Section 3 The Situation of the Self-Defense Forces after the Enforcement of the Legislation for Peace and Security

1 Promotion of Various Preparations for New Missions Based on the Legislation for Peace and Security

1 Promotion of Various Preparations

Since the enforcement of the Legislation for Peace and Security on March 29, 2016, the MOD/SDF has undertaken various preparations for a variety of new missions based on the Legislation for Peace and Security, such as activities to raise awareness of legal systems and intra-unit rules that were established, education of SDF personnel, as well as development of educational materials necessary for the actual training of various units and the nurturing of instructors.

In August 2016, as these preparations were all but completed, each unit of the SDF set out to implement necessary training in connection with the Legislation for Peace and Security. In the area of Japan-U.S. and other bilateral as well as multilateral joint trainings, Japan decided to conduct necessary training on the Legislation for Peace and Security after coordinating with the countries concerned.

2 Implementation of Training

In August 2016, the 11th Engineering Unit (a major unit of the 9th Division of the GSDF Northeastern Army [Aomori City], to be dispatched on UNMISS (UN Mission in the Republic of South Sudan), began training to prepare for the dispatch, including training related to new missions under the Legislation for Peace and Security.

In November 2016, in a Japan-U.S. joint field training exercise (Keen Sword 17), the SDF carried out training in Japan-U.S. joint search and rescue activities in situations that will have an important influence on Japan’s peace and security, promoting mutual understanding between Japan and the United States about rescue procedures.

In December 2016, the SDF conducted the first training of rescue of Japanese nationals overseas based on Article 84-3 of the SDF Law as an effort to improve its joint operation capabilities.

In Support of Training that Covers the Legislation for Peace and Security

Takahiro Kaji, Captain
Evaluation and Support Division, International Peace Cooperation Activities Training Unit
GSDF Camp Komakado (Gotenba-shi, Shizuoka Prefecture)

Following the enforcement of the Legislation for Peace and Security, new missions and authorities have been added to the international missions of the Self-Defense Forces (SDF).

The Training Unit, which supports education and training related to international missions and conduct relevant research, was in a trial-and-error mode initially. By leveraging the know-how built up through past experiences and repeating desk studies and practical tests, we made preparations to provide full support for the SDF personnel being dispatched.

I mainly supported the preparations for the 11th Engineering Unit deployed to South Sudan by leveraging my experience serving in South Sudan. In October 2016, integrated training was implemented to help enable the engineering unit personnel to appropriately address situations anticipated in the field, including the new duties. Through this training conducted in the simulated local environment of South Sudan, including linguistic differences, we were able to see for ourselves a situation where the dispatched personnel execute such missions as “kaketsuke-keigo” and joint protection of camps in an orderly manner. Many SDF personnel said that “we are now ready to act with confidence when we are called upon to execute the new duties.” These comments gave us a sense of achievement and reassurance.

Our Training Unit provides a variety of other education and training in light of the enforcement of the Legislation for Peace and Security. We are proud to play a role in the execution of international missions, and we are going to support the units and SDF personnel being dispatched so that the GSDF can execute its international missions more safely and more effectively.
Furthermore, between January and February 2017, the SDF participated in a multilateral joint exercise (Cobra Gold 17). In the command point exercise, the SDF conducted training related to cooperation and support operations and ship inspection operations under the International Peace Support Act as well as training for rescue of Japanese nationals overseas to improve its joint operation capabilities.

## Assignment of New Mission for the South Sudan PKO

### 1 Background

On October 8, 2016, Minister of Defense Inada visited South Sudan to inspect the activities of the 10th Engineering Unit deployed there. The Minister also held talks with key officials of the South Sudan Government and then UN Secretary-General Special Representative Roy of the UN Mission in the Republic of South Sudan (UNMISS), where they expressed their appreciation for the activities of the SDF engineering unit and expectations for its future activities. Through the visit, the Minister confirmed the relative stability of the capital city of Juba and its vicinity, though the security situation of South Sudan still remained very severe.

On October 23, 2016, Minister Inada visited the 11th Engineering Unit to inspect the pre-deployment training related to the so-called “kaketsuke-keigo” and joint protection of camps. The Minister also received a report on the training outcome from the Chief of Staff of the Ground Self-Defense Force (GSDF) and confirmed that the capability of the unit to be dispatched had reached the level that allows the unit to adequately conduct its new duties.

Following these events, after a comprehensive consideration in light of the local situation and the training for the new additional mission, the Government decided to assign the duty of so-called “kaketsuke-keigo” starting with the 11th Engineering Unit to be deployed to UNMISS, as well as the duty of joint protection of camps. Following the deliberations and the approval obtained at the 9-Minister Meeting of the National Security Council, the Cabinet approved the revision of the Implementation Plans for the International Peace Cooperation Assignment for UNMISS on November 15, 2016.

### 2 Fundamental Concept regarding the Assignment of New Duties

In making the Cabinet Decision above, the Government indicated its basic concept regarding the so-called “kaketsuke-keigo” and joint protection of camps. The outline of the basic concept is as follows:

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1. **Fundamental Concept regarding the Assignment of New Duties** (announced by the Cabinet Secretariat, the Cabinet Office, the Ministry of Foreign Affairs, and the Ministry of Defense on November 15, 2016)

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(1) Premise
The maintenance of security in South Sudan is, in principle, the responsibility of the South Sudan police and the South Sudan government forces, complemented by troops of UNMISS. This responsibility should be exclusively borne by the infantry unit of UNMISS. What Japan deploys to South Sudan is the SDF engineering unit, and thus the maintenance of security there is not the duty of the unit.

(2) So-Called “Kaketsuke-Keigo”
“Kaketsuke-keigo” is to be conducted in very limited situations, such as when those engaged in NGO activities, etc. are attacked in locations close to the SDF engineering unit and there are no UN units or others around to take prompt actions. It is conducted in response to urgent requests as a quick and temporary measure, within the abilities of the unit in light of the humanitarian and urgent nature of such measures.

A small number of Japanese nationals are staying in South Sudan, centering on the capital city of Juba, and we cannot rule out the possibility that these Japanese nationals found themselves in contingent circumstances.

In the past, when SDF units were dispatched to Timor-Leste and then Zaire (now the Democratic Republic of the Congo), Japanese nationals facing contingent circumstances in those countries asked for protection by SDF units.

On those occasions, the SDF units, while they were not adequately trained for such protection operations and their duties and authorities under law were limited, made every effort to protect Japanese nationals within the limits of their means, rushing to the scene and transporting them to safe locations.  

If the SDF unit is near the scene, the unit cannot just stand by and do nothing even though it has the ability to help them.

Previously, however, a legal framework to deal with such a situation did not exist, and as a result, the SDF personnel at the scene managed to deal with the situation by themselves. This should not happen essentially.

“Kaketsuke-keigo” is a mission entailing risks. As seen above, the joint protection of camps is

2 At the Diet, Prime Minister Abe has responded as follows: “In the past, when SDF units were dispatched to Timor-Leste and then Zaire, Japanese nationals facing contingent circumstances in those countries asked for protection by SDF units. The SDF units, while they were not adequately trained and their duties and authorities were limited, made every effort to protect Japanese nationals. If the SDF unit is near the scene, the unit cannot just stand by and do nothing even though it has the ability to help them. (Abridged) Previously, however, a legal framework to deal with such a situation did not exist, and as a result, the SDF personnel at the scene managed to deal with the situation by themselves. This should not happen essentially.” (Prime Minister Abe’s response, Plenary Session of the House of Councillors, November 29, 2016)

beforehand, are conducive to not only contributing to the safety of Japanese nationals overseas but also to reducing risks to the SDF units.

Since SDF units have only self-protection capabilities, “kaketsuke-keigo” represents only responses that are feasible within their capabilities.

The military personnel of other countries usually possess self-protection capabilities. Even then, if they are in a crisis situation that they cannot handle by themselves, it is basically the South Sudan government forces and the UNMISS infantry troops that are mobilized for their protection. The Government considers that the SDF engineering unit that does not possess the capability needed for the maintenance of security is not assumed to conduct “kaketsuke-keigo” of the military personnel of other countries.

In view of the track record of past activities, the area of activities in South Sudan is limited to “Juba and its surrounding area” starting with the 11th Engineering Unit deployed in that country. The implementation of “kaketsuke-keigo” is also limited to within this area of activities.

(3) Joint Protection of Camps
In the field of UN PKOs, etc., it is usual practice for personnel of multiple countries to cooperate in their activities. In South Sudan as well, the SDF unit and units of Rwanda and some other countries share one camp as their base of activities.

Even if such a camp is attacked by an armed group and the personnel of other countries are in a crisis situation, the SDF unit previously could not respond to the situation in cooperation with other units and could not participate even in the daily training.

However, as long as the SDF unit shares the same camp with the military personnel of other countries, an injury to the personnel of other countries could lead to SDF personnel being attacked. The military personnel of other countries and the SDF personnel share a common destiny so to speak. If they coordinate their responses, they can better enhance the security of both of them.

Furthermore, it is believed that as SDF personnel and the military personnel of other countries would be able to constantly engage in joint training, this would facilitate communication and cooperation between Japan and other countries in an emergency situation, leading to the enhanced security of the camp as a whole.

As seen above, the joint protection of camps is
intended to enhance the personnel’s own safety in a severe security situation. The Government considers that the SDF unit is able to conduct its activities more smoothly and safely, which would contribute to reducing the risks posed to the SDF unit.

3 Termination of Operations of the SDF Engineering Unit

The deployment of the SDF engineering unit to UNMISS marked a milestone of five years in January 2017. South Sudan is about to enter a new stage of nation building, as the creation and deployment of the UN Regional Protection Force is advancing efforts towards the further stability of the security situation in Juba. Also, the South Sudan Government has made progress in efforts towards achieving domestic stability, announcing the commencement of national dialogue for the purpose of ethnic reconciliation.

As already mentioned, the SDF’s activities have been conducted for over five years, making it the longest deployment of engineering units, and the road repair and other activities they carried out mostly in the capital city of Juba represent the largest achievement among Japan’s previous PKO activities. Thus, the Government considers that it can move on to a new phase regarding SDF engineering activities in Juba. Taking such aspects into account in a comprehensive manner, the SDF engineering unit’s activities were terminated at the end of May 2017. With this, the new duties such as the so-called “kaketsuke-keigo” in international peace cooperation operations in South Sudan came to an end.

Japan continues to dispatch SDF personnel to UNMISS Headquarters, who continue to contribute to UN PKO operations as members of UNMISS.

1 Background

Since the enactment of the Legislation for Peace and Security, the MOD/SDF provided necessary explanations and coordination with the United States and also engaged in the work to develop necessary rules and regulations in order to ensure the appropriate operation of the system for the protection of weapons, etc., of the units of the U.S. Forces and the armed forces of other foreign countries (SDF Law Article 95-2). Upon completion of these works, in December 2016, at the National Security Council the Government decided on the Implementation Guidelines concerning Article 95-2 of the SDF Law, and started operating the article in relation to the U.S. Forces. This operationalization helps further strengthen coordinated surveillance between the SDF and the U.S. Forces and also further enhances the deterrence and response capabilities of the Japan-U.S. Alliance.

(1) Basic Principles of Implementing Article 95-2

a. Purpose of Article 95-2

This Article is to enable SDF personnel to carry out very passive and limited use of weapons to the minimum extent necessary to protect weapons and other equipment (“the weapons, etc.”) of units of the U.S. Forces, armed forces of other countries or other similar organizations (“the U.S. Forces, etc.”), that are concurrently engaged in activities that contribute to the defense of Japan (including joint exercises but excluding activities conducted in places where combat activities are actually occurring) in cooperation with the SDF, from infringements which do not amount to an armed attack, because the weapons, etc. can be regarded as an important material means which constitute the defense capability of Japan.

Through the provision of Paragraph 1 of the Article that “excluding activities conducted in places where combat activities are actually occurring,” it is ensured that asset protection is not to be, nor to be legally regarded as being integrated (“itaika”) with the use of force of the U.S. Forces, etc. and that the SDF personnel never respond to any combat activities by the use of weapons pursuant to the Article. The SDF personnel thus never conduct use of force and this prevents the situation from evolving into combat activities as a result of the use of weapons under the provision of the Article.
This use of weapons does not fall under “use of force” which is banned in Article 9 of the Constitution.

b. Activities that Contribute to the Defense of Japan

“Activities that contribute to the defense of Japan” in the Article may include mainly the following ones, while the Government of Japan is to examine each activity on a case-by-case basis: (1) ISR activities including ballistic missile alert; (2) transportation and replenishment activities in “situations that will have an important influence”; and (3) joint exercises to enhance capabilities required for defending Japan.

c. Judgment on Whether or Not to Conduct Asset Protection

When the Minister of Defense receives a request from the U.S. Forces, etc., the Minister subjectively should judge whether the activities conducted by the units of the U.S. Forces, etc. in cooperation with the SDF are “activities that contribute to the defense of Japan” and whether asset protection by the SDF personnel is necessary, by considering the objective and content of the activities, capability of the unit, types of weapons, etc. of the unit and surrounding circumstances including possibility of combat activity as well as the impacts on performance of the SDF’s regular operations.

(2) Involvement of the Cabinet

Requests from the U.S. Forces, etc. based on Paragraph 2 of the Article should be deliberated in the National Security Council (NSC) before the Minister of Defense judges on conducting asset protection if the Minister receives requests in the following cases. However, in case there is no time for dealing with an urgent request by the U.S. Forces, etc., the Minister should promptly report to the NSC regarding judgment of providing asset protection.

(1) The U.S. Forces, etc. makes a request for the first time after the operationalization of asset protection.

(2) The request is made for asset protection in the territory of a third country.

(3) The request is recognized as peculiarly important, although not falling under the above two categories.

In addition, in case asset protection under the situations that will have an important influence(*) is requested, the Prime Minister should clearly state it in the Basic Plan and should ask for a Cabinet decision on it after deliberations in the NSC.

(*) “Situations that will have an important influence” is provided in Article 1 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, Act No. 11 of 1999.

The National Security Council Board is to be held flexibly and support the full National Security Council. In addition, the relevant ministries and agencies are to share information on requests for protection and closely cooperate with each other.

(3) Disclosure of Information

In the implementation of Article 95-2, if an unusual event occurs in conducting asset protection operation, the Government promptly discloses such an event, and releases a basic plan that specifies matters concerning the implementation of asset protection operations in a situation that will have an important influence on Japan’s peace and security. The Government also strives for appropriate disclosure of information in light of the Act on Access to Information Held by Administrative Organs (Act No. 42 of 1999).

On September 26, 2016, Minister for Foreign Affairs Kishida and then U.S. Ambassador to Japan Kennedy signed the Japan-U.S. Acquisition and Cross-Servicing Agreement (ACSA). ACSA was approved by the Diet on April 14, 2017 and took effect on April 25, 2017.

The ACSA was prepared as a new agreement to replace the previous Japan-U.S. ACSA to enable the application of existing settlement procedures to the provision of supplies and services from the SDF to the U.S. Forces that become possible under the newly enacted Legislation for Peace and Security.

The new ACSA enables the smooth and expeditious provision of a broad range of supplies and services between the SDF and the U.S. Forces, thereby raising the levels of specific on-site cooperation between them.

Japan also signed similar agreements with countries other than the United States in light of the Legislation for Peace and Security, etc., which obtained Diet approval along with the Japan-U.S. ACSA.