
Chapter III Effective Responses to New Threats and Diverse Contingencies and National Defense against Full-scale Aggression

Section 1 Effective Responses to New Threats and Diverse Contingencies

1. Responses to Ballistic Missile Attacks

Japan's Ballistic Missile Defense (BMD)

(1) From Study Phase to Initial Improvement

The Defense Agency began studying its air defense system and the technological feasibility of a ballistic missile defense system in 1995. In 1998, the Security Council and the Cabinet agreed to start joint technical research with the United States for parts of a sea-based upper-tier system (the current AEDIS BMD System). The joint research on four major components of the interceptor missiles started in 1999 and is still continuing to date.

The Mid-Term Defense Program (FY2001-FY2005) approved by the Security Council and the Cabinet in 2000 declares that “in ballistic missile defense (BMD), Japan will continue to pursue joint Japan-U.S. technical research on a sea-based upper-tier system and take other necessary measures after studying the technological feasibility of such a system.”

Japan's own simulations in addition to the series of tests in US and the US decision to introduce BMD system convinced the Japanese government that a BMD system was technologically viable. With BMD quite suited to Japan's exclusively defensive defense policy, the Security Council and the Cabinet on December 19, 2003 approved the proposal “On the Introduction of a Ballistic Missile Defense System and Other Measures” and decided to pursue such a system. The Government has started the improvement since FY 2004.

Also Japan will introduce new radar(FPS-XX) for surveillance and tracking.C2BMC system (JADGE) is expected to improve Japanese BMD capability by making interceptor and radars share their information promptly and adequately.

(2) Overview of the BMD system

The BMD system being deployed by the Japanese government is based on the idea of a multi-tier defense system relying on improvements to the capabilities of Aegis vessels and PATRIOT systems presently used by the SDFs, both of which will be integral parts of the BMD system (upper-tier interception by Aegis vessels and lower-tier interception by the PATRIOT system).

The trajectory of a ballistic missile can be divided into three phases: the boost phase, in which the rocket engine firing shortly after the missile is launched, accelerating the missile, the mid-course phase, in which the rocket engine has completed firing and inertia carries the missile to outer space (exoatmosphere), and the terminal phase, extending from the missile's subsequent reentry into the atmosphere until impact. Japan's BMD system adopts a multi-tier weapon system that intercepts in-coming ballistic missiles in the mid-course stage by Aegis vessels, or in the terminal stage by the PATRIOT system.

(3) Future Capability Improvement

The proliferation of ballistic missile technology is proceeding and it is necessary to promote continuous improvement of the capabilities to cope with the advancement of ballistic missiles. Expansion of the defended area and increase of the intercepting chances of conventional ballistic missiles are also expected and it is required to tackle the enhancement of the efficiency and reliability of the system.

From these points of view, Japan is striving for enhancement future capabilities through promoting the improvement of the BMD system as well as continuing the joint technical research with the United States that started in 1999.

Improvements in the Field of Legislation and Operation

(1) Legal Actions on Responding to Ballistic Missiles

When ballistic missiles or other objects fly toward Japan and it is identified as an armed attack situation, SDF takes actions under defense order.

An “Armed Attack Situation” shall be identified taking account of international situation, intention of the adversary, and the military actions comprehensively. Thus, in cases where the adversary’s intention or purpose of the launch cannot be recognized, Armed Attack Situation may not be identified.

Even in cases where no armed attack situation is recognized, ballistic missiles may fly toward Japan and impact on Japan’s territory and they may cause a great damage to lives and assets of people in this case, it may become necessary to use the BMD system. Since the former Self-Defense Forces Law failed to provide legal ground for SDF operations against ballistic missiles, amendments were made at the ordinary session of the Diet in 2005.

These amendments of the SDF Law were made after due consideration of making prompt and appropriate responses and securing civilian controls in order to establish necessary grounds for responding to ballistic missiles, etc. when ballistic missiles fly toward Japan where no order of SDF operation has been given.

(2) Operational Efforts

Destruction of ballistic missiles flying toward Japan must be conducted by joint operation of Aegis vessels of the Maritime Self-Defense Force (MSDF), radars of the Air Self-Defense Force (ASDF), Patriot and the command/control and communications system, while the Ground Self-Defense Force (GSDF) will play a primary role in consequence management of the damage caused by the missiles impact on Japan territory. Therefore, the operation of the ballistic missile defense invariably involves a joint operation of the GSDF, MSDF, and ASDF. From the viewpoint of providing effective responses against ballistic missiles in future, establishment of an efficient and effective joint operation system is required.

Missile Defense of the United States and Japan-U.S. Cooperation

(1) Missile Defense of the United States

Currently, processes are underway for adopting the most appropriate interception systems for each of boost phase, mid-course phase, and terminal phase of ballistic missiles are of trajectory. Since each

of these systems has its own advantages and disadvantages, the United States combines these systems to develop mutually complementary multi-layered defense systems and deploying them as soon as they are deemed ready.

Detecting long-range ballistic missiles early in their trajectories requires long-range sensors and an extensive surveillance network. The United States already conducts surveillance via satellites, and intends to launch a new Space Tracking and Surveillance System (STSS) with onboard infrared sensors that features improved surveillance area/precision and warning capabilities as well as to expand its ground-based and sea-based radar capabilities.

(2) Japan-U.S. Joint Technical Research

After approval by the Security Council in 1998, the Government decided to begin joint Japan-U.S. technical research on a sea-based upper-tier system (the current Sea-based Mid-course Defense System) from FY1999.

The start of joint technical research was coordinated with the United States, and in 1999 the Cabinet approved the exchange of a letter between the Minister of Foreign Affairs and the U.S. Ambassador to Japan regarding joint Japan-U.S. technical research on BMD. Pursuant to that, a memorandum of understanding was signed by the Defense Agency and the U.S. Department of Defense to get the joint technical research underway. This joint technical research involves collaborative efforts by Japan and the United States in the design, prototyping, and necessary testing of interceptor missiles for the Sea-based Mid-course Defense System; presently four major missile components (the nose cone, the second-stage rocket motor, the kinetic warhead, and the infrared seeker) are being designed, developed prototypes, and tested as required. Funds totaling about 25.3 billion yen were set aside for this research between FY1999 and FY2004. The FY2005 budget allocates about 900 million yen to cover testing costs.

This joint technical research is focused not on the sea-based system that the United States decided in December 2002 to deploy and that Japan has recently chosen to introduce, but rather on a future system that will have even greater capabilities. Consequently this joint technical research must be continued to ensure Japan is able at present and in future to counter ballistic missile attacks. As noted in statements made by the Chief Cabinet Secretary in 1998 and in 2003, separate decisions will be made on the transitions to the development stage and the deployment stage.

(3) Relevance to Three Principles of Arms Export

Japan's BMD system will be developed by Japan itself, via improvements to the capabilities of Aegis vessels and the PATRIOT system that Japan already possesses, and thus does not pose a problem vis-à-vis the Three Principles of Arms Export.

On the other hand, cooperation with the United States will be required to improve Japan's BMD capabilities in future and, when the results of the Japan-U.S. joint technical research on BMD aimed at enhancing future capabilities be utilized through a transition to joint development and production, Japan would find itself in the position of exporting arms relating to BMD to the United States. Taking these situations into consideration, the Chief Cabinet Secretary made a statement on the National Defense Program Guidelines formulated December in 2004 as saying "If Japan decides that it will engage in joint

development and production of ballistic missile defense systems with the United States, however, the Three Principles will not be applied, under the condition that strict control is maintained, because such systems and related activities will contribute to the effective operation of Japan-U.S. security arrangements and are conducive to the security of Japan.”

(4) Strengthening of Japan-U.S. Cooperation on BMD

The new Mid-Term Defense Program states as measures for strengthening the Japan-U.S. Security Arrangements as follows: “The GOJ (Government of Japan) will strengthen Japan-US bilateral efforts to enhance ballistic missile defense (BMD) capabilities, and promote cooperation with the U.S. in the field of defense policy, operations, and equipment and technology.” One week after that, the Memorandum of Understanding (MOU) on the BMD cooperation was signed between Defense Agency of Japan and the U.S. Department of Defense in response to the Cabinet decision to exchange letters between the Foreign Minister of Japan and the U.S. Ambassador to Japan about the BMD cooperation.

Based on the MOU, the first Executive Steering Committee, a DG level meeting for oversight BMD Cooperation, was held in this June.

Also the following matters were confirmed at the Japan-U.S. Security Consultative Committee (SCC) held in Washington in February, 2005.

Ballistic missile defense (BMD) enhances the ability of Japan and the United States to defend against and deter ballistic missiles attacks and dissuade other parties from investing in ballistic missiles.

Commitment to close cooperation on policy and operational matters and to advance U.S.-Japan cooperative research in BMD systems, with a view to possible cooperation development, while taking note of achievements in missile defense cooperation, such as Japan’s decision to introduce ballistic missile defense systems and its recent announcement on its Three Principles on Arms Export.

The strengthening of the Japan-U.S. BMD cooperation not only leads to the improvement of Japan’s BMD capabilities but also strongly deters the proliferation and use of ballistic missiles in the world. The Defense Agency will continue an aggressive promotion of such efforts.

2. Responses to Attacks by Guerrillas and Special Operation Forces

Responses to Attacks by Guerrillas and Special Operation Forces

Defense operation shall be conducted against an unconventional armed attack by guerrillas or special operation forces infiltrating into Japan when necessary. The guerilla assault may come as an act of destruction of facilities by members of an irregular force, or as assassination, or surprise attack on a command center by a special operations unit of regular troops.

Operations to Respond to Attacks by Guerrillas and Special Operation Forces are as follows.

Discovery and Prevention of Various Types of Ships

Efforts will be made to identify ships and submarines transporting guerillas and special operations units as early as possible and to prevent them from advancing through the use of the destroyers and submarines, and the aircraft of the MSDF and ASDF.

Search and Discovery of Guerillas and Special Operations Units

In case of possible infiltration into Japan by guerillas or special operations units, the GSDF's patrol units and others will be engaged in warning and surveillance activities in coastal areas, and should an infiltration actually occur, the patrol units and air units will search and find the guerillas or special operations units. Also, when necessary, units will be promptly deployed to important facilities to protect them.

Capture and Defeat of Guerillas and Special Operations Units

When guerillas or special operations units are found, combat units will be promptly concentrated in the area to besiege and capture or defeat them.

Responses to Armed Agents

In dealing with illegal activities by armed agents, the SDF will basically take the following measures depending upon the situation, in cooperation with the police agencies, which have the primary responsibility regarding public security.

In case the identification of invaders or the situation surrounding the incident is uncertain, the SDF will attempt to grasp the situation and enhance the security of its facilities, while cooperating with the police agencies by transporting policemen, providing various materials and equipment, etc. as the occasion demands.

In case the police force cannot maintain security given the revealed facts related to the incident, the SDF will cooperate with police organizations to conduct public security operations in addition to transportation support and equipment provisions in order to suppress the armed agents and guard the facilities.

If any armed agents' activities are regarded as an organized and prepared use of external armed forces, they shall be subject to defense operations.

Responses to Nuclear, Biological, and Chemical Weapons

In the event of a so-called NBC terrorist attack in Japan and if it is regarded as an armed attack on Japan from the outside, the SDF will conduct defense operations and implement necessary measures to defend the country and save victims. Also, in the event of an NBC terrorist attack which does not fall under an armed attack from outside but against which the general police alone cannot maintain public security, the SDF will conduct public security operations to suppress the terrorists and assist victims in cooperation with the related agencies. Furthermore, even if an incident does not fall under those that call for defense operations and public security operations, the SDF will conduct disaster relief activities after damage is caused by NBC terrorism in order to rescue the victims and to prevent the expansion of damage. Led by the chemical protection units and medical units of the GSDF, SDF personnel will gather information about the damage caused, conduct decontamination activities, transport the injured and sick, and support the related agencies in conducting medical activities.

(1) Response to Biological Weapons

Biological agents have certain incubation periods, and initial symptoms do not provide clues as what caused those symptoms. If biological agents are dispersed secretly, it might be only after damage has actually spread that people started to suspect the damage is artificially caused. It may therefore be difficult to detect biological terrorism before damage is actually caused by it.

Against damage caused by biological agents, medical institutions will be primarily responsible for the treatment of patients, while the SDF will conduct decontamination activities, as well as transportation and medical treatment of victims.

(2) Response to Chemical Weapons

Chemical agents, unlike biological agents, generally cause immediate damage and it is extremely important to take prompt measures at the initial stage.

The chemical protection units of the GSDF can deal with such agents with their protective clothing and vehicles, and the units dispatched for disaster relief operations will detect chemical agents, transport and treat victims, and conduct decontamination activities.

Even for the event which does not require a disaster relief dispatch of the SDF, the SDF will lend chemical protective clothing and dispatch chemical protection unit personnel as liaison officers among related agencies.

(3) Response to Nuclear Weapon-Related Substances

Nuclear substances might cause various influences over the health of people exposed to them, even by indirect exposure. It is therefore necessary to take appropriate protective measures for and to control exposure to those substances based on their characteristics.

To a certain degree, internal exposure caused by inhaling of radioactive substances can be prevented by the use of protective masks and clothing, and external exposure caused by radioactive emissions can be prevented by the use of chemical protection vehicles. In case of damage caused by chemical agents, the chemical protection units equipped with these protective devices will conduct activities, though limited.

In such cases, the SDF will measure contamination and transport victims in cooperation with the related agencies.

3. Responses to Invasion on Islands

The National Defense Program Guidelines regards Japan's geographical feature which is narrow and has long coastal lines and many islands as vulnerable from the security point of view. In particular, because of Japan's geographical feature as an archipelago, the enemy may invade these islands as one type of armed attack on Japan.

Operations to Respond to Invasions onto Islands

Responses to an invasion on islands are similar in many aspects to a full-scale response to an enemy's invasion of the mainland, but it is important to detect indications at an early stage through warning and

surveillance as well as gathering of military information conducted by the SDF under normal circumstances. If there is an indication noticed in advance, an operation shall be conducted to prevent the invasion by the enemy's unit. If there is no indication in advance and the islands in question were occupied, an operation shall be conducted to defeat the enemy.

To carry out these operations, agile transportation and deployment of units through joint operations are essential, therefore the SDF forces will mutually cooperate and gather their units quickly to prevent and destroy the enemy's invading troops.

4. Patrol and Surveillance in the Sea and Air Space Surrounding Japan, Response to Violation of Japan's Airspace and Reactions to Armed Infiltration Boats and Other Vessels

Ptrol and Surveillance in the Sea Areas Surrounding Japan/ Warnings and Scrambles against Violations of Territorial Airspace

In order to respond quickly a full-scale aggression and a new threat or other diverse situations, the SDF is conducting activities that are directly connected with the security of Japan, constant guard and surveillance activities in its territorial waters and airspace, and in the surrounding airspace and sea areas under normal circumstances.

Response to Submarines Submerging in Territorial Waters

As for submarines navigating under water in Japan's territorial waters and inland waters, an order for maritime security operations shall be issued under the Cabinet decision of 1996 etc. and the SDF will request the submarine to navigate on the surface of the waters where the submarine is submerging to show the flag. If the said submarine does not respond to the request, a request to leave the territorial waters shall be made.

In the early morning of November 10, 2004, an MSDF patrol aircraft (P-3C) confirmed that an unidentified submarine was navigating under water near the Sakishima Islands from south to north. To take necessary actions Mr.Ohno, Minister of State for Defense, after obtaining approval from Prime Minister Koizumi, issued an order at 8:45 a.m. on the same day for maritime security operations to the Commander, of the Self-Defense Fleet.

After making a comprehensive consideration over the information, the Government confirmed that the submarine belonged to the Chinese Navy. The Foreign Minister Machimura made a protest to Chinese Minister to Japan Cheng Yong Hua in the evening.

This incident required a considerable amount of time from getting intelligence of the submarine entering the territorial waters of Japan to the issuance of the order for maritime security operations. Based on the lessons learned, the Government has newly set out the response plan.

Response to Armed Special Operations Vessels

Generally, responses to suspicious boats are the chief responsibility of the Japan Coast Guard, which is a police agency, but when it is deemed extremely difficult or impossible for the Coast Guard to deal with

the issue, an order for the Maritime Security Operations will be given in a timely manner, and the SDF will deal with the issue in cooperation with the Coast Guard.

The Defense Agency and the SDF shall enhance the response capabilities for discovering, analyzing and stopping of armed special operations vessels as well as dealing with them after they are stopped, taking into consideration lessons learned from past incidents.

5. Response to Large-Scale and/or Special Type Disasters

Framework for Disaster Relief Dispatches, Etc.

Disaster Relief Dispatch includes dispatch requested by prefectural governors and other officials (general form of disaster relief dispatch) and discretionary dispatch in exceptional circumstances when the situation is particularly urgent and there is no time to wait for a request.

Besides that, there are Earthquake Disaster Prevention Dispatch (when an alert has been issued under the Special Law Concerning Countermeasures for Large-Scale Earthquakes) and Nuclear Disaster Dispatch (when a nuclear emergency situation alert has been issued under the Special Law Concerning Countermeasures for Nuclear Disasters).

Initial Measures for Disaster Relief Dispatches and the Results in Fiscal 2004

(1) Initial Measures Taken at Disasters

The SDF designates the units that are to take immediate initial measures to ensure prompt disaster relief dispatches. As of June 2005, the GSDF designates approximately 2,700 persons, 410 vehicles, and 30 helicopters as units that can be immediately dispatched for disaster relief activities. The MSDF designates the ships that can conduct emergency operations and has established a standby system for emergency operations by aircraft. Also, the ASDF has established a standby system for emergency aircraft operations.

When an earthquake occurs with an intensity of minor-5 or stronger on the Japanese seven-stage seismic scale, the SDF takes the initiative to fly aircraft to gather information about the quake.

(2) Disaster Relief Dispatches Conducted in FY2004

FY2004 was a year that suffered from many natural disasters such as ten landfalls of typhoons which is a record-high, Niigata-Chuetsu Earthquake that observed intensity 7 which was the largest since the Great Hanshin-Awaji Earthquake.

The number of times and the scale of disaster relief dispatches in FY2004 is as follows: 46 times and approximately 146 thousand persons in wind and flood damages and earthquakes; 616 times and approximately 29 hundred persons in transportation of emergency patients; 49 times and approximately 42 hundred persons in search and rescue; 102 times and approximately 19 hundred persons in support to firefighting; and 71 times and approximately 71 hundred persons in other cases.

Efforts under Normal Circumstances for Disaster Relief

(1) Cooperation with Local Governments

For the SDF to conduct disaster relief activities promptly and appropriately, it is indispensable for the

Forces to strengthen cooperation with local governments under normal circumstances.

In view of the importance of cooperation with local governments in human resources, in order to provide the knowledge and experience of SDF personnel, retired SDF personnel who have particular expertise in relevant fields, including disaster prevention, are recommended to local governments upon requests from them.

As of May 31, 2005, those who are serving as staff responsible for disaster prevention in local governments are 65 officers in 34 prefectures or municipal governments. Also, active-duty SDF personnel are seconded to departments responsible for disaster prevention in the Tokyo Metropolitan Government.

(2) Formulation of a Response Manual for Each Type of Disaster

Based on the lessons learned from the past disaster relief dispatches and disaster prevention exercises, the Defense Agency and the SDF formulated a response manual for various disaster types in November 2000, which summarizes the issues to be noted for each type of disaster.

(3) Responses to Nuclear Accidents

Based on the lessons learned from a criticality accident that occurred at the JCO Ltd. uranium-processing plant in Tokaimura, Ibaraki Prefecture in 1999, the Special Law concerning Countermeasures for Nuclear Disasters was enacted the same year, in order to significantly strengthen nuclear emergency measures.

Since the accident in Tokaimura, the Ministry of Economy, Trade and Industry was conducted a comprehensive nuclear disaster prevention exercise since 2000 (not provided in 2004 because of Niigata-Chuetsu Earthquake). GSDF, MSDF and ASDF have taken part, joining in supporting activities for transportation, local citizens evacuation, and airborne and maritime nuclear radiation observation. They also confirmed the procedures to be followed in the wake of nuclear disasters with other ministers and local governments.

To respond to special disasters other than nuclear disasters, the enhancement of the chemical protection units is included in the budget for fiscal 2005.

6. Response to Other Situations

Improvement of Guard Postures for SDF Facilities

The Police shall primarily deal with terrorism incidents, but to prepare against large-scale terrorist attacks like those that occurred in the United States in September 2001, the Self-Defense Forces Law was amended, which enabled the SDF units to be called upon to guard the SDF facilities as well as the USFJ facilities and sites, and to use weapons as necessary on the usual guarding mission for the SDF facilities.

The Defense Agency and the SDF, in order to ensure the effectiveness of the guard operations, which are new duties for the SDF, have conducted exercises at the USFJ facilities and areas throughout Japan since 2003.

Readiness to Transport Japanese Nationals Overseas

In case of disasters, riots or other emergency situations occur overseas, in order to move Japanese nationals overseas and others safely aboard transport aircraft and ships after their jurisdiction is transferred to the SDF personnel from overseas legations at local airports and harbors, the GSDF designates personnel for helicopter units and guidance units to be dispatched to foreign countries on such transport missions. The MSDF and the ASDF also make preparations for transportation missions, designating transport ships and air units, and the personnel to be dispatched for such missions, respectively.

On April 15, 2004, ten Japanese nationals engaged in journalism in Samawah, Iraq in order to report on the activities of the GSDF dispatched under the Special Measures Law for Humanitarian and Reconstruction Assistance in Iraq were transported from the Talil airport to the Mubarak airport in Kuwait by a C-130H transport plane. This was the first transport of Japanese nationals based on Article 100.8 of the Self-Defense Forces Law.

Responses to Situations in Areas Surrounding Japan

The National Defense Program Guidelines provides that the Japan-U.S. Security Arrangements shall be strengthened through actively promoting measures such as various operational cooperations including those in the event of emergency situations in areas surrounding Japan.

Specifically, the Government will take measures based on the Law concerning Measures to Ensure the Peace and Security of Japan in Situations in Areas Surrounding Japan and the Ship Inspection Operations Law enacted in 1999 and 2000 respectively.

Collection of Military Information

In order to operate the defense forces effectively in various situations, it is imperative to identify events at the earliest possible time and to collect, analyze and share information promptly and accurately as well as to detect symptoms of various situations at an early stage.

Under such recognition, in order to enhance our diversified information collection and comprehensive analysis and assessment, the Defense Agency and the SDF will enhance the Defense Intelligence Headquarters and other intelligence sections by various means including improvement of our equipment and devices for information collection, taking into consideration the security environment and technical trend.

Section 2 National Defense against Full-scale Aggression

1. Operations for Air Defense

Given Japan's geographical location and the characteristics of modern warfare, an armed attack against Japan likely would take the form of an air raid using aircraft and missiles.

On the defense of Japanese air space, the ASDF, in an immediate response to an aerial intrusion, would intercept enemy aircraft as far from Japanese territory as possible in order to prevent casualties to Japanese nationals and damage to national land, and incapacitate the enemy's ability to continue its attack.

2. Operations for Defense of Surrounding Waters

Another possibility of armed attack against Japan, an island country, may be an attack employing vessels. The MSDF would take the initiative in operations for defending waters surrounding Japan in such a situation. Operations for defending the sea areas surrounding Japan would be conducted mainly by the MSDF in cooperation with the GSDS and ASDF, for which the MSDF will combine various strategies, including anti-surface ship, anti-submarine, and (local) air defense operations. The cumulative effect of these strategies will make it possible to successfully defend the surrounding sea areas, by obstructing the advance of enemy forces and reducing their military strength.

3. Operations to Defend Japanese Territory (Operations to Counter the Landing and/or Invasion)

An invading country, in an attempt to occupy territory of Japan, an island country, would likely deploy ground troops using aircraft and vessels. The SDF would counter the enemy's landing operations at a time when its forces are most vulnerable to Japan's counterattacks—when they are moving from one point to another and immediately before or after landing. Taking advantage of these opportunities, the SDF would counter enemy forces on beachheads or at landing points in order to destroy them at an early stage of the counter operations.

If the enemy attempts to land on a small island in Japanese territory, much of the Japanese counter operations would be the same as those used to counter landing on the main islands of Japan. As an increased deployment of GSDF forces would likely become necessary in such a situation, coordination between the MSDF and the ASDF over transportation of GSDF forces would be more important. Therefore, the three SDF services should strengthen mutual cooperation in order to focus the deployment of their troops on targeted areas at an early time, stop the advance of enemy troops and destroy them.

4. Operations to Ensure the Safety of Maritime Traffic

Sea traffic is a lifeline for Japan. Operations to ensure its safety in emergencies are therefore important not only from the viewpoint of helping Japan counter enemy attacks and helping U.S. forces' operations support the SDF, but also from the viewpoint of securing the foundation for Japan's survival.

The MSDF ensures the safety of sea traffic by patrolling, escorting ships, and protecting straits and ports.

Section 3 Measures Related to Responses to an Armed Attack Situation, etc.

1. History of the Enactment of Legislation for Responses to a Situation

Emergency legislation study was started in 1977 by the Defense Agency and in 2004 legislation for responses to a situation was completed by the Diet with approval of Seven Laws and Three Treaties Related to Response to Armed Attack Situations, etc.

2.Outline of the Legislation for Responses to a Situation

Three Laws Related to Responses to Armed Attack Situation

(1) Law for Ensuring Peace and Independence of Japan and Security of the State and the People in Armed Attack Situation, Etc.

This law aims at contributing to the peace and independence of Japan and the maintenance of the country and the people's security by prescribing basic matters regarding responses to Armed Attack Situation etc (Armed Attack Situation and situations where an Armed Attack is anticipated) including fundamental principles, responsibilities of the national Government and local governments and cooperation from the people, establishing a posture to respond to such situations and providing matters regarding legislation of necessary laws.

(2) Partial Amendment to the Security Council of Japan Establishment Law

The role of the Security Council of Japan in charge of responses to situations was identified and strengthened through adding deliberation items, reshuffle Members of the Security Council, and newly establishing a special advisory organ.

(3) Partial Amendment to the SDF Law

With a focus on those among category I in the so-called "Emergency Legislation Study" (laws under the jurisdiction of the Defense Agency) and category II (laws other than those under the jurisdiction of the Defense Agency) that require legislation: to complementing Article 103 of the SDF Law, authority to move and dispose of trees when using lands or houses and measures when the owners or users of the lands or houses are missing were added; in order to smoothly carry out building of defense facilities by the SDF, measures for building defense facilities before the issuance of the order for defense operation were newly established; and in order to secure rapid movement of the SDF, provisions relating to emergency transit in defense operations were newly established; in order to make smoother the action of the SDF, required special provisions for the application of related laws including the Road Law were newly established; and necessary special measures, etc. were provided relating to the provision of defense operation allowances, disaster compensations, and other wages for personnel who were ordered to take point in a defense operation.

Seven Laws and Three Treaties Related to Response to Armed Attack Situations etc.

(1) The Law Concerning the Restriction of Maritime Transportation of Foreign Military Supplies etc. in Armed Attack Situation

The Law is established to provide the procedures for detention inspections and cruising conducted by the MSDF in defense operations as well as the judgment procedures at the Foreign Military Supply Tribunal established in the Defense Agency, for the purpose of restricting marine transportation of foreign

military supplies (supplies including weapons and foreign military personnel) in Armed Attack Situation in Japanese and international waters (including exclusive economic waters provided for in the United Nations Convention on the Law of the Seas, the same shall apply hereinafter).

(2) The Law Concerning the Treatment of Prisoners of War etc. in Armed Attack Situation

The Law provides necessary matters regarding procedures for capture and status confirmation of prisoners, internment and treatment at prisoner of war camps during an armed attack situation as well as repatriation, with a view to secure smooth and effective SDF operations for repelling an armed attack while ensuring appropriate implementation of International Humanitarian Law concerning the treatment of prisoners of war under the Geneva Convention Related to the treatment of Prisoners of war of August 12, 1949, or other relevant legislation.

(3) Law Concerning Penal Sanctions against Grave Breaches of the International Humanitarian Law

The Law is established to contribute to appropriate enforcement of international humanitarian law, which is applied to international armed conflict, by establishing penal sanctions against grave breaches of the said law together with penal codes.

Specifically, punishment provisions are established regarding: crime of destroying important cultural property; crime of delaying the repatriation of prisoners of war; crime of transferring population to occupied areas; crime of preventing civilians from departing; and grave breaches as defined in the Geneva Conventions, with required provisions to establish jurisdiction over crimes committed abroad regarding these crimes.

(4) Partial Amendment of the Self-Defense Forces Law (ACSA-related)

According to an amendment to the Japan-U.S. Acquisition and Cross-Service Agreement (ACSA), required amendments have been made to the Self-Defense Forces Law for the basis and procedure for providing supplies and services from the SDF when implementing a cooperative activity with the United States such as the transport of Japanese nationals abroad in response to disaster relief and situations in areas surrounding Japan.

(5) Law Concerning Measures for Protection of the Civilian Population in Armed Attack Situations

Considering the importance of protecting of people's lives, bodies, and property from Armed Attacks as well as minimizing the damage from such Armed Attacks to the lives of the people and the economy during Armed Attack Situation etc., the aim is to develop a complete system of the nation as a whole to take appropriate and immediate measures together with the Law for Ensuring Peace and Independence of Japan and Security of the State and the People in Armed Attack Situations, Etc. to protect citizens from Armed Attack Situation etc., by stipulating the responsibilities of the national and local governments, cooperative activities that may be undertaken by citizens, and measures for evacuation of population and rescue of

refugees, measures related to Armed Attack disaster, etc.

(6) Law Related to Measures Conducted by the Government in Line with U.S. Military Actions in Armed Attack Situations, Etc.

The U.S. Military Actions Related Measures Law is established to contribute to national peace and independence, and the safety of the country and citizens by providing measures for encouraging smooth and effective operations by the U.S. armed forces to repel an Armed Attack pursuant to the Japan-U.S. Security Treaty, as well as other measures conducted by the Government of Japan related to U.S. military actions during Armed Attack Situation etc.

(7) Law Related to the Use of Specific Public Facilities in Armed Attack Situations, Etc.

By providing the necessary articles such as drawing up guidelines for the use of specific public facilities (ports, air facilities, roads, waters, airspace, and radio frequencies) in Armed Attack Situations etc, the law aims at comprehensive coordination and appropriate and immediate execution of response measures etc.

(8) Agreement Amending the Agreement between the Government of Japan and the Government of the United States of America Concerning Reciprocal Provision of Logistic Support, Supplies and Services between the Self-Defense Forces of Japan and the Armed Forces of the United States of America

The amendment provides so that the Scope of Application of ACSA can be enlarged to activities necessary to repel armed attacks against Japan in armed attack situations or situations in which an armed attack is anticipated, to promote efforts of the international community to contribute to international peace and security, to cope with large-scale disasters and other purposes, aiming at enhancing closer cooperation between the SDF and U.S. armed forces, thus contributing to smooth and effective implementation of the Japan-U.S. Security Treaty Arrangements and efforts related to U.N.-driven efforts for international peace.

(9) Additional Protocol to the Geneva Conventions of 12 August 1949, Relating to the Protection of Victims of International Armed Conflicts (protocol I)

Protocol I was drawn up in 1977 to complement and supplement the provisions of the Geneva Conventions of 1949 for international armed conflicts.

Specifically it provides for the following: The Geneva Conventions and Protocol I shall be applied to so-called national liberation wars as well as armed conflicts and occupation between the High Contracting Parties; to expand the Coverage of protection for the injured and medical institutions to citizens and civilian supplies, in addition to military personnel and supplies; provisions for restriction of combat methods and means of warfare (prohibition of the use of weapons that cause unnecessary suffering etc.); provisions for protecting civil defense missions to protect and relieve population from effects caused by hostilities; and to add and extend a provision about grave breaches so as to punish inhumane actions conducted during international armed conflicts, etc.

(10) Additional Protocol to the Geneva Conventions of 12 August 1949, Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)

Protocol II was drawn up in 1977 to complement and supplement provisions of Article 3 common to the Geneva Conventions of 1949 for non-international armed conflicts (e.g. civil wars).

Specifically it provides for the following: provisions for humanitarian treatment of persons who do not directly participate in hostilities, and protection of the injured and medical staff; and provisions for prohibiting attacks against population and protection to supplies indispensable to the survival of the civilian population (e.g. food) in order to protect the population from danger due to military operations etc.

3. SDF Operations Concerning Civil Protection

Civil Protection Measures by SDF

(1) SDF and Protection of People

It is important for the SDF to mutually cooperate with bodies such as the Government, local governments and designated public institutions that implement measures for protecting people in order to implement measures to protect people in armed attack situations, etc. For this purpose, improvement of mutual information systems and joint training shall be encouraged by building a cooperation system for measures for protecting people, while utilizing the cooperation system for preventing disasters during peacetime.

On the other hand, during an armed attack situation, it is important for the SDF to promptly repel the attack to minimize the damage to people. The SDF will endeavor to pursue the aforementioned duty that can only be accomplished by the SDF.

Therefore, unlike from responses to natural disasters (such as disaster operations) alone in which the SDF can focus its ability, the SDF can naturally spare only a limited portion of its ability (depending on the scale and type of armed attack situations) on activities such as the guidance of evacuating inhabitants. Accordingly, the SDF shall implement measures to protect people as much as it can within the extent in which such activities can be carried out along with its duty to repel the armed attack.

(2) New Establishment of Civil Protection Operations

Along with the enactment of the Civil Protection Law and in order to make assure for the SDF to implement the Civil Protection Law, the Defense Agency has amended the SDF Law so that the SDF can implement Civil Protection Measures in situations where an Armed Attack is anticipated, and has newly established Civil Protection Operations in Article 77.4 of the SDF Law as a new action of the SDF.

The details of the operations are no different from the disaster operations in natural disasters, but since they are operations under the circumstances of armed attack situations, provisions have been established regarding the use of arms and the approval of the Prime Minister.

Where a defense operation is ordered in an armed attack situation or an internal security operation is ordered as counter measures against an emergency response situation, civil protection measures or emergency response protection measures will be implemented as part of the defense operation or the

internal security operation without ordering any civil protection operation, etc.

(3) Details of Civil Protection Measures which SDF is Expected to Implement

The SDF is expected to implement the following civil protection measures or emergency response protection measures in armed attack situations or emergency response situations. Specifically, they include: guidance of evacuated inhabitants (guidance, arrangement of people at gathering points, and grasping of evacuation status, etc.); relief of evacuated people (supply of food and water, supply of goods, medical activities, search and rescue, etc.); responses to armed attack disasters, etc. (grasping of affected statuses, lifesaving activities, fire-fighting and flood-prevention activities, responses to NBC contamination, etc.); and swift recovery from armed attack disasters, etc. (removal of dangerous rubble, swift recovery of facilities, etc., and elimination of contamination, etc.)

4. Issues to be Addressed in the Future

Setup Postures in Accordance with Enactment of Legislation for Responses to a Situation

With the enactment of legislation related to responses to a situation, legislative foundation was established to deal with the most important situations for the peace and safety of the country and its citizens in an armed attack against Japan, such as: civil protection measures including inhabitant evacuation measures; measures for restricting maritime transportation of foreign military supplies and measures regarding handling of war prisoners, and; measures necessary to secure the smooth and effective use of ports and air facilities.

Since it will be important in the future to secure the effectiveness of these legislations and establish the accompanying operational procedure, it is necessary to positively continue relevant studies.

Formulation of the Basic Guidelines for the Protection of the People and Preparation of the Civil Protection Plan

(1) The Basic Guidelines for the Civil Protection

In March, 2005, for an appropriate and smooth implementation of the Civil Protection Law, the Government formulated the Basic Guidelines for the Protection of the People (hereinafter referred to as “Basic Guidelines”) based on Article 32 of the Civil Protection Law. Besides setting out the basic policy on the implementation of civil protection measures as a nation, these Basic Guidelines stipulate matters that serve as the reference for designated administrative agencies and prefectures in preparing their plans regarding the protection of the people (hereinafter referred to as “Civil Protection Plan”) and for designated public institutions in preparing their service plan on the protection of the people (hereinafter referred to as “Civil Protection Service Plan”). Following the basic policy on the implementation of civil protection measures, the guidelines provide for matters relating to the assumption of armed attack situations, matters relating to establishment of the framework for action and civil protection measures, and matters relating to operations such as responses to emergency response situations and procedures for preparing civil protection

plans, etc. while identifying each implementation body.

(2) Preparation of Civil Protection Plan

As future efforts based on the Basic Guidelines, designated administrative agencies and prefectures shall prepare a Civil Protection Plan, along with designated public institutions which will enact a Civil Protection Service Plan by the end of FY2005. Also, by the end of FY2006, municipalities shall prepare a Civil Protection Plan and designated local public institutions a Public Protection Service Plan based on the Civil Protection Plan of their respective prefecture.

The Defense Agency and the Defense Facilities Administration Agency shall also prepare a Civil Protection Plan by the end of FY2005 as the designated administrative agencies.

The heads of local governments shall consult their respective Civil Protection Council when preparing the Civil Protection Plan.

(3) Implementation of exercises based on the Civil Protection Law

In June 2005, the government announced the implementation of exercises based on the Civil Protection Law through the statement of the Minister of State for emergency legislation Murata. The purposes of the exercises are to build up a closer connection with each organization (including citizens) and to promote a better understanding of Civil Protection Measures.

The Defense Agency and the Self-Defense Forces understand the importance of building up closer ties with local governments, and are working on the contents of the exercises based on past experiences of disaster prevention exercises.