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 sets out to implement necessary training in connection with the Legislation for Peace and Security. Between Japan and the United States, and other bilateral and multilateral joint training, Japan started to conduct necessary training related to the Legislation for Peace and Security after coordinating with the countries concerned.

2 Implementation of Training

In July 2017, the SDF conducted the first exercise related to the protection of U.S. vessels based on SDF Act Article 95-2 with the intention to enhance the relationship with the U.S. Navy. In the same year from July to August, the SDF took part in multilateral exercise, Khaan Quest 2017, to elevate various capabilities through conducting UN PKO-related exercise based on International Peace Cooperation Act.

VOICE

Participation in Training (Overseas) of Rescue of Japanese Nationals Overseas in FY2017 (domestic)

Central Readiness Regiment (Utsunomiya City, Tochigi), S3, Lieutenant Colonel, Masachiyo Hirose

Rescue of Japanese Nationals Overseas require close collaboration with related agencies, including the Ministry of Foreign Affairs in charge of protecting overseas Japanese people as a main duty and combined units from Ground, Maritime, and Air Self Defense Forces. I participated in rescue training that brings together related parties as a staff officer for the destination dispatch team with responsibility for all activities in the dispatch country.

The training begins from the point after which team members have already deployed at an overseas location. A Ground Self Defense Forces vehicle handles ground transportation of Japanese people and others temporarily assembled at the temporary assembly site (Soumagahara Camp, Gunma Prefecture) to the assembly location airport (Iruma Base, Saitama Prefecture). Boarding procedures, such as confirming identities and carry-on baggage checks, are conducted at the airport. The Japanese people and others are then escorted onto the Air Self Defense Forces’ transport plane (C-130H) and Ground Self Defense Forces’ transport helicopter (CH-47JA) for evacuation outside the country.

The training exercise, which consists of securing the safety of Japanese people and others jointly with the Foreign Ministry and responding to continuously changing circumstances, provided an opportunity to come into contact with the enthusiastic efforts of Foreign Ministry personnel who are working for the same purpose of safely rescuing and transporting Japanese people and others, clarified the mutual capabilities and strengths of the Foreign Ministry and Self Defense Forces, and reinforced the importance of close collaboration.

I hope to continue improving my capabilities to carry out this duty through enhancement of my proficiency in regular regiment training in order to be ready to implement the mission of immediately acting to rescue Japanese people and others at any time and deeper mutual understanding and closer cooperation with the Foreign Ministry and other agencies achieved through joint exercises.
Between September and October in Djibouti, and in Japan in December 2017, the SDF conducted a training on rescue of Japanese nationals overseas provided in SDF Act Article 84-3 to improve its joint operation capabilities and to strengthen cooperation with the relevant organizations. Furthermore, between January and February 2018, the SDF participated in a multilateral joint exercise (Cobra Gold 18). In the command point exercise, the SDF conducted training related to cooperation and support operations under the International Peace Support Act as well as training for rescue of Japanese nationals overseas to improve its joint operation capabilities. Moreover, in June 2018, the SDF took part in the multilateral joint exercise “Khaan Quest 18” and improved various capabilities through conducting training related to the “joint protection of camps” and so-called “kaketsuke-keigo” as well as “safety-ensuring operations” based on the International Peace Cooperation Act.

2 Assignment of New Mission for the South Sudan PKO

1 Background

Japan deployed engineering units to the UN Mission in the Republic of South Sudan (UNMISS) from January 2012 to the end of May 2017. Following the enforcement of the Legislation for Peace and Security, 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 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:

(1) Premise

The maintenance of security in South Sudan is, in principle, the responsibility of the South Sudan public security authorities 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. 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.2

“Kaketsuke-keigo” is a mission entailing risks. As long as Japanese nationals overseas have the possibility of facing contingent situations, however, the Government believes that (1) the official assignment of the solid duty of “kaketsuke-keigo” and the necessary authority and (2) the establishment of a steady structure with adequate training 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, 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 lead 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.

Since the enactment of the Legislation for Peace and Security, the MOD/SDF have been explaining to and coordinating with the United States and also engaged in the work to develop necessary rules and regulations in order to ensure 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 applying the article to the U.S. Forces operations. This operationalization helps to further strengthen coordinated surveillance between the SDF and the U.S. Forces and also to further enhance 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 (“ittaika”) 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 provision of 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) 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).

3 Track Record of Asset Protection Operations

In 2017, during a joint exercises to improve the capabilities necessary to defend Japan, the SDF conducted asset protections for US military vessels and aircraft once individually in 2017.

4 Conclusion of the New Japan-U.S. Acquisition and Cross-Servicing Agreement (ACSA)

In September, 2016, the Minister for Foreign Affairs and U.S. Ambassador to Japan signed the Japan-U.S. Acquisition and Cross-Servicing Agreement (ACSA). ACSA was approved by the Diet and took effect in 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 ACSA with the U.K and Australia 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 and took effect in the same year.