

Situations in Areas Surrounding Japan

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1. Reformation of The Japan Self Defense Forces

At present, there are no legal actions such as military laws, military court and military jail in the Japan Self Defense Forces (JSDF) and legal measures against military disciplinary infractions such as desertion in the face of the enemy would be “Up to 7 Years of in the jail or imprisonment” under prescription in article 123 of the Self-Defense Forces Law. Although this article will be applied to the personnel who would be called out under the situation of defensive mobilization, they will be able to resign their posts voluntarily before the declaration of defensive mobilization.

This law system stems from the birth of the JSDF not as a “National Military Reserve” but as a “National Police Reserve”. As the mission of police is crackdown on domestic criminals, the SDF as their reserve power has not any world’s common military culture. First, there is no prescription about “national obligation for national defense” in the Constitution of Japan. Second, as it was intended that the SDF was established as the reserve of police, the standard for “the use of weapons” is also refrained rather lower than police. Under these conditions as a matter of fact, the SDF had to be sent for Iraqi reconstruction assistance.

In addition, the Prime Minister of Japan has no “specified command authority” in an emergency. For example, the Prime Minister does not have basic authorities as a national leader to limit public rights or freedom with the declaration of “martial law” or “emergency”. Beyond that, Japanese legal system does not assume completely the performance of “declaration of war” as a state and “order of the start of the war” under the name of a state which are all recognized in the world.

When the bills on war contingencies were legislated last year, the legal system which enable the Prime Minister of Japan, as a authority of administrative management, to limit a part of private rights was established for the first time after the World War II. These movements have been inspired and derived inductively from the

establishment of “The Law Concerning Measures to Ensure the Peace and Security of Japan Situation in Areas surrounding Japan” and are just a step towards the path to be so called “Ordinary State”, and the final path is revision of the Constitution itself. It is a popular belief in the world that such works are performed deductively, but in Japan it has been proceeded inductively for the first time 60 years after the World War II. Therefore, I would point out Chinese criticism that these movements witness “Revival of Militarism” in Japan is absolutely a mistake.

2. The Law Concerning Measures to Ensure the Peace and Security of Japan in Situations in Areas Surrounding Japan

Japan has to date striven to guarantee its peace and security and defend against foreign invasion by building the minimum necessary basic defense force as an independent state pursuant to the spirit of its Constitution, and has done so on the basis of the Japan-U.S. Security Arrangement. That is, Japan owes the prosperity and development it has enjoyed since the end of World War II to the wisdom and hard work of its people in addition to the fact that Japan has respected freedom, democracy and human rights, chosen its own path as a democratic member of the free world while restoring its independence since the end of World War II, and opted for an alliance with the United States by concluding the Japan-U.S. Security Treaty.

To this end, Japan has opted to continue its bilateral alliance with the United States which possesses immense military power, and shares with Japan the basic value and ideals of democracy, respect of freedom and human right, as well as strong economic ties. Making the deterrent power that the alliance provides work effectively in the interest of its own security will allow Japan, in combination with the maintenance of its own appropriate level of defense, to build a watertight system of defense to guarantee its continued security.

Article 5 of the Japan-U.S. Security Treaty provides that the two countries will take joint action in the event of an Armed Attack on Japan. The U.S. obligation to defend Japan means that those who attempt any Armed Attack on Japan would have to contend not only with the SDF but also the overwhelming military power of the United States. This would surely make potential aggressors think twice about invading Japan, and thereby acts as a deterrent to any such invasion.

The Japan-U.S. Security Treaty deals primarily with the area of security, but at the same time forms the basis for friendly relations between the two countries in a broad spectrum of areas not limited purely to defense but also politics, economies and society. Adding to these facts, U.S. forces are granted the use of facilities and areas in Japan for the purpose of contributing to the security of Japan as well as international peace and security in the Far East Asia, and the United States stations its troops in Japan under Article 6 of the Japan-U.S. Security Treaty.

The close relationship between Japan and the United States, founded on the Japan-U.S. Security Arrangement outlined above, forms the basis for securing the engagement of the United States and the deployment of U.S. forces necessary for the peace and stability of the region surrounding Japan. Together with alliance and friendly relations between the United States and other countries of this region, the Japan-U.S. partnership continues to play a key role in securing the peace and stability of the region in the post-Cold War era. The cooperative Japan-U.S. partnership, founded on the Japan-U.S. Security arrangements, constitutes the basis for Japan's foreign policy and helps Japan play a positive role in maintaining the peace and stability of international community, including the promotion of multilateral security dialogues and cooperation in U.N. activities.

But as mentioned above, Japan has made the big mistake when establishing the SDF. Japanese Government did not pay any attention to introduce, what we call, "the international common sense" of the military basic principles when establishing the SDF. This was the first and most important step to have called back Japan, what we call, "the Ordinary State", but Japan and the United States announced the Japan-U.S. Joint Declaration on Security, which the direction of bilateral cooperation for the 21st century, at the Japan-U.S. summit meeting in Tokyo in April of 1996.

The Joint Declaration recognizes that there still remain some instabilities and uncertainties in the Asia-Pacific region, and reconfirms that the bilateral security relationship based on the Japan-U.S. Security Treaty will continue to be the cornerstone for maintaining stability and prosperity in the region. The Joint Declaration also sums up cooperative measures in specific areas like as reviewing the Guidelines for Japan-U.S. Defense Cooperation and furthering policy coordination for studies on bilateral cooperation in dealing with "situations in areas surrounding Japan" that will have an important influence on Japan's peace and security.

Following the reaffirmation by the Joint Declaration of the role played by the Japan-U.S. partnership for the maintenance of peace and stability in the Asia-Pacific region, Japanese Government enacted the Law Concerning Measures to Ensure the Peace and Security of Japan in Situations in Areas Surrounding Japan, so called SIAS-J, in August 1999 following the newly established “the Guidelines” in September 1997.

In order to above mentioned defense measures and respond to various situations in an appropriate way and ensure Japan’s recurrence to Ordinary State, Japanese Government has strived to establish three legislation bills related to responses to Armed Attacks, including the Law concerning Measures to Ensure National Independence and Security in a Situation of Armed Attack (Law to Respond to Armed Attack Situation) which were enacted in June 2003.

Then following this, as a part of legislation that should be developed based on the framework shown in the Law Respond to Armed Attack Situation, seven bills to respond to Armed Attack Situation included Citizens Protection Bill, U.S. Military Actions Measures Law, Specific Public Facility Use Law and etc, a bill for restriction of marine transportation of foreign military supplies in Armed Attack situation, and a bill to deal with prisoners of war in Armed Attack Situation, and three case on treaty approval were delivered at the 159th ordinary session of the Diet, and enacted and approved on June 14, 2004.

Those bills should be prepared in advance to cope with the emergency situations of Japan, but Japanese Government was very reluctant to sustain such programs by year of 2000. The New Guide Line forced Japan to be a part of Ordinary States, and final goal to be an ordinary state of Japan would be the revision of Japan’s Constitution as mentioned before.

3. Matters for Cooperation Prescribed in the Guidelines

a. Cooperation under Normal Circumstances

Japan will possess defense capability within the scope necessary for self-defense whereas the United States will maintain its nuclear deterrent capability, its forward deployed forces in the Asia-Pacific region, and other forces capable of reinforcing those deployed forces. Both governments, based on their respective policies under normal circumstances will maintain close cooperation for the defense of Japan and for the

creation of a more stable international security environment, and will promote cooperation in various fields under normal circumstances. Such cooperation will include information sharing and policy consultation; security dialogues and defense exchanges; U.N. Peacekeeping Operations and international humanitarian operations; bilateral defense planning and mutual cooperation planning; enhancing joint exercises and training; and establishing a bilateral coordination mechanism.

b. Actions in Response to an Armed Attack against Japan

Bilateral actions in response to an Armed Attack against Japan remain a core aspect of Japan-U.S. defense cooperation. The two Governments will cooperate in the following ways,

- 1) The SDF will primarily conduct defense operations in response to an Armed Attack against Japan, and U.S. forces will conduct operations to supplement and support them.
- 2) The SDF and U.S. forces will conduct effective joint operations of their respective ground, maritime, and air services in a coordinated manner. This will allow them to utilize a role-based strategic concept to respond to air attacks, defend sea areas around Japan, and deal with airborne and seaborne invasions.
- 3) The SDF will have primary responsibility to check and repel guerrilla-commando type attacks or any other unconventional attacks at the earliest possible stage, receiving appropriate support from U.S. forces, depending upon the situation. The SDF and U.S. forces will cooperate and coordinate closely to respond to a ballistic missile attack. U.S. forces will consider, as necessary, the use of units having strike power.

c. In case of the Situations in Areas Surrounding Japan (SIAS-J)

The Government of Japan will appropriately and promptly take the measures necessary to address situations in areas surrounding Japan and thereby ensure the peace and security of Japan. But these measures must not constitute a threat or use of forces. And the Prime Minister, representing the cabinet, will supervise and control relevant governmental agencies in taking measures in accordance with the basic plan. The heads of relevant governmental agencies will mutually cooperate to implement these measures.

1) Basic Plan

When the Prime Minister deems it necessary for the SDF to provide supplies and

services as rear area support, rear area search and rescue activities, or ship inspection operations, the Prime Minister must request a cabinet decision on such provisions and on the draft of a basic plan for implementation. Specifically, the basic plan will provide for the basic policy regarding the measures to be implemented by the Government, basic matters and range of activities to be conducted by the SDF, measures to be taken by relevant governmental agencies, and requests for cooperation to be made to local governments.

2) Diet Approval

The Prime Minister must obtain prior approval from the diet in order for the SDF to conduct rear area support, rear area search and rescue activities, or ship inspection operations.

3) Rear Area Support and Rear Area Search and Rescue Activities by the SDF

In accordance with the basic plan, the Minister of State for defense will draw up an implementation outline (regarding designation of areas, etc.), obtain approval for the outline from the Prime Minister, and give the SDF orders to conduct rear area support and rear area search and rescue activities.

4) Implementation of Measures by Relevant Governmental Agencies

The heads of relevant governmental agencies will implement measures with relevant laws and the basic plan.

5) Cooperation from non-central government bodies

Heads of relevant governmental agencies may request the heads of local governments to provide the necessary cooperation for the agencies to exercise their authorities in accordance with relevant laws and regulations and basic plan. They may also request necessary cooperation to other non-governmental bodies in accordance with relevant laws and regulations and the basic plan.

6) Report to the Diet

The Prime Minister must report the following matters to the Diet without delay as follows. a) When there has been a decision or a revision concerning the basic plan or its contents. b) When measures prescribed in the basic plan have been completed, what the results of these measures are.

7) Use of Weapons

In the following situations, the SDF personnel may use weapons in case where it is deemed unavoidable in order to protect themselves or those working with them, limited to the use of weapons that is reasonably necessary according to the situation. It is not permissible to harm people by the use of weapons, unless it meets the conditions of legitimate self-defense or act of necessity such as a) Conducting rear area support, b) Conducting rear area search and rescue activities, and c) Conducting ship inspection operations aboard a ship.

4. Relevant supports in case of SIAS-J

a. Rear Area Support

Rear area support is given by Japan 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, which includes the provision of goods, service, and conveniences. The SDF provides goods and services as rear area support regarding the following items such as supplies, transportation, repair, maintenance, medical services, communications, port and harbor activities and base activities.

b. Rear Area Search and Rescue Activities

Rear area search and rescue activities (including the transport of those rescued) are conducted by Japan in rear areas in the event that participants go missing during combat operations conducted in situations in areas surrounding Japan. In the event that noncombatants go missing, they will be searched and saved as well. Also, if there are any casualties in the territorial waters of a foreign country adjacent to the area in which the SDF is conducting activities, the SDF will also rescue such casualties, after obtaining approval from that foreign country, limited to cases in which there are and will be no combat operations conducted in the waters throughout the period during which the SDF is conducting activities. The SDF units, in conducting rear area search and rescue activities, can provide their goods and services to U.S. forces engaged in the activities equivalent to rear area search and rescue activities.

c. Ship Inspection Operations

Ship inspection operations are the operations that Japan conducts in its territorial waters in the surrounding high seas (including the EEZ) to inspect and confirm the cargo and destination of ships (excluding warships and others) and to request, if

necessary, a change of route or destination (port or place), based on the resolution of the U.N. Security Council or with the consent of a flag state, with the purpose of ensuring strict implementation of measures regulating trade and other economic activities, in which Japan takes part, in situations in areas surrounding Japan. SDF units, in conducting ship inspection operations, can provide goods and services to U.S. forces engaged in the activities equivalent to ship inspection operation that contribute to the accomplishment of the purposes of the Japan-U.S. Security Treaty.

5. Conclusion

Japan Self Defense Forces still have the many kinds of restrictions in connection with the Collective Self Defense and Use of Weapons as mentioned above. For instance, even in the case of SIAS-J, the SDF can not provide transportation support of U.S. forces weaponries and ammunitions, maintenances and oil refueling for the U.S. forces aircrafts which are about to take off in combat mission. Moreover, SDF can provide medical assistance or actions in the SDF airplanes for injuries only above the territorial air and waters of Japan, and can provide search and rescue missions only inside the rear area, not in the battle areas surrounding Japan. Those kinds of restrictions are quite abnormal to international common sense because that Japan will not use the right of Collective Self Defense as well as the Collective Security. The JSDF have to wait until the Japan's Constitution has to be revised and Japan becomes the Ordinary States.

But in spite those facts, the frameworks concerning the SIAS-J should contribute the defense of Japan in case of an emergency, and would be the upcoming better deterrent measures in the North-East Asia region. Furthermore, the framework of the SIAS-J will also contribute peace and stability in the region of North-East Asia as well as of international community.

Functions and Fields and Examples of Item Cooperation in Situations in Areas Surrounding Japan

Functions and Fields		Examples of Item Cooperation	
Cooperation in activities initiated by either Government	Relief activities and measures to deal with refugees	<ul style="list-style-type: none"> • Transportation of personnel and supplies to the affected area • Medical services, communications and transportation in the affected area • Relief and transfer operations for refugees, and provision of emergency materials to refugees 	
	Search and rescue	<ul style="list-style-type: none"> • Search and rescue operations in Japanese territory and at sea around Japan and information sharing related to such operations 	
	Noncombatant evacuation operations	<ul style="list-style-type: none"> • Information sharing, and communication with and assembly and transportation of noncombatants • Use of SDF facilities and civilian airports and ports by U.S. aircraft and vessels for transportation of noncombatants • Customs, immigration and quarantine of noncombatants upon entry into Japan • Assistance to noncombatants in such matters as temporary accommodations, transportation and medical services in Japan 	
	Activities for ensuring effectiveness of economic sanctions for maintenance of international peace and stability	<ul style="list-style-type: none"> • Inspection of ships based on U.N. Security Council resolutions for ensuring the effectiveness of economic sanctions and activities related to such inspections • Information sharing 	
Japan's support for activities by U.S. forces	Use of facilities	<ul style="list-style-type: none"> • Use of SDF facilities and civilian airports and ports for supplies and other purposes by U.S. aircraft and vessels • Reservation of spaces for loading/unloading of personnel and materials by the U.S. and of storage areas at SDF facilities and civilian airports and ports • Extension of operating hours for SDF facilities and civilian airports and ports for use by U.S. aircraft and vessels • Use of SDF airfields by U.S. aircraft • Provision of training and exercise areas 	
	Rear area support	Supplies	<ul style="list-style-type: none"> • Construction of offices, accommodations, etc., inside U.S. facilities and areas • Provision of materials (except weapons and ammunition) and POL (petroleum, oil and lubricants) to U.S. aircraft and vessels at SDF facilities and civilian airports and ports • Provision of materials (except weapons and ammunition) and POL to U.S. facilities and areas
		Transportation	<ul style="list-style-type: none"> • Land, sea and air transportation of personnel, materials and POL inside Japan • Sea transportation of personnel, materials and POL to U.S. vessels on the high seas • Use of vehicles and cranes for transportation of personnel, materials and POL
		Maintenance	<ul style="list-style-type: none"> • Repair and maintenance of U.S. aircraft, vessels and vehicles • Provision of repair parts • Temporary provision of tools and materials for maintenance
		Medical services	<ul style="list-style-type: none"> • Medical treatment of casualties inside Japan • Transportation of casualties inside Japan • Provision of medical supply
		Security	<ul style="list-style-type: none"> • Security of U.S. facilities and areas • Maritime surveillance around U.S. facilities and areas • Security of transportation routes inside Japan • Information and intelligence sharing
		Communications	<ul style="list-style-type: none"> • Provision of frequencies (including those for satellite communications) and equipment for communications among relevant Japanese and U.S. agencies
		Others	<ul style="list-style-type: none"> • Support for port entry/exit by U.S. vessels • Loading/unloading of materials at SDF facilities and civilian airports and ports • Sewage disposal, water supply, and electricity inside U.S. facilities and areas • Temporary increase of workers at U.S. facilities and areas
Japan-U.S. operational cooperation	Surveillance	<ul style="list-style-type: none"> • Intelligence sharing 	
	Minesweeping	<ul style="list-style-type: none"> • Minesweeping operations in Japanese territory and on the high seas around Japan, and information and intelligence sharing on mines 	
	Sea and airspace management	<ul style="list-style-type: none"> • Maritime traffic coordination in and around Japan in response to increased sea traffic • Air traffic control and airspace management in and around Japan 	

