Chapter 3 Development of Legislation for Peace and Security

Section 1 Circumstances of the Development of Legislation

1 Background to the Development of Legislation
The security environment surrounding Japan is increasingly severe, and we are now in an era where threats could easily transcend national borders, and no single country can maintain its own security by itself any longer. Under this background, it is first and foremost important to advance vibrant diplomacy in order to maintain peace and security of Japan and ensure its survival as well as to secure its people’s lives. At the same time, it is also necessary for the worst-case scenario. Specifically, it is essential to avoid armed conflicts before they materialize and prevent threats from reaching Japan by appropriately developing, maintaining and operating Japan’s own defense capability, strengthening mutual cooperation with the United States, which is Japan’s ally, and other partner countries, and in particular, further elevating the effectiveness of the Japan-United States Security Arrangements and enhancing the deterrence of the Japan-United States Alliance for the peace and stability of Japan and the Asia-Pacific region. On that basis, 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, it is necessary to develop domestic legislation that enables seamless responses.

In February 2013, Prime Minister Abe resumed the Advisory Panel on Reconstruction of the Legal Framework for Security, which held deliberations under the first Abe Cabinet. Following a total of seven meetings, the Advisory Panel submitted its report to Prime Minister Abe in May 2014.

Following the Advisory Panel’s report and in accordance with the basic orientation for the ways in which further deliberations would take place as presented by Prime Minister Abe, discussions were held in the ruling parties and studies were also 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,” which sets forth the basic policy for the development of legislation that enables seamless responses to any situations.

See Fig. II-3-1-1 (Outline of the Cabinet Decision and the Development of Legislation), Reference 23 (Development of Seamless Security Legislation to Ensure Japan's Survival and Protect its People)
2 Background and Significance of the Development of Legislation

Following the Cabinet Decision, a legislation drafting team was launched under the National Security Secretariat in the Cabinet Secretariat. In addition, the Ministry of Defense established “The Study Committee on the Development of Security Legislation” with the Minister of Defense as its Chairman, also conducted the deliberation toward the development of security legislation.

The deliberations in the Government were conducted under this structure of deliberation, based on the discussions at a total of 25 meetings in the ruling parties, and, on May 14, 2015, the Government made cabinet decisions on two bills, the Bill for the Development of Legislation for Peace and Security\(^1\) and the International Peace Support Bill\(^2\). The two bills were then submitted to the 189th ordinary session of the Diet on the following May 15, 2015. These two bills enable seamless responses to any situations, from the protection of assets including weapons of units of the U.S. Forces and armed forces of foreign countries, during peacetime and support activities to armed forces of foreign countries, etc., in situations that have an important influence on Japan’s peace and security and situations that the international community is collectively addressing for peace and security (to be discussed later), to the limited use of the right of collective self-defense as a measure for self-defense to the minimum extent necessary to defend Japan when the “Three New Conditions”\(^3\) are satisfied.

Following the longest postwar extension of a Diet session, as a result of about 116 hours of debate in the House of Representatives and about 100 hours of debate in the House of Councillors, for a total of about 216 hours, the longest Diet debate of security-related bills in the postwar period, the two bills were passed and enacted at a plenary session of the House of Councillors on September 19 2016, upon formation of broad consensus, with approval of not only the ruling parties but also the three opposition parties of the Assembly to Energize Japan, then the Party for Future Generations and the New Renaissance Party (altogether five parties out of the ten political parties). On this occasion, these five parties reached the “Agreement Concerning the Legislation for Peace and Security” (the “Five-Party Agreement”), which committed them to obtaining a conclusion after examining matters that should be taken into consideration in judging the applicability of the Three New Conditions related to the recognition of a “survival-threatening situation,” the shape of a Diet organization for the routine system of surveillance and ex- post facto verification of SDF activities based on the

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1 Bill for Partial Amendments to the Self-Defense Forces Law and Other Existing Laws for Ensuring Peace and Security of Japan and the International Community
2 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
3 The “three new conditions” are as follows: (1) When an armed attack against Japan has occurred, or 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; (2) When there is no appropriate means available to repel the attack and ensure Japan’s survival and protect its people; (3) Use of force to the minimum extent necessary.
Legislation for Peace and Security and the strengthening of the Diet’s involvement. The Government also made a cabinet decision to the effect that the Government will respect the intent of the Five-Party Agreement and handle these matters appropriately, and then the Legislation for Peace and Security was put into force on March 29, 2016. Based on the Five-Party Agreement concerning the Legislation for Peace and Security, the five parties are engaged in discussions on the Diet’s involvement and other issues.4

With the security environment surrounding Japan becoming increasingly severe, the enforcement of the Legislation for Peace and Security has historical significance in further ensuring peace and security of Japan through enhancing deterrence and making more proactive contributions to the peace and stability of the region and the international community.

The Legislation for Peace and Security has been highly appraised by the world, drawing strong support from the United States, which is Japan’s ally, Australia, India and countries of Southeast Asia and Europe as well as the Association of Southeast Asian Nations (ASEAN) and the European Union (EU). This sort of wide support is a testament to the fact that the Legislation for Peace and Security strengthens the Japan-U.S. Alliance and enhances deterrence, and also contributes to the peace and stability of the region and the international community. (See Column)

4 The Five-Party Agreement states that “after enactment of this legislation, the five parties will examine and obtain a conclusion regarding the modality of a Diet organization for the routine system of surveillance and ex post facto verification of SDF activities based on the Legislation for Peace and Security and the strengthening of the Diet’s involvement in situations that have an important influence on Japan’s peace and security and the dispatching of SDF personnel for peacekeeping operations.”