Section 3 Development of Legislation for Peace and Security

1 Background to the Review and Outline of the Cabinet Decision

1 Background to the Review

As the security environment surrounding Japan is becoming increasingly severe, Prime Minister Abe resumed the Advisory Panel on Reconstruction of the Legal Basis for Security in February 2013. The Panel was instructed to reexamine the legal basis for security, what Japan should do in order to maintain the peace and security of Japan, including for the most effective operation of the Japan-U.S. security arrangements, taking into account the changes over the past four and a half years as well as potential changes in the security environment in the future. Following a total of seven meetings, in May 2014, the report was submitted to Prime Minister Abe.

Following the Panel’s report and in accordance with the basic orientation for the ways in which further deliberation will take place as presented by Prime Minister Abe, discussions had been held in the ruling parties and examination had also been conducted by the Government. Following this, in July 2014, a cabinet decision was made on “Development of Seamless Security Legislation to Ensure Japan’s Survival and Protect its People.” This cabinet decision shows the basic policy for the development of new security legislation, and has a historical significance in further ensuring peace and security of Japan through enhancing the deterrence and making more proactive contributions to peace and stability of the region and the international community.

2 Outline of the Cabinet Decision

The cabinet decision states that it is necessary to develop domestic legislation that enables seamless responses in order to resolutely secure the lives and peaceful livelihood of its people under any situation and contribute even more proactively to the peace and stability of the international community under the policy of “Proactive Contribution to Peace” based on the principle of international cooperation. The decision also sets the basic policies, as shown in Reference 6, regarding response to an infringement that does not amount to an armed attack, further contributions to the peace and stability of the international community, and measures for self-defense permitted under Article 9 of the Constitution.

3 Deliberation of Legislation Development

In making the cabinet decision, Prime Minister Abe provided the instruction that work must be undertaken immediately for the development of security legislation. Based on the instructions, a legislation drafting team was launched under the National Security Secretariat in the Cabinet Secretariat. In addition to this, the Ministry of Defense and the SDF established “The Study Committee on the Development of Security Legislation” with the Minister of Defense as its Chairman, in order to firmly fulfill the role expected by the Japanese nationals, and also conducted the deliberation towards the development of security legislation.

The deliberations in the Government were conducted based on the discussions in the ruling parties. A total of 25 meetings were held for discussions in the ruling parties since May 2014, and in the course of these discussions, the “basic direction for the development of security legislation” was presented on March 20, 2015. Based on further discussions in the ruling parties, the Government conducted its own deliberations and, on May 14, 2015, made cabinet decisions on two bills, the Bill for the Development of Legislation for Peace and Security and the International Peace Support Bill. The two bills were submitted them to the 189th ordinary session of the Diet on May 15. On May 19, the House of Representatives decided to establish a Special Committee on Legislation for Peace and Security of Japan and the International Community for deliberation on these bills.

References

1 The Panel submitted its report to then Prime Minister Fukuda in June 2008. The report submitted in June 2008 examined four cases: (1) Defense of U.S. vessels on the high seas; (2) Interception of ballistic missiles that may be on their way to the U.S.; (3) Use of weapons in international peace operations; and (4) Logistic support for the operations of other countries participating in the same PKO. In this report, it was proposed the view that the previous official interpretation of Article 9 of the Constitution was becoming no longer applicable in light of the radically changing international situation and the international status of Japan, and that Article 9 of the Constitution should be interpreted as it would not prohibit either the right of individual self-defense, the right of collective self-defense and participation in the United Nation’s Collective Security measures.


3 Bill Concerning Cooperation and Support Activities to Armed Forces of Foreign Countries, etc. in Situations where the International Community is Collectively Addressing for Peace and Security.
1. Response to an Infringement that Does Not Amount to an Armed Attack

- Under the basic policy that relevant agencies including the police and Japan Coast Guard are to respond in close cooperation in accordance with their respective duties and authorities, the Government will further strengthen necessary measures in all areas, including enhancing the respective agency’s response capabilities and strengthening collaboration among agencies. In cases of responding to a situation where police forces are not present nearby or police agencies cannot respond immediately, the Government will consider measures for issuing orders swiftly and accelerating procedures for public security operations or maritime security operations.
- The Government will develop legislation that enables the SDF to carry out very passive and limited “use of weapons” to the minimum extent necessary to protect weapons and other equipment of the units of the United States Armed Forces, if they are, in cooperation with the SDF, currently engaged in activities that contribute to the defense of Japan (including joint exercises), in line with the provisions of Article 95 of the SDF Act, premised on request or consent by the United States.

Legislation Development

| Development | Acceleration of procedures to order public security operations/maritime security operations | Revision of the SDF Act (Protection of weapons and operations of the U.S. Armed Forces) |

2. Further Contributions to the Peace and Stability of the International Community

A. So-called Logistics Support and “ittaika with the Use of Force” (*)

- The Government takes the recognition that Japan’s support activities such as supply and transportation conducted at a place which is not “the scene where combat activities are actually being conducted” by a foreign country are not regarded as “ittaika with the use of force” by that country. From the viewpoint of the following positions which is based on that recognition, the Government will proceed with developing legislation which enables necessary support activities for the armed forces of foreign countries engaging in activities for ensuring Japan’s security or for the peace and stability of the international community.
- Japan does not conduct support activities in “the scene where combat activities are actually being conducted” by armed forces of a foreign country to which Japan provides support.
- Japan will immediately pause or cease support activities if the place where Japan is conducting support activities becomes “the scene where combat operations are actually being conducted” due to changes of the situation.
- B. Use of Weapons Associated with International Peace Cooperation Activities

- The Government will make a decision on whether the consent of acceptance is stably maintained or the area within which the consent of acceptance is valid.
- The Cabinet will make a decision on whether the consent of acceptance is stably maintained or the area within which the consent of acceptance is valid, etc. based on deliberations etc. at the National Security Council.

Legislation Development


- The Government believes that not only when an armed attack against Japan occurs but also when an armed attack against a foreign country that is in a close relationship with Japan occurs and as a result threatens Japan’s survival and poses a clear danger to fundamentally overturn people’s right to life, liberty and pursuit of happiness, and when there is no other appropriate means available to repel the attack and ensure Japan’s survival and protect its people, use of force to the minimum extent necessary should be interpreted to be permitted under the Constitution as measures for self-defense in accordance with the basic logic of the Government’s view to date.
- The aforementioned “use of force” permitted under the Constitution is, under international law, based on the right of collective self-defense. Although this “use of force” is engaged in by armed forces of foreign countries, they are permitted under the Constitution only when they are taken as measures for self-defense which are inevitable for ensuring Japan’s survival and protecting its people, in other words for defending Japan.
- The Government will stipulate in the draft legislation that the prior approval of the Diet is in principle required upon issuing orders for operations to the SDF for carrying out “use of force” permitted under the Constitution when an armed attack occurs not against Japan but against a foreign country, in the same manner as the procedures related to defense operations stipulated in the current laws and regulations.

Legislation Development

| Development | Revision of Legislation for Responses to Armed Attack Situations, revision of the SDF Law (Development of provisions concerning defense operations) |

Notes:
1. As for Japan’s support activities, however, legal frameworks limiting the area of such activities to “rear areas” or so-called “non-combat areas,” etc. have been established in past legislations to ensure that the issue of “ittaika with the use of force” (forming an “integral part” of the use of force) does not arise, in relation to Article 9 of the Constitution. This is intended to avoid Japan from being legally evaluated as carrying out by itself the “use of force” which is not permitted under the Constitution because its support activities would form an “integral part” of the use of force (“ittaika with the use of force”) by other countries.
2. Use of weapons associated with so-called “kaketsuke-keigo” (coming to the aid of geographically distant units or personnel under attack) or “use of weapons for the purpose of the execution of missions” could constitute the “use of force” prohibited by Article 9 of the Constitution, if such use of weapons is directed against “a state or a quasi-state organization.”
Outline of the Bill for the Development of Legislation for Peace and Security

The Bill for the Development of Legislation for Peace and Security, which was adopted by a cabinet decision on May 14, 2015, and then submitted to the Diet, is outlined below:

1. Revision of the Self-Defense Forces Law

Among the key items of the Self-Defense Forces Law to be revised, the bill includes the development of provisions concerning defense operations (described below), the establishment of provisions for measures to rescue Japanese nationals overseas and protect weapons and other equipment of military units of the U.S. and other countries’ forces, expansion of the provision of supplies and services to the U.S. Armed Forces, and the establishment of provisions for the punishment of those who commit crimes overseas.

2. The Law Concerning Measures to Ensure Peace and Security of Japan in Situations that Will Have an Important Influence on Japan’s Peace and Security (Revision of the Law Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan)

Among the key items of the Law Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan to be revised, the bill includes reviewing the Law’s purpose, including the deletion of “in areas surrounding Japan” from the definition of the situations and renaming it “Situations that will Have an Important Influence on Japan’s Peace and Security” (Revision of the Law Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan), enabling the provision of support activities to the U.S. Armed Forces undertaking activities that contribute to the attainment of the objective of the Japan-U.S. Security Treaty as well as military forces of other countries; and expansion of the scope of the support activities.

3. Revision of the Ship Inspection Operations Law

Among the key items of the Ship Inspection Operations Law to be revised, the bill includes revisions in accordance with the revision of the Law to Ensure Security for Situations in Areas Surrounding Japan and the establishment of provisions for ship inspection operations for Situations threatening the International Peace and Security which Armed Forces of Foreign Countries Collectively Address prescribed in the International Peace Support Law.

4. Amendment to the International Peace Cooperation Act

Among the key items of the International Peace Cooperation Act to be amended, the bill includes the addition of tasks that can be implemented during U.N. peacekeeping operations and other operations*, a review of the authorization criteria in situations requiring the use of weapons; and inclusion of operations in humanitarian and protection tasks not conducted by the United Nations in the International Cooperation Assignments (internationally coordinated operations for peace and security).

5. Revision of Legislation for Responses to Armed Attack Situations

The bills for amending the Armed Attack Situation Response Act and other legislations related to responses to the situation, and the Self-Defense Forces Law include the following key items for revision:

- The naming and definition of situations where an armed attack against a foreign country results in threatening Japan’s survival and the development of appropriate procedures (Legislation for Responses to Armed Attack Situations)
- Revision of provisions concerning a mission, an action, and authority etc. of the Self-Defense Forces responding to situations where an armed attack against a foreign country results in threatening Japan’s survival and poses a clear danger to fundamentally overturn people’s right

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4. In association with the rename of the definition of the situations, the title of the Law is proposed to be amended from the “Law Concerning Measures to Ensure Peace and Security in Situations in Areas Surrounding Japan” to the “Law Concerning Measures to Ensure Peace and Security of Japan in Situations that will Have an Important Influence on Japan’s Peace and Security.”

5. Situations where the international peace and security is threatened, and where international community collectively undertakes operations in order to eliminate such a threat in accordance with the purpose of the Charter of the United Nations, and where Japan independently and proactively needs to contribute to such activities as a member of the international community.

6. Situations where an armed attack against a foreign country that is in a close relationship with Japan occurs and as a result threatens Japan’s survival and poses a clear danger to fundamentally overturn people’s right to life, liberty, and pursuit of happiness.

7. In accordance with its application to situations where an armed attack against a foreign country results in threatening Japan’s survival, the title of the Act was revised from the “Act on the Peace and Independence of Japan and Maintenance of the Nation and the People’s Security in Armed Attack Situations etc.” to the “Act on the Peace and Independence of Japan and Maintenance of the Nation and the People’s Security in Armed Attack Situations etc.”
Outline of Measures to Rescue Japanese Nationals Overseas

- Enable the units of the SDF to take measures to rescue Japanese nationals overseas whose lives or bodies could be harmed in emergency situations (Article 84-3).

Rescue measures: Guarding, rescue and other measures to protect the lives or bodies of those Japanese nationals, including transportation.

**Procedure**
- Order by the Minister of Defense
- Request from the Minister for Foreign Affairs
- Consultations between the Minister for Foreign Affairs and the Minister of Defense
- Approval by the Prime Minister

**Requirements for Implementation**
- When all of the following are met:
  1. It is recognized that in places where rescue measures are taken, the competent authorities of the country concerned are currently maintaining public safety and order, and no act of combat is being conducted.
  2. The country concerned consents to the SDF taking the rescue measures; and
  3. It is anticipated that coordination and cooperation can be ensured between the units of the SDF and the competent authority of the country concerned in order to carry out the rescue measures as smoothly and safely as possible in response to expected dangers.

**Authority to Use Weapons**
- So-called “use of weapons for the defense of mandate” are permitted
- SDF personnel shall not inflict injury upon any person except in a case of self-defense or averting of present danger.

* It is possible to also rescue non-Japanese nationals under certain conditions.

Use of Weapons to Protect Weapons of Military Units of the U.S. and Other Countries’ Forces

- Enable uniformed SDF personnel to use weapons to protect the weapons and other equipment of the units of the U.S. Forces, armed forces of other countries and similar organizations that are, in cooperation with the SDF, currently engaged in activities that contribute to the defense of Japan (Article 95-2)

**Coverage**
- Weapons, etc. of the U.S. Forces, armed forces of other countries and similar organizations’ units
- That are, in cooperation with the SDF, currently engaged in activities that contribute to the defense of Japan (*)
- (*) Including joint exercises but excluding activities where the act of combat is currently being conducted.

**Authority to Use Weapons**
- When there are adequate grounds to recognize the need to use weapons to protect people or weapons, etc., the use of weapons is permitted to the extent judged to be reasonably necessary depending on the situation.
- Causing harm to persons is only allowed for self-defense and averting of present danger.

Provision of Supplies and Services to the U.S. Armed Forces

- Enabling the provision of supplies or services to the U.S. Forces, that are on field sites along with the units of the SDF carrying out the following actions or activities and are engaged in similar activities to the SDF units.
  1. Guarding of facilities and areas set forth in Article 81-2, Paragraph 1, Item 2 (Guarding operations) of the SDF Act (*Covering the U.S. Forces conducting guarding activities within facilities and areas)
  2. Counter-piracy operations
  3. Operations necessary to take measures to destroy ballistic missiles, etc.
  4. Removal and disposal of mines and other explosive objects
  5. Protection measures or transportation of Japanese nationals, etc. in emergency situations in foreign countries
  6. Activities to collect information by ships or aircraft about the movements of the armed forces of foreign countries and other information that contributes to the defense of Japan

**Other Revised Matters**
- The coverage extended from only the U.S. Forces participating in Japan-U.S. bilateral exercises previously to the U.S. Forces participating in multilateral exercises of three or more countries, including Japan and the U.S.
- The coverage extended to the U.S. Forces that are in field sites along with SDF units temporarily staying at facilities of the U.S. Forces for day-to-day operations, in addition to the U.S. Forces temporarily staying at SDF facilities
- Ammunition to be included in supplies to be provided

Development of Provisions for the Punishment of Those Who Commit Crimes Overseas

- Develop provisions for the punishment of those who commit crimes overseas concerning the following penalties
  1. Concerted defiance of superiors’ official orders and unlawful command of units
  2. Defiance of and disobedience to superiors’ orders by those given defense operation orders
Part II  Japan’s Security and Defense Policy and the Japan-U.S. Alliance

Basic Concepts of Japan’s Security and Defense

Chapter 1

Law Concerning Measures to Ensure Peace and Security of Japan in Situations that Will Have an Important Influence on Japan’s Peace and Security (Revision of the Law Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan)

Purpose

The purpose is to ensure peace and security of Japan, strengthening cooperation with foreign countries responding to situations that will have an important influence on Japan’s peace and security, with the contribution to the effective operation of the Japan-U.S. Security Treaty at its core, by conducting logistics support, etc. for the U.S. Forces, etc.

Situations that will have an important influence on Japan’s peace and security [(Example) Situations that could lead to a direct armed attack against Japan if left unattended] (*) Deleted “in areas surrounding Japan” from the definition

Support Targets

- The following armed forces etc. responding to the situations
  1. The U.S. Forces engaged in activities contributing to the achievement of the objectives of the Japan-U.S. Security Treaty
  2. Armed forces of other foreign countries engaged in activities contributing to the achievement of the objectives of the U.N. Charter
  3. Other similar organizations

Response Measures

1. Logistics support activities (types of goods and services provided by the Ministry of Defense and the SDF)
   - Supply, transportation, repair and maintenance, medical activities, communications, airport and seaport services, and base services, lodging, storage, use of facilities, training services
   - Provision of weapons is not included. Provision of ammunition and refueling and maintenance of aircraft ready to take off for combat operations are now allowed.
2. Search and rescue activities
3. Ship inspection operations (those set forth in the Ship Inspection Operations Act)
4. Other measures necessary to respond to the situations

* Implementation of operations in foreign territories is allowed (only when the foreign country consents) (Not allowed before the revision)
* The authority to use weapons limited only to the self-preservation type

Revision of the Ship Inspection Operations Law

The Peace and Security of Japan

The existing Ship Inspection Operations Act

Situations in Areas Surrounding Japan

The ship captain’s consent to boarding inspection

So-called no mixture requirement

The authority to use weapons of “self-preservation type”

- The changing security environment surrounding Japan
- Proactive contribution to peace
- Realization of legislation allowing seamless responses

Revision of the Ship Inspection Operations Act

(1) The Peace and Security of Japan: Revision associated with the review of “Situations in Areas Surrounding Japan” (corresponding to the purpose of the Law Concerning Measures to Ensure Peace and Security of Japan in Situations that will Have an Important Influence on Japan’s Peace and Security)
(2) The Peace and Security of the International Community: Implementation of operations in international peace joint response situations (corresponding to the purpose of the International Peace Support Act)

The ship captain’s consent to boarding inspection

So-called no mixture requirement

The authority to use weapons within the limit of “self-preservation type”

Enable the consent-based implementation of operations in foreign territories

(Addition of “under own control”)

Avoidance of “Ittaika”

- SDF does not conduct activities in “the scene where combat activities are actually being conducted.”
  (*) When the personnel having been lost already been found and rescue operations have commenced, search and rescue activities concerning them are allowed to continue as long as the safety of the SDF units is ensured.
  - The commanding officers etc. of the SDF units order the temporary suspension of activities etc. if combat operations occur or are expected to occur at the site of their activities or in the vicinity.
  - The Minister of Defense designates the area for implementing activities, and if it is deemed difficult to implement operations smoothly and safely in the whole or part of that area, must promptly change the designation of the area or order the cessation of the activities being implemented there.

Diet Approval

- Prior Diet approval, in principle
- Ex-post facto approval allowed in emergency

The Peace and Security of the International Community

At the time of the Act’s enactment, the implementation of ship inspection operations in cases other than situations in areas surrounding Japan was considered as a future.

(Example: CTF-150)

In the international community, ship inspection operations are being implemented for the purpose of dealing with the proliferation of weapons of mass destruction and ballistic missiles, and cross-border movements of personnel and weapons, etc. of international terrorist organizations.

(Example: CTF-150)
United Nations Peacekeeping Operations (Addition)

Five Principles for Participation (underlined portions added)

(1) Agreement on a ceasefire shall have been reached among the parties to armed conflicts.
(2) Consent for the undertaking of U.N. peacekeeping operations as well as Japan’s participation in such operations shall have been obtained from the host countries as well as the parties to armed conflicts.
(3) The operations shall strictly maintain impartiality, not favoring any of the parties to armed conflicts.
(4) Should any of the requirements in the above-mentioned guideline cease to be satisfied, the Government of Japan may terminate the dispatch of the personnel engaged in International Peace Cooperation Assignments.
(5) The use of weapons shall be limited to the minimum necessary for the protection of the lives of the personnel dispatched, in principle. When the consent of acceptance is deemed to be consistently maintained, the use of weapons for the defense of mandate missions is allowed.

Addition of Tasks
Security of specified areas including protection of local population, etc., protection of individuals related to operations in response to urgent request and tasks at Mission Headquarters have been added, in addition to ceasefire monitoring and relief activities for afflicted people; tasks assisting in the establishment and reestablishment of systems of governance have been expanded.

Review of the authority to use weapons
In implementing protection of local population, etc. as well as security of specified areas and protection of individuals related to operations in response to their urgent request, the use of weapons for the defense of mandate is allowed.

Diet approval
Prior Diet approval is necessary for ceasefire monitoring and security of specified areas and protection of individuals related to operations in response to urgent request, the use of weapons for the defense of mandate is allowed.

Ensuring the safety of personnel of the International Cooperation Corps of Japan
Provide for the development of operational guidelines that set forth provisions for the consideration of safety, the cessation of operations, the temporary suspension of operations to avoid danger and other measures for ensuring the safety of the personnel of the International Peace Cooperation Corps

Other revised matters
(1) Dispatching of uniformed SDF personnel (commanding officers, etc.) to the United Nations
(2) Waiver of right to claim
(3) Provision of supplies or services to the U.S. Forces, etc. for their operation to cope with large-scale disasters
(4) Expansion of the scope for cooperation with international election observation operations

internationally coordinated operations for peace and security (Not under the control of the U.N.)

Requirement: When any of the following is met, in addition to the satisfaction of the Five Principles for Participation

(1) Based on resolutions adopted by the General Assembly, the Security Council or the Economic and Social Council of the United Nations
(2) At the request by:
   • The United Nations
   • Organizations established by the U.N. Generally Assembly or U.N. specialized agencies, such as the Office of the U.N. High Commissioner for Refugees or otherwise specified by a Cabinet Order
   • Regional organizations as prescribed in Article 52 of the U.N. Charter or organizations established by multilateral treaties, having the actual achievements or expertise pertaining to the activities of internationally coordinated operation for peace and security such as the European Union or otherwise specified by a Cabinet Order
(3) At the requests of countries to which the area where those operations are to be conducted belongs (limited to only those supported by any of principal U.N. organizations as prescribed in Article 7 (1) of the U.N. Charter

Amendment to the International Peace Cooperation Act

Chapter 1
Basic Concepts of Japan’s Security and Defense
Development of Legislation for Peace and Security

Maritime transportation restriction in situations where an armed attack against a foreign country results in threatening Japan’s survival that is in a close relationship with Japan occurs and as a result threatens Japan’s survival and poses a clear danger to fundamentally overturn people’s right to life, liberty and pursuit of happiness (Maritime Transportation Restriction Act)

Application of Prisoners of War Act in situations where an armed attack against a foreign country results in threatening Japan’s survival (Prisoners of War Act)

Revision of the Act for Establishment of the National Security Council

Among the key items of the Act for Establishment of the National Security Council to be revised, the bill includes the addition of items for deliberation in accordance with the recent legal revisions.
In order to ensure the peace and independence of Japan and the security of Japan and its people, develop the readiness to respond to armed attack situations, etc. by setting such basic matters as basic principles, the responsibilities of national and local governments, and procedures.

**Reference** Armed attack situations, etc.
- Armed attack situation: A situation where an armed attack occurred, or an imminent danger of an armed attack occurring is clearly acknowledged.
- Anticipated armed attack situation: A situation where an armed attack has yet to occur, but circumstances are growing increasingly strained and an armed attack is anticipated.
- Armed attack situations, etc.: Armed attack situation and anticipated armed attack situation

**Outline of the Revision**
- Responses to “situations of an armed attack against a foreign country resulting in threatening Japan’s survival” added

**Basic Response Plan**
- “Situations of an armed attack against a foreign country resulting in threatening Japan’s survival” added
- Develop the readiness to respond to armed attack situations, etc. and survival-threatening situations by setting basic principles, the responsibilities of national and local governments, the cooperation of Japanese people and other basic matters concerning responses to armed attack situations, etc. and survival-threatening situations, and also set matters related to the development of legislation necessary to respond to armed attack situations, etc. to contribute to the ensuring of the peace and independence of Japan and the security of Japan and its people.

**Diet Approval**
- When an order is given to the SDF for defense operations to respond to a “survival-threatening situation,” prior Diet approval is required under current provisions (Article 9 of the Armed Attack Situation Response Act).

**Revision of Armed Attack Situations Response Act**

**Revision of Self-Defense Forces Law (Related to situations where an armed attack against a foreign country results in threatening Japan’s survival)**
- The “use of force” is newly permitted under the “Three New Conditions” as an unavoidable “measure of self-defense” to “defend Japan,” and the SDF’s responses to “situations where an armed attack against a foreign country results in threatening Japan’s survival” under the Armed Attack Situation Response Act are subject to Article 76 (Defense Operation) and Article 88 (Use of Force) of the SDF Act and positioned as principal missions under Article 3 (Missions of the SDF) of the SDF Act.

**Revision of Armed Attack Situations Response Act**

**Revision of Self-Defense Forces Law (Related to situations where an armed attack against a foreign country results in threatening Japan’s survival)**

**Missions of the SDF**
- “against direct or indirect invasion” deleted

**Defense Operation**
- “Situations where an armed attack against a foreign country results in threatening Japan’s survival” added

**Use of Force under Defense Operations**
- No revision

**Aside from the above, a variety of authorities, etc. and special measures necessary for SDF operations are provided for. However, in situations where an armed attack against a foreign country results in threatening Japan’s survival, measures that are necessary in response to direct armed attacks against Japan and physical damage are not applicable.**

**Examples of application**
- Organization of special units, Defense call-up of SDF Personnel and SDF Ready Reserve Personnel, etc.

**Examples of non-application**
- Establishment of defense facilities, Maintenance of public order, emergency passage, appropriation of supplies, orders to perform duties, etc.
Revision of Related Legislation

1 Act Related to the Actions of the U.S. Forces and Others
Provides for support measures to ensure the smooth and effective implementation of operations of the U.S. Forces to repel an armed attack against Japan in accordance with the Japan-U.S. Security Treaty in armed attack situations, etc.

2 Maritime Transportation Restriction Act
Provides for procedures for stopped ship inspections and taking ship measures conducted by the Maritime Self-Defense Force to restrict maritime transportation of weapons, ammunition and military personnel, etc. (supplies to foreign armed forces, etc.) to armed forces, etc. of foreign countries making armed attacks against Japan in armed attack situations

3 Prisoners of War Act
Provides for matters necessary for the holding, detention and other treatment of prisoners of war and other detainees in armed attack situations and ensure the adequate enforcement of international humanitarian law regarding the treatment of prisoners of war and other detainees.

4 Civil Protection Act
Develop the readiness to protect the life, physical wellbeing and property of Japanese people from armed attacks against Japan and carry out civil protection measures adequately and promptly

5 Act Regarding the Use of Specific Public Facilities
Coordinate civil protection measures of local governments, etc. in armed attack situations, etc. with the use of specific public facilities by the SDF and the U.S. Forces for the elimination of infringement (seaports and airports, etc. managed by local governments, etc.)

6 Act Concerning Punishment of Grave Breaches of International Humanitarian Law
Provides for punishment of inhumane acts perpetrated in armed conflicts

Add provisions regarding
- Support for the armed forces of foreign countries other than the United States in armed attack situations, etc.
- Support for the armed forces of foreign countries in situations where an armed attack against a foreign country results in threatening Japan’s survival

Add provisions for application in situations where an armed attack against a foreign country results in threatening Japan’s survival as well

Add provisions for application in situations where an armed attack against a foreign country results in threatening the survival of Japan as well

The necessary structure is already in place from the standpoint of protecting the people from direct attacks against Japan and physical harm.

Add operations of the armed forces of foreign countries other than the United States in armed attack situations, etc. to the scope of coordination of the use of facilities

Applicable to situations where an armed attack against a foreign country results in threatening Japan’s survival, but no revision is necessary.

Revision of the Act for Establishment of the National Security Council

1. The following matters have been newly added as items for deliberation:
- Responses to situations that threaten Japan’s survival
- Responses to situations that have an important influence on Japan’s peace and security
- Joint operations for international peace

2. The following are the matters the National Security Council must deliberate without fail:
- Decisions on and changes in plans for implementation related to the implementation of so-called “Kaketsuke-keigo” that are international peace cooperation operations
- Decisions on and changes in plans for implementation related to the implementation of so-called “Kaketsuke-keigo” that are international peace cooperation operations
- Dispatch of uniformed SDF personnel (force commanders, etc.) who are to be engaged in supervisory duties for operations conducted by units of countries participating in U.N. peacekeeping operations
- Implementation of rescue measures, including guarding and rescue, of Japanese nationals overseas

(*) All related to the stable maintenance of the consent of acceptance of hosting countries
### 3 Outline of the International Peace Support Bill

The International Peace Support Bill, designed to contribute to securing the peace and security of the international community by implementing cooperation and support activities etc. to armed forces of foreign countries, etc. collectively addressing the situations where which threatens the international peace and security is threatened, was adopted in a cabinet decision on May 14, 2015, for submission to the Diet.

See Fig. II-1-3-12 (The International Peace Support Bill)

Reference 7 (Outline of the Bill Concerning Cooperation and Support Activities and Other Activities to Armed Forces, of Foreign Countries and Others in Situations Where the International Community is Collectively Addressing for Peace and Security)

### 4 Acceleration of Procedures to Issue Orders for Public Security Operations and Maritime Security Operations

Considering the increasingly severe security environment surrounding Japan, situations that are neither pure peacetime nor contingencies are liable to occur, posing risks which could develop into more serious situations. In order to respond promptly to such situations of infringement that do not amount to an armed attack, and ensure seamless and sufficient responses to any unlawful acts, the Government made cabinet decisions regarding the acceleration of procedures to issue orders for public security operations, maritime security, etc. operations on May 14, 2015, particularly in the following three cases:

- Responses to foreign naval vessels conducting maritime navigation in Japan’s territorial waters and internal waters that cannot be considered to be innocent passage under international law
- Responses to the unlawful landing on remote islands by
armed groups

- Responses when vessels of the Self-Defense Forces detect foreign vessels infringing on Japanese commercial vessels on the high seas

Specifically, when an urgent decision is necessary concerning the issuance of orders for public security operations, etc. but it is difficult to convene an extraordinary cabinet meeting, the Prime Minister can preside over a cabinet meeting to make the decision by obtaining the consent of the Ministers of State by telephone and other means. Any Minister of State who could not be contacted in advance shall be notified of the cabinet decision ex post facto.

Fig. II-1-3-13 Acceleration of Procedures to Issue Orders for Public Security Operations and Maritime Security Operations

- Accelerate procedures to issue orders for public security/maritime security operations in the following three cases:

1. Responses to Foreign Naval Vessels Making Maritime Navigation That Does Not Fall under the Category of Innocent Passage under International Law
   - Responses are made by SDF units under orders for maritime security operations, in principle.
   - The Ministry of Defense, the Ministry of Foreign Affairs, and the Japan Coast Guard promptly and expeditiously share information, coordinate and cooperate.
   - It is necessary to hold a cabinet meeting to issue orders for maritime security operations.

2. Responses to the Unlawful Landing on Remote Islands by Armed Groups
   - When armed groups or groups that are highly probable to be armed are likely to unlawfully land or actually land on remote islands.
   - It is necessary to hold a cabinet meeting to issue orders for maritime security operations/public security operations.

3. Responses to Foreign Vessels Infringing on Japanese Commercial Vessels on the High Seas
   - When Japanese commercial vessels are actually subject to infringement activities.
   - It is necessary to hold a cabinet meeting to issue orders for (urgent) counter-piracy operations or maritime security operations.

When an urgent decision is necessary but it is difficult to promptly convene an extraordinary cabinet meeting, the Prime Minister can preside over a cabinet meeting to make the decision by obtaining the consent of the Ministers of State by telephone and other means (Any Minister of State who could not be contacted in advance shall be notified of the cabinet decision ex post facto).

5 Existing Related Security Legislation

1 Frameworks for Responses to Armed Attack Situations

Japan’s response framework to deal with the most serious situations affecting the peace and security of the country and its people enables an effective response to armed attack situations and anticipated armed attack situations, etc. (both to armed attack situations and to situations where armed attacks are anticipated) and contributes to the deterrence of an armed attack.

See Fig. II-1-3-14 (Outline of the Emergency Legislation)

(1) Responses to Armed Attack Situations

The Armed Attack Situation Response Act specifies items that should be stipulated as basic principles and basic policies (the Basic Response Plan) regarding response to armed attack situations and the responsibilities of national and local governments in the event of an armed attack situation. Moreover, in preparation for the outbreak of armed attacks, a framework is being developed which allows relevant organizations (designated government institutions, local governments and designated public institutions) to implement response measures in a coordinated and cooperative fashion based on individual legislations dealing with military emergencies such as the Civil Protection Act, thereby the whole nation can fully prepare for armed attack situations.

See Fig. II-1-3-15 (Procedures for Responding to Armed Attack Situations)

References 11 (Main Operations of the Self-Defense Forces)
References 12 (Statutory Provisions about the Use of Armed Force and Weapons by SDF Personnel)

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8 Three pieces of legislation for responses to situations were enacted in 2003. Furthermore, seven pieces of Legislation for Responses to Armed Attack Situations were enacted in 2004 and three related treaties were ratified in the same year. With this, a basis for emergency legislation was established. The development of these legal systems reflects many results of the “emergency legislation study,” which had been conducted by the former Defense Agency since 1977. Note: A fixed concept has not necessarily been designated for the term “emergency legislation.” When used in this white paper, it refers to legislation for responses to situations that has been developed since 2003.

9 Situation in which an external armed attack on Japan emerges, or an imminent danger is clearly acknowledged.

10 A situation where an armed attack has yet to emerge, but circumstances are growing increasingly strained and an armed attack is expected.

11 Independent administrative agencies, the Bank of Japan, the Japanese Red Cross Society, the Japan Broadcasting Corporation (NHK), other public institutions, and corporations engaged in public service operations, including the provision of electricity, gas, transportation, communications, and other services
A. Basic Response Plan, etc.
In situations such as an armed attack situation, the Cabinet must decide upon the following items for a Basic Response Plan and ask for approval by the Diet. In addition, when the Basic Response Plan has been decided, a temporary Task Force for Armed Attack Situations, etc., (the Task Force) is to be established within the Cabinet, and it will implement these measures:

1. Certification of the facts, and the premises to that certification supporting the armed attack situation or the situation where an armed attack situation is anticipated.

Note: The Task Force will be established in the Cabinet for general advancement of measures to respond to armed attacks and other situations.
An emergency response situation (a situation arising due to actions that may kill or injure many people which uses methods equivalent to those used in an armed attack situation, or a situation where it is recognized that the relevant actions represent a clear and present threat that necessitate an emergency response by the state). Alternatively, a contingency situation other than an armed attack situation.
in response to each of them.

The MOD and the SDF established the Civil Protection Plan based on the Civil Protection Act and the Basic Policy. The Plan included measures to be implemented in full force by the SDF to terminate armed attacks, which is a primary mission of the SDF. In addition, the Plan described civil protection measures to be implemented within a feasible range, relating to support for evacuation and rescue, and responses to armed attack disasters.

In the event of an armed attack and an emergency situation, the SDF has the authority to conduct such activities as protection and support of residents, including rescuing evacuees, and emergency recovery as a civil protection measure and emergency response protection measure based on the provision for civil protection.

From this perspective, the MOD and the SDF have held civil protection training with cooperation from relevant government organizations, or local governments. In addition, the MOD and the SDF actively participate and cooperate in civil protection training implemented by relevant government organizations, or local governments.

(b) Coordination with Local Governments in Peacetime

During peacetime, the MOD and the SDF closely coordinate with local governments. The Provincial Liaison & Coordination Division has been posted within the GSDF Regional Army Headquarters to achieve effective implementation for civil protection measures through close coordination. To strengthen functions relating to coordination and cooperation with local governments, etc., a Civil Protection and Disaster Countermeasures Liaison Coordination Officer post was established in each SDF Provincial Cooperation Office.

Civil Protection Councils were established in prefectures and municipalities as institutions to gather opinions from a wide range of citizens, and members of the Ground, Maritime or Air Self-Defense Force were assigned to be council members. In addition, in some cases, retired SDF personnel are employed by local governments as crisis management supervisors to facilitate cooperation with the MOD and the SDF and help to conceive and implement disaster response plans and training programs as experts on civil protection.

2 Outline of the Law Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan and the Ship Inspection Operations Act

The Law Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan establishes the measures (response measures) that Japan will implement in response to situations in areas surrounding Japan and the actual implementation procedures. The Ship Inspection Operations Act provides for the types, measures, and other matters of ship inspection operations implemented by Japan in response to situations in areas surrounding Japan.

The Prime Minister, facing a situation in areas surrounding Japan and deeming it necessary to adopt measures including such SDF activities as rear area support, rear area search and rescue operations, and ship inspection operations, must request a Cabinet decision on such measures and on a draft basic plan of response measures. The Prime Minister must obtain prior approval, or ex post facto approval in case of emergency, from the Diet in order for the SDF to conduct response measures. Furthermore, the Prime Minister reports to

13 Law stipulating ship inspection operations and other necessary measures to respond to situations in areas surrounding Japan to implement rear area support, rear area search and rescue operations, and ship inspection operations conducted in relation to situations in surrounding areas (Article 2 of the Law Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan)
the Diet without delay when the Cabinet has made a decision or approved a revision, or when the response measures have been completed.

- In accordance with the basic plan, the Minister of Defense will draw up an implementation guideline (including designation of implementation areas), obtain approval for the guideline from the Prime Minister, and give the SDF orders to conduct rear area support, rear area search and rescue activities, and ship inspection operations.

- Heads of relevant administrative organizations will implement response measures and may request the heads of local governments to provide the necessary cooperation for the organizations to exercise their authorities in accordance with relevant laws and regulations and the basic plan. In addition, the heads of relevant administrative organizations may ask persons other than those from the national government to cooperate as necessary in accordance with relevant laws and regulations and the basic plan.

15. If any person other than the central government who had been requested to cooperate suffers a loss as a result of such cooperation, the Government shall take necessary fiscal measures for the loss.

16. If there are non-combatants who face a mishap, he/she will be also rescued. In addition, if there is anyone in the territorial waters of a foreign country adjacent to the area in which the SDF is conducting activities, the SDF will also rescue that person, after having obtained approval from that foreign country. However, this is limited to cases in which no combat operations are conducted at that time and are expected to be conducted in those waters throughout the period during which the SDF conducts rescue activities.

(3) Ship Inspection Operations

Ship inspection operations mean operations conducted by Japan in situations in areas surrounding Japan to inspect and confirm the cargo and destination of ships (excluding warships and others) and to request, if necessary, a change of sea route, or destination port or place, for the purpose of strictly enforcing the regulatory measures concerning trade or other economic activities to which Japan is a party. These activities are conducted based on the U.N. Security Council Resolution or the consent of the flag state in the territorial waters of Japan or in the surrounding high seas (including the EEZ).

3 Outline of the International Peace Cooperation Act

The purpose of the Act on Cooperation with United Nations Peacekeeping Operations and Other Operations, enacted in 1992, is to set forth a framework for the implementation of International Peace Cooperation Assignments, with a view to extending appropriate and prompt cooperation for (1) U.N. peacekeeping operations, (2) humanitarian international relief operations, and (3) international election observation operations, and to take measures to extend Contributions in Kind for those operations, thereby enabling active contribution by Japan to international peace efforts centering upon the United Nations.

The law stipulates a set of basic guidelines (so-called five principles for participation) for Japan’s participation in a U.N. peacekeeping force.

See Fig. II-1-3-19 (Basic Policy on Japan’s Participation in U.N. Peacekeeping Forces (Five Principles))