

JAPAN

The First Prosecution of Somali Pirates under the Japanese Piracy Act: The *Guanabara* Case

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The Japanese shipping industry has been strongly facing the threat of piracy off the Somali coast. In 2008, there was a rapid increase in the instances of piracy and armed robbery at sea on ships navigating off the coast of Somalia. Such instances also increased in the Gulf of Aden, the Red Sea, the Arabian Sea, the Indian Ocean, and off the coast of Oman. Amid this increased threat of piracy off Somalia, the Japanese government decided to deploy the Japan Maritime Self-Defense Force (“JMSDF”) and the Japan Coast Guard (“JCG”)’s officers in the Gulf of Aden. It also adopted the Act on Punishment of and Measures against Piracy (Act No. 55, 2009) [hereinafter Japanese Piracy Act]. The Act defines piracy by referring to the provisions in Article 101 of the United Nations Convention on the Law of the Sea (“UNCLOS”).¹ It criminalizes piracy in accordance with the principles of ‘universal jurisdiction’ under international law.²

On March 5, 2011, the *Guanabara*, a crude oil tanker registered under the flag of Commonwealth of the Bahamas operated by a Japanese shipping company, Mitsui O.S.K. Lines, Ltd., was attacked by four Somali pirates while navigating on the high seas in the Arabian Sea. They boarded the *Guanabara* and attempted to take control of its operation by force, using automatic rifles. The *Guanabara* had loaded fuel oil at the port of Kerch in Ukraine and was en route to the port of Zhoushan, China. Having received a distress signal, the United States Navy destroyer Bulkeley

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¹ For details on the Japanese Piracy Act, see Jun Tsuruta, The Japanese Act on the Punishment of and Measures against Piracy, THE AEGEAN REVIEW OF THE LAW OF THE SEA AND MARITIME LAW 237-245 (2011).

² See Universal Jurisdiction, available at https://www.princeton.edu/~achaney/tmve/wiki100k/docs/Universal_jurisdiction.html (last visited on May 4, 2014).