

Concluding Remarks

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The theme of our Joint Project is “Security of Ocean in Asia,” and in our Workshop this year, we have focused on the issue of "Building Cooperative Scheme for the Protection of Environment in Asian Seas." We chose this theme mainly on three reasons. First, the environment of the seas in Asia is in a serious condition and we need to set up some cooperative scheme to realize an integrated management of the ocean, which concept has been taken up as a key concept in the Basic Ocean Law of Japan, which was enacted last year. Second, Asian seas as semi-enclosed seas have peculiar difficulties because they constitute patchworks with human-made complicated boundaries, and it is most difficult to agree on such a cooperative scheme. Third, however, we find some progress has been underdone in South China Sea and the Malacca and Singapore Straits area to avoid jurisdictional conflict and build a new cooperative scheme, and it is important, I believe, to learn from these experience some lessons about the building of a cooperative scheme for other area of the ocean in Asia.

Despite that we need some cooperative scheme to achieve the management of ocean in an integrated manner, it is always difficult because the very causes of the ocean problems are mostly located on lands which are subject to the territorial sovereignty of each littoral and coastal state. Taking example of the protection of marine environment, although it is our common knowledge that more than 80 % of ocean pollution is land-based, international society thus far could target mostly to vessel-source pollution only, within the framework of the IMO, with the exception of the North Atlantic Ocean area and the Mediterranean. We also know that the more than 75 % of the disturbance of ecological balance of ocean by invasive species is caused by imports and exports of living sea resources for food purpose, but we have just started to regulate only with regard to invasive species carried with ballast water. Again, while we have witnessed a progress in building framework of regulation with regard to high sea fisheries and IUU fisheries, EZ fisheries seem much less regulated, even though they nowadays are causing more serious problems of sustainability. The same problem occurs with the safety of navigation in the Malacca and Singapore Straits.

In the sense, any proposals for cooperative scheme for Asian seas should pay cautious and serious attention to the sovereignty of coastal states and their sovereign rights over respective EZ sea zone. In such situation, it is very significant that Asian international law scholars meet and discuss, and possibly share their perception about

what can be done by coastal states in their territorial seas and EZ without violating their obligation under the UNCLOS. But at the same time, it is also necessary to refer to a newly emerging trends for the cooperation of international community in keeping sustainability of ocean, and redefine what coastal and other states of Asia can do but does not have done yet, for the building cooperative scheme of protection of marine environment within the framework of the UNCLOS.

In the first part of our workshop, Professor Atsuko Kanehara has reported on the new trends in the law of the sea and Professor Hanling Wan has discussed about the new ecosystem approach to the ocean management. In the second part of our workshop, Malacca and Singapore straits and the South China sea was taken up as a progress for building a new cooperative scheme in the region.

It is my impression that in these areas, some progress has definitely been undergone. In 2002, the South China Sea Code of Conduct was declared and nations agreed not to use armed force to solve the territorial dispute in the area. Territorial disputes between Malaysia and Indonesia and between Malaysia and Singapore was brought before the ICJ and settled peacefully. The ASEAN Charter, so-called Constitution of the ASEAN, has also been adopted last November. Cooperative Scheme for improving the security of the Malacca and Singapore Straits are proposed with the cooperation of three littoral states and China, Japan and Korea, following the Cooperation Agreement on Combating Piracy and Armed Robbery (ReCAPP).

It seems that the move from conflict to confidence-building seems to have been started and this move is surely a first step towards building a cooperative scheme for the integrated ocean management in the future. On this experience, I hope, this move will be extended to the Northern part the Asian seas.