

Chapter 9

Japan: Upgrading of National Security Policy

The year 2015 was a historic year for Japan's security policy. On April 27, the Guidelines for Japan-US Defense Cooperation (hereinafter, "the Guidelines") were updated for the first time in eighteen years since 1997. These new Guidelines called for the strengthening of cooperation by maintaining the Guidelines' central role of ensuring the peace and security of Japan, responding to the extension of alliance cooperation geographically and across domains, and establishing mechanisms for ensuring the effectiveness of the Japan-US cooperation outlined in the new Guidelines.

Furthermore, the Bill for the Development of Legislation for Peace and Security was decided by a Cabinet resolution of May 14 and submitted to the Diet on May 15. After debates over a total of about 116 hours in the House of Representatives and 100 hours in the House of Councillors, the legislation was passed on September 19. This legislation for peace and security is thought to contribute to the realization of two objectives: the strengthening of Japan's national security including gray-zone situations and the strengthening of cooperation with the international community for the maintenance of international peace and stability. To this end, ten laws, including the Self-Defense Forces Act were amended. In addition, the International Peace Support Act which has been described as being equivalent to a permanent or general law regarding international peace cooperation, was newly enacted. This legislation for peace and security was based on the Cabinet decision of July 1, 2014, which permitted the limited exercise of the right of collective self-defense in a form that maintained logical consistency with the existing interpretation of the Constitution. It can be considered as the legislative improvements necessary to substantially upgrade the means of promoting the peace and security of the Japanese people amid the increasingly severe security environment surrounding Japan.

One of the most important issues in this increasingly severe security environment is North Korea's development of nuclear weapons and missiles. In spite of efforts of the international community such as the Six-Party Talks, North Korea has continued to develop nuclear weapons and missiles. This has reached the stage where the possibility cannot be ruled out that North Korea has succeeded in acquiring nuclear warheads and miniaturizing nuclear weapons. In view of this, the strengthening of the credibility of extended deterrence against such development as outlined in the new Guidelines has become an important and urgent task. Another vital policy challenge is the strengthening of coordination

between the US-Japan alliance and the US-ROK alliance so that the three states can strengthen deterrence against the threat from North Korea, including its nuclear weapons and missiles, not only along two “lines” but also across the whole “plane” of their alliance arrangements.

1. The Legislation for Peace and Security and Future National Security Policy

(1) Establishment of the Legislation for Peace and Security

The Charter of the United Nations, based on the stipulation in Article 2 of Chapter I that “all nations shall settle their international disputes by peaceful means,” recognizes the use of force through action taken by the Security Council to “maintain or restore international peace and security” as stated in Chapter VII, Article 42 and “the inherent right of individual or collective self-defense” stated in Chapter VII, Article 51. In other words, according to international law, every country has the right of self-defense, whether it be individual or collective.

In Japan, however, the exercise of the right of self-defense recognized under the provisions of the Article 9 of the Constitution is limited to the minimum extent necessary to protect the nation in dealing with imminent unlawful aggression against Japan. Accordingly, the Constitution of Japan has been interpreted as not allowing any exercise of the right of collective self-defense under international law that goes beyond this “minimum extent necessary.”

This interpretation was laid out in “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 meeting of October 14, 1972 and in its written answer to a written question on 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 key phrase in these responses was whether or not the operations of the Self-Defense Forces (SDF) went beyond the “minimum necessary use of force.” Since the interpretation is based on this basic logic, it can be stated conversely that such operations are possible under the current Constitution if they can be considered to be the minimum necessary use of force for self-defense as an independent nation, including exercise of the right of collective self-defense and

Table 9.1. Articles regarding war and allowable use of force in the United Nations Charter

Chapter I, Article 2

All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

Chapter VII, Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Chapter VII, Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

Source: Compiled by the author from the Charter of the United Nations.

participation in collective security operations, and do not go beyond the “minimum extent necessary.”

From this viewpoint, while maintaining logical consistency with the interpretation of the Constitution to date, a Cabinet decision was made on July 1, 2014, to change the interpretation of the Constitution in a form that recognizes the limited exercise of the right of collective self-defense.¹⁾ According to this Cabinet decision, “the Government has reached a conclusion 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 the sense that it is based on the use of force “to the minimum extent necessary for self-defense,” this maintains the fundamental logic of interpretation of the Constitution up to the present.

At the time of this Cabinet decision, Prime Minister Abe instructed that procedures be immediately implemented for the establishment of legislation for peace and security, and deliberations within the government and discussions between the ruling parties were conducted. Based on these discussions, two bills—the Bill for the Development of Legislation for Peace and Security and the International Peace Support Bill—were decided by a Cabinet resolution of May 14 and submitted to the Diet on May 15. On May 19, a Special Committee of the House of Representatives on the Legislation for Peace and Security of Japan and the International Community was established and discussions in the Diet on peace and security legislation commenced. Based on about 116 hours of discussions by the Special Committee of the House of Representatives, the legislation was adopted by the Special Committee on July 15 and was passed with the agreement of the Liberal Democratic Party (LDP), New Komeito and the Party for Future Generations in the plenary session of the House of Representatives on July 16. In the House of Councillors too, after about 100 hours of discussions, the legislation was adopted by the Special Committee on September 17 and passed with the agreement of five parties—the LDP, New Komeito, Assembly to Energize Japan, Party for Future Generations, and New Renaissance Party—at the plenary session of the House of Councillors on September 19.

Japan's legislation for peace and security was thus established with the limited exercise of the right of collective self-defense at its nucleus. However, these were not in fact the first discussions on the right of collective self-defense in recent years. The first important occasion for this debate was the outbreak of the Gulf War in January 1991. The Gulf War was fought between Iraq, which invaded Kuwait in the summer of 1990, and multinational coalition forces led by the United States, which took military action to restore the independence of Kuwait in accordance with resolutions of the UN Security Council. Since Japan did not take part at all in the international military operations to repel this clear invasion of territory, the importance of the financial assistance that Japan provided for the coalition forces was underestimated. This situation gave rise to arguments that Japan should make a greater “international contribution” and, in the course of these debates, increasing interest was shown in the right of collective self-defense.

Furthermore, from 1993 to 1994, the first Korean nuclear crisis arose as a result of tensions regarding North Korea's nuclear development. Sanctions against North Korea were considered by the UN Security Council and a limited attack on

its nuclear facilities was discussed in the United States. At this time too, it became clear that Japan could provide hardly any military assistance using the SDF. It was predicted that if Japan could not provide any direct assistance for US operations to prevent North Korea's development of nuclear weapons, even though it posed a very great threat to Japan's national security, this would lead to a serious crisis for the US-Japan alliance. Against this background, discussions among experts concerning the issue of the exercise of the right of collective self-defense have continued for almost twenty-five years. The legislation for peace and security passed in 2015 amid the increasingly severe security environment surrounding Japan, founded on debates conducted over a quarter of a century and maintaining logical consistency with the interpretation of the current Constitution, is an important initiative for enhancing Japan's peace and security by strengthening deterrence and enabling Japan to contribute more proactively than before to the peace and security of the Asia-Pacific region and the international community.

(2) Upgrading Japan's Initiatives through Legislation for Peace and Security

Japan's legislation for peace and security consists of two laws: the Act for Development of Legislation for Peace and Security, which provides for partial amendment of the Self-Defense Forces Act and other laws so that Japan can contribute to the peace and security of Japan and the international community, and the International Peace Support Act which provides for cooperation and support activities for the armed forces of foreign countries in collective activities to ensure the peace and security of the international community. The Act for Development of Legislation for Peace and Security is a law for the amendment of existing legislation, based on which ten laws, including the Self-Defense Forces Act, have been amended.

The International Peace Support Act is a newly enacted law. It has been described as being equivalent to a permanent or general law regarding international peace cooperation and its necessity has been debated. Although a distinction has been made between a law for the amendment of existing laws and a newly enacted law in accordance with technical arguments related to legislative procedures, these two laws have the common purpose of promoting the peace and security of Japan and the international community.

From a policy standpoint, the legislation for peace and security has two specific

Table 9.2. Contents of legislation for peace and security

Expanded legislation (ten laws, including partial amendments)	
Act for the Development of Legislation for Peace and Security: Act for the Partial Amendment of the Self-Defense Forces Act and other Acts That Contribute to Ensuring the Peace and Security of Japan and the International Community	
1.	Self-Defense Forces Act
2.	International Peace Cooperation Act Act on Cooperation for United Nations Peacekeeping Operations and Other Operations
3.	Act Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan → Changed to the Act Concerning Measures to Ensure Peace and Security of Japan in Situations that Will Have an Important Influence on Japan's Peace and Security
4.	Ship Inspection Operations Act Act Concerning Ship Inspection Operations Implemented in Situations that Will Have an Important Influence on Japan and Other Situations
5.	Armed Attack Situations Response Act Act for Ensuring the Peace and Independence of Japan and the Security of Japan and its People in Armed Attack Situations, etc., and Survival-threatening Situations
6.	Act Related to the Actions of the US Forces and Others → Changed to the Act Related to the US Forces and the Armed Forces of Foreign Countries Other Than the US Act Concerning Measures Taken Together with Operations of the Armed Forces of the United States or Other Countries in Armed Attack Situations, etc., and Survival-threatening Situations
7.	Act Regarding the Use of Specific Public Facilities Act Concerning Use of Specific Public Facilities and Other Facilities in Armed Attack Situations, etc.
8.	Maritime Transportation Restriction Act Act Concerning the Restriction of Maritime Transportation of Supplies to Foreign Armed Forces, etc. in Armed Attack Situations and Survival-threatening Situations
9.	Prisoners of War Act Act Concerning the Treatment of Prisoners of War and Other Detainees in Armed Attack Situations and Survival-threatening Situations
10.	Act for the Establishment of the National Security Council
New Legislation (one law)	
International Peace Support Act: Act Concerning Cooperation and Support Activities from Japan to Armed Forces of Foreign Countries, etc. in Situations Threatening International Peace and Security that International Community is Collectively Addressing	

Note: In addition to the above, ten relevant acts have been technically revised.

Source: Japan Ministry of Defense.

objectives. The first objective is the strengthening of Japan's national security including gray-zone situations; the second objective is the enhancement of cooperation with the international community for the maintenance of international peace and security. From this perspective, among the main items of the legislation for peace and security listed in Table 9.3, the amendments to the Self-Defense Forces Act, the Act Concerning Measures to Ensure Peace and Security of Japan in Situations that Will Have an Important Influence on Japan's Peace and Security formulated by amending the Act Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan, the amendments to the Ship Inspection Operations Act corresponding to the amendments of the Act Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan, and the amendments of the Legislation for Responses to Armed Attack Situations have been implemented with the aim of strengthening Japan's security including gray-zone situations.

The enactment of the International Peace Support Act, amendment of the International Peace Cooperation Act, and amendment of the Ship Inspection Operations Act in line with the enactment of the International Peace Support Act chiefly aim to strengthen cooperation with the international community to maintain international peace and security. While the first objective is directly related to Japan's national security, the direct relationship with national security of the second objective is only slight. In this sense, when Japan undertakes support operations, the legitimacy of these operations with respect to international law and appropriateness of the domestic process will be more strongly required. Therefore, regarding the implementation of support operations in accordance with the International Peace Support Act, requirements different from those in the Act Concerning Measures to Ensure Peace and Security of Japan in Situations that Will Have an Important Influence on Japan's Peace and Security are stipulated, such as the need for a clear UN resolution and, without exception, prior approval of the Diet.

Ever since the National Defense Program Guidelines for FY2005 and Beyond, formulated in 2004, stated that the two objectives of Japan's security policy are "to prevent any threat from reaching Japan and, in the event that it does, repel it and minimize any damage" and "to improve the international security environment so as to reduce the chances that any threat will reach Japan in the first place," these two objectives have been the most important pillars of Japan's security policy. Therefore, the legislation for peace and security based on the Cabinet decision of

Table 9.3. Main elements of Legislation for Peace and Security

Act for the Development of Legislation for Peace and Security	
<p>1. Amendment of the Self-Defense Forces Act</p> <ul style="list-style-type: none"> Measures to rescue Japanese nationals overseas Protection of weapons and other equipment of military units of the US and other countries' forces Expansion of provision of supplies and services for US Armed Forces in peacetime Regulations concerning punishment of crimes committed outside Japan <p>2. Act Concerning Measures to Ensure Peace and Security of Japan in Situations that Will Have an Important Influence on Japan's Peace and Security (amendment of Act Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan)</p> <ul style="list-style-type: none"> Revision of objectives for clarifying the aims of revisions concerning provision of support for US Armed Forces, etc. in situations that will have an important influence on the peace and security of Japan Addition of support operations for armed forces of foreign countries other than the United States conducting operations to contribute to realizing the aims of the US-Japan Security Treaty Expansion of the scope of support activities <p>3. Amendment of Ship Inspection Operations Act</p> <ul style="list-style-type: none"> Amendments in line with revision of Act Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan Implementation of ship inspection operations when necessary for the peace and security of the international community, in accordance with the International Peace Support Act 	<p>4. Amendment of International Peace Cooperation Act</p> <ul style="list-style-type: none"> Expansion of tasks during UN peacekeeping operations and other operations including the use of weapons for the defense of mandate missions and revision of authorization criteria in situations requiring the use of weapons Implementation of operations in humanitarian and protection tasks not conducted by the United Nations <p>5. Amendment of Legislation for Responses to Armed Attack Situations</p> <ul style="list-style-type: none"> Establishment of naming, definition, and procedures, etc. for situations threatening Japan's survival (Armed Attack Situation Response Act) Missions, actions, authority, etc. regarding duties of SDF in response to situations threatening Japan's survival (Self-defense Forces Act) In addition to support for US Armed Forces responding to armed attack situations, etc., support operations for armed forces of foreign countries other than the United States in response to armed attack situations, etc. and for armed forces of the United States and other countries in situations threatening Japan's survival (US and Others' Military Actions Related Measures Act) Addition of operations of armed forces of foreign countries other than the United States in armed attack situations, etc. to cases applicable for use of specific public facilities (Act Regarding the Use of Specific Public Facilities) Implementation of maritime transportation restrictions in situations threatening Japan's survival (Maritime Transportation Restriction Act) Application of Prisoners of War Act in situations threatening Japan's survival (Prisoners of War Act) <p>6. Amendment of Act for the Establishment of the National Security Council</p> <ul style="list-style-type: none"> Determination of matters to be examined based on the recent legal revisions
<p>International Peace Support Act: Implementation of cooperation and support activities for the armed forces of foreign countries engaged in activities for ensuring the peace and security of the international community</p>	

Source: Japan Ministry of Defense

July 1, 2014, can be viewed not as a completely new departure in Japan's security policy but as the necessary legislative preparations for substantially upgrading the means for pursuing the security objectives pursued to date.

The three main points of this upgrading are as follows. The first point is the development of legislation that permits the limited exercise of the right of collective self-defense and enables Japan to respond to situations where its survival is threatened. This forms the nucleus of the revision of the interpretation of the Constitution outlined in "Measures for Self-Defense Permitted under Article 9 of the Constitution" in the Cabinet decision of July 1, 2014. The amendments to the Legislation for Responses to Armed Attack Situations are based on this Cabinet decision, which states that the use of armed force is permissible under the Constitution in cases "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 the pursuit of happiness."

The second point is to enhance the SDF's support operations in situations that will have an important influence on Japan's peace and security and joint international peace cooperation operations by revising legal systems and the authority to use weapons based on experience up to now, premised on the theory of "forming an integral part of the use of force." This is also indicated in the Cabinet decision of July 1, 2014, in the section titled "Further Contribution to the Peace and Stability of the International Community." Up to now, the legal framework for Japan's support operations has limited them to "rear areas" or "non-combat areas" to ensure that they were not legally evaluated as the "use of force" not permitted under the Constitution because this would form an integral part of the use of force by other countries. Regarding this, the Cabinet decision takes the approach of not uniformly limiting the support operations that do not fall within the framework uniformly limiting the SDF's activities to areas where this issue does not arise, and that support operations in "places where combat operations are not being conducted" do not form an integral part of the use of force.

In international peace cooperation activities to date, Japan has limited the authority of SDF personnel to use weapons to their self-preservation and the protection of their weapons and equipment. However, the Cabinet decision recognizes the authority to use weapons when coming to the aid of a distant unit or personnel under attack or in protection tasks, on the premise that, as long as the

five principles governing Japan's participation in peacekeeping operations are met, a "state or quasi-state organization" does not appear as the adversary. Its provisions also enhance the duties and authority of SDF personnel in police-like operations that do not involve "use of force," including the rescue of Japanese nationals overseas based on the consent of the territorial state's government.

The third point is the updating of the Act Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan, established in 1999, in line with the current situation. According to this law, for example, support can only be provided for US Armed Forces and the provision of materials can only be conducted within Japan apart from certain exceptional conditions. However, in the Anti-Terrorism Special Measures Law established after the 9/11 terrorist attacks, Japan's support was not restricted to the United States and the areas where support was to be given were to be "non-combat areas" outside Japan. In other words, even before the Cabinet decision of July 1, 2014, support operations beyond those stipulated in 1999 in the Act Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan were possible under the interpretation of the Constitution. In view of this, in addition to the strengthening of the effectiveness of operations through the above-mentioned Cabinet decision, the 1999 law was amended into the Law Concerning Measures to Ensure Peace and Security of Japan in Situations that Will Have an Important Influence on Japan's Peace and Security. In view of this situation, the countries to which support can be provided, the nature of these operations and their areas were expanded to ensure the provision of the same level of support as stipulated in the Anti-Terrorism Special Measures Law.

(3) Effects of the Legislation for Peace and Security

The legislation for peace and security was established as outlined above. What kind of effects can it be expected to have? Judging from past cases, the legislation will widen Japan's range of choices when it is faced with security problems in the following ways.

Let us consider first the case of the Gulf War in 1991, which triggered debate in Japan concerning the right of collective self-defense. On August 2, 1990, Iraq under the Saddam Hussein government invaded Kuwait. In response to this clear invasion under international law, the UN Security Council adopted UN Resolution 660, calling for the immediate unconditional withdrawal of Iraq's armed forces

from Kuwait. Since it was feared that Iraq might next invade Saudi Arabia, upon Saudi Arabia's request, the United States, United Kingdom and France and other Western nations and Egypt and other Arab nations deployed troops to the Gulf to provide support for Saudi Arabia. The international community made repeated calls for Iraq to withdraw from Kuwait, but Iraq refused. Accordingly, on November 29, 1990, the UN Security Council adopted Resolution 678, giving the multinational coalition forces deployed to the Gulf the authority to use all necessary means to restore international peace and security in the Gulf region. On January 17, 1991, the coalition forces commenced military action against Iraq and freed Kuwait from Iraq's occupation in a ground war following air strikes.

At the time of the Gulf War, Japan was unable to provide substantial support apart from financial assistance. This incident had such a great impact on the views of the intellectual community regarding Japan's diplomacy and security policy that even the newspaper *Asahi Shimbun*, which usually takes a cautious approach regarding Japan's security policy, complained in an editorial that Japan had achieved nothing other than the provision of financial assistance, that it had made no progress in making preparations to increase its personnel contribution, and that the war "made it clear that Japanese politics and diplomacy had not made sufficient efforts to convey to the world its fundamental ideal of pacifism, instead using the 'restrictions' imposed by the ideals of the Constitution as an excuse for procrastination."²⁾ It was also the starting point for the national security debate that has continued until the present.

Of course, the nation's response in such a situation is something that the government of the time decides. Whatever legislation is in effect, it cannot predict the government's response in advance. In response to a contingency under the current legislation for peace and security, the Japanese government would have the options of transporting materials, providing oil and other supplies at sea to coalition vessels, conducting on-the-spot inspection of suspicious ships sailing in the Gulf region, removing mines at sea, and protecting the ships and aircraft of the United States or other nations. The legislation has expanded the scope of the responses Japan can make when faced with such a situation and made it possible for it to take much more effective action than before in cooperation with the international community.

Similarly, in a situation such as the Korean nuclear crisis of 1993–94, the legislation for peace and security would expand the scope of the response Japan

could make. The crisis originally arose due to suspicions that there were undeclared nuclear facilities in North Korea. In response to a request from the International Atomic Energy Agency (IAEA) to conduct a special inspection, North Korea announced its withdrawal from the Nuclear Non-Proliferation Treaty (NPT) in February 1993. The situation did not improve after that and tensions increased further in 1994 when North Korea removed spent nuclear fuel rods from its Nyongbyon reactor and was thought to have commenced preparations to extract plutonium. In response to this, the United States considered the option of using military force, including bombing, and is said to have made various requests to Japan for support.

In May 1993, North Korea fired a Rodong ballistic missile with sufficient range to reach Japan into the Sea of Japan, but at that time there was no evidence that it possessed intercontinental ballistic missiles (ICBM) capable of reaching the United States. While the prevention of North Korea's development of nuclear weapons was for the United States an issue of the peace and security of the Asia-Pacific region that affected only its indirect security interests, it was a matter of direct and critical importance for Japan's national security. In spite of that fact, the policy options available to Japan at the time were so limited that the then Deputy Cabinet Secretary Nobuo Ishihara said in a later interview that "we were not able to respond satisfactorily to any of the requests made by the United States."³⁾ Of course, the Guidelines revised in 1997 and the Act Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan enacted in 1999 were efforts to improve this situation. Through the legislation for peace and security, depending on the situation that occurs, Japan will have range of additional policy options in such a crisis, including transporting materials to US and other armed forces outside Japanese territory, supplying vessels at sea, removing sea mines, and protecting the ships and aircraft of the United States and other nations.

When considering the effects of the legislation for peace and security, it is important to make a clear distinction between policy and law. In security policy, legislation is only an indicator of the options available to the government in a specific situation. The operations stated in these laws are not implemented automatically or compulsorily and the decision of whether or not to implement them is made according to the policies of the government at the time. In this sense, the significance of the legislation for peace and security is that, in the future, Japan will have a greater range of policy options when faced with a security crisis. Whether or not such options can be appropriately implemented

will depend on the decision making at the time.

For about a quarter of a century since the Gulf War, Japan's security specialists have debated the exercise of the right of collective self-defense. The most important elements of the legislation for peace and security are the limited use of the right of collective self-defense, more effective cooperation with the activities of the international community, and the updating of the Act Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan enacted in 1999. In determining how to utilize this upgraded framework for Japan's response, what will be necessary in the future is not legal or system theory but discussions concerning policy.

2. Formulation of the New Guidelines

(1) The Role and Revision of the Guidelines

Article 5 of the US-Japan Security Treaty provides for a joint response made by the parties in the event of a contingency in Japan, stating 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." The Guidelines are a policy document that outlines the general framework and direction of the roles and cooperation of the United States and Japan when undertaking cooperative action such as a joint response to a contingency in Japan (generally referred to as an "Article 5 situation" since response is made in accordance with Article 5 of the US-Japan Security Treaty).

The US-Japan Security Treaty was first concluded in 1950. The Treaty in its present form dates from 1960 and the Guidelines were first formulated in 1978.⁴⁾ Needless to say, the 1978 Guidelines were based on the international environment during the Cold War. They provided for Japan-US defense cooperation regarding readiness in order to deter aggression, actions in response to an armed attack against Japan, and cooperation in the case of a situation in the Far East. After that, in response to the security uncertainties in the Asia-Pacific region arising with the first Korean nuclear crisis and the Taiwan Strait crisis in the mid-1990s, it was stated in the Japan-US Joint Declaration on Security announced in 1996 by Prime Minister Ryutaro Hashimoto and President Bill Clinton that a review of the 1978 Guidelines would be initiated. This revision of the Guidelines was implemented in 1997.⁵⁾

The most distinctive characteristic of the 1997 Guidelines is that they promoted cooperation not only for the defense of Japan but also for the stability of the security environment of the Asia-Pacific region in the form of “cooperation in situations in areas surrounding Japan,” and strengthened the role played by the US-Japan alliance in post-Cold War regional security. Specifically, in the section titled “Cooperation in Situations in Areas Surrounding Japan,” the Guidelines listed activities that both countries may conduct, including relief activities and measures to deal with refugees, search and rescue, and activities for ensuring the effectiveness of economic sanctions for the maintenance of international peace and stability. Furthermore, to ensure that the Guidelines were effective, legislation was developed, including the Act Concerning Measures to Ensure Peace and Security of Japan in Situations in Areas Surrounding Japan and the Ship Inspection Operations Act.

After that, the international security environment and Japan-US security cooperation underwent significant changes, such as the Japanese government’s decision in 2003 to introduce ballistic missile defense (BMD) following US-Japan research on BMD beginning in 1998, the 9/11 terrorist attacks in 2001 and subsequent dispatch of the SDF to the Indian Ocean and Iraq, North Korea’s nuclear and missile tests and provocations against the ROK, the rapid modernization of China’s armed forces and its more active sea and air operations, and the emergence of the new security issues of space and cyberspace.

In order for the US-Japan alliance to respond appropriately to these changes in the security environment, in a Joint Statement at the Japan-US Security Consultative Committee meeting (Japan-US “2+2” meeting) in Tokyo on October 3, 2013, the defense and foreign ministers of the two countries (Japanese Minister of Defense and Minister for Foreign Affairs, US Secretary of Defense and Secretary of State) directed the Subcommittee for Defense Cooperation (SDC) to draft recommended changes to the Guidelines. At this stage, the revision of the Guidelines was directed to be completed by the end of 2014. However, in view of the importance of ensuring conformity with the process of formulating Japan’s legislation for peace and security, the Joint Statement of the Japan-US “2+2” meeting of December 19, 2014, expressed the ministers’ intention to work toward finalizing the revision of the Guidelines during the first half of 2015. Accordingly, the new Guidelines were finally established at the Japan-US “2+2” meeting held on April 27, 2015.⁶⁾

(2) Three Distinctive Characteristics of the New Guidelines

The Guidelines play an important role in Japan-US defense cooperation based on the US-Japan alliance. As can be seen from their contents to date, the Guidelines indicate specific situations in which Japan-US defense cooperation is conducted and stipulate the division of roles of the SDF and US Armed Forces in each of these situations. Operational planning is based on these role assignments. Since the Guidelines are agreed at Japan-US “2+2” meetings, in which the political decisions of the US-Japan alliance are made, they can be said to indicate the overall framework of Japan-US defense cooperation, including the formulation of plans, based on agreements between the political leadership of both countries.

However, since the Guidelines are not a treaty, they cannot be used to change the relationship of rights and duties based on the US-Japan Security Treaty and its related arrangements or the basic framework of the US-Japan alliance relationship. Furthermore, the Guidelines and the initiatives based on them do not place any obligation on the governments of either country to take legislative, budgetary or administrative measures, and do not give rise to any legal rights or duties. Although the Guidelines do not possess such an obligatory character, they are expected to reflect the results of agreements in policies or measures in an appropriate form.

In view of the above, the 2015 Guidelines can be said to have the following three characteristics. Firstly, they maintain the Guidelines’ central role of ensuring the peace and security of Japan and have enhanced and strengthened cooperation for that purpose. Specifically, they provide for the realization of seamless Japan-US cooperation in conformity with Japan’s legislation for peace and security under any circumstances, from peacetime to contingencies, such as the enhancement of the SDF’s capabilities, response to a ballistic missile attack, or cooperation in the event of a major disaster such as the Great East Japan Earthquake. By incorporating statements concerning the enhancement of cooperation and strengthening of coordination from peacetime, the continuation of extending deterrence to Japan, and the use of the strike power of the US Armed Forces in an emergency, the Guidelines reiterate the United States’ strong commitment to the security of Japan. It is also important that this statement is made jointly by Japan and the United States.

Secondly, the 2015 Guidelines represent an expansion of alliance cooperation both geographically and across domains. Geographically, they include items related to cooperation for regional and global peace and security, outlining

activities such as peacekeeping operations, international humanitarian assistance and disaster relief, maritime security, partner capacity building, noncombatant evacuation operations, intelligence, surveillance and reconnaissance, training and exercises, and logistic support, as well as the promotion and strengthening of trilateral and multilateral security and defense cooperation. In particular, the emphasis on trilateral cooperation is based on developments in US-Japan-Australia defense cooperation and the perceived importance of promoting defense cooperation among Japan, the United States, and the ROK, as described below. The Guidelines also include space and cyberspace cooperation, an item that was not considered as an area for defense cooperation when the Guidelines were revised in 1997. Regarding space, the new Guidelines include detailed provisions, such as ensuring the resiliency of the space systems of the two governments, enhancing space situational awareness cooperation, and sharing information about actions and events that might affect the safety and stability of the space domain and impede its use. Regarding cyberspace cooperation, the specific provisions include sharing information on threats and vulnerabilities in cyberspace, as appropriate, in a timely and routine manner, sharing information on the development of various capabilities in cyberspace, and cooperating to protect critical infrastructure and services on which the SDF and US Armed Forces depend to accomplish their missions, including sharing information with the private sector.

Thirdly, the new Guidelines include specific provisions for a “general framework” to ensure the effectiveness of Japan-US cooperation. These include the establishment by the two governments of an Alliance Coordination Mechanism (ACM) that can be used from peacetime to promote appropriate coordination regarding detailed discussions, policies and operations from peacetime to contingencies, the strengthening of operational coordination including the exchange of personnel for information sharing and smooth coordination between the SDF and US Armed Forces, and the development and updating of bilateral plans through an upgraded Bilateral Planning Mechanism (BPM).

Among these provisions, the establishment of an ACM can be considered particularly important. In the US-Japan alliance, there is no permanent and integrated command mechanism such as the North Atlantic Treaty Organization (NATO) or the US-ROK alliance. Consequently there is a need to establish some kind of coordination mechanism. In the 1997 Guidelines, a Bilateral Coordination Mechanism (BCM) was set up for Japan-US defense coordination. However,

since this BCM could only be put into operation in the event of an armed attack against Japan or “in situations with an important influence on Japan’s peace and security in areas surrounding Japan,” it could not be set up even for the large-scale cooperation between the SDF and US Military in Operation Tomodachi after the Great East Japan Earthquake. At the time of Operation Tomodachi, joint Japan-US operations were actually coordinated flexibly, but in a gray-zone situation when a seamless response would be essential, it cannot be denied that an appropriate and effective response might not necessarily be made under an “on-off” type coordination mechanism. It is therefore an urgent task to develop a system that can be used from peacetime so that bilateral responses can be made in a timely and appropriate manner however the situation might develop. In response to an agreement in the new Guidelines, it was agreed on November 3, 2015, that an ACM and a BPM would be established in the SDC.

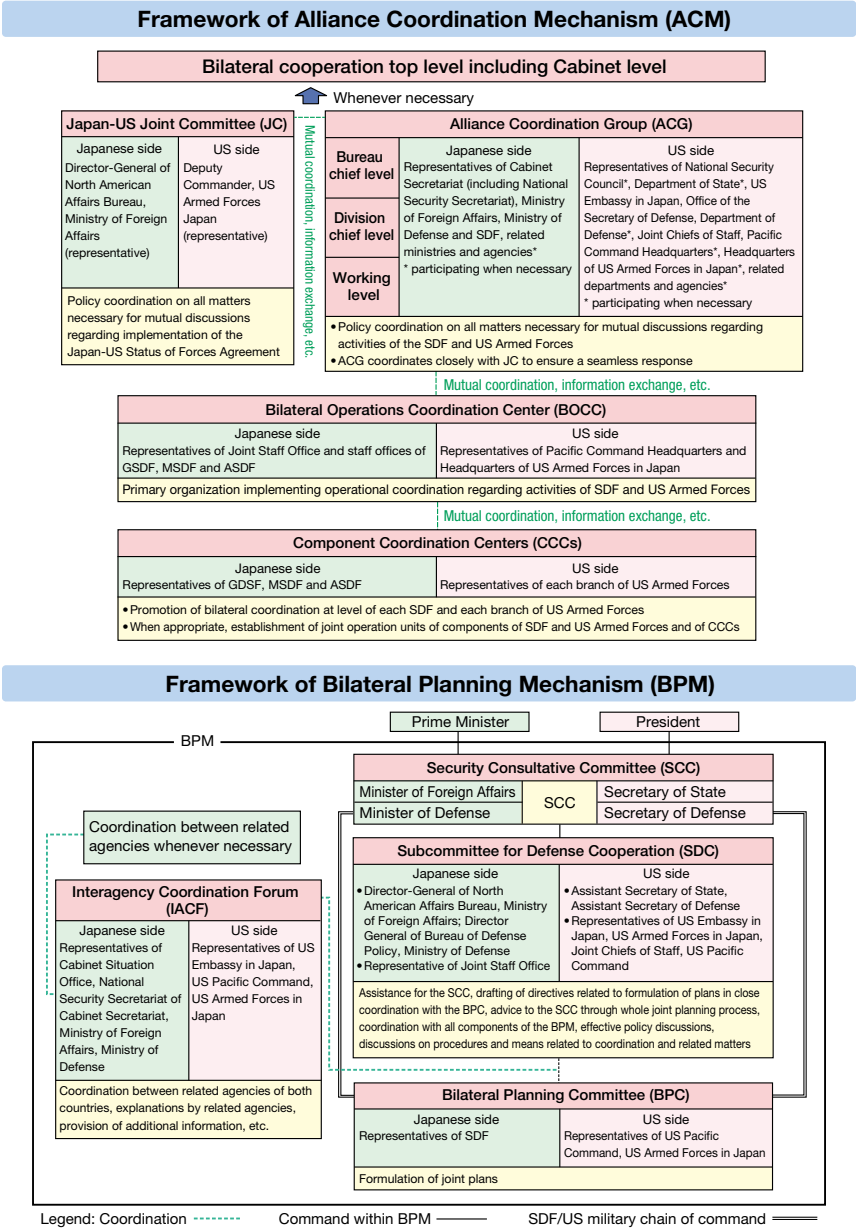
(3) Toward Implementation of the New Guidelines

One of the key words in the new Guidelines is “seamless.” The Guidelines call for the establishment of an ACM as a framework for a seamless response to each successive phase as a situation develops, indicating how Japan and the United States will cooperate for regional and global peace and security, including trilateral and multilateral cooperation, and confirming the direction of a seamless response from a geographical perspective. Furthermore, in addition to the domains of land, marine and air defense cooperation that has been conducted up to now, the Guidelines outline the response to the expansion of alliance cooperation to the new domains of space and cyberspace, indicating a clear direction for specific cooperation for a seamless response across domains.

The new Guidelines can be said to have formulated a seamless response in the three aspects of changing phases, geographical expansion, and cross-domain response as an important agenda of Japan-US cooperation. In today’s increasingly complex security environment, it is essential to respond in these ways in order to develop a framework for seamless deterrence and response. Therefore, expeditious and continuous efforts are required to steadily promote specific cooperation in each of these aspects and to realize effective cooperation based on the new Guidelines.

However, in view of the above-mentioned role of the Guidelines in Japan-US cooperation, the core of the new Guidelines is the joint responses to situations outlined in Article 5 of the Japan-US Security Treaty. From this viewpoint, the

Figure 9.1. ACM and BPM frameworks



Source: Japan Ministry of Defense

most important undertaking of all is to formulate plans for joint operations in the BPM and to appropriately incorporate them in the plans formulated by Japan and the US, respectively, based on the division of roles agreed in the new Guidelines regarding operations to defend airspace, operations to counter ballistic missiles, operations to defend maritime areas, operations to counter ground attacks including attacks on islands, and cross-domain operations, as outlined in the “Concept of Operations” when an armed attack against Japan occurs.

Apart from the new Guidelines, various other policy documents must serve as “bibles of reference.” As the increasingly complex security environment changes constantly, security policy challenges may also change. During the two decades from the 1997 Guidelines to the new Guidelines, many major changes in the security environment have occurred, such as the 9/11 terrorist attacks and military action against Iraq, the resulting operations of the SDF in the Indian Ocean and Iraq, the North Korea nuclear and missile tests, the modernization of China’s military strength and increase of China’s high-handed actions, and the US rebalancing toward the Asia Pacific. It should be assumed that such changes may well occur at any time in the future.

Since the 1997 Guidelines, Japan has revised its National Defense Program Guidelines three times, while the United States has issued its Quadrennial Defense Review (QDR) four times. Accordingly the Guidelines, as the basic document of the US-Japan alliance, must also be revised whenever necessary.

In this sense, it should be noted Section VIII of the new Guidelines provides for the processes for review, stating that, “the Security Consultative Committee, assisted by an appropriate subordinate body, will regularly evaluate whether the Guidelines remain adequate in light of the evolving circumstances. The two governments will update the Guidelines in a timely and appropriate manner when changes in situations relevant to the US-Japan alliance relationship occur and if deemed necessary in view of the circumstances at that time.” Of course, the most important thing is to steadily implement the agreed new Guidelines, and this must be pursued in earnest. At the same time, however, it is important to constantly evaluate the meaning of changes in the security environment and respond appropriately.

3. Development of Japan-US-ROK Defense Cooperation

(1) The Influence of North Korea's Nuclear/Missile Development—Changes in the Geopolitical Strategic Structure

Unlike Europe, where the single multilateral NATO alliance was formed during the Cold War, with the exception of the trilateral Australia, New Zealand and United States (ANZUS) Security Treaty, the alliances formed in the Asia-Pacific region have basically been bilateral, such as the US-Japan alliance and US-ROK alliance. This alliance system is known as the “hub and spoke” system, in which the United States is likened to the hub of a wheel and its various alliance partners to the spokes. One feature of this alliance system in recent years has been the strengthening of mutual links between bilateral or trilateral alliances to develop cooperation through networking among the spokes. Typical examples of this are the trilateral cooperation among the United States, Japan and Australia, or among the United States, Japan and the ROK.

However, the alliances of the United States in the Asia-Pacific region have been formed through different historical backgrounds. The US-ROK alliance, for instance, was concluded after the ceasefire that ended the Korean War, in which the United States intervened to protect the ROK when it was attacked by North Korea. The aim of the alliance was to deter North Korea from attacking again. On the other hand, the US-Japan alliance originates from the old US-Japan Security Treaty concluded during the Korean War on the same day as the San Francisco Peace Treaty. In addition to the defense of Japan, an important aim of this treaty was to maintain the presence of US Armed Forces in Japan, which is in a vital geopolitical strategic location, to ensure the peace and security of the region called the “Far East” in the original treaty and, in more recent years, the “Asia-Pacific region.” Thus the main alliances of the United States in northeast Asia—the US-ROK alliance and the US-Japan alliance—were both formed under the influence of the Korean War. Although they have the common objective of deterring North Korea, the aims and roles of these alliances are somewhat different.

The Korean War started on June 25, 1950, when North Korea attacked the ROK beyond the dividing line known as the 38th parallel. A United Nations Command led by the United States was immediately formed and deployed for the defense of the ROK. At first North Korea held the advantage and its army advanced south as

far as the outskirts of Pusan. However, with the success of the Inchon landing operation, the tables were turned and a ceasefire treaty was concluded on July 23, 1953, after the Allied forces had been pushed back by the Chinese People's Volunteer Army. When the Korean War broke out, Japan was still under occupation and the United States used Japan as a base for the defense of the ROK. General Douglas MacArthur, the commander of the United Nations Command including the United States, set up his headquarters in Tokyo and the bases in Japan were used for the B-29s and other aircraft engaged in bombing campaigns. The troops taking part in the Inchon landing operation, which quickly turned the tide of the war in the Allies' favor, were deployed from bases in Japan. Furthermore, Japan's provision of equipment and supplies to US Armed Forces in the form of "Korean special procurements" played an important logistical role.

In these ways, Japan played a vital role in the Korean War, but North Korea did not attack Japan itself. Several reasons can be suggested for this, but the most important factor was that North Korea did not have the means to attack Japan at that time. This fundamental nature of the Korean War, in which the fighting was limited to the Korean Peninsula without directly affecting the Japanese Archipelago and in which Japan played a supporting role, has been the basic geopolitical strategic structure in Northeast Asia until recently. Since the Korean War, the main objective of the US-ROK alliance has been deterrence and defense against North Korea, while the main aim of the US-Japan alliance has been the defense of Japan and stability of the region in addition to deterrence and defense against North Korea. These differences while maintaining overlapping aims and roles can be viewed as a reflection of this basic geopolitical strategic structure. This structure was not changed even in the 1997 Guidelines formulated nearly a half century after the Korean War. The Guidelines were not confined to a particular country or region, but the rear area support to be provided in situations in areas surrounding Japan was also applicable to support to the US Armed Forces in the event of a contingency on the Korean Peninsula.

This basic geopolitical strategic structure in Northeast Asia has been changing significantly as a result of North Korea's deployment of nuclear weapons and missiles. Since the 1990s, North Korea has developed various ballistic missiles, some of which are medium-range missiles that are within range of Japan, such as the Rodong missile. North Korea is thought to be developing nuclear weapons together with ballistic missiles and "the possibility that North Korea has achieved

the miniaturization of nuclear weapons and acquired nuclear warheads cannot be ruled out.”⁷⁷⁾ Now that North Korea may already have the capability to launch a nuclear attack against Japan, even if it has not achieved sufficient miniaturization of its nuclear weapons, it is clear that, unlike during the Korean War, North Korea now has the ability to attack Japan by conventional warheads. In view of this, in the event of a contingency occurring on the Korean Peninsula, it will be necessary to take into account the possibility that the situation will develop differently than the basic schema of the Korean War.

In view of the great significance of support for the US-ROK alliance from the United Nations Command Rear base in Japan, US Armed Forces, and the US-Japan alliance in the event of a contingency on the Korean Peninsula, it should be fully considered likely that North Korea would threaten Japan, hinting at the possibility of a nuclear attack, and demand that it does not provide support for the United States when it responds to the situation on the Korean Peninsula. If Japan were to refuse support to the United States, including the use of US bases in Japan, as a result of this kind of nuclear threat, this would constitute a great improvement in the strategic situation from North Korea’s viewpoint. Conversely, from Japan’s perspective, since the risk of providing support for the United States as an ally in the event of a crisis in the Korean Peninsula would be very much greater, the qualitative improvement of the credibility of the United States’ extended deterrence would be an important precondition of Japan’s readiness to respond to such a crisis. From this viewpoint too, the new Guidelines have great significance.

The geopolitical strategic structure in Northeast Asia since the Korean War has thus been changing as a result of North Korea’s development of nuclear weapons and missiles. In short, now that North Korea has ballistic missiles that are within range of Japan, the Korean Peninsula and Japanese Archipelago have become strategically inseparable. In enhancing the effectiveness of deterrence against North Korea, it has become much more significant not only to enhance the credibility of the extended deterrence of the US-Japan alliance, but also to strengthen coordination between the US-Japan alliance and the US-ROK alliance.

(2) Development of Defense Cooperation among the United States, Japan and the ROK

Although there are differences in their aims and roles, the US-Japan alliance and US-ROK alliance were both formed as a result of the Korean War. Since their

common aim of deterring North Korea has great significance, the importance of cooperation among the United States, Japan and the ROK is self-evident. However, this trilateral cooperation can hardly be said to have made great progress when compared to the recent development of cooperation among the United States, Japan and Australia. Nevertheless, as stated above, with North Korea's development of nuclear weapons and missiles, the strengthening of coordination between the US-Japan alliance and the US-ROK alliance has become very important.

One possible channel for promoting this cooperation is the Defense Trilateral Talks (DTT) among the United States, Japan and the ROK. The DTT were started as a Track 1.5 Meeting in 1994. After being temporarily suspended from 2003, they were reopened in 2008 and have continued to the present. The background to these talks is the increasing importance for regional security of strengthening deterrence against North Korea in view of its continuous development of nuclear weapons and missiles, repeated nuclear tests and missile launches, and provocative acts toward the ROK, such as the sinking of the corvette *Cheonan* and the shelling of Yeonpyeong Island.

At the meeting held in Tokyo in January 2013, for example, the parties agreed that North Korea's nuclear weapons and missiles constitute a threat to international peace and security and that the United States, Japan and the ROK would cooperate closely to deter North Korean nuclear tests and respond to the threat posed by ballistic missiles. A year later, at a meeting held in Washington, DC in April 2014, the parties stated again that they would not accept North Korea as a nuclear-armed state and reconfirmed their cooperative response to the threat to international security posed by North Korea's nuclear and ballistic missile development program and by proliferation and the need for close coordination with the international community. In December 2014, under the DTT framework, Masanori Nishi, Japan's administrative vice minister of defense, Robert Work, US deputy secretary of defense, and Baek Seung-joo, ROK vice minister of national defense signed the Trilateral Information Sharing Agreement Concerning the Nuclear and Missile Threats Posed by North Korea (TISA), establishing a framework to facilitate the sharing of confidential information concerning North Korea's nuclear weapons and missiles. The next DTT meeting was held again in Washington, DC in April 2015. The participants again confirmed that they did not accept North Korea as a nuclear-armed state and agreed to conduct close coordination to deter provocative acts by North Korea and to continue discussions

at an administrative level to ensure the effective implementation of the TISA.

At the same time, meetings of the defense ministers of the United States, Japan and the ROK have been held in Singapore in early summer every year since 2009, apart from 2011, during the IISS Asia Security Summit (Shangri-La Dialogue). Since 2012, it has become customary to issue a joint declaration at these ministers' meetings. In the joint declaration issued after the 2015 meeting, in addition to restating their unchanging position of not accepting North Korea's possession of nuclear weapons and means of delivering them and the continuation of its nuclear development, the participating ministers recognized the contribution the TISA has made in strengthening mutual understanding and cooperation among the three countries, and recognized the value of the new Guidelines.⁸⁾

Among these developments, from the viewpoint of closer coordination between the US-Japan alliance and the US-ROK alliance, the ROK's explanation concerning a "conditions-based approach to transition of wartime operational control" and the constructive exchange of opinions on the new Guidelines at the time of the April 2015 meeting should be viewed as particularly significant. If the Korean Peninsula and Japanese Archipelago should no longer be considered strategically separate as a result of North Korea's nuclear and missile development, then the mutual exchange of information between the two alliances is more important than ever in view of the greater impact of developments in the US-ROK alliance on Japan's security and of developments in the US-Japan alliance on the ROK's security.

In the US-ROK alliance, for example, a "regional provocation response plan" has been established in order to respond to provocations by North Korea. This plan is said to have been put into effect at the time of the landmine explosion incident in the Demilitarized Zone in August 2015. In certain circumstances, this response by the United States and the ROK to a provocation by North Korea may have an impact on Japan's national security in view of the possibility that North Korea might react to the response of the United States and ROK with further provocations, which might involve Japan. Conversely, although the new Guidelines were not formulated with any particular country or region in mind, a response by Japan and the United States to action by North Korea might also have an impact on the ROK's national security. From this viewpoint, the enhancement of coordination between the US-Japan alliance and US-ROK alliance and strengthening of trilateral deterrence against threats from North Korea, including nuclear weapons and missiles, by all three countries not only along two "lines"

but across the whole “plane” of the alliance arrangements will be essential in responding to the new geopolitical strategic structure.

NOTES

- 1) “Development of Seamless Security Legislation to Ensure Japan’s Survival and Protect its People” (National Security Council Decision, Cabinet Decision, July 1, 2014).
- 2) *Asahi Shimbun*, May 3, 1991.
- 3) *Nihon Keizai Shimbun*, May 27, 2010.
- 4) Japan-US Security Consultative Committee, “The Guidelines for Japan-US Defense Cooperation,” November 27, 1978.
- 5) Japan-US Security Consultative Committee, “The Guidelines for Japan-US Defense Cooperation,” September 23, 1997.
- 6) Japan-US Security Consultative Committee, “The Guidelines for Japan-US Defense Cooperation,” April 27, 2015.
- 7) Japan Ministry of Defense, “Defense of Japan 2015,” 2015, p. 19.
- 8) Japan Ministry of Defense, “Joint Statement, Japan-US-Republic of Korea Defense Ministers Meeting,” May 30, 2015.

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