

Chapter 8

Japan—National Emergency Legislation, Reconstruction Assistance in Iraq, and Countering the Threat of WMD

There has long been an overdue agenda for Japan: namely, to establish national emergency legislation to correct the flaws in the existing legal system that had provided for how Japan responds to an armed attack. In 2003, the Diet enacted the Three Laws Regarding Response to Armed Attacks. Amid rapid changes occurring in Japan's security environment, as typified by the North Korean nuclear program and the terrorist attacks on the United States in September 2001, the passage of the legislative package has established a framework within which the Japanese government responds to a national emergency.

When the national emergency legislation was being considered in Japan's Diet, the United States and the United Kingdom launched a military operation against Iraq. Following the collapse of the Saddam Hussein regime, there have been mounting calls for the international community to help rebuild Iraq. Japan has responded positively, dispatching Self-Defense Forces (SDF) units among other measures. The Constitution of Japan bars the dispatch of the SDF overseas for the purpose of using force, even in an act of international cooperation. However, despite this restriction, the SDF will increasingly be called upon to participate in overseas operations in the years to come.

In parallel with this, Japan has to deal with the proliferation of weapons of mass destruction (WMD), not least the threat posed by North Korea's WMD and ballistic missiles. Measures Japan can employ to cope with such threats include: active promotion of arms control and nonproliferation efforts, reliance on retaliatory deterrence provided by the United States, and the buildup of missile defenses. As each of these measures offers advantages that cannot be substituted by other measures, it is important to formulate a policy that adequately combines these advantages and that can produce the optimum result.

A fourth option to deal with the threat posed by WMD and ballistic missiles is to attack missile launch sites. Should any country initiate an armed attack on Japan using WMD-equipped ballistic missiles, and should Japan have no alternative means to eliminate such threats, it is legally permissible for it to invoke its right of self-defense and attack the enemy's missile launch sites, even before Japan incurs any casualties. In such cases, however, it is not easy to determine when, and under what circumstances, the enemy has started such a missile attack. Moreover, this won't be an option unless Japan adjusts the current posture of Japan-U.S. bilateral defense cooperation, develops surveillance and intelligence-gathering capabilities to monitor the missile sites,

and procures the necessary hardware that would enable it to conduct such operations. Generally speaking, based on the principle of the minimum necessary capability for self-defense, it is important that there be extensive public debate in the political arena regarding the significance of, and limits to, the capabilities for attacking enemy missile sites.

1. Legislation Regarding Response to Armed Attacks, and Reconstruction Assistance in Iraq

(1) Enactment of the Three Laws Regarding Response to Armed Attacks

In June 2003, the Diet enacted into law three bills—the Bill Concerning Measures to Ensure National Independence and Security in a Situation of Armed Attack, the Bill to Amend the Security Council Establishment Law, and the Bill to Amend the Self-Defense Forces Law and the Law Concerning Allowances, etc. of Defense Agency Personnel—that are collectively known as “the Three Laws Regarding Response to Armed Attacks.” The government submitted these bills to the Diet in April 2002, and after about sixty-seven hours of deliberation at the Special Committee on Responses to Armed Attacks of the House of Representatives, they were carried over to the next session. Subsequently, the ruling coalition parties submitted an amendment to the government-authored bills at an extraordinary session of the Diet in fall the same year, and once again they were carried over to the next session. During the 2003 ordinary Diet session, a modified version of these bills passed the House of Representatives on May 15 by an overwhelming majority of some 90 percent and became law on June 6 after passing the House of Councilors by a similar majority.

The Law Concerning Measures to Ensure National Independence and Security in a Situation of Armed Attack aims to: (a) establish a posture for responding to situations of armed attack against Japan and situations where armed attack is predicted, by prescribing basic matters regarding responses to such situations, including fundamental principles, responsibilities of the national government and local governments, and cooperation from the people, and (b) prescribe matters regarding legislation necessary for responses to situations of armed attack against Japan and situations where armed attack is predicted, thereby contributing to the peace and independence of Japan and the

maintenance of the security of the country and its people.

To define more clearly and strengthen the role to be played by the Security Council of Japan in situations of armed attack against Japan and situations where armed attack is predicted, the Law to Amend the Security Council Establishment Law has expanded the list of matters subject to the council's deliberation and recommendation, has changed provisions relating to its membership, and has established a Situation Response Special Committee.

To facilitate the performance of the Self-Defense Forces (SDF) in situations of armed attack and situations where armed

The plenary session of the House of Representatives approved the Bill Regarding Response to Armed Attacks by a rising vote. (Kyodo Photo)

attack is predicted, the Law to Amend the Self-Defense Forces Law and the Law Concerning Allowances, etc., of Defense Agency Personnel has: amended provisions concerning expropriation of property during defense operations; instituted new provisions relating to measures for the construction of defense facilities prior to issuance of a defense operations order; instituted provisions relating to emergency passage of SDF units during defense operations; provided penalty for those who run the business of production, cargo collection, sales, distribution, storage or transportation, of goods, and who have disobeyed an order to store goods they handle; and instituted special-case provisions that exempt the SDF from application of relevant laws in case of defense operations.

Of these, the Law Concerning Measures to Ensure National Independence and Security in a Situation of Armed Attack was modified after consultations between the ruling coalition parties and an opposition party in the course of Diet deliberations. Major changes thus made include: a definition of “the situation of armed attack”; a guarantee of fundamental human rights; furnishing of information to the public; a determination of what constitutes a “situation of armed attack” and a “situation where armed attack is predicted”; termination of response measures pursuant to a decision made by the Diet to that effect; enactment of individual laws including legislation for the protection of the people; measures to deal with national emergencies other than armed attacks;

and study of an organization to deal with national emergencies. The remaining two laws were passed as proposed by the government.

Legislation regarding national emergencies does not end with the Three Laws Regarding Response to Armed Attacks. Article 21 and Article 22 of the Law Concerning Measures to Ensure National Independence and Security in a Situation of Armed Attack provide that the government shall enact separate laws required for the country to respond to situations of armed attack and situations where armed attack is predicted so as to effectively implement measures: (a) to ensure the protection of the lives, bodies and property of the people or to minimize the impact of such armed attacks on people's livelihood and the national economy; (b) to facilitate the SDF's effective execution of its mission and other measures to terminate an armed attack; and (c) to facilitate actions by U.S. forces taken in connection with the defense of Japan in the situation of an armed attack. The government is supposed to submit seven bills relating to these measures.

In 2004, the following seven bills are to be submitted to the Diet: a Bill Regarding Measures for the Protection of the People in Situations of Armed Attack and Other Situations; a Bill Regarding Measures that Japan Should Implement to Facilitate Actions of the U.S. Armed Forces in Situations of Armed Attack and Other Situations; a Bill Regarding the Utilization of Designated Public Facilities in Situations of Armed Attack and Other Situations; a Bill Regarding Punishment for Acts of Serious Violation of International Humanitarian Law; a Bill Regarding Regulation of Maritime Transportation of Munitions and Military Personnel of Foreign Countries in Situations of Armed Attack and Other Situations; a Bill Regarding Treatment of Prisoners of War in Situations of Armed Attack and Other Situations; and a Bill Regarding Amendment to the Self-Defense Forces Law. In addition, the government is expected to submit to the Diet three treaties for ratification: Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-international Armed Conflicts (Protocol II); and Amendment of the Agreement between the Government of Japan and the Government of the United States of America concerning the Reciprocal Provision of Logistics Support, Supplies and Services between the Self-Defense Forces of Japan and the Armed Forces of the United States.

As regards responses to emergencies other than armed attacks, Article 25 of the Law Concerning Measures to Ensure National Independence and Security in a Situation of Armed Attack provides that the government promptly take measures necessary to swiftly and appropriately respond to an emergency that could have serious consequences on the safety of the country and its people, such as the appearance of suspicious armed vessels in the territorial waters of Japan or large-scale terrorist activity within the country. More specifically, steps to be taken are: (a) to enhance the posture for collecting information and analyzing and assessing situations, (b) to formulate measures to respond to various emergencies, and (c) to strengthen cooperation among the SDF, the police, and the Japan Coast Guard.

(2) Expanding Roles of the Self-Defense Forces

In fact, prior to the enactment of the Three Laws Regarding Response to Armed Attacks in 2003, the Self-Defense Forces Law contained provisions regarding operations of the SDF, including one that authorizes the SDF to conduct defense operations in case of an armed attack. However, these provisions mainly deal with actions the SDF can take, and there is no legal framework that provides for a way in which Japan as a whole, encompassing national and local governments, will deal with situations of armed attack. A study on legislation relating to SDF actions in the event of armed attack started in 1977 under the instructions of then Minister of State for Defense Asao Mihara, and with the approval of then Prime Minister Takeo Fukuda. However, the study was conducted on the condition that it was not preparation for the enactment of any law. This study consisted of three components: Category 1 (laws under the jurisdiction of the Defense Agency), Category 2 (laws under the jurisdiction of other ministries and agencies), and Category 3 (laws not falling clearly under the jurisdiction of any particular ministry or agency). Summaries of findings of Category 1 and Category 2 studies were made public in 1981 and 1984, respectively.

As the defense capability of Japan has steadily grown, the role played by the SDF has expanded since the end of the Cold War, and the framework of response of the government as a whole *vis-à-vis* international peace cooperation has been taking shape, if gradually. Japan has come to adopt this approach in earnest since the 1991 Gulf War. After the Gulf War, Japan dispatched Maritime Self-Defense Force (MSDF) minesweepers to the Persian Gulf. The following year, the Diet enacted the Law Concerning Cooperation for

United Nations Peacekeeping Operations and Other Operations. Pursuant to this law, the SDF participated in the UN Transitional Authority in Cambodia (UNTAC) (September 1992–September 1993) and in the United Nations Operation in Mozambique (ONUMOZ) (May 1993–January 1995); engaged in relief activities for Rwandan refugees (September–December 1994); and dispatched personnel and units to the UN Disengagement Observer Force (UNDOF) in the Golan Heights (February 1996–), an airlift unit for transport of aid materials for refugees who fled East Timor and were in West Timor (November 1999–February 2000), an airlift unit for transport of aid materials for Afghan refugees who fled to Pakistan (October 2001), and engineer groups and others to the UN Transitional Administration in East Timor (UNTAET) and the UN Mission of Support in East Timor (UNMISSET) (March 2002–).

GSDF personnel repairing roads with locals in East Timor

In the second half of the 1990s, the work of reviewing the Japan-U.S. alliance was carried out. After a Japan-U.S. summit meeting held in April 1996, leaders of the two countries released a Japan-U.S. Joint Declaration on Security that showed the direction of bilateral cooperation for the twenty-first century. Pursuant to this joint declaration, the Guidelines for Japan-U.S. Defense Cooperation adopted in 1978 were reviewed, on the basis of which new guidelines were formulated in 1997. With a view to ensuring the effectiveness of the guidelines, the Japanese government has enacted the Law Concerning Measures to Ensure the Peace and Security of Japan in Situations in Areas Surrounding Japan (the Law to Ensure Japan's Security in Situations in Surrounding Areas) and the Law Concerning the Conduct of Ship Inspection Operations in Situations in Areas Surrounding Japan (the Ship Inspection Operations Law) in 1999 and 2000, respectively. Thanks to measures taken under these laws, the credibility of Japan-U.S. security arrangements has been enhanced.

(3) September 11 and Japan's Efforts

September 11 have dramatically changed the international environment once again. Following the attacks, an international coalition to deal with international terrorism took shape, and it has become necessary for Japan to take a searching look at how it can collaborate in this collective effort. With a view to contributing, actively and on its own initiatives, to the prevention and eradication of international terrorism and thereby ensuring the peace and security of the international community, Japan enacted: the Special Measures Law Concerning Measures to Be Taken by Japan in Support of the Activities of Foreign Countries with the Aim 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 Those Concerning Humanitarian Measures Based on Relevant Resolutions of the United Nations. Under this law, more commonly known as the Antiterrorism Special Measures Law, MSDF vessels were dispatched to refuel U.S. and other nation's naval vessels operating in the Indian Ocean, and aircraft of the Air Self-Defense Force (ASDF) transported U.S. military supplies. Meanwhile, the Self-Defense Forces Law was amended, concurrently with the enactment of the Antiterrorism Special Measures Law. With a view to preparing against large-scale terrorist attacks, the amendment authorized the SDF units to be called upon to guard SDF facilities and U.S. military facilities and sites in Japan, and enabled these operations to be conducted more effectively. It also enabled SDF units to effectively guard SDF facilities under normal conditions and to deal with suspicious boats and armed spies that are infiltrating or have infiltrated into Japan.

Meanwhile, there has been mounting calls for enacting laws to make Japan better prepared to deal with armed attacks. With the enactment of the Law to Ensure Japan's Security in Situations in Areas Surrounding Japan and the Ship Inspection Operations Law, the then three ruling coalition parties of the Liberal Democratic Party (LDP), the Liberal Party, and New Komeito together recognized the need to enact national emergency-related laws authorizing the SDF to ensure the security of the country and its people under civilian control. In March 2000, a project team made up of the three ruling coalition parties agreed to request the government to launch a study for enacting national emergency legislation. In response, then Prime Minister Yoshiro Mori announced in his policy speech of January 2001 that his administration would launch such a study, which was subsequently conducted by the Cabinet

Secretariat in coordination with, and with the cooperation of, the ministries and agencies concerned. In February 2002, a conference on establishing national emergency-related legislation of the three ruling coalition parties (LDP, New Komeito and Conservative Party) approved a report presenting recommendations for enacting laws to deal with armed attacks. In his policy speech delivered before a 154th session of the Diet in February 2002, Prime Minister Junichiro Koizumi announced that he would expedite the preparation of bills for dealing with national emergencies to make the nation better prepared to deal with national emergencies, and submit them to the Diet. In this way, the government submitted bills for the Three Laws Regarding Response to Armed Attacks in April, which were enacted into law in June 2003.

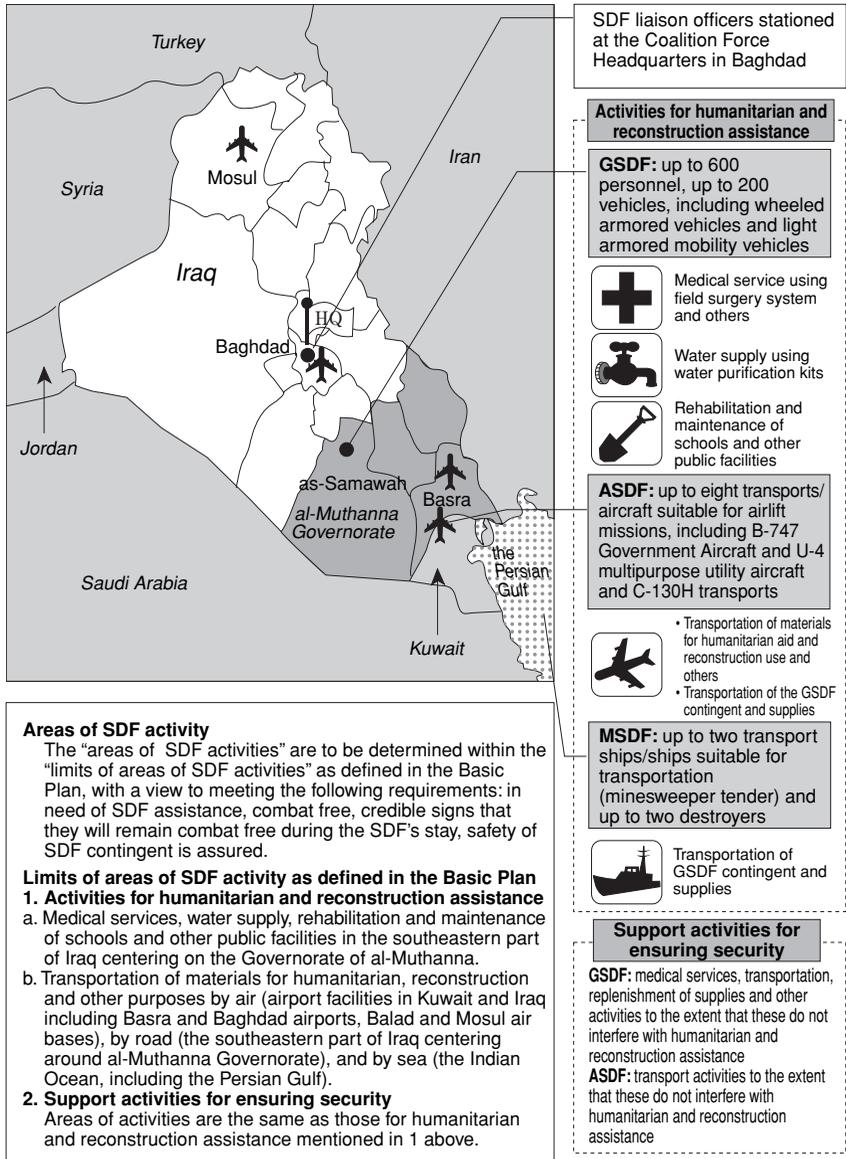
(4) The Enactment of the Law Concerning Special Measures on Humanitarian and Reconstruction Assistance in Iraq

While Japan was in the process of enacting the Three Laws Regarding Response to Armed Attacks, U.S.-led coalition forces initiated military operation against Iraq on March 20, 2003. In response, Japan on the same day declared, "In consideration of its national interest, and as a responsible member of the international community, Japan supports the use of force against Iraq by the United States, our ally, and other countries." When the United States announced early in May that major combat operations in Iraq had ended, the international community's focus of attention shifted to reconstruction assistance to Iraq.

The Law Concerning Special Measures on Humanitarian and Reconstruction Assistance in Iraq enacted in July 2003 is designed to secure peace and security in international community by assisting the reconstruction of Iraq after the attack launched by the United States and the United Kingdom pursuant to Resolutions 678, 687, and 1441 of the UN Security Council (UNSC). After sending fact-finding missions on several occasions thereafter, the Cabinet approved a Basic Plan Regarding Response Measures Based on the Law Concerning the Special Measures on Humanitarian and Reconstruction Assistance in Iraq (the Basic Plan). On December 18, Minister of State for Defense Shigeru Ishiba decided on an implementation plan spelling out response measures that can be taken by the SDF pursuant to the Basic Plan.

Response measures to be taken under this law are largely divided into two:
(a) activities for humanitarian and reconstruction assistance designed to relieve

Figure 8.1. Outline of SDF activities in Iraq



Sources: Data from the Basic Plan Regarding Response Measures Based on the Law Concerning Special Measures on Humanitarian and Reconstruction Assistance in Iraq and an Outline of the Implementation Plan Based on the Law Concerning the Special Measures on Humanitarian and Reconstruction Assistance in Iraq.

Note: The period of the SDF mission extends from the date (after December 18, 2003) that the minister of state for defense authorized the implementation of response measures as prescribed in the Basic Plan to December 14, 2004.

Iraqi residents who have suffered or are expected to suffer from the use of force against Iraq and events thereafter, and others, and (b) support activities for ensuring security, designed to support the activities being conducted by other UN member states for the purpose of restoring security and stability in Iraq.

Iraq's economy under the repressive regime of Saddam Hussein was functioning poorly, and the collapse of the regime compounded the difficulties in maintaining social infrastructure including the management of hospitals, and in supplying electric power and water. To relieve the suffering and hardship this caused, the Basic Plan announced in December 2003 directed the SDF to give advice and guidance to Iraqi physicians on the operation, maintenance and management of hospitals, and to provide medical services to local inhabitants in response to their needs. The Basic Plan provides that SDF units conduct water supply in areas that are short of potable water, rehabilitate schools and other public facilities, and airlift goods for humanitarian and reconstruction assistance. In parallel with these activities, support personnel for the reconstruction of Iraq, who are civilians, will engage not just in activities to meet immediate needs but also in long-term projects such as the repair and construction of social infrastructure by installing electric generators, water purification and supply facilities.

The significance of reconstruction assistance to Iraq lies in actively contributing to the maintenance of world order by helping reconstruction of Iraq and thereby promoting the peace and security of the international community, including Japan. At stake is Japan's stance of war on terrorism. If Japan gives up the idea of sending a contingent of its SDF, it would create the impression that Japan is shy of taking risks and lacks the will to get involved in building international order. Close to forty countries in Europe, Latin America, Asia, and the Middle East have sent troops to Iraq to take charge of the maintenance of public order and to cooperate with the civil administration. Japan, too, has enacted the Special Measures Law on Humanitarian and Reconstruction Assistance to Iraq to make a similar manpower contribution as a member of the international community.

Speaking to the press after the Cabinet approved the Basic Plan, Prime Minister Junichiro Koizumi stated that it was necessary for Japan to provide not just financial assistance but also material and manpower assistance in support of Iraqi reconstruction including the dispatch of SDF; that dual maintenance of the Japan-U.S. alliance and international cooperation is the basis of Japan's

foreign policy; that the test of Japan's commitment to international peace and security was what it did, not what it said; and that his government had decided to send well-trained and well-equipped contingents of the SDF to Iraq for the purpose of giving humanitarian and reconstruction assistance. That said, he stressed that the

Prime Minister Koizumi offers his encouragement to ASDF personnel being dispatched to Iraq at a ceremony held at Komaki Air Base on December 24, 2003.

dispatch of SDF contingents to Iraq conformed to the spirit of the preamble to the Constitution.

Pursuant to the Basic Plan approved by the Cabinet, Minister of State for Defense Ishiba on December 19 issued a General Order to the GSDF, the MSDF, and the ASDF on Implementation of Response Measures Pursuant to the Law Concerning Special Measures on Humanitarian and Reconstruction Assistance in Iraq. Under this general order, units of the three services were sent to implement measures in accordance with the Basic Plan and the implementation plan. The ASDF organized an ASDF Iraq Reconstruction Support Airlift Wing (IRSAW) and dispatched an advance party to Iraq. Advance teams of the GSDF contingent and the main unit of the ASDF contingent were ordered to leave their bases for destinations in Iraq on January 9, 2004, and the main unit of the GSDF contingent and the MSDF unit on January 29. On January 22, the first group of the ASDF's IRSAW left the country. Thus response measures provided for in the Special Measures Law on Humanitarian and Reconstruction Assistance to Iraq were put into action.

(5) Japan and Future of International Security

As with many other countries, maintenance of international order based on democracy and a market economy has critical importance. To accomplish this, responding effectively to terrorism and the proliferation of WMD has become increasingly important. Up to now, Japan had sought to stabilize the international security environment on a case-by-case basis, and has enacted a series of laws to authorize the dispatch of the SDF. During the fall 2003 session,

the Diet debated the necessity to institute a permanent law, not temporary legislation to deal with individual emergency situations, to enable the government to take effective response measures against any and all emergencies.

In fulfilling its role in international affairs, Japan had thus to contend with a number of questions. One of them is the question about the right of collective defense. Under international law, Japan has the right to collective defense, but it is not permitted to exercise such right because its involvement in collective defense would exceed the scope of use of force permitted under Article 9 of its Constitution. Therefore, Japan cannot use force to defend another country when that country meets with an armed attack.

The second question is the definition of the term “use of force.” An “armed attack (on Japan) from the outside” as referred to in Article 76 of the Self-Defense Forces Law has been interpreted as “a systematic and deliberate armed attack on Japan by a foreign country.” However, an asymmetric attack by non-state actors such as terrorists is conceivable in the future. Therefore, it may be necessary for the SDF to review its posture to prepare for such a contingency.

The third question concerns Japan’s policy toward the United Nations. The Japanese people have high expectations of the United Nations, so much so that the existence—or the lack—of an empowering UNSC resolution is one of the important factors that Japan takes into account in deciding its involvement in international affairs. For all the criticism from different quarters, the United Nations is highly regarded as a forum in which international consensus is built and important decisions are hammered out. Therefore, it is necessary for Japan to urge the international community to attach importance to, and to act in cooperation with, the United Nations, so that countries do not belittle the United Nations and create a situation for acting unilaterally.

The fourth—and last—question is how the national interests of Japan should be defined. Japan has been the beneficiary of a stable international order, under which it has been able to live in peace and make enormous economic strides. Japan owes much to the major powers in this regard. That being the case, in order to maintain the peace and prosperity it enjoys today, it is necessary for Japan to assume its place in the world and to share risks with other countries to the extent consistent with its national interests, and to contribute actively to the maintenance of the international order, instead of merely being a passive beneficiary.

2. Japan's Security Policy vis-à-vis WMD and Ballistic Missiles

(1) Arms Control, Disarmament and Nonproliferation Efforts

The problem of WMD proliferation prompted the United States and the United Kingdom to use force against Saddam Hussein in Iraq and has taken on a global importance. In areas surrounding Japan, too, WMD and ballistic missiles have been deployed, raising grave concerns.

Japan's security policy is built on three main pillars: (a) moderately building up Japan's defense capability on an appropriate scale, (b) firmly maintaining and strengthening the Japan-U.S. security arrangements, and (c) pursuing diplomatic efforts to stabilize the international security environment. Important measures for the third pillar, along with promotion of confidence-building initiatives with other countries and participation in peacekeeping operations, include those for arms control, disarmament and nonproliferation.

Representative of the weapon systems that have grave impact on the security environment are WMD and their delivery vehicles such as ballistic missiles. However, Japan's arms control and disarmament policy toward nuclear weapons and ballistic missiles has certain restrictions. It is difficult for countries like Japan that do not possess ballistic missiles, not to mention nuclear weapons, to promote bilateral measures for arms control and disarmament with a focus on nuclear weapons and ballistic missiles. Generally, in order for a country to induce a potential enemy to come to the negotiating table to discuss arms control and disarmament, it is important to match the threat its potential enemy poses by developing and deploying comparable weapon systems of its own. Japan, however, has waived such an option, and therefore its only viable policy is one focused on building measures for arms control and disarmament at the global and regional levels and on strengthening such a regime.

As shown in table 8.1, Japan is actively involved at the global level in arms control, disarmament and the nonproliferation regime and has played a leadership role in such efforts—particularly where reduction of nuclear weapons and their nonproliferation are concerned. For instance, the safeguard agreements signed between the International Atomic Energy Agency (IAEA) and the signatories of the Treaty on the Non-proliferation of Nuclear Weapons (NPT) are an important pillar supporting the NPT regime. In an effort to

universalize the IAEA Additional Protocol that provides measures for strengthening safeguard, Japan hosted an international conference in Tokyo in December 2002 and co-hosted with IAEA seminars on the Additional Protocol in the Asia-Pacific region, Central Asia, and South America. In the belief that the Comprehensive Nuclear-Test-Ban Treaty (CTBT) is an effective tool for ensuring nuclear disarmament and nonproliferation of nuclear weapons, Japan has spared no diplomatic efforts to bring the CTBT into force by serving as chairperson of the Conference on Facilitating the Entry into Force of the CTBT, and by sponsoring a “Friends of the CTBT” Foreign Ministers’ Meeting.

East Asia and the WMD problem

Concerning the situation regarding the proliferation of WMD in East Asia, China and Russia are declared nuclear-weapon states under the NPT, while North Korea announced its withdrawal from the NPT in January 2003 and has been pushing ahead with a nuclear weapons development program. North Korea is presumed to have several nuclear explosive devices that use plutonium, but it is not clear whether it has built usable nuclear bombs. As of November 9, 2003, 157 countries had signed and ratified the CWC that aims to eliminate chemical weapons. As shown in table 8.1, North Korea is the only country in East Asia that is not party to the CWC. Cambodia and Myanmar signed the agreement and await ratification. South Korea and Russia are in the process of eliminating chemical weapons pursuant to the CWC. On the other hand, North Korea has developed and possesses chemical weapons, and has not shown any sign of eliminating them. Similarly, the BWC to eliminate biological weapons was adopted, and 151 countries have signed and ratified it as of November 7, 2003. In East Asia, China, Russia and North Korea are suspected of possessing biological weapons and all of them are party to the BWC. It should be noted that Japan’s three neighbors are likely to possess all or some of the three categories of WMD, nuclear, chemical and biological weapons.

Aware that efforts to reduce the number of nuclear weapons in the possession of NPT-permitted nuclear-armed states (the United States, Russia, the United Kingdom, France, and China; hereinafter referred to as “nuclear-weapon states”) will be essential to the credibility and viability of the NPT, Japan has been proposing to the UN General Assembly since 1994 realistic and progressive measures in the form of resolutions aimed at scrapping nuclear weapons. More specifically, each year from 1994 to 1999 Japan introduced to the UN General Assembly a “Resolution on the Nuclear Disarmament with a View to the Ultimate Elimination of Nuclear Weapons.” Following an “unequivocal undertaking” made by the nuclear-weapon states to accomplish the total

Table 8.1. WMD-related treaties and export control measures and affiliation of Asian countries/area with them^a

	NPT	AP	CTBT	CWC	BWC	ZC	NSG	AG	MTCR	HCOC
Bangladesh	○	○	○	○	○					
Brunei	○		△	○	○					
Cambodia	○		○	△	○					
China * §	○	○	△	○	○	○				
India # §				○	○					
Indonesia	○	○	△	○	○					
Japan	○	○	○	○	○	○	○	○	○	○
Korea, North @ §	○ ^b				○					
Korea, South §	○	△	○	○	○	○	○	○	○	○
Laos	○		○	○	○					
Malaysia	○		△	○	○					
Mongolia	○	○	○	○	○					
Myanmar	○		△	△	△					
Nepal	○		△	○	△					
Pakistan # §				○	○					
Philippines, the	○	△	○	○	○					○
Singapore	○		○	○	○					
Sri Lanka	○		△	○	○					
Thailand	○		△	○	○					
Vietnam §	○		△	○	○					
Russia * §	○	△	○	○	○	○	○	○	○	○
United States * §	○	△	△	○	○	○	○	○	○	○
Taiwan §	○	◇ ^c				○				

Sources: Data from Web sites of the UN Disarmament Bureau, IAEA, MTCR, HCOC and data from the U.S. Department of State.

Note: ○=state party to a treaty and participating in an export control measures; △=signed but not ratified; * =nuclear-weapon state; §=country possessing ballistic missiles; #=de facto nuclear armed state; @=country suspected of developing nuclear weapons; NPT=Treaty on the Non-proliferation of Nuclear Weapons; AP=IAEA Additional Protocol; CTBT=Comprehensive Nuclear-Test-Ban Treaty; CWC=Chemical Weapons Convention; BWC=Biological Weapons Convention; ZC=Zangger Committee; NSG=Nuclear Suppliers Group; AG=Australia Group; MTCR=Missile Technology Control Regime; HCOC=Hague Code of Conduct against Ballistic Missile Proliferation.

a The status of affiliation with NPT, CTBT, CWC, BWC, and MTCR is as of December 18, 2003, that with AP as of November 11, 2003, that with ZC and NSG as of September 10, 2003, that with AG as of September, 2003, and that with HCOC as of November 25, 2002.

b North Korea declared its withdrawal from the NPT on January 10, 2003.

c Taiwan has not signed the safeguard agreement with the IAEA, but agreed to the application of the AP to Taiwan.

elimination of their nuclear weapons at the 2000 NPT Review Conference, Japan introduced a new resolution entitled “A Path to the Total Elimination of Nuclear Weapons.” In that draft resolution, which was introduced to the First Committee of the UN General Assembly in October 2003, Japan urged nuclear-weapon states to work toward an early entry into force of the CTBT as well as a

moratorium on nuclear weapon test explosions or any other nuclear explosions pending entry into force of that treaty; called for an early start to negotiations for a Fissile Material Cut-Off Treaty (FMCT) with a view to concluding negotiations within the next five years; confirmed an unequivocal undertaking by the nuclear-weapon states, as agreed in the 2000 NPT Review Conference, to accomplish the total elimination of their nuclear arsenals; and stressed the importance of preventing terrorists from acquiring nuclear weapons or related materials, of making every effort to avoid nuclear devastation, and the importance of all state parties to the NPT fulfilling their obligations under the Treaty.

The First Committee passed this resolution by a vote of 146 to 2 with 16 abstentions, and the General Assembly adopted it by a vote of 164 to 2 with 14 abstentions. The United States opposed the resolution on the grounds that it did not agree to an early entry into force of the CTBT, and India on the grounds that it did not approve of the NPT itself. Some countries, including China and North Korea, abstained from voting.

Some believe it is inconsistent of Japan to be advocating nuclear disarmament from under the nuclear umbrella provided by the United States. However, nuclear disarmament and the nuclear umbrella are not necessarily incompatible. A reduction in certain strategic nuclear weapons would not undermine the credibility and reliability of the U.S. nuclear umbrella, as long as the United States has the prospect of maintaining the superiority of its counterforce capability, prompt hard-target kill capability in particular, when one compares the strategic nuclear force of the United States with that of China or Russia.

Promotion of a reduction in the number of nuclear weapons by nuclear-weapon states such as the United States and Russia is essential to secure the reliability and stability of the NPT regime. Motives that drive non-nuclear-weapon states toward the development and possession of nuclear weapons vary from country to country, and chief among them are concerns about their national security, an ambition for regional hegemony, and a desire to acquire diplomatic leverage. Thus even if the United States, Russia, and other nuclear-weapon states cut their nuclear arsenal, this does not in itself necessarily prevent proliferation. However, the truth is that non-nuclear weapon states join the NPT and undertake the obligation not to develop or possess nuclear weapons on the assumption that the five nuclear-weapon states including the United States will press ahead with nuclear disarmament. Therefore, if the United States and other nuclear-weapon countries unduly stress the significance

of nuclear weapons and slacken their efforts for nuclear disarmament, the reliability and stability of the NPT suffers badly.

The United States has decided to push ahead with a program of research on—though not the development and deployment of—low-yield nuclear weapons (with a yield of less than five kilotons) that had been banned under its FY1994 National Defense Authorization Act. The United States explained that the program was designed to strengthen its deterrence capability vis-à-vis rogue states. To be sure, low-yield nuclear weapons give the impression of more usable, and their deterrence factor may be bigger than that of other nuclear weapons. On the other hand, if even the United States, which boasts a high-tech conventional military capability sufficient to overwhelm other countries, needs low-yield nuclear weapons to deal with rogue states, the need of other countries for such weapons will be greater still. Depending on the stance the United States takes on low-yield nuclear weapons in the coming years, this might well become a new factor to touch off a wave of nuclear proliferation.

In order to promote nuclear disarmament and nonproliferation of nuclear weapons, efforts should be made to totally eliminate chemical and biological weapons, and to maintain a conventional military balance among rival countries or regions. Countries want to develop and possess nuclear weapons not only to deter other nuclear-weapon states from using nuclear weapons but also to deter large-scale use of chemical and biological weapons, or to deter adversaries with an overwhelming conventional military capability. Therefore, efforts to universalize the Chemical Weapons Convention (CWC) and Biological Weapons Convention (BWC) that provide for the total elimination of chemical and biological weapons have the effect of preventing nuclear proliferation and accelerating nuclear disarmament. As measures taken to maintain the conventional military balance and to build confidence between rival countries or regions will weaken the urge to develop nuclear weapons, these too can contribute to preventing their proliferation. If the international community can thus totally eliminate chemical and biological weapons and maintain a conventional military balance, the role of nuclear weapons could be confined to deterring their use by other countries. And, if the role of nuclear weapons is simply to deter their use by other nuclear-weapon countries, no country theoretically has anything to lose if all nuclear-weapon countries reduce their nuclear weapons in unison. Such a move could generate an incentive for sharply cutting the number of nuclear weapons, hopefully leading to their total elimination.

Given their unprecedented destructive power and lethality, it is natural for Japan to take measures focused on the elimination of nuclear weapons in pursuing its efforts to promote WMD disarmament and nonproliferation. However, as noted above, in order to persuade nuclear-weapon states to heed the call for nuclear disarmament and prevent nuclear-weapons proliferation, the international community must take policy measures for the curtailment of chemical and biological weapons and conventional military capability as rigorous as those taken with respect to nuclear weapons.

Since the September 11, the task of dealing with threats posed by terrorists armed with WMD has taken on a growing urgency. In addition to efforts to urge individual countries to enact and enforce domestic laws to prevent terrorists from acquiring WMD and related materials, it may be mentioned that international export control regimes, such as the Nuclear Suppliers Group (NSG) and the Australia Group (AG), which are monitoring and restricting transfer of materials for nuclear, chemical, and biological weapons development, must be strengthened. As shown in table 8.1, however, some East Asian countries capable of producing WMD-related materials are not participating in these international export control arrangements. One of the reasons for their nonparticipation is the fact they do not have laws effectively restricting the export of such materials and lack the personnel capable of enforcing them. With a view to remedying this situation, Japan has held Asian Export Control Seminars eleven times in the years to October 2003. It also hosted the First Asian Export Control Policy Dialogue in October the same year, as well as Asian Senior-Level Talks on Non-Proliferation (ASTOP) in November. In addition to Japan, the United States, South Korea, and Australia, the ten members of ASEAN also participated in the ASTOP. If the effectiveness of export controls enforced by East Asian countries increases as a result of repeated seminars and multilateral talks of this nature, then the danger of WMD falling into the hands of terrorists will diminish.

As regards missiles, one category of the WMD delivery vehicles, Japan, the United States, and five other countries launched a Missile Technology Control Regime (MTCR) in 1987 to restrict the export of missiles and related equipment and materials. As of December 2003, thirty-three countries have joined the MTCR, and it has since proved helpful to a certain extent in preventing the proliferation of ballistic missiles. However, the MTCR can at best check the transfer of equipment and technology necessary for the

production of ballistic missiles and cruise missiles; it cannot stop countries from researching and developing technology on their own with the aim of producing and deploying ballistic missiles. What is more, some countries capable of producing and exporting missiles have not joined the MTCR.

In an effort to address this problem, MTCR partners have created a new international framework designed to curb an increase in ballistic missile stockpiles and missile proliferation, and have decided to urge non-MTCR partners to join the regime. After the plenary meeting held in Noordwijk, the Netherlands, in October 1999, the MTCR member states took the initiative to prepare a politically binding international code of conduct for preventing the proliferation of ballistic missiles, and had since continued the work of preparing a draft with the participation of non-partners of MTCR. At the end of November 2002, the Hague Code of Conduct against Ballistic Missile Proliferation (HCOC) was inaugurated by thirty-three MTCR partners and sixty non-partners in The Hague, the Netherlands. As with the MTCR, the HCOC is a legally non-binding political agreement. It contains provisions whereby the signatories agree: (a) to curb and prevent the proliferation of ballistic missiles, (b) to exercise maximum possible restraint in the development, testing and deploying ballistic missiles, (c) not to contribute to, support or assist, any ballistic missile program in countries which might be developing or acquiring WMD, (d) not to use a space launch vehicle program as a cover to conceal a ballistic missile program, and (e) to implement confidence-building measures (CBM) such as transparency measures with respect to ballistic missiles policy and prelaunch notification of ballistic missile test flights.

The HCOC originally grew out of a general consensus that the increase in, and proliferation of, ballistic missiles are not desirable for international security, but it is not aimed at outlawing them. It is merely designed to curb certain activities related to ballistic missiles—secretiveness about a ballistic missile development program, unrestrained development, testing, and deployment of ballistic missiles, and unprincipled support for the ballistic missile programs of other countries. In other words, it is designed to secure the military stability of a region on the basis of maintaining the given ballistic missile capability balance that exists by applying certain restrictions to ballistic missile-related activities. Such being its basic aim, what can be expected from the HCOC in terms of curbing an increase in the number of ballistic missiles or preventing their proliferation does not amount to much. Nevertheless, it is possible to apply

Proliferation of missiles in neighboring areas to Japan

In East Asia, there are six countries and regions—China, South Korea, Russia, North Korea, Taiwan, and Vietnam—that have deployed or possess ballistic missiles. Of these, China, Russia, and North Korea have ballistic missiles capable of reaching Japan.

North Korea has deployed three types of ballistic missiles—Scud B, Scud C, and No Dong, and is in the process of developing the longer-range Taepo Dong I and II. Scud B and Scud C have a range of about 320 kilometers and 500 kilometers, respectively, and No Dong has a range of about 1,300 kilometers and can hit almost the entire area of Japan. One estimate puts the number of missiles deployed at about 100, but an accurate number is unknown. Although some estimates say that North Korea may have developed nuclear weapons, the possibility that it possesses nuclear warheads that can be mounted on ballistic missiles is small. However, as was suspected in Iraq's case, there is a fair possibility that its ballistic missiles are equipped with chemical warheads. North Korea has antiship cruise missiles equipped with conventional warheads, and it is conceivable that North Korea will undertake the development of land-attack cruise missiles equipped with chemical or biological warheads.

The situation in China is also a matter of conjecture, but the principal ballistic missiles capable of reaching Japan that China currently deploys are DF-21A (CSS-5Mod2), DF-3A (CSS-2), and DF-4 (CSS-3) land-based ballistic missiles, and JL-1 (CSS-N-3) SLBMs. DF-21A ballistic missiles, which have a range of about 1,800 kilometers, were deployed around 1985-86 and are road-mobile and fired by solid fuel. China has deployed about fifty DF-21A missiles, each carrying one 200–300 kiloton nuclear warhead. DF-3As, which have a range of about 2,800 kilometers, were deployed in the years after 1971 and are an outdated ballistic missile type that is gradually being decommissioned. The DF-4, of which about twelve are currently in place, has a range of about 5,500 kilometers and is also outdated. As a replacement for the DF-4, China is now developing the DF-31 (CSS-X-10), which has a maximum range of about 8,000 kilometers. Unlike DF-4, DF-31 is a road-mobile, solid fuel ballistic missile, and is expected to be deployed in 2004 or 2005.

At present, China has a Xia-class SSBN equipped with twelve JL-1 single-warhead SLBM (with a range of 2,150–2,500 kilometers) and is planning to build a new type of SSBN tentatively called "Type 094" as a replacement of the Xia-class. As regards the SLBM, China is developing a JL-II (CSS-NX-4) (with a range of about 11,800 kilometers) based on the DF-31. In addition, China has deployed the Silkworm family of antiship cruise missiles and HN-1 land-attack cruise missiles, and is trying to increase the range of the latter. At present, China's cruise missiles are equipped with conventional warheads, but China may equip its land-attack cruise missiles with nuclear warheads in the future.

In Russia's case, land-based ballistic and cruise missiles, including the SS-20, with a range of 500–5,500 kilometers were scrapped by 1991 in accordance with the INF Treaty. Where land-based, short-range (less than 500 kilometers) ballistic missiles are concerned, Russia stopped production of nuclear warheads for use on them in 1992 and reconfirmed its policy in April 2002, but it is unclear

what it plans to do about the ballistic missile itself.

In contrast with its land-based missiles, Russia maintains its sea-based missile force and has deployed SLBMs and some cruise missiles with nuclear warheads that could pose a threat to Japan. Although the number of SSBNs that can be put on patrol missions has decreased sharply, the Russian navy as a whole had deployed 1,072 nuclear warheads on SLBMs as of January 2003. The Russian navy has also deployed about 240 cruise missiles with nuclear warheads, including SS-N-21 land-attack cruise missiles with a range of about 3,000 kilometers. Moreover, the ALCMs carried by Tu-22M Backfire medium-range bombers and strategic bombers are tipped with nuclear warheads.

pressure to non-HCOC-signatory East Asian countries such as China and North Korea backed up by the HCOC's international code of conduct.

Given the limited role the HCOC can play in curbing the production of ballistic missiles and in preventing their proliferation, measures to strengthen the HCOC will take on a growing importance in the coming years. Specific measures include the following. First, the parties to the HCOC should make efforts to incorporate into the HCOC a provision restricting the number of ballistic missile test launches countries can conduct in a year, in addition to an agreement requiring them to give pre-launch notification. This provision is necessary to urge countries that do not have ballistic missiles to participate in the HCOC. Second, as the objectives and significance of the HCOC lie in curbing an increase in the number of ballistic missiles and their proliferation, the HCOC should consider instituting a no-first-use provision regarding ballistic missiles, and one that guarantees the security from ballistic-missile attack of countries that do not possess them, in addition to CBM such as making ballistic missile programs transparent.

Japan has been taking various measures with a view to curbing WMD and ballistic missiles. For all its efforts, however, development and deployment of such weapons will continue as long as countries see military advantages in deploying them: namely, providing powerful strike capability; diversifying available options for combat operations; and ensuring deterrence. In order to deal with the threat ballistic missiles pose, Japan must maintain a retaliatory deterrence capability under the Japan-U.S. security arrangements and consider the deployment of a missile defense network capable of intercepting incoming ballistic missiles.

(2) Retaliatory Deterrence

The defense capability that Japan is permitted to possess under its Constitution is limited to the minimum level necessary to achieve self-defense. What that means in specific terms varies depending on the prevailing international situation and level of military technology available. However, weapons that are designed exclusively, and have the capability, to inflict devastation on another country are interpreted as exceeding constitutional limit of the minimum necessary level for self-defense. Thus Japan has, in effect, waived the option to build its own deterrent capability, and has opted instead to plug the gap by relying on the offensive capability of its ally, the United States. The National Defense Program Outline in and after FY1996 states that Japan will rely on the U.S. nuclear deterrent against the threat of nuclear weapons. The document does not specifically touch on chemical and biological weapons threat, but it is believed that the same arrangement stands. That being the case, Japan has been countering the threat posed by WMD or WMD-equipped ballistic missiles primarily by relying on the U.S. retaliatory deterrent, toward which no major objections have been raised in Japan.

However, retaliatory deterrence is not a panacea. The biggest problem of such a strategy lies in the difficulty of determining the credible level of deterrence, because of differences in strategic culture and the ways of looking at military might, between countries practicing the deterrent and those posing a challenge to the former—and the difficulties multiply as the number of countries posing a challenge increases. Furthermore, the deterrence strategy changes depending on the form and scale of the conflict it seeks to deter. For instance, in case of extended deterrence, where a country with deterrent capability provides extended deterrence to its ally, as in a case of the United States and its allies during the Cold war, and in case of deterring conventional war, there are a number of factors to be considered, such as the level of commitment of the deterrent country to defending its ally and weapons involved. Such deterrence takes on a more complex and diverse form than mutual nuclear deterrence between nuclear-weapon states. Moreover, deterrence is not very effective against a strategy of creating a *fait accompli* in a short period of time. Thus, depending on the form of military action a challenger takes, there is a risk of deterrence failure, no matter how powerful deterrer's retaliatory capability might be.

The difficulty of deterrence strategy is compounded still further by changes

in the strategic significance of regional conflicts since the end of the Cold War. Regional conflicts in the Cold War era, particularly those involving allies of the United States and the Soviet Union, carried the danger of escalating into an armed conflict between the two superpowers. Therefore, deterring the outbreak of a regional conflict was as important to the United States as averting a direct armed clash with the Soviet Union. As a result, U.S. resolve to contain a regional conflict and the deterrence it built up to back this resolve had the effect of convincing would-be regional rivals that the United States meant business. However, as the danger of a regional conflict escalating into a direct showdown between the United States and Russia faded away, importance for the United States of its interests being caught up in a regional conflict decreases, even when the very survival of a country involved in such a conflict is at stake. Therefore, depending on the amount of damage they might be able to inflict on the United States, it is conceivable that some countries—particularly those that possess invulnerable and WMD-armed ballistic missiles capable of targeting U.S. forces stationed overseas or the Continental United States—may think they can keep the United States from intervening in a regional conflict.

Further compounding the difficulty of retaliatory deterrence is the diminishing availability of the means of retaliation. Key factors to consider in building reliable and credible deterrence are to deploy weapons systems that an adversary can utilize and prepare the capability to match an adversary's mode of attack. When viewed from this standpoint, the means of retaliation available to the United States at present are limited to nuclear weapons and conventional capabilities. Nuclear weapons offer persuasive deterrence against nuclear threat. However, as nuclear weapons have far greater destructive power than other weapons, and as the havoc they would wreak on is likely to be disproportional to non-nuclear aggression, it is not easy for decision makers to initiate a nuclear response. Therefore, doubts remains about the effectiveness of nuclear weapons to deter an attack with conventional weapons or small-scale use of chemical or biological weapons. The history of armed attacks mounted on nuclear-weapon states by non-nuclear-weapon countries attest this, such as the Korean War, the Vietnam War, the 1979 Sino-Vietnamese conflict, and the 1982 Falkland Islands conflict. While the credibility of a retaliatory threat posed by conventional military capability is greater than that of nuclear weapons, the damage that conventional military capability can inflict on an enemy tends to be underestimated, with the result that it does not provide a

powerful deterrent. Plus, doubts about its intra-war deterrence—the capability to deter an escalation of combat action—remain. For instance, it is difficult to deter an adversary from using chemical or biological weapons by threatening to employ additional conventional weapons once they already have been used.

Aside from the U.S. intention to provide Japan with strong deterrence, retaliatory deterrence is not a panacea. Hence the pursuit of other means such as missile defense to complement a deterrence strategy has important significance for Japan's security.

(3) Missile Defense

After North Korea conducted a test launch of a ballistic missile (very likely a NoDong missile) in May 1993, interest in undertaking Japan-U.S. joint research into a missile defense system to cover the whole of Japan has mounted. Since December the same year, Japan had been conducting preliminary studies with a view to determining the technological feasibility of missile defense, specifically of upper-tier defense capability, and obtaining data necessary for making a decision on the development and deployment of missile defenses with the help of information provided by the United States. Alarmed by the launching of a ballistic missile over the Japanese archipelago by North Korea in August 1998, the governments of Japan and the United States issued a statement the following month stressing the importance of missile defense and agreed to cooperate on research. In August 1999, the Japanese government began joint technical research with the United States on a Navy Theater Wide Defense (NTWD) system. Today, the NTWD is called the Sea-based Mid-course Defense (SMD) system.

The threat of ballistic missiles against the United States by a rogue state has yet to materialize, but for some U.S. allies including Japan this threat exists. In urgent need of taking measures to against this growing threat, the Japanese government in its FY2004 budget proposal requested funds for the purchase of interceptor missiles (Standard Missile 3, SM-3) to be installed on Aegis-equipped destroyers as part of the SMD program, and surface-to-air guided missile Patriot Advanced Capability-3 (PAC-3) that intercept incoming ballistic missiles/warheads at the terminal phase (from the time they reenter the atmosphere to the time they land). The SM-3, which the Japanese government has decided to introduce, is an interceptor missile already developed by the United States, and the joint technical research, currently conducted by Japan

and the United States, is designed to develop an interceptor missile with even higher capability.

The advantages Japan can derive from deploying missile defense are as follows. First, as noted earlier, it is expected to cope with a situation in which a rogue state that has deployed mobile, invulnerable WMD-equipped ballistic missiles misreads the intention of the United States, who provides Japan with extended deterrence. Second, missile defense can deter rogue states from using WMD-equipped ballistic missiles or

A PAC-3 being launched at a test site in the United States (Missile Defense Agency)

ballistic missiles disguised as being equipped with WMD, as a tool of political intimidation. Third, a missile defense system defending Japan from attack can also defend U.S. forces in Japan from a similar attack, and therefore would assure them flexible military operations. Fourth, missile defense can cope with ballistic missiles accidentally launched by an adversary. Fifth, missile defense provides a means of defense against conventionally armed ballistic missiles whose military significance grows with improved accuracy. As noted earlier, it is not easy to rebuild intra-war deterrence with conventional military capability once deterrence has collapsed and a conventional war has begun. In such cases, it is difficult to deter an attack with ballistic missiles armed with conventional warheads. Once missile defense is put in place, such ballistic missile threats can also be dealt with.

Debates in Japan over missile defense center on ballistic missile defense (BMD), but we should not overlook the importance of cruise missile defense (CMD). In addition to the lower costs involved, it is easier to improve a cruise missile's accuracy and extend its range. Cruise missiles are more suited than ballistic missiles to delivering chemical and biological weapons. The cruise missiles North Korea possesses are antiship missiles built on the model of the Silkworm HY-2 cruise missiles of China. If North Korea can remodel them into land-attack cruise missiles with a longer range and an improved accuracy, it could pose a threat to Japan. For instance, if an armed clash occurs on the Korean Peninsula, it is conceivable that North Korea might intimidate Japan

with sea- or ground-launched land-attack cruise missiles armed with chemical and biological weapons with the aim to preventing Japan from providing support to the U.S. forces.

PAC-3 missiles developed by the United States are believed to have a certain capability of intercepting cruise missiles, but as cruise missiles fly at a low altitude, unlike ballistic missiles, ordinary radar may not always detect them. Furthermore, cruise missiles are difficult to detect at their launch phase, and are usually transported on mobile launchers making it difficult to deal with them. Therefore, it would be necessary to improve detecting and tracking capability of Japan's air-defense systems, in addition to introducing PAC-3. Multi-layered defense, which tries to shoot down an incoming cruise missile in a number of stages along its flight course, is said to be effective. For it to be effective, however, it is essential that, instead of independently employing fighter interceptors and interceptor missiles without integrated coordination among them, a battle management system, such as Airborne Warning and Control System (AWACS), with command and control authority over all air-defense assets, be established and orchestrate missile defense operation using air-launched, surface-to-air, and sea-launched interceptor missiles in a closely coordinated manner.

For a country like Japan that does not deploy any offensive weapons like ballistic missiles, the missile defense system is purely a weapon system for defense and does not run counter to Japan's exclusively defensive defense policy. There are people in and out of Japan who oppose research into, development, and deployment of missile defense on the grounds that its deployment could trigger ballistic missile arms expansion by countries neighboring Japan; however, such an argument means that Japan should continue to tolerate unilateral exposure to the threat of ballistic missiles. Some may counter that Japan can hide behind the extended deterrence provided by the United States, but as noted earlier, retaliatory deterrence is not always watertight. Furthermore, the missile defense system contemplated by Japan should not be considered as the principal cause for triggering an arms race. It is a passive weapons system simply designed to meet the threat posed by the increasing number of ballistic missiles in countries and regions surrounding Japan; indeed, it must be said that the real culprit behind fueling an arms race is the deployment and increase in the number of ballistic missiles by other countries.

More important, missile defense is the only means for active defense by

which Japan can cope with ballistic missiles actually fired. Also, as missile defense can effectively determine the success or failure of a missile attack, it should not be forgotten that it is a weapons system contributing to the improvement of deterrence by denial.

(4) An Attack on Missile Launching Sites

Under the Constitution, Japan has adopted a doctrine of exclusively defensive defense as its basic policy. When Japan exercises the right of self-defense, the actions it takes must meet three requisite conditions: (a) there is an imminent and illegitimate act of aggression against Japan; (b) there is no appropriate means to deal with such aggression other than to resort to the exercise of its right of self-defense; and (c) the use of armed strength is restricted to the minimum level necessary to defend the country.

In dealing with an attack by WMD-equipped ballistic missiles, the big question is how to determine the occurrence of “an imminent and illegitimate act of aggression against Japan.” In other words, how to determine the occurrence of a ballistic missile attack on Japan? Given the unprecedented lethality and destructive power of nuclear weapons, Japan understandably cannot afford to wait until a WMD-equipped ballistic missile actually hits the country to determine that such an attack has occurred. In fact, *Defense of Japan 2003* states that Japan does not have to wait until damage done by a ballistic missile attack actually occurs.

Clearly, therefore, the “occurrence of ballistic missile attack” should be at some point of time before impact. However, it is not easy to find the answers to when and under what circumstances Japan should exercise its right of self-defense against ballistic missile attack, for it is necessary to consider the prevailing military and political situations. Moreover, if published, such criteria would reveal Japan’s hand to its adversaries, so should be handled with due care. *Defense of Japan 2003* states that the starting point of a missile attack should be a time when a country, which is launching imminent and illegitimate act of aggression on Japan, actually starts a missile attack on Japan. However, it also says the “actual starting point of an armed attack by an opposing country should be decided taking into consideration the prevailing international situation, the explicit intention of the country, measures and types of attack, etc. It cannot be generalized. The starting point should be decided on a case-by-case basis.”

However, in case Japan becomes subject to an imminent and illegitimate act

of aggression with WMD-equipped ballistic missiles—that is to say, if an adversary started such an attack—Japan theoretically can eliminate the threat by, for example, using force to destroy missile sites within its adversary's territory, if Japan has no other means to eliminate the threat, even though Japan has not actually suffered any damage.

The use of force under such circumstances fulfills a role of complementing missile defense. As with other threats, it is desirable to take multiple countermeasures against ballistic missile attacks. An adversary contemplating a ballistic missile attack on Japan is likely to mount an attack that outperforms Japan's missile defense capability. Until now, Japan has relied on an arrangement with its ally, the United States, for its offensive operations. Under this arrangement, U.S. forces are expected to take offensive action, including attacking an enemy's missile sites, in case of a ballistic missile attack on Japan. As long as U.S. forces constantly maintain their capability to attack the missile sites of a country contemplating a missile strike, then this will play a role of complementing the missile defense of Japan. The defense posture, under which one can launch simultaneously offensive operations against an adversary's missile sites and defense operations of intercepting incoming ballistic missiles, will go a long way toward beefing up the defense of Japan against missile attacks.

Recently, the Diet has been debating Japan's capability to attack its adversaries' missile sites in the event of an imminent and illegitimate act of aggression on Japan. It is highly significant that Japanese political leaders carry on a broad-based debate in public about the strategic significance and limitations of such capability, in addition to Japanese efforts to enhance the effectiveness and credibility of the Japan-U.S. bilateral defense posture.