

## Chapter 4

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# A New Legal Framework for Japan- U.S. Defense Cooperation

On May 24, 1999, the Japanese Diet (parliament) passed, with partial amendments, a set of government-sponsored bills and a Japan-U.S. agreement, designed to ensure effective implementation of the Guidelines for Japan-U.S. Defense Cooperation (the Guidelines legislation for short). The Guidelines legislation consists of the Law Concerning Measures to Ensure the Peace and Security of Japan in Situations in Areas Surrounding Japan (the Law Ensuring Peace and Security in Situations in Areas Surrounding Japan for short), which went into force on August 25, 1999; the Agreement to Amend the Acquisition and Cross-Servicing Agreement, which went into force on September 25, 1999; and the Amendment to Article 100-8 of the Self-Defense Forces Law, which went into force on May 28, 1999. The passage of the Guidelines legislation has put the final touches to the process of building a new framework of cooperation under the Japan-U.S. security arrangements after the end of the Cold War, a process that had been initiated by the Japan-U.S. Joint Declaration on Security of 1996.

With the passage of the Guidelines legislation, it has become possible for Japan to support, under the Japan-U.S. Security Treaty, the activities of the U.S. forces in “situations in areas surrounding Japan that have an important influence on Japan’s peace and security” (situations in areas surrounding Japan), situations short of a direct armed attack on Japan. In coming years, a Japan-U.S. bilateral planning and work for building a “bilateral coordination mechanism,” which are currently under way, will be carried out. Meanwhile, reactions and fears expressed by East Asian countries regarding the new framework of cooperation from the time the Japan-U.S. Joint Declaration on Security was issued and to the passage of the Guidelines legislation suggest the growing importance of promoting bilateral and multilateral security dialogue and cooperation with these countries.

## 1. Circumstances Leading to the Passage of the Bills Related to the Guidelines for Japan-U.S. Defense Cooperation

### (1) Japan-U.S. Joint Declaration on Security

The Japan-U.S. Joint Declaration on Security — Alliance for 21st Century (Joint Declaration on Security for short) issued by the then Prime Minister Ryutaro Hashimoto of Japan and President Bill Clinton of the United States on April 17, 1996, marked the start of a process that culminated in the passage of the Guidelines legislation by the Diet of Japan. The Joint Declaration on Security reaffirmed that the Japan-U.S. security relationship continues to have profound significance even after the end of the Cold War.

Japan and the United States had reviewed their respective security policies in parallel with discussions between the two countries with a view to drawing up a Joint Declaration. In February 1995, the U.S. Defense Department issued a position paper titled United States Security Strategy for the East Asia-Pacific Region (the East Asia Strategy Report, or EASR for short). This report comprehensively explains the strategy of the Clinton administration for dealing with the security of the East Asia-Pacific region, clarifying its basic policy to be reflected in the Joint Declaration. In that report, the United States characterized the U.S. military presence in Asia as an element indispensable to the maintenance of peace and stability of the region, and confirmed its policy of maintaining some 100,000 military personnel in the Asia-Pacific region. It also characterized the Japan-U.S. security relationship as “the most important bilateral alliance,” and confirmed that it remains “the linchpin” of its security strategy in Asia even after the end of the Cold War.

For its part, the Japanese government formulated and adopted by a Cabinet decision a policy titled “National Defense Program Outline in and after FY1996” (the current NDPO for short) in November 1995. The current NDPO supersedes the former NDPO

formulated in 1976 when the Cold War was at its height, and reflects changes in the international situation since the end of the Cold War. The current NDPO emphasizes the significance of the Japan-U.S. security arrangements in the post-Cold War world, by stating that the arrangements are indispensable to the security of Japan, and will continue to play a key role in achieving peace and stability in the surrounding region of Japan, and in building a more stable security environment. It also states that it is important to make an earnest effort with these in mind to take concrete steps to strengthen cooperation between the two countries in order to enhance the credibility of the Japan-U.S. security arrangements and to make the security arrangements work more effectively. In addition to the national defense, the current NDPO lists as the main mission of the Self-Defense Forces: response to large-scale disasters and various other situations (including those that are likely to have an important influence on the peace and security of Japan); and contribution to creating a more stable security environment.

The 1996 Joint Declaration on Security reflects results of bilateral consultation that had been continued for more than a year in parallel with policy reviews each had conducted, on what the Japan-U.S. security arrangements should do in the post-Cold War era. In the declaration, they reaffirmed that the Japan-U.S. security arrangements remained the cornerstone for maintaining a stable and prosperous environment for the Asia-Pacific region in the years to the 21st century. Having said that, the two countries agreed that the United States would maintain approximately 100,000 military personnel in the Asia-Pacific region and that Japan would review the Guidelines for Japan-U.S. Defense Cooperation of 1978.

It may be said that the declaration specifically defined the role each country should play in strengthening the security cooperation, the bedrock of the cooperative relationship between the two countries, and expressed their will to further deepen their security cooperation. The significance of the Joint Declaration on Security lies in

the fact (1) that it represents efforts of the two countries to adapt themselves to changes occurring in the security environment of the region after the end of the Cold War, and (2) that they reaffirmed their commitment to maintaining through such activities the basic framework of defense cooperation that had been formed during the Cold War years. In other words, they confirmed their policy to strengthen the relationship of security cooperation between the two countries in dealing with a “situation in areas surrounding Japan,” by stressing the role played by the Japan-U.S. security arrangements in maintaining peace and stability of the Asia-Pacific region in response to the new security environment that emerged after the end of the Cold War and by revising the Guidelines. On the other hand, the two countries have confirmed that they will maintain the basic framework of division of roles agreed to under the Japan-U.S. security arrangements. The Joint Declaration on Security has thus marked the start of a three-year process that started with the review of the Guidelines and led to the enactment of the Guidelines legislation.

## **(2) Review of the Guidelines for Japan-U.S. Defense Cooperation**

It was in 1978 — when the Cold War was at its height — that the first Guidelines for Japan-U.S. Defense Cooperation were formulated. The 1978 Guidelines covered three areas: the posture for deterring aggression (cooperation in peacetime), actions in response to an armed attack against Japan (an armed attack on Japan), and Japan-U.S. cooperation in case of situations in the Far East outside of Japan which will have an important influence on the security of Japan (an emergency in the Far East). The central objective of the 1978 Guidelines was the formulation of a policy for joint actions to be taken by Japan and the United States in case of an armed attack on Japan. During the Cold War years, the two countries in fact attached little importance to the possibility of military cooperation between them in case of an “emergency in the Far

East,” and the security environment that had existed in these years permitted the lack of such cooperation. During the Cold War years, the United States wanted Japan to strengthen its self-defense capabilities and expected Japan to play the role as “a formidable defense shield challenging Soviet access to the Pacific.”

The review of the 1978 Guidelines carried out pursuant to the 1996 Joint Declaration on Security focused on spelling out specific actions to be taken in cooperation with one another in case of “situations in areas surrounding Japan that will have an important influence on the peace and security of Japan,” as termed in the current NDPO — an area that had been made light of during the Cold War years. The governments of Japan and the United States started work on reviewing the Guidelines in June 7, 1996. The work was carried out in line with the basic principles (1) that the rights and obligations under the Japan-U.S. Treaty of Mutual Cooperation and Security and its related arrangements will remain unchanged, (2) that the fundamental framework of the Japan-U.S. alliance will not be changed, and (3) that Japan will conduct all its actions within the limitations of its Constitution. Conclusions of the review were first released in the form of an interim report in June 1997 and then as a final report on September 23, 1997. During the interim, Japan and the United States had exercised due care to promote a full understanding on the part of neighboring countries about the significance and the aim of the Guidelines review by holding security dialogue on repeated occasions with the regional countries, including China and South Korea.

The new Guidelines show the general framework and direction of how the two countries should cooperate in three areas, namely, (1) cooperation under normal circumstances, (2) actions taken in case of an armed attack against Japan and (3) cooperation extended in situations in areas surrounding Japan that will have an important influence on the peace and security of Japan. Where “cooperation under normal circumstances” (an area newly added to the Guidelines) is concerned, the 1997 Guidelines stress the necessity

of close cooperation between Japan and the United States under normal circumstances for creating a more stable, international security environment as well as for the defense of Japan. “Actions in response to an armed attack against Japan” are, as in the 1978 Guidelines, character-



**A supply ship of the U.S. Navy supplying goods to a destroyer of the Maritime Self-Defense Force of Japan**

ized as the core aspect of Japan-U.S. defense cooperation.

The 1997 Guidelines divide cooperation in “situations in areas surrounding Japan” into three areas: (1) cooperation in activities initiated by either government, (2) Japan’s support for the U.S. forces activities and (3) Japan-U.S. operational cooperation. In its annex, the new Guidelines list 40 specific items of cooperation to be extended in case of a situation in areas surrounding Japan. This has clarified the scope within which the Self-Defense Forces of Japan can cooperate with the U.S. Forces in a situation in areas surrounding Japan. The new Guidelines also describes the bilateral work of planning and establishment of a “bilateral coordination mechanism” between Japan and the United States, which are currently under way for the purpose of promoting effective bilateral defense cooperation.

With a view to ensuring an effective implementation of the new Guidelines, in April 1998 the Japanese government submitted to the Diet a Bill Concerning Measures to Ensure the Peace and Security of Japan in Situations in Areas Surrounding Japan, a Japan-U.S. Agreement to Amend the Acquisition and Cross-Servicing Agreement, and another bill for amending Article 100-8 of the Self-Defense Forces Law. These bills passed the Diet with

partial amendments in May 1999. And their passage has put the final touches to the process of creating a new bilateral cooperation mechanism within the framework of the post-Cold War Japan-U.S. security arrangements — reaffirmation of the Japan-U.S. security arrangements as the cornerstone of stability and prosperity in the Asia-Pacific region, a review of the Guidelines, and statutory measures to ensure the effective implementation of the Guidelines.

## **2. An Outline of the Guidelines Legislation**

### **(1) Amendments by the Diet to the Guidelines Bills**

The Law Ensuring Peace and Security in Situations in Areas Surrounding Japan forms the core of the Guidelines legislation. The bill for the law submitted by the government underwent several amendments in the course of its deliberation by the Diet, which started in earnest in March 1999.

One of the focal points of debate in the Diet was the meaning of the phrase “situations in areas surrounding Japan that will have an important influence on the peace and security of Japan,” more specifically, the geographic scope of the term and definition of “situation.” The government explained that although the term covers geographical elements, it is not a geographical concept, but one focused on the nature of the situation. Article 6 of the Japan-U.S. Treaty of Mutual Cooperation and Security contains the term “the Far East” as the area in which, as described in the treaty, Japan and the United States “have common concern in maintenance of international peace and security.” According to the standard interpretation of the government, the term covers the general areas north of the Philippines, Japan and its surrounding areas, and includes South Korea and Taiwan. One of the subjects of the debate was the issue of the logical consistency or inconsistency between the concept of the “situations in areas surrounding Japan” that the government expressed, and the government’s standard interpretation of the geographical scope covered by the term “the Far East.”

In addition, China was nervous about whether Taiwan was included in the scope of Japan-U.S. defense cooperation in the situations in areas surrounding Japan.

In the course of its proceeding, the Diet inserted next to the phrase “situations in areas surrounding Japan that will have an important influence on Japan’s peace and security” appearing in Article 1, which sets forth the purpose of the law, the phrase “such as those situations including the one that, if left as what it is, has a potential to develop into a direct armed attack against Japan.” This was meant to explicitly exemplify the situations in areas surrounding Japan in an exceptionally detailed manner. Another phrase “ensuring effective employment of the Japan-U.S. Security Treaty” was added to the same article of the law. This phrase is intended to further clarify that actions Japan will take in response to such a situation pursuant to the Law Ensuring Peace and Security in Situations in Areas Surrounding Japan will be within the framework of the purposes of the Japan-U.S. Treaty of Mutual Cooperation and Security.

What, then, are “situations in areas surrounding Japan”? On this question, the Japanese government has been saying that as “the situation” has to be judged by comprehensively taking into account the scope and the nature of the situation, it cannot describe it specifically ahead of the occurrence of such a situation. However, in the course of Diet deliberation, the government presented the following six types as typical examples of such situations.

The first type is a case where armed conflict is imminent in an area surrounding Japan and, if it occurred, would have an important influence on the peace and security of Japan. The second type is a case where armed conflict has occurred in an area surrounding Japan and has an important influence on the peace and security of Japan. The third type is a case where although armed conflict that had occurred in an area surrounding Japan has stopped, order has not yet been restored and maintained in the area, and its situation continues to have an important influence on the peace and security

of Japan. The fourth type is a case where an insurrection or a civil war has broken out in a country and the strife is not contained within the country as a domestic development but has taken on the characteristics of an international problem, and has an important influence on the peace and security of Japan. The fifth type is a case where political turmoil in a country has escalated to such an extent that a large number of refugees are likely to flow into Japan and create a situation that has an important influence on the peace and security of Japan. And the sixth type is a case where acts of a country are determined by the U.N. Security Council to be a threat to, or a breach of, the peace, or an act of aggression, and the country becomes the subject of economic sanctions by virtue of a U.N. Security Council resolution, and when the situation has an important influence on the peace and security of Japan.

In any event, “situations in areas surrounding Japan” refer to those which have an important influence on the peace and security of Japan. As the question as to whether a particular situation falls within the purview of “situations in areas surrounding Japan” is determined according to the scale or the form of such a situation, it would be impossible to define the geographical areas within which such a situation could develop.

Another focal point of deliberation at the Diet had to do with activities, particularly, ship inspection operations, to be performed by the Self-Defense Forces (SDF) in “situations in areas surrounding Japan.” The original government-sponsored bill of the law sought to have the SDF conduct ship inspection operations, in addition to rear area support and rear area search and rescue activities, in situations in areas surrounding Japan. In a situation envisaged as the sixth type, inspection of vessels is indispensable to increasing the effectiveness of economic sanctions. The original bill would have made possible ship inspection operations by the SDF in a situation in areas surrounding Japan subject to a resolution of the U.N. Security Council. There were instances in which inspection of vessels had been conducted pursuant to resolutions of the U.N.

Security Council. The inspection was carried out to improve the effectiveness of, the compulsory and comprehensive embargo imposed on Iraq in response to its invasion of Kuwait in August 1990, and a total arms and munitions embargo imposed on the Federal Republic of Yugoslavia (Serbia and Montenegro) in connection with an change in situation in Bosnia and Herzegovina in November 1992. In the Diet, opinions of the Liberal Democratic Party and its coalition partners, the Liberal Party and New Komeito, were divided on the question of making the SDF's ship inspection operations subject to a resolution of the U.N. Security Council and the question regarding warning shots that may be called for in connection with boarding inspection.

The question as to whether actions taken by the SDF in case of a situation in areas surrounding Japan should be made subject to prior approval of the Diet was another focal point of the Diet deliberation. In the end, the Diet decided that activities of rear area support and rear area search and rescue operations, in principle, are subject to prior approval, and that in case of an emergency, subject to an ex post facto approval of the Diet. Also, the prime minister has to report to the Diet the contents of the Basic Plan of response measures to be taken to address the situation whenever they are decided on, whenever changes are made thereof and results of such actions conducted pursuant to the Basic Plan when completed.

The question as to when, where and how SDF personnel can use weapons was an important issue. The law contains provisions dealing with the use of weapons in rear area support as well as rear area search and rescue operations. Article 11 of the law provides that SDF personnel ordered to conduct these activities "may proportionately use weapons when unavoidable necessity is reasonably deemed to exist with respect to the use of weapons to protect lives or bodies of themselves and of those who conduct such activities together with them." The original bill did not have any provision dealing with the use of weapons in rear area support activi-

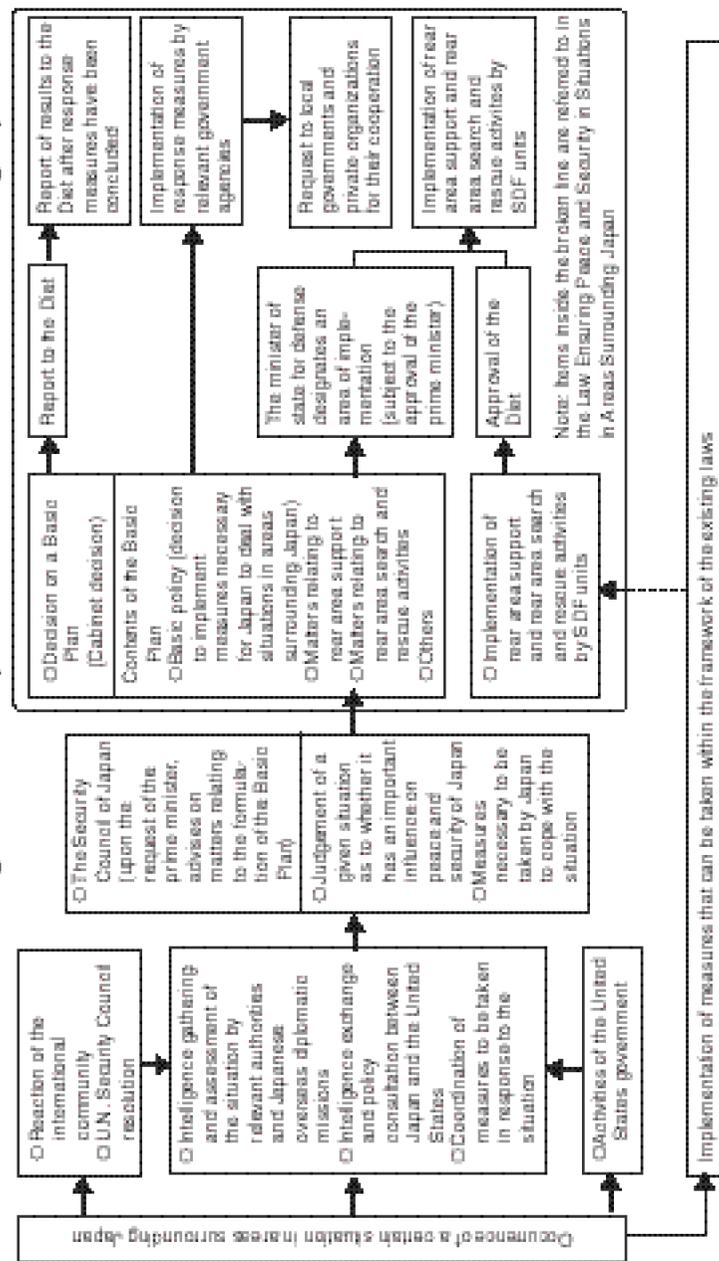
ties. However, the Diet felt that the possibility of an unforeseen event, such as the obstruction of performance of duties by an armed group cannot be completely ruled out. For this reason, the Diet instituted a provision, similar to the one applied to rear area search and rescue operations, in the law. Article 2 of the law provides, as a basic principle of measures taken in response to situations in areas surrounding Japan, that such measures shall not constitute the threat or use of force. However, the minimum use of weapons as prescribed by the provision can be construed as the exercise of a natural right to preserve oneself, and does not constitute the use of force banned by the Constitution.

## **(2) Procedures for Taking Actions in "Situations in Areas Surrounding Japan"**

Then, in what way is the Japanese government supposed to take actions in response to situations in areas surrounding Japan? Whether a given situation is "a situation in areas surrounding Japan" is up to the Japanese government to decide in light of Japan's national interests. Therefore, a situation arising in a given area does not automatically become "a situation in areas surrounding Japan." Even when the U.S. forces intervene in a situation, the Law Ensuring Peace and Security of Japan in Situations in Areas Surrounding Japan is not automatically applied to such a situation. When a situation is deemed to be "a situation in areas surrounding Japan," the prime minister requests a Cabinet decision for implementing measures in response to such situation pursuant to the provisions of the law and for a draft Basic Plan of such response measures. The draft Basic Plan includes a Basic Policy relating to response measures, basic matters relating to activities to be carried out by the Self-Defense Forces (SDF), the scope of geographical areas in which such measures are to be carried out, measures to be taken by relevant government agencies and matters for which the government is to ask local governments for their cooperation.

As noted earlier, in the course of its deliberation of the bills, the

Chart 4-1. Procedures for Taking Actions in Response to a Situation in Areas Surrounding Japan



Source: Defense Agency of Japan, *Basic Defense White Paper* [Tokyo: Ministry of Finance Printing Bureau, 1999], p. 222.

Diet instituted provisions requiring the government, in principle, to obtain prior approval of the Diet for causing the SDF to conduct rear area support and rear area search and rescue operations. However, in case of an emergency, the government may implement such measures without prior approval of the Diet. In such cases, if the Diet disapproves such measures after they are taken, the government must promptly call off such operations. The prime minister has to report to the Diet without delay when the Basic Plan is decided, or its contents altered after its adoption, and the results achieved by response measures upon their conclusion. See Chart 4-1 for procedures of taking actions in response to situations in areas surrounding Japan.

**(3) Measures Taken in Response to “Situations in Areas Surrounding Japan”**

Under the Law Ensuring Peace and Security in Situations in Areas Surrounding Japan, the Self-Defense Forces may carry out rear area support and rear area search and rescue activities in situations in areas surrounding Japan. As defined in Article 3 of the law, the term “rear area” refers to the territory of Japan, and the high seas and the airspace thereabove where combat operations are not being conducted nor deemed to be conducted while such Japanese support is being provided. To prevent activities performed by Japan from becoming an integral part of the use of force by the United States, rear areas are clearly set apart from combat zones or areas in which combat is expected to take place.

“Rear area support” refers to provision of goods and services, facilitative assistance and other support measures Japan conducts in rear area to support the U.S. forces operating in situations in areas surrounding Japan. And the categories of rear area support provided by the Self-Defense Forces (SDF) of Japan are divided into the supply, transportation, repairs and maintenance service, medical service, communications, airport and seaport services, and base support. To make the implementation of such rear area support

possible in situations in areas surrounding Japan, the Japan-U.S. Acquisition and Cross-Servicing Agreement of 1996 was amended. The previous agreement applied only to (1) bilateral exercises and training between the SDF of Japan and the U.S. forces in peacetime and (2) peacekeeping operations of the United Nations or humanitarian relief operations. The recent amendment of the agreement has added “activities to be taken in response to situations in areas surrounding Japan” to the above list of authorized activities and has made it possible for Japan and the United States to reciprocally provide goods and services in situations in areas surrounding Japan. Even in such cases, however, provision of goods under the amended agreement do not include weapons and ammunitions. Likewise, provision of goods and services does not include refueling and maintenance of aircraft being readied for takeoff on combat missions.

Rear area support in situations in areas surrounding Japan includes activities conducted by relevant government agencies. In providing rear area support, the head of a relevant government agency can ask the head of a local government concerned for its cooperation as necessary. The head of the agency can ask also private organizations for their cooperation.

“Rear area search and rescue” activities are those carried out to search and rescue combatants (including their transportation) who went distressed while they were engaged in combat activities in situations in areas surrounding Japan. SDF units operate within designated areas, but when they spot a combatant in distress in the territorial waters of a third country adjoining the designated area, they can carry out rescue operations with the consent of the country. However, even in such cases, they can carry out rescue operations only when no combat actions are — or are expected to be — carried out in such an area while the rescue operations are going on. The SDF will provide, as part of their rear area support activities, goods and services to a unit of the U.S. forces that is engaged in such rescue operations.

Goods and services provided to the U.S. forces by the SDF as part of its rear area support are summed up in Table 4-1. And details of rear area support provided by the SDF to a unit of the U.S. forces engaged in rear area search and rescue operations are shown in Table 4-2.

The Self-Defense Forces Law was partially amended. The amendment added vessels and helicopters carried aboard such vessels, in addition to aircraft, of the SDF to the list of means of transportation that can be used for evacuating Japanese nationals residing or visiting overseas in case of an emergency happening there. Thanks to

**Table 4-1. Goods and Services Provided to the U.S. Forces by the SDF as Part of Rear Area Support (Other Than Those Listed in Table 4-2)**

Category	Description
Supplies	Water, fuel oil and provisions, and goods and services similar thereto
Transportation	Transportation of personnel and goods, transportation equipment, and goods and services similar thereto
Repairs and maintenance	Repairs and maintenance, equipment used for repairs and maintenance, parts and components, and goods and services similar thereto
Medical service	Medical treatment of the sick and wounded, medical supplies, and goods and services similar thereto
Communications	Utilization of communications facilities and provision of communications equipment, and goods and services similar thereto
Airport and seaport services	Support for landing and takeoff of aircraft, entry and exit of vessels, loading and unloading of cargoes, and goods and services similar thereto
Base support	Waste collection and disposal, power supply, and goods and services similar thereto.

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

*Notes:* The term “provision of goods” does not include weapons and ammunitions. The term “provision of goods and services” does not include fuel oil and maintenance of aircraft that are being readied for takeoff on combat missions. Except for the transportation (including medical treatment given to the sick and wounded) carried out on the high seas or in the airspace above them, goods and services will be provided within the territory of Japan.

**Table 4-2. Goods and Services Provided to the U.S. Forces by the SDF as Part of Rear Area Support in Rear Area Search and Rescue Operations**

Category	Description
Supplies	Water, fuel oil, provisions, and goods and services similar thereto
Transportation	Transportation of personnel and goods, transportation equipment, and goods and services similar thereto
Repairs and maintenance	Repairs and maintenance, equipment used for repairs and maintenance, parts and components, and goods and services similar thereto
Medical treatment	Medical treatment of the sick and wounded, medical supplies, and goods and services similar thereto
Communications	Utilization of communications facilities, provision of communications equipment, and goods and services similar thereto
Billeting	Utilization of billet facilities, provision of bedding, and goods and services similar thereto
Sterilization	Sterilization, sterilization equipment and goods and services similar thereto

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

*Notes:* The term "provision of goods" does not include weapons and ammunitions. The term "provision of goods and services" does not include fuel oil and maintenance for aircraft that are being readied for takeoff on combat missions.

the amendment, capability to conduct such transportation operations has been strengthened. At the same time, additional provisions were instituted in the law, authorizing the use of weapons to defend, during emergency evacuation, the SDF personnel and Japanese nationals who are under their protection as is the case with rear area support and rear area search and rescue operations.

#### (4) Significance and Agendas Ahead

The Law Ensuring Peace and Security in Situations in Areas Surrounding Japan that forms the core of the Guidelines legislation is the third law, after the Defense Agency Establishment Law and the Self-Defense Forces Law, that is under the jurisdiction of the Defense Agency and prescribes operations of the Self-Defense

Forces (SDF). This is a statutory framework designed to ensure smooth and effective employment of the Japan-U.S. security arrangements in case of "a situation in areas surrounding Japan that has an important influence on the peace and safety of Japan" as set forth in the current NDPO, and to make sure that the situation be adequately dealt with.

By prescribing the performance of rear area support and rear area search and rescue activities by the SDF in situations in areas surrounding Japan in the Self-Defense Forces Law, the linkage between the Self-Defense Forces Law and the Japan-U.S. Security Treaty has been established. It made possible for the SDF to provide rear area support to the U.S. forces operating pursuant to the Japan-U.S. Security Treaty in case of a situation in areas surrounding Japan. Therefore, it may be said that it has a profound significance in enhancing the confidence of Japan and the United States in the Japan-U.S. security arrangements.

However, there are agendas yet to be addressed in order for the Guidelines legislation to effectively function in case of a situation in areas surrounding Japan. Pending problems that are directly related to the Guidelines legislation include the enactment of a law dealing with the ship inspection operations, which the Diet had taken note of in the course of deliberation of the Guidelines bills. As economic sanction may be imposed even in the absence of an enabling resolution of the U.N. Security Council, debate is likely to arise again in the Diet as to whether ship inspection operations by the SDF should be made conditional upon the authorization by a resolution of the U.N. Security Council. Should the ship inspection operations be made conditional upon the authorization by a U.N. resolution, the SDF authority to conduct the inspection would be excessively limited.

The Law Ensuring Peace and Security in Situations in Areas Surrounding Japan provides that the head of a relevant government agency can ask local governments or private organizations for their cooperation. As specific examples of such cooperation, the

Japanese government mentions the use of seaport and airport facilities under their control, admission of the sick and wounded into publicly-run hospitals and the lease of goods and facilities run or owned by local governments. The government may likewise ask private organizations to cooperate in transportation, waste disposal, admission of the sick and wounded into their hospitals or the lease of goods and facilities. To enlist their help, the government may have to explain continuously the need for their cooperation in coming years. The new Guidelines set forth the general framework and direction of cooperation and coordination between Japan and the United States that may be needed in peacetime, and in case of a situation in areas surrounding Japan and an armed attack on Japan. Another problem yet to be addressed after the passage of the Guidelines legislation is the establishment of legislation for dealing with an emergency created by an armed attack on Japan, and debate about this issue has arisen in various forums in recent months.

### **3. Reactions of East Asian Countries**

#### **(1) Japan Seeks Understanding of East Asian Countries**

In an effort to foster greater understanding of East Asian countries about the review of the Guidelines for Japan-U.S. Defense Cooperation, the Japanese government sought to enhance their transparency by, among others, publishing an interim report three months before it made public the final report. And with a view to deepening their understanding, the government has explained the substance and the purpose of the Guidelines legislation after they passed the Diet.

The new framework of cooperation being laid under the Japan-U.S. security arrangements during the three odd years that followed the 1996 Japan-U.S. Joint Declaration on Security drew reactions from East Asian countries. They appreciated the U.S. military presence in the region and showed understanding to a certain

extent about the approach taken by Japan to enacting the Guidelines legislation. Meanwhile, however, they showed signs of wariness of the expansion of the role Japan has taken on in the security of the region. For instance, in a speech Deputy Prime Minister Lee Hsien Loong of Singapore delivered when he visited Japan in May 1999, he said, "But while there is agreement about Japan playing a bigger role, there is still no consensus either in Japan or the region as to what military role Japan will play," and "A continuation of the defence arrangements between the U.S. and Japan is the best way to assure the region's stability and Japan's security."

Meanwhile, China is quite sensitive about whether Taiwan is included in the scope of Japan-U.S. defense cooperation and is taking the position of watching the moves Japan will make in coming years. As pointed out in the Japan-U.S. Joint Declaration on Security, a positive and constructive role played by China is extremely important to maintaining peace and stability in East Asia after the end of the Cold War. China's concern about, and the reactions of other East Asian countries to, developments that occurred in the Japan-U.S. security arrangements since the Japan-U.S. Joint Declaration on Security suggest that bilateral and multilateral security dialogue between or among East Asian countries, including China, has taken on a growing importance for the Japan-U.S. security arrangements to effectively play a critical role in ensuring peace and stability in this region in coming years.

#### **(2) China: Attentively Watches the Moves Japan Makes**

Among East Asian countries, China has been most sensitive to the developments in the Japan-U.S. security arrangements the two governments initiated with their Joint Declaration on Security of April 1996. China's concern was focused on the question of Taiwan, or whether Taiwan is included in the scope of Japan-U.S. defense cooperation in "situations in areas surrounding Japan."

China expressed its concern about the regional security role to be

played by Japan, which had been strengthened in the process leading to the passage of the Guidelines legislation. At a meeting he had with Premier Zhu Rongji of China on July 9, 1999, Prime Minister Keizo Obuchi explained the Guidelines legislation. In response, Premier Zhu Rongji stated to the effect (1) that the issue of Japan-U.S. security cooperation is currently of concern to China, (2) that direct or indirect inclusion of Taiwan in the scope of Japan-U.S. defense cooperation will be unacceptable to China, and (3) that while acknowledging the detailed and thoughtful explanation by Obuchi, he hoped that Japan would follow his words with concrete actions.

In a statement of its Foreign Ministry released on April 18, 1996, the day after the Japan-U.S. Joint Declaration on Security was issued, China expressed its view (1) that the question of Taiwan is an internal affair of China, (2) that the Japan-U.S. Security Treaty is a bilateral defense arrangement, and if it is extended beyond the scope of the two countries, it would bring about a complex element in the situation of the region, (3) that if Japan increases its troops and expands the scope of its defense, such action would arouse concern and wariness of Asian countries, and (4) that China hopes that the Japanese government will take a discreet attitude. Comments by high-ranking officials of China and the tone of media coverage on developments occurring in the Japan-U.S. security arrangements toed the line laid down by the Foreign Ministry statement. For instance, after the passage of the Guidelines legislation, a leading official of the Foreign Affairs Committee of the National People's Congress issued a statement on May 25, 1999, in which he said that the Guidelines legislation is designed to strengthen Japan-U.S. security cooperation and expand Japan's military role in the Asia-Pacific region, and that China opposes any attempt to include Taiwan in the scope of Japan-U.S. security cooperation.

An important point to take into account in considering China's concern about the Japan-U.S. security arrangements is the fact

that the period of Diet deliberation and passage of the Guidelines legislation happened to coincide with the period — from late March to early June of 1999 — during which NATO forces bombed Yugoslavia. Some quarters in China take the view that the United States expects the Japan-U.S. security arrangements to play in the Asia-Pacific region the same role that NATO has played in dealing with conflicts outside NATO, and that the Guidelines legislation is measures designed to achieve such purpose. Some Chinese analysts view the Guidelines legislation and the eastward expansion of NATO as two important pillars of the U.S. global security strategy for the post-Cold War world. They also argues that the United States seeks to restrain China by joining forces with Japan and the Guidelines legislation is a part of the attempt. And they pointed out that with the passage of the Guidelines legislation, Japan's security policy shifted its sights outward and that its defense posture changed from one designed to defend itself from aggression to one aimed at intervening in regional disputes.

### **(3) The Korean Peninsula: an Understanding South Korea and a Wary North Korea**

Two points that are characteristic of the reactions shown by South Korea to the process starting with the 1996 Japan-U.S. Joint Declaration on Security and leading to the passage of the Guidelines legislation may be pointed out. On one hand, South Korea expressed its view that the process had been a factor contributing to the stability of Northeast Asia. On the other hand, South Korea has taken a wary view of the expanded military role Japan may play in the security of the region. In a statement of its Ministry of Foreign Affairs released on April 18, 1996, South Korea welcomed the Japan-U.S. Joint Declaration on Security saying that the Japan-U.S. security arrangements contribute to the peace and stability of the Korean Peninsula. Many of South Korean mass media, however, expressed a sense of wariness about the potential growth of Japan's military might.

Similar characteristics were observed in the reactions shown by South Korea to the passage of the Guidelines legislation. In an interview with Japanese news reporters, President Kim Dae Jung reportedly acknowledged that the Guidelines legislation will help bring peace and stability to Northeast Asia, but called on Japan to continue to abide by its Constitution and exclusively defense-oriented policy. In a statement on the passage of the Guidelines legislation released in May, the Ministry of Foreign Affairs and Trade of South Korea acknowledged that Japan's support to U.S. military operations as prescribed in the legislation would help bring about stability in the region. It indicated that it would request Japan to consult with South Korea on matters relating to the sovereignty of the country, and asked Japan to abide by its Constitution and the exclusively defense-oriented policy, and to demonstrate greater transparency in its execution of laws.

On the other hand, the reactions of North Korea, though couched in stereotyped expression, were harshly critical. For instance, the June 7, 1999, edition of the *Rodong Sinmun*, organ of the Workers' Party of Korea carried a signed commentary saying that the Guidelines legislation provided Japan with an opportunity to regain the right to belligerency and paved the way for launching overseas aggression under the pretext of supporting the U.S. forces.

#### **(4) Russia: Wants a Clarification of "Situations in Areas Surrounding Japan"**

On June 4, 1999, representatives of foreign and defense authorities of Japan and Russia discussed the Guidelines legislation as they met for consultations on security matters. After the talks, Russian officials, after showing their appreciation of the explanation presented by Japanese officials, expressed the fear about "an expansion of the sphere of action of the Japan-U.S. alliance to the whole of the Asia-Pacific region," "the inclusion of Russia's Far East in the alliance's zone of responsibility" and "the Japan-U.S.

plans for the development of a theater missile defense system."

Russia's concern about the Guidelines legislation seems to be whether the Russian Far East will be included in the scope of Japan-U.S. defense cooperation in "situations in areas surrounding Japan." One high-ranking official of the Russian Foreign Ministry was quoted in a Russian broadcast on April 28, the day after the passage of the Guidelines legislation, as saying that in the absence of a clear definition of the geographic scope of "areas surrounding Japan," Russia has fears about whether "the areas surrounding Japan" cover the territory of a third country and about who and how determines whether a particular situation is a "situation in areas surrounding Japan." The same radio program went on to say that Russia's position is that a bilateral alliance in the Asia-Pacific region should be defense-oriented, not directed against a third country or disturb the military balance in the region. The comments suggest that Russia has the same fear as China about the Guidelines legislation.