

Section 2

Framework for Activities of the SDF and Others after the Enforcement of the Legislation for Peace and Security

This section gives an outline of a full picture of the framework for the Government’s responses to various contingencies as well as the main operations of the SDF including the new activities the SDF can now engage in after the streamlining

of the Legislation for Peace and Security.¹

Q See Reference 15 (Main Operations of the Self-Defense Forces) Reference 16 (Statutory Provisions about Use of Force and Use of Weapons by SDF Personnel or SDF Units)

1 Responses to Armed Attack Situations, etc., and Survival-Threatening Situations

The Act on the Peace and Independence of Japan and Maintenance of the Nation and the People’s Security in Armed Attack Situations, etc., and a Survival-Threatening Situation² specifies items that should be stipulated as basic principles and basic policies (the Basic Response Plan) regarding responses to **Armed Attack Situation and Anticipated Armed Attack Situation**, etc., and **Survival-Threatening Situations** as well as the responsibilities of national and local governments in the event of an armed attack.

Previously, the aforementioned legislation stipulated responses to Armed Attack Situations, etc. However, considering the changes in the security environment surrounding Japan, a “Survival-Threatening Situation” was newly added to the situations to which Japan is to respond as an armed attack since even if it occurs against a foreign country it could threaten Japan’s survival as well, depending on its purpose, scale and manner. Following this, the SDF Law was also amended to define responses to such a situation as one of the SDF’s primary duties as unavoidable self-defense measures for Japan’s defense along with some other changes.

1 Armed Attack Situations, etc. and Survival-Threatening Situations

(1) Basic Response Plan etc.

In situations such as an Armed Attack Situations, etc., or a Survival-Threatening Situation, the Government is required to adopt the Basic Response Plan, which includes the following items, and ask for approval by the Diet. In addition, once the Basic Response Plan is adopted, a temporary Task Force for Armed Attack Situations, etc., (the Task Force) is to be established within the Cabinet, to implement these measures.

(1) The Following Items concerning Situations that Need to Be Dealt with:

a. Sequence of the event the situation, the confirmation

of occurrence of an Armed Attack Situation, etc., or a Survival-Threatening Situation, and the facts that support this confirmation

b. When the situation is confirmed as an Armed Attack Situation, etc., or a Survival-Threatening Situation, the reason why there are no other appropriate means available to ensure Japan’s survival and protect its people, and the use of force is necessary to respond to the situation

(2) An Overall Plan to Respond to the Armed Attack Situations, etc., or a Survival-Threatening Situation

(3) Important Matters Related to the Response Measures

Q See Fig. II-5-2-1 (Procedures for Responding to Armed Attack Situations, etc., and Survival-Threatening Situation)

KEY WORD

Armed Attack Situation and Anticipated Armed Attack Situation

- An armed attack situation means a situation where an armed attack against Japan from outside has occurred or an imminent and clear danger of the armed attack against Japan is acknowledged.
- An anticipated armed attack situation means a situation where an armed attack has yet to occur, but circumstances are growing increasingly strained and an armed attack is anticipated. (These situations are referred to as “Armed Attack Situation, etc.” collectively.)

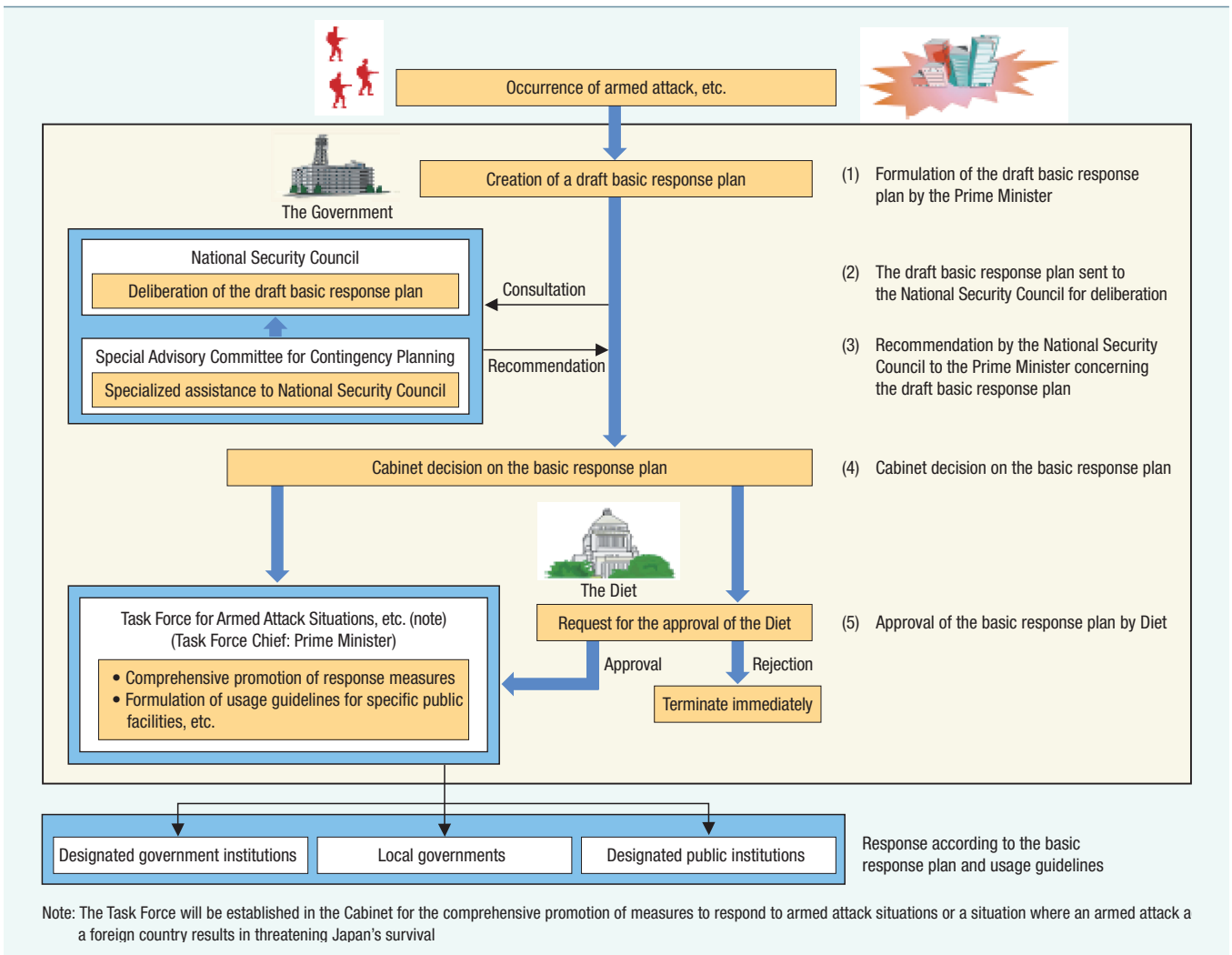
KEY WORD

Survival-Threatening Situation

A Survival-Threatening Situation means a situation where an armed attack against a foreign country that is in a close relationship with Japan occurs, which in turn poses a clear risk of threatening Japan’s survival and of overturning people’s rights to life, liberty and pursuit of happiness fundamentally.

¹ In addition to the ones explained in this section, see Reference 17 for the other conditions in which inflicting injury on a person is permitted.
² Following the addition of a Survival-Threatening Situation, 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., and a Survival-Threatening Situation.”

Fig. II-5-2-1 Procedures for Responding to Armed Attack Situations, etc., and Survival-Threatening Situation



(2) Diet Approval

In principle, the prior Diet approval is required to issue a Defense Operation order to the SDF to respond to an Armed Attack Situation or a Survival-Threatening Situation.

(3) Response Measures

In responding to Armed Attack Situations, etc., or Survival-Threatening Situations during the period for which the Basic Response Plan is valid, the designated government institutions, local governments and designated public institutions are to implement the required measures based on legal provisions during the period between the formulation and termination of the Basic Response Plan. See the reference below for the measures to be implemented.

Q See Fig. II-5-2-2 (Measures to Be Implemented by Designated Administrative Institutions, etc.)

(4) Responsibilities of the National and Local Governments

See the reference below for the responsibilities of the national and local Governments, etc. as defined in the Act on the Peace and Independence of Japan and Maintenance of the

Nation and the People's Security in Armed Attack Situations, etc., and a Survival-Threatening Situation.

Q See Fig. II-5-2-3 (Responsibilities of the National and Local Governments, etc.)

(5) Authority of the Prime Minister for Response Measures

Following the adoption of the Basic Response Plan, the Task Force for Armed Attack Situations, etc., (the Task Force) will be established within the Cabinet, which consists of the Prime Minister and other Ministers of States. The Prime Minister is to be appointed as the Chief, and some of the Ministers of States and to be appointed as the Deputy Chief.

If the Prime Minister recognizes that there are obstacles to protecting the lives, bodies or properties of the people, or to eliminating an armed attack, and particularly when necessary response measures under comprehensive coordination are not implemented, the Prime Minister may instruct the head of the local government concerned and other relevant persons to implement the necessary response measures.

In circumstances where the necessary response measures are not implemented or if there are obstacles to protecting the

Fig. II-5-2-2 Measures to Be Implemented by Designated Administrative Institutions, etc.

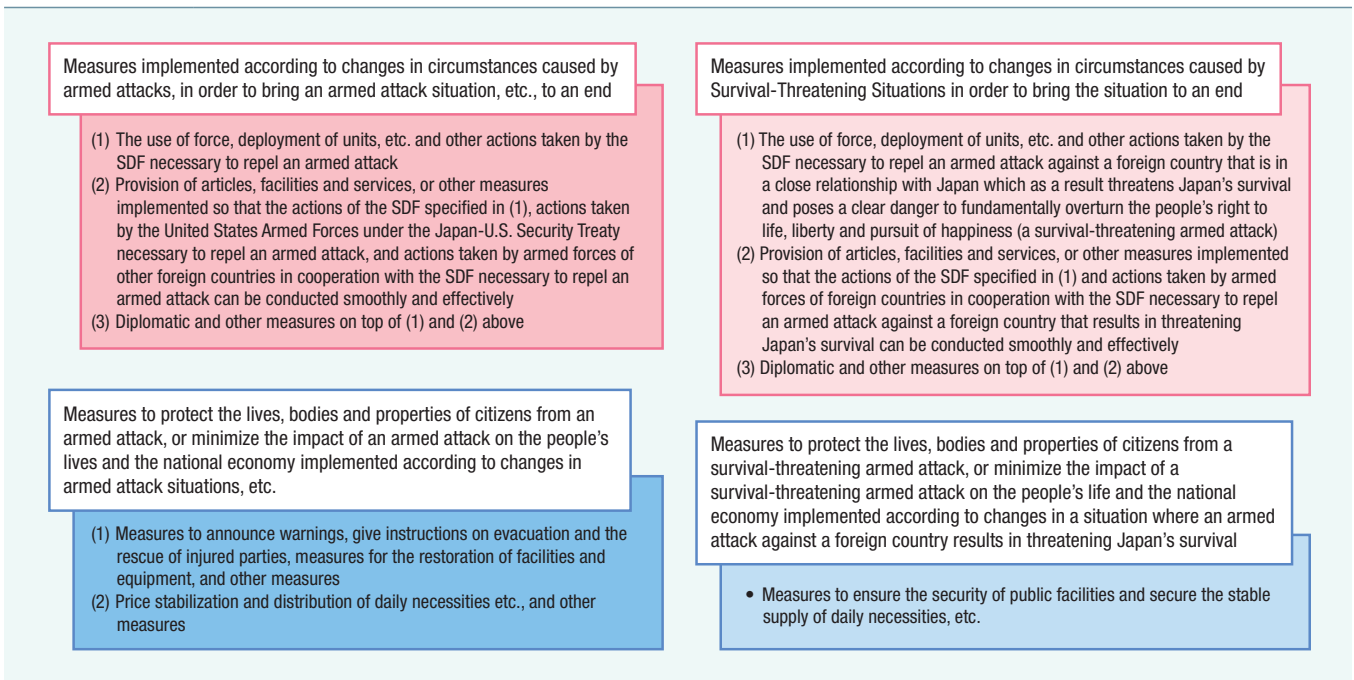


Fig. II-5-2-3 Responsibilities of the National and Local Governments, etc.

Subject	Responsibility
Government	<ul style="list-style-type: none"> • Have a unique mission to defend Japan, protect the homeland and the lives, bodies, and properties of the people • Respond to armed attack situations, etc., and Survival-Threatening Situation by taking every possible measure and using all organizations and functions • Implement all possible measures as a whole nation
Local Government	<ul style="list-style-type: none"> • Have responsibilities of protecting the region and the lives, bodies, and properties of the residents • Implement necessary measures to deal with armed attack situations, etc., in mutual cooperation with the national government, other local governments and other institutions
Designated Public Institutions	<ul style="list-style-type: none"> • Implement necessary measures to deal with armed attack situations, etc., in the scope of their work, in mutual cooperation with the national government, local governments, and other institutions
Nationals	<ul style="list-style-type: none"> • Strive to provide necessary cooperation when the designated administrative institutions, local governments or designated public institutions implement response measures to deal with armed attack situations, etc.

lives, bodies and properties of the people or to eliminating an armed attack, and emergency responses are required in light of the situations, the Prime Minister may implement the response measures that the local governments or designated public institutions have failed to implement, or may have the Ministry of State responsible for operations relating to the relevant countermeasures implement these measures after

notifying the relevant heads of local government or other relevant individuals.

(6) Report to the United Nations Security Council

In accordance with Article 51 of the Charter of the UN, the Government shall immediately report the measures it has taken to terminate armed attacks on Japan to the UN Security Council.

(7) Revisions to Other Relevant Legislation

a. Act Related to the Actions of the U.S. Forces and Others³

Before the revision, the U.S. Military Actions Related Measures Act specified measures, etc., to be taken to ensure smooth and efficient operation of the U.S. Forces necessary to terminate an armed attack in Armed Attack Situations, etc., based on the Japan-U.S. Security Treaty. In addition to support for the U.S. Forces responding to Armed Attack Situations, etc., support operations for the armed forces of foreign countries other than the United States in Armed Attack Situations, etc., as well as support operations for the U.S. Forces and the armed forces of other foreign countries in Survival-Threatening Situations were added in the revision.

b. Maritime Transportation Restriction Act⁴

The previous Maritime Transportation Restriction Act had provided procedures for stopped ship inspections and taking ship measures conducted by the Maritime Self-Defense Force

³ Following the addition of Survival-Threatening Situations, the title of the Act was revised from "Law Concerning the Measures Conducted by the Government in Line with the U.S. Military Actions in Armed Attack Situations, etc." to "Law Concerning the Measures Conducted by the Government in Line with U.S. and Other Countries' Military Actions in Armed Attack Situations, etc., and Survival-Threatening Situations."

⁴ Following the addition of Survival-Threatening Situations, the title of the Act was revised from "Law Concerning the Restrictions of Maritime Transportation of Foreign Military Supplies, and Others in Armed Attack Situations, etc." to "Law Concerning the Restrictions of Maritime Transportation of Foreign Military Supplies, and Others in Armed Attack Situations, etc., and Survival-Threatening Situations."

(MSDF) to control maritime transportation of weapons, ammunition and military personnel, etc., to armed forces, etc., of foreign countries making armed attacks against Japan in Armed Attack Situations. The revision Act added the provisions to control maritime transportation in Survival-Threatening Situations. Furthermore, the waters in which the MSDF can take these measures. According to the revised law the MSDF can control maritime transportation in Japan's territorial waters, territorial waters of foreign countries (only when their consent is obtained) and the high seas, although it was previously restricted to Japan's territorial waters and the high seas surrounding Japan.

c. Prisoners of War Act⁵

The Prisoners of War Act previously specified items necessary for the detention, internment and other forms of treatment of prisoners of war, etc., in Armed Attack Situations in order to ensure the appropriate practice of the International Humanitarian Law regarding the treatment of prisoners of war, etc. The provisions were added for the application of the Prisoners of War Act in Survival-Threatening Situations as well.

d. Act Regarding the Use of Specific Public Facilities⁶

To ensure the appropriate and rapid operations of the SDF and the U.S. Forces and measures vital to the protection of the people, the Act Regarding the Use of Specific Public Facilities provides for procedures to be taken for comprehensive coordination of the use of specific public facilities (ports, airports, roads, waters, air zones and radio waves) in Armed Attack Situations, etc. The operations of the armed forces of foreign countries other than the U.S. Forces in Armed Attack Situations, etc., were added to the scope of coordination of the use of specific public facilities.

2 Emergency Situations other than Armed Attack Situations, etc., and Survival-Threatening Situations

The Act on the Peace and Independence of Japan and Maintenance of the Nation and the People's Security in Armed Attack Situations, etc., and Survival-Threatening Situations provides for appropriate and rapid response

measures to be implemented in emergency situations other than an Armed Attack Situation and Survival-Threatening Situations in order for the Government to ensure the peace and independence of the country, and to maintain the security of the country and its people.⁷

3 Responses of the SDF

(1) Positioning as the Mission of the SDF

The primary duty of the SDF had been to "defend Japan against direct or indirect aggression." Now since the purpose of the SDF's operation in Survival-Threatening Situations stemming from an armed attack on a foreign country is also to defend Japan as well, the revised legislation stipulates this is one of the SDF's primary duties.

(2) Defense Operation

Although an Armed Attack Situation, had been the only situation in which a Defense Operation order may be issued, the revised legislation newly added Survival-Threatening Situations to this category. Following this revision, the Prime Minister can now issue a Defense Operation order to the whole or part of the SDF when it is deemed necessary for the defense of Japan in Armed Attack Situations and Survival-Threatening Situations. As it had been before the law revision, prior Diet approval is required for a Defense Operation order in principle. The SDF under Defense Operation duty is allowed to exercise the use of force only when the "New Three Conditions" are satisfied.⁸

(3) Others

Among the provisions setting forth a variety of authorities and special measures, etc., necessary for SDF operations on a Defense Operation order, those whose purpose is entirely to respond to direct armed attack on physical damage against Japan are not to be applied to Survival-Threatening Situations.⁹

⁵ Following the addition of Survival-Threatening Situations, the title of the Act was revised from "Law Concerning the Treatment of Prisoners of War and Other Detainees in Armed Attack Situations, etc." to "Law Concerning the Treatment of Prisoners of War and Other Detainees in Armed Attack Situations, etc., and Survival-Threatening Situations."

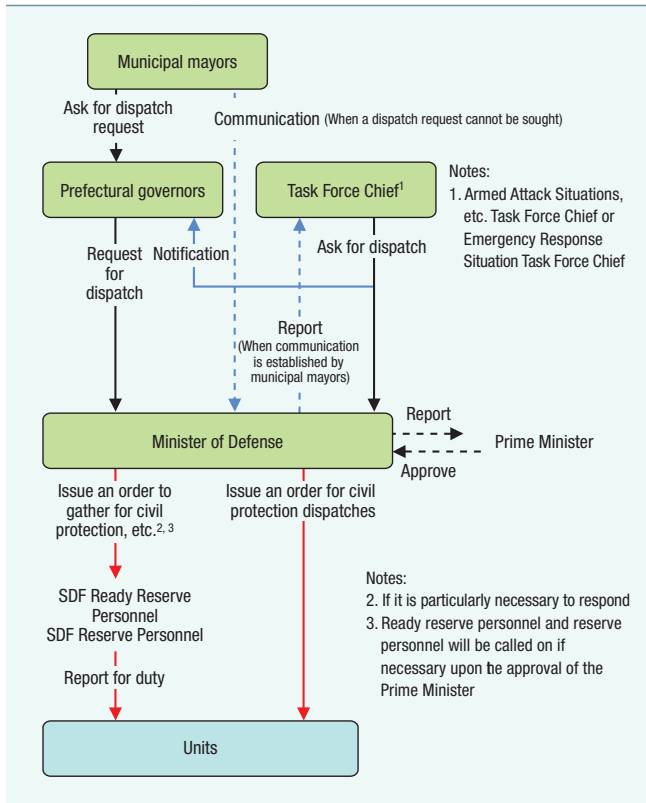
⁶ The official title of the Act is the "Law Concerning the Use of Specific Public Facilities and Others in Armed Attack Situations, etc."

⁷ A contingency situation other than an Armed Attack Situation and a situation where an armed attack against a foreign country resulting in a threat to Japan's survival that may have a significant impact on the security of the nation and its people, including an emergency response situation (a situation where actions that may kill or injure many people by using methods equivalent to those used in an armed attack, 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).

⁸ In general, the "use of force" in Paragraph 1, Article 9 of the Constitution means the act of combat by Japanese physical and personnel organizations as part of an international armed conflict. In contrast to this, the "use of weapons" as referred to in the SDF Law, etc., means the use of equipment and machinery, etc., designed to directly kill or harm people, or to destroy things as a means of armed fighting, in accordance with their original usages. While the "use of force" in Paragraph 1, Article 9 of the Constitution is the idea related to resorting to force, including the "use of weapons," all types of the "use of weapons" do not necessarily fall under the category of the "use of force" prohibited under Article 9 of the Constitution. The "use of force" is permitted under the Constitution only in cases where the New Three Conditions (See Page 166) are satisfied.

⁹ The examples of application in Survival-Threatening Situations include the organization of special units, and the defense call-up of SDF Reserve Personnel and SDF Reserve Personnel, etc., while the examples of non-application, which mean the examples of application only in Armed Attack Situations, etc., in other words, include measures for the construction of defense facilities, the authority to maintain public order, emergency passage, appropriation of supplies, and orders to perform duties, etc.

Fig. II-5-2-4 Mechanism of Civil Protection Dispatches



armed attack induced disasters in order to protect the lives, bodies and property of the people and to minimize influence on its livelihood in the case of Armed Attack Situations, etc., or emergency response situations.

If the Minister of Defense finds it unavoidable after receiving a request from prefectural governors,¹¹ or receives a request from the Task Force Chief, upon approval by the Prime Minister, the Minister of Defense can issue civil Protection Dispatch Order to the SDF units, etc. to civil protection dispatch to conduct civil protection measures or emergency response protection measures (including assisting the evacuation of residents, providing relief to the evacuees and immediate restoration).

Q See Fig. II-5-2-4 (Mechanism of Civil Protection Dispatches), Part III, Chapter 1, Section 2-2-5 (Initiatives for Civil Protection)

(2) Relationship between Survival-Threatening Situations and Civil Protection Measures

The Civil Protection Act, stipulates necessary measures, including issuance of warnings and measures for the evacuation and relief of residents from the perspective of protection of the people and their livelihood from a direct attack against Japan and physical damage. A situation in which the rules of Survival Threatening Situations are applicable and warning issuance and evacuation and relief of residents are required is nothing less than a situation where an armed attack against Japan is anticipated or imminent. In such a case, it is recognized as Armed Attack Situations, etc., and necessary measures are to be implemented under the Civil Protection Act.¹²

4 Civil Protection

(1) Outline of the Civil Protection Act and the Civil

Protection Dispatches The Civil Protection Act¹⁰ stipulates the responsibilities of the national and local governments as well as measures for evacuation, relief, and response to

2 Responses to Situations that Will Have an Important Influence

Previously, the Law Concerning Measures to Ensure the Peace and Security of Japan in Situations in Areas Surrounding Japan had stipulated rear area support,¹³ rear area search and rescue operations¹⁴ and ship inspection operations (those set forth in the Ship Inspection Operations Law) conducted by Japan as measures to respond to situations that will have an important influence on Japan’s peace and security in areas

surrounding Japan.

In accordance with the changes in the security environment surrounding Japan, the law revision deleted “in areas surrounding Japan” from “situations that will have an important influence on Japan’s peace and security in areas surrounding Japan” and changed the name of situations from “situations in areas surrounding Japan” to “situations that will

10 The official title of the act is the Act Concerning the Measures for Protection of the People in Armed Attack Situations, etc.
 11 The Prime Minister assumes the position of the Director of the Crisis Management Headquarters, but these positions are regulated as separate entities.
 12 In the case that an armed attack against a foreign country resulting in threatening Japan’s survival is not regarded as an armed attack situation, etc., a series of measures are to be implemented to ensure the stability of the people’s livelihood, including a stable supply of daily necessities, based on a variety of existing laws and regulations, taking thorough response measures to protect people’s livelihood without invoking the Civil Protection Act.
 13 Rear area support under the Law Concerning Measures to Ensure the Peace and Security of Japan in Situations in Areas Surrounding Japan means support measures, including the provision of goods, services, and conveniences, given by Japan in rear areas to the U.S. Forces conducting activities that contribute to the achievement of the objectives of the Japan-U.S. Security Treaty in situations in areas surrounding Japan.
 14 Rear area search and rescue operations under the Law Concerning Measures to Ensure the Peace and Security of Japan in Situations in Areas Surrounding Japan mean operations conducted by the SDF in situations in areas surrounding Japan to search and rescue those who were engaged in combat and were stranded in rear areas (including transportation of those rescued).

have an important influence,”¹⁵ and also extended the scope of militaries that the SDF can support and add new types of response measures as follows.

1 Militaries that the SDF Supports

On top of the existing “U.S. Armed Forces engaged in activities contributing to the achievement of the objectives of the Japan-U.S. Security Treaty,” the revised law added “armed forces of other foreign countries engaged in activities contributing to the achievement of the objectives of the UN Charter” and “other similar organizations” on the armed forces, etc., responding to situations that will have an important influence on Japan’s peace and security, which the SDF is allowed to support.

2 Response Measures to Situations that Will Have an Important Influence on Japan’s Peace and Security

The revised law sets out measures to respond to situations that will have an important influence on Japan’s peace and security as (1) logistics support activities, (2) search and rescue activities, (3) ship inspection operations, and (4) other measures necessary to respond to situations that will have an important influence on Japan’s peace and security, and added “lodging, storage, use of facilities and training services” as the types of goods and services provided by the SDF in (1) logistics support activities, on top of the “supply, transportation, repair and maintenance, medical activities, communications, airport and seaport services, and base services” previously. While the provision of weapons is not included, as before, the revised law allows the “provision of ammunition” and “refueling and maintenance of aircraft ready to take off for combat operations.”

The revised law made it possible to implement response measures in foreign territories, but only when the foreign country concerned consents.

3 Measures to Avoid Integration with the Use of Force

The revised law sets forth the following measures in order to avoid integration with the use of force by a foreign country and also to ensure the safety of SDF personnel:

- The SDF does not conduct activities in “the scene where a combat is actually taking place.” Regarding search and rescue operations, however, when stranded personnel have been located and rescue operations have commenced, the SDF units are allowed to continue search and rescue activities as long as the safety of these 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, the Minister must promptly change the designation of the area or order the cessation of the activities being implemented there.

4 Diet Approval

As before the law revision, prior diet approval is required, in principle, and ex-post facto approval is also allowed in emergency.

5 Authority for the Use of Weapons

When engaged in logistics support activities or search and rescue activities in the event of a situation that will have an important influence on Japan, SDF personnel are permitted to use weapons if necessary in order to protect oneself or other SDF members who are at the same scene, or those under the supervision of oneself (so-called “the use of weapons of self-preservation type”). In addition, SDF personnel are permitted to use weapons jointly with members of the armed forces or other organizations of foreign countries in order to protect the lives and bodies of those stationed at the camps (however, inflicting injury on a person is permitted only in the cases of legitimate self-defense and aversion of clear and present danger in “the use of weapons of self-preservation type”).

6 Ship Inspection Operations¹⁶

(1) Outline

¹⁵ Previously, “situations in areas surrounding Japan” was understood to be an idea that focuses on the nature of situations, not a geographical idea. In light of the changes in the security environment in recent years, however, the definition was revised since it is not appropriate to use an expression that could be interpreted as geographically limiting areas where situations that will have an important influence on Japan’s peace and security may arise. In association with this, the title of the Law was amended from the “Law Concerning Measures to Ensure the Peace and Security of Japan in Situations in Areas Surrounding Japan” to the “Law Concerning Measures to Ensure the Peace and Security of Japan in Situations that Will Have an Important Influence on Japan’s Peace and Security.”

¹⁶ Inspection of ships in the case of a situation that will have an important influence on Japan’s Peace and Security is conducted based on the “Law Concerning Ship Inspection Operations in Situations that Will Have an Important Influence on Japan’s Peace and Security and Other Situations (Ship Inspection Operations Act).” See Article 5 of this section (Framework for Contributing to the Peace and Stability of the International Community) for ship inspection operations in situations threatening the international peace and security that the international community is collectively addressing.

Ship inspection operations mean operations to inspect and confirm the cargo and destination of ships (excluding warships and others) and to request, if necessary, a change

KEY WORD

Situations that Will Have an Important Influence

Situations that will have an important influence on Japan's peace and security, including situations that, if left unattended, could result in a direct armed attack on Japan

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, conducted based on the UN Security Council resolutions or with the consent of the flag state.¹⁷

(2) Authority for the Use of Weapons

The so-called “the use of weapons of self-preservation type” is permitted.

3 Maintenance of Public Order and Responses to Aggression that Do Not Amount to an Armed Attack

1 Public Security Operations

(1) Public Security Operations by Order

In the event of an indirect aggression or another emergency situation, the Prime Minister can order the whole or part of the SDF to deploy if it is deemed impossible to maintain public security with the general police force. In principle, the Prime Minister must bring the order to the Diet for deliberation, and request for its approval within twenty days from the day the order has been given.

(2) Public Security Operations by Request

Upon consulting with the Public Safety Commission of the prefecture concerned, the governor of that prefecture can request the Prime Minister to dispatch units, etc., of the SDF if it is deemed unavoidable as the situation will have a serious influence on public security. Following such a request, the Prime Minister can order the SDF to mobilize when a situation calls for such action.

(3) Authority for the Use of Weapons

Article 7 of the Police Duties Execution Act applies mutatis mutandis to the execution of duties of SDF personnel, permitting SDF personnel the use of weapons.¹⁸ Moreover, SDF personnel are permitted to use weapons to the extent judged to be reasonable depending on the situation when certain conditions are met.^{19,20}

Q See Part III, Chapter 1, Section 2-2-3 (Response to Attacks by Guerrillas and Special Operations Forces, etc.)

2 Maritime Security Operations

(1) Outline

When there is a special need to protect lives or property or maintain public security at sea, the Minister of Defense can order SDF units to take necessary actions at sea upon approval by the Prime Minister.

(2) Authority for the Use of Weapons

The provisions of Article 7 of the Police Duties Execution Act apply mutatis mutandis to the execution of duties of SDF personnel, permitting them the use of weapons. In addition, partial application of the Japan Coast Guard Law²¹ allows SDF personnel to exercise authority such as requesting nearby persons or ships to cooperate or boarding on other ships for inspection. The use of weapons is also permitted in order to stop a ship when certain conditions are met.

Q See Part III, Chapter 1, Section 2-1-2 (Measures in Response to Actions that Violate Japan's Sovereignty)

3 Counter-Piracy Operations

(1) Outline

When there is a special need to respond to acts of piracy, the Minister of Defense may order SDF units to conduct operations at sea against such acts upon approval by the Prime Minister. In order to obtain approval, the Minister of Defense shall create a response guideline and submit it to the Prime Minister.

17 The state that has the right to fly its flag as prescribed in Article 91 of the UN Convention on the Law of the Sea.
 18 Article 7 of the Police Duties Execution Act (Use of Weapons) permits the use of weapons if deemed reasonably necessary in accordance with the situation. However, causing harm to people is permitted only in cases of legitimate self-defense or evasion of clear and present danger.
 19 The “certain conditions” defined herein apply to cases such as when SDF personnel reasonably consider that persons to be guarded in the line of duty and others may suffer violence or infringement, or are apparently exposed to such danger and no appropriate means of overcoming it other than the use of weapons exist.
 20 Article 16, 17-1, 18, and Article 20-2 of the Japan Coast Guard Law applied mutatis mutandis to public security operation.
 21 Article 16, 17-1, 18, and Article 20-2 of the Japan Coast Guard Law.



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

Considering the increasingly severe security environment surrounding Japan, situations that are neither pure peacetime nor contingencies (the so-called gray zone situations) 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 and maritime security operations, etc., in May 2015, particularly in the following three cases:

- Responses to foreign naval vessels making maritime navigation through the territorial sea or the internal waters of Japan that does not fall under the category of innocent passage under international law
- Responses to the unlawful landing on a remote island or its surrounding seas by an armed group
- Responses to acts of infringement when SDF ships or aircraft detect foreign ships committing said acts against Japanese private ships 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 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*.

- Cabinet decision to accelerate procedures to issue orders for public security/maritime security operations in the following three cases, referring to Cabinet Decision on Government Responses when there is a Risk of Large-Scale Terrorism (November 2, 2001):

Responses to Foreign 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 operation.

Responses to Illegal Landing on Remote Islands by Armed Groups

- When armed groups or groups that are highly probable to be armed are likely to illegally 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.

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 operation or maritime security operation.

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

(2) Authority for the Use of Weapons

SDF personnel may use weapons in executing duties under Article 7 of the Police Duties Execution Act. When there are reasonable grounds to believe that no other means are available to stop the passage of a ship perpetrating acts of piracy, including approaching excessively close to a non-military ship, the use of weapons is permitted to the extent that is considered reasonably necessary in accordance with the situation.

See Part III, Chapter 3, Section 2-1 (Counter-Piracy Operations)

4 Destruction Measures against Ballistic Missiles

In case ballistic missiles²² or other objects launched at Japan as an armed attack against Japan or a Survival-Threatening Situation, and the New Three Conditions are simultaneously met, the SDF would cope with the situation by a Defense Operation order. On the other hand, if ballistic missiles are flying towards Japan, but the situation cannot be acknowledged as an armed attack, the Minister of Defense can take the following measures:

- (1) When it is anticipated that ballistic missiles or other

²² Ballistic missiles or other objects except aircraft that are believed to cause grave damage to human lives or property when they fall to the ground.

objects are flying towards Japan and it is deemed necessary to take measures to protect lives and properties in Japan's territory if they fall to the ground, upon approval by the Prime Minister, the Minister of Defense may order the SDF units to take measures to destroy the ballistic missiles in airspace over Japan's territory or high seas once they have actually been launched towards Japan.

(2) Also, besides the case of (1), the Minister of Defense may not have enough time to get approval by the Prime Minister when the situation unfolds rapidly such as the cases when there was no warning prior to the launch. In preparation for such case, the Minister of Defense may create an emergency response guideline and get approval by the Prime Minister in peacetime. Based on this emergency response guideline, the Minister of Defense can order the SDF units to take measures to destroy ballistic missiles or other objects in the airspace over Japan's territory or high seas in advance for a certain period of time once they have actually been launched towards Japan.

Q See Fig. II-5-2-5 (Flow of Response to Ballistic Missiles or Other Objects), Part III, Chapter 1, Section 2-2-2 (Response to Ballistic Missile Attacks, etc.)

5 Measures against Intrusion of Territorial Airspace

The Minister of Defense may order SDF units to take necessary measures to make intruding aircraft land or withdraw from the territorial airspace of Japan (guiding intruders away, issuing radio transmission warnings, use of weapons,²³ etc.) when a foreign aircraft intrudes Japan's territorial airspace in violation of international law, the provisions of the Aviation Law or other relevant laws and regulations.

Q See Part III, Chapter 1, Section 2-1-2 (Measures in Response to Actions that Violate Japan's Sovereignty)

6 Rescue and Transportation of Japanese Nationals Overseas²⁴

Previously, operations to protect Japanese nationals, etc. overseas in emergency situations were limited to transporting to safe places those who need protection of their lives or

bodies, and rescue of Japanese nationals, etc. overseas involving the use of weapons was not allowed even in cases of terrorist attacks. In light of these circumstances, the newly established provisions enable the units of the SDF to take "rescue" that go beyond transportation and include guarding and rescue of Japanese nationals, etc. overseas whose lives or bodies could be harmed in emergency situations when the following requirements are satisfied:

(1) Procedures

Upon a request from the Minister for Foreign Affairs and after subsequent consultations between the Minister for Foreign Affairs and the Minister of Defense, the Minister of Defense issues an order following approval by the Prime Minister.

(2) Requirements for Implementation

When all of the following conditions are satisfied, the rescue measures may be implemented:

- a. It needs to be confirmed that in the areas where the rescue measures are taken, the competent authorities of the country concerned are maintaining public safety and order at the time, and no act of combat will be conducted;
- b. The country concerned²⁵ consents to the SDF taking the rescue measures (including the use of weapons); and
- c. It is expected 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 anticipated dangers.

(3) Authority for the Use of Weapons

In carrying out their duties to implement the rescue measures, SDF personnel are permitted to use weapons to the extent judged to be reasonably necessary, depending on the situation when there are adequate grounds to recognize the compelling need to use weapons to protect the lives and bodies of Japanese nationals and others or themselves, or to eliminate actions that obstruct their duties (including the permission to resort to the so-called "use of weapons in defense of the mission mandate."²⁶ However, causing harm to people is permitted only in cases of legitimate self-defense

²³ Although there is no clear provision regarding the use of weapons, it is interpreted to be included in the "necessary measures."

²⁴ The MOD/SDF has conducted the transportation of Japanese nationals overseas in four cases.

Responding to the kidnapping of foreigners and Japanese in Iraq, 10 Japanese were evacuated to Kuwait by ASDF C-130H plane in April 2004.

In January 2013, a government aircraft was deployed to bring seven Japanese nationals and the remains of a further nine nationals back to Japan following the kidnapping in Algeria.

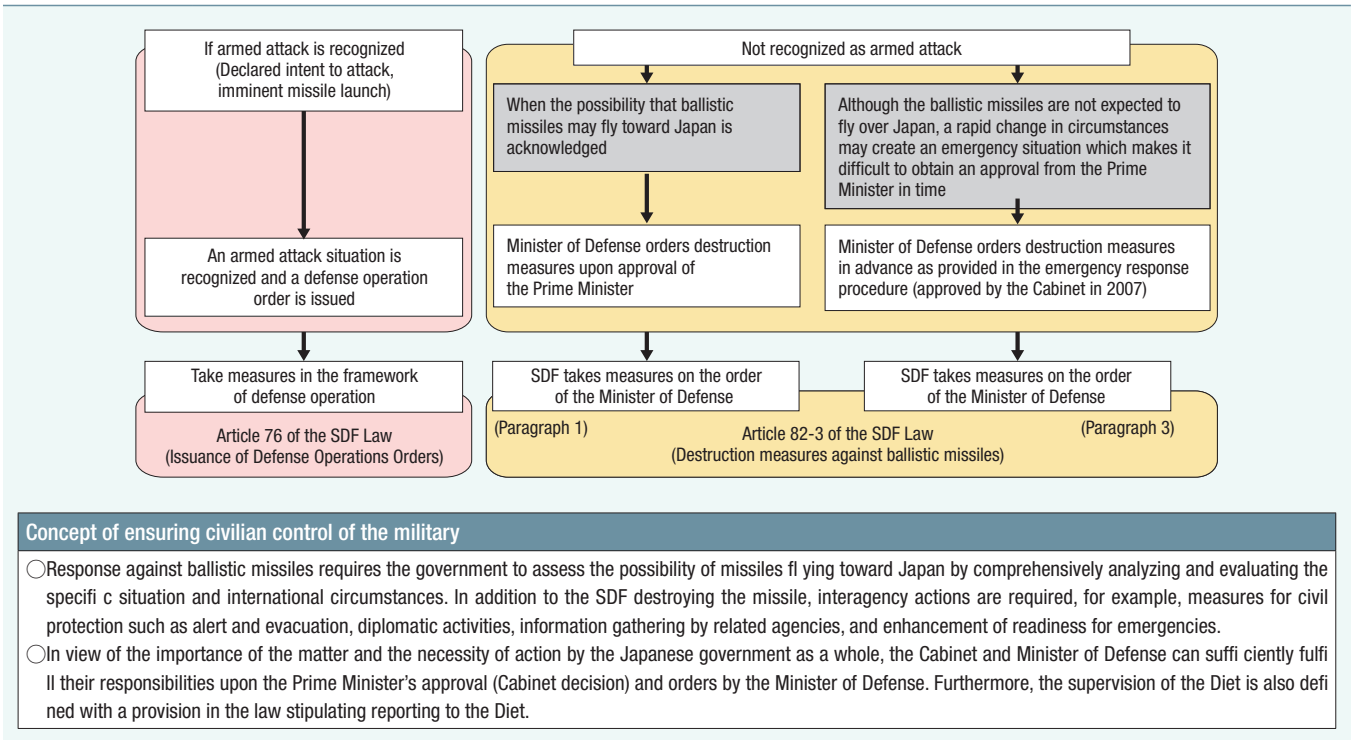
With respect to the terrorist attack in Dhaka, Bangladesh, which occurred in July 2016, the bodies of Japanese victims (seven nationals), their families, and other involved parties were transported to Japan by government aircraft.

In relation to the deterioration of the situation in South Sudan in July of the same year, the ASDF transport aircraft C-130H transported four embassy staff from Juba to Djibouti.

²⁵ It includes an organization, if any, that administers the said country in accordance with a resolution of the General Assembly or the Security Council of the UN.

²⁶ While the so-called "right to use weapons of self-preservation type" permits the use of weapons only for the protection of oneself and others (oneself, SDF members who are at the same scene as oneself, or those under the supervision of oneself), the so-called "right to use weapons in defense of the mission mandate" allows the use of weapons beyond self-preservation, for example, to protect the lives and bodies, etc., of other people or to repel obstructions of the performance of duties of SDF personnel.

Fig. II-5-2-5 Flow of Response to Ballistic Missiles



Concept of ensuring civilian control of the military

- Response against ballistic missiles requires the government to assess the possibility of missiles flying toward Japan by comprehensively analyzing and evaluating the specific situation and international circumstances. In addition to the SDF destroying the missile, interagency actions are required, for example, measures for civil protection such as alert and evacuation, diplomatic activities, information gathering by related agencies, and enhancement of readiness for emergencies.
- In view of the importance of the matter and the necessity of action by the Japanese government as a whole, the Cabinet and Minister of Defense can sufficiently fulfill their responsibilities upon the Prime Minister's approval (Cabinet decision) and orders by the Minister of Defense. Furthermore, the supervision of the Diet is also defined with a provision in the law stipulating reporting to the Diet.

or evasion of clear and present danger.).

Q See Part III, Chapter 1, Section 2-4-2 (Response to Rescue and Transportation of Japanese Nationals Overseas and Others)

7 Protection of Weapons and Other Equipment of the Units of the U.S. Forces and the Armed Forces of Other Foreign Countries

The newly added provisions, Article 95-2 of the SDF Law, enable SDF personnel to protect the weapons and other equipment of the units of the United States Forces and the armed forces of other foreign countries that are in cooperation with the SDF and are currently engaged in activities that contribute to the defense of Japan. In December 2016, the National Security Council approved “The Implementation Guidelines for Article 95-2 of the Self-Defense Forces Law,” which sets out the basic principles of the article and the Cabinet’s involvement in the operationalization of the article, etc.

(1) Coverage

Weapons, etc. of the units of the United States Forces, armed forces of other foreign countries and other similar organizations, that are, in cooperation with the SDF and are, currently engaged in activities that contribute to the defense of Japan (including joint exercises but excluding activities in the scene where the combat activities are actually being conducted).

(2) Procedures, etc.

When a request is made by the United States Forces, etc., and only when the Minister of Defense deems it necessary, SDF personnel provide asset protection.

(3) Authority for the Use of Weapons

In protecting weapons and other equipment described in (1) above as part of their duties, SDF personnel are permitted to use weapons to the extent judged to be reasonably necessary depending on the situation when there are adequate grounds to recognize the need to use weapons to protect persons, weapons, and other equipment (however, causing harm to people is permitted only in cases of legitimate self-protection or evasion from present danger).

Q See Part III, Chapter 1, Section 2-4-2 (Response to Rescue and Transport of Japanese Nationals Overseas, etc.)

8 Expansion of the Provision of Supplies and Services to the U.S. Forces

Regarding the provision of supplies or services to the United States Armed Forces, the scope of the U.S. Forces and the scope of supplies covered were expanded as follows with the revised legislation:

(1) Scope of the U.S. Forces Covered

- The scope extended to the United States Armed Forces that are on field sites along with the units of the SDF carrying out the following actions or activities and engaged in

activities similar to those of the SDF units:

- Guarding of facilities and areas of bases, etc. of U.S. Forces Japan
- Counter-piracy operations
- Operations necessary to take measures to destroy ballistic missiles, etc.
- Removal and disposal of mines or other explosive hazardous objects
- Rescue of Japanese nationals overseas, etc. in emergency situations in foreign countries
- Activities to gather 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

- b. The scope extended to the U.S. Forces participating in multilateral exercises of three or more countries, including Japan and the United States, in addition to the U.S. Forces participating in Japan-U.S. bilateral exercises
- c. The scope 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

(2) Scope of Supplies to be Provided

Added ammunition (weapons remain excluded)

Q See Section 3-4 of this Chapter (Conclusion of the New Japan-U.S. Acquisition and Cross-Servicing Agreement (ACSA))

4 Disaster Relief Dispatches and Others

1 Disaster Relief Dispatches

In principle, Disaster Relief Dispatch is conducted as follows: prefectural governors or other officials ask the Minister of Defense, or an officer designated by the Minister, to dispatch the SDF units, etc., in the event of a natural disaster; the Minister or the designated officer will dispatch the units if it is deemed necessary for the SDF to respond to the disaster.²⁷ This procedure is based on the idea that prefectural governors and other officials should grasp the overall conditions of the disaster and their own disaster relief capabilities first, and then decide whether to make a request for the SDF disaster relief dispatch.

2 Earthquake Prevention Dispatch and Nuclear Disaster Relief Dispatch

When a warning declaration is issued based on the Act on Special Measures Concerning Countermeasures for Large-Scale Earthquakes²⁸ or a declaration of a nuclear emergency situation is issued based on the Act on Special Measures Concerning Nuclear Emergency Preparedness, the Minister of Defense is authorized to order dispatching units upon a request of the Director of the Seismic Disaster Warning Headquarters or the Director of the Nuclear Disaster Countermeasures Headquarters (the Prime Minister).

Q See Fig. II-5-2-6 (Flow of Events from the Point of Request to Dispatch and Withdrawal) Part III, Chapter 1, Section 2-4 (Response to Large-Scale Disasters)

5 Framework for Contributing to the Peace and Stability of the International Community

1 Response to Situations Threatening the International Peace and Security that the International Community Is Collectively Addressing

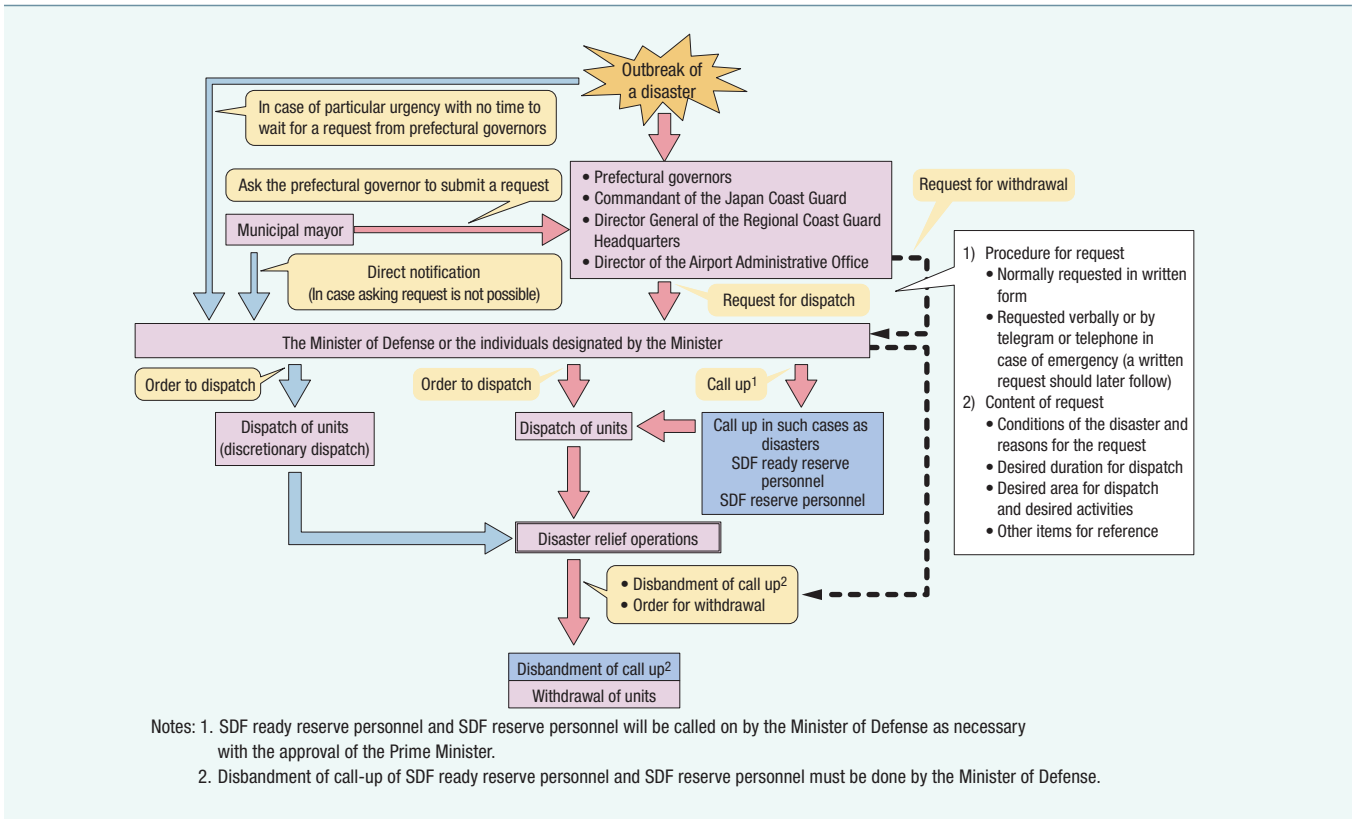
The International Peace Support Act was newly enacted in the recent legal revision in order to ensure peace and security of the international community, enabling Japan to conduct

cooperation and support operations for the armed forces of foreign countries engaged in operations for international peace and security in **situations threatening the international peace and security that the international community is collectively addressing**. Previously, the Japanese Government has enacted special measures laws, such as the Act on Special Measures against terrorism /Replenishment Support Special

²⁷ The Commandant of the Japan Coast Guard, the Director General of the Regional Coast Guard Headquarters, and the Director of the Airport Administrative Office may request a disaster relief dispatch. With regard to disaster relief dispatch, earthquake prevention dispatch, and nuclear disaster relief dispatch, (1) SDF personnel ordered for the dispatch may take measures (Article 4 of the Police Duties Execution Law) such as evacuation based on Article 94 of the SDF Law (Authority in Disaster Relief Dispatch, etc.); (2) SDF Reserve Personnel and SDF Ready Reserve Personnel may be called up for service in the event of disaster relief dispatch, and SDF Ready Personnel in the event of earthquake prevention dispatch or nuclear disaster relief dispatch; and (3) special units may be temporarily formed as necessary.

²⁸ The Prime Minister issues an earthquake alert with the endorsement of the Cabinet in the event that an earthquake prediction was reported by the Director-General of the Japan Meteorological Agency (JMA) and when it is deemed necessary to urgently implement emergency earthquake disaster prevention measures.

Fig. II-5-2-6 Flow of Events from the Point of Request to Dispatch and Withdrawal



Measures Law,²⁹ and the Law Concerning Special Measures on Humanitarian and Reconstruction Assistance in Iraq,³⁰ in order to conduct operations such as at-sea replenishment activities in the Indian Ocean, and humanitarian and reconstruction support activities in Iraq. However, from the perspective of enabling seamless responses to any situation, rather than developing new legislation in response to every emergence of a specific need in the future, the International Peace Support Law, enacted as general law, enables Japan to conduct support operations more expeditiously and effectively for the military forces of foreign countries operating for international peace and security, making it possible to proactively contribute to international peace and security on Japan's own initiative.

(1) Requirements

The requirement for Japan to offer cooperation and support to the operations of foreign armed forces is the issuance of one of the following UN resolutions (by the General Assembly or the Security Council).

- a. Resolutions that decide, call upon, recommend or authorize the country, which is subject to Japan's support operations to respond to situations that threaten the peace and security

of the international community

- b. Other than (a), resolutions that regard the situations as a threat to peace or a breach of peace and call on UN member states to respond to the situations concerned

(2) Response Measures

The following response measures can be implemented in situations threatening the international peace and security that the international community is collectively addressing.

a. Cooperation and Support Activities

Supplies and services to armed forces of foreign countries (supply, transportation, repair and maintenance, medical services, communications, airport and seaport services, base

KEY WORD

Situations Threatening the International Peace and Security that the International Community Is Collectively Addressing

These refer to situations that threaten peace and security of the international community, and the international community is collectively addressing the situations in accordance with the objectives of the UN Charter to remove the threat; Japan, as a member of the international community, needs to independently and proactively contribute to these activities

²⁹ The official title of the former Anti-Terrorism Special Measures Act is the "Special Measures Law Concerning Measures Taken by Japan in Support of the Activities of Foreign Countries Aiming to Achieve the Purposes of the Charter of the United Nations in Response to the Terrorist Attacks Which Took Place on 11 September 2001 in the United States of America as well as Concerning Humanitarian Measures Based on Relevant Resolutions of the United Nations," and the official title of the Replenishment Support Special Measures Act is the "Special Measures law Concerning Implementation of Replenishment Support Activities towards the Anti-Terrorism Maritime Interdiction Operation."

³⁰ The official title is the Act on Special Measures concerning Humanitarian Relief and Reconstruction Work and Security Assistance in Iraq.

services, lodging, storage, use of facilities, training services and construction) are to be provided.

While the provision of weapons is not included as in the Law Concerning Measures to Ensure the Peace and Security of Japan in Situations that Will Have an Important Influence on Japan's Peace and Security, the revised law now allows the "provision of ammunition" and "refueling and maintenance of aircraft ready to take off for combat operations."

b. Search and Rescue Activities

c. Ship Inspection Operations (Those Set Forth in the Ship Inspection Operations Law)

Ship inspection operations were only permitted to be performed in situations in areas surrounding Japan.³¹ However, in light of the increased cases of maritime inspection as countermeasures against global threat such as the transnational transfer of weapons of mass destruction and weapons for international terrorism organizations in the international community since 2000, which is when the Ship Inspection Operations Act was enacted, the SDF can carry out ship inspection operations in situations threatening the international peace and security that the international community is collectively addressing as defined in the International Peace Act.

(3) Measures to Avoid Integration with the Use of Force

The following measures are set forth in order to avoid integration with the use of force by a foreign country and also to ensure the safety of SDF personnel:

- Japan does not implement support activities in the scene where a combat is actually taking place. However, when the personnel having been stranded have already been found and rescue operations have commenced, the SDF units are allowed to continue search and rescue activities concerning them as long as the safety of these units is ensured.
- The commanding officers of the SDF units, etc., order a temporary suspension of support activities 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.

(4) Diet Approval

Prior Diet approval required without exception, and each house of the Diet has an obligation to make efforts towards decisions within 7 days (excluding any period when the Diet is in recess). In addition, re-approval is required in the case of a lapse of more than two years since the commencement of the response measures.

(5) Authority for the Use of Weapons

SDF personnel engaged in cooperation support activities or search and rescue activities in a situation threatening the international peace and security that the international community is collectively addressing are permitted the so-called "right to use weapons of self-preservation type." In addition, SDF personnel are permitted to use weapons with members of the armed forces and other organizations of foreign countries in order to protect the lives and bodies of those stationed in the camps.

2 International Peace Cooperation Activities

The International Peace Cooperation Act, enacted in 1992, set forth a framework to operate appropriately and quickly in the following three operation categories namely UN Peace Keeping Operations (PKO), International Humanitarian Relief Operations, and International Election Observation Operations, and urged the Japanese government to take measures to provide contributions in kind for those operations, thereby enabling Japan to actively contribute to international peace efforts centering upon the UN. The law also stipulates a set of basic guidelines, or the so-called "Five Principles for PKO Participation" for Japan's participation in these activities.

At the time of the enactment of the Act, it was assumed that Japan was to cooperate with the ceasefire monitoring in conventional conflicts between states within the framework of UN PKO under the control of the UN. However, the nature of conflicts that the international community faces has transformed into intra-state conflicts or a combination of inter-state and intra-state conflicts. Therefore, support for the nation building of state parties to conflict and the creation of a safe environment necessary to achieve this end have become important tasks in international peace cooperation activities. Furthermore, there is a wide range of international peace cooperation activities that have come to be implemented outside of the UN frameworks.³²

³¹ At the time when the Ship Inspection Operations Law was enacted, the conduct of ship inspection operations in situations other than situations in areas surrounding Japan was positioned as a separate issue on the agenda (an answer given by then Minister for Foreign Affairs Kono at a meeting of the House of Councillors Committee on Foreign Affairs and Defense on November 28, 2000).

³² These activities include the Aceh Monitoring Mission (AMM), implemented at the request of the European Union, and the Regional Assistance Mission to Solomon Islands (RAMSI), implemented at the request of the countries to which the area where those operations are to be conducted belongs with the support of the UN Secretary-General.

Given the diversification and qualitative change of the international peace cooperation activities, through the recent legal revision, Japan, in order to contribute further to peace and stability of international community under the policy of “Proactive Contribution to Peace” based on the principle of international cooperation, has expanded the scope of tasks that can be implemented in UN PKO and reviewed the authority to use weapons, and also introduced new provisions to allow for active participation in humanitarian and reconstruction assistance, safety-ensuring, and other non-UN-led operations (“Internationally Coordinated Operations for Peace and Security”).

(1) Requirements for Participation

a. UN PKO

While maintaining the framework of the Five Principles for Participation, the new law stipulates that the consent of acceptance of countries to which the areas where these operations are conducted belong needs to be recognized as being stably maintained throughout the period of the operations if the SDF conducts so-called “safety-ensuring” operations or so-called “kaketsuke-keigo” operations.

b. Internationally Coordinated Operations for Peace and Security

Besides the existing three types of operations (UN PKO, International Humanitarian Relief Operations, and International Election Observation Operations), Japan is now

KEY WORD

So-called “Five Principles for Participation” in PKO

(1) Agreements on a ceasefire shall have been reached among the Parties to Armed Conflict; (2) Consent for the conduct of UN PKO as well as Japan's participation in such operations shall have been obtained from the countries to which the areas where those operations are to be conducted belongs as well as from the Parties to Armed Conflict; (3) The operations shall strictly maintain impartiality, and not favor any of the parties to the armed conflict; (4) Should any of the requirements in the above-mentioned guideline cease to be satisfied, the International Peace Cooperation Corps may terminate the International Peace Cooperation Assignments; and (5) The use of weapons shall be limited to the minimum necessity for the protection of the lives of personnel dispatched, in principle. Following the latest amendment of the Act, additional condition, “when the consent for acceptance is deemed to be consistently maintained, the use of weapons in defense of the mission mandate is allowed for implementation of so-called ‘safety-ensuring’ operations and the so-called ‘kaketsuke-keigo’ (coming to protection of individuals related to operations in response to urgent request) operations as the use of weapons beyond self-preservation and Article 95 of the SDF Law (the use of force for protection of weapons, etc.)” has been added to (5) of the Five Principles for Participation.

able to participate in Internationally Coordinated Operations for Peace and Security, when any of the following conditions

is satisfied, in addition to the fulfillment of the Five Principles for Participation.

1. Based on resolutions of the General Assembly, the Security Council, or the Economic and Social Council of the UN
2. At the requests of any of the following international organizations:
 - The UN
 - Organs established by the UN General Assembly or Specialized Agencies, Funds and Programmes of the UN such as the Office of the UN High Commissioner for Refugees or otherwise specified by a Cabinet Order
 - Regional organizations, as prescribed in Article 52 of the UN Charter or organs established by multilateral treaties, acknowledged as having the actual achievements or expertise pertaining to the activities of Internationally Coordinated Operations for Peace and Security such as the European Union or otherwise specified by a Cabinet Order
3. At the requests of the countries to which the areas where those operations are to be conducted belong (limited to only those cases that are supported by any of the principal organs of the UN as prescribed in Article 7 (1) of the UN Charter).

(2) Description of Tasks

In addition to ceasefire monitoring and humanitarian relief operations for afflicted persons, the following tasks have been added and expanded to tasks in UN PKO, etc.

- Addition of monitoring, stationing, patrol, inspections at checkpoints and security escort for the protection of safety of specified areas including prevention and suppression of injury or harm against lives, bodies and property of local population, afflicted persons and other populations requiring protection (so-called “safety-ensuring” operations)
- Addition of protection of lives and bodies of individuals engaging in international peace cooperation operations or providing support for those operations, in response to urgent requests when unexpected dangers to lives or bodies of such individuals related to operations occur or are imminent (so-called “kaketsuke-keigo” operations)
- Expansion of tasks such as provision of advice or guidance related to works for the purpose of assisting in establishing or re-establishing organizations of the Government relating to national defense or other organizations
- Expansion of tasks conducted at organizations for supervision and coordination of tasks to include planning, drafting, coordination or collection and updating of information in Headquarters Office or coordination offices conducting UN PKO and Internationally Coordinated Operations for Peace and Security, for the implementation

of tasks (of mission headquarters' operations)

(3) Authority to Use Weapons

a. Expansion of the Authority to Use Weapons for Self-Preservation (Joint Protection of Camps)

Camps of UN PKO, etc., are the bases where personnel of participating countries spend their time when not conducting operations outside camps, and the last bastion, so to speak, to secure the safety of lives and bodies of those inside. Thus, in the case of unexpected situations, such as attacks against camps, it is essential for SDF personnel stationed in the camps, even if they are not the direct target of such attacks, to coordinate with the personnel of other countries and protect each other and deal with the common danger. In light of this, the use of weapons for the purpose of protecting individuals jointly stationed in the camps are allowed as the use of weapons for self-preservation according to the revised legislation.³³

b. The Authority to Use Weapons in the So-Called “Kaketsuke-Keigo” Operations

In carrying out so-called “kaketsuke-keigo” operations, uniformed SDF personnel are permitted to use weapons to the extent judged reasonably necessary according to the circumstances, when reasonable grounds are found for the unavoidable necessity to protect the lives or bodies of themselves or individuals related to operations that they intend to protect (however, inflicting injury on a person is permitted only in the cases of legitimate self-defense or aversion of clear and present danger).

c. The Authority to Use Weapons for So-Called “Safety-Ensuring” Operations

In carrying out so-called “safety-ensuring” operations, uniformed SDF personnel are permitted to use weapons within the limits judged reasonably necessary according to the circumstances, when reasonable grounds are found for the unavoidable necessity to protect the lives, bodies or properties of themselves or other individuals, or to eliminate obstructive behavior for their duties (however, inflicting injury on a person is permitted only in the cases of legitimate self-defense or aversion of clear and present danger).

(4) Diet Approval

Diet approval is necessary prior to the commencement of so-

called “safety-ensuring” operations, in addition to ceasefire monitoring, in principle (ex-post facto approval is permitted when the Diet is in recess or the House of Representatives is dissolved).

(5) Ensuring the Safety of SDF Personnel

The provision for ensuring the safety of the personnel of the International Peace Cooperation Corps was added, while the measures for ensuring the safety of the personnel were incorporated into the matters to be stipulated in the Implementation Procedures.

(6) Other Key Points of Amendment

- Dispatch of uniformed SDF personnel to the UN (dispatch of Force Commanders of UN PKO)

The Act was amended to make it possible to dispatch uniformed SDF personnel and have them engage in the tasks of the UN and those concerning overall management of tasks implemented by units of the SDF, etc., or units of armed forces of foreign states participating in UN PKO, at the request of the UN, with the consent of the Prime Minister.³⁴

- Provision of supplies and services to the Armed Forces of the United States, etc., for their operations to cope with large-scale disaster³⁵

The Act was amended to make it possible for the SDF to provide the U.S. Forces or the Australian Defence Force with supplies or services when they request the provision and are located in the area together with the units of the SDF, etc., and is undertaking operations to cope with large-scale disasters, so far as it does not hinder the performance of International Peace Cooperation Assignments, etc., of the SDF.³⁶

3 International Disaster Relief Operations

When large-scale disasters occur in regions overseas, especially in less-developed regions, and the governments of the affected countries or international organizations request assistance, the Minister of Foreign Affairs shall consult with the chief of relevant administrative agencies including the Ministry of Defense as well as the National Public Safety Commission regarding the details of such request if dispatch is deemed appropriate.

Following such consultation, the Ministry of Foreign

³³ The authority to use weapons for self-preservation is allowed in view of the existence of particular circumstances, whereby armed personnel, who protect camps which are the last bastions of safety, are in the relationship of mutually dependent upon each other in dealing with situations.

³⁴ The dispatch of uniformed SDF personnel is limited to cases where the consent of the countries hosting the UN PKO for which the dispatched uniformed SDF personnel will conduct operations and of state parties to the conflict regarding the implementation of the UN PKO (when the state parties to the conflict are nonexistent, the consent of the countries where the UN PKO is to be conducted) is deemed to be stably maintained throughout the duration of the dispatch and where circumstances that lead to the suspension of the dispatch are deemed unlikely to occur.

³⁵ The MOD/SDF participated in the United Nations Stabilization Mission in Haiti (MINUSTAH) following the major earthquake that struck Haiti in 2010, but was unable to provide supplies and services to the U.S. Forces engaged in disaster relief operations in Haiti outside the framework of UN PKO, due to the absence of necessary domestic legislation.

³⁶ The revision of the International Peace Cooperation Act in June 2017 added the Armed Forces of the U.K. to the scope as well.

Affairs may consult with the Minister of Defense to ask for cooperation with regard to operations of SDF units if there is a special need.

The Minister of Defense can order units of the SDF to carry out rescue and medical activities as well as transportation of personnel and supplies based on the consultation above.³⁷

6 Other Amendments in the Development of the Legislation for Peace and Security

1 Revision of the Act for the Establishment of the National Security Council

Responses to a Survival-Threatening Situation and responses to situations threatening the international peace and security that the international community is collectively addressing were added as the items for deliberation, and items for deliberation regarding “situations in areas surrounding Japan” were changed to items for deliberation regarding “situations that will have an important influence on Japan’s peace and security.” Furthermore, the following items (all items are related to the stable maintenance of the consent of acceptance of hosting countries) were specified as the items that the National Security Council must deliberate without fail.

- Regarding international peace cooperation operations, decisions on and changes in plans for the implementation related to the implementation of the so-called safety-ensuring operations or the so-called “kaketsuke-keigo” 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 UN PKO

- Implementation of rescue, including guarding, of Japanese nationals overseas and others

Q See Part II, Chapter 1, Section 3-1 (National Security Council)

2 Establishment of Provisions for the Punishment of Those who Commit Crimes Overseas

Since the duties of the SDF overseas are to be expanded under the latest legal revisions, it is necessary to more adequately ensure the discipline and control of the activities of the SDF overseas.

For this reason, provisions were established for the punishment of those who commit crimes overseas such as the following: (1) Colluded defiance of superiors’ official orders and unlawful command of units, and (2) defiance of and disobedience to superiors’ orders by those given defense operation orders.

³⁷ The Japan Disaster Relief Team is not to be dispatched if the use of weapons is recognized to be necessary in order to protect the lives and bodies of people engaged in international disaster relief operations or transport, and equipment necessary for such operations due to apparent danger in accordance with the level of security in the disaster-affected country. Therefore, members of the team will not carry weapons in the country concerned for the purpose of protecting the lives and bodies of people engaged in international disaster relief operations and equipment necessary for such operations.



Duties of the Self Defense Forces

The Ministry of Defense and Self Defense Forces are national administrative entities and obviously require a legal basis in carrying out their respective duties. The Act for Establishment of the Ministry of Defense defines the administrative scope of the Ministry of Defense, and Article 5 of the Act states that the Self Defense Forces Law determines the duties, actions, and authority of the Self Defense Forces. The Self Defense Forces Law provides a list (similar to an index) of what the Self Defense Forces are allowed to do in accordance with specified procedures to address various situations.

Article 3 in the Self Defense Forces Law divides the duties of the Self Defense Forces into main duties (item 1 of the same article) and secondary duties (items 1 and 2 of the same article). Defense actions to defend Japan correspond to main duties, and only the Self Defense Forces carry out these duties.

Secondary duties consist of “duties for maintaining public order as necessary” (secondary duties under item 1) and duties defined by other laws “to an extent that does not interfere with performance of the main duties” (secondary duties under item 2). The former includes public order actions that police entities cannot handle alone, maritime guarding actions, measures to destroy ballistic missiles and other weapons, and measures to deal with airspace intrusions. The latter covers actions conducted in response to important impact situations (logistical assistance), international peace cooperation activities (international peace cooperation operations and international disaster relief operations), and activities related to international peace joint action situations (cooperative assistance, etc.). These main and secondary duties are jointly known as “inherent duties.”

Activities handled by the Self Defense Forces on the basis that it is appropriate to utilize skills, experience, and organizational functions cultivated by the Self Defense Forces over many years are known as “additional duties” (separate from inherent duties). These include transportation for national guests, education and training consignments, and cooperation with athletic events.

