America or building overland pipelines may provide some resiliency, Japan's geography makes security especially challenging. A layered conflict, with increased tension on the Korean Peninsula overlapping with cross-strait crises or SCS disruptions, could cut multiple SLOCs at once. Tokyo's gradual strengthening of the Self-Defense Forces, deepening engagement with the Quad, and closer cooperation with Taiwan, Vietnam, and the Philippines, exhibit growing awareness of the danger. Yet the interconnected nature of the East Asian trading system and regional security means Japanese shipping safety requires resilience, active diplomacy to strengthen compliance with maritime law, and coordinated international efforts to deter aggression and protect the FOIP.

## 2.2 Korean Peninsula

A conflict on the Korean Peninsula presents a direct threat to Japanese shipping, though with initially more localized impacts compared to Taiwan or SCS scenarios. The DPRK has a long history of unpredictable and provocative maritime actions, such as the capture of the USS Pueblo in 1968 and the 2010 submarine attack on the ROKN corvette Cheonan in the Yellow Sea near the Northern Limit Line.<sup>37</sup> North Korean missile launches over Japanese airspace and in Japan's EEZ have caused temporary delays in shipping and increased war risk premiums.<sup>38</sup> The nation's advancing ballistic missile and anti-ship cruise missile capabilities, including submarine-launched systems and hypersonic weapons, threaten regional shipping. North Korea is also believed to possess 80 to 90 nuclear warheads and could threaten (or attempt) nuclear strikes on South Korea, Japan, or even the United States, which would cause global markets to plummet.<sup>39</sup>

<sup>36</sup> Cabinet Legislation Bureau, Relationship between the Right of Collective Self-Defense and the Constitution [Shūdan-teki Jieiken to Kenpō to no Kankei] (内閣法制局『集団的自衛権と憲法との関係』), Submission to the House of Councillors Audit Committee, 70th Diet Session, 14 October 1972, [https://www.sangiin.go.jp/japanese/annai/chousa/rippou\\_chousa/backnumber/2015pdf/20151214059.pdf](https://www.sangiin.go.jp/japanese/annai/chousa/rippou_chousa/backnumber/2015pdf/20151214059.pdf); Cabinet of Japan, Reply to the Question regarding "Constitution, International Law and Collective Self-Defense" submitted by Representative Seiichi Inaba [Shūgiin Giin Inaba Seiichi-kun Teishutsu 'Kenpō, Kokusaihō to Shūdan-teki Jieiken' ni Kansuru Shitsumon ni Tai-suru Tōbensho] (内閣『衆議院議員稲葉誠一君提出「憲法、国際法と集団的自衛権」に関する質問に対する答弁書』), Cabinet Decision No. 1800531, 29 May 1981, [https://www.shugiin.go.jp/internet/itdb\\_shitsumona.nsf/html/shitsumon/b094032.htm](https://www.shugiin.go.jp/internet/itdb_shitsumona.nsf/html/shitsumon/b094032.htm); Cabinet of Japan, Cabinet Decision on Development of Seamless Security Legislation to Ensure Japan's Survival and Protect its People [Kuni no Sonritsu o Mattoshi, Kokumin o Mamoru tame no Kireme no nai Anzen Hoshō Hōsei no Seibi ni Tsuite] (内閣『国の存立を全うし、国民を守るための切れ目のない安全保障法制の整備について』), 1 July 2014, <https://www.kantei.go.jp/jp/kakugikettei/2014/0701anpo.pdf>; Diet of Japan, Legislation for Peace and Security [Heiwa Anzen Hōsei] (『平和安全法制』), comprising Law to Amend Part of the Self-Defense Forces Law and Other Laws (Law No. 76 of 2015), <https://elaws.e-gov.go.jp/document?lawid=427AC0000000076>, and International Peace Support Law (Law No. 77 of 2015), <https://elaws.e-gov.go.jp/document?lawid=427AC0000000077>, enacted 19 September 2015.

<sup>37</sup> Deadly sinking of Navy ship in 2010 marks worst postwar military disaster, Korea Herald, December 6, 2023, <https://www.koreaherald.com/article/3274843>.

<sup>38</sup> Jennifer Welch, Jenny Leonard, Maeva Cousin, Gerard DiPippo, and Tom Orlik, Xi, Biden and the \$10 Trillion Cost of War Over Taiwan, Bloomberg, Jan. 9, 2024, <https://www.bloomberg.com/news/features/2024-01-09/if-china-invades-taiwan-it-would-cost-world-economy-10-trillion>.

<sup>39</sup> Putin, Kim and the \$4 Trillion Threat on Cold War's Last Frontier, Bloomberg, July 28, 2024, <https://www.bloomberg.com/graphics/2024-korea-war-threatens-trillions-for-global-economy/>.

In the early stages of a conflict, North Korea has repeatedly stated its intention to target commercial shipping, which Pyongyang views as supporting South Korea or the United States. North Korea could employ anti-access/area-denial (A2/AD) operations that do not effectively distinguish between military targets and civilian objects, such as merchant ships. The large but antiquated DPRK submarine force could attack merchant ships in the Sea of Japan. Pyongyang's stock of submarine-launched and land-based anti-ship cruise missiles (e.g., Kumsong-3/KN-19), ballistic missiles with maneuverable re-entry vehicles, and a growing fleet of submarines, offer credible options to disrupt traffic as far east as the Oki Islands.<sup>40</sup> The Tsushima and Korean Strait, which separate Japan from South Korea, is a busy route for Japanese exports to Europe and imports from Southeast Asia. About 40 percent of Japan's container traffic with Europe and 25 percent of its crude oil imports from the Middle East pass through the Tsushima Strait and the western Sea of Japan. Hampering trade on Japan's western side could lead to winter energy shortages. The Sea of Japan also has routes linking Japan's western ports to Russia and northern markets.

The threat of sea mining to Japanese shipping is even more insidious. North Korea is estimated to have as many as 50,000 contact and influence mines, many of Soviet or Chinese origin.<sup>41</sup> The ongoing deployment of drift mines in the Yellow Sea demonstrates both capability and intent.<sup>42</sup> A campaign of random or "nuisance" mining in the Tsushima Strait or near Hakata and Shimonoseki would not need precise targeting to cause strategic damage. Insurance providers would likely declare the Sea of Japan a war-risk zone, boosting Lloyd's war-risk premiums to levels that make commercial shipping economically unfeasible. Japanese-flagged vessels, or those owned or operated by Japan, would face immediate additional war-risk surcharges of 5–10 percent of hull value per voyage, effectively halting most non-military traffic within 72 hours.

Japan's fleet of mine-countermeasure vessels consists of Mogami-class frigates capable of mine countermeasures (MCM) roles and five Awaji-class Mine Sweeper Ocean (MSOs) ships designed for shallow-water MCM operations near the home islands.<sup>43</sup> One new Awaji-class ship was commissioned in December 2025. In addition, the JMSDF possesses two Mine Sweeper Tenders (MSTs), 14 Mine Sweeper Coastals (MSCs) and an undisclosed number of MCH-101 helicopters. These assets may be quickly overwhelmed by a large-scale mining campaign. U.S. Seventh Fleet MCM assets are forward-deployed to Sasebo but consist of only four Avenger-class ships in the Western Pacific. Airborne assets like the MH-53E/MH-60S are set for retirement, with no complete replacement until the late 2020s.<sup>44</sup>

The proximity of Japan to the conflict zone raises the risk of refugees fleeing Korea by sea, radioactive fallout from nuclear strikes, or opportunistic North Korean incursions into Japanese waters. Additionally, any U.S.-led naval blockade of North Korea would require control over the surrounding seas, further complicating commercial navigation. While less devastating to global

<sup>40</sup> Defense Intelligence Agency, 2025 Worldwide Threat Assessment (11 May 2025), p. 20, [https://armedservices.house.gov/uploadedfiles/2025\\_dia\\_statement\\_for\\_the\\_record.pdf](https://armedservices.house.gov/uploadedfiles/2025_dia_statement_for_the_record.pdf).

<sup>41</sup> Ryan Whalen, Northrup Grumman Equips South Korea with New Helicopter-Mounted Mine Detectors, Northrup Grumman Intelligence Brief, Feb. 26, 2025, <https://thedebrief.org/northrup-grumman-equips-south-korea-with-new-helicopter-mounted-mine-detectors/>.

<sup>42</sup> Scott C. Truver, An Act of War? The Law of Naval Mining, War on the Rocks, Oct. 22, 2014, <https://warontherocks.com/2014/10/an-act-of-war-the-law-of-naval-mining/>.

<sup>43</sup> Kosuke Takahashi, Japan Marine United launches fifth Awaji-class minesweeper for JMSDF, Naval News, Dec. 18, 2025, <https://www.navalnews.com/naval-news/2025/12/japan-marine-united-launches-fifth-awaji-class-minesweeper-for-jmsdf/>.

<sup>44</sup> Chase Stephens, U.S. Navy, JMSDF Conclude Joint Mine Warfare Exercise, Commander, Naval Surface Force, U.S. Pacific Fleet, <https://www.surfpac.navy.mil/comcmron7/>.

SLOCs than southern scenarios, an inter-Korean war would still isolate Japan's western coast and could threaten Japan's homeland security. If the United States utilizes its bases in Japan in this scenario, it becomes challenging for Japan to maintain its claim of neutrality.

A conflict on the Korean Peninsula would cost the global economy \$4 trillion in its first year alone, or 3.9 percent of global GDP.<sup>45</sup> War would devastate international trade, slashing U.S.–China trade by half, reducing China's trade by 27 percent, and Japan's global trade by 14 percent.<sup>46</sup> When the Korean War occurred, the Korean Peninsula accounted for just 0.04 percent of global GDP.<sup>47</sup> Today, South Korea alone accounts for more than 1.5 percent, but a war on the Peninsula could shrink its economy by 37.5 percent.<sup>48</sup> Japan-specific losses would likely be in the 5–10 percent range due to proximity, refugee flows, and regional trade collapse, even if Japan avoids becoming a party to the conflict.

There is a reasonable probability of energy rationing in Japan because of such a war. Japan has no domestic energy production and receives 80 to 90 percent of its oil from the Middle East.<sup>49</sup> The Japan Oil, Gas and Metals National Corporation (JOGMEC) maintains 90 days of public stocks under the Oil Stockpiling Act, while refineries, specified distributors, and importers hold another 70 days of stocks. The ~160–200 days of total oil stocks held by the government and the private sector could help Japan to overcome a temporary disruption without severe rationing.

## 2.3 Taiwan Strait

Far more systemic risks stem from a potential cross-strait conflict involving China and Taiwan. The Taiwan Strait, through which a large portion of northeast Asian trade passes, acts as a crucial shortcut for ships moving between the East China Sea and the South China Sea. A Chinese blockade, widely seen as the most likely initial coercion tactic, would effectively cut off this route, forcing ships to reroute via the eastern Philippine Sea or farther around Luzon and the Bashi Channel. These detours add thousands of nautical miles, increase transit times by 10–15 days, raise fuel costs by as much as 30 percent, and subject vessels to the hazards of typhoon-prone open waters.

A People's Liberation Army (PLA) campaign against Taiwan poses an even more serious risk to Japanese shipping. A war could cause up to \$10 trillion in global economic damage, more than twice the impact of COVID-19.<sup>50</sup> Since at least 2015, PLA doctrine has focused on "maritime

<sup>45</sup> Putin, Kim and the \$4 Trillion Threat on Cold War's Last Frontier, Bloomberg, July 28, 2024, <https://www.bloomberg.com/graphics/2024-korea-war-threatens-trillions-for-global-economy/>.

<sup>46</sup> Putin, Kim and the \$4 Trillion Threat on Cold War's Last Frontier, Bloomberg, July 28, 2024, <https://www.bloomberg.com/graphics/2024-korea-war-threatens-trillions-for-global-economy/>.

<sup>47</sup> Seoul, the vulnerable capital of South Korea, is within artillery range of North Korea. Half of the South Korean population lives in and around Seoul, which produces 81 percent of South Korea's computer chip production and more than one-third of its manufacturing output. Putin, Kim and the \$4 Trillion Threat on Cold War's Last Frontier, Bloomberg, July 28, 2024, <https://www.bloomberg.com/graphics/2024-korea-war-threatens-trillions-for-global-economy/>.

<sup>48</sup> Putin, Kim and the \$4 Trillion Threat on Cold War's Last Frontier, Bloomberg, July 28, 2024, <https://www.bloomberg.com/graphics/2024-korea-war-threatens-trillions-for-global-economy/>.

<sup>49</sup> International Energy Agency, Japan Oil Security Policy (18 August 2022), <https://www.iea.org/articles/japan-oil-security-policy>.

<sup>50</sup> These are USS Patriot (MCM-7); USS Pioneer (MCM-9); USS Warrior (MCM-10); and USS Chief (MCM-14). Jennifer Welch, Jenny Leonard, Maeva Cousin, Gerard DiPippo, and Tom Orlik, Xi, Biden and the \$10 Trillion Cost of War Over Taiwan, Bloomberg, Jan. 9, 2024, <https://www.bloomberg.com/news/features/2024-01-09/if-china-invades-taiwan-it-would-cost-world-economy-10-trillion>.

blockade” and A2/AD as key elements of any Taiwan contingency.<sup>51</sup> Chinese destroyers and submarines, and H-6K bombers capable of launching YJ-12/YJ-18 supersonic cruise missiles, could enforce a 200- to 400-nautical-mile exclusion zone. The DF-21D/DF-26 and YJ-21 anti-ship ballistic missiles have extended ranges to threaten the entire theater.<sup>52</sup> These systems would effectively make the ECS and the western approaches to the Miyako Strait impassable to commercial shipping.

In a kinetic invasion scenario, amphibious operations, missile barrages, and ASBM deployments would turn the strait into an hellscape combat zone, with high chances of collateral damage to neutral shipping. Submarine warfare and mine-laying in nearby waters would endanger commercial traffic, reminiscent of World War II disruptions but intensified by modern precision munitions. China could use merchant ships to deploy mines. China operates more than 10,000 merchant ships and public vessels that can be mobilized under the country’s National Defense Mobilization Law.<sup>53</sup> At the high end of capabilities, China’s carrier-killer missiles and hypersonic weapons present a fearsome threat to surface vessels, including tankers and container ships. Conflict spillover into the ECS, especially around Japan’s Senkaku Islands, could bring Tokyo (and the United States) into the war, turning a regional crisis into a theater conflict.

A full-scale war would slash Taiwanese trade by 100 percent and cut US-China trade by nearly 100 percent.<sup>54</sup> Taiwanese commercial shipping would be effectively halted within days of a Chinese blockade, with a >90 percent reduction persisting for months.<sup>55</sup> Beyond Taiwan, South Korea, China, and Japan are the most vulnerable.<sup>56</sup> These states would likely experience more than a 10 percent drop in their GDP. A conflict is likely to cut trade with Japan, Korea, and East Asia by 80 percent. This amounts to a 40 percent reduction in Taiwan’s GDP, a 16.7 percent reduction in China’s GDP, and a 6.7 percent reduction in US GDP. South Korea, Japan, and other East Asian economies would be severely impacted. Other figures suggest a blockade of Taiwan short of a shooting war could cut Taipei’s trade by 100 percent, reduce its GDP by 12.2 percent, reduce China’s GDP by 8.9 percent, and reduce the U.S. GDP by 3.3 percent.<sup>57</sup> World GDP could

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<sup>51</sup> Department of Defense, Annual Report to Congress: Military and Security Developments Involving the People’s Republic of China 2015 (8 May 2015), pp. 33–36, <https://news.usni.org/2015/05/08/document-pentagon-2015-report-to-congress-on-chinas-military-power>.

<sup>52</sup> Thomas Newdick, China’s KD-21 Air-Launched Ballistic Missile Appears To Be Operational, TWZ, April 21, 2025, <https://www.twz.com/air/chinas-kd-21-air-launched-ballistic-missile-appears-to-be-operational>.

<sup>53</sup> United Nations Conference on Trade and Development (UNCTAD), Maritime Profile: China, UNCTAD, <https://unctadstat.unctad.org/CountryProfile/MaritimeProfile/en-GB/156/index.html>. The “National Flag” figure of 10,305 ships refers to vessels registered in China. The “Ownership” figure of 325,371 DWT refers to the total capacity beneficially owned by Chinese entities regardless of the flag the ships fly (e.g., Panama, Liberia).

<sup>54</sup> Jennifer Welch, Jenny Leonard, Maeva Cousin, Gerard DiPippo, and Tom Orlik, Xi, Biden and the \$10 Trillion Cost of War Over Taiwan, Bloomberg, January 9, 2024, <https://www.bloomberg.com/news/features/2024-01-09/if-china-invades-taiwan-it-would-cost-world-economy-10-trillion>.

<sup>55</sup> Cancian, Mark F., Matthew Cancian, and Eric Heginbotham, Lights Out? Wargaming a Chinese Blockade of Taiwan (Center for Strategic and International Studies) (July 2025).

<sup>56</sup> Jennifer Welch, Jenny Leonard, Maeva Cousin, Gerard DiPippo, and Tom Orlik, Xi, Biden and the \$10 Trillion Cost of War Over Taiwan, Bloomberg, January 9, 2024, <https://www.bloomberg.com/news/features/2024-01-09/if-china-invades-taiwan-it-would-cost-world-economy-10-trillion>.

<sup>57</sup> Jennifer Welch, Jenny Leonard, Maeva Cousin, Gerard DiPippo, and Tom Orlik, Xi, Biden and the \$10 Trillion Cost of War Over Taiwan, Bloomberg, January 9, 2024, <https://www.bloomberg.com/news/features/2024-01-09/if-china-invades-taiwan-it-would-cost-world-economy-10-trillion>.

decline by 5 percent.<sup>58</sup>

The economic impact on Japan would be significant. With Taiwan's role as a chokepoint in semiconductor supply chains, a blockade could halt marine and air freight routes across the Taiwan Strait, the ECS, and the northern SCS. Energy imports and manufactured goods would rise in price. Shipping disruptions would exacerbate supply chain vulnerabilities, potentially halting 20 to 25 percent of global container traffic that depends on northeast Asian routes. If US forces became involved in a conflict, the routes from Guam, the Philippines, and Japan used by US forces flowing into the region would be at risk of missile fire from Chinese forces. Current shipping routes would suddenly become economically unviable.

The Center for Strategic and International Studies (CSIS) 2023 wargame, "The First Battle of the Next War," showed that in 22 of 24 hypothetical cases, PLA forces imposed a blockade that cut commercial traffic through the Luzon and Miyako Straits by more than 90 percent within the first week.<sup>59</sup> Japanese shipping would be especially vulnerable to this action because about 60 percent of Japan's oil imports from the Persian Gulf and 45 percent of its LNG imports from Qatar and Australia pass through the waters east of Taiwan before heading north through the Tokara or Miyako passages.<sup>60</sup>

Even in a purportedly peacetime but gray zone quarantine scenario short of invasion, Beijing could declare "military exercise zones" or "warning areas" of indefinite duration, as demonstrated in August 2022 and April 2023. China prohibited any vessels and aircraft to enter the zones in violation of law of the sea. In August 2022, for example, China announced six (later expanded to seven) military exercise zones around Taiwan, effective from August 4–7 (with one extending to August 8), after U.S. House of Representatives Speaker Nancy Pelosi visited Taiwan. These zones included live-fire areas within Taiwan's air defense identification zone (ADIZ) and its territorial waters. The exercises simulated elements of a blockade, such as joint air-sea operations and missile testing. In April 2023, after Taiwan President Tsai Ing-wen met with U.S. officials, China launched the "Joint Sword" exercises from April 8–10, involving combat readiness patrols and operations in designated sea and airspace zones surrounding Taiwan, including a warning zone north of Taiwan where vessels were advised not to enter due to potential rocket debris. The Fujian Maritime Safety Administration (MSA) also announced vessel inspections, though none were confirmed. Such zones do not legally bind third-party shipping as a matter of international law. Still, we may anticipate that shipping companies would comply with exclusion zones. Charters would likely terminate due to war risks, and insurance would be prohibitively costly, leading to a near-total cessation of traffic. These actions pose a threat of force against Taiwan and approach a violation of Article 2(4) of the Charter of the United Nations. The credible threat of kinetic enforcement, coupled with most classification societies refusing to certify vessels entering declared PLA exercise areas, would effectively re-route most Japan-bound tonnage south of Australia. This diversion adds 12–18 days to a voyage and approximately \$1.2–1.8 million in extra

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<sup>58</sup> Jennifer Welch, Jenny Leonard, Maeva Cousin, Gerard DiPippo, and Tom Orlik, Xi, Biden and the \$10 Trillion Cost of War Over Taiwan, Bloomberg, January 9, 2024, <https://www.bloomberg.com/news/features/2024-01-09/if-china-invades-taiwan-it-would-cost-world-economy-10-trillion>.

<sup>59</sup> Cancian, Mark F., Matthew Cancian, and Eric Heginbotham, *The First Battle of the Next War: Wargaming a Chinese Invasion of Taiwan* (January 2023).

<sup>60</sup> Cancian, Mark F., Matthew Cancian, and Eric Heginbotham, *Lights Out? Wargaming a Chinese Blockade of Taiwan* (Center for Strategic and International Studies) (July 2025).

fuel and charter costs per VLCC voyage.<sup>61</sup>

The Taiwan Strait is a key chokepoint for about \$2.45 trillion in annual trade, or roughly 20 percent of worldwide maritime traffic. A naval conflict in the Strait involving a peacetime quarantine, blockade in a low-level conflict, or a full-scale invasion would disrupt global merchant shipping. Merchant ships could face direct threats, such as collateral damage from fighting, intentional seizures, or attacks if determined to be military objects, as well as indirect impacts, including rerouting, soaring insurance costs, port closures, and supply chain disruptions.

Japan depends on the Taiwan Strait for about 32 percent of its total seaborne imports and roughly 25 percent of its exports by value, including over 95 percent of its Middle East oil and LNG and essential semiconductor inputs. Even a minor conflict could cause cascading economic shocks, with Japan's GDP dropping by 1.5–3.0 percent in the first year alone. A 3-month conflict in the Taiwan Strait could cost Japan \$150–250 billion in trade and lead to a recession. An extended year-long war might push losses beyond \$500 billion and create risks of energy rationing and industrial shutdowns. Japan's only safeguard is its oil reserve. Since no alternative Asian route can fully replace the Taiwan Strait, Japan should consider diversifying its oil and gas sources eastward to North America.

## 2.4 South China Sea

The most widespread regional threat comes from rising disputes in the South China Sea, where China's vast claims conflict with those of Vietnam, the Philippines, and others. Any conflict between China and a state in the South China Sea would have a devastating effect on the global economy. In terms of total value and total weight, more traffic goes through the South China Sea and the Malacca Strait than any maritime chokepoint in the world.<sup>62</sup> Each year, about one-third of global trade and 40 percent of oil passes through the South China Sea.<sup>63</sup> The SCS serves as the main route for Japan's Middle Eastern oil imports and its trade with ASEAN countries and Europe. A kinetic war would create de facto exclusion zones and reduce maritime traffic by 80 percent. China has militarized seven features in the SCS, aiding frequent coast guard aggression and water cannon incidents at Second Thomas Shoal and Scarborough Shoal. Even without full-scale war, ongoing tensions have led insurers to classify parts of the SCS as high-risk, raising premiums and discouraging transits. A Philippine resupply mission to the BRP Sierra Madre at Second Thomas Shoal or Vietnamese offshore drilling activities could trigger a conflict. China may also seek to "teach a lesson" to one of the littoral states or simply use force to reset the status quo through an invasion of a feature occupied by another state. These moves could escalate into wider hostilities and bring the United States and other states into a conflict. For example, although Iran thought that widening the Tanker War during the 1980s through attacks on merchant ships would deter the United States from entering the Persian Gulf, it had the opposite

<sup>61</sup> The figures are derived from standard very large crude carrier (VLCC) tanker voyage calculations for Middle East-to-Japan routes. A ship is normally on a voyage ~15–20 days traveling ~5,000–6,000 nautical miles. A diversion to southern Australia adds ~2,500–4,000 miles, which extends the voyage by 12–18 days at typical VLCC speeds of ~14 knots. The costs are based on average fuel consumption of ~100 tons/day at ~\$600/ton = or ~\$60,000/day, plus charter rates, which run ~\$50,000–\$60,000/day. This totals ~\$110,000–\$120,000/day extra, or \$1.32 to \$2.16 million for 12–18 days. See Drewry, *Ship Operating Costs Annual Review and Forecast 2024/25*, Annual Report, [https://www.drewry.co.uk/AcuCustom/Sitename/DAM/026/Drewry\\_Ship\\_Operating\\_Costs\\_2024-25\\_-\\_Use\\_Cases\\_and\\_Contents1.pdf](https://www.drewry.co.uk/AcuCustom/Sitename/DAM/026/Drewry_Ship_Operating_Costs_2024-25_-_Use_Cases_and_Contents1.pdf).

<sup>62</sup> Lincoln F. Pratson, *Assessing impacts to maritime shipping from marine chokepoint closures*, *Communications in Transportation Research* 3 (2023), <https://www.sciencedirect.com/science/article/pii/S2772424722000336>.

<sup>63</sup> Nik Martin, *How South China Sea tensions threaten global trade*, *Deutsche Welle*, August 25, 2024, <https://www.dw.com/en/south-china-sea-tensions-pose-threat-to-international-trade/a-69926497>.

effect.

China also could impose a maritime exclusion zone (MEZ) around disputed features, as Russia has done in the Black Sea.<sup>64</sup> There is no precise definition of a MEZ.<sup>65</sup> The JMSDF and the U.S. Navy have defined a lawful MEZ as a declared area of limited size, scope, and duration, required by military necessity and governed by proportionality.<sup>66</sup> Furthermore, belligerent activities within a MEZ must give due regard to the navigational rights of neutral nations, including legitimate neutral commerce. Neutral ships and aircraft operating within a MEZ retain their rights as neutrals and may not be targeted unless they become military objectives. The same law governing the use of force applies within the zone as outside it; it is not a “free fire” zone. This means attacks within the MEZ must still meet the criteria of the law of naval warfare: the principle of military distinction means that only enemy military objects may be targeted.

There is speculation that China is biding its time to establish a MEZ or an ADIZ in the South China Sea.<sup>67</sup> These moves could effectively block key passages near the Paracel or Spratly Islands, turning a sea into a series of straits. China’s artificial island bases can enforce exclusion zones. Combat aircraft and anti-ship missiles on outposts such as Mischief Reef threaten foreign warships and tankers along these routes. At the same time, PLA Navy submarine or surface fleet operations could stop suspected hostile vessels and conduct the belligerent right of visit and search. In a situation short of war, China also might impose a “No Sail Zone,” as it declared in the Yellow Sea.<sup>68</sup> Such a declaration violates the obligation to respect Japanese navigation rights in the EEZ and interferes with high seas freedoms. China would suggest that its EEZ is under its exclusive military use and that Japan has no right to transit through a “No Sail

<sup>64</sup> Shortly after the invasion began, Russia prohibited navigation in the northwest portion of the Black Sea (north of 45° 21') due to “counterterrorist operations” by its navy. Ships and vessels in this area were explicitly stated to be “regarded as terrorist threats.” The Federal Agency for Sea and Inland Water Transport (Rosmorrechflot) declared the zone on February 24, 2022. Fatima Bahtić, Russian Navy’s operations restrict shipping in Sea of Azov amid conflict with Ukraine, *Naval Today*, February 24, 2022, <https://www.navaltoday.com/2022/02/24/russian-navys-operations-restrict-shipping-in-sea-of-azov-amid-conflict-with-ukraine/>. See Raul Pedrozo, *Russia-Ukraine War at Sea: Naval Blockades, Visit and Search, and Targeting War-Sustaining Objects*, *Articles of War*, August 25, 2023, <https://lieber.westpoint.edu/russia-ukraine-war-naval-blockades-visit-search-targeting-war-sustaining-objects/>.

<sup>65</sup> A MEZ is a method of warfare aimed at achieving effect at the tactical, operational, or even strategic level of war through water space deconfliction and management. Newport Manual Expert Group, *The Newport Manual on the Law of Naval Warfare* 105 *International Law Studies* § 7.2.1 (2025) (*The Newport Manual*), <https://digital-commons.usnwc.edu/ils/vol105/iss1/1/>.

<sup>66</sup> Staff Judge Advocate, U.S. Indo-Pacific Command and Japan Joint Staff, *Bi-Lateral Memorandum on Warning Zones* (16 December 2022), <https://www.pacom.mil/LinkClick.aspx?fileticket=rLyh-1-M1hE%3d&portalid=55>. The requirement for “proportionality” is debatable, however, as proportionality is generally ascribed to govern attacks against the enemy. An attack is prohibited if it “may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.” Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, art. 51(5)(b), June 8, 1977, 1125 U.N.T.S. 3) (AP I) A MEZ (like a blockade or sea mining) is not an attack.

<sup>67</sup> Alex Vuving, *How Vietnam can stop the South China Sea ADIZ*, Daniel K. Inouye Asia-Pacific Center for Security Studies, June 7, 2016, <https://dkiapcss.edu/how-vietnam-can-stop-the-south-china-sea-adiz/>; Edmund J. Burke and Astrid Stuth Cevallos, *In Line or Out of Order? China’s Approach to ADIZ in Theory and Practice*, Rand Corporation (2017), pp. 15–19, [https://www.rand.org/pubs/research\\_reports/RR2055.html](https://www.rand.org/pubs/research_reports/RR2055.html).

<sup>68</sup> James Kraska, *China’s Activities in the Provisional Measures Zone and the Law of the Sea*, Issue Focus: Korea Institute of Maritime Strategy (2025), p. 3, <https://en.kims.or.kr/publication/issue-focus/if-2504/>.

Zone.” Yet UNCLOS guarantees high-seas freedoms within EEZs.<sup>69</sup> During peace time, mining in international waters is normally unlawful, even if the state notifies other nations, but missile firing is lawful without notice, if naval forces confirm the navigational safety of surface vessels and aircraft in the area. China might also implement and enforce a peacetime “quarantine” under its domestic law to carry out administrative detention of Japanese ships, bypassing legal proceedings. This action would violate the principle of exclusive flag state jurisdiction as well as the right of high seas freedoms, challenging the normative goal of a FOIP.<sup>70</sup>

Rerouting traffic through the Lombok or Sunda Straits causes significant delays and increased costs and heightens Indonesia’s concern that Jakarta might be dragged into a conflict. This dynamic would raise energy costs in Japan and prompt a search for alternative suppliers, such as Russia or the United States.

Conflict in the Spratly Islands or within the Vietnamese or Philippine EEZ would impact the longest yet one of the most vital shipping arteries: the South China Sea. Ships transiting through the Malacca Strait carry about one-third of global maritime trade and nearly all of Japan’s seaborne trade with Southeast Asia, India, and Europe.<sup>71</sup> A military clash between China and either the Philippines or Vietnam would likely start with increased use of gray-zone tactics, such as ramming, water-cannon use, or militia harassment.<sup>72</sup> These non-kinetic operations may escalate to missile and air strikes on disputed features against opposing naval forces.

The PLA Navy’s Southern Theater Command has prioritized quick control of sea routes through the Spratly Islands.<sup>73</sup> Satellite images from 2024 confirm the deployment of HQ-9B surface-to-air missile batteries, YJ-12 anti-ship cruise missile launchers, and possible intermediate-range ballistic missile sites on Subi, Mischief, and Fiery Cross Reefs.<sup>74</sup> In a conflict, these would be supported by carrier strike groups and by land-based H-6N bombers carrying air-launched ballistic missiles such as the CH-AS-X-13, which is similar to the DF-21.<sup>75</sup>

Trade analysis models of counter-factual conflict scenarios suggest a war in the SCS would

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<sup>69</sup> UNCLOS, art. 56 and 58(1)–(2).

<sup>70</sup> UNCLOS, arts. 87 and 92.

<sup>71</sup> Thomas Dent, *The Strait of Malacca’s Global Supply Chain Implications*, Institute for Supply Management, November 21, 2023, <https://www.ismworld.org/supply-management-news-and-reports/news-publications/inside-supply-management-magazine/blog/2023/2023-11/the-strait-of-malaccas-global-supply-chain-implications/>.

<sup>72</sup> The “gray zone” may be defined as: “A realm of international relations between peaceful interstate diplomacy, economic activity, and people-to-people contact at one end of the spectrum and armed conflict on the other, in which states and non-state actors use coercive or subversive means that can be violent or nonviolent to achieve their objectives at the expense of others, in contravention or the absence of international norms.” National Intelligence Council, Director of National Intelligence, NIC-SG-2024-20319-A, *Updated IC Gray Zone Lexicon: Key Terms and Definitions (July 2024)*, p. 4, <https://www.dni.gov/files/ODNI/documents/assessments/NIC-Unclassified-Updated-IC-Gray-Zone-Lexicon-July2024.pdf>.

<sup>73</sup> Nan Li, *The Southern Theater Command and China’s Maritime Strategy*, Jamestown Foundation, June 9, 2017, <https://jamestown.org/southern-theater-command-chinas-maritime-strategy/>.

<sup>74</sup> Arpan Rai, *Satellite images reveal alarming scale of China’s military build-up in disputed South China Sea*, *Independent*, August 4, 2025, <https://www.the-independent.com/asia/china/south-china-sea-satellite-images-military-bases-mischief-reef-b2798634.html>.

<sup>75</sup> Parth Satam, *China’s H-6N Bomber Spotted with Air-Launched Ballistic Missile in Clearest Image Yet*, *The Aviationist*, April 6, 2025, <https://theaviationist.com/2025/04/06/h-6n-albm-clearest-image/>; Joseph Trevithick, *China’s JL-1 Air Launched Ballistic Missile’s Official Debut Is A Big Deal*, *TWZ*, September 4, 2025, <https://www.twz.com/air/chinas-jl-1-air-launched-ballistic-missiles-official-debut-is-a-big-deal>.

cause a 6 to 12 percent decline in welfare losses, with Japan likely to suffer disproportionately.<sup>76</sup> The effect of a war on Japan's maritime trade would be similar to or slightly less than during a Taiwan blockade, since about 85–90 percent of its oil passes through the South China Sea. The duration and likelihood of fuel rationing in Japan are compatible with a limited but intense conflict. Although Japan is not a direct claimant over features in the region, vessels flying the Japanese flag or operated by Japan face significant risks. Nearly 2,000 Japanese-owned or -operated ships travel through the South China Sea each year. A PLA declaration of “maritime control zones” or “identification zones for foreign military vessels” under the February 2021 China Coast Guard Law and the Revised Maritime Traffic Safety Law could enforce mandatory reporting, routing, or inspection procedures.<sup>77</sup> Refusal to comply with orders of the China Coast Guard in the SCS has already resulted in ramming Philippine supply boats. Escalation to lethal force against a Japanese-flag merchant vessel remains a possibility, especially if Tokyo supports U.S. forces with rear-area logistics under the 2015 Legislation for Peace and Security.<sup>78</sup>

War-risk insurance exclusions for the “South China Sea north of 10° N” would immediately cancel coverage for most Japan P&I Club members. Alternative routes around Indonesia and through the Lombok–Makassar–Sunda passageways are possible but limited by capacity. The congestion and the resulting demurrage costs would ripple through global supply chains, with Japan especially vulnerable due to its just-in-time manufacturing system.

### 3. The Law of Maritime Neutrality

#### 3.1 Law of Naval Warfare

Merchant ships generally are subject to the exclusive jurisdiction of their flag state.<sup>79</sup> Foreign port authorities may prescribe and enforce security and environmental rules as a condition of port entry.<sup>80</sup> Coastal state authorities may approach and visit foreign-flagged merchant ships for violations of the laws of the coastal state in the territorial sea and EEZ that reflect international standards. Coastal states may also enforce exclusive sovereign rights and jurisdiction in the EEZ for the exploration or exploitation of living and non-living resources.<sup>81</sup>

The rules on the peacetime law of the sea continue for the most part during periods of naval warfare, with some amendments. The law of naval warfare is a specialized regime (*lex specialis*) that trumps the peacetime law of the sea when the two conflict.<sup>82</sup> For example, in the law of naval warfare, rules of maritime neutrality apply, providing additional protections and corresponding duties to merchant ships of states not party to the conflict.

The law of maritime neutrality seeks to preserve friendly relations between belligerent and neutral states. The law reciprocally imposes duties and confers rights on states not party to an

<sup>76</sup> Kerem Coşar and Benjamin Thomas, *The Geopolitics of International Trade in Southeast Asia* (National Bureau of Economic Research) (November 2020), <https://www.nber.org/papers/w28048>.

<sup>77</sup> Raul (Pete) Pedrozo, *China Coast Guard Law*, Ministry of Defence, Government of Japan, February 2021, [https://www.mod.go.jp/en/d\\_act/sec\\_env/ch\\_ocn/index.html](https://www.mod.go.jp/en/d_act/sec_env/ch_ocn/index.html); Raul (“Pete”) Pedrozo, 97 *International Law Studies* 956 (2021), <https://digital-commons.usnwc.edu/ils/vol97/iss1/39/>.

<sup>78</sup> Government of Japan, *Japan's Legislation for Peace and Security* (March 2016), <https://www.mofa.go.jp/files/000143304.pdf>.

<sup>79</sup> UNCLOS, Art. 92(1). George K. Walker, *The Tanker War, 1980-1988: Law and Policy*, 74 *International Law Studies* (2000), 291–295.

<sup>80</sup> UNCLOS, Arts. 2(1), 25, and 218.

<sup>81</sup> UNCLOS, arts. 56 and 73.

<sup>82</sup> James Kraska, *The Obligation of “Due Regard” in the EEZ During Armed Conflict at Sea*, 106 *International Law Studies* 116, 132 (2025), <https://digital-commons.usnwc.edu/ils/vol106/iss1/6/>.

armed conflict.<sup>83</sup> This arrangement permits states to avoid taking sides in a war and protects them from being drawn into hostilities by establishing a clear distinction between belligerent and neutral states. The law also seeks to reduce the effects of a conflict on neutral commerce at sea.<sup>84</sup> The rights and duties of neutral states are based on the relationship between belligerent and neutral vessels, aircraft, and persons.<sup>85</sup> A belligerent state is one that is engaged in armed conflict. The three conflict scenarios in this article assume that China is a belligerent state while Japan remains neutral.

If Japan is not a party to a conflict, its merchant ships and crews have neutral status and are inviolable.<sup>86</sup> This right applies automatically, so Japan is not required to issue a declaration of neutrality. Neutral merchant vessels are entitled to protections and freedoms, while also having the obligation to remain impartial. A merchant ship flying a neutral flag, free from enemy ties and devoid of enemy character, is *prima facie* a neutral ship.<sup>87</sup> For example, enemy ownership, control, or unauthorized flag transfer to a belligerent may establish enemy character. Approximately 14 percent of the vessels operated by Japan's three largest shipping lines are flagged in Japan.<sup>88</sup> In comparison, the remaining 86 percent are flagged in open registries, primarily Panama, Liberia, the Marshall Islands, Singapore, Hong Kong, and the Bahamas. Whether flagged in Japan or another state and Japan is the beneficial owner, these ships qualify as neutral vessels if they are not under the orders or control of an agent placed on board by a party to the conflict, not in the exclusive employment of an enemy government, not owned by enemy nationals or enemy corporations, or have not been transferred from an enemy flag to a neutral flag to evade the consequences to which an enemy vessel is exposed.<sup>89</sup>

As neutral ships, Japanese merchant ships in such a case would be subject to the belligerent right of visit and search during a regional armed conflict.<sup>90</sup> Neutral shipping has a legal duty to submit to visit and search by belligerents.<sup>91</sup> If a neutral ship is acting on behalf of the enemy or carrying contraband, it may be captured and adjudicated as a prize in a belligerent port.<sup>92</sup>

<sup>83</sup> NWP 1-14M, § 7.2 and Newport Manual § 11.1

<sup>84</sup> See Convention No. XIII Concerning the Rights and Duties of Neutral Powers in Naval War, Oct. 18, 1907, 36 Stat. 2415, T.S. No. 545 (Hague XIII) and Convention on Maritime Neutrality, Feb. 20, 1928, 135 L.N.T.S. 187 (Havana Convention).

<sup>85</sup> Office of the General Counsel, U.S. Department of Defense, Law of War Manual § 15.1.2.1 (updated ed. July 2023), <https://ogc.osd.mil/Law-of-War/Practice-Documents/>.

<sup>86</sup> Hague XIII, art. 1. "Belligerents are bound to respect the sovereign rights of neutral Powers..." Hague XI, art. 1 states: "The postal correspondence of neutrals or belligerents, whatever its official or private character may be, found on the high seas on board a neutral or enemy ship, is inviolable." However, this does not say about ships nor crews." Convention No. XI Relative to Certain Restrictions with Regard to the Exercise of the Right of Capture in Naval War, Oct 18, 1907, 36 Stat. 2396, T.S. No. 544.

<sup>87</sup> U.S. Navy, U.S. Marine Corps & U.S. Coast Guard, NWP 1-14M/MCTP 11-10B/COMDTPUB P5800.7A, The Commander's Handbook on the Law of Naval Operations ¶ 7.5 (2022) (NWP 1-14M).

<sup>88</sup> These are the NYK Line, Mitsui O.S.K. Lines, and Kawasaki Kisen Kaisha.

<sup>89</sup> Declaration Concerning the Laws of Maritime War, arts. 55–56, Feb. 26, 1909, 208 Consol. T.S. 338, *reprinted in* THE DECLARATION OF LONDON, FEBRUARY 26, 1909, at 112 (James B. Scott ed., 1919) ("London Declaration"); Robert W. Tucker, The Law of War and Neutrality at Sea, 50 INTERNATIONAL LAW STUDIES 1, 80 (1955) (hereafter "Tucker").

<sup>90</sup> Chief of Naval Operations, Law of Naval Warfare, Naval Warfare Information Publication, NWIP 10-2 § 502 (1955); For the example of the Tanker War, see George K. Walker, The Tanker War, 1980-1988: Law and Policy, 74 International Law Studies 357–362 (2000).

<sup>91</sup> The Newport Manual § 9.9.

<sup>92</sup> C. John Colombos, International Law of the Sea § 801 (6th ed. 1967); James Wilford Garner, Prize Law During the World War § 247 et seq. (1927); The Newport Manual § 9.6.

Contraband is armaments and ammunition of all types and other equipment and supplies associated with providing military support. The Newport Manual defines contraband as “any item that may be of use to the enemy in waging war and which is ultimately destined for the enemy. In principle, any goods can amount to contraband, unless they are goods serving a purely humanitarian function for victims of armed conflict.”<sup>93</sup> Contraband is destined for enemy territory or a place under enemy control. “Articles used exclusively for war” may be declared “absolute contraband.”<sup>94</sup> Dual use articles “susceptible for use in war as for purposes of peace,” like fuel, vehicles, or foodstuffs, “may, without notice also be seized as conditional contraband.”<sup>95</sup> Belligerents that seek to interdict conditional contraband destined for the enemy must issue a declaration to notify the international community of neutral states.<sup>96</sup>

Neutral merchant ships have the right to self-defense against terrorism but not to initiate offensive actions or resist visit and search. (In principle, self-defense is possible even against illegal attacks by belligerent warships, although this is impractical). Since neutral ships have a duty to submit to visit and search, resistance of visit and search, such as fleeing or firing, may justify the capture of a merchant ship or even an attack against it as a military objective. Furthermore, crew members may have considerable anxiety over whether the approaching vessel is actually a warship or a terrorist or a piracy deception operation, complicating visit and search.

Merchant ships are exempt from all interference, including visit and search, if they sail under a neutral convoy.<sup>97</sup> For example, in the Gulf of Aden, U.S. forces have protected international shipping with anti-air warfare defenses against incoming ballistic missiles, cruise missiles, and drone attacks. Japanese merchant ships under a U.S. Navy or JMSDF warship convoy are protected from such threats. Neutral states may desire to escort merchant vessels flying the flag of a neutral state other than their own, including flags of convenience, as has occurred in the Gulf of Aden. It is not entirely clear whether neutral merchant ships under convoy escort from the warships of another neutral state are also exempt from the belligerent right of visit and search. It may be practical to register them under the nationality of a neutral state warship. In 1987, during the Iran-Iraq War, for example, the United States registered eleven Kuwaiti oil tankers under the US flag and provided them protection.<sup>98</sup>

Blockades restrict access to enemy-controlled ports or coastlines, affecting the navigation rights of neutral ships. Merchant ships must respect blockades. A blockade must be declared, communicated via notice to mariners (NOTMAR), enforced impartially, and in a manner that is non-discriminatory among flag states. Neutral ships attempting to breach a blockade are subject to capture. On the other hand, neutral Japanese merchant ships are entitled to access to their own neutral coasts and ports.<sup>99</sup> If Japanese ships are in a blockaded port at the time of the initiation of conflict, they are entitled to depart.<sup>100</sup> The applicability of the law of economic warfare to non-international armed conflicts is debatable, so it may be uncertain whether it would apply to a China – Taiwan conflict.

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<sup>93</sup> London Declaration, art. 22. The Newport Manual § 9.6.2.1.

<sup>94</sup> London Declaration, art. 23.

<sup>95</sup> London Declaration, art. 24.

<sup>96</sup> London Declaration, art. 25.

<sup>97</sup> The Newport Manual § 9.7.1.

<sup>98</sup> C. Weinberger, A Report to the Congress on Security Arrangements in the Persian Gulf, at ii (June 15, 1987); Note, Margaret G. Wachenfeld, Reflagging Kuwaiti Tankers: A U.S. Response in the Persian Gulf, 37 *Duke Law Journal* 174 (1988).

<sup>99</sup> London Declaration, art. 7.

<sup>100</sup> London Declaration, art. 9.

### 3.2 Visit and Search

On the high seas and EEZs, naval and coast guard forces of all states may approach foreign-flagged merchant ships and under some conditions visit them.<sup>101</sup> The right of approach by warships to merchant ships is virtually unlimited, although there is no requirement on the part of the suspect foreign-flagged vessel to respond. Warships and other government vessels may approach foreign-flagged ships and make inquiries to determine whether the merchant ship is stateless, engaged in maritime piracy or the slave trade, or unauthorized broadcasting, or is in fact of the same nationality as the warship.<sup>102</sup> If there is reasonable suspicion by the warship that the merchant ship meets any of these criteria, belligerent forces may board the merchant ship. Coastal states may also board and inspect a foreign-flagged ship in the EEZ to protect the marine environment if there is “clear objective evidence of a threat or cause of major damage.”<sup>103</sup> Likewise, if there is reasonable suspicion that a merchant ship intentionally damaged a submarine communication cable, a coastal state may dispatch maritime law enforcement or naval forces to conduct an on-scene investigation, including boarding the ship.<sup>104</sup>

Neutral ships are most likely to interact with belligerent forces during a visit and search. Belligerent naval forces are entitled to conduct visit and search of neutral merchant ships to determine the enemy character of the vessel or its cargo. Ships are exempt from search if under a neutral convoy and have warrants certifying that no contraband is on board.<sup>105</sup>

Visit and search should be exercised with tact and consideration.<sup>106</sup> Before summoning a vessel to lie to, the warship should raise its national flag. The firing of a blank charge round by the warships signals a visit and search. The neutral ship must stop, lie to, and display its colors. A belligerent merchant ship is entitled to resist visit and search, but a neutral ship may not. If the belligerent resists a visit and search, it assumes all risk resulting in damage or destruction. If the summoned vessel takes flight, it may be pursued and brought to by forcible measures. Once the summoned ship has been brought to, the warship will send a boat with an officer to conduct the visit and search. The boarding officer will examine the ship’s papers to ascertain the enemy character of the vessel or its cargo, review ports of departure and destination, and the manner of employment. The visit will also review the certificate of national registry, crew list and passenger list, logbook, bill of health and clearances, charter party, invoices and manifests of cargo, bills of lading, and other certificates certifying or demonstrating the cargo’s innocence.

Neutral ships are protected through their neutral character, but are liable to capture, or even attack and destruction if they persist after prior warning, to intentionally and clearly refuse to stop, or resist while:<sup>107</sup>

- (1) operating under enemy control, flag, or charter;

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<sup>101</sup> UNCLOS, art. 110.

<sup>102</sup> UNCLOS, art. 110.

<sup>103</sup> UNCLOS, art. 56(2), 211, 220.

<sup>104</sup> 1884 Convention, art. X. This position assumes that the 1884 Convention reflects customary international law. Even if it does not, however, coastal states may exercise such enforcement jurisdiction under the theory of constructive presence. See James Kraska and Elizabeth Hutton, *The Doctrine of Constructive Presence and Damage to Submarine Cables and Other Critical Underwater Infrastructure*, 106 *International Law Studies* 779 (2025).

<sup>105</sup> *The Newport Manual* § 9.7.1.

<sup>106</sup> Tucker, pp. 338–44; U.S. State Department, *U.S. Acts to Avoid Delays for Ships Transiting Waters in Vicinity of Cuba*, 47 *State Department Bulletin* 747 (1962).

<sup>107</sup> Chief of Naval Operations, *Law of Naval Warfare*, *Naval Warfare Information Publication*, NWIP 10-2 ) § 503(d)–(e) (1955); *London Declaration*, arts. 45–46, 55–56.

- (2) avoiding an attempt to establish their identity, including attempt to avoid visit and search;
- (3) acting on behalf of the enemy or operating directly under enemy control, orders, charter, employment, or direction;<sup>108</sup>
- (4) carrying contraband for the enemy;<sup>109</sup>
- (5) attempting to breach a blockade;<sup>110</sup>
- (6) presenting irregular or fraudulent ship's papers or lacking appropriate papers;<sup>111</sup>
- (7) violating rules established by the belligerent for the control of the immediate vicinity of naval operations. Neutral ships can be compelled to divert only for valid reasons, such as to prevent unneutral acts, maintain a maritime exclusion zone, or a war zone.<sup>112</sup>

Merchant ships are protected as civilian objects from outright attack unless, by their nature, location, purpose, or use, they make an effective contribution to military action, rendering them military objectives.<sup>113</sup> In the law of naval warfare, military objectives may be targeted, and neutral merchant ships on rare occasion may become lawful targets, such as if they:

- (1) sail under enemy convoy;<sup>114</sup>
- (2) carry personnel in the enemy's armed forces or public service; or
- (3) communicate information in the enemy's interest, such as belligerent warship movements;<sup>115</sup>
- (4) Become integrated into the enemy order of battle, such as by acting as a naval auxiliary for enemy's armed forces or incorporated into the enemy's intelligence system;
- (5) Take a direct part in hostilities or contributing to enemy "military action" or enemy "war-fighting or war-sustaining capability." Neutral merchant ships have a duty to refrain from taking a direct part in hostilities or serving as enemy auxiliaries.<sup>116</sup> Under the broader U.S.,

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<sup>108</sup> The Newport Manual § 9.6.

<sup>109</sup> Belligerents often declare lists of absolute or conditional contraband. A ship is not liable if the carriage of contraband is unwitting or minimal, although it is still subject to visit and search. The Newport Manual § 9.6.2; Chief of Naval Operations, Law of Naval Warfare, Naval Warfare Information Publication, NWIP 10-2 § 631d (1955)

<sup>110</sup> The Newport Manual § 7.4.7; Chief of Naval Operations, Law of Naval Warfare, Naval Warfare Information Publication (NWIP) 10-2 § 632g (1955).

<sup>111</sup> The Newport Manual § 9.6. The papers which are generally found on board a merchant vessel are:

- a. Certificate of registry of nationality
- b. Crew list
- c. Passenger list
- d. Logbook
- e. Bill of health
- f. Clearance
- g. Charter party, if chartered
- h. Invoices or manifests of cargo
- i. Bills of lading
- j. A consular declaration certifying the innocence of the cargo may be included.

Chief of Naval Operations, Law of Naval Warfare, Naval Warfare Information Publication, NWIP 10-2 § 502 and App. G (1955).

<sup>112</sup> The Newport Manual § 7.2.2; Chief of Naval Operations, Law of Naval Warfare, Naval Warfare Information Publication, NWIP 10-2 § 430b (1955).

<sup>113</sup> API, art. 52(2).

<sup>114</sup> The Newport Manual § 8.6.3.

<sup>115</sup> The Newport Manual § 9.6; Tucker, pp. 321–338.

<sup>116</sup> Chief of Naval Operations, Law of Naval Warfare, Naval Warfare Information Publication, NWIP 10-2 § 501 (1955); Tucker, pp. 77, 115, 320.

Russian, and Ukrainian interpretations, merchant ships can be attacked if they contribute to the enemy's war-fighting or war-sustaining capability.<sup>117</sup> For example, during the Russia-Ukraine conflict, Russia has attacked Ukrainian vessels carrying grain, while Ukraine has attacked merchant ships carrying war material for the Russian armed forces.<sup>118</sup>

Even attacks against merchant ships that have lost their protected status cannot be indiscriminate, however.<sup>119</sup>

Merchant ships in the service of the enemy or that have acquired enemy character are liable to be captured as prize.<sup>120</sup> Belligerents may seize merchant ships and adjudicate them as prize, including enemy ships as well as neutral-flagged ships with enemy beneficial ownership or support to the enemy. Prize captures are usually brought into port for adjudication in an admiralty court. Still, they may be destroyed at sea if it is unsafe to bring them into port, provided the crews are safely removed. Prize captures may occur anywhere outside neutral waters. If a neutral merchant ship is lawfully captured as a prize, the crew on board shall be treated as civilians and protected and cannot be made prisoners of war.<sup>121</sup> If they are captured while engaging in hostile acts, however, they may be treated as prisoners of war. "If a neutral merchant vessel takes a direct part in the hostilities on the side of the enemy, serves in any way as a naval or military auxiliary for the enemy, or otherwise becomes a lawful target, upon capture, its officers may be held as prisoners of war."<sup>122</sup> Enemy nationals found on board a neutral merchant ship may also be made prisoners of war if they are part of a belligerent's armed forces.<sup>123</sup> If a vessel is captured without a valid reason, it must be released.

Seafarers, including masters, pilots, and merchant marine, and the crews of ships and civil aircraft of Parties to a conflict are entitled to the protections of the Geneva Convention II.<sup>124</sup> Neutral ships may provide impartial assistance to distressed persons at sea without losing their status of neutrality.<sup>125</sup>

<sup>117</sup> The Newport Manual § 8.5.1.2; 10 USC § 950p(a)(1) states: "(1) The term 'military objective' means combatants and those objects during hostilities which, by their nature, location, purpose, or use, effectively contribute to the war-fighting or war-sustaining capability of an opposing force and whose total or partial destruction, capture, or neutralization would constitute a definite military advantage to the attacker under the circumstances at the time of an attack."

<sup>118</sup> Federica Marsi, Why is Russia bombing ships carrying Ukrainian grain?, Al Jazeera, October 10, 2024, <https://www.aljazeera.com/news/2024/10/10/why-is-russia-bombing-ships-carrying-ukrainian-grain>; Ukraine special forces target Russian vessels in Caspian Sea, Reuters, December 12, 2025, <https://www.jpost.com/international/internationalrussia-ukraine-war/article-880169>; Samya Kullab, Ukraine says it has hit a major Russian oil refinery with long-range drones, Associated Press, November 6, 2025, <https://apnews.com/article/russia-ukraine-war-oil-refinery-energy-infrastructure-5bc5c5753cb9fa64f45c276223c1d8c8>.

<sup>119</sup> AP I, art. 51(4).

<sup>120</sup> The Newport Manual § 3.10.2.

<sup>121</sup> Chief of Naval Operations, Law of Naval Warfare, Naval Warfare Information Publication, NWIP 10-2 § 513 (1955). "[t]he officers and crews of neutral merchant vessels captured as prize who are nationals of a neutral State may not be made POWs and must be repatriated as soon as circumstances reasonably permit." The Newport Manual § 3.10.3.1.

<sup>122</sup> Hague XIII, arts. 5–8; Convention (III) Relative to the Treatment of Prisoners of War art. 4(A)(5), Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135 (GC II).

<sup>123</sup> Chief of Naval Operations, Law of Naval Warfare, Naval Warfare Information Publication (NWIP) 10-2 § 513 (1955) and The Newport Manual § 3.10.3.1.

<sup>124</sup> GC II, art. 13(5).

<sup>125</sup> UNCLOS, art. 98; GCII, art. 21.

### 3.3 Risk of Foreign Registry

Japanese-owned ships registered to a belligerent state involved in an international armed conflict may be subject to prize capture by the opposing belligerent. There are no Japanese ships registered in South Korea since that nation's Ship Act and Ship Registry Act impose strict nationality requirements. South Korean citizens or companies must own vessels with a principal office in South Korea, and all representatives must be South Korean citizens. There are no Japanese ships registered in Vietnam or the Philippines.

If China is involved in an armed conflict at sea, Japanese ships registered in China or Hong Kong could be at risk of prize capture by the naval forces of the opposing belligerent. Hong Kong ship registry explicitly allows foreign-owned ships to be flagged there, provided the owner registers as a non-Hong Kong company with a place of business in Hong Kong.<sup>126</sup> This privilege applies to Japanese-owned vessels, including those operated by subsidiaries of Japanese leasing companies. For example, Hong Kong's Merchant Shipping (Registration) Ordinance permits demise charter registration for foreign entities, and Japanese companies have used it for vessels engaged in international trade. A subsidiary of a Japanese leasing company can own a Hong Kong-registered ship outright under a demise charter, with the vessel registered in the foreign (Japanese) company's name as owner and a qualified Hong Kong person or entity listed as the demise charterer. This structure allows the Japanese entity to retain ownership while benefiting from Hong Kong's flag. Japanese firms use this as a standard mechanism for tax and operational advantages, as Hong Kong offers exemptions on profits from ocean-going ships and aligns with international conventions such as those of the IMO and ILO.

Exeno Yamamizu Corporation, a Tokyo-based Japanese shipping services company, actively provides ship registration services under the Hong Kong flag for foreign-flag vessels.<sup>127</sup> Japanese companies not only utilize but also promote Hong Kong registrations for their clients or owned fleets. Their services include handling documentation, surveys, and compliance, making it easier for Japanese owners to flag ships in Hong Kong. The Hong Kong Marine Department maintains a regional desk in Tokyo specifically to support Hong Kong-registered ships calling at Japanese ports and to assist shipping companies in the region (including Japan) with flag state quality controls, registrations, and related services. The presence in Japan underscores Hong Kong's registry is marketed regionally for its efficiency, low fees, and preferential treatment, such as reduced port dues in mainland Chinese ports.<sup>128</sup>

## 4. Conclusion

Merchant vessels seeking to mitigate the perils of attacks during periods of armed conflict must adhere to prudent navigational and behavioral strategies, as set out in treatises such as those by Robert W. Tucker and C. John Colombos, and in national guidance, including the U.S. Chief of Naval Operations' Law of Naval Warfare 10-2. More recent restatements of the law of naval warfare are also helpful, including the San Remo Manual on International Law Applicable to Conflicts at Sea and the more recent Newport Manual on the Law of Naval Warfare (Second Edition). Foremost among these is the imperative to avoid perilous maritime domains, where belligerent parties may establish warning zones, maritime exclusion zones, or outright war zones, thereby imposing stringent restrictions on ingress and egress. Such proclamations are

<sup>126</sup> Mayer Brown, Guide to Shipping Register and Shipping Tax Regime in Hong Kong (2024), <https://www.mayerbrown.com/-/media/files/perspectives-events/publications/brochures/asia/guide-to-shipping-register-and-shipping-tax-regime-in-hong-kong.pdf?rev=-1>.

<sup>127</sup> Exeno Yamamizu Corporation, Ship Registration Services for Foreign Flag vessels, <https://www.exeno.co.jp/en/business/maritimeservice/>.

<sup>128</sup> Regional Desk (Tokyo), Hong Kong Shipping Registry, <https://www.mardep.gov.hk/en/hksr/about-hksr/regional-desks-of-the-hksr/tokyo/index.html>.

customarily released through formal maritime advisories, including Notices to Airmen (NOTAM) or Notices to Mariners (NOTMAR), which serve as critical instruments for disseminating navigational hazards and ensuring compliance with the principles of neutrality and self-preservation.

Furthermore, merchant ships ought to carefully abstain from any conduct that could be misunderstood as partial or antagonistic or supportive of belligerent operations, including the conveyance of adversarial military personnel, the provisioning of combatant warships, or the carriage of contraband materiel, irrespective of whether such activities are explicitly proscribed under the codified norms of naval warfare. These actions invariably heighten vulnerability to interception, seizure, or outright hostility by belligerents, undermining the protections afforded to neutral commerce under customary international law. Finally, in encounters with belligerent warships, strict compliance with maritime neutrality is paramount to ensure safety. Precedents, such as those observed in Black Sea incidents, underscore that submission to visit and search orders typically averts escalation. Non-belligerent vessels engaged in legitimate trade are often expeditiously released after verification, thereby preserving the delicate balance between the rights of neutrals and the rights of military necessity in the exigency of warfare.