



Note 2: Compensation for loss or damage resulting from the actions of the USFJ and others is made under the Law Concerning Compensation for Special Damages Incurred by Acts of United States Forces Stationed in Japan (promulgated in 1953).

## Related Articles for Reference

### Reference 64. The Constitution of Japan (Excerpt)

#### Article 9

- (1) Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.
- (2) In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.

#### Article 66

- (1) The Cabinet shall consist of the Prime Minister, who shall be its head, and other Ministers of State, as provided for by law.
- (2) The Prime Minister and other Ministers of State must be civilians.
- (3) The Cabinet, in the exercise of executive power, shall be collectively responsible to the Diet.

### Reference 65. Article 5, Treaty of Mutual Cooperation and Security between Japan and the United States (Japan-U.S. Security Treaty)

#### Article 5

Each Party recognizes that an Armed Attack against either Party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes.

Any such Armed Attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations in accordance with the provisions of Article 51 of the Charter. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

## **Reference 66. Article 6, Treaty of Mutual Cooperation and Security between Japan and the United States (Japan-U.S. Security Treaty)**

### Article 6

For the purpose of contributing to the security of Japan and the maintenance of international peace and security in the Far East, the United States of America is granted the use by its land, air and naval forces of facilities and areas in Japan.

The use of these facilities and areas as well as the status of United States armed forces in Japan shall be governed by a separate agreement, replacing the Administrative Agreement under Article 3 of the Security Treaty between Japan and the United States of America, signed at Tokyo on February 28, 1952, as amended, and by such other arrangements as may be agreed upon.

## **Reference 67. Article 7, Self-Defense Forces Law**

(Command and Supervisory Powers of the Prime Minister)

### Article 7

The Prime Minister, representing the Cabinet, shall hold the supreme powers of command and supervision over the Self-Defense Forces.

## **Reference 68. Article 76, Self-Defense Forces Law**

(Defense Operations)

### Article 76

- (1) When there is an Armed Attack to our nation from the outside (hereinafter referred to as “Armed Attack”) or when it is considered that there is an imminent and clear danger of an Armed Attack, the Prime Minister, when he or she considers it necessary from the standpoint of defending the nation, he or she may order the whole or part of the Self-Defense Forces into operation. In this case, the approval of the Diet shall be required pursuant to Article 9 of the Law Concerning Measures to Ensure National Independence and Security in a Situation of Armed Attack (Law No.79, 2003).
- (2) The Prime Minister must immediately order the Self-Defense Forces to withdraw when operations by the Forces are no longer necessary.

## **Reference 69. Article 77-4, Self-Defense Forces Law**

(Civil Protection Operations)

### Article 77-4

- (1) In case that the Defense Minister receives a request from a governor of a prefecture following the provisions stipulated in the Paragraph (1), Article 15 of the Civil Protection Law and that it is considered necessary, or in case that the Minister receives a demand from the Task Force Chief for Armed Attack Situation, etc. following the provisions stipulated Paragraph (2) of the same Article, the Minister of State for Defense, upon the authorization of the Prime Minister, may dispatch troops and other units in order to implement measures for protecting Civilians that are necessary to fulfill the request or demand.
- (2) In case that the Defense Minister receives a request from a governor of a prefecture following the provisions stipulated in the Paragraph (1), Article 15 of the Civil Protection Law applied correspondingly to the Article 183 of the same Law and that it is considered necessary, or in case that the Minister receives a demand from the Task Force Chief for Emergency Response Situation following the Paragraph (2) of the

same Article 15 of the same Law applied to the Article 183 of the Law, the Minister of State for Defense, upon the authorization of the Prime Minister, may dispatch troops and other units in order to implement emergency response protection measures that are necessary to fulfill the request or demand.

## **Reference 70. Article 82-2, Self-Defense Forces Law**

(Measures for Destruction of Ballistic Missiles)

Article 82-2

- (1) In case when it is recognized that there is a threat of a ballistic missile, etc. (hereinafter “ballistic missile, etc.” refers to ballistic missiles and other objects other than airplanes that are recognized to cause serious damages to the lives and/or properties of citizens when falling) flying to the land of Japan and that destruction of such objects are necessary to prevent the damages on the lives and/or properties of citizens within the territory of Japan, the Defense Minister, upon the authorization of the Prime Minister, may order the units of the Self Defense Forces of Japan to take measures for the destruction of the ballistic missile, etc. that is flying at that moment toward Japan within the territory of Japan or in the air above the high sea (including the exclusive economic zone stipulated in the United Nations Convention on the Law of the Sea).
- (2) When it is recognized that the previous paragraph is no longer applicable, the Defense Minister, upon the authorization of the Prime Minister, must immediately remove the order.
- (3) Aside from the situation where the Paragraph (1) is applied, in case that a ballistic missile, etc. is flying toward the land of Japan without sufficient time to obtain authorization stipulated in the same paragraph from the Prime Minister due to the urgent change of the situation, the Defense Minister may order the units of the Self Defense Forces of Japan to take measures stipulated in the same paragraph in advance in order to prevent the damages on the lives and/or properties of citizens within the territory of Japan following the Emergency Response Guidelines that are prepared by the Defense Minister and authorized by the Prime Minister. In this case, the Defense Minister shall set the period during which the ordered measures are to be implemented.
- (4) The specific provisions that are necessary for the preparation of the Emergency Response Guidelines and authorization of the Prime Minister shall be stipulated in the relevant government ordinance.
- (5) When measures are taken either following the Paragraph (1) or Paragraph (3), the Prime Minister must immediately report the results to the Diet.

## **Reference 71. Article 83, Self-Defense Forces Law**

(Disaster Dispatch)

Article 83

- (1) Governors of prefectures and individuals prescribed by an ordinance may request the Defense Minister or individuals designated by him or her to dispatch units, etc., if they deem it necessary for the protection of lives or properties because of natural calamities and other disasters.
- (2) The Defense Minister or the individuals designated by him or her may, upon the request referred to in the preceding paragraph and finding that the situation requires it, dispatch units, etc. for rescue. However, in the event of natural calamities and other disasters, if it is recognized that there is no time to wait for such request as referred to in the preceding paragraph because of the pressing emergency, he or she may dispatch units, etc. without such request as referred to in the same paragraph.
- (3) In the event that a fire and other disasters occur in and around Defense Ministry facilities including offices and quarters, commanders of units, etc. may dispatch units, etc.

- (4) Procedures for the request referred to in Paragraph (1) shall be prescribed by an ordinance.
- (5) The provisions stipulated in the Paragraph (1), (2) and (3) shall not apply for the disasters in a armed attacked situation stipulated in the Paragraph (4), Article 2 of the Law related to the Measures to Protect Citizens in Armed Attack Situation etc. nor the disaster in a emergency response situation stipulated in the Paragraph (1), Article 14 of the same Law applied correspondingly to the Article 183 of the Law.

## **Reference 72. Article 96-2, Self-Defense Forces Law**

(Defense Secrets)

Article 96-2

- (1) The Defense Minister shall designate as a Defense Secret an undisclosed matter that particularly needs to be made confidential from the perspective of national defense among those listed in Annexed Table 4 regarding the Self-Defense Forces (excluding those falling into the Special Defense Secrets provided in Paragraph (3), Article 1 of the Law Concerning the Protection of Secrets Incidental to the Mutual Defense Assistance Agreement Between Japan and the United States of America, etc. (Law No. 166 of 1954)).
- (2) The designation based on the provision of the preceding paragraph must be made by any of the following means:
  - i. Marking a document, drawing or property that records a matter provided in the preceding paragraph or a property that embodies the matter as prescribed by an ordinance; and
  - ii. Notifying those who handle the matter of the fact that it is subject to the preceding paragraph as prescribed by an ordinance when it is difficult to comply with the preceding sentence due to characteristics of the matter.
- (3) The Defense Minister may have national Government personnel engaged in duties related to national defense or personnel engaged in the provision of materials and services regarding the Defense Secret based on a contract with the Defense Ministry to handle the Defense Secret as prescribed by an ordinance as long as such handling is particularly necessary for the execution of the missions of the Self-Defense Forces.
- (4) The Defense Minister shall take measures to protect a matter provided in Paragraph (1) as prescribed by an ordinance, in addition to those stipulated in Paragraph (1) and (2).

## **Reference 73. Article 97, Self-Defense Forces Law**

(Partial Delegation of Recruiting Functions)

Article 97

- (1) Governors of prefectures and Mayors of municipalities shall perform part of the functions related to recruiting Self-Defense officials as prescribed by an ordinance.
- (2) The Defense Minister may request the National Police Agency and prefectural police to cooperate in part of the functions related to recruiting Self-Defense officials.
- (3) Expenses required for functions performed by Governors of prefectures and Mayors of municipalities under the provision of Paragraph (1) and cooperation rendered by prefectural police under the provision of the preceding paragraph shall be defrayed by the national treasury.

## Reference 74. Article 122, Self-Defense Forces Law

### Article 122

- (1) One whose duty is to handle the Defense Secret shall be subject to imprisonment up to five years when he or she has divulged the Defense Secret acquired through his or her duty. The same shall apply even after he or she is released from the duty of handling the Defense Secret.
- (2) One who has attempted to commit a crime in the preceding paragraph shall be punished.
- (3) One who has committed a crime in Paragraph (1) due to negligence shall be subject to confinement of up to one year or a fine of up to 30,000 yen.
- (4) One who has conspired, instigated or agitated the execution of an act in Paragraph (1) shall be subject to imprisonment of up to three years.
- (5) When one who has committed a crime in Paragraph (2) or one who has committed a crime in the preceding paragraph by conspiring the execution of an act stipulated in Paragraph (1) turns oneself in, he or she shall receive commutation of or exemption from punishment.
- (6) Crimes in Paragraphs (1), (2), (3) and (4) shall follow Article 3, the Penal Code.

## Reference 75. Annexed Table 4, Self-Defense Forces Law

### Annexed Table 4 (Pertaining to Article 96-2)

- i. Operations of the SDF or estimates, plans or studies on them
- ii. Radio information, graphic information and other important information collected for national defense
- iii. Collection/arrangement of information listed in the preceding sentence or capabilities for it
- iv. Estimates, plans or studies on defense build-up
- v. Type and amount of weapons, ammunition, aircraft and others for national defense (including vessels, same in Clauses viii and ix)
- vi. Communication network composition or communication means for national defense
- vii. Ciphers for national defense
- viii. Specification, performance or usage of weapons, ammunition, aircraft and others for national defense or prototypes of them in a research and development phase
- ix. Production, inspection, maintenance or testing methods of weapons, ammunition, aircraft and others for national defense or prototypes of them in a research and development phase
- x. Design, performance or usage of facilities for national defense (excluding those listed in Clause vi)

## Reference 76. Article 51, Charter of the United Nations

### Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an Armed Attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.