

Chapter 1

Japan: Revising Security Legislation and the Japan-US Defense Cooperation Guidelines

The right of collective self-defense was the key word when discussing Japan's security policy in 2014. Usually, security matters are discussed among specialists and do not attract a high level of interest among the public. However, wide-ranging public discussions emerged in 2014, particularly regarding the right of collective self-defense. The trigger for these discussions was the "Cabinet Decision on Seamless Security Legislation to Ensure Japan's Survival and Protect its People" announced on July 1, which made clear the government's intention to pursue necessary legislation for the purpose of addressing various security challenges.

This cabinet decision aims to revise the interpretation of Article 9 of the Constitution, which forms the basic legal foundation of security and has been a point of debate since the Gulf War in 1991, to meet the demands of the current security environment, while maintaining the basic legal logic of the previous interpretation of the Constitution.

In the meantime, Japan and the United States are in the process of revising the Guidelines for Japan-US Defense Cooperation (hereinafter "the Guidelines"). A decision to revise the document was made at the Japan-US Security Consultative Committee ("2+2") held on October 3, 2013. On October 8, 2014, an interim report was released summarizing the outcome of the discussions thus far and the state of the bilateral discussions. This will be the first revision of the Guidelines since 1997. The new Guidelines are expected to play an important role in ensuring that the US-Japan Alliance can respond appropriately to the security environment of the 21st century.

1. Toward Revision of Security Legislation

(1) Basic Approach to Interpretation of the Constitution

The right of collective self-defense became an indispensable term when discussing Japan's security policy in 2014 and it has been widely discussed in the country. The term "right of collective self-defense" was indeed chosen as one of the top ten words of the year in the U-Can New Words & Buzzwords Awards based on a questionnaire survey of readers of *Basic Knowledge of Contemporary Terms*, Japan's leading dictionary of new words. Such high level of public interest in the issue was triggered by the "Cabinet Decision on Seamless Security Legislation to Ensure Japan's Survival and Protect its People" on July 1, which made clear the

government's intention to revise the legal basis of security to enable the government to respond to diverse security challenges in a seamless manner.

One of the specific aims of the cabinet decision, described in detail below, was to revise the interpretation of Article 9 of the Constitution, which forms the framework of the legal basis of security, to meet the demands of the current security environment, while maintaining the basic legal logic for the interpretation of the Constitution. The government's interpretation of the Constitution is laid out in the "Relationship between the Right of Collective Self-Defense and the Constitution," a document submitted by the government in response to a question by Diet member Kozo Minakuchi of the Socialist Party of Japan at the House of Councillors' Audit Committee on October 14, 1972. This document stated that, considering that "all peoples of the world ... have the right to live in peace" as recognized in the Preamble of the Constitution and the purpose of Article 13 of the Constitution which stipulates the people's right to life, liberty, and the pursuit of happiness, "it is clear that the Constitution does not renounce the nation's right to ensure its survival and protect its people, and that it cannot possibly be interpreted to prohibit Japan from taking measures of self-defense necessary to maintain its peace and security and to ensure its survival." It went on to state that, "This does not mean that the Constitution, whose basic principle is pacifism, should be interpreted as allowing unrestricted measures of self-defense," and that "since such measures are only permitted when they are inevitable for dealing with an imminent unlawful situation where the people's right to life, liberty, and the pursuit of happiness is fundamentally overturned due to an armed attack by a foreign country, and for safeguarding these rights of the people, they should be limited to the minimum extent necessary to eliminate such a situation." Accordingly, it concluded that "exercise of the so-called right of collective self-defense for countering an armed attack on another country is not permissible under the Constitution."

Furthermore, in its written answer to a written question titled "The Constitution, International Law and the Right of Collective Self-Defense" submitted by House

of Representatives member Seiichi Inaba of the Socialist Party of Japan on May 29, 1981, the government expressed the view that “Under international law, a nation has the right of collective self-defense, that is, the right to use force against an armed attack on a foreign country with which it has a close relationship, even if it is not itself under direct attack. Under international law, Japan naturally possesses this right as a sovereign nation. However, the exercise of the right of self-defense permitted under Article 9 of the Constitution is interpreted as being limited to the minimum extent necessary. The exercise of the right of collective self-defense is considered to go beyond this scope and is therefore not permitted under the Constitution.”

As is clear from the above, the exercise of the right of self-defense allowed under the basic logic of the current Constitution has been limited to use of force to the “minimum extent necessary” in order to defend Japan in response to an “imminent, unlawful invasion,” as a result of which the exercise of the right of collective self-defense has been believed not to be permitted as it goes beyond this “minimum extent necessary.” Since Paragraph 2 of Article 9 of the Constitution prohibits Japan from maintaining “land, sea, and air forces, as well as other war potential,” the Self-Defense Forces (hereinafter “SDF”) have been described as “a military force without war potential.” However, the government’s interpretation is that this paragraph does not prohibit Japan from maintaining forces to the “minimum extent necessary” and the SDF as a force to the minimum extent necessary does not constitute the “war potential” as prohibited by the Constitution.

(2) Policy Debate since the Gulf War

Discussions on security issues are usually conducted only by experts and do not usually attract wide public interest. The United States Security Strategy for the East Asia-Pacific Region, released by the US Department of Defense in 1995 to outline its basic approach to security strategy in the Asia-Pacific region after the end of the Cold War, stated that “security is like oxygen.”¹⁾ That means that when security is being maintained nobody is aware of its importance—people only become aware of the importance of security when it is threatened. From this point of view, the situation in today’s Japan, where not just the legal basis of security but wide-ranging security issues are being discussed, can be understood to be indicating that people are becoming more aware of the importance of “oxygen,” reflecting the deteriorating security environment surrounding Japan.

However, for the security experts whose job is to examine “oxygen” all the time, the debate on the legal basis of security is in no sense a new issue. It has been discussed for a long time from both the legal and policy viewpoints.

The watershed moment for this debate was the Gulf War that started in January 1991. The Gulf War was fought between Iraq, which invaded Kuwait in the summer of 1990, and a multinational force led by the United States that used force to restore Kuwait’s independence based on a United Nations Security Council resolution. Iraq’s invasion of Kuwait was a clear infringement of international law. Not only the United States but many European and Arabic countries took part in the military operation to oust Iraq from Kuwait. However, unlike in the wake of the 9/11 terrorist attacks, Iraq War, or in the context of anti-piracy, Japan was unable to dispatch the SDF and only provided financial aid amounting to as much as 13 billion US dollars. This inability to participate in international military operations against this clear invasion of another country’s sovereign territory in the Middle East, upon which Japan depends greatly for oil supplies, led to an underappreciation by the international community of the importance of Japan’s financial assistance. The journalist Ryuichi Teshima, who covered these developments, wrote a book titled *Defeat of Japan in 1991* (later changed to *Diplomatic Defeat*).²⁾ Japan’s response to the Gulf War had such a great impact on Japan’s experts on foreign policy and security that it was described as a “defeat.”

Furthermore, from 1993 to 1994, a tense situation arose when North Korea refused to allow the IAEA to conduct special inspections of an undeclared nuclear facility. The United Nations Security Council discussed sanctions against North Korea and the United States is said to have considered a limited military campaign against the nuclear facility. In this situation, known as the “first Korean nuclear crisis,” it was again made clear that Japan would not be able to assist the United States in a manner involving the SDF. Although Japan depends on the Middle East, where the Gulf War occurred, for 80 percent of its oil, it is a region that is still far away from Japan. North Korea, on the contrary, is one of Japan’s immediate neighbors and its development of nuclear weapons has a great impact on Japan’s security, meaning that the prevention of such development is of critical importance to Japan. If Japan was unable to provide any kind of direct assistance to the United States even in a contingency involving North Korea, it was feared that this would create a serious crisis in the US-Japan Alliance. As a result, it came to be recognized in both countries that it was necessary to strengthen US-Japan

cooperation for the stability of the region. Accordingly, following the Japan-US Joint Declaration on Security by then Prime Minister Ryutaro Hashimoto and President Bill Clinton in 1996, the Guidelines were revised in 1997 and Japan's role in situations surrounding Japan was expanded in the form of rear area support.

In parallel with these intergovernmental initiatives, Japanese and US experts were already engaging in intensive discussions from the mid-1990s on the need to strengthen bilateral defense cooperation in the US-Japan Alliance. One of the most notable initiatives was the US-Japan Alliance Project led by the former diplomat Hisahiko Okazaki of the Okazaki Institute, which released a number of policy proposals by Japanese and US experts. The basic premise of the project was that Japan should exercise the right of collective self-defense and take direct responsibility for the stability of the region. It even considered the development of a system whereby the SDF and US forces could respond to regional contingencies by conducting full-scale joint operations like the North Atlantic Treaty Organization (NATO).

In 1997, the Brookings Institution published a book titled *Toward a True Alliance*, authored by Mike Mochizuki, Michael O'Hanlon, and Satoshi Morimoto.³⁾ While proposing the reduction of the US Marines stationed in Okinawa, as a precondition for this it advocated that Japan exercise the right of collective self-defense and that Japan and the United States engage in close military cooperation in order to avoid any negative impact on deterrence.

In the end, however, these discussions by experts in the 1990s converged on an incremental approach of strengthening the US-Japan Alliance within a scope that did not conflict with the existing interpretation of the Constitution. This does not necessarily mean that the exercise of the right of collective self-defense was considered unnecessary. It was rather an approach of promoting improvement in areas where the strengthening of bilateral cooperation was possible within the current framework, based on recognition of the sensitivity of the problems relating to the right of collective self-defense and that an attempt to grapple with these fundamental problems might actually delay the whole process.

A classic example of this incremental approach was the policy proposal "The United States and Japan: Advancing Toward a Mature Partnership" of 2000, generally known as the first Armitage-Nye Report, which was compiled by a bipartisan group of US experts on Asia led by Richard Armitage and Joseph Nye.⁴⁾ Stating that "Japan's prohibition on collective defense is a constraint on

alliance cooperation,” the report made the following ten specific policy proposals: (1) full implementation of the cooperation with the United States stipulated in the 1997 Guidelines; (2) promotion of joint US-Japan bases and facilities; (3) promotion of joint exercises and training in line with realistic scenarios; (4) revision of the military roles and missions agreed upon by the United States and Japan in 1981; (5) promotion of US-Japan defense equipment cooperation; (6) change in the composition of US armed forces stationed in Japan incorporating the results of the technological innovations and accompanying reduction of area of US bases and resolution of the Okinawa base problem; (7) expansion of the scope of US-Japan missile defense cooperation; (8) promotion of sharing of military and diplomatic information; (9) joint response to new threats surrounding the United States and Japan such as terrorism and international crime; and (10) Japan’s full participation in international peacekeeping and humanitarian aid operations. It is clear from a careful reading of the report that almost all of the above forms of cooperation are possible without the exercise of the right of collective self-defense. In other words, while considering it desirable that Japan exercise the right of collective self-defense, the Armitage-Nye Report can be viewed as focusing on the rapid strengthening of US-Japan cooperation without conflicting with Japan’s existing interpretation of the Constitution.

The strengthening of US-Japan cooperation after the revision of the 1997 Guidelines was basically implemented in line with this incremental approach. However, the global operations of the SDF after the 9/11 terrorist attacks greatly exceeded what had been envisaged in the 1990s. Decisions to dispatch Japan Maritime Self-Defense Force (JMSDF) supply vessels to the Indian Ocean in 2001, dispatch the Japan Ground Self-Defense Force (JGSDF) and Japan Air Self-Defense Force (JASDF) to Iraq in 2004, and conduct a counterpiracy operation off the coast of Somalia and in the Gulf of Aden in 2009 extended the scope of US-Japan cooperation beyond Northeast Asia to the Indian Ocean and the Middle East.

As a result of the expansion of SDF operations, issues related to the right of collective self-defense came to be discussed more intensively. However, whereas the discussions in the 1990s focused on the role of the SDF in regional contingencies other than defense of Japan like the Korean Peninsula and the Taiwan Strait, interests have shifted to the SDF role in a global context in the decade of the 2000s.

A report by the Council on Security and Defense Capabilities, a panel of experts convened to prepare the revision the National Defense Program Guidelines (hereinafter “NDPG”) conducted under the Koizumi administration in 2004, set the main security strategy objectives as Japan’s self-defense and the improvement of international security environment, emphasizing the importance of global engagement in the context of Japan’s security. The most distinctive aspect of this report was that it mentioned the issues related to the Constitution in “Addendum.” While maintaining that the panel’s proposals were made all within the framework of the current interpretation of the Constitution, it stated that “the government should examine and make clear as soon as possible what measures are of high necessity for Japan and what it can do among those believed to be related to the exercise of the right of collective self-defense within the framework of the current Constitution.”

Another council of experts, the “Advisory Panel on Reconstruction of the Legal Basis for Security” was set up in 2007 by the first Abe administration, which examined the relationship between the Constitution and SDF operations in a changing security environment of the 21st century. At around the same time, Ichiro Ozawa, then the president of the Democratic Party of Japan, published an article titled “Now is the Time to Establish the Principles of International Security,” in which he argued that Japan should be allowed to participate in UN operations even involving the use of force in the event of a clear UN resolution (*Sekai*, November 2007).

Various think tanks also released policy proposals that advocated the exercise of the right of collective self-defense in the decade of the 2000s. The policy proposal “Exercise of the Right of Collective Self-Defense: The Responsibility of a Normal Democratic Country,” released in 2006 by the Research Institute for Peace and Security, advocated the exercise of the right of collective self-defense by reinterpreting the Constitution. The Tokyo Foundation published in 2008 the proposal “New Security Strategy: Multilayered and Cooperative Security Strategy,” which focused on ballistic missile defense and argued that “the government’s interpretation of the Constitution should be revised to enable Japan to exercise the right of collective self-defense that is normally recognized under international law and defend its ally with ballistic missile defense.” In 2009 the Japan Forum on International Relations published a report entitled “Positive Pacifism and the Future of the Japan-US Alliance,” in which it stated that, in order to maintain the credibility of the US-Japan Alliance, it was necessary to allow the

exercise of the right of collective self-defense by revising the existing interpretation of the Constitution or amending the Constitution itself.

In the 2010s this debate became more intense in response to the deteriorating security environment surrounding Japan due to North Korea’s nuclear and missile development and the rapid modernization of China’s maritime and air capabilities. For example, the policy proposal “The Next 25 Years: Proposals for a Vibrant Japan Active on the World Stage,” published in October 2013 by the Institute for International Policy Studies to commemorate its twenty-fifth anniversary, pointed out that it would be necessary to further examine the concept of the right of self-defense in conformity with international law in view of rapid changes in the security environment in the years to come. It advocated that Japan secure the capabilities to play a more active role in the US-Japan Alliance and that Japan and the United States cooperate to ensure Japan’s defense and the peace and stability of the Asia-Pacific region, for the purpose of which it was argued that not only

Table 1.1. Main opinions regarding the legal basis of security

Arguments supporting the exercise of the right of collective self-defense	Arguments opposing the exercise of the right of collective self-defense
Tokyo Foundation, “Fifteen Perspectives for Abe’s Diplomacy: Pursuing Realism Rather Than Nationalism” (August 2013)	Masahiro Sakata and Miho Aoi, “This is a Constitutional Issue,” <i>Sekai</i> (May 2014)
Institute for International Policy Studies, “The Next 25 Years: Proposals for a Vibrant Japan Active on the World Stage” (October 2013)	Asaho Mizushima, “Proactive Contribution to Peace’ in the Advisory Panel on Reconstruction of the Legal Basis for Security,” <i>Sekai</i> (May 2014)
Japan Forum on International Relations, “Positive Pacifism and the Future of the Japan-US Alliance” (October 2009)	Reiichi Miyazaki, “Article 9 of the Constitution is Not Compatible with the Right of Collective Self-Defense,” <i>Sekai</i> (August 2014)
Shinichi Kitaoka, “Do Not Forget About National Security by Clinging to the Constitution,” <i>Chuo Koron</i> (May 2014)	Miho Aoi, “Not Something that Can Be Decided by a Cabinet Decision,” <i>Sekai</i> (September 2014)
Osamu Nishi, “Reinterpretation of the Constitution Does Not Violate Constitutionalism,” <i>Chuo Koron</i> (May 2014)	Tokujin Matsudaira, “Constitutional Politics and International Politics in Relation to the ‘Right of Collective Self-Defense’,” <i>Sekai</i> (October 2014)
Hisahiko Okazaki, “Clash over the Senkaku Islands: The Day Chinese Air Power Exceeds US-Japan Air Power,” <i>Bungei Shunju</i> (June 2014)	Katsutoshi Takami, “The Irrationality and Inhumanity of the Argument for the Exercise of the Right of Collective Self-Defense,” <i>Sekai</i> (December 2014)

Sources: Based on various materials.

enhancing defense capabilities but also strengthening extended deterrence based on exercise of the right of collective self-defense were essential.

More recently, advocates of the exercise of the right of collective self-defense are no longer simply stating that this right should be allowed to be exercised, but have begun to discuss this matter in more detail. This perhaps reflects the fact that revision of the legal basis of security has become more likely since the inauguration of the second Abe administration in December 2012. One example of this was the Tokyo Foundation's policy proposal "Fifteen Perspectives for Abe's Diplomacy: Pursuing Realism Rather Than Nationalism" published in August 2013. In the context of the issue of the right of collective self-defense, the proposal stated that efforts should be made to raise awareness in both Japan and the Republic of Korea that the US-Japan Alliance contributes to the security of the Korean Peninsula and advocated the commencement of discussion to determine common strategic objectives of Japan and the Republic of Korea to strengthen bilateral security cooperation.

(3) New Interpretation of the Constitution and the Current Debate

As we have seen in the previous section, the debate on the legal basis of security, particularly the right of collective self-defense is hardly new. The same debate has been repeated at least for around twenty-five years, since the Gulf War. However, it cannot be denied that these discussions were conducted in a limited sphere confined mainly to experts in this field. In this respect, it is important to note that in response to the Abe government's commitment to the issues of the legal basis of security and the resulting cabinet decision of July 1, 2014, the scope of discussions has expanded beyond the small circle of security experts.

Needless to say, opinions are divided regarding the legal aspect of the issue. The arguments in favor of the cabinet decision can be summarized as follows: (1) In the changing security environment, a change in interpretation of the Constitution is essential to tackle the fundamental issues of the legal basis of security to strengthen deterrence of the US-Japan Alliance; (2) Interpretation of the Constitution has changed over time, and what the government is proposing is within a rational scope not inconsistent with constitutionalism; and (3) It would be even more inappropriate to expand the scope of the right of individual self-defense. On the other hand, the arguments against the government's position can be summarized as follows: (1) A change in interpretation would undermine the very foundation of Japan as a peaceful nation; (2) Since the proposed change in

the interpretation of the Constitution contradicts the position of past governments and goes beyond the permissible scope for reinterpretation, revising the Constitution itself would be needed for this change to be allowed; (3) There is basically no clear need for a change in interpretation and Japan can address any security threat it faces by the right of individual self-defense; and (4) While the government argues that the exercise of the right of collective self-defense would be “limited,” how it will be limited remains unclear and there would be a possibility of uncontrolled expansion of its exercise.

As we have seen, the legal basis of security is being vigorously debated in Japan and, considering the importance of Japan’s security, this should be continued. While it might be too early to draw a definitive conclusion out of those discussions, it is at least necessary to consider the following three aspects in terms of advancing the debate.

First, the proposed reinterpretation of the Constitution by the cabinet decision of July 1 is not such that it would, as advocated in some of the above-mentioned policy proposals, “enable Japan to exercise the right of collective self-defense that is normally recognized under international law” (Tokyo Foundation: “New Security Strategy: Multilayered and Cooperative Security Strategy”). It should be reiterated that, regarding the right of collective self-defense, a key phrase regarding constitutional interpretation since the 1980s has been whether or not SDF operations exceed “the use of force to the minimum extent necessary.” In this regard, whereas the exercise of the right of individual self-defense has been understood to be consistent with the notion of the “use of force to the minimum extent necessary for self-defense” and thus not contradicting the Constitution, the right of collective self-defense, on the other hand, has been judged to be incompatible with the Constitution as it exceeds that scope. According to this logic, anything that exceeds “use of force to the minimum extent necessary” is not permissible under the Constitution.

On the other hand, following the logic of this argument, if the exercise of the right of collective self-defense or participation in collective security operations can be considered to be within the confine of the use of force to the minimum extent necessary for self-defense as a sovereign nation, then it can be argued that those should be allowed under the current Constitution while maintaining compatibility with the basic arguments put forward by the successive governments so far. The cabinet decision of July 1 states that “not only when an armed attack

against Japan occurs but also when an armed attack against a foreign country that is in a close relationship with Japan occurs and as a result threatens Japan's survival and poses a clear danger to fundamentally overturn people's right to life, liberty, and pursuit of happiness, and when there is no other appropriate means available to repel the attack and ensure Japan's survival and protect its people, use of force to the minimum extent necessary should be interpreted to be permitted under the Constitution as measures for self-defense in accordance with the basic logic of the Government's view to date." In other words, based on the principle of the minimum extent necessary for self-defense, the legal and logical foundations of the government's long-held interpretation of the Constitution remain intact and cannot be said to have changed.

Second, regarding the frequently discussed issues of "brakes" or "restrictions" on Japan's security and defense policy, there needs to be a clear understanding about the distinction between the question of devising a legal and institutional mechanism to limit the scope of the government's actions and the question of clarifying criteria for policy choices. Putting institutional brakes in advance means that the right of collective self-defense will not be exercised in certain cases. However, the question of whether or not Japan will exercise that right in contingency will be determined as a result of policy decisions made in light of various factors at the time, within the scope of what is permitted under the Constitution. From this perspective, it will be important to formulate—by the widest possible consensus—principles and criteria through which policy decisions could be made. This is something that remains underexamined even by the security experts calling for revision of the legal basis of security to enable to exercise of the right of collective self-defense. While the series of policy proposals mentioned above call that the right of collective self-defense should be allowed to be exercised, they remain unclear about the principles and criteria through which policy decisions regarding it should be made. It will be important to promote deeper discussion of this question now.

The third aspect concerns the question of necessity. As stated above, in the discussions among experts about the legal basis of security a major point of contention in the 1990s was how to provide support for the US forces operating in the contingencies, such as a conflict in the Korean Peninsula. In the decade of the 2000s, the main issue became how Japan should contribute to the global "war on terror." In the 2010s, it can be argued that the question of how to strengthen

deterrence of the US-Japan alliance in general attracts more attention.

On the other hand, it is possible to argue that, unlike the 1990s in particular, most of Japan's security problems in the current security environment are not necessarily related to the exercise of the right of collective self-defense, and in that sense it has been claimed that it is not really necessary now to discuss this issue.

However, the issues related to the legal basis of security are critical in shaping Japan's security policy in the future. For this reason, it is not a matter that should be debated hastily in an urgent situation after its necessity has become evident. It should rather be thoroughly debated at a time like the present when, although the need to strengthen the deterrence of the US-Japan Alliance is generally recognized in view of the increasingly severe security environment, a specific imminent crisis that could throw doubt on the stability of this alliance has not yet occurred. In this sense, the present time, when the US-Japan Alliance has been gradually strengthened based on the conventional interpretation of the Constitution through what may be called incremental strengthening over a period of twenty-five years since the Gulf War, can be considered the right time for revising the legal basis of security. It is hoped that these wide-ranging and deep discussions will be continued.

2. Revision of the Guidelines for Japan-US Defense Cooperation

(1) Role of the Guidelines for Japan-US Defense Cooperation in the US-Japan Alliance

The second Abe Cabinet of the Liberal Democratic Party (LDP) was inaugurated on December 26, 2012. On that day Prime Minister Abe directed Minister of Defense Itsunori Onodera to prepare for the revision of the Guidelines for Japan-US Defense Cooperation (hereinafter "the Guidelines") in order to strengthen the role of the SDF and enhance deterrence in coordination with the United States. Accordingly Japan and the United States engaged in discussions and, at the Japan-US Security Consultative Committee ("2+2") held on October 3, 2013, the four ministers (Japan's ministers of foreign affairs and of defense and the US secretaries of state and defense) directed the Subcommittee for Defense Cooperation (SDC) to draft recommended changes to the 1997 Guidelines. On October 8, 2014, an interim report was released summarizing the outcome of the discussions thus far and the current status of the discussions was clarified.⁵⁾ The 2+2 Joint Statement of

October 2013 called for completion of revision of the Guidelines by the end of 2014. However, in view of the importance of taking into account the process of revising the legal basis of security, it was decided in the 2+2 Joint Statement of December 19, 2014 to promote deeper discussions and complete the revision procedures in the first half of 2015.

Article 5 of the US-Japan Security Treaty states that “Each Party recognizes that an armed attack against either Party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes,” stipulating that the two parties would take joint action in defending Japan. The main purpose of the Guidelines is to provide for the general framework and directions regarding the roles of each party and bilateral cooperation and coordination through which the two countries could respond to a contingency involving the defense of Japan (known as an “Article 5 contingency” as it concerns Article 5 of the US-Japan Security Treaty).

In addition to outlining the specific situations in which US-Japan defense cooperation will take place, the stipulation of the division of roles between the SDF and US forces in these situations is a particularly important function of the Guidelines. Since it is a document to be adopted by a ministerial 2+2 meeting, a body for political decision-making of the Alliance, the division of roles of the SDF and US armed forces outlined therein can be understood to have an endorsement from the political leadership. While the concrete planning procedures are conducted based on the division of roles stipulated in the Guidelines, the framework of planning as a whole is outlined as a political commitment as a 2+2 document. In this sense, the Guidelines are a document that constitutes the core of US-Japan defense cooperation.

However, since the Guidelines are not a treaty, the document will not affect the US-Japan Security Treaty, rights and obligations based on related arrangements,

or the basic framework of the alliance relationship between the US and Japan. Furthermore, the Guidelines and the initiatives taken based on them would not oblige either country to take additional legal, budgetary, or administrative measures and therefore would not give rise to any legal rights or obligations. While not having a legal status, nevertheless, the points agreed upon in the Guidelines are supposed to be implemented in concrete policies and measures.

(2) The 1997 Guidelines

While the US-Japan Security Treaty came into its current form through its revision in 1960, the Guidelines were first formulated in 1978. The 1978 Guidelines were based on the international environment of the Cold War period and outlined the principles for Japan-US defense cooperation regarding “posture for deterring aggression,” “actions in response to armed attack against Japan,” and “cooperation in the case of situations in the Far East.” The international security environment changed greatly with the end of the Cold War at the end of the 1980s and, even though the Cold War had ended, the security environment in the Asia-Pacific region remained uncertain and unpredictable, most notably evidenced by the first North Korean nuclear missile crisis and the Taiwan Strait crisis in the mid-1990s. In response to these developments it was agreed to revise the Guidelines in the US-Japan Joint Declaration on Security announced by Prime Minister Hashimoto and President Clinton in 1996, and the Guidelines were revised in 1997. The 1997 Guidelines outlined the framework and direction of the roles and coordination of Japan and the United States under the headings of “cooperation under normal circumstances,” “actions in response to armed attacks against Japan” and “cooperation in situations in areas surrounding Japan.”

“Cooperation under normal circumstances” consists of information sharing and policy consultations, security cooperation such as security dialogues and defense exchanges, and collaboration in joint defense planning. It was agreed that in the context of “actions in response to armed attacks against Japan,” the SDF would have primary responsibility in conducting defensive operations, the US forces would support the SDF and supplement the capabilities of the SDF including the use of strike power, and the two countries would conduct joint operations to counter air attacks and airborne/seaborne invasions and to protect sea lines of communication. “Cooperation in situations in areas surrounding Japan” consists of cooperation in activities initiated by either government, such as

relief activities and measures to deal with refugees or activities for ensuring the effectiveness of economic sanctions for the maintenance of international peace and stability, Japan's support for US forces' activities, and US-Japan operational cooperation. The most distinctive characteristic of the 1997 Guidelines is the promotion of cooperation not only of the defense of Japan but also for the stability of the security environment of the Asia-Pacific region through "cooperation in situations in areas surrounding Japan," thereby strengthening the role the US-Japan Alliance plays in regional security. The adoption of the Guidelines was followed by the Act Concerning the Measures for Peace and Safety of Japan in Situations in Areas Surrounding Japan and the Ship Inspection Operations Act to ensure the effectiveness of the Guidelines.

After the 1997 Guidelines, the international security environment and the nature of US-Japan security cooperation continued to undergo significant changes with the introduction of ballistic missile defense (BMD) by the Japanese government in 2003 following joint US-Japan BMD research starting in 1998, the 9/11 terrorist attacks in 2001 and subsequent dispatch of the SDF to the Indian Ocean and to Iraq, North Korea's nuclear and missile tests and a series of provocations toward the Republic of Korea, the rapid modernization of China's military capabilities and its increasingly active maritime and air activities, and the emergence of the new security problems of space and cyberspace. During this period the Japanese government revised National Defense Program Guidelines (NDPG) three times—in 2004, 2010, and 2013—and the United States formulated four Quadrennial Defense Reviews (QDR), in 2001, 2006, 2010, and 2014. Amid these changes in the international security environment and reviews of defense strategy by both countries, it is in a sense only natural that the further revision of the Guidelines has emerged as an important agenda in the US-Japan alliance.

(3) Toward the Establishment of New Guidelines

From a chronological viewpoint, the Guidelines up to the present have been revised in response to revisions of the NDPG. The first NDPG was adopted in 1976 ahead of the first Guidelines in 1978, and the 1995 NDPG was adopted in 1995 ahead of the revision of the Guidelines in 1997. Although the Guidelines themselves were not revised, the Joint Statement of the 2+2 meeting in October 2005, which indicated the direction of cooperation regarding roles, missions and capabilities in the course of discussions on the realignment of US armed forces, was drawn up in

Table 1.2. Objectives of revision of the Guidelines outlined in the joint statement of the “2+2” Japan-US Security Consultative Committee (October 2013)

Recognizing the implications of the evolving regional and global security environment, the Ministers directed the Subcommittee for Defense Cooperation (SDC) to draft recommended changes to the 1997 Guidelines for US-Japan Defense Cooperation, to ensure that the Alliance continues its vital role in deterring conflict and advancing peace and security. The Ministers identified several objectives for this revision, including:

- Ensuring the Alliance’s capacity to respond to an armed attack against Japan, as a core aspect of US-Japan defense cooperation
- Expanding the scope of cooperation, to reflect the global nature of the US-Japan Alliance, encompassing such areas as counter-terrorism, counter-piracy, peacekeeping, capacity building, humanitarian assistance/disaster relief, and equipment and technology enhancement
- Promoting deeper security cooperation with other regional partners to advance shared objectives and values
- Enhancing Alliance mechanisms for consultation and coordination to make them more flexible, timely, and responsive and to enable seamless bilateral cooperation in all situations
- Describing appropriate role-sharing of bilateral defense cooperation based on the enhancement of mutual capabilities
- Evaluating the concepts that guide bilateral defense cooperation in contingencies to ensure effective, efficient, and seamless Alliance response in a dynamic security environment that includes challenges in emerging strategic domains such as space and cyberspace
- Exploring additional ways in which we can strengthen the Alliance in the future to meet shared objectives

Source: Japanese Ministry of Defense

response to the 2004 NDPG. In this sense, the current revision of the Guidelines is being implemented following the revision of the NDPG in December 2013.

It is therefore important to take into account the basic approach of the 2013 NDPG in considering the orientation of the new Guidelines. In the 2013 NDPG, as in the 2010 NDPG, the importance of Japan’s response to “gray-zone” situations is highlighted and concern is expressed about the risks of such situations lingering or escalating. Judging from the text of the 2010 NDPG and the Defense Minister’s statement made on the occasion of the release of the 2010 NDPG, the concept of dynamic deterrence set forth in the 2010 NDPG that preceded the 2013 NDPG essentially referred to the capacity to conduct continuous intelligence, surveillance and reconnaissance (ISR) activities. This should be viewed as deterrence through continuous “presence patrol”-type ISR activities directed against attempts to achieve “opportunistic creeping expansion” such as the accumulation of “fait accompli” in

the surrounding sea and air space by making neighboring countries aware that there is no physical gap in Japan's defenses.

On the other hand, in the security environment in which the 2013 NDPG was formulated, concerns about "gray-zone" situations fear that these situations will linger or even escalate have deepened. It has therefore become more important to control the risk of escalation while engaging in a long-term response to such situations.

More specifically, it is important to enhance (1) situational awareness capabilities for rapidly responding in the event of escalation; (2) real-time seamless information sharing with relevant domestic organizations and the United States; (3) ability to conduct various operations to convey Japan's intentions clearly; and (4) ability to respond effectively when escalation actually occurs. Regarding item (1), in addition to maintaining continuous ISR activities, it is important to strengthen the ISR posture when the occasion demands and to develop both capabilities and systems and organizations for a seamless and rapid switch to a posture for response. In this sense, efforts to ensure the agile functioning of existing system and the legal system for responding to gray-zone situations being built as part of the revision of security legislation will have great significance. In doing so, the smooth information sharing with relevant organizations and the United States of item (2) above will be essential. Item (3) will be pursued through flexible deterrent options (FDOs) that strengthen deterrence by swiftly conducting military operations, including exercises in response to the development of a situation, in order to send a signal to the other party. It will, for example, require the preparation of various options for responding to small-scale escalation and, depending on how the situation develops, the operation of these capabilities in visible form in order to influence the other party's recognition. In order to promote item (4), it is necessary to enhance the effectiveness of deterrence. To this end, it is required not only to increase the amount of activities for developing comprehensive dynamic defense capabilities, but also to improve both the quality and quantity of defense equipment.

In view of the new revision of the Guidelines, items (2) and (3) will be particularly important. The current "coordination mechanism" for US-Japan defense cooperation stipulated in the 1997 Guidelines is only to be put into operation in Japanese contingencies and "situations in areas surrounding Japan that will have an important influence on Japan's peace and security." As a result, even after the Great East Japan Earthquake, when Operation Tomodachi was

conducted, the coordination mechanism was not activated. While Japan and the United States managed to coordinate their activities through a more flexible coordination during Operation Tomodachi, it is still important to learn lessons from that experience and review mechanisms of US-Japan defense cooperation as a whole. In particular, it is necessary to establish an approach to coordination based on a realization of the need for a seamless response to gray-zone situations. That is, even if it is not the kind of integrated command and control of NATO or the US-Republic of Korea Alliance, it is an important task to establish a standing coordination structure to enable a timely and appropriate joint US-Japan response in gray-zone situations.

In addition to gray-zone situations, another important role that the new Guidelines are expected to play is to provide a concrete outline of US-Japan cooperation in the areas that were not considered in the revision of the 1997 Guidelines, namely outer space, cyberspace, and BMD.

As mentioned above, an interim report on the revision of the Guidelines was released on October 8, 2014 as a document for the SDC, which had been directed by the “2+2” Committee to recommend changes. The aim of this report was to state clearly and transparently the objectives and framework of the revised Guidelines in order to further understanding of the revisions in Japan and overseas.

The interim report focuses on the following five areas: (1) seamless and effective whole-of-government alliance coordination; (2) taking measures to prevent the deterioration of Japan’s security; (3) enhancing bilateral cooperation to generate a more peaceful and stable international security environment; (4) cooperation in space and cyberspace in an alliance context; and (5) mutual support in a timely and effective manner. Based on this, “seamlessly ensuring Japan’s peace and security,” “cooperation for regional and global peace and security,” and “bilateral responses in new strategic domains” were identified as important areas of cooperation. Furthermore, the document states that the two governments will continue to develop cooperation in the following areas: defense equipment and technology cooperation, information security, and educational and research exchanges. Among the above-mentioned important areas of cooperation, in “seamlessly ensuring Japan’s peace and security,” in the event of an armed attack on Japan, the existing division of roles is in principle maintained, that is, Japan has primary responsibility to repel the attack, while the United States provides support, including strike operations as appropriate. At the same time, as a new approach,

seamless measures is to be taken to prevent any damage to Japan's security in cases ranging from normal circumstances to emergencies. This demonstrates that the US-Japan Alliance to adapt its focus in light of the growing concerns about gray-zone situations, which the Japanese side has emphasized since the 2010 NDPG.

“Cooperation for regional and global peace and security” includes commitments to promote security and defense cooperation with partners in the region through trilateral or multilateral cooperation, reflecting the recent development of US-Japan-South Korea or US-Japan-Australia cooperation, which have not been part of the Guidelines until now. Under “bilateral response in new strategic domains,” the revised Guidelines are supposed to outline the basic approach of responding seamlessly, effectively and in a timely manner to security problems relating to the use of outer space and cyberspace and the risk of prevention of free access to them—issues that were not taken up in the context of US-Japan defense cooperation at the time of the 1997 Guidelines. The new Guidelines are to promote cooperation in these new fields.

This will be the first revision of the Guidelines since 1997. Given the dynamically changing world, it is hardly surprising that the security environment of 2015 is substantially different from that of 1997. The new Guidelines document is expected to ensure that the Japan-US Alliance will be better able to address the security challenges of the 21st century, based on the framework outlined in the interim report and taking into account Japan's ongoing process of revising security legislation.

NOTES

- 1) US Department of Defense, “The United States Security Strategy for the East Asia-Pacific Region,” February 1995.
- 2) Ryuichi Teshima, *Defeat of Japan in 1991*, Shincho-sha, 1993.
- 3) Mike Mochizuki ed., *Toward a True Alliance: Restructuring U.S.-Japan Security Relations*, Brookings Institution Press, 1997.
- 4) Richard Armitage and Joseph Nye, “The United States and Japan: Advancing Toward a Matured Partnership,” Institute for National Strategic Studies, 2000.
- 5) Japanese Ministry of Defense, “Interim Report on the Revision of the Guidelines for Japan-US Defense Cooperation,” October 8, 2014.

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