

JAPAN-US ALLIANCE FOR DEFENSE PRACTITIONERS

PLANS, WARGAMES, AND EXERCISES REFERENCE GUIDE

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with
contributions
by

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This guide is for informational purposes only and does not constitute legal advice. It is a derivative reference, is not a substitute for primary source information or authoritative analysis, reflects a best understanding¹ based on research undertaken as of the date of writing and contains errors. This guide does not represent the official views of any element of the US Government.

NOTICE ON CURRENT DRAFT STATUS

This guide is in **INITIAL DRAFT** with significant proof-reading, reconciliation, reorganization, and editing required. This draft is available in its current state only because of the potential utility to planners during upcoming exercises and wargames. Use with care.

UPDATES, QUESTIONS, & RECOMMENDATIONS

This guide is frequently updated with additions, clarifications, and corrections. Contact the author for the most up-to-date version or with any corrections, questions, or recommended additions or clarifications.

¹ 1.2. What is "Best Understanding"?, p. 1.

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ABOUT THE COVER

The cover image is a map of the Ryūkyū Islands depicting the range of Japan's Nansei Shotō from the Ōsumi Strait to Yonaguni Island. The map is from "The World Atlas: Second Edition," Chief Administration of Geodesy and Cartography under the Council of Ministers of the USSR, Moscow, 1967.

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PREFACE

WHY A 486-PAGE GUIDE?

This guide is meant for reference, not to be read from front-to-back, and can best be thought of as a 189-page collection of thoroughly cross-referenced information papers.

This format allow readers to find the specific information they seek while the cross-references ensure readers both understand related issues requiring more detailed understanding and enable readers to easily explore those topics, as needed.

The remainder of the 486 pages provide more detailed analysis or deep-dives on selected topics as well as the original reference material on which these “information papers” and supporting analysis are based.

Second, while Japanese planners regularly and faithfully present GoJ authorities during bilateral engagements, these are often summarized down onto a single slide. Worse yet, these summary slides exist in a variety of forms, seemingly re-invented for each exercise, wargame, or planning session, and present sometimes-inconsistent views of the laws and procedures governing GoJ action during a crisis or conflict.

This situation is aggravated by a Japanese bureaucratic, government, and national security culture that often obscures procedure or authoritative documents to outsiders (within and without GoJ) and defers to single points of authority (depriving the wider GoJ effective working understanding of a subject while simultaneously erecting bureaucratic walls between knowledge and the US defense practitioner). This, coupled with the language barrier, makes it surprisingly difficult for the US defense practitioner to gain something more than a PowerPoint-deep understanding of GoJ authorities, policies, and guidelines while often leaving their Japanese interlocuters similarly under-informed.

Finally, Japanese defense law, policy, and procedure can be mind-bogglingly complex. In military planning with Japan, valuable information is often found in the footnotes, sometimes literally.

This guide seeks to begin rectifying this situation by collecting and highlighting those “footnotes” from various sources, finding the source text, and placing that information into usable context, synthesized with practical analysis.

In short, this guide represents on US bilateral planner’s attempt to write the guide he wished he, himself, had been able to reference.

WHAT MAKES JAPANESE DEFENSE SO COMPLICATED?

The linkages among the various stipulations [in Japanese defense law] are so complicated that even expert practitioners cannot under the whole picture easily.¹

– Atsuhiko FUJISHIGE, Center for Strategic and International Studies – Japan Chair

The Japanese Constitution is the world’s oldest unrevised constitution.² More than trivia, this fact demonstrates the degree to which shifting interpretations have allowed Japan to change how their Constitution shapes the operation of its defense, without changing the text itself.

In Japan’s case, a great deal of laws that have to do with national security policy stands on an unreasonably complicated interpretation of its constitution that was created during the Cold War. As a result, the current legal framework that justifies the Japanese government’s current national security policy is supported by a very obscure and fragile compilation of one interpretation of the law after another.³

– Yuki TATSUMI, Henry L. Stimson Center – East Asia Program Senior Associate

Preface

Consequently, the practical capabilities of and restraints on Japan's military often require a multi-layered and matrixed understanding of laws, policies, and interpretations. This complexity can make Japanese defense policy highly flexible (as in the expanded Use of Weapons² authorities for intercept of uncrewed aerial systems or objects³) without any meaningful change in defense laws—though few US planners who work with Japan would agree, on the surface.

Furthermore, the Positive List⁴ approach to defense authorities used by Japan places defense law and policy (and not necessarily defense capacity or capability) in a dominant position in determining Japan's approach to security or response to crises or conflict. Understanding these constraints is often the clearest way to understand the linkages between ends, ways, and means in Japan's strategy and operational approaches when employing its defense capabilities.

The necessity for a Positive List approach is in part because Japan's Constitution⁵ makes no provision for defense. It grants no commander-in-chief or executive authorities to the PM to direct the JSDF in combat, and it provides no emergency authorities for responding to a national security crisis. Because the Constitution says nothing about defense after its famous renunciation of war in Article 9,⁶ the only legal basis for actions in defense of Japan must be specifically-authorized in law.

Building on this sparse legal foundation for defense activities was the peace-oriented and anti-militarist (but not "pacifist") culture that emerged after World War II. This, in turn, mixed with the unique historical conditions created by the US's post-war security guarantees, the Cold War, and a long regional memory that was fearful of a militarily-powerful Japan.

The result of all this is the slow accumulation of an intricate (and sometimes contentious) legalistic basis for national defense almost unique in the world. To understand what Japan *could* do, under what conditions, when, by whom, and how, let alone to speculate as to what Japan *would* do, requires sometimes extraordinary knowledge. Readers will find evident in the footnotes the intricate web of cross-references necessary to understand the implications of Japanese defense law and policy.

In contrast, US planners are often comfortable making assumptions about authorities and related limitations because of the wide latitude given to the US Commander-in-Chief, who often possesses the authority to turn those assumptions into facts, almost at will.

For Japan, if a military action is not prescribed specifically in law (after being checked for consistency with a multitude of other laws), it is not permitted. This is why planning for military operations with Japan requires a 486-page guide—though few will ever need more than a portion of it.

The intricate web of cross-referenced and interdependent Japanese defense law and policy also contributes to the hesitation of Japanese planners to speculate on what the JSDF would be authorized to do in a certain scenario.

US planners often take this reluctance as a cultural deference to consensus decision-making or an unwillingness to take initiative without explicit approval from higher up.

While these cultural features certainly contribute to this reluctance, it is important for US planners to understand that:

- Such answers can be incredibly difficult to determine,
- Most Japanese planners have limited experience with such national and operational law issues, and
- JSDF Judge Advocates often do not share the degree of formal legal training and certification as US Judge Advocates do.

² 3.3.1. Use of Weapons, p. 74.

³ 3.3.1.4. Use of Weapons Against Uncrewed Systems, p. 78.

⁴ 2.1.1.1.1. Japanese "Positive List" Approach, p. 12.

⁵ 2.1.2. Japanese Constitution (Kenpō), p. 13.

⁶ 2.1.2.1. Article 9 (War Renunciation), p. 13.

WHY IS JAPANESE DEFENSE LAW SO RESTRICTIVE?

While the restrictive nature of Japanese defense laws⁷ often seems peculiar to US planners, in practice, it has not been excessively limiting. The restrictions in Japanese law have effectively balanced Japan's national security needs with its constitutional principles over its post-war history.

Each time the legal limits of the JSDF become apparent, the GoJ updates defense laws, sometimes with surprising speed, ensuring Japanese law keeps pace with the evolving security environment. At the same time, constitutional limitations and the contentious political and legal debates surrounding them require a careful approach to changing defense law.

While shortfalls in JSDF authorities have generally only appeared in peacekeeping, humanitarian, or other non-combat situations (e.g., R/TJNO⁸), it is important to note that this is only because Japan has successfully secured its people and national interests in the post-war era without entering an IAC.⁹

While US planners may be frustrated with the limits of what Japan could or would do in a certain scenario, the prescriptiveness of Japanese law often provides a detailed framework to describe what the options are. In contrast, US planners are almost at a loss to do the same for the inverse reason: US laws and executive authority to direct the US armed forces are so flexible, by comparison, that the options are almost endless. This is just one of the myriad asymmetries that make the members of the Alliance so complementary.

Finally, there is a school of thought that, given the centrality of the US to Japan's fundamental security strategy, Japan's restrictive laws have served to balance the US's influence in Japanese national security calculus, especially with respect to the risks of entrapment.⁴

ARE THE DETAILS AND PRIMARY SOURCES REALLY NECESSARY FOR PLANNERS?

In most circumstances many planners are adequately served by synthesis and summary. However the factors listed above often combine with a variety of translation issues to obfuscate meanings, confuse readers, or call into question the underlying validity and reliability of a such syntheses or summaries.

Even the most technical legal analyses of Japanese law make basic errors such as:

- Referring to SDF Act (Law No. 165 of 1954, as amended) Article 100-6 as ¶(6) of Article 100 or Article 95-2 as ¶(2) of Article 95
- GoJ authorities summary tables citing the Article 11 of the "SIS Act" as the source of limited Use of Weapons authority, using a non-standard translation of the IIS Act (Act No. 60 of 1999, as amended)
- Basic factual mistakes, such as referring to an Exchange of Notes from 1966 that clarifies Prior Consultation requirements when the correct citation is a 1960 Exchange of Notes

These errors are relatively easy to resolve, but only with the ability to consult the sources. And because so many of these details were once secret or otherwise remain hidden by technical obscurity, the inability to consult the primary sources or a secondary source (like this guide) that clearly cites the primary sources, often leaves planners with few options other than to take assertions and assumptions at face value.

The translation barrier also works to obfuscate understanding. Because (often technical or legal) material must be translated to be available, such information is often simply not provided, fails to capture key nuance (e.g., Use of Weapons vs. Use of Force), or previously-translated material is simply recycled (preserving and sometimes adding to errors contained in the original). By collecting difficult-to-find translated material and correcting many of the deficiencies or inaccuracies of even highly-professional translations through the extensive cross-referencing and source-triangulation, this reference aims to cut through the ambiguity and obfuscation that can bedevil even the most experienced Japan planners.

⁷ Annex i. Selected Annotated Japanese Laws, p. 298.

⁸ 3.2.5.2. Rescue and Transportation of Japanese Nationals Overseas (R/TJNO), p. 72.

⁹ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

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Unlike a typical index, this section does not serve to list all pages on which a given term appears. Instead, because of the extensive cross-referencing in this guide through footnotes,¹⁰ this index instead provides the most appropriate “entry point” for a given term.

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GLOSSARY: DEFINITIONS

COMMONLY MISUSED/MISUNDERSTOOD TERMS

The following definitions are those used in this guide. Some of these are formally-defined terms used by the international community, the US, or Japan. Others are informally-defined. And yet others are unique to this guide, created to facilitate understanding. Cross-reference the applicable footnoted sections for more information on the degree of authority for each definition.

Access, Basing, and Overflight (ABO):¹¹ An informally-defined term referring to agreements between the US and a foreign state for US armed forces to operate in, from, and through territorial land, TTA, and TTS within specified limitations during peacetime, crisis, and/or conflict.

Advanced Consultation: see Prior Consultation.

Air Defense Identification Zone (ADIZ):¹² An ADIZ is a region of airspace in which a state intends to identify, locate, and control aircraft in the interest of national security. An ADIZ is not TTA.

Approval (RMCO/Prior Consultation):¹³ The GoJ sanction of (assent/consent/permission) to RMCO under the authority of a US force. Approval is distinct from the Authority/Authorization for US forces to conduct operations.

armed attack situations, etc.:¹⁴ Collective term referring to AAAS and AAS (including AAS [Imminent] and AAS [Occurrence]). Not to be confused with AAS. Presented in this manual in lowest case to avoid confusion.

Assent (RMCO/Prior Consultation): see Approval.

Authority/Authorization (RMCO/Prior Consultation):¹⁵ The legal basis for US forces to conduct RMCO from or through Japan. Authority/Authorization is distinct from Approval (or assent, consent, or permission) for US forces to conduct operations.

Blockade:¹⁶ A belligerent operation intended to prevent vessel traffic from all States from entering or leaving specified coastal areas that are under sovereignty, occupation, or control of an enemy. Blockades are distinct from embargo or sanction enforcement operations, domestic security measures by a State to restrict access to its own coasts, ports, or harbors.

Consent (RMCO/Prior Consultation): see Approval.

Consultation:¹⁷ A broad term referencing GoJ-USG diplomatic exchange on situations and activities of mutual security interest. Consultation includes routine consultation for SOFA issues (under MST Article VI), mutual defense issues (under MST Article V), and Prior Consultation for RMCO (under MST Article VI).

Contiguous Zone (CZ):¹⁸ The area where a sovereign state can exert limited control to prevent or punish infringements of relevant laws applicable within TTS (12 out to 24 NM beyond the Baseline¹⁹).

Customary International Law:²⁰ Customary International Law results from a general and consistent practice of States that is followed by them from a sense of legal obligation (*opinio juris*). Customary International Law is an unwritten form of law in the sense that it is not created through a written agreement by States. Customary International Law is generally binding on all States, but States that have been persistent objectors to a Customary International Law rule during its development are not bound by that rule. Customary International Law is a component of International Law.

¹¹ 5.1. Overview, p. 125.

¹² A.4.8. Air Defense Identification Zone (ADIZ), p. 198.

¹³ 5.5.2.3.1. GoJ Approval vs. Authorization of , p. 135.

¹⁴ 4.7. "Armed Attack Situations, etc.", p. 101.

¹⁵ 5.5.2.3.1. GoJ Approval vs. Authorization of , p. 135.

¹⁶ 4.11.6.7. Blockade, p. 119.

¹⁷ 2.1.3.3. Article IV – Consultation, p. 25.

¹⁸ A.4.6. Contiguous Zone (CZ), p. 197.

¹⁹ A.4.3. Baseline, p. 196.

²⁰ 2.1.2.4.1.1. Customary International Law, p. 23.

Defense Operation (DO):²¹ JSDF operations conducted under Article 76 of SDF Law for defense of Japan.

Defense Operations, etc.:²² JSDF operations conducted for the defense of Japan. Includes DO and associated preparatory actions and operations.

Employment of Arms:²³ A term unique to this guide that includes the use of lethal instruments (including weapons, explosives, destructive instruments, and other arms) by the JSDF, including the sub-categories of Use of Weapons and Use of Force.

Exclusive Economic Zone (EEZ):²⁴ The area beyond and adjacent to TTS up to 200 NM from the Baseline where a Coastal State exercises sovereign rights for exploring, exploiting, conserving and managing natural resources.

Facilities and Areas:²⁵ Facilities and Areas include designated air, land or water areas, buildings, structures, trees, furnishings, equipment, and fixtures provided by GOJ for the use of USFJ under the provisions of the SOFA. Real estate provided for limited time periods or easement rights for communications-electronics, utilities, and other systems are also considered to be Facilities and Areas, or parts thereof. Agreements as to specific Facilities and Areas shall be established by USFJ and GOJ through the Joint Committee (JC).

Far East:²⁶ An undefined region where aspects of the MST apply. GoJ has established unilateral geographical boundaries for the Far East but this definition is not shared by the US. The alliance has never mutually defined this region. "The region," "regional operations," etc. are often more appropriate terms that preserve ambiguity that reflects the lack of a mutual definition while avoiding the unintentional implication of a mutually-defined specified area.

High Sea(s):²⁷ The area comprised of all parts of the sea that are not included in the EEZ, TTS, or Internal Waters of a State, or in the archipelagic waters of an Archipelagic State. GoJ definitions of High Sea often include its (or other nations') EEZ. GoJ includes EEZs within its definition of High Seas.

II 4(b):²⁸ The sub-paragraph of the SOFA addressing LUAs for US access to Facilities and Areas off US Exclusive Use (II 1[a]) or US-Japan Joint Use (II 4[a]) Facilities or Areas. The term may also be used to refer to the process by which such access is requested.

Internal Waters:²⁹ Internal (or inland) waters are on the landward side of the Baseline from which the TTS is measured. Examples of Internal Waters include rivers, canals, and lakes.

International Law:³⁰ The set of rules, norms, and standards of relations between states for domains including war, diplomacy, economics, human rights, etc. as documented in Treaties, international jurisprudence, UN issuances, widely recognized principles, and Customary International Law. Customary International Law is a component of International Law.

International Waters:³¹ An informal term referring to the area where ships are under the jurisdiction of only their Flag State (with some exceptions, e.g., piracy). In some uses, International Waters refers to areas beyond TTS, in others, this refers to areas beyond the CZ, and in yet others, this refers to areas beyond the EEZ (>200 NM). The Law of Naval Warfare may use the term International Waters but defines it as the collective area including: the High Seas, the Area, and Coastal State CZs, EEZs, and CSs. International Waters is distinct from High Seas.

Lethal ABO: see RMCO.

²¹ 3.2.2.1. Defense Operation (DO), p. 55.

²² 3.2.2. Defense Operations, etc., p. 55.

²³ 3.3. Employment of Arms, p. 73.

²⁴ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

²⁵ 2.1.4.1.1. Definition of "Facilities and Areas", p. 31.

²⁶ B.1.4.1. Defining the Far East, p. 209.

²⁷ A.4.10. High Sea(s), p. 199.

²⁸ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

²⁹ A.4.2. Internal Waters, p. 196.

³⁰ 2.1.2.4.1. International Law, p. 23.

³¹ A.4.1.2. International Waters, p. 200.

Glossary: Definitions

National Airspace (TTA):³² National Airspace (also called Territorial Airspace or TTA) is the airspace above the territorial land and TTS of a State. An ADIZ is not TTA.

National Airspace:³³ National Airspace (also called Territorial Airspace or TTA) is the airspace above the territorial land and TTS of a State. A state's ADIZ is often incorrectly referred to as TTA or "sovereign airspace."

Permission (RMCO/Prior Consultation): see Approval.

Prior Consultation:³⁴ The consultation required under Article IV the MST for RMCO for security of the Far East (i.e., operations conducted under MST Article VI).

(US Regional) Military Combat Operations (RMCO):³⁵ Military Combat Operations that may be initiated from Japan against areas outside Japan other than under MST Article V.

Standing Prior Consultation:³⁶ Prior Consultation concluded pre-crisis in anticipation of exercising the agreed-to actions during the anticipated crisis.

Territorial Airspace (TTA): see National Airspace.

Territorial Seas (TTS):³⁷ Sovereign territory (air and sea) of a state out to 12 NM beyond the Baseline. The TTS is often incorrectly referred to as TTW.

Territorial Waters (TTW):³⁸ An informal and inconsistently-defined term that may refer to within the High Sea (including Internal Waters, TTS, CZ, EEZ, and CS), the combination of TTS and Internal Waters.

Unilateral ABO: see RMCO.

Use of Force:³⁹ The act of combat by Japanese physical and personnel organizations as part of an IAC. Employment of Arms when the JSDF is mobilized for Defense Operations, etc., and when the "Three New Conditions" are met.

Use of Weapons:⁴⁰ Use of equipment, and machinery, etc., defensed to directly kill or harm people, or to destroy things as a means of armed fighting, in accordance with their original usages. Employment of Arms when the JSDF is not mobilized for Defense Operations, etc., including any lawful Employment of Arms that does not meet the criteria Use of Force and that is governed by the Japanese Police Duties Execution Act (Law No. 136 of 1948, as amended) and Penal Code (Law No. 45 of 1907, as amended).

Warship:⁴¹ A ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government of the State and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline.

Warships, etc.:⁴² Japanese law "Warships, etc." as "meaning a Warship and a ship owned or operated by government of various countries that is used only for non-commercial purposes." This is effectively synonymous with the more internationally-recognized term: State Vessel.

³² A.4.5. National Airspace (TTA), p. 197.

³³ A.4.5. National Airspace (TTA), p. 197.

³⁴ 5.5.2. Prior Consultation, p. 132.

³⁵ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka "Unilateral ABO" or "Lethal ABO"), p. 130.

³⁶ 5.5.2.1. Standing Prior Consultation, p. 133.

³⁷ A.4.4. Territorial Sea (TTS), p. 196.

³⁸ A.4.1.1. Territorial Waters (TTW), p. 199.

³⁹ 3.3.3. Use of Force, p. 79.

⁴⁰ 3.3.1. Use of Weapons, p. 74.

⁴¹ E.2.2.1.1. Warships, p. 241.

⁴² E.2.2.1.1.1. "Warships, etc.", p. 242.

DEFINITIONS

The following definitions are those used in this guide. Some of these are formally-defined terms used by the international community, the US, or Japan. Others are informally-defined. And yet others are unique to this guide, created to facilitate understanding. Cross-reference the applicable footnoted sections for more information on the degree of authority for each definition.

Add commonly misused, etc. with: see Commonly Misused/Misunderstood Terms (p. xx)

Scrub index for definitions

Add definitions to index

2+2: see Security Consultative Committee (SCC).

Implementation Area:⁴³ An area or areas designated in an IIS BP where authorized activities (including Logistics Support Activities, RSAR, and SIO) may take place. Implementation areas facilitate the application of the *ittaika* principle.

Logistics Support Activities:⁴⁴ The provision of goods and services, provision of facilities, and other support measures to US forces or other militaries during peacetime, when responding to a Stipulated Security Situation and contributing to the objectives of the MST, or contributing to the achievement of the objectives of the UN Charter. This logistics support generally includes: supplies, transportation, repair and maintenance, medical services and treatment, communications services and equipment, port and airfield services, base operations support, billeting and temporary use of billeting facilities, storage of goods, use of JSDF facilities, buildings, and areas, and training services.

Affirmative Commitment:⁴⁵

Anticipated Armed Attack Situation (AAAS):⁴⁶ A situation that is not yet an Armed Attack Situation [AAS] but in which circumstances are critical and an Armed Attack against Japan is anticipated.

Approval (Security Situation):⁴⁷ (context of Security Situation Stipulation, *not* RMCQ)

Armed Attack Situation (AAS):⁴⁸ A situation in which an Armed Attack against Japan from outside occurs [AAS(Occurrence)] or in which it is recognized that clear danger of an Armed Attack against Japan from outside is imminent [AAS(Imminent)].

Armed Attack Situation (Imminent):⁴⁹ A situation in which it is recognized that clear danger of an Armed Attack against Japan from outside is imminent.

Armed Attack Situation (Occurrence):⁵⁰ A situation in which an Armed Attack against Japan from outside occurs.

Armed Attack:⁵¹ (in some uses, “armed attack” may refer to definitions inconsistent with or beyond the scope of GoJ’s definition of Armed Attack and qualifying scenarios; when “armed attack” appears in this guide and is not used in the context of GoJ law/interpretations or the MST, it appears in lower case)

Article 3 Outgrant:⁵² The use of Facilities and Areas by individuals or agencies granted by a local commander to operate and maintain their base under the provisions of Article 3 of the SOFA.⁵

Article II 1(a) Exclusive Use:⁵³ Facilities and Areas furnished by the GOJ for the “Exclusive Use” of USFJ under the provisions of Article II 1(a) of SOFA.⁶

⁴³ 4.4.1. Implementation Area, p. 97.

⁴⁴ 4.5.1.1. Logistics Support Activities, p. 98.

⁴⁵ 2.1.3.4.1. US Unilateralism under Article V: The “Affirmative Commitment”, p. 26.

⁴⁶ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

⁴⁷ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁴⁸ 4.10. Armed Attack Situation (AAS), p. 110.

⁴⁹ 4.10.1.1. AAS (Imminent), p. 111.

⁵⁰ 4.10.1.2. AAS (Occurrence), p. 111.

⁵¹ 4.11. Definition of “Armed Attack”, p. 114.

⁵² 2.1.4.2.2. Article 3 Outgrant, p. 33.

⁵³ 2.1.4.1. Article 2 – Use of Facilities and Areas, p. 30.

Glossary: Definitions

Article II 4(a) Joint Use:⁵⁴ Facilities and Areas furnished by the GOJ for the “Joint Use” of USFJ under the provisions of Article II 4(a) of SOFA.⁷

Article II 4(b) Limited Use:⁵⁵ Facilities and Areas furnished by the GOJ for the “Limited Use” of USFJ under the provisions of Article II 4 (b) of SOFA.⁸

Baseline:⁵⁶ The low-water line along the coast as marked on large-scale charts officially recognized by the Coastal State.

Basic Response Plan

Basic Response Plan:⁵⁷

Booty of War:⁵⁸ State Vessels, State Aircraft, and other military equipment, as well as enemy Merchant Ships that have become military objects captured at sea and liable to condemnation. Booty of War is distinct from Prize.

BPC

BPM

Cabinet Decisions

Cabinet Order

Coastal State:⁵⁹

Collective Self-Defense (CSD):⁶⁰

Concurrent Recognition:⁶¹ see Parallel Stipulation.

Concurrent Stipulation:⁶² Concurrent Stipulations (or Concurrent Recognitions) occur when GoJ responds to a single, overarching, or simultaneous geopolitical crisis with a single response that combines two or more Stipulations (or Recognitions). Concurrent Stipulations may happen simultaneously, with two or more situations being Stipulated at the time time, or non-simultaneously, with a second Stipulation following the first by a matter of hours, days, or weeks. This definition is unique to this guide.

Contraband:⁶³ Any item, ultimately destined for the enemy, that may be of use to the enemy in waging war and identified on a published Contraband list. May also be termed Foreign Military Supplies in Japanese law and operations.

Defense Guidelines:⁶⁴ Bilateral US-Japan policy defining military RMCs under the MST, establishing the ACM and BPM, and detailing CONOPS to respond to Security Situations.

DOAO⁶⁵

DOO⁶⁶

Duty of Neutrality⁶⁷

Employment of Arms:⁶⁸ The employment of firearms, explosives, bladed weapons, and other machines, implements, and devices that are aimed to hurt or kill people or to destroy things as a means of armed

⁵⁴ 2.1.4.1. Article 2 – Use of Facilities and Areas, p. 30.

⁵⁵ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

⁵⁶ A.4.3. Baseline, p. 196.

⁵⁷ 4.3. Basic Response Plan (BRP), p. 95.

⁵⁸ E.2.4.2. Booty of War, p. 247.

⁵⁹ A.4.1.1. Coastal State, p. 196.

⁶⁰ 3.4.2. Collective Self-Defense (CSD), p. 84.

⁶¹ 4.1.2.1. Parallel Stipulation (Parallel Recognition), p. 90.

⁶² 4.1.2.1. Parallel Stipulation (Parallel Recognition), p. 90.

⁶³ 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

⁶⁴ 2.3.4. 2015 Guidelines for Japan-US Defense Cooperation, p. 45.

⁶⁵ 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

⁶⁶ 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

⁶⁷ 2.1.2.1.4. Law of Neutrality, p. 18.

⁶⁸ 3.3. Employment of Arms, p. 73.

Glossary: Definitions

fighting” (whether this employment falls under the Japanese legal definitions of Use of Weapons or Use of Force⁶⁹). This definition is unique to this guide.

Ex ante:⁷⁰ “Before the event.” In the contest of Security Situation Stipulation, *ex ante* refers to the PM’s implementation of a Basic Response Plan after Diet Approval.

Ex post:⁷¹ “After the fact.” In the contest of Security Situation Stipulation, *ex post* refers to the PM’s emergency implementation of a Basic Response Plan prior to Diet Approval.

Exclusive Use: see Article II 1(a) Exclusive Use

Execution of Mission Type:⁷² A category of Use of Weapons that applies only when the JSDF is assigned a specific duty, through a formal order or operation.

Expected Armed Attack Situation: Non-standard translation of AAAS.⁷³

Facilities and Areas: Real estate and properties to include designated air, land or water areas, buildings, structures, trees, furnishings, equipment, and fixtures provided by GoJ for the use of the USFJ under the provisions of the SOFA. Real estate provided for limited time periods or easement rights for communications-electronics, utilities, and other systems are also considered to be Facilities and Areas, or parts thereof. Agreements as to specific Facilities and Areas shall be established by the United States Government (USG) and GoJ through the JC.

Flag of Convenience: see Flag State.

Flag State:⁷⁴ **The country that has the right to fly its flag as prescribed in Article 91 of UNCLOS.**

Foreign Military Supplies: see Contraband.

Grey Zone⁷⁵

IACF

II 1(a): see Article II 1(a) Exclusive Use

II 4(a): see Article II 4(a) Joint Use

Immediate Area of Naval Operations:⁷⁶ That area within which hostilities are taking place or belligerent forces are operating.

Implementation Plan

Important Influence Situation (IIS):⁷⁷ Situations that will have an important influence on Japan’s peace and security, including situations that, if left unattended, could result in a direct Armed Attack on Japan.

Innocent Passage:⁷⁸ The right of a vessel to navigate through the TTS of a foreign state for purposes of traveling from one area of High Seas to another or passing between the High Sea and the Internal Waters of the Coastal State

International Armed Conflict (IAC):⁷⁹ (GoJ) A situation in which State or Quasi-State Organizations have a disagreement over a specific issue, stick to their own opposing positions and are not willing to concede.

ISD

⁶⁹ 3.3.3. Use of Force, p. 79.

⁷⁰ 4.2.1.1. Ex Ante (“Before the Event”) Approval, p. 94.

⁷¹ 4.2.1.2. Ex Post (“From After”) Approval, p. 94.

⁷² 3.3.1.3. Type 2: “Execution of Mission Type” Use of Weapons (“Minor Self-Defense”), p. 77.

⁷³ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

⁷⁴ 3.4.2.4.2. Limitations on Protecting/Escorting Merchant Ships (Flag State/Flags of Convenience), p. 87.

⁷⁵ 11.2. Grey Zone, p. 180.

⁷⁶ 4.11.7.6.2. Belligerent Control of the Immediate Area of Naval Operations, p. 121.

⁷⁷ 4.6. Important Influence Situation (IIS), p. 98.

⁷⁸ E.5.1. Innocent Passage, p. 249.

⁷⁹ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

Glossary: Definitions*Ittaika*⁸⁰

Japanese Organizational Access (JOA):⁸¹ Access to Article II 1(a) Facilities and Areas provided to private Japanese organizations under the provisions of MEMO 4003. JOA is typically requested for specific events and times such as local festivals or sports activities.⁹

Joint Committee (JC):⁸² The means for consultation between the GOJ and the USG (as represented in the JC by USFJ) on all matters requiring mutual consultation regarding the implementation of SOFA, with particular emphasis on Article II 1(a) and II 4(b) requests.

Joint Use

Joint Use: see Article II 4(a) Joint Use*Kaketsuke-keigo*Laws of Neutrality⁸³

Limited Disaster Preparedness/Response Access:⁸⁴ Access to Article II 1(a) Facilities and Areas granted solely in response to, or in preparation for, natural or man-made disasters to conduct disaster preparedness training or to conduct disaster operations under the provisions of JC MEMO dated 27 April 2007. Disaster operations include rescue, medical, services, emergency transportation, evacuation, securing of food/water and other necessities of life. Such man-made disasters do not include Armed Attack on Japan or USFJ Facilities and Areas.¹⁰

Limited Humanitarian Access (LHA):⁸⁵ Transit through Article II 1(a) Facilities and Areas granted solely for the purposes of emergency transit under the provisions of MEMO 4199. Transit consists of timely ingress and egress by the most expeditious means to promote human welfare under emergency conditions in support of critical humanitarian cases.¹¹

Limited Use Agreement: Article II 4(b) Limited Use

Local Implementation Agreement (LIA):⁸⁶ An agreement between a USFJ representative and a GOJ representative specifying the conditions of use, cost sharing arrangements, and any other stipulations as determined by the responsible service and the appropriate GOJ agency. LIAs are required for the implementation of actions made under the provisions of Article II 4(a), Article II 4(b), JOA, LHA, and Limited Disaster Preparedness/Response Access.¹²

MIO⁸⁷

MSO Maritime Security Operations⁸⁸
Maritime Staff Office

Neither Confirm Nor Deny policy (NCND):⁸⁹ A US policy of neither confirming nor denying the presence or non-presence of nuclear weapons aboard Navy ships.

NSD⁹⁰

Other ACM across

Parallel Recognition:⁹¹ see Parallel Stipulation.⁸⁰ 2.1.2.2. Ittaika (Integration), p. 20.⁸¹ 2.1.4.1.2.1. Japanese Organizational Access (JOA), p. 31.⁸² 6.2.1.3. Joint Committee (JC), p. 143.⁸³ 2.1.2.1.4. Law of Neutrality, p. 18.⁸⁴ 2.1.4.1.2.3. Limited Disaster Preparedness/Response Access, p. 31.⁸⁵ 2.1.4.1.2.2. Limited Humanitarian Access (LHA), p. 31.⁸⁶ 2.1.4.1.3. Local Implementation Agreements (LIA), p. 31.⁸⁷ 3.2.2.8. Maritime Interdiction Operations (MIO), p. 60.⁸⁸ 3.2.3.2. Maritime Security Operation (MSO), p. 63.⁸⁹ B.2.1.3. Nuclear Weapon "Introduction" vs. "Transit", p. 211.⁹⁰ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.⁹¹ 4.1.2.1. Parallel Stipulation (Parallel Recognition), p. 90.

Glossary: Definitions

Parallel Stipulation:⁹² Parallel Stipulations (or Parallel Recognitions) occur when GoJ divides a single, overarching, or simultaneous geopolitical crisis into two or more distinct crises for the purposes of Stipulating (or Recognizing) different Security Situations for each crisis. This definition is unique to this guide.

Prior Consultation:⁹³ The consultation required under the MST if Japan is not attacked but the US wants to conduct combat operations for security of the Far East (i.e., operations conducted under MST Article VI).

Prize:⁹⁴ Vessels or goods captured at sea and liable to condemnation.

Provision Agreement

Provision of Protection:⁹⁵ The Use of Weapons to the extent necessary to protect the lives, bodies, and properties of the local population, affected people and other populations requiring protection, or to repel obstructions to the execution of tasked duties. This is a sub-type of Execution of Mission Type Use of Weapons.

PSO Public Security Operations⁹⁶

Quasi-State Organization:⁹⁷ An informally-defined GoJ term (as part of the broader term “State or Quasi-State Organization”) for an organization that fulfills all or some of the three requirements of a state (territory, people, and political system). With some exceptions, GoJ considers Employment of Arms against a Quasi-State Organizations as Use of Force and generally draws equivalency between State and Quasi-State Organizations for the purposes of policy.

Recognize⁹⁸

Reject (Security Situation):⁹⁹

Rights of Belligerency¹⁰⁰

Rights of Neutrality¹⁰¹

SCC:¹⁰²

Scene of Combat:¹⁰³ The location where combat, as part of an IAC, in which the people are killed or things destroyed, is taking place.

SDC

Security Operation:¹⁰⁴ JSDF operations to protect lives and assets or maintain public order and public security when Japanese law enforcement lack capacity or capability.

Security Situation Framework:¹⁰⁵

Security Situation:¹⁰⁶ One of four situations (IIS, STS, AAAS, and AAS) that, if Stipulated (or in the case of STS, Acknowledged), grant the GoJ authority to take crisis actions as specified in and governed by the Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended) or the IIS Act (Act No. 60 of 1999, as amended). Sometimes also referred to as “Situation.”

SIO¹⁰⁷

Sovereign Immunity¹⁰⁸

⁹² 4.1.2.1. Parallel Stipulation (Parallel Recognition), p. 90.

⁹³ 5.5.2. Prior Consultation, p. 132.

⁹⁴ E.2.4.1. Prize, p. 247.

⁹⁵ 3.3.1.3.1. Type 2a: “Provision of Protection” Use of Weapons, p. 77.

⁹⁶ 3.2.3.1. Public Security Operation (PSO), p. 62.

⁹⁷ 3.3.3.3.1. State or Quasi-State Organization, p. 81.

⁹⁸ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁹⁹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁰⁰ 2.1.2.1.3. Belligerent Rights, p. 16.

¹⁰¹ 2.1.2.1.4. Law of Neutrality, p. 18.

¹⁰² 6.2.1.2. Security Consultative Committee (SCC) (“2+2”), p. 142.

¹⁰³ 2.1.2.2.1. Scene of Combat, p. 21.

¹⁰⁴ 3.2.3. Security Operations, p. 62.

¹⁰⁵ Chapter 4. Japan’s Security Situations Framework, p. 89.

¹⁰⁶ Chapter 4. Japan’s Security Situations Framework, p. 89.

¹⁰⁷ 3.2.3.9. Ship Inspection Operations (SIO), p. 69.

¹⁰⁸ E.2.3.1. Sovereign Immunity of Maritime Vessels and Aircraft, p. 243.

Glossary: Definitions

Specified Public Facilities, etc.¹⁰⁹ Port facilities, airfield facilities, roads, sea areas, airspace, and radio waves.

SSC

State or Quasi-State Organization:¹¹⁰ An informally-defined GoJ term including a recognized State organization or a Quasi-State Organization for the purposes of policy determinations. (see “Quasi-State Organization”).

Stipulate¹¹¹

Survival-Threatening Armed Attack:¹¹² An Armed Attack associated with an STS stipulation;

Survival-Threatening Situation (STS):¹¹³ A situation where an Armed Attack against a foreign country that is in a close relationship with Japan occurs, which as a result, threatens Japan’s survival and poses a clear danger of fundamentally overturning Japanese people’s right to life, liberty and pursuit of happiness

Transit Passage:¹¹⁴ The freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one part of the High Seas or an EEZ and another part of the High Seas or an EEZ”

¹⁰⁹ i.Q.2. Article 2 – Definitions, p. 386.

¹¹⁰ 3.3.3.3.1. State or Quasi-State Organization, p. 81.

¹¹¹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹¹² 4.9.1.2. Survival-Threatening Armed Attack (STAA), p. 105.

¹¹³ 4.9. Survival-Threatening Situation (STS), p. 104.

¹¹⁴ E.5.1.1. Transit Passage (through Straits Used for International Navigation), p. 249.

Glossary: Acronyms

GLOSSARY: ACRONYMS

3NP	Three Non-Nuclear Principles	BGOCC(C)	Bilateral Ground Operations Coordination Center (Central)	CDR	Commander
3P	Three Principles on the Transfer of Defense Equipment and Technologies	BGOCC(R)	Bilateral Ground Operations Coordination Center (Regional)	CENTRIXS-JPN	
5AF	Fifth Air Force	BGOCC-C	see BGOCC(C)	CG	
A2/AD	Anti-Access/Area Denial	BGOCC-R	see BGOCC(R)	CinC	Commander-in-Chief
AAAS	Anticipated Armed Attack Situation	BGTCC	Bilateral Ground Tactical Coordination Center	CJCS	Chairman of the Joint Chiefs of Staff (US)
AAS	Armed Attack Situation	BISC	Bilateral Information Security Consultation	CLB	Cabinet Legislation Bureau
ABO	Access, Basing, and Overflight	BJOCC	See BOCC	CMI	Classified Military Intelligence
NSDM	National Security Decision Memorandum	BLC	Bureau of Local Cooperation	CNFJ	
PCA	Permanent Court of Arbitration	BPRS	Bureau of Policy for Regional Society (non-standard, see BLC)	COA	Course of Action
ACD	Active Cyber Defense	BM	Ballistic Missile	COMREL	Command Relationships
ACG	Alliance Coordination Group	BMD	Ballistic Missile Defense	CONOPS	
ACG-D	Alliance Coordination Group-Director's level	CI/KR	Critical Infrastructure/Key Resources	CSAR	Combat Search and Rescue
ACG-DG	Alliance Coordination Group-Director General-level	RMCO	(US) Regional Military Combat Operations	CSD	Collective Self-Defense
ACG-ES	Alliance Coordination Group-Executive Secretariat-level	JDIH		CUI	Controlled Unclassified Information
ACM	Alliance Coordination Mechanism	SDFLT		DC	Deputies Committee (US NSC)
ACSA	Acquisition and Cross-Servicing Agreement	IATA		DCC	
ACSA	Acquisition and Cross-Servicing Agreement	ICAO		DDG	Deputy Director General Guided Missile Destroyer (hull classification)
ADC	Air Defense Command	RA		DG	
ADIZ	Air Defense Identification Zone	GCC		DIH	see JDIH
IAMSAR	International Aeronautical and Maritime Search and Rescue	ADC		DO	Defense Operation
AGI		AOF		DOAO	Defense Operation Alert Order
AMCIT	American Citizen	MOF		DOO	Defense Operation Order
AOF	Air Operations Forces	GOF		DoS	Department of State
AOR	Area of Responsibility	JJOC		DPRI	Defense Policy Review Initiative
APOD		JJOF		EA	Eastern Army
ASO	Air Staff Office	MSO		ECS	
ASP	Ammunition Supply Point	GSO		EDD	Extended Deterrence Dialogue
ATLA	Acquisition, Technology, and Logistics Agency	ASO		EEZ	Exclusive Economic Zone
AUKUS	Australia-United Kingdom-United States Partnership	JSO		EU	European Union
B(J)OCC	See BOCC	JJS		EXORD	
BAOCC	Bilateral Air Operations Coordination Center	JMSDF		FDO	Foreign Disclosure Officer
BGFWG	Bilateral Ground Force Wargame	JGSDF		FDI	Flexible Deterrent Option (see MFDO)
BGOCC	Bilateral Ground Operations Coordination Center	JASDF		FOC	Full Operational Capability
		BOCC		FOIA	Freedom of Information Act (US)
		BOS-I		FOIP	Free and Open Indo-Pacific
		BPM		GCC	Ground Component Command
		C2	Command and Control	GOF	Ground Operations Forces
		CADF		GoJ	Government of Japan
		CCC-A	Component Coordination Center-Air	GPS	Global Positioning System
		CCC-G	Component Coordination Center-Ground	GSA	
		CCC-JTF	Component Coordination Center-Joint Task Force	GSO	Ground Staff Office
		CCC-M	Component Coordination Center-Maritime	GSOIA	
		CCG			
		CCMD	Combatant Commander		

Glossary: Acronyms

GSOMIA	General Security of Military Intelligence Agreement	MOF	Maritime Operations Forces	QUAD	Quadrilateral Security Dialogue
HNS	Host-Nation Support	MOFA	Ministry of Foreign Affairs	R/TJNO	Rescue/Transport of Japanese Nationals Overseas
HQ	Headquarters	MSO	Maritime Staff Office		
HVGP			Maritime Security Operation	RA	Regional Army
I&W	Indications and Warnings	MST	The Treaty of Mutual Cooperation and Security between the United States and Japan	RAA	Reciprocal Access Agreement
IAC	International Armed Conflict			RJNO	Rescue of Japanese Nationals Overseas
IATA		NA		RMC	Roles, Missions, and Capabilities
ICAO		NAAB		ROE	Rules of Engagement
ICBM	Intercontinental Ballistic Missile	NADF		RSAR	Rear-Area Search and Rescue
IIS	Important Influence Situation	NATO	North Atlantic Treaty Organization		
IOC	Initial Operational Capability	NCND	Neither Confirm Nor Deny policy (US)	RSO&I	
IPCA		NDA	National Defense Authorization Act (US)	SACO	
IPSA		NDS		SAR	Search and Rescue
ISD	Individual Self-Defense	NEA		SCC	Security Consultative Committee
JASDF	Japan Air Self-Defense Force	NEO	Noncombatant Evacuation Operations	SCS	South China Sea
JC	Joint Committee	NM	Nautical Mile	SDC	Subcommittee for Defense Cooperation
JCG	Japan Coast Guard	NPR	National Police Reserve	SDF	see JSDF
JDIH			Nuclear Posture Review	SDF	see JSDF
JFACC		SCAPIN	Supreme Commander for the Allied Powers Instruction Note	SRR	Search and Rescue Region
JFLCC				SDFLT	
JFMCC				SDS	
JFY	Japan Fiscal Year	NSC	National Security Council (Japan or US)	SIO	Ship Inspection Operations
JGSDF	Japan Ground Self-Defense Force	NSD	National Self-Defense	SKI	
JJOC	Japan Joint Operations Command	NTT		SLOC	Sea Line of Communication
JJOF	Japan Joint Operations Forces	OCC		SOF	Special Operations Forces
JJS		ODB		SOFA	Status of Forces Agreement
JJS	Japan Joint Staff	ODR	Operational Preparation Order (non-standard translation/acronym)	SPOD	
JMSDF	Japan Maritime Self-Defense Force	OPG	Okinawa Prefectural Government	SSA	Space Situational Awareness
JNSC	(Japan) National Security Council	OPSEC	Operational Security	SSC	Security Subcommittee
JNSS		OSD		SSI	
JOA	Japanese Organizational Access	OSD	Office of the Secretary of Defense	STS	Survival-Threatening Situation
JS	Joint Staff (Japan or US)	CMM	Chinese Maritime Militia	SWI	
JSDF	Japan Self-Defense Force	PC	Principal's Committee (US NSC)	TISA	Trilateral (Japan-US-Australia) Information Sharing Agreement
JSO	Joint Staff Office	PCC	Policy Coordination Committee (US NSC)	TJNO	Transport of Japanese Nationals Overseas
JTF	Joint Task Force	PFI	Private Financial Initiative	TLAM	Tomahawk Land Attack Missile
LHA	Limited Humanitarian Access	PKO	Peacekeeping Operations		
LIA	Local Implementation Agreement	PM	Prime Minister	TRA	
MA		PNT	Precision Navigation and Timing	UCMJ	Uniform Code of Military Justice
MARFORJ	Marine Forces Japan	POL	Petroleum, Oil, and Lubricants	UK	United Kingdom
MEZ	Maritime Exclusion Zone			UN	United Nations
MFCC		POTUS	President of the United States	UNCLOS	
MFDO				UNSC	United Nations Security Council
MinDef	Minister of Defense	POW	Prisoner of War	UNSCR	United Nations Security Council Resolution
MIO	Maritime Interdiction Operations	PPR		US	United States
MLIT		PRC	People's Republic of China	USARJ	US Army, Japan
MoD	Ministry of Defense	PSO	Public Security Operation	USEMB	US Embassy
		QLD	see QUAD		

Glossary: Acronyms

USF	United States Armed Forces (non-standard)
USFJ	US Forces Japan
USG	US Government
USINDOPACOM	US Indo-Pacific Command
WA	
WADF	
WMD	Weapons of Mass Destruction
LDP	Liberal Democratic Party
FM	Foreign Minister

GLOSSARY: TRANSLATION OF KEY TERMS

Because certain Japanese technical terms are inconsistently rendered or translated, planners can be challenged to understand the intended meaning.

Further complicating this issue is that while Japanese planners may have strong English skills (compared to the Japanese skills of their US counterparts), language skills vary in listening comprehension, reading comprehension, writing, or speaking. This adds a layer of complexity where a Japanese planner may perfectly comprehend the question but muddle their response. Or may provide a clear and precise answer to a question that they misunderstood.

When Japanese-speakers or Japanese language sources are available, the following translation of key terms can clear up confusion, mis-translation, or imprecision.

Unify formatting by column

English Term	Alternative English Renderings	English Acronym	Japanese Term	Romaji (Japanese Phonetics)	Note
Improved		[N/A]	改	<i>Kai</i>	Weapon system modifier (as in Type-12 Kai – Type-12 Extended Range)
Medium (range)			中	<i>Chū</i>	Weapon system modifier (as in Chū-SAM)
Short (range)			短	<i>Tan</i>	
Near (range)			近	<i>Kin</i>	
Security Situation					
Security Situation Framework					
Recognize (Security Situation)					
Stipulate (Security Situation)					
Acknowledge (Security Situation)					
Armed Attack					
Anticipated Armed Attack Situation	Armed Attack Predicted	AAAS	武力攻撃予測事態	<i>Buryoku kōgekiyosoku jitai</i>	
Armed Attack Situation		AAS	武力攻撃事態	<i>Buryoku kōgeki jitai</i>	Superset including AAS (Imminent) and AAS (Occurrence)
Armed Attack Situation (Imminent)		AAS (Imminent)	武力攻撃事態 (切迫)	<i>Buryoku kōgeki jitai (seppaku)</i>	
Armed Attack Situation (Occurrence)		AAS (Occurrence)	武力攻撃事態 (発生)	<i>Buryoku kōgeki jitai (hassei)</i>	
Action Against Violation of Territorial Airspace	Measures against airspace violations	[N/A]	対領空侵犯措置	<i>Tai ryōkū shinpan sochi</i>	
armed attack situations, etc.			武力攻撃事態等	<i>Buryoku kōgeki jitai-tō</i>	Superset including AAAS and AAS
Survival-Threatening Situation	Existence crisis	STS	存立危機事態	<i>Sonritsu kiki jitai</i>	
		MST			
		SOFA			
Important Influence Situation	Situations of significant impact	IIS	重要影響事態	<i>Jūyō eikyō jitai</i>	
Security Operation (Security Dispatch)		[N/A]	治安出動	<i>Chian shutsudō</i>	Superset of PSO and MSO
Integration				<i>Ittaika</i>	

Glossary: Translation of Key Terms

Integration with the Use of Force			武力の行使との一体化	<i>Buryoku no kōshi to no ittaika</i>	
		PSO	治安出動	<i>Chian shutsudo</i>	
		PSO by Order	命令による治安出動		
		PSO by Request	要請による治安出動		
		MSO	海上警備行動	<i>Kaijo keibi kodo</i>	
		SIO	船舶検査活動		
		MIO			
Use of Force			武力の行使	<i>Buryoku no kōshi</i>	
Use of Weapons			武器の使用	<i>Buki no shiyō</i>	
Use of Land	Land use		土地の使用	<i>Tochi no shiyō</i>	
Prior Consultation			事前協議	<i>Jisenkyōgi</i>	
Civil Protection Operations	Civil protection dispatch				
Civil Protection Order					
		CSAR			
		RSAR			
		SAR			
Rear area			後方地域	<i>Kōhō chiiki</i>	Synonymous with “Non-combat zone”
Non-combat zone			非戦闘地域	<i>Hisentōchiiki</i>	Synonymous with “rear area”
Korea Minute				<i>Chosen gijiroku</i>	
Cabinet Order			政令	<i>Seirei</i>	
Cabinet Decision			閣議決定	<i>Kakugi kettei</i>	
Counterstrike Capability			反撃能力	<i>Hangeki nōryoku</i>	
Enemy Base Attack Capability			敵基地攻撃能力	<i>Teki kichi kōgeki nōryoku</i>	Replaced in 2022 with the term “Counterstrike Capability”
Warning Shots				<i>Ikaku Shageki</i>	
All law titles					
Cabinet Law (Act No. 5 of 1947)			内閣法	<i>Naikaku-hō</i>	
Overseas Deployment			海外派兵	<i>Kaigai hahei</i>	Deployment of JSDF to the territory, TTS, or TTA of another country
Defense Mobilization Order	Defense Call-Up Order		防衛招集命令	<i>Bōei shōshū meirei</i>	
Defense Operations Alert Order	Defense Operations Warning Order; Defense Operations Standby Order		防衛出動待機命令	<i>Boei syutudo taiki meirei</i>	
Maritime Interdiction Operations			海上阻止作戦	<i>Kaijou soshi sakusen</i>	
Basic Plan			基本計画		
Basic Response Plan			基本対処計画		
Civil Protection Order			国民保護等命令	<i>Kokumin hogo-tō meirei</i>	

Armed Attack

Glossary: Translation of Key Terms

Civil Protection Dispatch 国民保護等派遣 Kokumin Hogo tou Sochi

Combat Search and Rescue 戦闘搜索救助 Sento Sosaku Kyujo

Construction of Defensive positions and Obstacles 防御施設等構築 Bougyo Shisetsu tou Kochiku

Control of JCG 海上保安庁の統制 Kaijou Hoan-Cho no Tousei

Counter-Piracy Operations 海賊対処行動 Kaizoku Taisyo Koudo

Guard Operations 警護出動 Keigo Syutudou

Maritime Security Operations 海上警備行動 Kaijou Keibi Koudo

Minelaying 機雷の敷設 Kirai no Fusetsu

Minesweeping 機雷の除去 Kirai no Jokyo

Missile Destruct Order/BM Destruction 弾道ミサイル等破壊措置命令 Dando Misairu tou Hakai Sochi Meirei

Protection of U.S. Weapons, etc. 米軍武器等防護 Bei-gun Buki tou Bogou

Public Security Operations (by Order) 命令による治安出動 Meirei ni Yoru Chian Syutado

Public Security Operations (by Request) 要請による治安出動 Yousei ni Yoru Chian Syutsudo

Public Security Operations 治安出動 Chian Syutsudo

Rear-Area Search and Rescue 後方地域搜索救助 Koho Chiiki Sosaku Kyujo

Rescue of Japanese Nationals Overseas 在外邦人等保護 Zaigai Houjin tou Hogo

Reservist Recall 予備自衛官等招集 Yobi Jieikan tou Syousyu

Search and Rescue 搜索救助 Sosaku Kyujo

Ship Inspection Operations 船舶検査活動 Senpaku Kensa Katsudo

Specific Public Facilities 特定公共施設 Tokutei Kokyo Shisetu

Transport of Japanese Nationals Overseas 在外邦人等輸送 Zaigai Houjin tou Yusou

Transport/Rescue of Japanese Nationals Overseas 在外邦人等保護／輸送 Zaigai Houjin tou Hogo oyobi Yusou

US-Japan Status of Forces Agreement 日米地位協定 Nichi-Bei Chii Kyotei

From DoJ:**AAS (武力攻撃事態)****AAS(Imminent) - 武力攻撃事態(切迫)**

Glossary: Translation of Key Terms

AAS(Occurrence) - 武力攻撃事態(発生)

STS (存立危機事態)

Counter-Piracy (海賊対処行動)

Air Intercept (領空侵犯に対する措置)

Civil Protection (国民の保護のための措置)

BM Destruction (弾道ミサイル等に対する破壊措置)

TJNO

RJNO

T/RJNO (在外邦人等の輸送・保護措置)

Preparation of Defensive Facilities

Asset Protection (Art. 95-2) (米軍等の部隊の武器等の防護)

Defense Operation (防衛出動)

DOO

DOAO (防衛出動待機命令)

MOD Control of JCG (海上保安庁の統制)

Search and Rescue (搜索救助活動)

Chapter 1. INTRODUCTION AND OVERVIEW

1.1. PURPOSE

This guide serves to consolidate information relevant to US defense planners responsible for:

- Bilateral planning or exercises with Japan; or
- Unilateral planning or exercises that consider operations in, around, and potentially with Japan

This guide consolidates and synthesizes information from numerous existing resources and provides plans-related commentary, analysis, and detail to that information. Furthermore, as an editable resource, it allows changes in law, policy, or understanding to be integrated into the guide to maintain continued relevance to planners or for segments to be extracted or deleted to tailor its content for specific uses.

This guide is not a replacement for primary source material and other authoritative sources, many of which are listed in Appendix R. References (p.293).

Finally, this guide is meant to be a long-form companion to the BGFWG pocket reference, which further consolidates enclosed information into quick-reference format. This guide is intended to provide the detailed discussion and nuance that are impossible to achieve in quick-reference formats.

1.2. WHAT IS “BEST UNDERSTANDING”?

Military planning with Japan requires some degree of understanding from a wide array of fields, from Japanese law itself to the nuances of military requirements and operations (e.g., there is no such thing as just “ABO” but rather a fine spectrum of ABO permissions and caveats), International Law,¹¹⁵ and the outcomes of exercises and wargames and more.

This guide attempts to merge all these subjects and, more dauntingly, describe or analyze how they interact in a way that usefully answers questions that arise in bilateral Japan-US planning.

This inevitably means there will be statements in this guide that turn out to be technically false but practically true (or the opposite), lack important nuance that makes them misleading under some circumstances, or information that turns out to be simply wrong.

This has been minimized to the greatest extent possible with specificity, caveats, or citations. But some degree of error is unavoidable.

The unavoidability stems from the complex *and* complicated nature of the subject matter, the fact that some of the material requires interpretation (which itself may be incorrect), the fact that what constitutes a correct answer often depends on the level of detail required, that context is supremely important (and answers are sensitive to minor adjustments of context), and finally that the truth itself changes (as laws and policies shift, as existing guidelines are applied in novel ways, and as Japan continues to surprise the US by setting new precedent in the realm of defense).

Finally, some of the inaccuracies are purely the fault of the compiler’s own misunderstanding or mistakes made in the process of learning more.

But this guide is not meant to be authoritative, merely to start others on an improved foundation so they can skip re-learning what others have already learned the hard way. The goal is to help planners make new mistakes, not old ones.

¹¹⁵ 2.1.2.4.1. International Law, p. 23.

1.3. USING THIS GUIDE

1.3.1. Callout Notices

1.3.1.1. Caution Boxes

When importation information that may require nuanced understanding or application appears, it will be highlighted with a callout box like the example below.

This is an example Caution Box. Use caution when applying or interpreting the information and context contained or referenced in these boxes.

1.3.1.2. Notice Boxes

When important caveats, notes, or other key amplifying information appears, it will be highlighted with a callout box like the example below.

This is an example Notice Box. Carefully consider the information and context contained or referenced in these boxes.

1.3.1.3. Alternate Rendering Boxes

When key terms may be rendered or translated differently or when proper terms are longer than conventional abbreviations or truncations, these alternate renderings will be highlighted with a callout box like the example below.

This is an Alternate Rendering Box. Alternate presentations of the terms used by this guide will be contained or referenced in these boxes.

1.3.2. Block Quotations

When key references are cited directly, they will appear in block quotations like the example below.

This is an example block quotation. Always reference the original source material when derivative citations are necessary.

Machine-translated¹¹⁶ quotations appear in block quotations like the example below.

This is an example block quotation translated into English by machine-translation. Always reference the original source material when derivative citations are necessary and exercise caution in use as machine-translations are of low reliability. See § 1.5.2.2. Machine Translations (p. 7).

1.3.2.1. Translated Quotations

When possible and applicable, English translations from the original Japanese have been taken from official sources (e.g., USG or GoJ documents/websites). However, conventions for translation of specific terms change over the years, are inconsistent, or may not exist, leading to ambiguities in terminology and meaning.

Additionally, the syntax of Japanese and English differ dramatically, leading key passages in even official and carefully-translated documents (like the Japanese Constitution) to have either:

- Clear meaning or connotations in Japanese with ambiguity in English; or
- Ambiguity in Japanese with a false impression of clarity in English

This cannot be avoided and is a metaphorical representation of the constant hard work it takes to maintain the Alliance.

¹¹⁶ 1.5.2.2. Machine Translations, p. 7.

1.3.2.2. Modifications of Quotations

1.3.2.2.1. Convention for Specific Phrases

To maintain consistency and facilitate understanding, where source documents or translation differ from clear conventions used by official USG or GoJ sources, the block quotation may replace the original text or the translated English with [the conventional phrase] indicated by brackets or include the conventional phrase after the original text or translation. For example the phrase “Armed Aggression” in a source or original translation will appear as:

...Armed [Attack]...

or as

...Armed Aggression [**Armed Attack**]

1.3.2.2.2. Clarification of Cross-References

[Red text in brackets] are clarifications or resolved references to laws, order, situations, or other items that are not present in the original text or translation.

For example, SDF Law Article 77 includes the passage: “...where a situation becomes more tense, and the Defense Operations Order as prescribed in ¶(1) of the previous Article is imminent...” Paragraph 1 of the previous article (Article 76) refers to STS, AAS (Imminent), and AAS (Occurrence).

To facilitate reader understanding, this text will appear as:

...where a situation becomes more tense, and the Defense Operations Order as prescribed in ¶(1) of the previous Article [**for STS, AAS (Imminent), or AAS (Occurrence)**] is imminent...

1.3.2.2.3. Added Emphasis

When additional emphasis is necessary to highlight specific conditions or circumstances that facilitate understanding (such as highlighting necessary processes or approval authorities), this emphasis is added with underlined words.

For example, SDF Law Article 76 grants the PM authority to order the JSDF into action under a DOO. To highlight this the authority for such an order as residing with the PM, this text will appear as:

...the Prime Minister may order...

In rare instances, this emphasis may be present in the original.

1.3.3. Embedded Documents

This reference includes embedded files. Word, Excel, and PDF files open in editable form. PowerPoint files open in presentation view. To edit PowerPoint files, right-click the embedded file, select “Presentation Object” and then select “Edit.”

Once opened, all files can be saved separately from this guide using “Save As...”

1.3.4. Footnotes and Endnotes

Footnotes are primarily used to cross-reference a section (§), sections (§§), a paragraph (¶), or paragraphs (¶¶) with explanatory, background, amplifying, or related detail. They are also used to provide brief explanatory notes that facilitate understanding. Footnotes appear as superscript **dark red**, underlined Arabic numerals like this¹ and are found at the bottom of each page (Roman numerals are avoided for readability concerns).

Occasionally, for essential information, in-text cross-references are made. For example: “see § 1.3.4 (p. 3).”

Chapter 1. Introduction and Overview

While the extent of cross-referencing footnotes may at first appear excessive, this guide is designed to be referenced in parts, as the planner requires. By footnoting terms, authorities, concepts, or other relevant information (often precise legal or policy constructs), readers will be made aware of the nuances embedded by references to these terms and find them easy to cross-reference. Additionally, extensive cross-referencing ensures clarity of intended meaning while reducing complex sentences with excessive clauses or parentheticals.

Endnotes are used for citations when direct citations are useful or required. They appear as superscript green Arabic numerals like this¹ and are found in § vii.B (p. 447). Readers of black-and-white printed copies will have to infer the distinction between footnotes and endnotes by referencing an endnote numeral against the footnote sequence at the bottom of the page. Conventional numbering of footnotes by Roman numerals was avoided due to readability of small font super-scripts, especially for larger numbers.

Endnote citations are made for direct quotations (when the source is not otherwise specified), for specific sources that readers are likely to want to check for clarity or context (such as non-obvious claims about policy or interpretation, especially in edge-cases), or when information is either subject to change (such as a current policy or interpretation that may be modified in the near future) or when the information or interpretation provided might be challenged by an authority with a different view.

1.4. STANDARDIZED TERMINOLOGY

1.4.1. Prefixes: “Japan” and “J”

Japanese terms for organizations or entities (e.g., JSDF or JNSC) do not include the letter “J” or the words “Japan” or “Japanese” in their native rendering. For example, the proper name of the JSDF would be literally rendered as “Self-Defense Forces” or “SDF.”

Thus, Japanese documents, officials, and military planners often internally refer to these entities without such prefixes. In English-language documents (aimed at a US or international audience), however, such prefixes will be used to distinguish these organizations from counterparts (e.g., the US National Security Council or the US Joint Staff).

To avoid ambiguity, this guide uses J/Japan prefixes with some exceptions where clear convention omits such prefixes (e.g., “SDF Law”).

1.4.2. Capitalization of Proper Terms

In most cases, terms with formal and important meanings (e.g., “Armed Attack,”) have been capitalized or specific acronyms (e.g., “STS”) have been used to highlight when specific and formal meanings are intended and/or are important for understanding. These terms and related acronyms are included in Glossary: Definitions (p. xx) and Glossary: Acronyms (p. xxix).

When applicable, these formal terms are footnoted¹¹⁷ to cross-reference the section of this guide that explains their meaning and relevant context.

In the case of “armed attack situations, etc.,” which is a collective term referring to *both* AAAS and AAS, this manual renders the term entirely in the lower case to avoid any inadvertent confusion with AAS.

1.4.3. Use of “Dispatch” and “etc.”

The Japanese term (急送, kyūsō), rendered into English as “Dispatch,” would be more familiar to US planners as “Operation” or “Deployment.” In most cases, this guide uses these more familiar terms.

¹¹⁷ 1.3.4. Footnotes and Endnotes, p. 3.

When referring to categories of situations or operations, the Japanese often append “etc.” (and sometimes “and others”) as a suffix to a more specific term, when translated into English. For example, the Japanese term “armed attack situations, etc.” refers to both AAAS and AAS. This guide applies this same approach for similar situations, even when such categorization does not regularly appear in GoJ documents (for example, “Defense Operations, etc.” to refer to the more specific term DO as well as other related operations).

1.4.4. Legal Article and Paragraph Numbering

For consistency and clarity, this guide uses Arabic numerals to reference articles, paragraphs, sub-paragraphs, etc. of legal documents such as constitutions, Treaties,¹¹⁸ International Agreements,¹¹⁹ domestic laws, etc. In Japan-US planning and exercises, there are a few exceptions where clear convention uses Roman numerals, usually in reference to articles (but not paragraphs or sub-paragraphs, etc.)

These exceptions are:

- MST Articles IV,¹²⁰ V,¹²¹ VI,¹²² and X¹²³
- SOFA Article II¹²⁴ (e.g., “II 4(b)”¹²⁵)

In these cases, this guide uses the Roman numeral convention.

In legal discourse, the Japanese Constitution’s articles are most often rendered in Roman numerals (“i.e., Article IX,”). However, as direct reference to the Japanese Constitution is uncommon in Japan-US military contexts, for consistency this guide uses Arabic numeral rendering of Japanese constitutional articles.

1.4.4.1. Japanese Law Article and Paragraph Numbering Conventions

In Japanese law, articles are numbered sequentially, omitting replaced articles (i.e., skipping from Article 98 to 100 if Article 99 has been moved or deleted).

Articles moved or added within an existing sequence will maintain sequential numbering but add hyphenated sub-numbers (e.g., when SDF Law Article 99 was revised and moved between Articles 84 and 85 [i.e., when it was “mutated”], it was numbered as “84-2”). Hyphenated articles (i.e., ##-1, ##-2) may be related, but they are considered independent articles (vice “sub-articles”); thus, references to “Article 84” do not imply “Article 84-2.”

Conventions for numbering and referencing specific sections of articles vary with author and translation (e.g., “Article 84 (1), “Art. 84(1),” etc.). For consistency, this guide standardizes article numbering according to the scheme below. Exceptions are made for the cases referenced above.¹²⁶

When articles have only one major paragraph, the “(1)” highlighted in red, below, is normally omitted, even if the major paragraph has sub-paragraphs. For clarity in cross-references, this guide will include paragraph (1) numbering in such cases (as appears below).

For example:

(Article Title)

Article 12-3

(1) Major Paragraph (1) text. This would be referred to as “Article 12-3 ¶(1),” “¶(1), Article 12-3,” or “(1), Article 12-3.”

¹¹⁸ 1.6.1.1.1. Treaties (Legal Status), p. 9.

¹¹⁹ 1.6.1.1. International Agreements (Legal Status), p. 8.

¹²⁰ 2.1.3.3. Article IV – Consultation, p. 25.

¹²¹ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

¹²² 2.1.3.5. Article VI – Access, Basing, and Overflight (ABO) (the “Far East Clause” or “MOFA Clause”), p. 28.

¹²³ 2.1.3.6. Article X – Termination, p. 29.

¹²⁴ 2.1.4.1. Article 2 – Use of Facilities and Areas, p. 30.

¹²⁵ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

¹²⁶ 1.4.4. Legal Article and Paragraph Numbering, p. 5.

(i) Sub-paragraph (i) text. This would be referred to as “Article 12-3 ¶(1), No. (i)” “No. (i), ¶(1), Article 12-3,” or “item (i)(1), Article 12-3.” If there is only one major paragraph, the item may be listed as “Article 12-3 No. (i),” etc.

(a) Point (a) text. This item would be referred to as “Article 12-3 ¶(1), No. (i), Point (a),” “Point (a), No. (i), ¶(1), Article 12-3,” or “Point (i)(1), Article 12-3.” If there is only one major paragraph, the item may be listed as “Article 12-3 No. (i), Point (a),” etc.

(2) Paragraph (2) text. This would be referred to as “Article 12-3 ¶(2)” or “¶(2), Article 12-3,” or “(2), Article 12-3.”

1.4.5. Japanese Names

In the Japanese language typically the family name will appear first, followed by the given name. However, there is no clear convention on the sequence of family and given names when translating Japanese into English. While some authors maintain the Japanese order of family name appearing first, many English language translations by Japanese authors will adopt the English language convention of given name followed by family name.

Because there is no clear convention, for clarity this guide presents given names first but places family names in capitals, for example: Shinzō ABE.

When quoting directly from English language sources that sequence family name first, this guide maintains the source sequence, but capitalizes the family name.

1.4.6. Japanese Island-Related Terminology

Japanese uses a variety of terms to refer to island groupings, including:

- Shotō: Archipelago
- Guntō: Cluster of Islands
- Rettō: String of Islands

A similar variety of terms refers to individual islands, including:

- Shima: Island
- Jima: Island
- Ōshima: Large Island
- Kōjima: Small Island

When appended to the name of an island, “shima” or “jima” distinguish between references to the main island of a cluster (e.g., “Miyakojima”) versus the cluster itself (e.g., “Miyako Rettō” or just “Miyako”).

While these terms, especially those referring to individual islands, can often be used interchangeably, there are often conventions for specific islands. For example, the Japanese generally use “Shimoji-shima” to refer to the island of Shimoji rather than “Shimoji-jima.”

1.5. TRANSLATIONS

1.5.1. Official Translations

1.5.1.1. Provisional Translations

The GoJ often provides English translations of key documents or excerpts from such documents. While these are “official” GoJ-provided translations, sometimes they are provided as “provisional.” Provisional translations are not comprehensively reviewed and may not represent precise formal or legal terminology. Provisional translations are helpful for understanding but care should be exercised in using the terminology, syntax, or other presentations of the translated Japanese in constructing precise or nuanced interpretations.

1.5.1.2. Formal Translations

GoJ will occasionally (though rare) provide formal (non-provisional) translations of critical documents, such as the Japanese Constitution. These translations are more thoroughly reviewed for correctness and preciseness in the English language presentation of the original Japanese. However, as with the case of Article 9(1),¹²⁷ even formal translations may add or mask either ambiguity or clarity in the original language as a result of the significant differences in English and Japanese.

1.5.2. Unofficial Translations

1.5.2.1. Human Translations

Human translations of Japanese texts often have the benefit of subject matter expertise, however translators may rely on conventions in translation that complicate understanding by defense practitioners. For example, some translators insist on using the most correct or precise translation of terms, even if it runs counter to clear Allied or even GoJ convention (for example, using “standby” instead of “alert” in the phrase “Defense Operations Alert Order”). In an effort to standardize terminology,¹²⁸ these non-conventional translations are either modified or annotated in this guide.

1.5.2.2. Machine Translations

Machine translations are avoided to the maximum extent possible in this guide. In general, they are used only for the translation of important articles of Japanese law when no human translation (official or unofficial) is available. This guide corrects obvious errors in machine translations and uses the same guidelines for standardized terminology as it applies to human translation.¹²⁹

Machine translations that have been modified as described above appear in modified block quotations¹³⁰ like the example below:

This is an example block quotation translated into English by machine-translation.

Machine translations that have been provisionally-reviewed by a professional Japanese linguist or compared with existing professional translations to verify the machine translation reasonably reflects the content and intent of the Japanese original appear in normal block quotations like the example below:

This is an example block quotation translated into English by machine-translation but later reviewed by a professional Japanese linguist. This review has only provisionally verified that the machine-translated texts reflects the general content and intent of the original Japanese and does not indicate any further corrections to the English except to correct any gross inaccuracies in the machine-translated English.

When machine translation is used in this guide, readers should exercise caution in applying it to any military planning, even as a baseline understanding or assumption, unless it is clearly corroborated by alternative authoritative sources.

This guide corrects certain obvious errors in machine translations (e.g., referring to ¶(3), Article 82, rather than 82-3 as the article regarding Missile Destruct/BM Destruction) and applies consistency and GoJ convention to paragraph and sub-paragraph numbering (e.g., changing “Point To,” referring to the katakana character that would be rendered “g” in a numbered list, to “Point (g).”

This guide also adds substantial annotation, cross-referencing, and other supplemental contextualization or analysis to the baseline machine translation.

1.5.2.2.1. Challenges in Machine Translation

Machine translations from Japanese to English are particularly problematic in the context of legal documents or documents with significant legal implications (such as those relevant to military planning) due to the high-

¹²⁷ 2.1.2.1.2. Parsing Article 9, p. 14.

¹²⁸ 1.4. Standardized Terminology, p. 4.

¹²⁹ 1.4. Standardized Terminology, p. 4.

¹³⁰ 1.3.2. Block Quotations, p. 2.

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level of context required to properly render the meaning of a Japanese passage into English as well as the peculiar structure of legal or legalistic passages. It is possible that the entire meaning of a passage might be inverted by machine translation.

When machine translation is used, this guide validates the basic content of the machine translation against professionally-translated versions of the same content. When such professional translations are unavailable, this guide “triangulates” the English translation by controlling how machine translation parses the Japanese text (see below), replacing non-standard or ambiguous terms with their conventional and formal English renderings (e.g., “Situation in which an armed attack is predicted” has been changed to “Situation in which an Armed Attack is anticipated [AAAS]”) as confirmed by official dual-language documents (e.g., Defense of Japan whitepaper).

1.5.3. Representations of Japanese Terms

In some cases, especially regarding specialized terminology, it is useful for planners to be able to reference both the English language term/acronym as well as the Japanese term in both Japanese characters as well as Romanized (phonetic) characters (often called “Romaji”). This can be especially useful when terms lack conventions for translation, conventions change, or terms are translated inconsistently (for example, inconsistency in the English translation of 地方協力局 as either Bureau of Local Cooperation or Bureau of Policies for Regional Society).

In these cases, this guide will provide the English term, English acronym, Japanese term, and Romaji. For a more comprehensive dictionary of relevant terms, see the companion guide to this document, “Decoding the Alliance.”

1.6. INTERNATIONAL COMMITMENTS AND DIPLOMATIC CORRESPONDENCE

Understanding bilateral, especially diplomatic, documents requires planners to understand the type of document, its nature, and its legal and political authority.

Broadly, and under US law, there are two categories of and three kinds of International Commitments.¹³¹ The first category of commitment is an International Agreement¹³² which includes both Treaties¹³³ and Executive Agreements.¹³⁴ The second category of commitment is a Non-Binding Instrument.¹³⁵

1.6.1. International Commitments (Legal Status)

1.6.1.1. International Agreements (Legal Status)

International Agreements is a blanket term for Treaties¹³⁶ and Executive Agreements¹³⁷ that are considered binding under International Law.¹³⁸

There are few firm rules for what should distinguish whether an International Agreement should take the form of a Treaty or an Executive Agreement, but the DoS generally considers:¹³

- The extent to which the agreement involves commitments or risks affecting the nation as a whole
- Whether the agreement is intended to affect state laws
- Whether the agreement can be given effect without the enactment of subsequent legislation by the Congress;
- Past U.S. practice as to similar agreements;
- The preference of the Congress as to a particular type of agreement;
- The degree of formality desired for an agreement;

¹³¹ 1.6.1. International Commitments (Legal Status), p. 8.

¹³² 1.6.1.1. International Agreements (Legal Status), p. 8.

¹³³ 1.6.1.1.1. Treaties (Legal Status), p. 9.

¹³⁴ 1.6.1.1.2. Executive Agreements (Legal Status), p. 9.

¹³⁵ 1.6.1.2. Non-Binding Instruments (Legal Status), p. 10.

¹³⁶ 1.6.1.1.1. Treaties (Legal Status), p. 9.

¹³⁷ 1.6.1.1.2. Executive Agreements (Legal Status), p. 9.

¹³⁸ 2.1.2.4.1. International Law, p. 23.

- The proposed duration of the agreement, the need for prompt conclusion of an agreement, and the desirability of concluding a routine or short-term agreement; and
- The general international practice as to similar agreements.

1.6.1.1.1. Treaties (Legal Status)

Treaties are: “International Agreements¹³⁹ (regardless of their title, designation, or form) whose entry into force with respect to the United States takes place only after the Senate has given its advice and consent” may be on “any subject genuinely of concern in foreign relations, so long as the agreement does not contravene the United States Constitution.”¹⁴

The US Constitution’s Supremacy Clause (Art 6, Clause 2) makes Treaties legally-binding within the US system:

*This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.*¹⁵

The Japanese Constitution’s Supremacy Clause¹⁴⁰ similarly makes Treaties legally-binding within the Japanese system.

The 1969 Vienna Convention on the Law of Treaties, sometimes called the “treaty on treaties,” establishes rules and procedures for drafting, ratifying, interpreting, and enforcing treaties.¹⁶

1.6.1.1.1.1. Executory Treaties (Legal Status)

1.6.1.1.1.2. Territorial Treaties (Legal Status)

1.6.1.1.2. Executive Agreements (Legal Status)

*International Agreements¹⁴¹ brought into force with respect to the United States on a constitutional basis other than with the advice and consent of the Senate are International Agreements other than Treaties.*¹⁷

International Agreements other than Treaties (abbreviated for this guide as “Executive Agreements”) are binding International Agreements that the head of state (or other designated official) enters into without a formal Treaty¹⁴² ratification process (in the US, receiving advice, consent, and ratification by the Senate).

This includes:

- Agreements that are made pursuant to Treaties (such as the SOFA)
- Congressional-Executive where Executive Agreements are authorized by Congress through legislation (rather than the Treaty ratification process)
- Sole Executive Agreements made based exclusively on the President’s constitutional authority

Executive Agreements are considered to have the status of law (i.e., they are legally-binding). However, the lack of Treaty ratification gives them a somewhat less concrete status as legally-binding documents (unless otherwise authorized by a state’s legislative body as in Congressional-Executive Agreements). In many cases, this practical distinction may not matter.

1.6.1.1.2.1. Special Measures Agreements (SMA) (Legal Status)

SMAs are special forms of International Agreements that have historically covered HNS¹⁴³ for the cost of US forces deployed to Japan or Korea. SMAs are typically time-bound, addressing specific nominal costs or percentages of costs (either recurring or one-time) and corresponding currency denominations, exchange, or

¹³⁹ 1.6.1.1. International Agreements (Legal Status), p. 8.

¹⁴⁰ i.B.15. Article 98 – Supremacy of the Constitution, p. 302.

¹⁴¹ 1.6.1.1. International Agreements (Legal Status), p. 8.

¹⁴² 1.6.1.1.1. Treaties (Legal Status), p. 9.

¹⁴³ 7.5.2.3.1. Host Nation Support (HNS), p. 160.

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equivalency rates within a multi-year period. SMAs are periodically re-negotiated as they approach expiration or if there is political desire to renegotiate SMA terms prior to the expiration of an SMA in-force.

In the case of Japan-US SMA, the legal status has historically derived from the MST¹⁴⁴ through the Article 24¹⁴⁵ (Cost Sharing) of the SOFA.

The terms agreed to in an SMA require authorization under existing laws or, for novel agreement areas, legislative ratification or authorization through new laws. For example, HNS budgetary contributions agreed to in an SMA must be included in subsequent national budgets through existing constitutional and legislative budgetary processes or be covered by existing budgetary authorities.

SMAs that address novel areas require existing executive authorities and constitutional procedures for the novel areas of agreement. For example, an SMA addressing increased port and airfields access would need to derive its authority from applicable SOFA provisions (e.g., Articles 2¹⁴⁶ or 5¹⁴⁷) and be supported by existing or new Japanese domestic legislation that provides GoJ the authority to meet agreed upon access.

1.6.1.2. Non-Binding Instruments (Legal Status)

Non-Binding Instruments, such as Communiqués or Joint Statements,¹⁴⁸ are not considered binding under International Law,¹⁴⁹ but may carry legal or other incentives or sanctions for compliance or non-compliance.

1.6.2. Other Diplomatic Correspondence (Legal Status)

The legal status or authority of Diplomatic Correspondence may be considered to derive from any International Agreement¹⁵⁰ to which it refers. For example, an Exchange of Notes regarding a Treaty¹⁵¹ may clarify understandings or interpretations about a clause in the Treaty in a way that creates a legally-binding obligation to adhere to the agreed to understanding or interpretation.

Proximity in time between the Diplomatic Correspondence and any International Agreement to which it refers may also affect its legal status. For example, an Exchange of Notes regarding a Treaty signed at the same time as the Treaty may be accorded greater legal authority than an Exchange of Notes signed years after the Treaty's signature, especially if the signatories are from subsequent political administrations.

1.6.2.1. Exchange of (Diplomatic) Notes (Legal Status)

An "Exchange of Notes" is a set of Diplomatic Notes exchanged between government representatives. Diplomatic Notes are used

- (1) For correspondence between the U.S. Government and a foreign government. The Secretary of State corresponds with diplomatic representatives of foreign governments at Washington, DC, U.S. embassies abroad, and foreign offices or ministries;
- (2) When the chief of mission corresponds with the foreign ministry of the host government at posts and other foreign office representatives; and
- (3) When diplomatic notes are used to negotiate International Agreements^{152, 18}

Diplomatic Notes may be used to share or confirm a government's official position or interpretation on an issue related to a formal International Agreement such as a Treaty.¹⁵³

¹⁴⁴ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹⁴⁵ 2.1.4.5. Article 24 – Cost Sharing, p. 34.

¹⁴⁶ 2.1.4.1. Article 2 – Use of Facilities and Areas, p. 30.

¹⁴⁷ 2.1.4.3. Article 5 – US Access to Air and Sea Ports, p. 33.

¹⁴⁸ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

¹⁴⁹ 2.1.2.4.1. International Law, p. 23.

¹⁵⁰ 1.6.1.1. International Agreements (Legal Status), p. 8.

¹⁵¹ 1.6.1.1.1. Treaties (Legal Status), p. 9.

¹⁵² 1.6.1.1. International Agreements (Legal Status), p. 8.

¹⁵³ 1.6.1.1.1. Treaties (Legal Status), p. 9.

1.6.2.2. Agreed Minute(s) (Legal Status)

Agreed Minutes provided amplification and explanation of certain elements of a referenced document. This often includes understanding or context reached during negotiations for the referenced document and formally memorialized in an Agreed Minute as shared understanding.

Agreed Minutes are generally considered to have the legal effect of the referenced document. For example, an Agreed Minute to a Treaty¹⁵⁴ (e.g., the Korea Minute¹⁵⁵) would likely be considered to have the legal effect of an International Agreement¹⁵⁶ whereas an Agreed Minute to a Communiqué or Joint Statement¹⁵⁷ would have the legal effect of a statement of views and undertakings.

1.6.2.3. Communiqués and Joint Statements (Legal Status)

Communiqués and Joint Statements are “both expressions of views (recognition and appreciation, as well as descriptions and shared hopes) and undertakings (agreements, intentions, and representations of future actions)”¹⁹ of a government or governments. But they are one step removed from actual policies (unless referenced by official policies), agreements, or actions. In this way, they are not legal instruments, but more akin to a “diplomatic press release” that represents a “present assurance” and not “assurances with regard to the future.”²⁰

Despite this legal status, their role as expression of policy gives Communiqués and Joint Statements similar, if somewhat lesser, status as the formal agreements or policies such instruments lead to or take the place of.

1.7. COMPANION DOCUMENTS

This guide is designed to be used in conjunction with companion documents including:

- BGFWG Pocket Reference
- Decoding the Alliance: A Guide to Alliance Acronyms, Abbreviations, and Associated Terms (A4T)

1.8. UPDATING THIS GUIDE

This document uses dynamic, hyperlinked cross-references that allow readers to jump to referenced areas or, in printed form, tell readers which section and page to find referenced information.

This document also uses other dynamic fields (such as the table of contents, version number, classification) to enable updates to these document characteristics to propagate throughout the rest of the guide.

This document will automatically update fields before printing. All fields in this guide can be manually updated by doing the following twice (due to repagination):

- Selecting the body of the document and pressing: **Ctrl** + **A** then **F9** (and selecting “Update entire table”), then
- Selecting the footnotes section and pressing: **Ctrl** + **A** then **F9**, then
- Selecting the endnotes¹⁵⁸ and pressing: **Ctrl** + **A** then **F9**, then

¹⁵⁴ 1.6.1.1.1. Treaties (Legal Status), p. 9.

¹⁵⁵ B.3.4. The Korea Minute, p. 217.

¹⁵⁶ 1.6.1.1. International Agreements (Legal Status), p. 8.

¹⁵⁷ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

¹⁵⁸ vii.B. Citations, p. 447.

Chapter 2. BASIC DEFENSE POLICY OF JAPAN

2.1. BASIC POLICY OF JAPANESE DEFENSE

2.1.1. Introduction

As with the US, all GoJ authorities derive from the Japanese Constitution.¹⁵⁹

Article 65¹⁶⁰ vests the State's executive control in the Cabinet,¹⁶¹ led by the PM.¹⁶² Article 66¹⁶³ makes the Cabinet collectively responsible to the Diet¹⁶⁴ in the exercise of executive power. Article 41¹⁶⁵ establishes the Diet (legislative branch) as the highest organ of State power.

Additionally, the Japanese Constitution makes no provision for defense or military forces.

These articles and the omission of any provision for defense results in a situation where the JSDF is commanded as an administrative action of the PM, as the head of the Cabinet, on behalf of the Diet. This is the basis for strict legislative control of permissible JSDF actions.

Furthermore, the "Asymmetric Bargain"¹⁶⁶ struck between Japan and the US in the form of the MST¹⁶⁷ has hindered Japan's ability to respond to modern security threats by establishing a weak constitutional basis for defense and strong legal and cultural opposition to responsive and flexible JSDF authorities.

2.1.1.1. Positive vs. Negative List Approach to Authorities

Because the fundamental basis of Japanese defense (Article 9¹⁶⁸) begins with an extreme rejection (of Belligerent Rights¹⁶⁹), everything in Japanese defense law and policy¹⁷⁰ is reasoned down from that absolute ceiling. This is a fundamentally different philosophical approach to defense than is taken by the US, resulting in many of the unique features of Japanese defense policy that seem peculiar to US planners.

2.1.1.1.1. Japanese "Positive List" Approach

As a result of the weak constitutional basis for Japanese defense, Japan operates on a Positive List approach to authorities whereby if an action is not enumerated in Japanese law, it is not permissible.

The JSDF is legally treated as an administrative organization and is employed as an administrative action of the GoJ through precise procedural and legislative policies.

All JSDF operations require specific statutory authorization. This places similar restrictions on the JSDF as might be seen in other states' police forces.

2.1.1.1.2. US "Negative List" Approach

This contrasts with the US constitutional basis for defense, where the US military conducts operations at the direction of POTUS, as Commander-in-Chief, through executive power, by the issuance of an EXORD by the SecDef.

This provides simple, flexible use of US military force inherent in the authority of POTUS (Article 2, US Constitution), with minimal constraints by US law. This is a Negative List approach to authorities (if it is not prohibited by US or International Law,¹⁷¹ it is permissible).

¹⁵⁹ 2.1.2. Japanese Constitution (Kenpō), p. 13.

¹⁶⁰ i.B.9. Article 65 – Executive Power, p. 301.

¹⁶¹ C.2.1. Cabinet, p. 225.

¹⁶² C.2.1.1. Prime Minister, p. 225.

¹⁶³ i.B.10. Article 66 – The Cabinet, p. 301.

¹⁶⁴ C.3. Diet, p. 233.

¹⁶⁵ i.B.5. Article 41 – The Diet and Legislative Power, p. 300.

¹⁶⁶ 2.1.3.1. An "Asymmetric Bargain", p. 24.

¹⁶⁷ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹⁶⁸ 2.1.2.1. Article 9 (War Renunciation), p. 13.

¹⁶⁹ 2.1.2.1.3. Belligerent Rights, p. 16.

¹⁷⁰ 2.3. Defense Policies, p. 41.

¹⁷¹ 2.1.2.4.1. International Law, p. 23.

2.1.1.1.3. Inherent Limitations of a Positive List Approach

In the SDF, when there are no regulations, no action can be taken.

– CDR Hideki Nakamura, JMSDF (ret.)²¹

JSDF activities are restricted by a wide array of law and policies, sometimes with no clear hierarchy of applicability.¹⁷² When considering if the JSDF would be authorized to conduct an activity, each applicable law and policy must be considered within the unique scenario. This is why MoD and JSDF planners often do not know what their response would be or what the legal options are unless presented with a concrete scenario, allowing these laws and policies to be considered in turn. But the answer only applies to that exact scenario.

Positive List approaches are inherently more reactive than Negative List approaches beyond the fact of their inherent restrictiveness.

Crisis scenarios and the requisite authorities are imagined during peacetime. Such scenarios and the required authorities to deal with often do not address unanticipated contingencies that arise in genuine crises.

2.1.1.1.3.1. Importance of Wargames and Exercises with Positive List Approaches

Because of the limitation of Positive List approaches, bilateral wargames and exercises must provide realistic, varied, unpredictable, and novel crisis scenarios to explore likely Japanese responses and to stimulate Japanese policy changes that close gaps.

2.1.1.2. Basis for Change

Japan's outlook on its defense, defense policy, and defense imperatives has changed over the years based on:

- Changes in the Japan-US Alliance
- Changes in the threat
- Changes in domestic politics

2.1.2. Japanese Constitution (Kenpō)

The Japanese Constitution, rendered in Japanese as *Nohonkoku Kenpō* is the legal foundation for the GoI's organizations, authorities, and actions.

The Constitution may also be rendered as simply *Kenpō* (also sometimes rendered as *Kempō*).

2.1.2.1. Article 9 (War Renunciation)

See § i.B.2. Article 9 – Renunciation of War (p. 300).

Article 9 contains three distinct ideas:

- Renunciation of war
- Prohibition on the maintenance of war potential
- Rejection of the Rights of Belligerency¹⁷³

Article 9 of the Japanese Constitution is the primary legal basis of all Japanese defense activities.

2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP)

EDOP is also rendered as:

¹⁷² 3.1.4.1. Restrictions on Activities of the JSDF, p. 54.

¹⁷³ 2.1.2.1.3. Belligerent Rights, p. 16.

Chapter 2. Basic Defense Policy of Japan

- Posture of a Passive Defense Strategy
- Defensive Defense (Policy)
- Defensive Denial
- Exclusive Defense Orientation

Article 9 (normally rendered as “Article IX” in legal discourse¹⁷⁴) renounces war and establishes the principle of *senshu bōei*¹⁷⁵ (専守防衛). But while Japan is often mischaracterized as “pacifist,” a more accurate characterization is anti-militarist or, in Japanese, *heiwa-shugi* (平和主義) which means having a “peaceful foreign policy.”

EDOP provides the legal basis and limitations for all JSDF operations and authorities including:

- Use of Weapons¹⁷⁶ vs. Use of Force¹⁷⁷
- Bilateral (or coordinated) vice combined alliance command relationships¹⁷⁸
- Day-to-day and contingency alliance coordination¹⁷⁹
- JSDF authorities in crisis and conflict¹⁸⁰
- JSDF’s ability to interact with third party nations beyond the Japan-US Alliance¹⁸¹

Article 9 is interpreted to permit GOJ to maintain the minimum necessary armed forces for self-defense. This limit is subject to change according to the international situation and military technology, with changes legitimized by agreement by the Diet through approved budget, laws, and other deliberations.²²

Minimum necessary forces exclude weapons and weapon systems deemed to be exclusively offensive in nature, such as “ICBMs, long-range strategic bombers, and attack carriers.”²³

Article 9 is also the basis of the MST’s “Asymmetric Bargain.”¹⁸²

2.1.2.1.2. Parsing Article 9

Because defense is not mentioned apart from Article 9, parsing its 73 (English) words is essential to unpacking the foundations of Japanese Defense. Article 9 states:

(1) Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or Use of Force¹⁸³ as means of settling international disputes.

(2) In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The Right of Belligerency¹⁸⁴ of the state will not be recognized.

¶(1): “as a means of settling international disputes”: excludes offensive war and conflict for purposes other than self-defense but does not exclude self-defense.

- In the English translation, this phrase is clearly connected to “the threat or Use of Force” but it is unclear whether this phrase is connected to “war as a sovereign right of the nation”
 - As rendered in Japanese, this phrase is clearly connected to both

¹⁷⁴ 1.4.4. Legal Article and Paragraph Numbering, p. 5.

¹⁷⁵ The term *senshu bōei* came into vogue in the 1970s with PM NAKASONE’s turn away from the “YOSHIDA doctrine” of the earlier post-war decades (KOMINE, Negotiating the U.S.-Japan Alliance: Japan Confidential, 2018, pp. 165-7). Evolving Japanese defense policies and concepts have consistently been “back-cast” with an attitude of “retroactive continuity” (or “retconned”). Thus, the idea that *senshu*

bōei derives from the constitution (rather than *later interpretations* of the Constitution) is historically anachronistic but accurately reflective of present-interpretations of what the Constitution authorized at its adoption.

¹⁷⁶ 3.3.1. Use of Weapons, p. 74.

¹⁷⁷ 3.3.3. Use of Force, p. 79.

¹⁷⁸ 6.5. Challenges to Combined Command, p. 150.

¹⁷⁹ Chapter 6. Alliance Management and Coordination, p. 141.

¹⁸⁰ Chapter 3. JSDF Operations and Authorities, p. 53.

¹⁸¹ Appendix J. Other Japan Defense Partnerships, p. 277.

¹⁸² 2.1.3.1. An “Asymmetric Bargain”, p. 24.

¹⁸³ 3.3.3. Use of Force, p. 79.

¹⁸⁴ 2.1.2.1.3. Belligerent Rights, p. 16.

- The following would be a more explicit translation: “...the Japanese people forever renounce war as a sovereign right of that nation as a means of settling international disputes and forever renounce the threat or Use of Force as a means of settling international disputes”
- This phrase is commonly interpreted to mean “invading other countries” based on similar phrases in legal and diplomatic documents of the time
 - The Kellog-Briand Pact (officially the “1928 General Treaty for the Renunciation of War”, to which Imperial Japan was a signatory) used the phrase “war for the solution of international controversies” which, in the context of the Pact, did not refer to war in self-defense
 - Some Japanese constitutional scholars disagree with this interpretation and insist the phrasing is not related to the Kellog-Briand Pact and, even if it were, would still include the prohibition of even self-defensive war;²⁴ these dissents have never gained traction, to include in legal challenges to Japan’s defense establishment or defensive operations

¶(2):

- “war potential” is interpreted to mean capacity beyond the minimum necessary for self-defense
 - Under current GoJ interpretations,¹⁸⁵ this implies both NSD¹⁸⁶ and CSD¹⁸⁷
 - If ¶(1) is interpreted as renouncing “offensive war,” then ¶(2) only prohibits “war potential” for non-self-defensive purposes and would permit self-defense capacity—this is the traditional interpretation of the GoJ with respect to the constitutionality of the JSDF¹⁸⁸
- “Rights of Belligerency”: includes the items listed in § 2.1.2.1.3. Belligerent Rights (p. 16), even under the conditions of self-defensive actions

Additionally, Article 66,¹⁸⁹ ¶(2) of the Constitution requires the PM and other Ministers of State¹⁹⁰ be civilians. This is conventionally interpreted to imply that uniformed (self-defense) forces are permitted, but minority interpretations²⁵ hold that this was meant only to exclude former members of the Imperial Japanese military.

One analysis of Article 9 summarizes the challenges of its construction as mixing the principles of *jus ad bellum* (Article 9[1]) and *jus in bello* (Article 9[2]):

Article 9 did not simply incorporate principles of jus ad bellum in a straightforward manner. Article 9(2) grafted on to jus ad bellum principles a unique prohibition on the maintenance of all armed forces and a principle from jus in bello apparently intended to achieve jus ad bellum objectives. This jury-rigged provision thus contained internal conflicts that created inconsistencies with Japan’s treaty obligations and its perceived international responsibilities. These, in turn, are the primary reasons that Article 9 has been the lightning rod for such visceral political conflict, and arguably why the judiciary has been so reluctant to enforce Article 9 as a legal norm.²⁶

2.1.2.1.2.1. The ASHIDA Amendment

When the Imperial Diet passed the language for Article 9, it included the phrase “in order to accomplish the aim of the preceding paragraph.” This phrase was included at the behest of Hitoshi ASHIDA and became known as the ASHIDA Amendment. This phrase was later used as part of the basis for interpreting Article 9 as permitting self-defense capabilities.²⁷ In 1957, ASHIDA explained his logic for submitting the amended language as follows:

Inserting the phrase “In order to accomplish the aim of the preceding paragraph,” meant that the unconditional undertaking to not possess war potential as detailed in the original draft became an undertaking to not possess force of arms under certain conditions. It is clear that Japan does not unconditionally renounce force of arms. ... In so doing, the amendment substantively influenced the original

¹⁸⁵ ii.A. 2014 , p. 422.

¹⁸⁶ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

¹⁸⁷ 3.4.2. Collective Self-Defense (CSD), p. 84.

¹⁸⁸ Appendix H. Constitutionality of the JSDF and Japan’s Right to Self-Defense, p. 271.

¹⁸⁹ i.B.10. Article 66 – The Cabinet, p. 301.

¹⁹⁰ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

*draft, and therefore any discussion that the substance of Article 9 is unchanged, even with the amendment in place, is clearly mistaken.*²⁸

The “ASHIDA Amendment Theory”¹⁹¹ refers to an unorthodox interpretation of the ASHIDA Amendment that would theoretically justify unlimited self-defense capabilities and full CSD¹⁹².

2.1.2.1.2.2. Interpreting Article 9 in the Context of the Preamble

The Preamble¹⁹³ of the Constitution states that that "We desire to occupy an honored place in an international society striving for the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth. We recognize that all peoples of the world have the right to live in peace, free from fear and want," and that "We believe that no nation is responsible to itself alone."

These sections of the Preamble are used to interpret the Constitution on the principle of international cooperation and therefore the obligation to contribute to peace and security through the possession of minimal self-defense capabilities.²⁹

2.1.2.1.2.3. Interpreting Article 9 in the Context of Article 13

Because there is no explicit accommodation for defense in the Japanese Constitution, Article 13¹⁹⁴ has been interpreted as source of authority for exercising self-defense. Article 13 states:

[the Japanese people's] right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs.

By interpretation, Article 13 grants the GoJ the authority to maintain a *self-defense* force within the constraints of Article 9.

2.1.2.1.3. Belligerent Rights

Under International Law,¹⁹⁵ a belligerent state has recognized rights (e.g., deaths that occur under lawful combat cannot be prosecuted as murder). GoJ retains limited Belligerent Rights (as defined under International Law) but defines these rights as those permissible under self-defense and its EDOP.¹⁹⁶

Belligerent Rights are generally considered to include those listed below.³⁰

Add or insert E.2.3.2 Belligerent Rights at Sea

GoJ's interpretation of Article 9 clearly rejects the right to “offensive wars,” but in “defensive wars” GoJ neither rejects nor permits all of these rights. While this leaves open to interpretation exactly which belligerent rights GoJ retains in theory, Japan's Positive List¹⁹⁷ approach side-steps this ambiguity by positively enumerating all permissible actions or categories of actions in conflict.

Generally, GoJ's interpretation of “Belligerency” is any action beyond the minimum necessary for self-defense.³¹

GoJ's general position on each right is annotated in the list below.

- Right to conduct hostilities (e.g., conduct Armed Attacks¹⁹⁸ under the constraints of International Law)
 - GoJ rejects this right *other than in self-defense*.¹⁹⁹

¹⁹¹ 3.4.2.1.1.2. ASHIDA Amendment Theory, p. 85.

¹⁹² 3.4.2. Collective Self-Defense (CSD), p. 84.

¹⁹³ i.B.1. Preamble, p. 300.

¹⁹⁴ i.B.3. Article 13 – Fundamental Rights of the People, p. 300.

¹⁹⁵ 2.1.2.4.1. International Law, p. 23.

¹⁹⁶ 2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP), p. 13.

¹⁹⁷ 2.1.1.1.1. Japanese “Positive List” Approach, p. 12.

¹⁹⁸ 4.11. Definition of “Armed Attack”, p. 114.

¹⁹⁹ 3.4. Japan's Rights to Self-Defense, p. 83.

- Prize²⁰⁰ Law (Visit, Search, and Diversion): the right to subject enemy or a neutral state's Merchant Ships²⁰¹ or Civil Aircraft²⁰² outside Neutral Sea Areas²⁰³ to visit, search, diversion, or, if carrying Contraband²⁰⁴ (violating the Duty of Neutrality²⁰⁵), to capture such ships and aircraft, and to inspect Specially Protected Vessels²⁰⁶ (e.g., hospital ships)³²
 - GoJ generally accepts this right under the provisions of MIO²⁰⁷ and authorizing laws and policies
- Prize Law (Confiscation/Destruction): the right to capture or confiscate, or destroy an enemy's Merchant Ships or Civil Aircraft and cargo (located outside Neutral Sea Areas) simply by virtue of its ownership by the enemy³³
 - GoJ lacks a legal mechanism to exercise this right and would consider it in excess of the minimum actions necessary for self-defense,²⁰⁸ failing to meet Three New Conditions²⁰⁹ standard for Use of Force²¹⁰
- Right to control neutral vessels and aircraft in vicinity of naval operations²¹¹
 - GoJ retains a limited version of this right²¹²
- Right to establish and enforce a Blockade²¹³
 - GoJ lacks a legal mechanism to exercise this right and would consider it in excess of the minimum actions necessary for self-defense, failing to meet Three New Conditions standard for Use of Force
- Right to establish and enforce Exclusion Zones²¹⁴
 - GoJ retains a limited version of this right²¹⁵
- Right to demand surrender of enemy military personnel
 - There is no clear limit on GoJ for demanding surrender, however limitations on escalation²¹⁶ would likely be applied to limiting GoJ to demanding conditional rather than unconditional surrender
- Right to conduct convoy operations
 - GoJ has no limit on this right aside from Law of Neutrality²¹⁷ considerations²¹⁸
- Right of reprisal (i.e., "extreme measures of coercion used to help enforce the law of war by seeking to persuade an adversary to cease violations"³⁴)
 - GoJ would likely reject this right, considering reprisals to exceed the minimum actions necessary for self-defense, failing to meet Three New Conditions standard for Use of Force
- Occupation/Administration of an Occupation: the placement of another nation's territory under the authority of an armed force
 - GoJ rejects this right

Because of Article 9's rejection of the Rights of Belligerency but GoJ's recognition of its own self-defense rights,²¹⁹ GoJ draws a nuanced distinction between Rights of Belligerency and "Belligerency" or "Belligerent."

Under International Law, any party to an IAC²²⁰ is considered a "Belligerent." In GoJ interpretation, the Rights of Belligerency refer to a voluntary rejection of the rights listed above, granted (by International Law²²¹) to any lawful party to an IAC. GoJ recognizes that participation in an IAC would change its status to a belligerent with the rights and immunities associated with belligerent status, it would simply voluntarily decline exercising the above-listed rights. In this sense, and because Article 9 does not enumerate the belligerent rights its rejects, the rejection of belligerency contained in Article 9 is merely a domestic policy restriction or self-limitation on Japan's *jus in bello* rights.

²⁰⁰ E.2.4.1. Prize, p. 247.

²⁰¹ E.2.2.2. Merchant Ships, p. 243.

²⁰² E.2.2.4. Civil Aircraft, p. 243.

²⁰³ E.2.3.2.1. Neutral Sea Areas, p. 245.

²⁰⁴ 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

²⁰⁵ 2.1.2.1.4. Law of Neutrality, p. 18.

²⁰⁶ E.2.3.2.4. Specially Protected Vessels, p. 246.

²⁰⁷ 3.2.2.8. Maritime Interdiction Operations (MIO), p. 60.

²⁰⁸ 2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP), p. 13.

²⁰⁹ 2.3.1. "Three New Conditions" for the Use of Force, p. 41.

²¹⁰ 3.3.3. Use of Force, p. 79.

²¹¹ 4.11.7.6.2. Belligerent Control of the Immediate Area of Naval Operations, p. 121.

²¹² See, for example, i.C.65. Article 105 – Restriction or Prohibitions on Fishing Vessels Operating for Training. P. 336.

²¹³ 4.11.6.7. Blockade, p. 119.

²¹⁴ 4.11.7.6.3. Exclusion Zones or War Zones, p. 121.

²¹⁵ See, for example, i.C.65. Article 105 – Restriction or Prohibitions on Fishing Vessels Operating for Training. P. 336.

²¹⁶ 2.1.2.3. Requirement for Continued Deterrence Efforts, p. 22.

²¹⁷ 2.1.2.1.4. Law of Neutrality, p. 18.

²¹⁸ 3.4.2.4.2. Limitations on Protecting/Escorting Merchant Ships (Flag State/Flags of Convenience), p. 87.

²¹⁹ 3.4. Japan's Rights to Self-Defense, p. 83.

²²⁰ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

²²¹ 2.1.2.4.1. International Law, p. 23.

Chapter 2. Basic Defense Policy of Japan

In most cases, this distinction is either minor or does not arise. However, in some cases this distinction may be critical. For example, failure to uphold *Ittaika*,²²² intentionally or otherwise, would make Japan a belligerent in an IAC and therefore subject to legitimate attack by opposing states. As another example, RMCO,²²³ whether assented to by GoJ through Prior Consultation²²⁴ or not, would make Japan a “co-belligerent.”

2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC)

International Law²²⁵ provides no clear definition for an IAC, where Rights of Belligerency would be lawfully exercised, but generally outlines IAC as an armed conflict between two or more states. Some states may consider a formal declaration of war as necessary for an IAC to exist.³⁵

GoJ defines IAC as “a situation in which State or Quasi-State Organizations²²⁶ have a disagreement over a specific issue, stick to their own opposing positions and are not willing to concede.”³⁶

A NIAC exists when only one (or neither) side of an armed conflict has state belligerents, such as in a rebellion or civil war. In a Taiwan crisis, before any state other than Taiwan enters into armed hostilities on Taiwan’s side (e.g., at a time when only the PRC and Taiwan are engaged in hostilities), the distinction between IAC and NIAC and its consequences for what is permissible under International Law may be relevant for GOJ’s actions and decisions as a consequence of its obligation²²⁷ to adhere to International Law.

2.1.2.1.3.2. JSDF Operations in the Territory of Another State

Generally, the JSDF may only employ Use of Force in the territorial land, TTA²²⁸ or TTS²²⁹ of another State under one of the two following conditions:³⁷

- For the CSD²³⁰ of the foreign State when the Requirements for CSD²³¹ are met
- Against a State that has:
 - Conducted an Armed Attack²³² against Japan
 - Conducted an Armed Attack against a State that Japan is exercising CSD to defend

2.1.2.1.4. Law of Neutrality

In International Law,²³³ the Law of Neutrality defines legal relationships between belligerents and neutral states. Neutral states uphold their Duties of Neutrality in return for the Rights of Neutrality. Some states consider that such duties and rights only apply in a state of declared (*vice de facto*) war.³⁸

2.1.2.1.4.1. Duties of Neutrality

The Duties of Neutrality include:³⁹

- Impartiality: requires neutral states to exercise their duties and rights in a nondiscriminatory manner
- Abstention: prevents neutral states from providing belligerents with Effective Contribution to Military Action²³⁴ to from undertaking War-Sustaining Efforts²³⁵
- Enforcement: take action to prevent belligerents from violating their neutrality (e.g., operating from neutral TTA²³⁶ or TTS²³⁷)
- Prevention of fitting out and arming of vessels: take action to prevent the arming of vessels within a neutral state’s territory that it reasonably believes are intended to engage in the IAC
- Denial of Prize:²³⁸ prevent belligerents from bringing a Prize into a neutral port except for on account of unseaworthiness, weather, etc. (and within specified conditions and timeframes outlined in International Law)

²²² 2.1.2.2. Ittaika (Integration), p. 20.

²²³ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

²²⁴ 5.5.2. Prior Consultation, p. 132.

²²⁵ 2.1.2.4.1. International Law, p. 23.

²²⁶ 3.3.3.3.1. State or Quasi-State Organization, p. 81.

²²⁷ 2.1.2.4. Japan’s Constitutional Compliance with International Law, p. 22.

²²⁸ A.4.5. National Airspace (TTA), p. 197.

²²⁹ A.4.4. Territorial Sea (TTS), p. 196.

²³⁰ 3.4.2 Collective Self-Defense (CSD)84

²³¹ 3.4.2.2 Requirements for CSD (Nicaragua Case)86

²³² 4.11. Definition of “Armed Attack”, p. 114.

²³³ 2.1.2.4.1. International Law, p. 23.

²³⁴ 2.1.2.1.4.6. Effective Contribution to Military Action, p. 20.

²³⁵ 2.1.2.1.4.7. War Sustaining Efforts, p. 20.

²³⁶ A.4.5. National Airspace (TTA), p. 197.

²³⁷ A.4.4. Territorial Sea (TTS), p. 196.

²³⁸ E.2.4.1. Prize, p. 247.

- Detention of belligerent Warships:²³⁹ detain belligerent Warships in neutral port except where it is entitled to remain (within specified conditions and timeframes outlined in International Law)
- Permit passage through international straights and archipelagic waters

Limited exceptions to the Duties of Neutrality may exist under the concepts of Qualified/Benevolent Neutrality²⁴⁰ and the Law of State Responsibility,²⁴¹ although these concepts are not universally recognized.⁴⁰

2.1.2.1.4.2. Rights of Neutrality

The Rights of Neutrality include:⁴¹

- Inviolability: prevents a neutral state, its state²⁴² and non-state²⁴³ vessels and aircraft, and vessels flying under its flag²⁴⁴ from becoming lawful objects of attack (unless the Duties of Neutrality are not upheld)
- The right to enforcement: permits a neutral state to use force to resist any violations of its neutrality as well as to close its ports, roads, TTS.

Under the Law of Maritime Neutrality, a Belligerent State's naval units are permitted to pass through Neutral Sea Areas²⁴⁵ and call on neutral ports for replenishment and repair.⁴²

2.1.2.1.4.3. Qualified/Benevolent Neutrality

Under International Law,²⁴⁶ there exists a concept of Qualified/Benevolent Neutrality, though it is not universally recognized. This concept holds that states may supply weapons and other war materiel to the victim of aggression without forfeiting their neutral status.²⁴⁷ States that reject this concept would likely classify such acts as Effective Contributions to Military Action.²⁴⁸

2.1.2.1.4.4. Law of State Responsibility

Under the concept of the Law of State Responsibility (which is not universally recognized),

By engaging in a war of aggression in violation of the UN Charter, a State endangers international peace and security, an internationally wrongful act for which it bears State responsibility. Thus, any member State [of the UN] may take lawful countermeasures (to include acts inconsistent with the Law of Neutrality²⁴⁹) against the aggressor State for its internationally wrongful act of breaching international peace and security.⁴³

2.1.2.1.4.5. US Obligations to Japan's Neutrality

If the US is engaged in combat operations that Japan has a declared neutral policy towards, under International Law,²⁵⁰ then:

- The US must not violate Japan's Duty of Neutrality²⁵¹ by conducting unauthorized (by GoJ) RMCO²⁵² from Japan
- And Japan must not provide support to US combat operations (the *Ittaika*²⁵³ principle applies)

Japan's failure to enforce its Duty of Neutrality on US forces operating from Japan in such a case may establish a basis to classify Japan as a "co-belligerent," subject to retaliation from US adversaries.

Prior Consultation²⁵⁴ is the mechanism established under MST Article IV²⁵⁵ to negotiate situations where the US might violate Japan's Rights of Neutrality.²⁵⁶

²³⁹ E.2.2.1.1. Warships, p. 241.

²⁴⁰ 2.1.2.1.4.3. Qualified/Benevolent Neutrality, p. 19.

²⁴¹ 2.1.2.1.4.4. Law of State Responsibility, p. 19.

²⁴² E.2.2.1. State Vessels, p. 241; E.2.2.3. State Aircraft, p. 243.

²⁴³ E.2.2.2. Merchant Ships, p. 243; E.2.2.4. Civil Aircraft, p. 243.

²⁴⁴ 3.4.2.4.2. Limitations on Protecting/Escorting Merchant Ships (Flag State/Flags of Convenience), p. 87.

²⁴⁵ E.2.3.2.1. Neutral Sea Areas, p. 245.

²⁴⁶ 2.1.2.4.1. International Law, p. 23.

²⁴⁷ 2.1.2.1.4. Law of Neutrality, p. 18.

²⁴⁸ 2.1.2.1.4.6. Effective Contribution to Military Action, p. 20.

²⁴⁹ 2.1.2.1.4. Law of Neutrality, p. 18.

²⁵⁰ 2.1.2.4.1. International Law, p. 23.

²⁵¹ 2.1.2.1.4. Law of Neutrality, p. 18.

²⁵² 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka "Unilateral ABO" or "Lethal ABO"), p. 130.

²⁵³ 2.1.2.2. Ittaika (Integration), p. 20.

²⁵⁴ 5.5.2. Prior Consultation, p. 132.

²⁵⁵ 2.1.3.3. Article IV – Consultation, p. 25.

²⁵⁶ 2.1.2.1.4. Law of Neutrality, p. 18.

2.1.2.1.4.6. Effective Contribution to Military Action

What constitutes an Effective Contribution to Military Action (and thus might qualify the contributor as a co-belligerent and subject to retaliation or qualify a belligerent State's Merchant Ships²⁵⁷ as a lawful object of attack) is not concretely defined in International Law.²⁵⁸ However, it is generally accepted that four criteria are considered for determining what constitutes an Effective Contribution:⁴⁴

- Nature: the type of objects being used to provide support (e.g., Warships,²⁵⁹ Military Aircraft,²⁶⁰ military communications networks, military bases, infrastructure, or other equipment)
- Location: the location being supported (e.g., if the location is militarily important or a valid military objective such as a vital line of communication or vital base of military operations)
- Use: the current function being served by the support (e.g., using non-military vessels to conduct surveillance actively used for military targeting); examples include:⁴⁵
 - Engaging in belligerent acts
 - Engaging in activities otherwise performed by lawful objects of attack (e.g., Merchant Ships serving in the function of Naval Auxiliaries²⁶¹)
 - Incorporation into or assisting a belligerent's intelligence system
 - Actively resisting lawful attempts to visit, search, capture, stop, divert, etc.
 - Sailing under convoy with enemy Warships and Military Aircraft
 - Armament beyond the extent reasonably required for self-defense
 - Engaging in or intending to engage in any other activity that would classify the state, ship, or aircraft as a belligerent or lawful object of attack
- Purpose: the future function being served by the support (e.g., a civilian airfield where there is sufficient indication the airfield will be used for military purposes)

States are divided in distinguishing War-Sustaining efforts (see § 2.1.2.1.4.7. War Sustaining Efforts [p. 20]) from Effective Contributions to Military Action.

These definitions and examples reflect general international views and may not reflect the GOJ, USG, or PRC's definitions during crisis or conflict. The specifics of the definitions used by parties to a Taiwan contingency will impact strategic decisions in crisis and conflict escalation.

2.1.2.1.4.7. War Sustaining Efforts

States vary in their distinction of Effective Contributions to Military Action and War-Sustaining Efforts with some classifying War-Sustaining Efforts as constituting Effective Contributions to Military Action (in addition to the items listed in § 2.1.2.1.4.6. Effective Contribution to Military Action [p. 20]).

War-Sustaining efforts are those that indirectly support a state's ability to wage and sustain war, including:⁴⁶

- Essential goods (e.g., crude oil)
- Strategic commodities (e.g., specialized materials necessary for wartime production)

These definitions and examples reflect general international views and may not reflect the GOJ, USG, or PRC's definitions during crisis or conflict. The specifics of the definitions used by parties to a Taiwan contingency will impact strategic decisions in crisis and conflict escalation.

2.1.2.2. Ittaika (Integration)

As early as 1959, GoJ's interpretation of Article 9 included the prohibition of *Ittaika* (体化) or "integration" (with the use of force), referring to the principle that acts which form an integral part of the use of military

²⁵⁷ E.2.2.2. Merchant Ships, p. 243.

²⁵⁹ E.2.2.1.1. Warships, p. 241.

²⁶¹ E.2.2.1.2.1. Naval Auxiliaries, p. 242.

²⁵⁸ 2.1.2.4.1. International Law, p. 23.

²⁶⁰ E.2.2.3.1. Military Aircraft, p. 243.

force of a foreign country can be regarded as Use of Force²⁶² and thus must be avoided except in Japan's self-defense.²⁶³

It is most common to refer to this principle in a shortened form as simply "*Ittaika*" but the principle may be referred to in a variety of other forms including:

- *Ittaika (no kaihi)* or "integration (avoidance of)"
- *Ittaika with the use of force*
- *Buryoku kōshi no ittaika* or "integration in the use of force"
- Unification with the use of force, forming an integral part of it
- Integral use of force

While *Ittaika* has no explicit basis in Japanese law or jurisprudence, it remains a long-held traditional interpretation of the consequences of Article 9.

The *Ittaika* principle exists to ensure the following ends:

- Ensure Japan's Rights of Neutrality²⁶⁴
- Preserve Japan's Duty of Neutrality²⁶⁵ and avoid making Japan a lawful object of attack by support to a belligerent (e.g., the US)
- Avoid "tactical entrapment" where JSDF may be drawn into engagements by nearby armed forces employing force where JSDF personnel inadvertently employ the Use of Force (vice Use of Weapons²⁶⁶) due to such integration

In practice, the implementation of *Ittaika* manifests in two primary ways:

- Prohibition of logistics support at the Scene of Combat²⁶⁷ during peacetime²⁶⁸ or IIS²⁶⁹ (though logistics support at the Scene of Combat is permitted under other conditions)
- Prohibition against combined command and control²⁷⁰ that might subject JSDF units to orders incompatible with Japanese law (e.g., exercising Rights of Belligerency²⁷¹ that GoJ rejects)

The 2014 Cabinet Decision²⁷² and 2015 legislation²⁷³ establish that support to a foreign country not at the Scene of Combat does not violate the *Ittaika* principle.²⁷⁴

The MinDef designates areas for approved operations where the *Ittaika* principle must be observed.

In cases where the JSDF is operating under the *Ittaika* principle and combat occurs or is expected to occur, the commanding officer of the JSDF unit(s) affected must order the temporary suspension of activities to prevent unintentional *Ittaika*.

In cases where the JSDF is operating as a belligerent or otherwise exercising its rights of Self-Defense²⁷⁵ in an IAC,²⁷⁶ the *Ittaika* principle does not apply (although GoJ may place national caveats on the JSDF's support and operations).

2.1.2.2.1. Scene of Combat

"Combat" (in the context of "Scene of Combat") is defined by GoJ as "part of an international conflict²⁷⁷ in which the people are killed or things destroyed."²⁷⁸

²⁶² 3.3.3. Use of Force, p. 79.

²⁶³ 3.4. Japan's Rights to Self-Defense, p. 83.

²⁶⁴ 2.1.2.1.4. Law of Neutrality, p. 18.

²⁶⁵ 2.1.2.1.4. Law of Neutrality, p. 18.

²⁶⁶ 3.3.1. Use of Weapons, p. 74.

²⁶⁷ 2.1.2.2.1. Scene of Combat, p. 21.

²⁶⁸ 4.5.1. Routine Support to US Forces, p. 97.

²⁶⁹ 4.6. Important Influence Situation (IIS), p. 98.

²⁷⁰ 6.5. Challenges to Combined Command, p. 150.

²⁷¹ 2.1.2.1.3. Belligerent Rights, p. 16.

²⁷² ii.A. 2014, p. 422.

²⁷³ 2.1.6. 2015 Legislation for Peace and Security, p. 35.

²⁷⁴ ¶ 2.(1).C in ii.A.2. 2014 Cabinet Decision Full Text, p. 422.

²⁷⁵ 3.4. Japan's Rights to Self-Defense, p. 83.

²⁷⁶ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

²⁷⁷ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

²⁷⁸ i.C.31. Article 84-3 – Measures to Rescue Japanese Nationals Overseas (RJNO), p. 315.

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An area does not need to be safe to be considered free of hostilities but rather there must be no force used systematically by a State or Quasi-State Organization.²⁷⁹

2.1.2.2.2. Assessing *Ittaika* (Integration)

While *Ittaika* assessments are made on a case-by-case basis and may change as situations evolve, the Cabinet has clarified to the Diet that the following elements are relevant to determining when GoJ actions would be considered “integrated” with another armed force:⁴⁷

1. The geographical relationship between the JSDF and the place of hostilities (e.g., proximity)
2. The concrete actions taken by the JSDF
3. The closeness of the personnel who are in charge of the force used by the other State [**being aided by Japan**]; and
4. The actual situation of the state [**using force**] Japan is to aid
5. Whether mutual support activities can be considered as directly contributing to the defense of Japan²⁸⁰

2.1.2.2.2.1. Activities that Contribute to the Defense of Japan

Mutual support of other militaries by the JSDF may be scoped to “Activities that Contribute to the Defense of Japan” to prevent against inadvertent *Ittaika*. This phrase includes:

- ISR²⁸¹ activities including those in support of BMD Operations²⁸²
- Transport and resupply activities in IIS²⁸³
- Bilateral training for defense of Japan (i.e., excluding training for Disaster Relief, etc.)²⁸⁴

2.1.2.3. Requirement for Continued Deterrence Efforts

Collectively, all the principles of and deriving from Article 9 have consistently been interpreted as permitting self-defense action only when *essential* and *inevitable*. In some interpretations, this creates a constitutional obligation for GoJ to attempt to continue deterrence²⁸⁵ efforts up to the point of Armed Attack,²⁸⁶ regardless of the direness or deterioration of the situation.

An implicit requirement to continue deterrence as long as there remains possibility of escalation (to be deterred) will be aggravated by differences in how the Allies perceive of or approach deterrence.²⁸⁷

This has the potential to be especially challenging as vertical²⁸⁸ and political escalation²⁸⁹ nearly always present potential targets for deterrence. However, escalation and deterrence are fundamentally political judgments, opening up “continued pursuit of deterrence” to either narrow or expansive interpretations.

2.1.2.4. Japan’s Constitutional Compliance with International Law

Article 98²⁹⁰ states:

(1) *This Constitution shall be the supreme law of the nation and no law, ordinance, imperial rescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity.*

(2) *The Treaties concluded by Japan and established laws of nations [e.g., International Law²⁹¹] shall be faithfully observed.*

Article 99²⁹² states:

²⁷⁹ 3.3.3.3.1. State or Quasi-State Organization, p. 81.

²⁸⁰ 2.1.2.2.2.1. Activities that Contribute to the Defense of Japan, p. 22.

²⁸¹ 4.5.1. Routine Support to US Forces, p. 97.

²⁸² 3.2.3.6. Ballistic Missile Defense (BMD) Operations, p. 67.

²⁸³ 4.6. Important Influence Situation (IIS), p. 98.

²⁸⁴ 3.2.4. Disaster Relief, etc., p. 70.

²⁸⁵ 10.2.2. GoJ Requirements to Continue Deterrence, p. 178.

²⁸⁶ 4.11. Definition of “Armed Attack”, p. 114.

²⁸⁷ Chapter 10. Alliance Conceptions of Deterrence, p. 177.

²⁸⁸ 10.1.3.2.1. Vertical Escalation, p. 177.

²⁸⁹ 10.1.3.2.3. Political Escalation, p. 177.

²⁹⁰ i.B.15. Article 98 – Supremacy of the Constitution, p. 302.

²⁹¹ 2.1.2.4.1. International Law, p. 23.

²⁹² i.B.16. Article 99 – Obligation to Uphold the Constitution, p. 302.

(1) *The Emperor or the Regent as well as Ministers of State,²⁹³ members of the Diet, judges, and all other public officials have the obligation to respect and uphold this Constitution.*

Taken together, this requires that Japanese law must be compliant with International Law and that GoJ officials' actions must be consistent with both Japanese law and (by extension, through Article 98²⁹⁴) International Law.

There are issues, however, where GoJ's position (typically on the issue of the territorial status of an area) differs from the interpretation of other States in how International Law²⁹⁵ should be applied. Aside from obvious territorial disputes, like the land of the SKIs themselves,²⁹⁶ other examples include the area surrounding the SKIs,²⁹⁷ the Tokara Strait,²⁹⁸ etc.

2.1.2.4.1. International Law

The definition of International Law is debated but is considered to cover the rules, norms, and standards of relations between states for domains including war, diplomacy, economics, human rights, etc.

Sources of International Law include:

- Treaties²⁹⁹ (applicable to states that are party to the Treaty)
- Jurisprudence of relevant international bodies (i.e., legal decisions and precedents established by international courts [including courts of arbitration] or similar bodies)
- Select UN issuances (e.g., the UN Charter, UNSCRs)
- Widely recognized principals of law
- Customary International Law³⁰⁰

Implementation or enforcement of International Law is subject to national determinations of scope and applicability and vary, especially in times of crisis or issues of dispute.

2.1.2.4.1.1. Customary International Law

Customary International Law is a component of International Law.³⁰¹

Customary International Law results from a general and consistent practice of States that is followed by them from a sense of legal obligation (opinio juris). Customary International Law is an unwritten form of law in the sense that it is not created through a written agreement by States. Customary International Law is generally binding on all States, but States that have been persistent objectors to a Customary International Law rule during its development are not bound by that rule.⁴⁸

Customary International Law provides both principles and rules. The “rules” of Customary International Law typically outline a binding obligation whereas “principles” are less specific and normally guidance decision-making regarding the legality of various situations.

2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST)

The MST, signed in 1960, revises the 1951 Treaty³⁰² that restored Japan's sovereignty and ended the US occupation after World War II.

In Japanese, the name of the MST is rendered as *Nihon-koku to Amerika-gasshūkoku to no Aida no Sōgo Kyōryoku oyobi Anzen Hoshō Jōyaku*.

²⁹³ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

²⁹⁴ i.B.15. Article 98 – Supremacy of the Constitution, p. 302.

²⁹⁵ 2.1.2.4.1. International Law, p. 23.

²⁹⁶ G.5. PRC Policy on the SKIs, p. 270; G.6. Taiwan's Policy on the SKIs, p. 270.

²⁹⁷ G.4.5. US Position on SKI TTS, TTA, CZ, p. 269.

²⁹⁸ A.3.2.1. Tokara Strait, p. 195.

²⁹⁹ 1.6.1.1.1. Treaties (Legal Status), p. 9.

³⁰⁰ 2.1.2.4.1.1. Customary International Law, p. 23.

³⁰¹ 2.1.2.4.1. International Law, p. 23.

³⁰² 1.6.1.1.1. Treaties (Legal Status), p. 9.

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More commonly, the MST is referred to as *Anpo Jōyaku* (“Security Treaty”), or just *Anpo* (“Security”) (also sometimes rendered as *Ampo*).

The MST provides the legal basis for mutual defense cooperation between the Allies, from basing of US personnel in Japan, to mutual defense obligations,³⁰³ to the framework for consultation and coordination³⁰⁴ on issues of regional security.

The MST establishes three principle obligations:

- Self-help and mutual aid³⁰⁵ (generally interpreted today as each ally being obligated to develop and maintain the capacity to resist armed attack, individually and in cooperation with each other)
- Mutual defense³⁰⁶ against attacks within Japanese territory³⁰⁷
- Provision of bases in Japan for US Forces³⁰⁸

Under US law International Law,³⁰⁹ the text of the 1960 MST and SOFA³¹⁰ have the status of law for the US. However, matters requiring interpretation (e.g., Prior Consultation³¹¹) have a more ambiguous legal status.

2.1.3.1. An “Asymmetric Bargain”

The MST establishes an “Asymmetric Bargain” (asymmetric in both structure and function) that Japan will provide basing for US forces and the US will deploy forces to provide for the defense of Japan and the Far East.³¹² While asymmetric, this “bargain” has nevertheless been characterized as balanced or reciprocal⁴⁹ and generally characterized the San Francisco System³¹³ of Treaties³¹⁴ the US forged in Asia in the post-War period, with US strategists conceiving of the benefits to the US of a “forward defense.”⁵⁰

Analysts still use then-DG of the Treaty Bureau³¹⁵ of MOFA, Kumao NISHIMURA’s description of the 1951 treaty as a “cooperation between goods [i.e., **Japanese bases and access**] and people [i.e., **US military forces**]”⁵¹ to characterize the asymmetric nature of the MST.

The MST has also been characterized as a shield (盾) and spear (矛) relationship, with Japan as the “shield” Japan and US forces in Japan, and the US as the “spear,” striking out beyond Japan to maintain regional security (though this framework changes somewhat with the acquisition of counterstrike³¹⁶ capabilities by Japan).

The MST establishes no obligation for Japan to support US military operations or defend the US if US territory is attacked, however STS³¹⁷ creates a practical reciprocal defense support relationship in the event the US is attacked outside “territories under the administration of Japan.”³¹⁸

At the same time, some observers have highlighted Japan’s outsized interest in security in the Western Pacific, with its heavy reliance on free and open sea routes for both imports and exports.⁵² Japan has never been in the position to unilaterally ensure its trade routes during the post war period nor, given its historically-fruited relations with many neighbors, has it been in a position to do so bilaterally or multilaterally. Under this interpretation, Japan has benefitted extraordinarily from its security partnership with the US both for securing regional trade but also for checking potential rivals through their mutual reliance on the US.

³⁰³ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

³⁰⁴ Chapter 6. Alliance Management and Coordination, p. 141.

³⁰⁵ 2.1.3.2. Article III – Self-Help and Mutual Aid, p. 25.

³⁰⁶ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

³⁰⁷ 4.11.4. Applicable Geography, p. 117.

³⁰⁸ 2.1.3.5. Article VI – Access, Basing, and Overflight (ABO) (the “Far East Clause” or “MOFA Clause”), p. 28.

³⁰⁹ 2.1.2.4.1. International Law, p. 23.

³¹⁰ 2.1.4. Status of Forces Agreement (SOFA), p. 29.

³¹¹ 5.5.2. Prior Consultation, p. 132.

³¹² B.1.4.1. Defining the Far East, p. 209.

³¹³ F.1.2.3.1. The San Francisco System (Hub-and-Spoke Treaty System), p. 256.

³¹⁴ 1.6.1.1.1. Treaties (Legal Status), p. 9.

³¹⁵ C.2.8.1.1. Japan-US Security Treaty Division, p. 231.

³¹⁶ 2.3.5. Counterstrike, p. 46.

³¹⁷ 4.9. Survival-Threatening Situation (STS), p. 104.

³¹⁸ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

Ultimately, the history of the Japan-US alliance has been one of both coercion and consent with the solidification of the alliance as “common sense in the view of Japanese foreign policymakers.”⁵³

2.1.3.2. Article III – Self-Help and Mutual Aid

Secondary to the Constitutional justifications of the JSDF,³¹⁹ Article III is occasionally referenced as supporting justification to Japan’s requirement to maintain self-defensive capabilities as part of the MST’s “self-help” clause (later underscored by the Nixon Doctrine [1969-1974] which emphasized the obligation of US treaty allies “to assume the primary responsibility of providing the manpower for [their] defense”⁵⁴).

The Parties, individually and in cooperation with each other, by means of continuous and effective self-help and mutual aid will maintain and develop, subject to their constitutional provisions, their capacities to resist armed attack.

2.1.3.3. Article IV – Consultation

Article IV establishes the consultation mechanism, from which the ACM³²⁰ and related concepts, like Prior Consultation³²¹ are derived.

The Parties will consult together from time to time regarding the implementation of this Treaty, and, at the request of either Party, whenever the security of Japan or international peace and security in the Far East³²² is threatened.

The term Far East is not defined and “consult” includes both routine consultation through the JC³²³ and Prior Consultation, which is less well-defined.

2.1.3.4. Article V – Mutual Defense (the “MOD Clause”)

Article V commits the allies to defend each other if attacked “in the territories under the administration of Japan.”

Each Party recognizes that an Armed Attack³²⁴ 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. Any such Armed Attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations in accordance with the provisions of Article 51 of the Charter. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

Article V is not self-executing and there is no “trigger.” Determinations of Armed Attack are made on a case-by-case basis and through close consultations (though such determinations remain independent sovereign rights of each Ally³²⁵).

Armed Attack³²⁶ is interpreted as the “organized and premeditated” use of force (e.g., does not include Grey Zone³²⁷ activity) and is discussed further in § 4.11 Definition of “Armed Attack” (p. 114).

Japanese “territories” applies to Japanese sovereign territory, including territorial land, TTA,³²⁸ and TTS³²⁹ (out to 12 NM), including areas agreed by the allies as applicable (i.e., Senkaku Shoto³³⁰ and surrounding TTS).³³¹

³¹⁹ Appendix H. Constitutionality of the JSDF and Japan’s Right to Self-Defense, p 271.

³²⁰ Chapter 6. Alliance Management and Coordination, p. 141.

³²¹ 5.5.2. Prior Consultation, p. 132.

³²² B.1.4.1. Defining the Far East, p. 209.

³²³ 6.2.1.3. Joint Committee (JC), p. 143.

³²⁴ 4.11. Definition of “Armed Attack”, p. 114.

³²⁵ 2.1.3.4.1. US Unilateralism under Article V: The “Affirmative Commitment”, p. 26.

³²⁶ 4.11. Definition of “Armed Attack”, p. 114.

³²⁷ 11.2. Grey Zone, p. 180.

³²⁸ A.4.5. National Airspace (TTA), p. 197.

³²⁹ A.4.4. Territorial Sea (TTS), p. 196.

³³⁰ Appendix G. Policy on the Senkaku Islands, p. 264.

³³¹ 4.11.4. Applicable Geography, p. 117.

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Some analysts describe Article V as establishing a defense of Japan “zone of use” for US and Japanese activities under the MST (whereas Article VI³³² establishes a Far East³³³ “zone of use” for US activities under the MST).

Article V is sometimes considered the “MOD clause” of the MST, where Japan is attacked and therefore MOD considerations predominate. This is in contrast to Article VI, which is sometimes considered the “MOFA clause.”

2.1.3.4.1. US Unilateralism under Article V: The “Affirmative Commitment”

Article V’s language, “either Party ... would act to meet the common danger” is an “Affirmative Commitment” to act to a common danger, obligating action by the respective governments.

The provision “in accordance with its constitutional provisions and processes” allows action under Article V in accordance with each nation’s laws. In GoJ’s case, this requires adherence to the Positive List³³⁴ approach of the Security Situations³³⁵ framework. For the US, this permits military action at the direction of POTUS (and the established chain of command).

This creates a legal context in which recognition of an Armed Attack³³⁶ is the independent sovereign decision of each nation. Article V does not establish any requirement for bilateral agreement on the recognition of an Armed Attack.

This creates a legal condition whereby the US could either:

- Case 1³³⁷ (Unilateral invocation of Article V): Unilaterally interpret a hostile act against Japan as an Armed Attack and thereby “self-authorize” combat operations from Japan under Article V (against GoJ’s implicit or explicit desires or in advance of Japan’s own formal recognition of an Armed Attack)
- Case 2³³⁸ (Unilateral Scoping of Article V Response): Unilaterally interpret the scope of a hostile act against Japan as necessitating a regional response beyond the actions to immediately defend Japan (against either GoJ’s recognition of an Armed Attack or, in the case of Japan’s recognition of an Armed Attack, against GoJ’s implicit or explicit scoping of such an attack and the extent of responses authorized [in GoJ’s view] under Article V)

Regardless of these legal conditions, there are political and diplomatic realities³³⁹ likely to militate against US interpretations of its Affirmative Commitment that are grossly out of sync with those of GoJ.

2.1.3.4.1.1. The Argument for Case 1 (Unilateral Invocation of Article V)

International Law allows CSD³⁴⁰ for any State to come to the aid of any other State or its people under two conditions (see § 3.4.2.2. Requirements for CSD (Nicaragua Case) [p. 86]):

- The State being aided issues a request for assistance
- The State being aided must declare itself a victim of an armed attack

The language of MST Article V³⁴¹ creates an Affirmative Commitment³⁴² which, in the context of the Nicaragua Case,³⁴³ can be interpreted as a “standing request³⁴⁴” for U.S. military assistance should Japan become the victim of an Armed Attack³⁴⁴.³⁴⁵ This “standing request” for assistance, combined with the authority arguably conferred by Article V for either Ally to determine whether Japan is the victim of Armed Attack, can be argued to meet both criteria for lawful exercise of CSD by the US in protection of GoJ.

³³² 2.1.3.5. Article VI – Access, Basing, and Overflight (ABO) (the “Far East Clause” or “MOFA Clause”), p. 28.

³³³ B.1.4.1. Defining the Far East, p. 209.

³³⁴ 2.1.1.1.1. Japanese “Positive List” Approach, p. 12.

³³⁵ Chapter 4. Japan’s Security Situations Framework, p. 89.

³³⁶ 4.11. Definition of “Armed Attack”, p. 114.

³³⁷ 2.1.3.4.1.1. The Argument for Case 1 (Unilateral Invocation of Article V), p. 26.

³³⁸ 2.1.3.4.1.2. The Argument for Case 2 (Unilateral Scoping of Article V Response), p. 27.

³³⁹ 2.1.3.4.1.3. The Argument against Case 1 and 2, p. 27.

³⁴⁰ 3.4.2. Collective Self-Defense (CSD), p. 84.

³⁴¹ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

³⁴² 2.1.3.4.1. US Unilateralism under Article V: The “Affirmative Commitment”, p. 26.

³⁴³ 3.4.2.2. Requirements for CSD (Nicaragua Case), p. 86.

³⁴⁴ 4.11. Definition of “Armed Attack”, p. 114.

2.1.3.4.1.2. The Argument for Case 2 (Unilateral Scoping of Article V Response)

Planners often assumed that an MST Article V³⁴⁵ response is limited to actions directly related to the defense of Japan, and not necessarily to regional security. However the identification and scope of the “common danger” potentially allows a wider interpretation of authorized activities.

Thus, if the US were to define the common danger to Japan as including an inherently regional threat as well (e.g., hostilities against Taiwan), this scoping would arguably obviate the requirement to consult under Article IV³⁴⁶ for RMCO³⁴⁷ after the invocation of Article V.

Under this argument, the US has the sovereign right to define the (scope of) “common danger,” independent of GoJ, and might thus define the common danger broadly enough to authorize RMCO under an Article V response. Because Article V only establishes a requirement to report such measures to the UNSC and establishes no requirement for consultation, such scoping would theoretically eliminate the requirement for Prior Consultation,³⁴⁸ which both Allies have agreed is not required for Article V responses³⁴⁹ under the Expanded Prior Consultation Formula.³⁵⁰

2.1.3.4.1.3. The Argument against Case 1 and 2

It seems unlikely that the US would lean on such legalistic arguments to act against the interests of its Ally based purely on the political and diplomatic costs of such unilateral action.

But beyond this practical argument against Case 1³⁵¹ and Case 2,³⁵² one observed highlight that US insistence on its right to use force for the CSD³⁵³ “of Japan under Article V of the Treaty against the express wishes of the Japanese government would be contrary to the object and purpose of the Treaty, which is to facilitate *mutual* cooperation in dealing with the *common* dangers affecting the peace and safety of the two nations [emphasis in original].”⁵⁶ Thus, even on a legalistic basis, there is a case to be made that the “legal loopholes” of Cases 1 and 2 are opposed to the intent of the instrument on which they are based (the MST) and thus, legalistic arguments *for* these cases would be specious.

2.1.3.4.1.4. Would/Could Japan halt US Unilateralism?

Putting aside the practical question of why Japan would consider abandoning a security guarantor at the outset of a potentially existential conflict (even if that security guarantor was acting as a “reckless passenger”), there is a case to be made that Japan could “revoke” the “standing request” for US assistance (Case 1³⁵⁴) by terminating the source that “authorizes” such unilateralism: the MST.

Article X³⁵⁵ of the MST provides the mechanism for termination of the treaty with the Treaty terminating one year after notice of intent to terminate is given by either party. Mechanically, this would not affect the unilateralism authorized under Article V (either Case 1 or 2³⁵⁶).

Alternatively (and more plausibly), Japan might instead “revoke” the Affirmative Commitment interpretation of Article V or otherwise assert a unilateral rejection of the US’s rights or obligations under Article V (e.g., stating as a policy that Article V does not represent such a “standing request” for assistance in the case of an attack and that Japan reserves the right to approve the US’s fulfillment of its “obligations” under Article V). However, jurisprudence suggests that the mutually-obligatory nature of Article V denies Japan a legal basis to unilaterally mediate or otherwise constrain the US’s “fulfillment” of its obligations.⁵⁷

³⁴⁵ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

³⁴⁶ 2.1.3.3. Article IV – Consultation, p. 25.

³⁴⁷ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

³⁴⁸ 5.5.2. Prior Consultation, p. 132.

³⁴⁹ B.2.1.2. Issues Not Requiring Prior Consultation, p. 210.

³⁵⁰ 5.5.2.2.1. The Prior Consultation Formula, p. 134; B.2.1. The Expanded Prior Consultation Formula, p. 209.

³⁵¹ 2.1.3.4.1.1. The Argument for Case 1 (Unilateral Invocation of Article V), p. 26.

³⁵² 2.1.3.4.1.2. The Argument for Case 2 (Unilateral Scoping of Article V Response), p. 27.

³⁵³ 3.4.2. Collective Self-Defense (CSD), p. 84.

³⁵⁴ 2.1.3.4.1.1. The Argument for Case 1 (Unilateral Invocation of Article V), p. 26.

³⁵⁵ 2.1.3.6. Article X – Termination, p. 29.

³⁵⁶ 2.1.3.4.1.2. The Argument for Case 2 (Unilateral Scoping of Article V Response), p. 27.

2.1.3.5. Article VI – Access, Basing, and Overflight (ABO) (the “Far East Clause” or “MOFA Clause”)

Sometimes referred to as the “Far East³⁵⁷ Clause” or the “MOFA Clause,” Article VI of the 1960 MST grants US forces ABO in Japan, for the purposes of defending Japan and “security in the Far East” as governed by the SOFA.³⁵⁸

Some analysts describe Article VI as establishing a Far East “zone of use” for US activities under the MST (whereas Article V³⁵⁹ establishes a defense of Japan “zone of use” for US and Japanese activities under the MST).

The definition of the Far East has not been mutually determined (see § B.1.4.1. Defining the Far East (p. 209).

For the purpose of contributing to the security of Japan and the maintenance of international peace and security in the Far East, the United States of America is granted the use by its land, air and naval forces of Facilities and Areas³⁶⁰ in Japan. The use of these Facilities and Areas as well as the status of United States armed forces in Japan shall be governed by a separate agreement [SOFA] replacing the Administrative Agreement under Article 3 of the Security Treaty between Japan and the United States of America,³⁶¹ signed at Tokyo on February 28, 1952, as amended, and by such other arrangements as may be agreed upon.

The authorizations of Article VI concerned Japan, who feared entanglement in US conflicts. The Prior Consultation³⁶² process was seen by some on the Japanese side of MST negotiations as the mechanism for putting a “brake” on US abilities to operate on Japan without unduly impairing the US’s ability to maintain security in the region.⁵⁸

Article VI is sometimes considered the “MOFA clause” of the MST, where Japan is exercising its sovereign rights through Prior Consultation and therefore MOFA considerations predominate. This is in contrast to Article V, which is sometimes considered the “MOD clause.”

2.1.3.5.1. Article VI and US Regional Treaty Obligations (Far Eastern Contingency Scenarios)

Article VI is often interpreted as granting ABO that allows the US to use its Japan-based forces and US bases in Japan to uphold its Treaty³⁶³ commitments beyond the MST (sometimes termed Far Eastern Contingency Scenarios and under the purview of the BPM³⁶⁴ for bilateral planning considerations).

The logic underlying Article VI in 1960, reinforced by the Korean War and the intensification of the Cold War, was that the power-vacuum caused by the World War II defeat of Imperial Japan could either be filled by the US (then and still serving as Japan’s security guarantor) or potentially-adversarial states in ideological opposition to Japan and/or with historical grievances or mistrust of Japan. In 2024, More than 60 years on from the signing of the MST, that logic still obtains in Japan’s appreciation for its security environment. With the establishment and maturation of the San Francisco System,³⁶⁵ there still remain no strong multilateral security pacts or alignments beyond the US-centric hub-and-spoke alliances that stand as dependable counters to perceived PRC hegemonic aspirations.

Today, those US regional treaty obligations include Korea and the Philippines. However, at the signature of the MST, this also included the US treaty obligations to Taiwan.

With the normalization of relations with the PRC (by both the US and Japan) and the termination of the US’s defense Treaty with Taiwan, the GoJ sought to downgrade or minimize the “Taiwan and Korea clauses” of

³⁵⁷ B.1.4.1. Defining the Far East, p. 209.

³⁵⁸ 2.1.4. Status of Forces Agreement (SOFA), p. 29.

³⁵⁹ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

³⁶⁰ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

³⁶¹ F.1.2.4. (1951) Security Treaty Between the US and Japan, p. 256.

³⁶² 5.5.2. Prior Consultation, p. 132.

³⁶³ 1.6.1.1.1. Treaties (Legal Status), p. 9.

³⁶⁴ 6.2.2. Bilateral Planning Mechanism (BPM), p. 145.

³⁶⁵ F.1.2.3.1. The San Francisco System (Hub-and-Spoke Treaty System), p. 256

the 1969 Communiqué³⁶⁶ and, by extension, the applicability of Article VI to Taiwan.⁵⁹ ¶(4) of the Communiqué stated:

4. The President and the Prime Minister specifically noted the continuing tension over the Korean peninsula. The Prime Minister deeply appreciated the peacekeeping efforts of the United Nations in the area and stated that the security of the Republic of Korea was essential to Japan's own security. The President and the Prime Minister shared the hope that Communist China would adopt a more cooperative and constructive attitude in its external relations. The President referred to the Treaty obligations of his country to the Republic of China which the United States would uphold. The Prime Minister said that the maintenance of peace and security in the Taiwan area was also a most important factor for the security of Japan. The President described the earnest efforts made by the United States for a peaceful and just settlement of the Viet-Nam problem. The President and the Prime Minister expressed the strong hope that the war in Viet-Nam would be concluded before return of the administrative rights over Okinawa to Japan. In this connection, they agreed that, should peace in Viet-Nam not have been realized by the time reversion of Okinawa is scheduled to take place, the two governments would fully consult with each other in the light of the situation at that time so that reversion would be accomplished without affecting the United States efforts to assure the South Vietnamese people the opportunity to determine their own political future without outside interference. The Prime Minister stated that Japan was exploring what role she could play in bringing about stability in the Indochina area.⁶⁰

At signature, the idea that Article VI was closely tied to concrete US Regional Treaty Obligations was useful and both Allies clearly, if implicitly, understood that the areas of primary concern were Korea, Taiwan, and the Philippines.⁶¹ Over time the strategic landscape changed to potentially include Vietnam before later excluding it and also to exclude Taiwan. Even the prospect of renewed conflict on the Korean peninsula is a different geostrategic concern for each Ally than it was in 1960, calling into question whether the way the two governments viewed Article VI's applicability to Korea has changed, even if both consider it to still apply.

Ultimately, while there is some utility in conceiving of Article VI as a "US Regional Treaty Obligations" clause distinct from Article V as a "Japan defense obligation clause," it has been useful to both Allies to leave the precise purpose of Article VI open to interpretation and thus it should not be thought of as exclusively enabling ABO for other US Treaty commitments.

2.1.3.6. Article X – Termination

(1) This Treaty shall remain in force until in the opinion of the Governments of Japan and the United States of America there shall have come into force such United Nations arrangements as will satisfactorily provide for the maintenance of international peace and security in the Japan area. However, after the Treaty has been in force for ten years, either Party may give notice to the other Party of its intention to terminate the Treaty, in which case the Treaty shall terminate one year after such notice has been given.

2.1.4. Status of Forces Agreement (SOFA)

The SOFA is formally titled "Agreement under Article VI of the Treaty of Mutual Cooperation and Security between Japan and the United States of America, Regarding Facilities and Areas and the Status of United States Armed Forces in Japan."

As its full title states, the SOFA derives from Article VI³⁶⁷ of the MST, clarifying MST³⁶⁸ terms and conditions and outlining legal rights and responsibilities of US forces in Japan, and provides a framework for coordination on administration and operational issues that arise from having a permanent US presence in Japan.

Generally the term "SOFA" refers to:

- The actual text of the agreement (i.e., the SOFA proper)

³⁶⁶ B.3.7.1. Criticism of the Emergency Nuclear Re-Entry Agreement, p. 221.

³⁶⁷ 2.1.3.5. Article VI – Access, Basing, and Overflight (ABO) (the "Far East Clause" or "MOFA Clause"), p. 28.

³⁶⁸ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

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- Agreed Minutes³⁶⁹ to the SOFA
- Exchange of Notes³⁷⁰ regarding the SOFA
- Special Measures Agreements which formally document updates to SOFA implementation (e.g., agreeing to increased costs or rates applicable to provisions where the Allies are responsible for certain expenses)

Under US and International Law,³⁷¹ the *text* of SOFA has the status of law. However, matters that are not fully documented or require interpretation (e.g., Prior Consultation³⁷²) have a less clear legal status.

Furthermore, as an executive agreement between national governments, its application is limited by Japan's system of government (which often diffuses power from the national level down to the prefectural level or even lower) and Japan's laws (which, in some case, grant local governments the authority to administer resources the SOFA appears to grant).³⁷³

2.1.4.1. Article 2 – Use of Facilities and Areas

Article II 1(a) provides US forces “Exclusive Use” of designated Facilities and Areas³⁷⁴ (e.g., permanent US bases).

Article II 4(a) permits GoJ “Joint Use” of US facilities for specified purposes and times.

Article II 4(b)³⁷⁵ permits US “Limited Use” of Japanese public and private areas for specified purposes and times. This is accomplished through a LUA³⁷⁶ requested through the II 4(b) process.³⁷⁷

1(a) The United States is granted, under Article [6] of the Treaty of Mutual Cooperation and Security, the use of Facilities and Areas in Japan. Agreements as to specific Facilities and Areas shall be concluded by the two Governments through the Joint Committee [JC]³⁷⁸ provided for in Article [25] of this Agreement. “Facilities and Areas” include exiting furnishings, equipment and fixtures necessary to the operation of such facilities and Areas.

...

4(a) When Facilities and Areas are temporarily not being used by the United States armed forces, the Government of Japan may make, or permit Japanese nationals to make, interim use of such Facilities and Areas provided that it is agreed between the two Governments through the Joint Committee [JC] that such use would not be harmful to the purposes for which the Facilities and Areas are normally used by the United States armed forces.

4(b) With respect to Facilities and Areas which are to be used by United States armed forces for limited periods of time, the Joint Committee [JC] shall specify in the agreements covering such Facilities and Areas the extent to which the provisions of this Agreement shall apply.⁶²

Various sources inconsistently render Article II sub-paragraphs and may appear as:

- II.4.(b)
- II 4(b)
- II.4 (b)
- II-4-b
- 2.4.(b)
- 2 4(b)
- 2.4 (b)
- 2-4-b

³⁶⁹ 1.6.2.2. Agreed Minute(s) (Legal Status), p. 11.

³⁷⁰ 1.6.2.1. Exchange of (Diplomatic) Notes (Legal Status), p. 10.

³⁷¹ 2.1.2.4.1. International Law, p. 23.

³⁷² 5.5.2. Prior Consultation, p. 132.

³⁷³ 2.1.4.3.1. Limitations of SOFA Article 5, p. 33.

³⁷⁴ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

³⁷⁵ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

³⁷⁶ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

³⁷⁷ 5.3.2. II 4(b) Request Components, p. 128.

³⁷⁸ 6.2.1.3. Joint Committee (JC), p. 143.

USFJ uses “II 4(b),” etc. in official documentation⁶³ and this guide adopts this rendering.

2.1.4.1.1. Definition of “Facilities and Areas”

The SOFA defines Facilities and Areas only indirectly by context. USFJ uses the following formal definition:

Facilities and Areas include designated air, land or water areas, buildings, structures, trees, furnishings, equipment, and fixtures provided by GOJ for the use of USFJ under the provisions of the SOFA. Real estate provided for limited time periods or easement rights for communications-electronics, utilities, and other systems are also considered to be Facilities and Areas, or parts thereof. Agreements as to specific Facilities and Areas shall be established by USFJ and GOJ through the Joint Committee (JC)³⁷⁹.⁶⁴

2.1.4.1.2. Other Types of Article II Access

2.1.4.1.2.1. Japanese Organizational Access (JOA)

Access to Article II 1(a) Facilities and Areas³⁸⁰ provided to private Japanese organizations under the provisions of MEMO 4003. JOA is typically requested for specific events and times such as local festivals or sports activities.⁶⁵

MEMO 4003 establishes a JOA request process that is functionally identical to the II 4(a) process. JOA is implemented through an LIA.³⁸¹

2.1.4.1.2.2. Limited Humanitarian Access (LHA)

Transit through Article II 1(a) Facilities and Areas³⁸² granted solely for the purposes of emergency transit under the provisions of MEMO 4199. Transit consists of timely ingress and egress by the most expeditious means to promote human welfare under emergency conditions in support of critical humanitarian cases.⁶⁶

MEMO 4199 establishes the LHA process. LHA is implemented through an LIA.³⁸³

2.1.4.1.2.3. Limited Disaster Preparedness/Response Access

Access to Article II 1(a) Facilities and Areas³⁸⁴ granted solely in response to, or in preparation for, natural or man-made disasters to conduct disaster preparedness training or to conduct disaster operations under the provisions of JC³⁸⁵ MEMO dated 27 April 2007. Disaster operations include rescue, medical, services, emergency transportation, evacuation,³⁸⁶ securing of food/water and other necessities of life. Such man-made disasters do not include Armed Attack³⁸⁷ on Japan or USFJ Facilities and Areas.⁶⁷

This access is implemented through an LIA.³⁸⁸

2.1.4.1.3. Local Implementation Agreements (LIA)

An LIA is:

An agreement between a USFJ representative and a GOJ representative specifying the conditions of use, cost sharing arrangements, and any other stipulations as determined by the responsible service and the appropriate GOJ agency. LIAs are required for the implementation of actions made under the provisions of Article II 4(a), Article II 4(b),³⁸⁹ JOA,³⁹⁰ LHA,³⁹¹ and Limited Disaster Preparedness/Response Access³⁹².⁶⁸

³⁷⁹ 6.2.1.3. Joint Committee (JC), p. 143.

³⁸⁰ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

³⁸¹ 2.1.4.1.3. Local Implementation Agreements (LIA), p. 31.

³⁸² 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

³⁸³ 2.1.4.1.3. Local Implementation Agreements (LIA), p. 31.

³⁸⁴ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

³⁸⁵ 6.2.1.3. Joint Committee (JC), p. 143.

³⁸⁶ Chapter 9. Evacuation, Refugees, p. 170.

³⁸⁷ 4.11. Definition of “Armed Attack”, p. 114.

³⁸⁸ 2.1.4.1.3. Local Implementation Agreements (LIA), p. 31.

³⁸⁹ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

³⁹⁰ 2.1.4.1.2.1. Japanese Organizational Access (JOA), p. 31.

³⁹¹ 2.1.4.1.2.2. Limited Humanitarian Access (LHA), p. 31.

³⁹² 2.1.4.1.2.3. Limited Disaster Preparedness/Response Access, p. 31.

2.1.4.2. Article 3 – Establishing and Operating Facilities and Areas

Article 3 provides the US authority to “take all the measures necessary for [the] establishment, operation, safeguarding and control” of Facilities and Areas³⁹³ granted to the US for use.

Some sources⁶⁹ describe Article 3 as “granting” exclusive use of Article II 1(a)³⁹⁴ Facilities and Areas. This is inaccurate as Article 2 “grants” exclusive use while Article 3 enumerates approved activities the US may take in the operation of Facilities and Areas granted to the US. This typically applies to “Exclusive Use” II 1(a) Facilities and Areas, but the language of Article 3 does not preclude its application to temporary Facilities and Areas granted under Article II 4(b).

(1) Within the Facilities and Areas, the United States may take all the measures necessary for their [Facilities and Areas used by the US] establishment, operation, safeguarding and control. In order to provide access for the United States armed forces to the Facilities and Areas for their support, safeguarding and control, the Government of Japan shall, at the request of the United States armed forces and upon consultation between the two Governments through the Joint Committee [JC³⁹⁵], take necessary measures within the scope of applicable laws and regulations over land, territorial waters and airspace adjacent to, or in the vicinities of the Facilities and Areas. The United States may also take necessary measures for such purposes upon consultation between the two Governments through the Joint Committee [JC].

(2) The United States agrees not to take the measures referred to in ¶(1) in such a manner as to interfere unnecessarily with navigation, aviation, communication, or land travel to or from or within the territories of Japan. All questions relating to frequencies, power and like matters used by apparatus employed by the United States designed to emit electric radiation shall be settled by arrangement between the appropriate authorities of the two Governments. The Government of Japan shall, within the scope of applicable laws and regulations, take all reasonable measures to avoid or eliminate interference with telecommunications electronics required by the United States armed forces.

(3) Operations in the Facilities and Areas in use by the United States armed forces shall be carried on with due regard for the public safety.⁷⁰

2.1.4.2.1. Misreading of Article 3

Some US planners have hypothesized that Article 3 might be used by the US to gain access to Facilities and Areas (via an Article 3 Outgrant³⁹⁶) for operational purposes in a crisis without resorting to the II 4(b) process.³⁹⁷

The theory put forth by these planners is that the “safeguarding” actions assured by Article 3 might be stretched to include the operational deployment of forces outside “Article 2 areas” (i.e., Exclusive Use [II 4(a)³⁹⁸] and Limited Use [II 4(b)]³⁹⁹) for the purposes of “safeguarding” those areas in a crisis.

Additionally, some US planners have posited that the “operation” of Facilities and Areas under Article II authorizes the US to conduct any and all US operations, exclusively under the authority of the US chain of command, without regard to GoJ consideration, Prior Consultation,⁴⁰⁰ or other coordination.

However, the Agreed Minutes⁴⁰¹ below demonstrate these theories are incompatible with the shared understanding of Article 3 implementation memorialized in the minutes.

Agreed Minutes explain this provision as including the following measures:

The measures that may be taken by the United States under paragraph 1 shall, to the extent necessary to accomplish the purposes of this Agreement, include, inter alia, the following:

³⁹³ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

³⁹⁴ 2.1.4.1. Article 2 – Use of Facilities and Areas, p. 30.

³⁹⁵ 6.2.1.3. Joint Committee (JC), p. 143.

³⁹⁶ 2.1.4.2.2. Article 3 Outgrant, p. 33.

³⁹⁷ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

³⁹⁸ 2.1.4.1. Article 2 – Use of Facilities and Areas, p. 30.

³⁹⁹ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

⁴⁰⁰ 5.5.2. Prior Consultation, p. 132.

⁴⁰¹ 1.6.2.2. Agreed Minute(s) (Legal Status), p. 11.

1. To construct (including dredging and filling), operate, maintain, utilize, occupy, garrison and control the Facilities and Areas;
2. To remove buildings or structures, make alterations, attach fixtures, or erect additions thereto and to construct any additional buildings or structures together with auxiliary facilities;
3. To improve and deepen the harbors, channels, entrances and anchorages, and to construct or maintain necessary roads and bridges affording access to such Facilities and Areas;
4. To control (including measures to prohibit) in so far as may be required by military necessity for the efficient operation and safety of the Facilities and Areas, anchorages, moorings, landings, takeoffs and operation of ships and water-borne craft, aircraft and other vehicles on water, in the air or on land comprising, or in the vicinity of, the Facilities and Areas;
5. To construct on rights of way utilized by the United States such wire and radio communications facilities, including submarine and subterranean cables, pipe lines and spur tracks form railroads, as may be required for military purposes; and
6. To construct, install, maintain and employ in any facility or area any type of installation, weapon, substance, device, vessel or vehicle on or under the ground, in the air or on or under the water that may be requisite or appropriate, including meteorological systems, aerial and water navigation lights, radio and radar apparatus and electronic devices.⁷¹

2.1.4.2.2. Article 3 Outgrant

Facilities and Areas⁴⁰² provided under Article 3 are considered an Article 3 Outgrant:

*The use of Facilities and Areas by individuals or agencies granted by a local commander to operate and maintain their base under the provisions of Article 3 of the SOFA.*⁷²

2.1.4.3. Article 5 – US Access to Air and Sea Ports

For clarity, this guide uses the Arabic numeral to refer to the SOFA Article 5 and the Roman numeral to refer to the MST Article V.⁴⁰³

Article 5 grants US forces access to APODs and SPODs in Japan, however Japanese law (which the SOFA and MST do not supersede), grants local governments administration and management rights over SPODs and most APODs.⁴⁰⁴

*(1) United States and foreign vessels and aircraft operated by, for, or under the control of the United States for official purposes shall be accorded access to any port or airport of Japan free from toll or landing charges. ...*⁷³

2.1.4.3.1. Limitations of SOFA Article 5

US planners often interpret SOFA Article 5 as granting US forces access to all APODs and SPODs in Japan.

However, with some exceptions, GoJ law establishes local governments are the managing authority for APODs and SPODs. Because the SOFA is an agreement between two national governments and neither the SOFA nor the MST supersede national laws, its provisions are not obviously binding on local governments.⁷⁴ The most obvious case of this ambiguity is the YARA Memorandum,⁴⁰⁵ which places restrictions on Shimoji-jima Airport that appear counter to the access guaranteed by SOFA Article 5.

Specifically, the Port Act (Act No. 218 of 1950, as amended), Article 2, ¶(1)⁴⁰⁶ establishes local governments or an incorporated port authority as administrators and managers of ports in Japan.

⁴⁰² 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

⁴⁰³ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

⁴⁰⁵ Annex iii. YARA Memorandum, p. 432.

⁴⁰⁶ i.S.1. Article 2 – Definitions, p. 395.

⁴⁰⁴ 2.1.4.3.1. Limitations of SOFA Article 5, p. 33.

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The Airport Act (Act No. 80 of 1965, as amended), Article 5, ¶(1)⁴⁰⁷ establishes local governments as administrators and managers of airports in Japan with the exception of the “big 5” airports outlined in Article 4, ¶(1).⁴⁰⁸

These laws effectively require local government (or port authority) consent for military use until GoJ has authority to directly authorize their use in [security situation]

The seemingly-deliberate ambiguity and care with which the GOJ has handled the YARA Memorandum issue suggests that it prefers to retain this ambiguity rather than attempt to definitively address the issue (e.g., through the legal system or legislation that expands the national government’s authority in this area) and risk either a judicial determination that neuters SOFA Article 5 or creates major domestic political costs that have no obvious immediate benefit that makes those costs worthwhile.

2.1.4.4. Article 17 – Disciplinary and Criminal Jurisdiction and Protections

Article 17 establishes the scope of US disciplinary and criminal jurisdiction over and legal protections for SOFA personnel.

2.1.4.5. Article 24 – Cost Sharing

(1) It is agreed that the United States will bear for the duration of this Agreement without cost to Japan all expenditures incident to the maintenance of the United States armed forces in Japan except those to be borne by Japan as provided in ¶(2).

(2) It is agreed that Japan will furnish for the duration of this Agreement without cost to the United States and make compensation where appropriate to the owners and suppliers thereof all facilities and areas and rights of way, including facilities and areas jointly used such as those at airfields and ports, as provided in Articles 2⁴⁰⁹ [Use of Facilities and Areas] and 3⁴¹⁰ [Establishing and Operating Facilities and Areas].

(3) It is agreed that arrangements will be effected between the Governments of Japan and the United States for accounting applicable to financial transactions arising out of this Agreement.

2.1.4.6. Article 25 – Joint Committee (JC)

Article 25 establishes the JC⁴¹¹ to oversee all matters of SOFA implementation, with specific emphasis on II 1(a)⁴¹² and II 4(b)⁴¹³ requests.

(1) A Joint Committee [JC] shall be established as the means for consultation between the Government of Japan and the Government of the United States on all matters requiring mutual consultation regarding the implementation of this Agreement [the SOFA]. In particular, the Joint Committee [JC] shall serve as the means for consultation in determining the Facilities and Areas⁴¹⁴ in Japan which are required for the use of the United States in carrying out the purpose of the Treaty of Mutual Cooperation and Security [MST⁴¹⁵].

...⁷⁵

2.1.4.7. Agreed View

When SOFA matters require a joint interpretation to augment the clear text of the agreement, the JC issues an Agreed View that codifies the joint interpretation.⁷⁶ This is akin to a diplomatic Agreed Minute.⁴¹⁶

The Agreed View protocol was established under the US-Japan Administrative Agreement that preceded the SOFA, however Agreed Views under the Administrative Agreement were incorporated into the current SOFA.

⁴⁰⁷ i.T.2. Article 5 - Establishment and management of airports that play an important role in forming international or domestic air transportation networks, p. 397.

⁴⁰⁸ i.T.1. Article 4 – Establishment and management of airports that serve as bases for international air transport networks or domestic air transport networks, p. 397.

⁴⁰⁹ 2.1.4.1. Article 2 – Use of Facilities and Areas, p. 30.

⁴¹⁰ 2.1.4.2. Article 3 – Establishing and Operating Facilities and Areas, p. 32.

⁴¹¹ 6.2.1.3. Joint Committee (JC), p. 143.

⁴¹² 2.1.4.1. Article 2 – Use of Facilities and Areas, p. 30.

⁴¹³ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

⁴¹⁴ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

⁴¹⁵ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

⁴¹⁶ 1.6.2.2. Agreed Minute(s) (Legal Status), p. 11.

Agreed Views are numbered (as in “US-Japan Joint Committee Agreed View Number 26, approved 22 October 1953”).

2.1.5. 1954 Mutual Defense Assistance Agreement (MDAA)

After recognizing the need to rebuild Japan’s defense capabilities, the allies signed the MDAA, outlining the how the allies would cooperation on defense issues. The MDAA is the basis for numerous specific defense cooperation agreements, including on the development, manufacture, sale, or safeguarding of defense technology, information, training, and services.

The MDAA was amended via Exchange of Notes⁴¹⁷ when the MST⁴¹⁸ was signed.

The MDAA is also the basis for USEMB Tokyo’s Mutual Defense Assistance Office (MDAO).

2.1.6. 2015 Legislation for Peace and Security

The 2015 Legislation for Peace and Security may also appear as:

- Security Legislation

The 2015 Legislation for Peace and Security was designed to enable Japan to play a more proactive role in its defense and in the peace and stability in the region, generally.

The legislation package significantly revised ten defense, peacekeeping, and security laws (through the Peace and Security Legislation Development Law) and introduced the new law, International Peace Support Act.⁴¹⁹

As part of the national debate during consideration of the 2015 Legislation for Peace and Security, the ABE Cabinet proposed 15 Cases Regarding the Peace and Security of Japan.⁴²⁰ These cases became the core examples for the legislation and its expansion of applicable situations where Japan could exercise its rights of ISD/NSD⁴²¹ as well as those where it would be able to exercise the newly-interpreted right to CSD.⁴²²

2.1.6.1. 15 Cases Regarding the Peace and Security of Japan

As part of the development of the Legislation for Peace and Security, the ABE government explored 15 cases in which current policies, laws, or interpretations of the Constitution would cause Japan to fall short of its obligation to defend the peace and security of Japan. These 15 cases (sometimes referred to as “policy simulations” have been described as the prototypes of the 2015 Legislation for Peace and Security and are useful in understanding how GoJ understands its new defense authorities as well as for interpreting how these authorities may be applied in real-world scenarios.⁷⁷

The 15 cases are divided up into Grey-Zone situations, international peace and security situations, and Use of Force Situations.

During Diet proceedings, many of the 15 cases were criticized as being unrealistic or as already adequately addressed under existing rights of ISD.⁴²³

2.1.6.1.1. Cases 1-3: Grey Zone Situations

2.1.6.1.1.1. Case 1: Measures Against Unlawful Actions on a Remote Island, etc.

Case 1 involves a foreign ship approaching a remote Japanese island and landing personnel, armed with weapons, ashore. For uninhabited islands, there are no Japanese police forces to respond and JCG does not

⁴¹⁷ 1.6.2.1. Exchange of (Diplomatic) Notes (Legal Status), p. 10.

⁴¹⁸ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

⁴¹⁹ L.2. International Peace Support Act (IPSA) Operations, p. 281.

⁴²⁰ 2.1.6.1. 15 Cases Regarding the Peace and Security of Japan, p. 35.

⁴²¹ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

⁴²² 3.4.2. Collective Self-Defense (CSD), p. 84.

⁴²³ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

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patrol the island ashore. The only lawful Japanese response requires a PSO⁴²⁴ or MSO⁴²⁵ order to be issued, which might delay response.⁷⁸

GoJ addressed Case 1 by issuing a Cabinet Decision⁴²⁶ permitting the necessary ministerial meetings for the issuance of PSO and MSO orders to be held over the phone.⁴²⁷

2.1.6.1.1.2. Case 2: Measures Against Unlawful Actions during Training of SDF on the High Seas

Case 2 involves JMSDF vessels, conducting military drills, witnessing an armed foreign ship subjecting Japanese private vessels on the High Seas⁴²⁸ to illegal activities. While the JCG would have primary responsibility in this situation, it is not present. While the JMSDF vessel awaits authorizing orders, the situation escalates.⁷⁹

GoJ addressed Case 2 by issuing a Cabinet Decision⁴²⁹ permitting the necessary ministerial meetings for the issuance of MSO⁴³⁰ orders to be held over the phone.⁴³¹

2.1.6.1.1.3. Case 3: Protection of US Aegis Destroyer in Operation for Missile Defense System

Case 3 involves a US Aegis Destroyer postured to provide defense against indications of a ballistic missile launch (not against Japan). The USG requests Japan to help defend the US Destroyer against air or other threats while it prepares to intercept the ballistic missile. Because Japan has not been attacked, this could be considered unlawful Use of Force⁴³² and an exercise of CSD⁴³³.⁸⁰

However, Article 95-2⁴³⁴ authorities appear to enable JSDF to provide this defense.

2.1.6.1.1.4. Extra Case: Measures Against a Foreign Military Submarine under Japanese TTS

Referenced as the “extra case,” this case involves a submerged foreign submarine transiting Japanese TTS.⁴³⁵ In such a situation, not only is there a potential delay in a JMSDF response, but the JMSDF lack authorities to coerce the submarine to either surface or depart TTS.⁸¹

GoJ addressed this extra case by issuing a Cabinet Decision⁴³⁶ (augmenting an existing 1996 Cabinet Decision that partially addressed this case), permitting the necessary ministerial meetings to be held over the phone.⁴³⁷

2.1.6.1.2. Cases 4-7: International Peace and Security Situations**2.1.6.1.2.1. Case 4: Support for International Cooperation against an Act of Aggression**

Case 4 involves a UNSC-approved operation to restore peace and security with requests to the SDF to provide logistical support to the operation. When such activities are provided in a combat zone, this would be considered a violation of *ittaika*⁴³⁸.⁸²

This case resulted in the International Peace Support Law.

⁴²⁴ 3.2.3.1. Public Security Operation (PSO), p. 62.

⁴²⁵ 3.2.3.2. Maritime Security Operation (MSO), p. 63.

⁴²⁶ C.2.1.4.1. Cabinet Decision, p. 226.

⁴²⁷ ii.C. Cabinet Decision on the Government's Response to Cases of Armed Groups Illegally Landing on Remote Islands, etc., p. 428.

⁴²⁸ A.4.10. High Sea(s), p. 199.

⁴²⁹ C.2.1.4.1. Cabinet Decision, p. 226.

⁴³⁰ 3.2.3.2. Maritime Security Operation (MSO), p. 63.

⁴³¹ ii.D. Cabinet Decision on Measures to be Taken when Self-Defense Force Vessels or Other Vessels Recognize a Foreign Vessel Committing an Infringement against a Japanese Civilian Vessel on the High Seas, p. 430.

⁴³² 3.3.3. Use of Force, p. 79.

⁴³³ 3.4.2. Collective Self-Defense (CSD), p. 84.

⁴³⁴ i.C.57. Article 95-2 – Use of Weapons to Protect the Weapons, etc. of Units of the United States and Other Militaries, p. 329.

⁴³⁵ A.4.4. Territorial Sea (TTS), p. 196.

⁴³⁶ C.2.1.4.1. Cabinet Decision, p. 226.

⁴³⁷ ii.B. Cabinet Decision on Measures Against Foreign Warships Navigating in Japan's Territorial Waters and Internal Waters in a Manner that does not fall under the Category of Innocent Passage under International Law, p. 427.

⁴³⁸ 2.1.2.2. Ittaika (Integration), p. 20.

2.1.6.1.2.2. Case 5: Coming to the Aid of Geographically Distant Units Under Attack during PKO

Case 5 involves Japanese PKO where other UN PKO forces and Japanese NGO personnel are operating. If other UN PKO forces or Japanese NGO personnel, operating distant from JSDF PKO forces, come under attack and request JSDF assistance, the JSDF lacked the authority to come to their aide.⁸³

This case resulted in Type 2b *kaketsuka-keigo*⁴³⁹ Use of Weapons⁴⁴⁰ authorities

2.1.6.1.2.3. Case 6: Use of Weapons for the Purpose of the Execution of Missions

Case 6 involves Japanese PKO forces, alongside other UN PKO forces, rescuing injured NGO personnel. An armed group blocks the path to the injured NGO personnel and there is no other path available. While the other UN PKO forces are authorized Use of Weapons to repel the armed group, Japanese PKO forces are not.⁸⁴

This case resulted in Type 2c Mission Requirements⁴⁴¹ Use of Weapons⁴⁴² authorities.

2.1.6.1.2.4. Case 7: RJNO with Approval of the Territorial State

Case 7 involves a terrorist group threatening the lives of Japanese nationals overseas. While the host nation lacks the capability to rescue the Japanese nationals, it permits the GoJ to conduct RJNO.⁸⁵

2.1.6.1.3. Cases 8-15: Use of Force Situations**2.1.6.1.3.1. Case 8: Protection of a US Vessel Transporting Japanese Citizens**

Case 8 involves an Armed Attack⁴⁴³ on a third country and US vessels on the High Seas,⁴⁴⁴ creating urgency that GoJ evacuate its citizens in that country. Transportation support is available from a US vessel, but the defense of the US vessel is insufficient. GoJ is unable to assist in the protection of the US vessel without exercising unconstitutional Use of Force⁴⁴⁵ (i.e., CSD⁴⁴⁶).⁸⁶

2.1.6.1.3.2. Case 9: Protection of a US Vessel Under Armed Attack

Case 9 involves an Armed Attack⁴⁴⁷ on a third country and US vessels on the High Seas,⁴⁴⁸ US vessels have been deployed from Japan to support logistics and combat support activities but lack sufficient defensive capabilities. USG requests GoJ to augment the defense of these vessels. GoJ is unable to provide this support without exercising unconstitutional Use of Force⁴⁴⁹ (i.e., CSD⁴⁵⁰).⁸⁷

2.1.6.1.3.3. Case 10: Coercive Ship Inspection

Case 10 involves an Armed Attack⁴⁵¹ on a third country and US vessels. Japan has not yet been attacked but may be. A ship that might possess arms is en route to the aggressor state and these arms could be used to attack the US or, eventually Japan. GoJ lacks the authority for a coercive ship inspection (i.e., MIO⁴⁵²) and cannot take action to stop the possible weapons transport.⁸⁸

2.1.6.1.3.4. Case 11: Interception of Ballistic Missiles Crossing Over Japan to the US

Case 11 involves an aggressor state launching a ballistic missile at the US, specifically Guam or Hawaii, where the missile crosses over Japanese territory and where USG requests GoJ to intercept the missile. GoJ is unable to provide this support without exercising unconstitutional Use of Force⁴⁵³ (i.e., CSD⁴⁵⁴).⁸⁹

⁴³⁹ 3.3.1.3.2. Type 2b: *Kaketsuka-keigo* (Coming-to-Aid Duty), p. 78.

⁴⁴⁰ 3.3.1. Use of Weapons, p. 74.

⁴⁴¹ 3.3.1.3.3. Type 2c: "Mission Requirements" Use of Weapons, p. 78.

⁴⁴² 3.3.1. Use of Weapons, p. 74.

⁴⁴³ 4.1.1. Definition of "Armed Attack", p. 114.

⁴⁴⁴ A.4.10. High Sea(s), p. 199.

⁴⁴⁵ 3.3.3. Use of Force, p. 79.

⁴⁴⁶ 3.4.2. Collective Self-Defense (CSD), p. 84.

⁴⁴⁷ 4.1.1. Definition of "Armed Attack", p. 114.

⁴⁴⁸ A.4.10. High Sea(s), p. 199.

⁴⁴⁹ 3.3.3. Use of Force, p. 79.

⁴⁵⁰ 3.4.2. Collective Self-Defense (CSD), p. 84.

⁴⁵¹ 4.1.1. Definition of "Armed Attack", p. 114.

⁴⁵² 3.2.2.8. Maritime Interdiction Operations (MIO), p. 60.

⁴⁵³ 3.3.3. Use of Force, p. 79.

⁴⁵⁴ 3.4.2. Collective Self-Defense (CSD), p. 84.

Chapter 2. Basic Defense Policy of Japan**2.1.6.1.3.5. Case 12: Protection of US Aegis Destroyer in an Operation Relating to the Missile Defense System**

Case 12 involves a US Aegis Destroyer conducting operations in defense of Japan under the MST.⁴⁵⁵ In the case, the aggressor state has already attacked a neighboring state where US forces are stationed and is attempting to attack the US and Japan. In this situation, because Japan has not yet been attacked, it is not possible for Japan to provide defense of this US Aegis Destroyer against a complex saturation attack that might overwhelm its ability to defend itself and, by extension, maintain the ability to defend Japan.⁹⁰

2.1.6.1.3.6. Case 13: Protection of US Vessels when the US is Militarily Attacked

In Case 13, the US homeland is struck by ballistic missiles from an aggressor state, the US has commenced operations against the aggressor in the vicinity of Japan, but Japan has not yet been attacked. The USG requests GoJ to protect US vessels participating in the operations against the aggressor state when they use US bases in Japan for repair or replenishment.⁹¹

2.1.6.1.3.7. Case 14: Participation in International Minesweeping Operations

Case 14 involves an Armed Attack⁴⁵⁶ near straits Japan is dependent on for critical imports such as oil (in most of the Diet debates, the Strait in questions was normally the Strait of Hormuz). The US has commenced operations against the aggressor but the aggressor has laid mines in the straits as a naval blockade. The UN and other states request GoJ participation in international minesweeping,⁴⁵⁷ which is also essential to Japan's survival. Without a ceasefire,⁴⁵⁸ such minesweeping operations would be an unconstitutional Use of Force⁴⁵⁹.⁹²

2.1.6.1.3.8. Case 15: International Cooperation to Protect Private Vessels

Case 15 involves an Armed Attack⁴⁶⁰ near straits Japan is dependent on for critical imports such as oil (in most of the Diet debates, the Strait in questions was normally the Strait of Hormuz). The US has commenced operations against the aggressor but the aggressor's attack have damaged or destroyed numerous private shipping vessels. The USG requests GoJ participate in international cooperation to protect private shipping vessels.⁹³

2.1.7. Self-Defense Force (SDF) Law

The SDF Law⁴⁶¹ is the primary but not exclusive law governing JSDF activity. Annex i Selected Annotated Japanese Laws (p. 298) includes the relevant portions of SDF Law and other laws impacting JSDF operations.

The purpose of the SDF Law is to closely restrict the JSDF's actions well below the threshold outlined in UN Charter Article 2, ¶(4), which prohibits states' Use of Force⁴⁶² except in self-defense.

2.1.8. Free and Open Indo-Pacific (FOIP)

FOIP provides the alliance basis for maintaining a law-based maritime order, including implicit competition with China, around three basic pillars:

1. *Promotion and establishment of the rule of law, freedom of navigation, and free trade;*
2. *Pursuit of economic prosperity (connectivity, and strengthening of economic cooperation through EPAs/FTAs and investment agreements), and*
3. *Commitment to peace and stability (establishing maritime law enforcement, humanitarian assistance, and emergency disaster relief).*⁹⁴

⁴⁵⁵ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

⁴⁵⁶ 4.11. Definition of "Armed Attack", p. 114.

⁴⁵⁷ 3.2.3.8. Minesweeping, p. 69.

⁴⁵⁸ SDF Act (Law No. 165 of 1954, as amended) Article 84-2 – Mine Disposal (p. 315) is not considered Use of Force when a ceasefire is in effect or during peacetime. Only during active hostilities would minesweeping be considered Use of Force.

⁴⁵⁹ 3.3.3. Use of Force, p. 79.

⁴⁶⁰ 4.11. Definition of "Armed Attack", p. 114.

⁴⁶¹ i.C. SDF Act (Law No. 165 of 1954, as amended), p. 303.

⁴⁶² 3.3.3. Use of Force, p. 79.

The concepts underpinning FOIP trace back to at least 2007, though then-PM ABE first articulated Japan's FOIP strategy in 2016. The term and general concept has been adopted by the US, India, Australia, the United Kingdom, France, ASEAN, and others.

2.2. DEFENSE DOCTRINE

Scholars of post-War Japanese defense have characterized Japan defense doctrine in either two or three eras. The first era of post-war defense doctrine is widely characterized as the YOSHIDA Doctrine.⁴⁶³ Some identify a subsequent NAKASONE Doctrine⁴⁶⁴ (while others characterize this period as part of the YOSHIDA Doctrine).

The current defense doctrine (and associated Japanese grand strategy) is referred to as the ABE Doctrine.⁴⁶⁵

2.2.1. YOSHIDA Doctrine (1948 – 1982/2012)

The YOSHIDA Doctrine, named after PM Shigeru YOSHIDA (1948-1954) represented a defense policy whereby Japan chose to be reliant on the US (and the protection of world opinion as a democratic and anti-militarist state) for national security to preference its ability to economically recover in the early post-war period. This doctrine eschewed collective security involvements or any entanglement in international security controversies and sought to placate potential domestic political strife with a focus on economic recovery.⁹⁵

While the YOSHIDA Doctrine is characterized as accepting dependence on the US for security, it sought “autonomy and freedom of maneuvering” in the realm of economics.⁹⁶

2.2.1.1. NAKASONE Doctrine (1982 – 2012)

Named after PM Yasuhiro NAKASONE (1982-1987), the NAKASONE Doctrine is sometimes characterized by Japan defense scholars as a distinct period in post-War Japanese defense thought. Other scholars consider this period part of the YOSHIDA Doctrine era, evolving Japanese defense strategy for the late Cold War but retaining the YOSHIDA Doctrine's essential elements.

The NAKASONE Doctrine can be characterized by:

- Open acknowledgement of the MST⁴⁶⁶ as a military alliance
- Emphasis on the Japan's military contributions to competition with the Soviets and defense against aggression
- Focus on developing Japanese and Alliance capabilities to contain Soviet naval forces within the First Island Chain in any US-Soviet conflict or confrontation
- Emphasis on strengthening Japan's economic and cultural role in regional cooperation

2.2.2. ABE Doctrine (2012 – Present)

The ABE Doctrine, named after PM Shinzō ABE (2005-2006, 2012-2020), sometimes described as “Proactive Pacifism⁴⁶⁷” or “Proactive Contribution to Peace” (*sekkyokuteki heiwashugi*), is considered by Japan defense scholars as a significant shift in Japanese defense doctrine and a new Japanese grand strategy.⁹⁷ The logic underlying this shift was that Japan's security could no longer be guaranteed merely by the ability to secure its territory, but that its national security was inextricably linked to regional and global security and that it must be better positioned to make proactive contributions to regional and global security efforts.⁹⁸

The ABE Doctrine bases Japan's foreign and security policy on the normalization of Japan's military and increasing Japan's international cooperation as the means to pursue regional and international peace.⁹⁹

⁴⁶³ 2.2.1. YOSHIDA Doctrine (1948 – 1982/2012), p. 39.

⁴⁶⁴ 2.2.1.1. NAKASONE Doctrine (1982 – 2012), p. 39.

⁴⁶⁵ 2.2.2. ABE Doctrine (2012 – Present), p. 39.

⁴⁶⁶ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

⁴⁶⁷ 2.2.2.1. Various Concepts of Pacifism and Peace, p. 40.

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The most significant elements of the ABE Doctrine are GoJ's reinterpretation of MST Article 9⁴⁶⁸ to permit the exercise of CSD⁴⁶⁹ as well as major legislative reforms to provide greater flexibility to GoJ to be proactive or more capable in a crisis that directly or indirectly threatens Japan.

In addition to its non-defense elements (e.g., "Abenomics"), major elements of the ABE Doctrine include:

- Passage of the 2015 Legislation for Peace and Security⁴⁷⁰
- Updated 2015 Defense Guidelines⁴⁷¹
- Reorganization of the JDA into the MOD (during ABE's first term)
- Creation of the JNSC⁴⁷²
- Formulation of the NSS⁴⁷³
- Development of a Dynamic Joint Defense Force concept more capable to respond to grey zone threats
- Defense Reforms including:
 - Updating the Alliances RMCs⁴⁷⁴
 - Creation of the ACM⁴⁷⁵
 - Creation of the Security Situation Framework⁴⁷⁶ (a significant update to similar, but more limited framework)

2.2.2.1. Various Concepts of Pacifism and Peace

The ideas behind Proactive Contribution to Peace surround the sometimes-nuanced differences between the following terms, which have been core to the debate about how to best interpret Japan's post-war anti-militarism and the application of Article 9⁴⁷⁷ of the Constitution. While to some US planners, these terms may appear largely interchangeable, within the context of Japan's defense policy, they represent the entire spectrum of acceptable defense policy, making the understanding of the nuanced differences in terms important for understanding the cognitive framework within which Japanese defense policy operates.

Pacifism is the idea that there is no justification for taking another human's life, even when authorized by competent authorities. This term is subdivided into Absolute Pacifism and Relative Pacifism. Absolute Pacifism (sometimes also referred to as Passive Pacifism or Negative Pacifism) holds that no circumstances or conditions permit exceptions to pacifist principles while Relative Pacifism (sometimes also referred to as Active Pacifism or Positive Pacifism) holds that such actions are justifiable under certain conditions.¹⁰⁰

The state of Peace is understood as either Negative or Positive. The term Negative Peace describes the absence of any *direct* violence, such as war or terrorism. Positive Peace (*sekkyokuteki heiwa*) describes the absence of *direct* and *indirect* or *structural* violence, with indirect or structural violence referring to such issues as poverty, economic inequality, or discrimination.¹⁰¹

In the context of Japanese defense policy, Article 9 of the constitution appears to advocate for Absolute/Negative Pacifism, seeking a world of Negative Peace.

In contrast, the Preamble⁴⁷⁸ to the Constitution aspires to Positive Peace (i.e., the "right to leave in peace" and opposition to "tyranny, slavery, oppression, intolerance, fear, and want") and appears to advocate for Relative/Positive Pacifism.¹⁰²

An additional related concept is that of Unilateral Pacifism (sometimes also termed "one-country pacifism") that refers to a State's self-imposed constraint to be responsible only for its own security. By some interpretations, Unilateral Pacifism describes Japan's EDOP,⁴⁷⁹ however the ABE Doctrine's Proactive Contribution to Peace pushes up against this self-imposed constraint.

⁴⁶⁸ 2.1.2.1. Article 9 (War Renunciation), p. 13.

⁴⁶⁹ 3.4.2. Collective Self-Defense (CSD), p. 84.

⁴⁷⁰ 2.1.6. 2015 Legislation for Peace and Security, p. 35.

⁴⁷¹ 2.3.4. 2015 Guidelines for Japan-US Defense Cooperation, p. 45.

⁴⁷² C.2.6. (Japan) National Security Council (JNSC), p. 228.

⁴⁷³ 2.4.1. National Security Strategy (NSS), p. 49.

⁴⁷⁴ 2.3.4.1. Roles/Missions/Capabilities (RMC), p. 46.

⁴⁷⁵ 6.2.1. Alliance Coordination Mechanism (ACM), p. 141.

⁴⁷⁶ Chapter 4. Japan's Security Situations Framework, p. 89.

⁴⁷⁷ 2.1.2.1. Article 9 (War Renunciation), p. 13.

⁴⁷⁸ i.B.1. Preamble, p. 300.

⁴⁷⁹ 2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP), p. 13.

This dichotomy is the root of debates over Japanese defense policy. And the paradox of two divergent perspectives on peace and pacifism, enshrined in the same document, has required Japanese leaders to negotiate their views (and the security environment Japan finds itself in) into a constitution that offers strong support to either position.

Revisit constitution and constitutionality sections to cross-reference this section

2.3. DEFENSE POLICIES

2.3.1. “Three New Conditions” for the Use of Force

To keep within the bounds of Article 9,⁴⁸⁰ GoJ has established three conditions for the legal Use of Force⁴⁸¹ (distinct from Use of Weapons⁴⁸²):

- An Armed Attack⁴⁸³ against Japan has occurred (i.e., AAS[Occurrence]⁴⁸⁴ but not AAS [Imminent]⁴⁸⁵) or 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 happiness⁴⁸⁶ (i.e., STS⁴⁸⁷)
 - See § i.C.37.A. Article 88 Use of Force During AAS (Imminent) (p. 319)
- There is no [other] appropriate means available to repel the attack and ensure Japan’s survival and protect its people
- Use of Force is limited to the minimum extent necessary

When all three of these conditions are met, JSDF may be authorized the Use of Force through a DOO⁴⁸⁸ (after Stipulation⁴⁸⁹ of a Security Situation⁴⁹⁰).

Use of Weapons is permitted in a wider range of situations, but is a more restrictive authority for force, more akin to law enforcement than military operations.

2.3.2. Three Principles on Arms Exports (3P)

Formally called the “Three Principles on the Transfer of Defense Equipment and Technologies,” the 3P are policy guidelines (not legal restrictions) that restricts the overseas transfer of Japanese defense equipment and technology under the following principles:

1. Cases where transfers are prohibited:
 - 1a. Cases that violate obligations under treaties and other International Agreements⁴⁹¹ that Japan has concluded
 - 1b. Cases that violate obligations under UNSC resolutions
 - 1c. Cases where the transfer is to a country that is a party to an IAC⁴⁹²
2. Cases where transfer may be permitted (and strict examination of information disclosure)
 - 2a. Cases that contribute to the active promotion of peace contribution and international cooperation
 - 2b. Cases that contribute to the security of Japan
 - 2c. Other cases (on a case-by-case basis)
3. GoJ must ensure appropriate control regarding subsequent use or transfer
 - 3a. Recipient country must agree to GoJ prior-consent before “extra-purpose” (use beyond that agreed to at the time of the transfer) use or transfer to third parties

⁴⁸⁰ 2.1.2.1. Article 9 (War Renunciation), p. 13; i.B.2. Article 9 – Renunciation of War, p. 300.

⁴⁸¹ 3.3.3. Use of Force, p. 79.

⁴⁸² 3.3.1. Use of Weapons, p. 74.

⁴⁸³ 4.11. Definition of “Armed Attack”, p. 114.

⁴⁸⁴ 4.10.1.2. AAS (Occurrence), p. 111.

⁴⁸⁵ 4.10.1.1. AAS (Imminent), p. 111.

⁴⁸⁶ 2.1.2.1.2.3. Interpreting Article 9 in the Context of Article 13, p. 16.

⁴⁸⁷ 4.9. Survival-Threatening Situation (STS), p. 104.

⁴⁸⁸ 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

⁴⁸⁹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁴⁹⁰ Chapter 4. Japan’s Security Situations Framework, p. 89.

⁴⁹¹ 1.6.1.1. International Agreements (Legal Status), p. 8.

⁴⁹² 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

2.3.2.1. 3P Reforms

Historically, GoJ has demonstrated a willingness to apply the 3P in flexible ways.¹⁰³ Most recently, in 2023, GoJ authorized an exception for the export of finished (lethal) weapon systems built under license to nations where the patent holders of the weapon systems are based (e.g., Japanese-built PATRIOT missiles being exported to the US). Re-export of these Japanese-made systems to third party countries may be permitted with prior GoJ consent.

In December 2023, GoJ announced major changes to the 3P in at least two phases. GoJ hopes to conclude negotiations on the final format of Phase 1⁴⁹³ changes as early as **March 2024**.

2.3.2.1.1. 3P Phase 1 Changes

Phase 1 changes includes:

- Allowances for the provision of parts and services for products co-developed with a partner to a third nation
- Allowances for the provision of licensed produced products back to the licensing nation or to a third country under the request of the licensing nation
- The ability to conduct repair and servicing of partner nation (other than US) defense equipment in Japan
- Defines “parts” permissible for export as any item/component that is not in and of itself lethal (fighter wings and engine parts, missiles, and cannons are “finished products”)
- Allows for rescue, transport, warning, surveillance, and minesweeping finished products to be exported with self-defense arms onboard
- Expands the list of counties who can receive non-lethal aid during a conflict beyond Ukraine
- Outlines a process for government review and examination of exports that function like a US Congressional Notification⁴⁹⁴

2.3.3. Nuclear Policies

Japan’s nuclear policies are centered around four pillars:

- 3NP⁴⁹⁵
- Reliance on US Extended Nuclear Deterrence⁴⁹⁶
- Nuclear disarmament and arms control⁴⁹⁷
- Peaceful use of nuclear energy⁴⁹⁸

2.3.3.1. Three Non-Nuclear Principles (3NP)

With some exceptions,⁴⁹⁹ the 3NP are declaratory policy and are not legally binding. As a result, this provides the Alliance flexibility during crisis for Extended Deterrence⁵⁰⁰ operations.

The 3NP were established by PM Eisaku SATŌ in 1967 during the negotiations for the Okinawa Reversion, in part to facilitate the non-nuclear reversion of Okinawa. The 3 “N”s are:

1. Not possessing nuclear weapons
2. Not producing nuclear weapons
3. Not permitting the introduction of nuclear weapons into Japanese territory⁵⁰¹

Historically, GoJ’s maintenance of these principles has been contingent in large part on the US’s Extended Deterrence guarantees.

⁴⁹³ 2.3.2.1.1. 3P Phase 1 Changes, p. 42.

⁴⁹⁴ The US Arms Export Control Act requires congressional notification for Foreign Military Sales (FMS) or Direct Commercial Sales (DCS) expected to meet or exceed pre-approved established amounts for designated countries.

⁴⁹⁵ 2.3.3.1. Three Non-Nuclear Principles (3NP), p. 42.

⁴⁹⁶ 2.3.3.2. US Extended (Nuclear) Deterrence, p. 44.

⁴⁹⁷ 2.3.3.1.3.3. Articles 1 and 2 of the NPT, p. 44; 2.3.3.1.4. Three Reductions, p. 44.

⁴⁹⁸ 2.3.3.1.3.2. Atomic Energy Basic Law, p. 43.

⁴⁹⁹ 2.3.3.1.3. Legally-Binding Aspects of 3NP, p. 43.

⁵⁰⁰ 2.3.3.2. US Extended (Nuclear) Deterrence, p. 44.

⁵⁰¹ 5.5.2.2.1. The Prior Consultation Formula, p. 134.

The third principle has caused some historic friction with the US due to divergent interpretations of “introduction” (vice “transit”).⁵⁰² This has led some to refer to these as the “Two-and-a-Half” Non-Nuclear Principles (“2.5NP”) and has led some GoJ leaders to regret the third principle with respect to the constraints it potentially places on US Extended Deterrence⁵⁰³ and the prospect of undesirable escalation if the principle were to be relaxed in a time of crisis (e.g., by Prior Consultation⁵⁰⁴).

Additionally, since the 1990s, commentators in Japan have questioned Japan’s 3NP in the context of its three nuclear-armed neighbors (China, North Korea, and Russia) and the potential threats they pose. These concerns are underlined by the unresolved territorial dispute with Russia⁵⁰⁵.

2.3.3.1.1. Exceptions to the 3NP

Aside from the issue of “introduction” vs. “transit,”⁵⁰⁶ in routine operations, there have been some statements indicating GoJ’s probable exceptions to the “third N.” These include then-FM Katsuya OKADA’s 2010 statement that:

If an emergency situation arises and Japan’s security cannot be assured without allowing a temporary port call of nuclear weapons to Japan, the administration of the day will make a decision.

This statement may conflict with the historically established confidential (albeit ambiguous) interpretations of “introduction” vs “transit” of US nuclear weapons.⁵⁰⁷

See §§ 5.5.2.4. Scope of Prior Consultation (p. 135).

2.3.3.1.2. Non-Nuclear Kobe Method Refusal

The so-called “non-nuclear Kobe Method” (*hikaku Kōbe Hōshiki*) refers to the Kobe city government’s refusal in 1995 to allow visits by US Navy vessels. A Kobe city ordinance required that foreign navy vessels confirm they are not carrying nuclear weapons. Because of the US’s NCND policy,⁵⁰⁸ the vessels in question would not be able to comply with the ordinance and therefore would have been refused by the city.

The fact that this occurred during the 1995 Great Hanshin-Awaji earthquake (which killed 6,400 people and destroyed 105,000 homes) and the US Navy vessels were being offered in support highlights the power of even Municipal governments in Japan’s governmental system.⁵⁰⁹

2.3.3.1.3. Legally-Binding Aspects of 3NP

Japan’s Atomic Energy Basic Act (Act No. 186 of 1955, as amended)⁵¹⁰ and its status as a signatory of the NPT⁵¹¹ create some legally-binding aspects of the 3NP.

2.3.3.1.3.1. Constitutionality of Japanese Nuclear Weapons

A 7 May 1957 statement by then-PM KISHI held that nuclear weapons were permissible under Article 9 of the Constitution if they were intended and used for exclusively self-defensive⁵¹² purposes.¹⁰⁴ This position was reiterated in the Diet again in 1958 and 1965.¹⁰⁵

2.3.3.1.3.2. Atomic Energy Basic Law

Article 2⁵¹³ of Japan’s Atomic Energy Basic Act (Act No. 186 of 1955, as amended) states that Japan may only use atomic energy for peaceful purposes.

⁵⁰² B.2.1.3. Nuclear Weapon “Introduction” vs. “Transit”, p. 211.

⁵⁰³ 2.3.3.2. US Extended (Nuclear) Deterrence, p. 44.

⁵⁰⁴ 5.5.2. Prior Consultation, p. 132.

⁵⁰⁵ A.1.2.4. Northern Territories, p. 192.

⁵⁰⁶ B.2.1.3. Nuclear Weapon “Introduction” vs. “Transit”, p. 211.

⁵⁰⁷ B.2.1.3. Nuclear Weapon “Introduction” vs. “Transit”, p. 211.

⁵⁰⁸ B.2.1.3. Nuclear Weapon “Introduction” vs. “Transit”, p. 211.

⁵⁰⁹ C.1.1. Levels of Administration, p. 223.

⁵¹⁰ 2.3.3.1.3.2. Atomic Energy Basic Law, p. 43.

⁵¹¹ 2.3.3.1.3.3. Articles 1 and 2 of the NPT, p. 44.

⁵¹² 2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP), p. 13.

⁵¹³ i.Z.1. Article 2 – Basic Policy, p. 405.

2.3.3.1.3.3. Articles 1 and 2 of the NPT

Article 1 and 2 of the NPT⁵¹⁴ (to which Japan is a signatory) would appear to establish the first and second “Ns” as legally binding (at least without a withdrawal from the NPT).

2.3.3.1.4. Three Reductions

In 2014, then-Minister of Foreign Affairs KISHIDA proposed “three reductions” as goals for Japan’s policy towards nuclear disarmament. These include the reduction (globally) of:

- The number of nuclear weapons
- The role of nuclear weapons
- The incentive for possession of nuclear weapons¹⁰⁶

2.3.3.2. US Extended (Nuclear) Deterrence

The US’s Extended Nuclear Deterrence policy, as a component of the US’s broader Extended Deterrence policy (including conventional deterrence capabilities), guarantees that US nuclear weapons will be considered as retaliatory options to any Armed Attack⁵¹⁵ against Japan, in support of the MST’s Article V⁵¹⁶ commitments. Stated another way, Extended Deterrence is the US’s willingness to risk nuclear war for the defense of Japan by extending the US “nuclear umbrella” to Japan.

Since the beginning of the Cold War, the US has seen its bases in Japan as critical to maintaining regional security and pursuing the national interests of the Allies.

The Alliance consult on Extended Deterrence through a variety of venues that include:

- SCC⁵¹⁷
- EDD⁵¹⁸
- US Nuclear Posture Review (unofficial Japan-US consultation)

Historically, Japan’s ability and willingness to maintain its 3NP⁵¹⁹ has been contingent in large part on the US’s Extended Deterrence policy.⁵²⁰ Japan’s reliance on the protection offered by US nuclear weapons has presented a dilemma for Japan as an advocate for nuclear nonproliferation and disarmament, revealing paradoxical elements of Japan’s relationship to nuclear weapons.

In the 1970s, PM NAKASONE’s efforts to establish an “Autonomous Defense Posture” explored the Japanese defense capacity that would be necessary to replace Japan’s reliance on US extended nuclear deterrence guarantees. The study commissioned demonstrated that the required defense build-up of conventional Japanese forces would be so large as to be unrealistic and that development of Japanese nuclear capabilities would be neither economically nor politically palatable.¹⁰⁷ The result was a doubling-down on Japanese reliance on US nuclear defense guarantees. The rise of the PRC (and its nuclear capabilities) and Japanese economic slowdowns in the decades since NAKASONE’s search for an Autonomous Defense Posture have not likely altered the calculus that US defense guarantees, to include extended nuclear deterrence, are essential core elements of Japanese national security.

2.3.3.2.1. Extended Deterrence Dialogue (EDD)

Held regularly since the 2010 NPR. Led by Deputy Assistant Secretary⁵²¹ and DDG⁵²²-level.

⁵¹⁴ 2.3.7.3. Treaty on the Non-Proliferation of Nuclear Weapons (NPT), p. 48.

⁵¹⁵ 4.11. Definition of “Armed Attack”, p. 114.

⁵¹⁶ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

⁵¹⁷ 6.2.1.2. Security Consultative Committee (SCC) (“2+2”), p. 142.

⁵¹⁸ 6.4.6. Extended Deterrence Dialogue (EDD), p. 150.

⁵¹⁹ 2.3.3.1. Three Non-Nuclear Principles (3NP), p. 42.

⁵²⁰ 2.3.3.1. Three Non-Nuclear Principles (3NP), p. 42.

⁵²¹ C.1.2. Levels of Executive Leadership, p. 223.

⁵²² C.1.2. Levels of Executive Leadership, p. 223.

In 2011, an SCC⁵²³ Joint Statement⁵²⁴ agreed to “the establishment of a bilateral Extended Deterrence Dialogue on a regular basis as a consultative mechanism to determine the most effective ways to enhance regional stability, including those provided by nuclear capabilities in the near- and long-term.”¹⁰⁸

The EDD is a consultative framework for strengthening alliance deterrence activities and improving shared understanding of deterrence issues.

2.3.3.2.1.1. US Nuclear Posture Review (NPR)

The NPR provides the declaratory policy of the US’s nuclear strategy with the goal of assuring allies and deterring adversaries.

The US consults with Japan on the NPR with Japan providing inputs to the review process.

2.3.3.2.1.2. Treaty on the Prohibition of Nuclear Weapons (TPNW)

Developed in 2017, the TPNW was developed in part from the frustration of non-nuclear powers than the NPT bound non-nuclear weapon states from developing nuclear weapons while only requiring nuclear weapon states to *start negotiations* on disarmament. Advocates of the TPNW viewed this “Grand Bargain” of the NPT (allowing the development of nuclear power in exchange for non-proliferation) as merely solidifying the status quo between the “nuclear haves” and “nuclear have-nots.” The TPNW was supposed to establish stronger requirements to encourage not just non-proliferation but eventually prohibition of all nuclear weapons.

To this end, the TPNW establishes the legal obligation of treaty signatories to (among other things) never “use or threaten to use nuclear weapons or other nuclear explosive devices.”¹⁰⁹ Among other faults with the TPNW, many saw this as placing Japan in a position of potentially having to reject US Extended Nuclear Deterrence. As a result, Japan has rejected the TPNW.

2.3.3.2.2. Nuclear Sharing

Nuclear Sharing is a practice where one state’s nuclear weapons (e.g., the US) are permanently or semi-permanently stored/based in another state (e.g., participating NATO states) with agreed-upon terms, processes, or authorities for their use. Agreements for use vary and while NATO Nuclear Sharing (with US weapons stored in some other NATO member states’ territories) is often used as an example, the details and nature of each Nuclear Sharing agreement will be tailored for each bilateral relationship.

While nuclear sharing would violate the third principle in the 3NP policy, the idea has occasionally been explored within Japan’s policy circles. Most recently this was in the wake of Russia’s renewed invasion of Ukraine in 2022, with former PM ABE suggesting that GoJ should explore the concept of nuclear sharing with the US.

While some contend that any Nuclear Sharing would violate Articles I and II of the NPT⁵²⁵ (prohibiting any transfer of nuclear weapons between nuclear-weapon and non-nuclear weapon states), NATO Nuclear Sharing Agreements are considered compliant with the NPT because US nuclear weapons remain under the full custody and control of the US.

2.3.3.2.3. Conventional-Nuclear Integration

2.3.4. 2015 Guidelines for Japan-US Defense Cooperation

The 2015 “Defense Guidelines” are a bilateral US-Japan policy implementation (e.g., not legally-binding) of Japan’s 2015 Legislation for Peace and Security.⁵²⁶

The Defense Guidelines:

⁵²³ 6.2.1.2. Security Consultative Committee (SCC) (“2+2”), p. 142.

⁵²⁴ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

⁵²⁵ 2.3.7.3. Treaty on the Non-Proliferation of Nuclear Weapons (NPT), p. 48.

⁵²⁶ 2.1.6. 2015 Legislation for Peace and Security, p. 35.

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- Established military RMCs⁵²⁷ under the MST⁵²⁸
- Established the ACM⁵²⁹ to improve the Alliance’s ability to address situations that affect Japan’s peace and security or situations that may require an Alliance response
- Established the BPM⁵³⁰ to improve bilateral contingency planning
- Details broad concepts for bilateral action in Peacetime⁵³¹ and in response to Security Situations⁵³²

Because the 2015 Defense Guidelines do not obligate legislative, administrative, or budgetary actions by either nation, the Cabinet determined they were not subject to the Diet’s approval and did not submit the Defense Guidelines to the Diet, despite the objections of some in the Diet.

Thus, while the Defense Guidelines and the Legislation for Peace and Security are closely associated, there are important legal and constitutional distinctions between the two.

2.3.4.1. Roles/Missions/Capabilities (RMC)

The Defense Guidelines codify the RMCs of each Ally within the MST’s mutual defense obligations⁵³³ and US regional operations⁵³⁴

In the event of AAS,⁵³⁵ specifically, the Defense Guidelines provide broad guidance for each Ally’s priorities and responsibilities in defending Japan and responding to a regional contingency.

Japan: “Japan will maintain primary responsibility for defending the citizens and territory of Japan and will take actions immediately to repel an armed attack against Japan as expeditiously as possible. The Self-Defense Forces will have the primary responsibility to conduct defensive operations in Japan and its surrounding waters and airspace, as well as its air and maritime approaches.”¹¹⁰

US: “The United States will coordinate closely with Japan and provide appropriate support. The United States Armed Forces will support and supplement the Self-Defense Forces to defend Japan. The United States will take actions to shape the regional environment in a way that supports the defense of Japan and reestablishes peace and security. ... The United States will employ forward-deployed forces, including those stationed in Japan, and introduce reinforcements from elsewhere, as required. Japan will establish and maintain the basis required to facilitate these deployments.”¹¹¹

This reflects the “shield and spear” approach of the MST’s “Asymmetric Bargain”⁵³⁶ which respects the EDOP⁵³⁷ derived from the Japanese Constitution’s Article 9.⁵³⁸

2.3.5. Counterstrike

In May 2022, GoJ changed the term “enemy base attack capability” (敵基地攻撃能力) to “counterstrike capability” (反撃能力). The former term was seen by some as inadvertently implying a doctrine of pre-emption.

GoJ first established its interpretation of the legality of counterstrike in 1956, when then-PM Ichirō HATOYAMA said that striking enemy missile bases should be permissible within certain limits.⁵³⁹ Out of a lack of necessity (not legal prohibition), Japan opted not to acquire counterstrike capabilities.

⁵²⁷ 2.3.4.1. Roles/Missions/Capabilities (RMC), p. 46.

⁵²⁸ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

⁵²⁹ Chapter 6. Alliance Management and Coordination, p. 141.

⁵³⁰ 6.2.2. Bilateral Planning Mechanism (BPM), p. 145.

⁵³¹ 4.5. Peacetime Authorities, p. 97.

⁵³² Chapter 4. Japan’s Security Situations, p. 89.

⁵³³ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

⁵³⁴ 2.1.3.5. Article VI – Access, Basing, and Overflight (ABO) (the “Far East Clause” or “MOFA Clause”), p. 28.

⁵³⁵ 4.10. Armed Attack Situation (AAS), p. 110. § IV. C.2.a. uses the terminology when/if “an armed attack against Japan occurs.” It is unclear if the Defense Guidelines intend to make any distinction between AAS (Imminent) (§ 4.10.1.1, p. 111) and AAS (Occurrence) (§ 4.10.1.2, p. 111). Such a

distinction does not obviously change the spirit or text of the Defense Guidelines

⁵³⁶ 2.1.3.1. An “Asymmetric Bargain”, p. 24.

⁵³⁷ 2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP), p. 13.

⁵³⁸ 2.1.2.1. Article 9 (War Renunciation), p. 13; i.B.2. Article 9 – Renunciation of War, p. 300.

⁵³⁹ This statement was provided by then-Defense Agency Director General Naka FUNADA on behalf of PM HATOYAMA. (Minister of Defense, 2023a, p. 234)

In 2022, Japan decided to acquire counterstrike capabilities based on the following rationale:

- Intercept capabilities are being outstripped by the capabilities and magazine depth of potential adversaries' long-range missiles, making interception of incoming missiles ("shoot the arrow") increasingly infeasible
- Acquiring the capability to counterstrike (e.g., "shoot the archer") poses the only credible deterrent to long-range attack on Japan and therefore the only (and minimum necessary⁵⁴⁰) way for the JSDF to protect Japan and its people from such attacks

Japanese planners sometimes remind US planners that this changes the "shield and spear" approach of the MST's "Asymmetric Bargain,"⁵⁴¹ stating that "we will have a spear now, too."

"Counterstrike" as a concept and in reference to specific counterstrike-capable weapon systems have previously been referred to under the term "enemy base strike capabilities."

2.3.5.1. Timelines for Deployment

In Fall of 2023, GoJ announced an acceleration of its TLAM purchase with delivery of the first missiles in JFY25⁵⁴² and operational capability established by the end of JFY25.

200 Block IV and 200 Block V TLAMs are projected to be deployed by the end of JFY27 with plans for installation aboard 8 DDGs. JMSDF⁵⁴³ is expected to demonstrate the first TLAM launch capability by March 2026.

Japan also plans to develop a HVGP with the intent of deploying it in JFY26.

2.3.6. (Defunct) 1% Defense Spending Cap

In 1976, by Cabinet Decision,⁵⁴⁴ GoJ established an annual defense spending cap of 1% of GNP (sometimes reported as 1% of GDP⁵⁴⁵).

In 1987, the 1% cap was formally rescinded, although GoJ would continue to adhere to this precedent and observe this informal limit until 2023.

Alongside the release of the 2022 National Security Strategy, GoJ announced its intent to double defense spending to 2% of GDP over five years (from JFY23-27). Critics of this policy highlight that the actual budget requested in the 2022 DBP fails to amount to a full doubling (from 1-2%) and that assumptions about inflation, the strength of the Yen, and other economic factors mean the realized defense budget increases, which a measurable departure from the 1% cap, will fall meaningfully short of the purported "2%" policy.¹¹²

2.3.7. Munition Limitations

Japan is a signatory to the Oslo⁵⁴⁶ and Ottawa⁵⁴⁷ Treaties, limiting its ability to use proscribed munitions (cluster munitions and anti-personnel mines).

Japan's acceptance of the US's "Nuclear Umbrella"⁵⁴⁸ despite its 3NP⁵⁴⁹ suggests that GoJ would not necessarily prohibit the US from employing munitions banned by the Treaties, but any US intent to use such munitions would likely be a consideration in any Prior Consultations.⁵⁵⁰

2.3.7.1. Oslo Treaty

The "Convention on Cluster Munitions," sometimes referred to as the Oslo Treaty, obligates signatories to:

- Never use cluster munitions

⁵⁴⁰ 2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP), p. 13.

⁵⁴¹ 2.1.3.1. An "Asymmetric Bargain", p. 24.

⁵⁴² K.1. Japan Fiscal Year, p. 278/

⁵⁴³ 7.5.4.1.3. Maritime Self-Defense Force (JMSDF), p. 161.

⁵⁴⁴ C.2.1.4.1. Cabinet Decision, p. 226.

⁵⁴⁵ GDP replaced GNP as the conventional measure of a State's total market size in the early 1990s. Thus, figures stated in GNP prior to about 1991 are typically stated in GDP afterwards.

⁵⁴⁶ 2.3.7.1. Oslo Treaty, p. 47.

⁵⁴⁷ 2.3.7.2. Ottawa Treaty, p. 48.

⁵⁴⁸ 2.3.3.2.1. Extended Deterrence Dialogue (EDD), p. 44.

⁵⁴⁹ 2.3.3.1. Three Non-Nuclear Principles (3NP), p. 42.

⁵⁵⁰ 5.5.2. Prior Consultation, p. 132.

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- Never develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions
- Never assist, encourage or induce anyone to engage in any activity prohibited by the convention

The Oslo Treaty permits limited types of weapons with submunitions that do not share the indiscriminate effects or unexploded ordnance risk of traditional cluster munitions.

The US is not a signatory of the Oslo Treaty.

2.3.7.2. Ottawa Treaty

The “Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction,” commonly known as the Ottawa Treaty, obligates signatories to:

- Cease all production and development of anti-personnel mines
- Destroy any stockpiles of anti-personnel mines (with limited exceptions for those retained for training purposes like mine-clearing and mine detection)
- Clear all areas currently mined with anti-personnel mines

The US is not a signatory of the Ottawa Treaty.

2.3.7.3. Treaty on the Non-Proliferation of Nuclear Weapons (NPT)

The NPT establishes obligations on non-proliferation and disarmament of nuclear weapons as well as the peaceful use of nuclear technology. Japan joined the NPT as a signatory on 3 February 1970.

Article 1

Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

Article 2

Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.¹¹³

2.3.8. UN SOFA**2.3.9. Domestic Arms Production (Kokusanka)**

Japan has historically employed a policy of *kokusanka* or the domestic production of arms-related technologies over their import. This has been a core element of Japan’s defense industrial policy, attempting to develop the autonomous capability to produce what Japan requires for its own defense. Critics have claimed this has put Japan generations behind in certain equipment, limiting its ability to procure the best defense alternatives the market offers. Supporters have highlighted its ability to bring production techniques for some of the most sophisticated weapon systems into Japan while also alleviating the US’s defense industrial base production requirements.¹¹⁴

2.3.10. Critical Infrastructure

Japan identifies 15⁵⁵¹ critical infrastructure sectors:¹¹⁵

- Information and communication services
- Financial services
- Aviation services
- Airports
- Railway services
- Electric power supply services
- Gas supply services
- Government and administrative services
- Medical services
- Water services
- Logistics services
- Chemical industries
- Credit card services
- Petroleum industries
- Ports and harbors

2.4. DEFENSE STRATEGIC DOCUMENTS

2.4.1. National Security Strategy (NSS)

GoJ's hierarchy of defense strategy begins with the NSS,⁵⁵² which provides the basic policy on national security, including national security objectives, focusing on diplomatic and defense strategies.

2.4.2. National Defense Strategy (NDS)

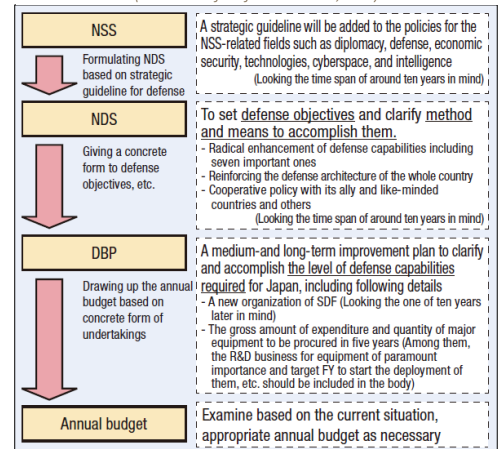
The NDS⁵⁵³ sets defense objectives in support of the NSS with the ways and means necessary to achieve the ends (objectives).

2.4.3. Defense Build-Up Plan (DBP)

The DBP⁵⁵⁴ is a force development document that provides a medium-to-long-term plan to establish Japan's defense capabilities, including a 10-year outlook on the necessary supporting JSDF structure and a 5-year outlook on major equipment and weapons capabilities and expenditures. The DBP consolidates the National Defense Program Guidelines (NDPG) and Medium-Term Defense Program (MTDP) which were a pair of complimentary documents that served a similar purpose to the consolidated DBP.

Annual defense budget requests are based on the DBP.

Figure 1. Relationship among NSS, NDS, DBP, and Budget
(Minister of Defense 2023a, 216)



2.5. SECURITY SITUATIONS

The JSDF's crisis and contingency authorities and actions are legislatively defined in the Securities Situations⁵⁵⁵ framework. Security Situation Stipulations⁵⁵⁶ (sometimes referred to as "declarations") are context dependent with similar scenarios leading to different Stipulations in slightly different contexts.

⁵⁵¹ Ports and harbors were added on 8 March 2024 as a 15th sector. Legacy documents may only refer to 14 sectors.

⁵⁵² 2.4.1. National Security Strategy (NSS), p. 49.

⁵⁵³ 2.4.2. National Defense Strategy (NDS), p. 49.

⁵⁵⁴ 2.4.3. Defense Build-Up Plan (DBP), p. 49.

⁵⁵⁵ Chapter 4. Japan's Security Situations Framework, p. 89.

⁵⁵⁶ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

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Planners should expect Japan and the US to be out of sync in authorities phasing until AAS.⁵⁵⁷

There are four Security Situations (replace with summary table)

- Important Influence Situation (IIS⁵⁵⁸): Situations that will have an important influence on Japan's peace and security, including situations that, if left unattended, could result in a direct Armed Attack⁵⁵⁹ on Japan.
 - IIS is not geographically-bound
 - *Ex post*⁵⁶⁰ Approval⁵⁶¹ permitted in an emergency
- Anticipated Armed Attack Situation (AAAS⁵⁶²): A situation where an Armed Attack has yet to occur, but circumstances are growing increasingly strained and an armed attack is anticipated.
 - The aggressor has not taken any tangible steps towards an attack
 - A NEO out of fear of an attack may be a condition for AAAS
 - *Ex post* Approval permitted in an emergency
- Survival-Threatening Situation (STS⁵⁶³): A situation where an Armed Attack against a foreign country that is in a close relationship with Japan occurs, which in turn poses a clear risk of threatening Japan's survival and of overturning people's rights to life, liberty and pursuit of happiness fundamentally.
 - STS is not geographically-bound
 - *Ex ante*⁵⁶⁴ Approval permitted in an emergency
- Armed Attack Situation (AAS): A situation where an Armed Attack against Japan from outside has occurred (AAS [Occurrence] or an imminent and clear danger of an Armed Attack against Japan is Recognized⁵⁶⁵ (AAS [Imminent])).
 - AAS (Imminent):⁵⁶⁶ A situation where an imminent and clear danger of an Armed Attack against Japan is Recognized.
 - *Ex post* Approval permitted in an emergency
 - AAS (Occurrence):⁵⁶⁷ A situation where an Armed Attack against Japan from outside has occurred.
 - *Ex post* Approval permitted in an emergency

Security Situations are discussed in detail in Chapter 4 Japan's Security Situations Framework (p. 89).

2.5.1. Three Security Situations? Or Four?

Various sources may refer only to three Security Situations (AAAS,⁵⁶⁸ STS,⁵⁶⁹ and AAS⁵⁷⁰). These three situations and the related authorities and conditions are defined by The Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended).⁵⁷¹

IIS⁵⁷² and its related authorities and conditions are defined by a separate law, The IIS Act (Act No. 60 of 1999, as amended).⁵⁷³

Because IIS is governed by a separate law it does not permit Defense Operations, etc.,⁵⁷⁴ the issuance of a DO⁵⁷⁵ or the Use of Force,⁵⁷⁶ some sources may not include IIS in their categories of Security Situations or address IIS in discussions related to Security Situations.

⁵⁵⁷ 4.10. Armed Attack Situation (AAS), p. 110.

⁵⁵⁸ 4.6. Important Influence Situation (IIS), p. 98.

⁵⁵⁹ 4.11. Definition of "Armed Attack", p. 114.

⁵⁶⁰ 4.2.1.2. Ex Post ("From After") Approval, p. 94.

⁵⁶¹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁵⁶² 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

⁵⁶³ 4.9. Survival-Threatening Situation (STS), p. 104.

⁵⁶⁴ 4.2.1.1. Ex Ante ("Before the Event") Approval, p. 94.

⁵⁶⁵ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁵⁶⁶ 4.10.1.1. AAS (Imminent), p. 111.

⁵⁶⁷ 4.10.1.2. AAS (Occurrence), p. 111.

⁵⁶⁸ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

⁵⁶⁹ 4.9. Survival-Threatening Situation (STS), p. 104.

⁵⁷⁰ 4.10. Armed Attack Situation (AAS), p. 110.

⁵⁷¹ i.D. Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended), p. 337.

⁵⁷² 4.6. Important Influence Situation (IIS), p. 98.

⁵⁷³ i.E. IIS Act (Act No. 60 of 1999, as amended), p. 344.

⁵⁷⁴ 3.2.2. Defense Operations, etc., p. 55.

⁵⁷⁵ 3.2.2.1. Defense Operation (DO), p. 55.

⁵⁷⁶ 3.3.3. Use of Force, p. 79.

2.6. SECURITY FORUMS AND REGIONAL PARTNERSHIPS

2.6.1. Bilateral Japan-US Forums

See Chapter 6. Alliance Management and Coordination (p. 141), especially including § 6.4. Other Consultation and Coordination Venues (p. 149).

2.6.2. Quadrilateral Security Dialogue (QUAD)

The QUAD (also “QLD”) is a strategic security dialogue, initiated in 2007 by then-PM ABE and then revived in 2017, between Australia, India, Japan, and the US. The QUAD seeks to maintain a rules-based maritime order in the East and South China seas. The QUAD is often characterized as a bloc to counter PRC maritime claims.

2.6.3. Australia-United Kingdom-United States Partnership (AUKUS)

AUKUS is a trilateral security partnership focused on the Indo-Pacific between Australia, the UK, and the US.

AUKUS includes two “tiers” or “pillars.”

Pillar I covers US and UK sharing of nuclear propulsion technology for submarines with Australia.

Pillar II covers the sharing of advanced technology related to:

- Undersea capabilities
- Quantum technology
- Artificial intelligence and autonomy
- Advanced cyber technologies
- Hypersonic and counter-hypersonic technology
- Electronic warfare
- Defense innovation
- Information sharing
- Advanced radar technologies

There is interest about expanding AUKUS to include Japan in “Pillar II.”

2.6.4. Other Bilateral 2+2 Ministerial Meetings

SDD Seoul Defense Dialogue?

In addition to “2+2” dialogues with the US,⁵⁷⁷ Japan holds or has held 2+2 meetings with:

- Australia
- Russia
- France
- UK
- Indonesia
- India
- Others?

⁵⁷⁷ 6.2.1.1.2. Security Consultative Committee (SCC) (“2+2”), p. 142.

2.6.5. Other Multilateral Forums

2.6.5.1. Chiefs of Defense (CHODs) Conference

Hosted in a rotational manner, the CHODs Conference is an annual event that seeks to strengthen multilateral military cooperation.

2.6.5.2. Japan-US-Australia Trilateral Forums

2.6.5.2.1. Security and Defense Cooperation Forum (SDCF)

2.6.5.2.2. Trilateral Defense Minister's Meeting (TDMM)

2.6.5.2.3. Trilateral Defense Officials Meeting (TDOM)

2.6.5.3. Japan-US-ROK Trilateral Forums

The TMM,⁵⁷⁸ DTT,⁵⁷⁹ and Tri-CHOD⁵⁸⁰ are a series of Japan-US-ROK trilateral meetings at the Ministerial (TMM), Vice-Ministerial (DTT), and CHOD (Tri-CHOD) levels.

2.6.5.3.1. Trilateral Ministerial Meeting (TMM)

The TMM may refer to the Trilateral Defense Ministers' Meeting, held between the Japanese MinDef, US SecDef, and RoK Minister of National Defense, or TMM may refer to the Trilateral Foreign Ministers' Meeting, held between the Japanese Foreign Minister, US Secretary of State, and RoK Foreign Minister.

2.6.5.3.2. Defense Trilateral Talks (DTT)

The DTT is held between the MOD's DG for Defense Policy, the US ASD for Indo-Pacific Affairs, and the ROK Deputy Minister for National Defense Policy.

2.6.5.3.1. Tri-Chief of Defense (Tri-CHOD)

The Tri-CHOD is held between the CSJS, CJCS, and Chairman of the ROK JCS. It is a semi-annual meeting that seeks to strengthen military cooperation against the North Korean threat. By invitation, USINDOPACOM, USFK, and USFJ commanders participate.

2.6.5.4. Trilateral Joint Staff Talks (TJST)

TJST is a USINDOPACOM J-5 FO/GO-level engagement that seeks to strengthen military cooperation among the participating nations against common threats. There is a US-Australia-Japan TJST and a US-Japan-Philippines TJST.

2.6.5.5. Multi-National Working Group (MNWG)

Membership of the MWG includes FVEY nations (US, Canada, Great Britain, Australia, and New Zealand), France, and Japan. This forum, coordinated through the USINDOPACOM J-5, aims to voluntarily harmonize the capacity-building efforts of the MWG member nations through a process of regular collaboration, leading to prioritized and synchronized regional activities that support the fair sharing of responsibilities of a FOIP.

⁵⁷⁸ 2.6.5.3.1. Trilateral Ministerial Meeting (TMM), p. 52.

⁵⁷⁹ 2.6.5.3.2. Defense Trilateral Talks (DTT), p. 52.

⁵⁸⁰ 2.6.5.3.1. Tri-Chief of Defense (Tri-CHOD), p. 52.

Chapter 3. JSDF OPERATIONS AND AUTHORITIES

3.1. OVERVIEW

JSDF authorities generally fall into those supporting one of the following operations:⁵⁸¹

- Defense Operations, etc.⁵⁸²
- Security Operations⁵⁸³
- Disaster Relief, etc.⁵⁸⁴
- Civil Protection, etc.⁵⁸⁵
- Peacekeeping Operations (PKO)⁵⁸⁶

References to and translations of these operations and associated orders and activities may use the term “mobilization” or “dispatch” where US planners might normally use the terms “deployment” or “operation.”

Within these categories of operations, the JSDF may be granted one or both authorities for the Employment of Arms:⁵⁸⁷

- Use of Weapons⁵⁸⁸
- Use of Force⁵⁸⁹

Finally, Japan recognizes two forms of Self-Defense:⁵⁹⁰

- Individual and National Self-Defense⁵⁹¹
- Collective Self-Defense⁵⁹²

The dominant characteristics of Japanese defense law⁵⁹³ make the employment of the JSDF a highly legalistic and often rigidly-constrained prospect.

3.1.1. Distinction Between “Security Situations” and Operations

The Security Situations⁵⁹⁴ are political declarations and positions of policy whereas the specific operations addressed in this chapter are legal mechanisms to authorize specific JSDF action under authorizing laws.

3.1.2. Reliance on Non-SDF Laws for Authorizing Statutory Processes

On its face, the SDF Act (Law No. 165 of 1954, as amended) authorizes the JSDF to conduct operational actions. However, each provision for such activity within the SDF Act merely creates the legal category of such an action and does not provide for the processes or authorities to initiate or authorize the action. The actual authorities to create the conditions which, in turn, allow the JSDF to take action under a provision of the SDF Act are normally provided for separate laws.¹¹⁶

As a result, in many ways the SDF Act itself does not permit the JSDF to conduct operations but merely permits the JSDF to conduct operations when conditions or approvals are granted under the provision of other laws.

⁵⁸¹ 3.2. JSDF Operations, p. 55.

⁵⁸² 3.2.2. Defense Operations, etc., p. 55.

⁵⁸³ 3.2.3. Security Operations, p. 62.

⁵⁸⁴ 3.2.4. Disaster Relief, etc., p. 70.

MSO

⁵⁸⁵ 3.2.5. Civil Protection, etc., p. 70.

⁵⁸⁶ 3.2.6. Peacekeeping Operations (PKO), p. 73.

⁵⁸⁷ 3.3. Employment of Arms, p. 73.

⁵⁸⁸ 3.3.1. Use of Weapons, p. 74.

⁵⁸⁹ 3.3.3. Use of Force, p. 79.

⁵⁹⁰ 3.4. Japan’s Rights to Self-Defense, p. 83.

⁵⁹¹ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

⁵⁹² 3.4.2. Collective Self-Defense (CSD), p. 84.

⁵⁹³ 3.1.4. Characteristics of Japanese Defense Law, p. 54.

⁵⁹⁴ Chapter 4. Japan’s Security Situations Framework, p. 89.

Chapter 3. JSDF Operations and Authorities

For example, despite the Defense Operations⁵⁹⁵ provisions (i.e., Article 76⁵⁹⁶) of the SDF Act (Law No. 165 of 1954, as amended) existing since the law's creation, it took half a century for another law to create the statutory process that allowed for a DO to be authorized (first through Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended).¹¹⁷

3.1.3. Summary Table

Orders table

Authority table (2x separate)

Format/contents:

- Operation Description
 - Authorizing Laws
 - Related Operations
- Conditions (to qualify)
- Requirements (to implement)
 - Approval
 - Authority
 - Notification
 - Procedure
 - Geographic Boundaries
- Authorities
 - UoF/UoW
 - Limitations/caveats
- Alternative Translations/Renderings/Abbreviations

3.1.4. Characteristics of Japanese Defense Law

Japanese defense law has six major characteristics that are interrelated but distinct in nuanced ways:

- Article 9⁵⁹⁷ of the Japanese Constitution renounces aggressive war (offensive and defensive) but not self-defense
- The Japanese Constitution provides no provision for defense; defense and security are governed in laws that stipulate purposes, duties, organizations, conduct, personnel, service, penalties, etc.⁵⁹⁸
- Actions (both traditional defense and police-like functions such as PSO⁵⁹⁹/MSO⁶⁰⁰) by the JSDF must be grounded in law (i.e., must derive from Japanese constitutional and legal principles)
- Authorized actions by the JSDF must be positively enumerated⁶⁰¹ in law
- New situations not addressed by existing law must be resolved with new legislation⁶⁰²
- JSDF is required to comply with International Law⁶⁰³

3.1.4.1. Restrictions on Activities of the JSDF

These characteristics combine to create Positive List⁶⁰⁴ restrictions on the JSDF, requiring GoJ⁶⁰⁴ to consider the overlapping and occasionally conflicting principles of all of the following laws, policies, and principles:

- The EDOP⁶⁰⁵ derived from the Japanese Constitution⁶⁰⁶
- The minimum necessary level of self-defense capability (force structure)

⁵⁹⁵ 3.2.2. Defense Operations, etc., p. 55.⁵⁹⁶ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.⁵⁹⁷ 2.1.2.1. Article 9 (War Renunciation), p. 13; i.B.2. Article 9 – Renunciation of War, p. 300.⁵⁹⁸ 2.1.1. Introduction, p. 12.⁵⁹⁹ 3.2.3.1. Public Security Operation (PSO), p. 62.⁶⁰⁰ 3.2.3.2. Maritime Security Operation (MSO), p. 63.⁶⁰¹ 2.1.1.1.1. Japanese “Positive List” Approach, p. 12.⁶⁰² 2.1.1.1.3. Inherent Limitations of a Positive List Approach, p. 13.⁶⁰³ 2.1.2.4.1. International Law, p. 23.⁶⁰⁴ 2.1.1.1.1. Japanese “Positive List” Approach, p. 12.⁶⁰⁵ 2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP), p. 13.⁶⁰⁶ 2.1.2. Japanese Constitution (Kenpō), p. 13.

Chapter 3. JSDF Operations and Authorities

- The Three New Conditions⁶⁰⁷ for the Use of Force⁶⁰⁸
- The prohibition of the exercise of Rights of Belligerency⁶⁰⁹
- The prohibition of the right to CSD⁶¹⁰ except as permitted by 2015 Legislation for Peace and Security⁶¹¹
- The prohibition of the Use of Force abroad
- The prohibition of armaments deemed to be offensive weapons⁶¹²
- The unconstitutionality of conscription
- The prohibition of establishing a court-martial⁶¹³
- The peaceful use of the space domain
- The 3NP⁶¹⁴
- The 3P⁶¹⁵

Additionally, JSDF personnel, while considered outside Japan as military personnel, have the status of civil servant within Japan, subjecting them to “the same legal restrictions as police officers and JCG inspectors”¹¹⁸ unless mobilized for Defense Operations, etc.⁶¹⁶

3.2. JSDF OPERATIONS

3.2.1. Modes of Deployment

As a general rule, the JSDF may be mobilized for various operations either based on requests from the local government or unilaterally at the direction of the GoJ.

3.2.1.1. Unilateral Deployment Requirements

When deployed unilaterally, the following three requirements must generally be met to justify unilateral GoJ deployment are:

- The need is urgent
- A lack of available or appropriate alternatives
- Necessity to maintain public order

3.2.2. Defense Operations, etc.

Defense Operations, etc. are JSDF operations conducted for the defense of Japan, including DO⁶¹⁷ and associated preparatory actions and operations.

3.2.2.1. Defense Operation (DO)

DOs are JSDF operations conducted under Article 76⁶¹⁸ of SDF Act (Law No. 165 of 1954, as amended) for defense of Japan.

3.2.2.1.1. Defense Operation Order (DOO)

A DOO authorizes the Use of Force⁶¹⁹ when the “Three New Conditions”⁶²⁰ are met (i.e., under AAS⁶²¹ or STS⁶²²).

A DOO can grant JSDF specific expanded authorities such as:

- The requisition of hospitals, vehicle maintenance facilities, shipyards, or port facilities
- Seizure of private property and homes

⁶⁰⁷ 2.3.1. “Three New Conditions” for the Use of Force, p. 41.

⁶⁰⁸ 3.3.3. Use of Force, p. 79.

⁶⁰⁹ 2.1.2.1.3. Belligerent Rights, p. 16.

⁶¹⁰ 3.4.2. Collective Self-Defense (CSD), p. 84.

⁶¹¹ 2.1.6. 2015 Legislation for Peace and Security, p. 35.

⁶¹² 2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP), p. 13.

⁶¹³ 7.1.1. Lack of a Military Justice System, p. 153.

⁶¹⁴ 2.3.3.1. Three Non-Nuclear Principles (3NP), p. 42.

⁶¹⁵ 2.3.2. Three Principles on Arms Exports (3P), p. 41.

⁶¹⁶ 3.2.2. Defense Operations, etc., p. 55.

⁶¹⁷ 3.2.2.1. Defense Operation (DO), p. 55.

⁶¹⁸ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

⁶¹⁹ 3.3.3. Use of Force, p. 79.

⁶²⁰ 2.3.1. “Three New Conditions” for the Use of Force, p. 41

⁶²¹ 4.10. Armed Attack Situation (AAS), p. 110.

⁶²² 4.9. Survival-Threatening Situation (STS), p. 104.

Chapter 3. JSDF Operations and Authorities

- Exception to Class V storage requirements.⁶²³

The DOO will designate an authorized AO for JSDF operations. Military operations beyond the designated AO will require additional approvals.

3.2.2.1.1.1. Class V Storage Exceptions

Under routine conditions, the JSDF must store Class V (munitions) in approved storage areas (e.g., ASPs). Because of the island geography of Japan, especially in the SWI, this practically prevents the pre-positioning of Class V except for training (at locations with approved live-fire ranges, which are limited) and when exceptions are authorized under a DOO or other authorizing order (e.g., BM Destruction⁶²⁴). Also authorizable under DOAO⁶²⁵?

3.2.2.1.1.2. BMD under DO

Peacetime BMD operations⁶²⁶ are carried out under Security Operations⁶²⁷ authorities. BMD operations for the defense of Japan under a DO are conducted pursuant to the authorizing DO.

See § 3.2.3.6. Ballistic Missile Defense (BMD) Operations (p. 67) and Figure 2. Processes for Response to Ballistic Missiles, etc. (p. 68).

3.2.2.1.2. Defense Operation Alert Order (DOAO)

When a DO⁶²⁸ is anticipated, a DOAO can be issued as an alert or warning order and may include the following actions:

- Deploy forces
- Recall reserve personnel⁶²⁹
- Serve as an alert or warning order to JSDF
- Implement enhanced Guarding Operations⁶³⁰ actions at US and JSDF facilities

Construction of defense facilities in likely deployment areas permitting

JSDF may deploy to privately-owned land with approval (general location and purpose must be publicized)

MoD may direct establishment of JTFs and/or contingency COMREL

DOAO may also be rendered as:

- Defense Operation Warning Order
- Defense Operation Standby Order
- Defense Operation Preparation Order

3.2.2.2. Operational Preparation Order

An Operational Preparation Order directs JSDF units to prepare for establishment of contingency COMREL and unit deployment. Operational Preparation Orders may be issued in 'peacetime' without Stipulating⁶³¹ a Security Situation.⁶³² Operational Preparation Orders are considered more narrow in scope and lower in profile than a DOAO.⁶³³

Can be issued in peacetime.

Operational Preparation Order may appear as:

⁶²³ 3.2.2.1.1.1. Class V Storage Exceptions, p. 56.

⁶²⁴ 3.2.3.6. Ballistic Missile Defense (BMD) Operations, p. 67.

⁶²⁵ 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

⁶²⁶ 3.2.3.6. Ballistic Missile Defense (BMD) Operations, p. 67.

⁶²⁷ 3.2.3. Security Operations, p. 62.

⁶²⁸ 3.2.2.1. Defense Operation (DO), p. 55.

⁶²⁹ 3.2.2.3. Defense Mobilization, p. 57.

⁶³⁰ 3.2.3.4. Guard & Protect Operations at SDF and US Facilities and Areas, p. 65.

⁶³¹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁶³² Chapter 4. Japan's Security Situations Framework, p. 89.

⁶³³ 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

Chapter 3. JSDF Operations and Authorities

- Defense Operation Preparation Order
- Order for Defense Preparation

3.2.2.3. Defense Mobilization

Defense Mobilization for a DO,⁶³⁴ DOAO,⁶³⁵ CPO,⁶³⁶ PSO,⁶³⁷ or Disaster Mobilization.⁶³⁸

3.2.2.3.1. Defense Mobilization Directive (DMD)**3.2.2.3.1.1. Defense Mobilization Order (DMO)**

- Extend terms of service for JSDF Reserve personnel (Article 68⁶³⁹)
- Mobilize JSDF Reserve personnel (Article 70⁶⁴⁰)
- Mobilize JSDF Ready Reserve personnel (Article 75-4⁶⁴¹)

When a DOO⁶⁴² (i.e., under STS,⁶⁴³ AAS (Imminent),⁶⁴⁴ or AAS (Occurrence)⁶⁴⁵) or DOAO⁶⁴⁶ has been issued, the MinDef may issue a DMO to call-up JSDF Reserve personnel.

Under a DMO, SDF Act (Law No. 165 of 1954, as amended) provides the MinDef the authority to:

Available at AAAS.⁶⁴⁷

For JCG-related authorities, see § i.C.22 Article 80 – Control of the Japan Coast Guard (JCG (p. 313)).

3.2.2.4. Establishment of Defense Facilities

When a DO⁶⁴⁸ is anticipated (e.g., with the issuance of a DOAO⁶⁴⁹ during AAAS,⁶⁵⁰ but not STS⁶⁵¹), JSDF may conduct the establishment, modification, or reinforcement of defense facilities expected to be required in the case of a DOO.

SDF Law Article 77-2⁶⁵² provides legal authority for the Establishment of Defense Facilities.

SDF Law Article 92-4⁶⁵³ provides legal authority for Use of Weapons in probable areas of deployment, when establishing defense facilities.

SDF Law Article 103-2⁶⁵⁴ provides legal authority for the expropriation of property and land in planned areas of deployment.

3.2.2.5. Mining

GoJ considers minelaying a Use of Force⁶⁵⁵ activity.

International Law⁶⁵⁶ requires that “notifications of minefields must be made to avoid harm to innocent shipping.”¹¹⁹

3.2.2.5.1. Offensive Mining

⁶³⁴ 3.2.2.1. Defense Operation (DO), p. 55.

⁶³⁵ 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

⁶³⁶ 3.2.5.1. Civil Protection Operations (CPO), p. 70.

⁶³⁷ 3.2.3.1. Public Security Operation (PSO), p. 62.

⁶³⁸ 3.2.4.4. Disaster Mobilization Directive, p. 70.

⁶³⁹ i.C.11. Article 68 – Terms of Appointment and Extension, p. 308.

⁶⁴⁰ i.C.12. Article 70 – Defense Mobilization, Civil Protection Mobilization, etc., and Disaster Mobilization for Reserve Personnel, p. 308.

⁶⁴¹ i.C.13. Article 75-4 – Defense Mobilization, Civil Protection Mobilization, etc., and

Disaster Mobilization for Ready Reserve Personnel

, p. 309.

⁶⁴² 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

⁶⁴³ 4.9. Survival-Threatening Situation (STS), p. 104.

⁶⁴⁴ 4.10.1.1. AAS (Imminent), p. 111.

⁶⁴⁵ 4.10.1.2. AAS (Occurrence), p. 111.

⁶⁴⁶ 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

⁶⁴⁷ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

⁶⁴⁸ 3.2.2.1. Defense Operation (DO), p. 55.

⁶⁴⁹ 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

⁶⁵⁰ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

⁶⁵¹ 4.9. Survival-Threatening Situation (STS), p. 104.

⁶⁵² i.C.16. Article 77-2 – Measures to Establish Defense Facilities, p. 311.

⁶⁵³ i.C.45. Article 92-4 – Use of Weapons in a Planned Area of Deployment, p. 324.

⁶⁵⁴ i.C.63. Article 103-2 – Use of Land in Planned Area of Development, p. 335.

⁶⁵⁵ 3.3.3. Use of Force, p. 79.

⁶⁵⁶ 2.1.2.4.1. International Law, p. 23.

3.2.2.5.2. Defensive Mining

3.2.2.6. Search and Rescue (SAR)

GoJ effectively bifurcates SAR into RSAR⁶⁵⁷ and CSAR⁶⁵⁸ based on whether it is permitted at the Scene of Combat.⁶⁵⁹

3.2.2.6.1. "Rear-Area" Search and Rescue (RSAR)

In peacetime, RSAR is conducted under routine authorities and agreements. See § 3.2.2.6.3. Search and Rescue Responsibilities (p. 58).

During crisis, RSAR conducted under Articles 2⁶⁶⁰ and 7⁶⁶¹ of the IIS Act (Act No. 60 of 1999, as amended) is limited to a designated Implementation Area.⁶⁶²

If combat activities begin taking place or appear imminent in the RSAR Implementation Area, RSAR activities must be suspended (unless the rescue of a distressed person is already underway, in which case the rescue may be completed if the rescuing JSDF unit's safety can be ensured).

3.2.2.6.2. Combat Search and Rescue (CSAR)

3.2.2.6.3. Search and Rescue Responsibilities

3.2.2.6.3.1. US-Japan SAR Agreement (1986, amended 1998)

In December 1986, the US and Japan concluded the Agreement between the Government of the United States of America and the Government of Japan on Maritime Search and Rescue (U.S.-Japan SAR Agreement). The agreement was updated by Exchange of Notes⁶⁶³ in 1998.

The (amended) agreement⁶⁶⁴ establishes Japan's responsibility for coordinating SAR (Japan's SRR) north from 17° North and west from 165° East (see § A.1. Japan [p. 189] for map this region connects the following three points: 52° 30'N, 165°E; 17°N, 165°E; and 17°N, 130°E).

This agreement is generally reflected in the US-delimited SRR regions in the US National SAR Supplement (Version 2.0) to the IAMSAR Manual⁶⁶⁵ with overlap in SRRs created by the Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic (2011).⁶⁶⁶

3.2.2.6.3.2. 2015 Defense Guidelines CSAR RMCs

The 2015 Defense Guidelines⁶⁶⁷ build upon the US-Japan SAR Agreement (1986, amended 1998)⁶⁶⁸ responsibilities to specify RMCs⁶⁶⁹ under IIS,⁶⁷⁰ AAAS,⁶⁷¹ or AAS⁶⁷².

§ IV.B.4. of the 2015 Defense Guidelines states that in IIS, Japan will support US CSAR operations:

The two governments will cooperate and provide mutual support, as appropriate, in search and rescue operations. The Self-Defense Forces, in cooperation with relevant agencies, will provide support to combat search and rescue operations by the United States, where appropriate, subject to Japanese laws and regulations.¹²⁰

⁶⁵⁷ 3.2.2.6.1. "Rear-Area" Search and Rescue (RSAR), p. 58.

⁶⁵⁸ 3.2.2.6.2. Combat Search and Rescue (CSAR), p. 58.

⁶⁵⁹ 2.1.2.2.1. Scene of Combat, p. 21.

⁶⁶⁰ i.E.2. Article 2 - Basic Principles, p. 345.

⁶⁶¹ i.E.7. Article 7 - Implementation of SAR Operations, etc., p. 349.

⁶⁶² 4.4.1. Implementation Area, p. 97.

⁶⁶³ 1.6.2.1. Exchange of (Diplomatic) Notes (Legal Status), p. 10.

⁶⁶⁴ Annex iv. US-Japan SAR Agreement (as Amended), p. 435.

⁶⁶⁵ 3.2.2.6.3.4. US National SAR Supplement (Version 2.0) to the IAMSAR Manual, p. 59.

⁶⁶⁶ 3.2.2.6.3.3. Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic (2011), p. 59.

⁶⁶⁷ 2.3.4. 2015 Guidelines for Japan-US Defense Cooperation, p. 45.

⁶⁶⁸ 3.2.2.6.3.1. US-Japan SAR Agreement (1986, amended 1998), p. 58.

⁶⁶⁹ 2.3.4.1. Roles/Missions/Capabilities (RMC), p. 46.

⁶⁷⁰ 4.6. Important Influence Situation (IIS), p. 98.

⁶⁷¹ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

⁶⁷² 4.10. Armed Attack Situation (AAS), p. 110.

§ IV.D.2. of the 2015 Defense Guidelines states that in STS, Japan will support US CSAR operations:

*The Self-Defense Forces and the United States Armed Forces, in cooperation with relevant agencies, will cooperate and provide support in search and rescue operations, including combat search and rescue, as appropriate.*¹²¹

§ IV.C.2.c.ii. of the Defense Guidelines states that in AAS, Japan will conduct CSAR operations:

*The Self-Defense Forces and the United States Armed Forces, in cooperation with relevant agencies, will cooperate and provide mutual support in search and rescue operations, including combat search and rescue, as appropriate.*¹²²

Additional operational planning to delineate SAR responsibilities when Japan is conducting CSAR⁶⁷³ is required beyond the 2015 Guidelines for Japan-US Defense Cooperation and US-Japan SAR Agreement (1986, amended 1998).

3.2.2.6.3.3. Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic (2011)

The US is a party to the Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic (2011) which is a binding international Treaty⁶⁷⁴ among the member states of the Arctic Council (Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden and the United States). The agreement harmonized US SRRs in the North Pacific. The agreement creates an overlap between the U.S. and Japan maritime SRRs (the region of overlap is bounded by the coordinates: 52°30'N, 165°E; 50°05'N, 159°E; 43°N, 165°E). Eliminating this overlap requires renegotiations of US-Japan maritime SRRs.

3.2.2.6.3.4. US National SAR Supplement (Version 2.0) to the IAMSAR Manual

The United States National Search and Rescue Supplement (Version 2.0) to the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual establishes the following SRRs for Japan.

The US-recognized aeronautical SRR coordinates for Japan are:¹²³

- 50°05'N, 159°E
- 43°N, 165°E
- 27°N, 165°E
- 27°N, 155°E
- 21°N, 155°E
- 21°N, 130°E

The US-recognized maritime SRR coordinates for Japan are:¹²⁴

- 50°05'N, 159°E
- 43°N, 165°E
- 17°N, 165°E
- 17°N, 130°E

3.2.2.6.3.5. Maritime and Aeronautical SRRs

There are two international SAR organizations responsible for delimiting SRRs and associated responsibilities. These are the International Maritime Organization (IMO), which coordinates agreements on “maritime SAR” under the International Convention on Maritime Search and Rescue (1979), and the International Civil Aviation Organization (ICAO), which coordinates agreements on “aeronautical SAR” under the Convention on International Civil Aviation (1944).

⁶⁷³ 3.2.2.6.2. Combat Search and Rescue (CSAR), p. 58.

⁶⁷⁴ 1.6.1.1.1. Treaties (Legal Status), p. 9.

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Aeronautical SAR is defined as:

*Search and rescue operations involving persons in distress aboard aircraft.*¹²⁵

Maritime SAR is defined as:

Search and rescue operations involving persons in distress aboard maritime vessels.

A Search and Rescue Region (SRR) is defined as:

*An area of defined dimensions, associated with a rescue coordination center, within which search and rescue services are provided.*¹²⁶

The IAMSAR Manual explains:

The surface of the globe is divided into a patchwork of regions for aeronautical SAR, and a similar arrangement of regions for maritime SAR. A nation or group of nations is responsible for coordinating SAR operations for each of these regions. ...

*SRRs are established to ensure provision of adequate land-based communications infrastructure, efficient distress alert routing, and proper operational coordination to effectively support SAR services. SRRs provide clarity concerning those geographic regions where nations have accepted primary responsibility for coordinating or providing SAR services.*¹²⁷

3.2.2.7. Active Cyber Defense (ACD)

In 2022, GoJ announced the intention to authorize the JSDF or other authorities to take “proactive” measures to head off cyberattacks, known as ACD. As of early 2024, GoJ has announced it plans to delay submission of an authorizing bill to the Diet to enable more time to debate how to balance ACD and the constitutional protection of communication privacy. As of late 2024, confirmed its plans to delay submitting an ACD bill until some point after the end of the calendar year.

Public reporting on ACD suggests authorities will derive from amendments to the Police Duties Execution Act (Law No. 136 of 1948, as amended). The nature of these future authorities and the responsible actors (e.g., police forces vs. JSDF) remain unclear.

Critics of ACD authority cite the Japanese Constitution’s Article 21⁶⁷⁵ as guaranteeing secrecy of communication and therefore complicating the legal basis for ACD. Advocates for ACD assert that limited restrictions on guarantees for the secrecy of communication may be imposed for the public welfare.

ACD authorities do not currently exist and the extent of their scope is undetermined.

The national Cybersecurity Strategy defines ACD as “[involving] cooperating with cyber-related enterprises and implementing active preventative measures against threats in advance.”¹²⁸

An ACD bill may not be submitted until the 2025 regular Diet session. Press reporting indicates GoJ will amend both SDF Act (Law No. 165 of 1954, as amended) and Police Duties Execution Act (Law No. 136 of 1948, as amended) to enable the JSDF and NPA⁶⁷⁶ to conduct ACD short of AAS.⁶⁷⁷

3.2.2.8. Maritime Interdiction Operations (MIO)

MIO is generally considered the Belligerent Right⁶⁷⁸ of “Visit and Search” during a time of war, authorizing the belligerent to determine the character of ships and cargo or identify potential lawful objects of attack by.¹²⁹

- Querying the master of a vessel
- Ordering a ship to halt

⁶⁷⁵ i.B.4. Article 21 – Freedom of Expression, p. 300.

⁶⁷⁶ C.2.3.1.1. National Police Agency, p. 227.

⁶⁷⁸ 2.1.2.1.3. Belligerent Rights, p. 16.

⁶⁷⁷ 4.10. Armed Attack Situation (AAS), p. 110.

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- Boarding, inspecting, and searching
- Seizing the vessel and cargo (even aboard ships of Neutral States as such support would violate the neutral state's Duty of Neutrality⁶⁷⁹ if found to be carrying Contraband⁶⁸⁰)
- Firing warning shots

Because of Japan's rejection of the Rights of Belligerency,⁶⁸¹ GoJ's implementation of MIO is more limited, excluding the authority to seize or destroy ships and cargo and applying only to Merchant Ships.⁶⁸² If found to be carrying Contraband,⁶⁸³ ships may be diverted to a Japanese port.

Does not apply against foreign Warships.⁶⁸⁴

During STS⁶⁸⁵ and AAS,⁶⁸⁶ MIO is permitted under Article 94-8⁶⁸⁷ of the SDF Act (Law No. 165 of 1954, as amended) as authorized by the Maritime Transportation Restriction Law (Law No. 116 of 2004, as amended).⁶⁸⁸

MIO may also be permitted to enforce UNSC mandates.

Under International Law,⁶⁸⁹ if a neutral ship actively resists Visit and Search, it may render itself a lawful object of attack (enemy Merchant Ships are not obliged to comply with Visit and Search orders, but non-compliance is at their own risk).¹³⁰ How GoJ would interpret such a situation (e.g., whether this would warrant Use of Force⁶⁹⁰) is unclear and would likely be highly situation-dependent.

Requires PM approval.

3.2.2.8.1. Contraband (Foreign Military Supplies)

The Maritime Transportation Restriction Law (Law No. 116 of 2004, as amended), Article (2), ¶(2)⁶⁹¹ establishes the following items as subject to MIO (cause for stopping and inspecting a ship and seizing goods or ships):

- **Foreign Military Forces**⁶⁹²
- Nuclear, chemical, biological or toxic weapons or anti-personnel land mines
- Weapons
- Ammunition or military explosives
- Military Aircraft,⁶⁹³ rockets, ships or vehicles
- Military communication equipment or electronics
- Components or accessories of the above
- Military fuel
- Armor plates, helmets, body armor and other military equipment
- Parts or components for repair or maintenance of aircraft, rockets, ships or vehicles
- Fuel or POL
- Food (directed for the support of Foreign Military Forces)

Under International Law,⁶⁹⁴ Contraband is "any item that may be of use to the enemy in waging war and which is ultimately destined for the enemy."¹³¹ International Law considers it a requirement¹³² for belligerents publish Contraband lists of items that, while potentially lawful, are subject to capture if destined for the enemy.

⁶⁷⁹ 2.1.2.1.4. Law of Neutrality, p. 18.

⁶⁸⁰ i.M. Maritime Transportation Restriction Law (Law No. 116 of 2004, as amended), p. 372.

⁶⁸¹ 2.1.2.1.3. Belligerent Rights, p. 16.

⁶⁸² E.2.2.2. Merchant Ships, p. 243.

⁶⁸³ 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

⁶⁸⁴ E.2.2.1.1. Warships, p. 241.

⁶⁸⁵ 4.9. Survival-Threatening Situation (STS), p. 104.

⁶⁸⁶ 4.10. Armed Attack Situation (AAS), p. 110.

⁶⁸⁷ i.C.54. Article 94-8 – Authority to Regulate Maritime Transportation during Defense Mobilization, p. 328.

⁶⁸⁸ i.M. Maritime Transportation Restriction Law (Law No. 116 of 2004, as amended), p. 372.

⁶⁸⁹ 2.1.2.4.1. International Law, p. 23.

⁶⁹⁰ 3.3.3. Use of Force, p. 79.

⁶⁹¹ i.M.1. Article 2 – Definitions of Foreign Military Supplies, p. 373.

⁶⁹² 4.11.3. Applicable Foreign Military Forces, p. 116.

⁶⁹³ E.2.2.3.1. Military Aircraft, p. 243.

⁶⁹⁴ 2.1.2.4.1. International Law, p. 23.

Under MIO operations, a Cabinet Order serves as the published Contraband list, specifying items from the above categories subject to capture.

3.2.2.9. Rear Area Support

3.2.3. Security Operations

JSDF are activated for Security Operations when Japanese law enforcement lack the capacity or capability to protect lives and assets or maintain public order and public security.

Security Operation may also be rendered as “Security Mobilization.”

The types of Security Operation include:

- Public Security Operation⁶⁹⁵
 - PSO by Order⁶⁹⁶
 - PSO by Request⁶⁹⁷
- Maritime Security Operation⁶⁹⁸
- Counter-Airspace Incursion Measures⁶⁹⁹
- Guarding Operations⁷⁰⁰
- BMD⁷⁰¹
- Counter-Piracy Operations⁷⁰²
- Minesweeping⁷⁰³
- SIO⁷⁰⁴

3.2.3.1. Public Security Operation (PSO)

In PSO operations, the JSDF augments Japan law enforcement in the event of “indirect aggression” (e.g., Grey zone⁷⁰⁵ activity). PSO operations may be conducted by order⁷⁰⁶ or by request.⁷⁰⁷

PSO Orders may include partial application of the Police Duties Execution Act (Law No. 136 of 1948, as amended) (including authority for interrogation and crime prevention/control) and Use of Weapons.⁷⁰⁸

PSO is a law enforcement action.

3.2.3.1.1. PSO By Order

PSO by Order occurs when the PM determines it is impossible to maintain public security with the general police force. Diet Approval⁷⁰⁹ required within 20 days.

PSO by Order may include limited application of JCG Law.

3.2.3.1.2. PSO By Request

When Prefectural Governors determine a situation jeopardizes public security and cannot be handled by general police forces they may request JSDF mobilization for PSO. No Diet Approval⁷¹⁰ is required.

PSO by Request does not include application of JCG Law.

⁶⁹⁵ 3.2.3.1. Public Security Operation (PSO), p. 62.

⁶⁹⁶ 3.2.3.1.1. PSO By Order, p. 62.

⁶⁹⁷ 3.2.3.1.2. PSO By Request, p. 62.

⁶⁹⁸ 3.2.3.2. Maritime Security Operation (MSO), p. 63.

⁶⁹⁹ 3.2.3.3. Counter Airspace Incursion Measures, p. 65.

⁷⁰⁰ 3.2.3.4. Guard & Protect Operations at SDF and US Facilities and Areas, p. 65.

⁷⁰¹ 3.2.3.6. Ballistic Missile Defense (BMD) Operations, p. 67.

⁷⁰² 3.2.3.7. Counter-Piracy Operations, p. 68.

⁷⁰³ 3.2.3.8. Minesweeping, p. 69.

⁷⁰⁴ 3.2.3.9. Ship Inspection Operations (SIO), p. 69.

⁷⁰⁵ 11.2. Grey Zone, p. 180.

⁷⁰⁶ 3.2.3.1.1. PSO By Order, p. 62.

⁷⁰⁷ 3.2.3.1.2. PSO By Request, p. 62.

⁷⁰⁸ 3.3.1. Use of Weapons, p. 74.

⁷⁰⁹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁷¹⁰ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

3.2.3.1.3. PSO Directive

3.2.3.1.3.1. PSO Order

3.2.3.1.4. PSO Alert Order

When it is anticipated that a PSO order will be issued, a PSO Alert Order may be issued under Article 79⁷¹¹ of SDF Act (Law No. 165 of 1954, as amended).

PSO Alert Orders may grant the JSDF increased information collection authorities to facilitate PSO under Information Gathering before PSO Order.⁷¹²

PSO Alert Order also appear as:

- PSO Standby Order

3.2.3.1.4.1. Information Gathering before PSO Order

Authorized under Article 79-2⁷¹³ of SDF Act (Law No. 165 of 1954, as amended).

3.2.3.2. Maritime Security Operation (MSO)

When there is a special need to protect lives or property or maintain public security at sea, the MinDef can order the JSDF units to take necessary actions at sea upon approval by the PM.

MSO is not geographically restricted and may apply to Japan's EEZ⁷¹⁴ as well as the High Sea.⁷¹⁵ However, historic examples (1999) included hesitation to conduct MSO operations beyond the Japanese ADIZ.⁷¹⁶

"Life and property" refers to those of Japanese citizens but "public security" applies more broadly.

There are three types of measures permissible under MSO:

- Measures against merchant shipping
 - JMSDF⁷¹⁷ may confirm violations and hand off the offense to JCG for enforcement (as JMSDF officers lack investigative authorities⁷¹⁸)
 - Expel ship from TTS⁷¹⁹ if believed to pose a threat to or contribute to deterioration of public order
 - Use of Weapons⁷²⁰ is permitted for self-defense and to overcome resistance
 - For example: a foreign ship ignores an order to stop or attempts to resist the JMSDF
- Measures against foreign Warships:⁷²¹
 - Request departure from Japan's TTS
 - Use of Weapons is not permitted to compel compliance
- Measures against submarines:
 - (Prior to MSO orders, JMSDF may report and track underwater contacts)
 - JMSDF may request submarines to surface (**within innocent passage limits**)
 - Use of Weapons may be permitted if the submarine continues to navigate submerged

Use of Weapons to "overcome resistance" applies when a ship ignores an order to stop or attempts to resist the JMSDF. In this case, Use of Weapons is permitted only when the following conditions are met:

- The ship is a foreign-flagged vessel conducting non-Innocent Passage⁷²² in Japan's TTS and has no justification for its passage; and
- If left unchallenged, it is highly likely the harmful conduct will be repeated in the future; and

⁷¹¹ i.C.20. Article 79 – Public Security Operation Alert Order, p. 312.

⁷¹² 3.2.3.1.4.1. Information Gathering before PSO Order, p. 63.

⁷¹³ i.C.21. Article 79-2 – Information Gathering before PSO Order, p. 312.

⁷¹⁴ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

⁷¹⁵ A.4.10. High Sea(s), p. 199; A.4.10.1. GoJ Definition of High Sea(s), p. 199.

⁷¹⁶ A.4.8. Air Defense Identification Zone (ADIZ), p. 198.

⁷¹⁷ 7.5.4.1.3. Maritime Self-Defense Force (JMSDF), p. 161.

⁷¹⁸ 7.4.1.1. JCG Investigative Authorities, p. 156.

⁷¹⁹ A.4.4. Territorial Sea (TTS), p. 196.

⁷²⁰ 3.3.1. Use of Weapons, p. 74.

⁷²¹ E.5.1.4.1. JCG Enforcement Against Foreign Warships, p. 252.

⁷²² E.5.1.3. Non-Innocent Passage (Violations of Innocent Passage), p. 250.

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- The ship is suspected of preparing for some “serious and heinous” crime (i.e., felony); and
- It is impossible to prevent these criminal acts from simply obtaining information from, stopping, and visiting the suspect ship; and
- The commanding officer of the JMSDF ship must believe there is no alternative to firing at the suspect ship to stop it

MSO is a law enforcement action. International Law⁷²³ does not generally qualify law enforcement measures as armed force under the Law of Naval Warfare.

Requires PM approval and MinDef authorization.

No Diet Approval⁷²⁴ required.

MSO may also be translated as:

- “Defense Operations at Sea”
- “Maritime Police Operation”
- “Maritime Patrol Operations”

3.2.3.2.1. Conditions for Initiating Maritime Security Operations

Generally, situations are assessed on a case-by-case basis by assessing the following factors:

- Level of intensity of the activity
- Availability and readiness of appropriate capabilities (e.g., sensors, speed, size, armament, defenses, damage control)
- Number of ships subject to MSO
- Domestic and international political sentiment

However, Cabinet Decisions⁷²⁵ have anticipated the following scenarios that generally warrant MSO initiation:

- Submarines conducting non-Innocent Passage⁷²⁶
- Foreign Warships⁷²⁷ conducting non-Innocent Passage and with armaments beyond the ability of JCG’s defenses, armament, and damage control⁷²⁸

3.2.3.2.2. Limitations of Maritime Security Operations

Normal Use of Weapons⁷²⁹ (penal code) vs. “good order”

Japanese law cannot be applied against **Foreign Military Vessels (cite, category?)** (i.e., anything operated by a foreign state for non-commercial purposes, such as CCG or CMM). International Law⁷³⁰ provides foreign military vessels “extraterritoriality,” even in another nation’s TTS.⁷³¹ Extraterritoriality refers to the application of the subject nation’s laws to areas or situations outside that nation’s territories.

Extraterritoriality limits law enforcement authorities under MIO operations⁷³² for Sovereign Immune vessels⁷³³.

However, ships conducting non-Innocent Passage⁷³⁴ are considered to be disrupting the “good order of ships’ navigation”

⁷²³ 2.1.2.4.1. International Law, p. 23.

⁷²⁴ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁷²⁵ C.2.1.4.2. Cabinet Order, p. 226.

⁷²⁶ E.5.1.3. Non-Innocent Passage (Violations of Innocent Passage), p. 250.

⁷²⁷ E.2.2.1.1. Warships, p. 241.

⁷²⁸ i.K.2. Article 4 – Structure, Equipment, and Functions of Coast Guard Vessels, p. 363.

⁷²⁹ 3.3.1. Use of Weapons, p. 74.

⁷³⁰ 2.1.2.4.1. International Law, p. 23.

⁷³¹ A.4.4. Territorial Sea (TTS), p. 196.

⁷³² 3.2.2.8. Maritime Interdiction Operations (MIO), p. 60.

⁷³³ E.2.3.1. Sovereign Immunity of Maritime Vessels and Aircraft, p. 243.

⁷³⁴ E.5.1.3. Non-Innocent Passage (Violations of Innocent Passage), p. 250.

3.2.3.3. Counter Airspace Incursion Measures

Ryoku shinpan sochi

SDF Law Article 84⁷³⁵ permits JASDF⁷³⁶ to monitor Japanese airspace and respond to airspace violations/incursions including:

- Violation of International Law⁷³⁷
- Violations of Japanese domestic law and regulations.

These operations are an exercise of “the right of policing intended to maintain public order.”¹³³ Because there is no aviation policing force (as there is with the JCG and regular police for the maritime and land domains), Air Intercept operations should be considered like standing form of PSO⁷³⁸ or MSO⁷³⁹ for Japan’s airspace.

JSDF aircraft may take the following actions to counter airspace incursions:

- Warn the offending aircraft
- Order it to depart the airspace or land
- Use of Weapons (see § 3.2.3.3.1. Use of Weapons under Counter-Airspace Incursion Measures [p. 65])

3.2.3.3.1. Use of Weapons under Counter-Airspace Incursion Measures

There are no clear provisions for Use of Weapons in Counter-Airspace Incursion Measures, but MOD interprets Use of Weapons authorities to be included under the “necessary measures” specified in SDF Law Article 84⁷⁴⁰.¹³⁴

Type 1: “Self-Preservation Type” Use of Weapons⁷⁴¹ is authorized against manned aircraft but is “permissible only when such measures fall under the requirements of legitimate self-defense or necessity.”¹³⁵

GoJ has recently clarified that Type 2: “Execution of Mission Type” Use of Weapons (“Minor Self-Defense”)⁷⁴² is permissible against unmanned aircraft or objects, stating:

In such a case where the safety of aircraft cannot be ensured if the situation is left as it is, and when deemed necessary to use weapons to protect legal interests, such as the lives and property of people within Japanese territory as well as the safety of aircraft flying along air routes, such Use of Weapons can be permitted even if it does not fall under the requirements of legitimate self-defense or necessity [e.g., the requirements for Type 1: “Self-Preservation Type” Use of Weapons].¹³⁶

MinDef authorization is required.

No Diet Approval⁷⁴³ is required.

3.2.3.4. Guard & Protect Operations at SDF and US Facilities and Areas

Guard & Protect Operations may also appear as:

- Guarding Operations

Guard & Protect Operations are conducted under Articles 81-2⁷⁴⁴ and 91-2⁷⁴⁵ of SDF Act (Law No. 165 of 1954, as amended) when special measures are deemed necessary to prevent damage due to likely large-scale terrorist attacks on JSDF or US Facilities and Areas⁷⁴⁶ in Japan.

⁷³⁵ i.C.29. Article 84 – Measures Against Violations of Territorial Airspace (TTA), p. 315.

⁷³⁶ 7.5.4.1.1. Air Self-Defense Force (JASDF), p. 161.

⁷³⁷ 2.1.2.4.1. International Law, p. 23.

⁷³⁸ 3.2.3.1. Public Security Operation (PSO), p. 62.

⁷³⁹ 3.2.3.2. Maritime Security Operation (MSO), p. 63.

⁷⁴⁰ i.C.29. Article 84 – Measures Against Violations of Territorial Airspace (TTA), p. 315.

⁷⁴¹ 3.3.1.2 Type 1: “Self-Preservation Type” Use of Weapons⁷⁶

⁷⁴² 3.3.1.3 Type 2: “Execution of Mission Type” Use of Weapons (“Minor Self-Defense”)⁷⁷

⁷⁴³ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁷⁴⁴ i.C.24. Article 81-2 – Guarding Operation at Self-Defense Force Facilities, etc., p. 313.

⁷⁴⁵ i.C.41. Article 91-2 – Authority During Guarding Operations, p. 321.

⁷⁴⁶ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

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Guard & Protect Operations are distinct from protection of weapons under Article 95⁷⁴⁷ or 95-2.⁷⁴⁸

A Guard & Protect Operations Order grants the JSDF authority to protect JSDF and US bases within Japan.

Guard & Protect Operations may include partial application of the Police Duties Execution Act (Law No. 136 of 1948, as amended) (including authority for interrogation and crime prevention/control) and Use of Weapons.⁷⁴⁹

Guard & Protect requests are coordinated through the JC⁷⁵⁰ with PM and MinDef authorization. No Diet Approval⁷⁵¹ required.

3.2.3.5. Use of Weapons to Protect Weapons, etc.

Under SDF Law Articles 95⁷⁵² (protection of SDF “weapons, etc.”) and 95-2⁷⁵³ (protection of US and other foreign militaries’ “weapons, etc.”), JSDF personnel can exercise Use of Weapons⁷⁵⁴ to guard weapons and equipment belonging to the SDF, US, or other militaries operating with the JSDF in Activities that Contribute to the Defense of Japan,⁷⁵⁵ but not involving combat operations⁷⁵⁶ (e.g., the *Ittaika*⁷⁵⁷ principle applies).

Article 95-3⁷⁵⁸ (protection of SDF facilities, etc.), extends this protection to SDF facilities that “facilities or equipment for storing, housing, or maintaining SDF weapons, etc., or facilities or equipment related to barracks, harbors, or airports”

Article 95 defines the “weapons, etc.” eligible for such protection as:

- Weapons
- Ammunition
- Explosives
- Vessels
- Aircraft
- Vehicles
- Wired electric communication equipment
- Radio equipment
- Liquid fuel

JSDF’s right to use weapons ceases if the objects protected are destroyed or if the attacker aborts the attack and break off contact (e.g., pursuit is not permitted). (this is part of the penal code?)

The following procedure is used to request Article 95-2 protection:

- US or other forces request protection; requests must include:
 - Clear definition of the operation (area, dates, purpose, etc.)
 - Identification that the operation supports Japan’s defense
 - Scope of the defense support expected
- MinDef determines necessity under prescribed conditions
- JNSC⁷⁵⁹ deliberates and provides guidance on operational guidelines
- JNSS coordination may be required
- MinDef issues order

⁷⁴⁷ i.C.56. Article 95 – Use of Weapons for Protection of Weapons, etc., p. 329.

⁷⁴⁸ i.C.57. Article 95-2 – Use of Weapons to Protect the Weapons, etc. of Units of the United States and Other Militaries, p. 329.

⁷⁴⁹ 3.3.1. Use of Weapons, p. 74.

⁷⁵⁰ 6.2.1.3. Joint Committee (JC), p. 143.

⁷⁵¹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁷⁵² i.C.56. Article 95 – Use of Weapons for Protection of Weapons, etc., p. 329.

⁷⁵³ i.C.57. Article 95-2 – Use of Weapons to Protect the Weapons, etc. of Units of the United States and Other Militaries, p. 329.

⁷⁵⁴ 3.3.1. Use of Weapons, p. 74.

⁷⁵⁵ 2.1.2.2.1. Activities that Contribute to the Defense of Japan, p. 22.

⁷⁵⁶ 2.1.2.2.1. Scene of Combat, p. 21.

⁷⁵⁷ 2.1.2.2. Ittaika (Integration), p. 20.

⁷⁵⁸ i.C.58. Article 95-3 – Use of Weapons When Protecting SDF Facilities, p. 329.

⁷⁵⁹ C.2.6. (Japan) National Security Council (JNSC), p. 228.

Article 95-2 protection conducted under IIS must be included¹³⁷ in the BRP⁷⁶⁰ for Diet Approval.⁷⁶¹

Article 95-2 protection applies under IIS⁷⁶² when combat associated with an IIS situation is not yet occurring. If IIS-related combat is occurring elsewhere, Article 95-2 protection may be denied under the principle of *Ittaika*.⁷⁶³

For example, if IIS were Recognized⁷⁶⁴ based on a cross-strait crisis resulting in massive civilian departures from Taiwan, etc., then Article 95-2 protection could potentially be granted for US Navy vessels operating in proximity to Taiwan. However, if the PRC were conducting hostilities in the Taiwan strait (even if not yet involving the US), it is likely that Article 95-2 protection would be denied to US vessels within a designated proximity of the Taiwan strait (for example, 95-2 protection might not extend beyond Japan's EEZ⁷⁶⁵ or might be limited to only within Japan's CZ⁷⁶⁶).

“Protection of weapons, etc.” may be translated as “protection of assets.”

3.2.3.6. Ballistic Missile Defense (BMD) Operations

Outside of STS⁷⁶⁷ or AAS,⁷⁶⁸ under Articles 82-3⁷⁶⁹ and 93-3⁷⁷⁰ of SDF Act (Law No. 165 of 1954, as amended) when BMs or similar objects (but not aircraft) pose a risk of damage or threat to lives or property, MinDef, with approval from the PM, may order JSDF to destroy the BM when it is within Japan's TTA⁷⁷¹ or in airspace over the High Seas⁷⁷² and only if the BM is projected to land in Japanese territory.

A Missile Destruct Order establishes a JSDF BMD JTF and grants the JSDF authority to destroy qualifying BMs or similar objects. The Missile Destruct Order may specify limitations such as applicable geography, origin country nations, timeframes, etc.

If necessary, the MinDef may take emergency action without PM approval, under emergency response guidelines established by the PM. No Diet Approval⁷⁷³ is required.

BM destruction is considered Use of Weapons.⁷⁷⁴

During STS or AAS, when operating under a DOO,⁷⁷⁵ response to BMs is conducted under the provisions of Article 76⁷⁷⁶ of SDF Act (Law No. 165 of 1954, as amended).

⁷⁶⁰ 4.3. Basic Response Plan (BRP), p. 95.

⁷⁶¹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁷⁶² 4.6. Important Influence Situation (IIS), p. 98.

⁷⁶³ 2.1.2.2. *Ittaika* (Integration), p. 20.

⁷⁶⁴ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁷⁶⁵ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

⁷⁶⁶ A.4.6. Contiguous Zone (CZ), p. 197.

⁷⁶⁷ 4.9. Survival-Threatening Situation (STS), p. 104.

⁷⁶⁸ 4.10. Armed Attack Situation (AAS), p. 110.

⁷⁶⁹ i.C.27. Article 82-3 – Destruction Measures Against Ballistic Missiles, etc., p. 314.

⁷⁷⁰ i.C.49. Article 93-3 – Use of Weapons against Destruction of Ballistic Missiles, p. 325.

⁷⁷¹ A.4.5. National Airspace (TTA), p. 197.

⁷⁷² A.4.10.1. GoJ Definition of High Sea(s), p. 199.

⁷⁷³ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

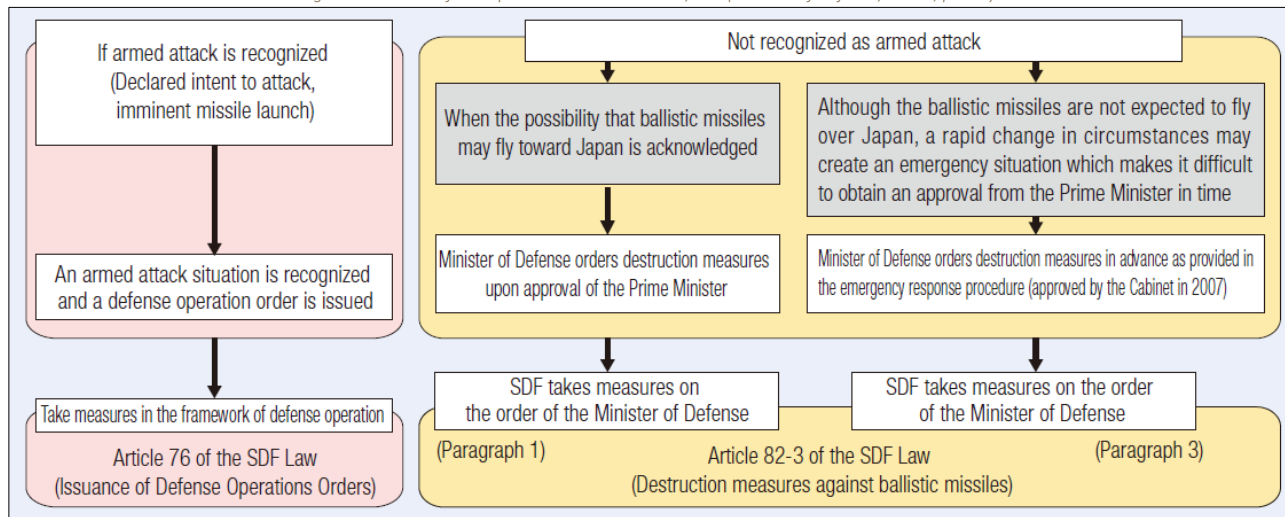
⁷⁷⁴ 3.3.1. Use of Weapons, p. 74.

⁷⁷⁵ 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

⁷⁷⁶ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

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Figure 2. Processes for Response to Ballistic Missiles, etc. (Minister of Defense, 2023a, p. 286)



3.2.3.6.1. Standing BMD Orders

In response to a 3 August 2016 DPRK missile launch where the missile landed within Japan's EEZ,⁷⁷⁷ off the coast of Akita Prefecture, the MinDef issued a standing order to destroy BMDs launched against Japanese territory, with the order to be reviewed and updated every 3 months.¹³⁸

3.2.3.6.2. BMD RMCs

§ IV.C.2.b.ii. of the 2015 Defense Guidelines⁷⁷⁸ states that in AAS:⁷⁷⁹

The Self-Defense Forces and the United States Armed Forces will conduct bilateral operations to counter ballistic missile attacks against Japan. The Self-Defense Forces and the United States Armed Forces will exchange real-time information for early detection of ballistic missile launches. When there is an indication of a ballistic missile attack, the Self-Defense Forces and the United States Armed Forces will maintain an effective posture to defend against ballistic missile attacks heading for Japan and to protect forces participating in ballistic missile defense operations.

The Self-Defense Forces will have primary responsibility for conducting ballistic missile defense operations to defend Japan.

*The United States Armed Forces will conduct operations to support and supplement the Self-Defense Forces' operations.*¹³⁹

3.2.3.6.3. Class V Storage Exceptions

When BMD units are deployed under BM Destruction Orders, the authorizing order may provide exemptions for Class V storage restrictions normally applicable under peacetime operations. When deployed under STS⁷⁸⁰ or AAS,⁷⁸¹ such exemptions are provided by the authorizing DOO.⁷⁸²

Ammo storage laws?

3.2.3.7. Counter-Piracy Operations

The MinDef submits response guidelines to the PM for approval.

⁷⁷⁷ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

⁷⁷⁸ 2.3.4. 2015 Guidelines for Japan-US Defense Cooperation, p. 45.

⁷⁷⁹ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

⁷⁸⁰ 4.9. Survival-Threatening Situation (STS), p. 104.

⁷⁸¹ 4.10. Armed Attack Situation (AAS), p. 110.

⁷⁸² 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

3.2.3.8. Minesweeping

Minesweeping on the High Sea⁷⁸³ when there are not active hostilities⁷⁸⁴ (i.e., during peacetime or under a ceasefire) does not constitute Use of Force.⁷⁸⁵ The GoJ classifies minesweeping as an act to ensure maritime safety.

Historically, GoJ has referenced minesweeping as permitted as a measure to protect Japan's SLOCs.⁷⁸⁶ In turn, this has previously been associated with the possibility of interpreting SLOC defense as triggering⁷⁸⁷ NSD⁷⁸⁸ and thus possible pretense for Stipulating⁷⁸⁹ a Security Situation.⁷⁹⁰

Use of Weapons?

3.2.3.8.1. Related Authorities

The JSDF is granted minesweeping authority by SDF Law Article 84-2.⁷⁹¹ This authority is not geographically-bound.

3.2.3.9. Ship Inspection Operations (SIO)

SIO is the peacetime right to "Approach and Visit" to secure effective compliance with economic sanctions.

GoJ describes SIO as:

Operations to inspect and confirm the cargo and destination of ships (excluding Warships⁷⁹² and others) and to request, if necessary, a change in sea route, destination port, or destination, for the purposes of strictly [e.g., "strictly for the purposes of"] enforcing the regulatory measures concerning trade and other economic activities to which Japan is a party, conducted based on UN Security Council resolutions or with the consent of the Flag State⁷⁹³ (the state that has the right to fly its flag as prescribed in Article 91 of [UNCLOS]).¹⁴⁰

SIO allows for the JCG or JMSDF⁷⁹⁴ to

- Inspect a ship with consent of
 - The ship's captain or
 - Consent of the Flag State or in accordance with a UNSC
- Request change of destination
- Use of Weapons⁷⁹⁵ for self-defense authorized
 - Warning shots are not permitted for non-compliant ships

SIO is permitted under IIS,⁷⁹⁶ AAAS,⁷⁹⁷ AAS,⁷⁹⁸ STS,⁷⁹⁹ and IPSA⁸⁰⁰ operations. Under IIS, SIO is not geographically-bound.

SIO is a law enforcement action. International Law⁸⁰¹ does not generally qualify law enforcement measures as armed force under the Law of Naval Warfare.

Article 5⁸⁰² of the Ship Inspection Act (Act No. 145 of 2000, amended) makes the Logistics Support Activities⁸⁰³ authorized under IIS applicable to SIO operations.

⁷⁸³ A.4.10. High Sea(s), p. 199; A.4.10.1. GoJ Definition of High Sea(s), p. 199.

⁷⁸⁴ 2.1.6.1.3.7. Case 14: Participation in International Minesweeping Operations, p. 38.

⁷⁸⁵ 3.3.3. Use of Force, p. 79.

⁷⁸⁶ E.4.2. Key Milestones in the 1,000-Mile Defense Concept, p. 248.

⁷⁸⁷ E.4.1. Contemporary Relevance for SLOC Defense, p. 248.

⁷⁸⁸ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

⁷⁸⁹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁷⁹⁰ Chapter 4. Japan's Security Situations Framework, p. 89.

⁷⁹¹ i.C.30. Article 84-2 – Mine Disposal, p. 315.

⁷⁹² E.2.2.1.1. Warships, p. 241.

⁷⁹³ 3.4.2.4.2. Limitations on Protecting/Escorting Merchant Ships (Flag State/Flags of Convenience), p. 87.

⁷⁹⁴ 7.5.4.1.3. Maritime Self-Defense Force (JMSDF), p. 161.

⁷⁹⁵ 3.3.1. Use of Weapons, p. 74.

⁷⁹⁶ 4.6. Important Influence Situation (IIS), p. 98.

⁷⁹⁷ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

⁷⁹⁸ 4.10. Armed Attack Situation (AAS), p. 110.

⁷⁹⁹ 4.9. Survival-Threatening Situation (STS), p. 104.

⁸⁰⁰ L.2. International Peace Support Act (IPSA) Operations, p. 281.

⁸⁰¹ 2.1.2.4.1. International Law, p. 23.

⁸⁰² i.L.4. Article 5 – Mode of Implementation of Ship Inspection Activities, etc., p. 369.

⁸⁰³ 4.5.1.1. Logistics Support Activities, p. 98.

3.2.3.9.1. Segregation Requirements

SIO operations require that the area used for GoJ ship inspections and areas used by inspections conducted by other states are clearly distinguished. This is often referred to in GoJ-provided English-language material as a “segregation requirement.”

3.2.4. Disaster Relief, etc.

3.2.4.1. Disaster Relief Operations (DRO)

DROs do not apply to Armed Attack Disasters.⁸⁰⁴

3.2.4.1.1. Armed Attack Disaster

¶(4), Article 2⁸⁰⁵ of the Civil Protection Act (Act No. 112 of 2004, as amended) defines Armed Attack Disaster as “human death or injury, fire, explosion, release of radioactive materials, or other human or material disasters directly or indirectly caused by an armed attack.”⁸⁰⁶

3.2.4.2. Earthquake Disaster Prevention Operations

May also be translated as:

- Earthquake Disaster Prevention Dispatch
- Containment of Damage after Earthquakes

3.2.4.3. Nuclear Disaster Relief Operations

May also be translated as:

- Response to Nuclear-Related Accidents
- Nuclear Disaster Relief Dispatch

3.2.4.4. Disaster Mobilization Directive

3.2.4.4.1. Disaster Mobilization Order

3.2.5. Civil Protection, etc.

3.2.5.1. Civil Protection Operations (CPO)

Under CPO, JSDF may assist the Japanese police with security, evacuation, or other measures to protect the population.

In situations covered by the Civil Protection Act (e.g., during AAAS⁸⁰⁷ or AAS⁸⁰⁸), the GoJ may authorize JSDF priority use of APOD/SPOD and/or issue warning and evacuation orders.

May also be translated as:

- Civil Protection Dispatch

⁸⁰⁴ 3.2.4.1.1. Armed Attack Disaster, p. 70.

⁸⁰⁵ i.G.1. Article 2 – Definitions, p. 357.

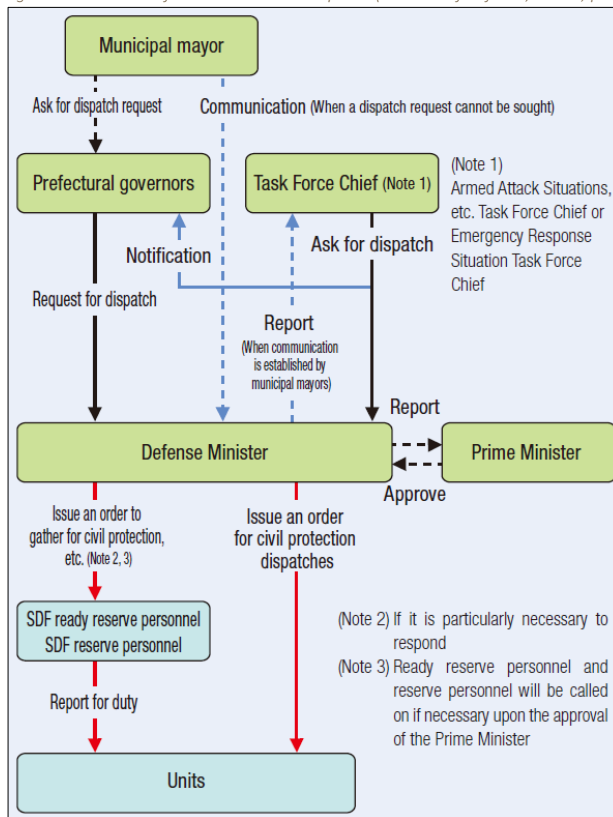
⁸⁰⁶ 4.11. Definition of “Armed Attack”, p. 114.

⁸⁰⁷ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

⁸⁰⁸ 4.10. Armed Attack Situation (AAS), p. 110.

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Figure 3. Mechanism for Civil Protection Dispatch (Minister of Defense, 2023a, p. 285)



3.2.5.1.1. Basic Guidelines for the Protection of the People

March 2005 guidelines, based on Article 32⁸⁰⁹ of the Civil Protection Act (Act No. 112 of 2004, as amended), anticipates and provides guidelines for four types of Armed Attack:⁸¹⁰

- Land invasion
- Attack by guerillas or special forces
- BM attack
- Airattack

Under these guidelines, the JSDF is responsible for:

- Confirming damage from the attack
- Saving lives
- Assisting with the evacuation⁸¹¹ of residents.

3.2.5.1.2. CPO by Request

CPO by Request occurs under SDF Act (Law No. 165 of 1954, as amended) Article 77-4⁸¹² ¶(1), under the authority of Article 15⁸¹³ of Civil Protection Act (Act No. 112 of 2004, as amended), upon request by prefectural governors.

3.2.5.1.3. CPO by Order

CPO by Order occurs under SDF Act (Law No. 165 of 1954, as amended) Article 77-4⁸¹⁴ ¶(2), under the authority of Article 15⁸¹⁵ of Civil Protection Act (Act No. 112 of 2004, as amended), upon direction by the MinDef, with the approval of the PM.

⁸⁰⁹ i.G.6. Article 32 –, p. 359.

⁸¹⁰ 4.11. Definition of “Armed Attack”, p. 114.

⁸¹¹ Chapter 9. Evacuation, Refugees, p. 170.

⁸¹² i.C.18. Article 77-4 – Civil Protection Operations, p. 311.

⁸¹³ i.G.4. Article 15 – (Prefectural) Request for dispatch of Self-Defense Forces units, etc., p. 358.

⁸¹⁴ i.C.18. Article 77-4 – Civil Protection Operations, p. 311.

⁸¹⁵ i.G.4. Article 15 – (Prefectural) Request for dispatch of Self-Defense Forces units, etc., p. 358.

3.2.5.1.4. Civil Protection Mobilization Directive (CPMD)

3.2.5.1.4.1. Civil Protection Mobilization Order (CPMO)

Authorized under Article 77-4⁸¹⁶ of SDF Act (Law No. 165 of 1954, as amended).

Civil Protection Mobilization Order based on the Civil Protection Mobilization Directive.

3.2.5.2. Rescue and Transportation of Japanese Nationals Overseas (R/TJNO)

See Chapter 9 Evacuation, Refugees (p. 170) for additional details on Evacuation, including R/TJNO.

3.2.5.2.1. Rescue of Japanese Nationals Overseas (RJNO)

Under Article 84-3⁸¹⁷ of SDF Act (Law No. 165 of 1954, as amended), in emergency situations posing a threat to Japanese nationals' lives or bodies abroad, at the request of MOFA, the PM can direct JSDF to protect and rescue Japanese nationals and limited categories of others, as specified, and transport them to safety from abroad.

RJNO is intended to enable the JSDF to supplement or substitute for the police powers of that host nation when the capacity of the host nation is inadequate (whereas TJNO⁸¹⁸ supplements or substitutes for a host nation's transportation capacity).

In US doctrinal terms, RJNO is an authority for conducting NEO in a "permissive" environment and is not intended for what US planners would consider a NEO in a "uncertain" or "hostile" environment.

The host nation or UN approval required may be implicit (as was the case during the Kabul evacuation in 2021, when the Taliban provided a window and conditions for nations to evacuate their citizens but did not explicitly extend approval directly to Japan).

Procedure:

- MOFA requests assistance from MoD
- Consultation between MOFA and MoD
 - Coordination with the JNSS
- Approval of the PM
- MinDef Issuance of an RJNO order

Requirements:

- Host nation authorities are maintaining public safety and order
 - No active combat⁸¹⁹ at the location of the rescue
- Host nation consent to the operation (may be implicit)
- Coordination and cooperation can be ensured between JSDF and host nation authorities

These requirements are determined based on deliberations at the JNSC.⁸²⁰

Use of Weapons⁸²¹ is permitted. (Type 1 and 2)

The requirement for host nation authorities to maintain public safety and order is one mechanism for avoiding the possibility that Use of Weapons in RJNO might be used against State or Quasi-State Organizations,⁸²² which would generally be considered to transform⁸²³ the Use of Weapons into Use of Force,⁸²⁴ instead.

⁸¹⁶ i.C.18. Article 77-4 – Civil Protection Operations, p. 311.

⁸¹⁷ i.C.31. Article 84-3 – Measures to Rescue Japanese Nationals Overseas (RJNO), p. 315.

⁸¹⁸ 3.2.5.2.2. Transportation of Japanese Nationals Overseas (TJNO), p. 73.

⁸¹⁹ 2.1.2.2.1. Scene of Combat, p. 21.

⁸²⁰ C.2.6. (Japan) National Security Council (JNSC), p. 228.

⁸²¹ 3.3.1. Use of Weapons, p. 74.

⁸²² 3.3.3.3.1. State or Quasi-State Organization, p. 81.

⁸²³ 3.3.3.2. GoJ Definition of Use of Force, p. 80.

⁸²⁴ 3.3.3. Use of Force, p. 79.

Authorized by SDF Law Article 84-3.⁸²⁵ The host nation or UN approval in ¶(1), No. (ii) may be implicit (as was the case during the Kabul evacuation in 2021, when the Taliban provided a window and conditions for nations to evacuate their citizens but did not explicitly extend approval directly to Japan).

3.2.5.2.2. Transportation of Japanese Nationals Overseas (TJNO)

Under Article 84-4⁸²⁶ of SDF Act (Law No. 165 of 1954, as amended), in emergency situations “caused by disaster, commotion, or other emergency situation” abroad, the MinDef can direct JSDF to transport Japanese nationals and limited categories of others to safety from abroad.

RJNO⁸²⁷ supplements or substitutes for a host nation’s police power. TJNO supplements or substitutes for a host nation’s transportation capacity.

In contrast to RJNO, TJNO does not explicitly require the host nation’s consent. However, because under TJNO, the JSDF merely provides supplementary transportation, host nation consent is required by International Law⁸²⁸ and, by extension (through Article 98⁸²⁹ and 99⁸³⁰ of the Japanese Constitution) GoJ Law.⁸³¹

Procedure:

- MOFA requests assistance from MoD
- Consultation between MOFA and MoD
- MinDef Issuance of an TJNO order

Use of Weapons⁸³² is permitted. (Type 1 only)

Approval⁸³³ of the Diet is not required.

Authorized by SDF Law Article 84-4.⁸³⁴

3.2.6. Peacekeeping Operations (PKO)

3.2.6.1. IPCA

3.2.6.2. International Peace Support Act (IPSA)

IPSA allows GoJ to contribute to international or multinational forces involved in peacekeeping or stabilization operations.

*Ex Ante*⁸³⁵ Diet approval is required for IPSA activities.

3.3. EMPLOYMENT OF ARMS

Employment of Arms is term unique to this guide that includes the use of lethal instruments (including weapons, explosives, destructive instruments, and other arms) by the JSDF, including the sub-categories of Use of Weapons and Use of Force.

Because of Japan’s EDOP,⁸³⁶ it is key to understand the distinction between not only the terminology of “Use of Force”⁸³⁷ and “Use of Weapons,”⁸³⁸ but also when each is authorized. While the distinction is similar to

⁸²⁵ i.C.31. Article 84-3 – Measures to Rescue Japanese Nationals Overseas (RJNO), p. 315.

⁸²⁶ i.C.32. Article 84-4 – Transportation of Japanese Nationals Overseas (TJNO), p. 316.

⁸²⁷ 3.2.5.2.1. Rescue of Japanese Nationals Overseas (RJNO), p. 72.

⁸²⁸ 2.1.2.4.1. International Law, p. 23.

⁸²⁹ i.B.15. Article 98 – Supremacy of the Constitution, p. 302.

⁸³⁰ i.B.16. Article 99 – Obligation to Uphold the Constitution, p. 302.

⁸³¹ i.e., respecting state sovereignty by gaining consent to deploy JSDF units.

⁸³² 3.3.1. Use of Weapons, p. 74.

⁸³³ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁸³⁴ i.C.32. Article 84-4 – Transportation of Japanese Nationals Overseas (TJNO), p. 316.

⁸³⁵ 4.2.1.1. sEx Ante (“Before the Event”) Approval, p. 94.

⁸³⁶ 2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP), p. 13.

⁸³⁷ 3.3.3. Use of Force, p. 79.

⁸³⁸ 3.3.1. Use of Weapons, p. 74.

concepts within the US military, it is less frequently relevant in US military operations and reflect the difference between Positive List⁸³⁹ and Negative List⁸⁴⁰ approaches to authorities.⁸⁴¹

While the US, International Law,⁸⁴² and other nations use a variety of terms to refer to the use of arms, this manual uses the term Employment of Arms to refer to “the employment of firearms, explosives, bladed weapons, and other machines, implements, and devices that are aimed to hurt or kill people or to destroy things as a means of armed fighting” (whether this employment falls under the Japanese legal definitions of Use of Weapons or Use of Force).

Some legal texts may use the term “Use of Arms” synonymously with Use of Force.

The distinction between Use of Force and Use of Weapons is often treated in Japanese defense law as though the two can be clearly defined. And while certain policies act as criteria to determine when the Employment of Arms qualifies as either Use of Weapons or Use of Force, these criteria and this distinction has not been thoroughly explored in Japanese jurisprudence and, therefore, there are few legal precedents to ensure this distinction is clear in practice. This blurs the lines between the two forms of Employment of Arms and, with the ability for Use of Weapons to quickly become considered Use of Force, GoJ can be expected to apply restrictive interpretations when attempting to carefully calibrate responses or control escalation.

The factors that may be used to distinguish between Use of Force and Use of Weapons¹⁴¹ include:

- Nature of the situation
 - Context
 - Scale of the situation
 - Intent
 - Actual
 - Perceived
- Measures
 - Specific acts
 - Types of weapons/arms

3.3.1. Use of Weapons

MOD defines Use of Weapons as:

*Use of equipment, and machinery, etc., defisned to directly kill or harm people, or to destroy things as a means of armed fighting, in accordance with their original usages.*¹⁴²

Unless the JSDF is mobilized for Defense Operations, etc.⁸⁴³ under Article 76⁸⁴⁴ of SDF Act (Law No. 165 of 1954, as amended), where Article 88 – Use of Force under DO (STS, AAS [Occurrence])⁸⁴⁵ applies, any Employment of Arms is limited to Use of Weapons, subject to Article 7 – Use of Weapons⁸⁴⁶ of the Police Duties Execution Act (Law No. 136 of 1948, as amended).

The most definitive criteria for Use of Weapons is negative: any lawful Employment of Arms that does not meet the criteria for UN Charter’s definition (Article 2 ¶[4]⁸⁴⁷) for Force or GoJ’s definition for Use of Force⁸⁴⁸. Because the distinction between Use of Weapons and Use of Force is based on intent, it can be difficult to distinguish between the two in practice, if not in principle.

⁸³⁹ 2.1.1.1.1. Japanese “Positive List” Approach, p. 12.

⁸⁴⁰ 2.1.1.1.2. US “Negative List” Approach, p. 12.

⁸⁴¹ 2.1.1.1. Positive vs. Negative List Approach to Authorities, p. 12.

⁸⁴² 2.1.2.4.1. International Law, p. 23.

⁸⁴³ 3.2.2. Defense Operations, etc., p. 55.

⁸⁴⁴ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

⁸⁴⁵ i.C.37. Article 88 – Use of Force under DO (STS, AAS [Occurrence]), p. 318.

⁸⁴⁶ i.l.5. Article 7 – Use of Weapons, p. 361.

⁸⁴⁷ 3.3.3.1. UN Definition of Use of Force, p. 80.

⁸⁴⁸ 3.3.3. Use of Force, p. 79.

Use of Weapons is authorized under SDF Law⁸⁴⁹ but governed by the Japanese Penal Code.⁸⁵⁰ That is, JSDF Use of Weapons is governed by the same laws and standards as applies to Japanese police under criminal, not military law (Japan does not have a military law code like the UCMJ⁸⁵¹).

Japanese law recognizes two categories of Use of Weapons: “Self-Preservation Type”⁸⁵² and “Execution of Mission Type.”⁸⁵³

GoJ materials do not number the types or sub-types of Use of Weapons. For clarity, this guide uses the type numbering below (e.g., “Type 1,” Type 1a”). This is non-standard terminology/designation.

3.3.1.1. Applicable Standards for Use of Weapons

Because the JSDF is governed by the same standards as a law enforcement entity (unless mobilized for Defense Operations, etc.⁸⁵⁴), the overarching standard for when Use of Weapons is permissible is Article 7 – Use of Weapons⁸⁵⁵ of the Police Duties Execution Act (Law No. 136 of 1948, as amended). Article 7 permits Use of Weapons under any of the following three situations:

- Arrest or prevention of escape
- Protection of self or others from harm
- Overcoming or deterring resistance in carrying out official duties

In each article of SDF Act (Law No. 165 of 1954, as amended) (or other applicable Japanese laws) authorizing Use of Weapons, the applicable standards will be cited. The three standards that may be used are:

- Self-Preservation (Penal Code (Law No. 45 of 1907, as amended), Art. 36⁸⁵⁶): Use of Weapons for the purpose of protecting:
 - “the rights of oneself or any other person against imminent and unlawful infringement”
- Necessity (Penal Code (Law No. 45 of 1907, as amended), Art. 37⁸⁵⁷): Use of Weapons to:
 - “avert a present danger to the life, body, liberty or property of oneself or any other person;” and
 - “when the harm produced by such act does not exceed the harm to be averted”
 - overcoming resistance and accomplishing duties
- Performance of Public Duty (Police Duties Execution Act (Law No. 136 of 1948, as amended), Art. 7)⁸⁵⁸: Use of Weapons to:
 - arrest a criminal
 - prevent escape of a criminal
 - protect one’s self or others
 - “suppress resistance to [obstruction of] the performance of public duty”

Generally the standard applied to all of these Uses of Weapons is that the action must be judged as reasonable, necessary, and proportionate.

3.3.1.1.1. Degree of Force Authorized

The permissible force authorized under Type 1⁸⁵⁹ Use of Weapons is generally considered to be more expansive than that authorized under Type 2⁸⁶⁰ Use of Weapons. This is because the extermination of hostile persons or other targets (e.g., vehicles) may be necessary and proportionate to preserve life and limb. However, mission execution normally does not require the annihilation of hostile entities.¹⁴³

⁸⁴⁹ i.C. SDF Act (Law No. 165 of 1954, as amended), p. 303.

⁸⁵⁰ i.H. Penal Code (Law No. 45 of 1907, as amended), p. 359.

⁸⁵¹ 7.1.1. Lack of a Military Justice System, p. 153.

⁸⁵² 3.3.1.2. Type 1: “Self-Preservation Type” Use of Weapons, p. 76.

⁸⁵³ 3.3.1.3. Type 2: “Execution of Mission Type” Use of Weapons (“Minor Self-Defense”), p. 77.

⁸⁵⁴ 3.2.2. Defense Operations, etc., p. 55.

⁸⁵⁵ i.I.5. Article 7 – Use of Weapons, p. 361.

⁸⁵⁶ i.H.1. Article 36 – Self-Defense, p. 360.

⁸⁵⁷ i.H.2. Article 37 – Necessity, p. 360.

⁸⁵⁸ i.I.5. Article 7 – Use of Weapons, p. 361.

⁸⁵⁹ 3.3.1.2. Type 1: “Self-Preservation Type” Use of Weapons, p. 76.

⁸⁶⁰ 3.3.1.3. Type 2: “Execution of Mission Type” Use of Weapons (“Minor Self-Defense”), p. 77.

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The JCG⁸⁶¹ (and JMSDF⁸⁶² under MSO⁸⁶³) may employ Use of Weapons on the High Sea,⁸⁶⁴ however the legal justification for such Use of Weapons grows weaker at greater distance from Japan.

Use of Weapons may have unusual limitations in MSO.

As a general rule, any arms used against a “State or Quasi-State Organization”⁸⁶⁵ is considered Use of Force⁸⁶⁶ instead.

3.3.1.2. Type 1: “Self-Preservation Type” Use of Weapons

Type 1 Use of Weapons provides authority for the Employment of Arms in an individual’s self-defense⁸⁶⁷ or in the defense of personnel under the direct supervision or protective responsibility⁸⁶⁸ of the individual using weapons.

MOD defines Type 1 Use of Weapons as:

*Use of Weapons only for the protection of oneself and others (oneself, SDF members who are at the same scene as oneself, or those under the supervision of oneself).*¹⁴⁴

In addition to the distinction between applicable situations, Type 1 and Type 2 are different in that the GoJ does not consider it possible for Type 1 Use of Weapons to inadvertently transform⁸⁶⁹ into Use of Force⁸⁷⁰ if it is misapplied or if State or Quasi-State Organizations⁸⁷¹ are involved in Type 1 Use of Weapons.

3.3.1.2.1. Type 1a: “Individual Self-Defense” Use of Weapons

The Type 1a sub-category is for an individual’s direct self-defense in cases where the individual is being harmed or there is an imminent danger of the individual being harmed.

When discussing Type 1a Use of Weapons, the term “Use of Weapons” should be included or specified to avoid confusion with ISD Use of Force⁸⁷² under NSD.⁸⁷³

3.3.1.2.2. Type 1b: “Defense of Personnel Under Supervision [Direct Protection]” Use of Weapons

The Type 1b sub-category is for self-defense of personnel under the direct supervision of protective responsibility of an individual. This includes situations like:

- Personnel being rescued (e.g., in RJNO⁸⁷⁴ or other situations)
- Escort of personnel (e.g., as in maritime convoy or escort operations)
- Joint Defense of a Camp⁸⁷⁵ during PKO⁸⁷⁶
- Protection of designated personnel or populations during PKO

There is no standard GoJ English terminology for Type 1b Use of Weapons. This guide uses “Defense of Personnel Under Supervision” for clarity but this is not a standard rendering.

3.3.1.2.2.1. Joint Defense of a Camp Use of Weapons

The 2015 PKO Act added the Joint Defense of a Camp as a specific activity permitted under Type 1b Use of Weapons. This authority permits JSDF to employ arms in defense of the peacekeeping camps in which JSDF units are stationed if those camps come under attack. While this is an expansion of the more narrow Type 1a⁸⁷⁷ subcategory, GoJ’s logic argued that the security of JSDF units was inherently tied to the security of the

⁸⁶¹ E.5.1.6. JCG Use of Weapons, p. 252.

⁸⁶² 7.5.4.1.3. Maritime Self-Defense Force (JMSDF), p. 161.

⁸⁶³ 3.2.3.2. Maritime Security Operation (MSO), p. 63.

⁸⁶⁴ A.4.10. High Sea(s), p. 199; A.4.10.1. GoJ Definition of High Sea(s), p. 199.

⁸⁶⁵ 3.3.3.3.1. State or Quasi-State Organization, p. 81.

⁸⁶⁶ 3.3.3. Use of Force, p. 79.

⁸⁶⁷ 3.3.1.2.1. Type 1a: “Individual Self-Defense” Use of Weapons, p. 76.

⁸⁶⁸ 3.3.1.2.2. Type 1b: “Defense of Personnel Under Supervision [Direct Protection]” Use of Weapons, p. 76.

⁸⁶⁹ 3.3.2. When “Use of Weapons” Transforms into “Use of Force”, p. 79.

⁸⁷⁰ 3.3.3. Use of Force, p. 79.

⁸⁷¹ 3.3.3.3.1. State or Quasi-State Organization, p. 81.

⁸⁷² 3.3.3. Use of Force, p. 79.

⁸⁷³ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

⁸⁷⁴ 3.2.5.2.1. Rescue of Japanese Nationals Overseas (RJNO), p. 72.

⁸⁷⁵ 3.3.1.2.2.1. Joint Defense of a Camp Use of Weapons, p. 76.

⁸⁷⁶ 3.2.6. Peacekeeping Operations (PKO), p. 73.

⁸⁷⁷ 3.3.1.2.1. Type 1a: “Individual Self-Defense” Use of Weapons, p. 76.

camp in which they were stationed or operating and that “CSD⁸⁷⁸-like” actions to defend the camp and those forces guarding and protecting the camp were inherently tied to the ISD⁸⁷⁹ and unit self-defense of the JSDF units in question.

This rationale is similar to the extension of Japan’s right to exercise CSD in STS.⁸⁸⁰

Because it is considered a sub-category of Type 1 Use of Weapons, employment of arms against State or Quasi-State Organizations⁸⁸¹ under Joint Defense of a Camp Use of Weapons is permitted and does not constitute Use of Force.⁸⁸²

3.3.1.3. Type 2: “Execution of Mission Type” Use of Weapons (“Minor Self-Defense”)

MOD defines Type 2 Use of Weapons as:

The Use of Weapons beyond self-preservation [Type 1 Use of Weapons⁸⁸³], for example, to protect the lives and bodies, etc., of other people or to repel obstructions on the performance of duties of SDF personnel.¹⁴⁵

GoJ differs from International Law⁸⁸⁴ and many other State’s in its categorization of a second type of Use of Weapons. GoJ maintains conceptualizes a category of Use of Weapons sometimes referred to as “minor [national] self-defense,” allowing GoJ to respond to violence or infringements on its rights that remain below the threshold of Armed Attack⁸⁸⁵ (as defined by International Law,⁸⁸⁶ UN Charter Article 51,⁸⁸⁷ or by GoJ) without resorting to what it or International Law might classify as Use of Force.

Type 2 Use of Weapons applies only when the JSDF is assigned a specific duty, through a formal order or operation.⁸⁸⁸ By definition, Type 2 Use of Weapons exceeds the necessity of Self-Preservation Type (Type 1⁸⁸⁹) Type 2 Use of Weapons authorizes the employment of arms when there is no direct harm or imminent danger of harm to the individual (or personnel under the individuals supervision or responsibility) but such employment of arms are still limited to police-like or public-safety activities.

When rendered from Japanese, this may appear as:

- Use of Weapons for the purpose of execution of missions
- Use of Weapons in defense of the mission mandate

Type 2 Use of Weapons includes situations like:

- Provision of Protection⁸⁹⁰
- *Kaketsuka-keigo* (Coming-to-Aid Duty)⁸⁹¹
- Other mission requirements⁸⁹²

3.3.1.3.1. Type 2a: “Provision of Protection” Use of Weapons

Provision of Protection is defined as:

The use of weapons to the extent necessary to protect the lives, bodies, and properties of the local population, affected people and other populations requiring protection, or to repel obstructions to the execution of [tasked] duties.¹⁴⁶

⁸⁷⁸ 3.4.2. Collective Self-Defense (CSD), p. 84.

⁸⁷⁹ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

⁸⁸⁰ 4.9. Survival-Threatening Situation (STS), p. 104.

⁸⁸¹ 3.3.3.3.1. State or Quasi-State Organization, p. 81.

⁸⁸² 3.3.3.1. UN Definition of Use of Force, p. 80.

⁸⁸³ 3.3.1.2. Type 1: “Self-Preservation Type” Use of Weapons, p. 76.

⁸⁸⁴ 2.1.2.4.1. International Law, p. 23.

⁸⁸⁵ 4.11. Definition of “Armed Attack”, p. 114.

⁸⁸⁶ [Nicaragua ICJ case](#)

⁸⁸⁷

⁸⁸⁸ Chapter 3. JSDF Operations and Authorities, p. 53.

⁸⁸⁹ 3.3.1.2. Type 1: “Self-Preservation Type” Use of Weapons, p. 76.

⁸⁹⁰ 3.3.1.3.1. Type 2a: “Provision of Protection” Use of Weapons, p. 77.

⁸⁹¹ 3.3.1.3.2. Type 2b: *Kaketsuka-keigo* (Coming-to-Aid Duty), p. 78.

⁸⁹² 3.3.1.3.3. Type 2c: “Mission Requirements” Use of Weapons, p. 78.

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Provision of Protection is distinct from Type 1b⁸⁹³ Use of Weapons because the protected personnel are not considered under the supervision or direct protection of the JSDF unit.

Type 2a Use of Weapons requires prior Diet Approval.⁸⁹⁴

3.3.1.3.2. Type 2b: Kaketsuka-keigo (Coming-to-Aid Duty)

*Kaketsuka-keigo*⁸⁹⁵ is a specific sub-category specific to PKO,⁸⁹⁶ defined as:

The coming to the aid of individuals related to UN PKO (or other missions), other than the JSDF personnel themselves in the same contingent, who are at a distant location where they are under attack or are facing imminent danger, in response to an urgent request for protection.

Kaketsuka-keigo may be rendered in English as “Coming-to-Aid Duty.”

Kaketsuka-keigo may also be rendered as “Defense of Mandate” or “Defense of Mission Mandate” (which distinct from the UN term “defense of the mandate”).

Kaketsuka-keigo is distinct from Type 1b⁸⁹⁷ Use of Weapons (especially Joint Defense of a Camp⁸⁹⁸) because the geographic distance between the personnel requiring aid and the JSDF unit exercising *kaketsuka-keigo*.

Kaketsuka-keigo, as an emergency measure, does not require prior Diet Approval.⁸⁹⁹ However the potential of *kaketsuka-keigo* will be considered in any dispatch of JSDF to PKOs.

3.3.1.3.3. Type 2c: “Mission Requirements” Use of Weapons

There is no clear convention for the Type 2c sub-category of Use of Weapon. This guide uses this sub-category to capture all Type 2 Use of Weapons not addressed under the specifically-delineated Types 2a⁹⁰⁰ and 2b.⁹⁰¹

This sub-category includes situations like (but not limited to):

- BM Destruction⁹⁰²
- Overcoming resistance or obstacles in the conduct of tasked missions
- Employment of arms to enforce laws or halt crimes

Generally, in the case of employment of arms against personnel, Type 2c Use of Weapons permits warning shots, but “shooting to wound remains permissible only in self-defense or emergency evacuation situations.”¹⁴⁷

3.3.1.4. Use of Weapons Against Uncrewed Systems

GoJ’s recently clarified Use of Weapons authorities for Air Intercept operations, permit Type 2: “Execution of Mission Type” Use of Weapons (“Minor Self-Defense”)⁹⁰³ against uncrewed systems or objects based on the principle that such Use of Weapons “would not directly harm people.”¹⁴⁸

Traditionally, Air Intercept was limited to Type 1: “Self-Preservation Type” Use of Weapons⁹⁰⁴ under the assumption that the objects in question were crewed.¹⁴⁹

This clarification and its supporting logic suggest that operations limited to Type 1 authorities may, with future clarifications, gain additional Type 2 authorities for uncrewed systems. This might include the

⁸⁹³ 3.3.1.2.2. Type 1b: “Defense of Personnel Under Supervision [Direct Protection]” Use of Weapons, p. 76.

⁸⁹⁴ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁸⁹⁵ L.1.2. Use of Weapons during Peacekeeping Operations (PKO), p. 281.

⁸⁹⁶ 3.2.6. Peacekeeping Operations (PKO), p. 73.

⁸⁹⁷ 3.3.1.2.2. Type 1b: “Defense of Personnel Under Supervision [Direct Protection]” Use of Weapons, p. 76.

⁸⁹⁸ 3.3.1.2.2.1. Joint Defense of a Camp Use of Weapons, p. 76.

⁸⁹⁹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁹⁰⁰ 3.3.1.3.1. Type 2a: “Provision of Protection” Use of Weapons, p. 77.

⁹⁰¹ 3.3.1.3.3. Type 2c: “Mission Requirements” Use of Weapons, p. 78.

⁹⁰² 3.2.3.6. Ballistic Missile Defense (BMD) Operations, p. 67.

⁹⁰³ 3.3.1.3. Type 2: “Execution of Mission Type” Use of Weapons (“Minor Self-Defense”), p. 77.

⁹⁰⁴ 3.3.1.2. Type 1: “Self-Preservation Type” Use of Weapons, p. 76.

authority to engage uncrewed maritime vessels or for PSO⁹⁰⁵ operations to include Type 2 authorities to engage drones, etc.

3.3.2. When “Use of Weapons” Transforms into “Use of Force”

In 2015-DG of the CLB,⁹⁰⁶ Yusuke YOKOBATAKE, explained to the Diet that:

...even if an adversary party [against which JSDF Use of Weapons is directed] is a State or Quasi-State Organization, the Use of Weapons for self-preservation [Type 1 Use of Weapons⁹⁰⁷] as the natural right and the protection of armament and the other [equipment of the SDF] does not constitute the Use of Force⁹⁰⁸ ... the Use of Weapons for “Execution of Missions” [Type 2 Use of Weapons⁹⁰⁹] or for “coming-to-aid” duty [Type 2b Use of Weapons⁹¹⁰] would constitute the Use of Force if an adversary party is a State or Quasi-State Organization⁹¹¹ ...¹⁵⁰

This means Type 1 Use of Weapons, by definition, cannot become Use of Force, but Type 2 Use of Weapons can transform into Use of Force when restrictions on the application of Use of Weapons are not or cannot be observed.

Japanese defense law differs from the UN standard in that Type 2 Use of Weapons strictly excludes employment of arms against State or Quasi-State Organizations whereas the UN standard and the standard includes no such restriction.

3.3.2.1. Inadvertent Use of Weapons Against State or Quasi-State Organizations

If Japan inadvertently employed Type 2⁹¹² Use of Weapons against a State or Quasi-State Organization,⁹¹³ it would consider what was known at the time by the entities employing Use of Weapons⁹¹⁴ in determining both its political and diplomatic interpretation of the event as well as the application of domestic law (e.g., Penal Code Articles 36⁹¹⁵ and 37⁹¹⁶) to those involved in the event.

For example, if the JCG (or JMSDF operating under MSO⁹¹⁷) were to employ arms under Type 2 Use of Weapons against a CMM vessel (i.e., a vessel of the PRC state) while under the reasonable belief that it was a civilian (i.e., non-state) fishing vessel, the GoJs position would be that such Use of Weapons did not transform into Use of Force. If it was determined that the Japanese vessel employed arms with the knowledge that the vessel was CMM, this might constitute Use of Force unless the situation was otherwise authorized (e.g., maintaining “good order”⁹¹⁸ at sea).

This circumstance may be particularly applicable when considering Grey Zone⁹¹⁹ operations and deterrence⁹²⁰ or escalation management.

3.3.3. Use of Force

MOD defines Use of Force as:

The act of combat by Japanese physical and personnel organizations as part of an International Armed Conflict [IAC⁹²¹].¹⁵¹

The JSDF is authorized to employ the Use of Force mobilized for Defense Operations, etc.⁹²² under Article 76⁹²³ of SDF Act (Law No. 165 of 1954, as amended) pursuant to:

⁹⁰⁵ 3.2.3.1. Public Security Operation (PSO), p. 62.

⁹⁰⁶ C.2.5. Cabinet Legislation Bureau (CLB), p. 228.

⁹⁰⁷ 3.3.1.2. Type 1: “Self-Preservation Type” Use of Weapons, p. 76.

⁹⁰⁸ 3.3.3. Use of Force, p. 79.

⁹⁰⁹ 3.3.1.3. Type 2: “Execution of Mission Type” Use of Weapons (“Minor Self-Defense”), p. 77.

⁹¹⁰ 3.3.1.3.2. Type 2b: Kaketsuka-keigo (Coming-to-Aid Duty), p. 78.

⁹¹¹ 3.3.3.3.1. State or Quasi-State Organization, p. 81.

⁹¹² 3.3.1.3. Type 2: “Execution of Mission Type” Use of Weapons (“Minor Self-Defense”), p. 77.

⁹¹³ 3.3.3.3.1. State or Quasi-State Organization, p. 81.

⁹¹⁴ 3.3.1. Use of Weapons, p. 74.

⁹¹⁵ i.H.1. Article 36 – Self-Defense, p. 360.

⁹¹⁶ i.H.2. Article 37 – Necessity, p. 360.

⁹¹⁷ 3.2.3.2. Maritime Security Operation (MSO), p. 63.

⁹¹⁸ 3.2.3.2.2. Limitations of Maritime Security Operations, p. 64.

⁹¹⁹ 11.2. Grey Zone, p. 180.

⁹²⁰ Chapter 10. Alliance Conceptions of Deterrence, p. 177.

⁹²¹ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

⁹²² 3.2.2. Defense Operations, etc., p. 55.

⁹²³ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

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- Article 88 – Use of Force under DO (STS, AAS [Occurrence])⁹²⁴
 - See § i.C.37.A. Article 88 Use of Force During AAS (Imminent) (p. 319)
- i.C.42. Article 92 – Authority for Maintenance of Public Order During DO (p. 322)

GoJ bases its definition for Use of Force on the UN Charter’s use of the term, with additional restrictions. Use of Force is authorized by a DOO⁹²⁵ and only when the “Three New Conditions”⁹²⁶ are met. Limitations on Use of Force are imposed through OCC⁹²⁷ (“ROE”).

3.3.3.1. UN Definition of Use of Force

Article 2, ¶(4) of the UN Charter states:

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.

Article 51 of the UN Charter authorizes use of force for a state’s NSD⁹²⁸ or CSD⁹²⁹:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence 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-defence 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.

3.3.3.2. GoJ Definition of Use of Force

Japan defines Use of Force as an act of combat⁹³⁰ by an organization:

- consisting of Japanese people; and
- carried out with materials provided by Japan; and
- part of an IAC⁹³¹

In terms more symmetrical with the definition of Use of Weapons,⁹³² Use of Force is the employment of arms for the purposes of inflicting damage or casualties on an enemy to achieve military ends (vice for the purposes of law enforcement). This is a traditional “military” employment of force.

Use of Force is permitted by SDF Law Article 88⁹³³ and requires the issuance of a DOO⁹³⁴ and requires that the “Three New Conditions” for the Use of Force⁹³⁵ be met.

As a general rule, any arms used against a “State or Quasi-State Organization”⁹³⁶ is considered Use of Force, not Use of Weapons.⁹³⁷

US positions on inherent rights to self-defense potentially apply to any illegal use of force, potentially including Grey Zone⁹³⁸ activities, however GoJ defines Grey Zone activities as not constituting Armed Attack,⁹³⁹ meaning Use of Force would not be authorized for JSDF.⁹⁴⁰

In principle, Use of Force is not geographically bound.¹⁵²

⁹²⁴ i.C.37. Article 88 – Use of Force under DO (STS, AAS [Occurrence]), p. 318.

⁹²⁵ 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

⁹²⁶ 2.3.1. “Three New Conditions” for the Use of Force, p. 41.

⁹²⁷ 3.3.5. Operational Code of Conduct (OCC) – Japanese “ROE”, p. 82.

⁹²⁸ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

⁹²⁹ 3.4.2. Collective Self-Defense (CSD), p. 84.

⁹³⁰ 2.1.2.2.1. Scene of Combat, p. 21.

⁹³¹ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

⁹³² 3.3.1. Use of Weapons, p. 74.

⁹³³ i.C.37. Article 88 – Use of Force under DO (STS, AAS [Occurrence]), p. 318.

⁹³⁴ 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

⁹³⁵ 2.3.1. “Three New Conditions” for the Use of Force, p. 41.

⁹³⁶ 3.3.3.3.1. State or Quasi-State Organization, p. 81.

⁹³⁷ ¶ 2.(2).A in ii.A.2. 2014 Cabinet Decision Full Text, p. 422

⁹³⁸ 11.2. Grey Zone, p. 180.

⁹³⁹ 4.11. Definition of “Armed Attack”, p. 114.

⁹⁴⁰ 4.11.7.3. Grey Zone Activities, p. 120.

3.3.3.2.1. STS vs. AAS Use of Force

Article 88⁹⁴¹ Use of Force may be authorized under STS⁹⁴² or AAS.⁹⁴³ Because the purpose of the authorized Use of Force differs (CSD⁹⁴⁴ for STS, NSD⁹⁴⁵ for AAS), the scope and limits of authorized Use of Force, as outlined in Japan's OCC,⁹⁴⁶ may differ. With Concurrent Stipulations,⁹⁴⁷ this distinction may have little practical difference at the tactical or operational level. However, in the event of Parallel Stipulations,⁹⁴⁸ this distinction may be tactically or operationally relevant. Use of Force OCC for CSD will typically be more permissive in terms of eligible defended entities and potentially even the geographic scope of Use of Force.

3.3.3.3. Criteria for Use of Force

Because the distinction between Use of Weapons⁹⁴⁹ and Use of Force is based on intent, it can be difficult to distinguish between the two. The following is a non-comprehensive list of criteria scholars, analysts, and others have used (or implied through example) to distinguish Use of Force:

- Organized, collective, or directed/ordered Employment of Arms (by JSDF)
- "Rear-area" activities (not necessarily lethal force) integrated (e.g., the *Ittaika*⁹⁵⁰) into the employment of force of another state's armed forces
- Support to another nation's armed forces that are engaged in the Use of Force, but not for the direct purpose of defending Japan (i.e., CSD⁹⁵¹ in an STS⁹⁵² or STS-like scenario)

3.3.3.3.1. State or Quasi-State Organization

Because of GoJ's definition of IAC,⁹⁵³ the concept of a "State or Quasi-State Organization" is important to distinguishing Use of Force from Use of Weapons⁹⁵⁴ (as Employment of Arms in an IAC would qualify as Use of Force).

State organizations are presumably clearly identified as those with:

- UN member states status
- Formal diplomatic relations with Japan
- Or otherwise fall under the Japanese legal category of Foreign Military Forces⁹⁵⁵

Quasi-State Organizations are less well defined. GoJ considers Quasi-State Organizations as those which fulfill all or some of the three requirements of a state (territory, people, and political system). In 2003 Diet proceeding, then-DG of Defense (equivalent to the position of MinDef prior to the JDA's elevation to MoD) Shigeru ISHIBA presented his personal view that it is impossible to define exactly what a Quasi-State Organization would be, that determination would be on a case-by-case basis, and that the decision would fundamentally be a political one.¹⁵³ In the same proceedings, DG of Defense ISHIBA offered the Taliban (circa 2003) as an example of a Quasi-State Organization (but that a much smaller-sized group would not qualify).

3.3.3.3.1.1. Taiwan's Status as a State

Countries with which Japan does not have diplomatic relations can but included, but it is difficult to answer this question because the meaning of 'regarded as countries' is not always clear.

By the criterial of state requirements (territory, people, and political system), Taiwan would potentially qualify as a Quasi-State Organization, though GoJ's stance that it takes no position on the territorial status of Taiwan⁹⁵⁶ provides room for debate.

⁹⁴¹ i.C.37. Article 88 – Use of Force under DO (STS, AAS [Occurrence]), p. 318.

⁹⁴² 4.9. Survival-Threatening Situation (STS), p. 104.

⁹⁴³ 4.10. Armed Attack Situation (AAS), p. 110.

⁹⁴⁴ 3.4.2. Collective Self-Defense (CSD), p. 84.

⁹⁴⁵ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

⁹⁴⁶ 3.3.5. Operational Code of Conduct (OCC) – Japanese "ROE", p. 82.

⁹⁴⁷ 4.1.2.2. Concurrent Stipulation (Concurrent Recognition), p. 90.

⁹⁴⁸ 4.1.2.1. Parallel Stipulation (Parallel Recognition), p. 90.

⁹⁴⁹ 3.3.1. Use of Weapons, p. 74.

⁹⁵⁰ 2.1.2.2. Ittaika (Integration), p. 20.

⁹⁵¹ 3.4.2. Collective Self-Defense (CSD), p. 84.

⁹⁵² 4.9. Survival-Threatening Situation (STS), p. 104.

⁹⁵³ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

⁹⁵⁴ 3.3.1. Use of Weapons, p. 74.

⁹⁵⁵ 4.11.3. Applicable Foreign Military Forces, p. 116.

⁹⁵⁶ F.2. Japan's National Position on Taiwan, p. 257.

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In reference to whether an attack against Taiwan might qualify for an STS⁹⁵⁷ Stipulation,⁹⁵⁸ the GoJ's position was deliberately ambiguous, but clarified that (for the purposes of STS), Japan did not have to have formally-established diplomatic relations:

Countries with which Japan does not have diplomatic relations can but included, but it is difficult to answer this question because the meaning of 'regarded as countries' is not always clear.⁹⁵⁹

3.3.4. US Rules of Engagement Terminology

While Japanese definitions of the following terms may differ, US terms related to hostilities are helpful in categorizing or describing how JSDF elements might respond in similar circumstances.

The US defines Hostile Intent as:

The threat of Imminent Use of Force against the United States, US forces or other designated persons or property. It also includes force used directly to preclude or impede the mission and/or duties of US forces, including the recovery of US personnel or vital USG property.¹⁵⁴

The US defines Imminent Use of Force as:

The determination of whether the use of force against US forces is imminent will be based on an assessment of all facts and circumstances known to US forces at the time and may be made at any level. Imminent does not necessarily mean immediate or instantaneous.¹⁵⁵

The US defines Hostile Act as:

An attack or other use of force against the United States, US forces or other designated persons or property. It also includes force used directly to preclude or impede the mission and/or duties of US forces, including the recovery of US personnel or vital USG property.¹⁵⁶

3.3.5. Operational Code of Conduct (OCC) – Japanese “ROE”

While Japanese planners will use the term “ROE” in English, the term is referred to as “Operational Code of Conduct” (*butai kōdō kijun*) or “rules on weapon use” (*buki shiyō kitei*) when rendered in Japanese.

OCC are a “formulated criteria” which take into account political decisions and, in accordance with the situation, ensuring compliance with domestic policy by setting criteria for:

- Operational geographical scope
- Types of weapons permitted to be used
- Permitted methods of employment for types of weapons

Because of Japan's EDOP⁹⁶⁰ and Positive List⁹⁶¹ approach to authorities, Japan limits on ROE are political, with a “ceiling” set below the maximum extent authorized under Japanese law and well below the extent permitted under International Law.⁹⁶²

OCC are **not mission specific.**

Japanese ROE are created by the following process:

1. JJS⁹⁶³ drafts OCC
 - 1a. JJS consults DG Defense Policy Bureau,⁹⁶⁴ MoD
2. JJS sends OCC to MoD for approval
3. MinDef reviews and modifies/approves OCC

⁹⁵⁷ 4.9. Survival-Threatening Situation (STS), p. 104.

⁹⁵⁸ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

⁹⁵⁹ 4.9.5.2.1. Rationale for “Taiwan STS”, p. 108.

⁹⁶⁰ 2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP), p. 13.

⁹⁶¹ 2.1.1.1.1. Japanese “Positive List” Approach, p. 12.

⁹⁶² 2.1.2.4.1. International Law, p. 23.

⁹⁶³ 7.5.4.2. Japan Joint Staff (JJS), p. 161.

⁹⁶⁴ 7.5.2.2. Bureau of Defense Policy, p. 159.

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4. Approved OCC routed through JJS to units

Implementation of OCC requires both:

- Approved OCC; and
- A separate MinDef instruction that addresses the application of the OCC, detailing the concrete limits of the Use of Force⁹⁶⁵

3.4. JAPAN'S RIGHTS TO SELF-DEFENSE

Under Article 51 of the UN Charter,⁹⁶⁶ Japan has an inherent right to CSD.⁹⁶⁷ However, because of its Exclusive Defense Orientation,⁹⁶⁸ the Japanese constitution limits the exercise of this right to instances where Japan's survival would otherwise be in jeopardy (i.e., STS⁹⁶⁹). Any exercise of CSD beyond STS would be considered a Use of Force⁹⁷⁰ in excess of the "minimum extent necessary" GoJ is limited to by Article 9⁹⁷¹ of its Constitution.

Japanese law and policy recognize both NSD⁹⁷² and CSD, although GoJ's interpretation of permissible forms of self-defense have varied significantly over the years.¹⁵⁷

While the

JSDF force are geographically bound by other nations' territorial land, TTA,⁹⁷³ and TTS⁹⁷⁴ (but not bound *within* Japan's TTA and TTS)

The Rights of Belligerency⁹⁷⁵ renounced by Article 9⁹⁷⁶ of the Japanese Constitution⁹⁷⁷ includes:

Infliction of casualties and damage upon the enemy not in the exercise of self-defense

Occupation of enemy territory

3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD)

ISD and USD are generally considered legally distinct from NSD. They can apply in peacetime or wartime and authorize individuals or units to defend themselves from Armed Attack⁹⁷⁸ USD specifically refers to a military commander to defend his or her unit from ongoing or imminent attack. ISD and Unit-Self Defense are generally characterized by immediate responses to emergent threats and the cessation of force employment once the threat has been countered.¹⁵⁸

NSD applies to the direct defense of Japan (e.g., defense of Japanese territorial integrity and political independence) or Japanese people against Armed Attack⁹⁷⁹ from another State or Quasi-State Organization.⁹⁸⁰

NSD is distinct from ISD in that NSD "cannot be invoked by a lower-level commander as it necessarily involves high-level political decisions."¹⁵⁹

Because NSD is in response to another state's attack, its invocation requires some degree of attribution of an attack.⁹⁸¹

Because of GOJ's Security Situation⁹⁸² framework, requiring national authorization even for ISD, if it is considered Use of Force⁹⁸³ (e.g., if it is against a State or Quasi-State Organization), there are few meaningful distinctions for Japan between NSD and ISD/Unit Self-Defense.

⁹⁶⁵ 3.3.3. Use of Force, p. 79.

⁹⁶⁶ 3.3.3.1. UN Definition of Use of Force, p. 80.

⁹⁶⁷ 3.4.2. Collective Self-Defense (CSD), p. 84.

⁹⁶⁸ 2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP), p. 13.

⁹⁶⁹ 4.9. Survival-Threatening Situation (STS), p. 104.

⁹⁷⁰ 3.3.3. Use of Force, p. 79.

⁹⁷¹ 2.1.2.1. Article 9 (War Renunciation), p. 13.

⁹⁷² 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

⁹⁷³ A.4.5. National Airspace (TTA), p. 197.

⁹⁷⁴ A.4.4. Territorial Sea (TTS), p. 196.

⁹⁷⁵ 2.1.2.1.3. Belligerent Rights, p. 16.

⁹⁷⁶ 2.1.2.1. Article 9 (War Renunciation), p. 13;
i.B.2. Article 9 – Renunciation of War, p. 300.

⁹⁷⁷ 2.1.2. Japanese Constitution (Kenpō), p. 13.

⁹⁷⁸ 4.11. Definition of "Armed Attack", p. 114.

⁹⁷⁹ 4.11. Definition of "Armed Attack", p. 114.

⁹⁸⁰ 3.3.3.3.1. State or Quasi-State Organization, p. 81.

⁹⁸¹ 4.11.6.5. Attribution of Armed Attack Source and Intent, p. 118.

⁹⁸² Chapter 4. Japan's Security Situations Framework, p. 89.

⁹⁸³ 3.3.3. Use of Force, p. 79.

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GoJ sources (including Diet proceedings about distinctions between CSD and ISD) rarely, if ever, distinguish between NSD and ISD/Unit-Self-Defense.

This guide therefore treats NSD and ISD/Unit-Self Defense as a single category of self-defense authority.

NSD includes ISD or self-defense of individual JSDF members as well as unit self-defense or self-defense of collective JSDF units.

The right of NSD does not have concrete boundaries, geographically or otherwise, and has even been used to justify CSD-like⁹⁸⁴ acts without requiring the explicit right of CSD.

3.4.1.1. Sunagawa Case**Description of case**

The Supreme Court ruled that Japan retained the right of self-defense, stating:

The Article [9] renounces the so-called war and prohibits the maintenance of the so-called war potential prescribed in the Article, but there is nothing in it which denies the inherent right of self-defense of Japan as a sovereign nation. Pacifism in our Constitution by no means stipulated defenselessness or nonresistance. As is clear from the Preamble⁹⁸⁵ of the Constitution, we, the Japanese people, desire to occupy an honored place in an international society striving for the preservation of peace and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth, and recognize that we have the right, along with all peoples of the world, to live in peace, free from fear and want. Therefore, it is only natural for our country, in the exercise of powers inherent in a state, to take measures of self-defense necessary to maintain its peace and security, and to ensure its survival.¹⁶⁰

Notably, the ruling did not distinguish between ISD⁹⁸⁶ and CSD,⁹⁸⁷ a fact that would later support the reinterpretation⁹⁸⁸ of Article 9⁹⁸⁹.¹⁶¹

3.4.2. Collective Self-Defense (CSD)

CSD is the right to come to the assistance of another State under armed attack under certain conditions.⁹⁹⁰

While most nations interpret the right of CSD to apply broadly, because of the Japanese Constitution's Article 9⁹⁹¹ and Japan's Positive List⁹⁹² approach, Japan defines CSD far more narrowly than International Law.⁹⁹³

Japan did not recognize a right to CSD until a reinterpretation of Article 9 by Cabinet Decision⁹⁹⁴ in 2014.⁹⁹⁵

Some observers have noted that the 2014 Cabinet Decision that reinterpreted Article 9 was careful not to acknowledge CSD but rather expand the existing standards for Use of Force.⁹⁹⁶ By some interpretations, this does not authorize CSD "on paper," but expands NSD⁹⁹⁷ to the degree that (during STS⁹⁹⁸ and AAS⁹⁹⁹) it is indistinguishable from CSD. GoJ statements, decisions, and Diet proceedings have been less ambiguous and embraced the right and language of CSD under the 2014 reinterpretation.

In 1959, the CLB¹⁰⁰⁰ Director, describing the right to CSD in response to a hypothetical attack on a US base in Japan, stated: "If we then use the word [CSD] as such, Japan has the right to collective self-defense. However, at the same time, such an act can be explained by Japan's right to National Self-Defense¹⁰⁰¹."

⁹⁸⁴ 3.4.2. Collective Self-Defense (CSD), p. 84.

⁹⁸⁵ i.B.1. Preamble, p. 300.

⁹⁸⁶ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

⁹⁸⁷ 3.4.2. Collective Self-Defense (CSD), p. 84.

⁹⁸⁸ ii.A. 2014, p. 422.

⁹⁸⁹ 2.1.2.1. Article 9 (War Renunciation), p. 13; i.B.2. Article 9 – Renunciation of War, p. 300.

⁹⁹⁰ 3.4.2.2. Requirements for CSD (Nicaragua Case), p. 86.

⁹⁹¹ 2.1.2.1. Article 9 (War Renunciation), p. 13; i.B.2. Article 9 – Renunciation of War, p. 300.

⁹⁹² 2.1.1.1.1. Japanese "Positive List" Approach, p. 12.

⁹⁹³ 2.1.2.4.1. International Law, p. 23.

⁹⁹⁴ C.2.1.4.1. Cabinet Decision, p. 226.

⁹⁹⁵ ii.A. 2014, p. 422.

⁹⁹⁶ 3.3.3. Use of Force, p. 79.

⁹⁹⁷ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

⁹⁹⁸ 4.9. Survival-Threatening Situation (STS), p. 104.

⁹⁹⁹ 4.10. Armed Attack Situation (AAS), p. 110.

¹⁰⁰⁰ C.2.5. Cabinet Legislation Bureau (CLB), p. 228.

¹⁰⁰¹ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

In practice, both US and JSDF planners use the term CSD to discuss Use of Force authorities in STS and AAS but strict interpretations may draw legal distinctions that have few, if any, practical distinctions for defense planners.

While GoJ had previously defined CSD to be beyond the minimum extent necessary for Japan's self-defense, the 2014 Cabinet Decision used the logic that strategic conditions had expanded the authorities necessary to meet the minimum self-defense capabilities of the state.¹⁶²

The JSDF can exercise CSD only:

- For nations in a close relationship to Japan;¹⁰⁰² and
- When the attack threatens Japan's survival and Japanese peoples' rights to life, liberty, and the pursuit of happiness; and
- When that state is engaged in activities contributing to the defense of Japan

These are the requirements to Stipulate¹⁰⁰³ STS.

Additionally, Japan may exercise CSD during AAS. The criteria above remain essentially unchanged in AAS as any nation responding with Japan in an IAC¹⁰⁰⁴ where Japan was attacked (including a broader conflict) would presumably be considered to be in a close relationship and be contributing to the defense of Japan, even if responding outside the area of Japan in a regional conflict.

It is possible that under STS, the BRP¹⁰⁰⁵ may implement limited geographic, functional, domain, or mission-based restrictions on CSD to prevent or control conflict escalation, especially to Japan's people and territory.¹⁰⁰⁶

3.4.2.1. Limited CSD

3.4.2.1.1. Full/Unlimited CSD

Full or Unlimited CSD is the right to exercise military power purely for the defense of another country, especially as authorized under Article 51 of the UN Charter,¹⁰⁰⁷ contingent on the requirements for the exercise of CSD being met.¹⁰⁰⁸

3.4.2.1.1.1. Normal State

Japanese defense policy debates often discuss Japan becoming a "Normal State" or "military normalization." This alludes to the classical realist position that military power secures a state's peace and independence and that Japan's EDOP¹⁰⁰⁹ and Limited CSD¹⁰¹⁰ are constraints on "normal" military power that prevent Japan from being a Normal State.¹⁶³

3.4.2.1.1.2. ASHIDA Amendment Theory

The ASHIDA Amendment Theory is an unorthodox constitutional theory that the ASHIDA Amendment¹⁰¹¹ provides for an interpretation of Article 9¹⁰¹² that allows unlimited self-defense and full participation in collective security. In theory, the ASHIDA Amendment Theory allows for an interpretation of Article 9 that permits full CSD.

During consideration of the 2015 Legislation for Peace and Security,¹⁰¹³ PM ABE stated that GoJ would not adopt the ASHIDA Amendment Theory in its reinterpretation of Article 9.¹⁶⁴

¹⁰⁰² 4.9.5.2. Application of STS to Taiwan, p. 108.

¹⁰⁰³ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁰⁰⁴ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

¹⁰⁰⁵ 4.3. Basic Response Plan (BRP), p. 95.

¹⁰⁰⁶ 10.2. Divergent Concepts of Deterrence, p. 178.

¹⁰⁰⁷ 3.3.3.1. UN Definition of Use of Force, p. 80.

¹⁰⁰⁸ 3.4.2.2. Requirements for CSD (Nicaragua Case), p. 86.

¹⁰⁰⁹ 2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP), p. 13.

¹⁰¹⁰ 3.4.2.1. Limited CSD, p. 85.

¹⁰¹¹ 2.1.2.1.2.1. The ASHIDA Amendment, p. 15.

¹⁰¹² 2.1.2.1. Article 9 (War Renunciation), p. 13.

¹⁰¹³ 2.1.6. 2015 Legislation for Peace and Security, p. 35.

3.4.2.2. Requirements for CSD (Nicaragua Case)

International Law allows CSD for any nation to come to the aid of any other nation or its people under two conditions:

- The State being aided issues a request for assistance
- The State being aided must declare itself a victim of an armed attack

The ICJ clarified these conditions in its decision on *The Republic of Nicaragua v. The United States of America* (1986). As part of this decision, the ICJ determined that:

There is no rule in Customary International Law¹⁰¹⁴ permitting another State to exercise the right of Collective Self-Defence on the basis of its own assessment of the situation. Where Collective Self-Defence is invoked, it is to be expected that the State for whose benefit this right is used will have declared itself to be the victim of an armed attack.¹⁶⁵

The language of MST Article V¹⁰¹⁵ creates an “affirmative commitment”¹⁰¹⁶ which, in the context of the Nicaragua Case, can be interpreted as a “standing request for U.S. military assistance should Japan become the victim of an Armed Attack.”¹⁶⁶

See § 2.1.3.4.1. US Unilateralism under Article V: The “Affirmative Commitment” (p. 26).

3.4.2.3. CSD “Gap”

SDF Law Articles 88,¹⁰¹⁷ 95,¹⁰¹⁸ and 95-2¹⁰¹⁹ provide the primary authorities for JSDF’s Use of Weapons¹⁰²⁰ and Use of Force.¹⁰²¹ Articles 88 and 95-2 combine to create a “CSD-like” spectrum from peacetime to conflict, with a gap between the Stipulation¹⁰²² of AAAS¹⁰²³ and AAS¹⁰²⁴/STS¹⁰²⁵ (Article 95-2 is not a true CSD authority).

However, for co-located JSDF and US forces, the inability to discriminate between an impending attack targeting JSDF vs. US forces minimizes the practical existence of this gap. This exercise of ISD¹⁰²⁶ in a manner that approximates CSD is termed the “reflex effect.”¹⁶⁷

This CSD “gap” stems from the asymmetry¹⁰²⁷ of the MST¹⁰²⁸ whereby the US defends Japan based on a CSD agreement but Japan defense itself based on the principle of NSD.¹⁰²⁹

¹⁰¹⁴ 2.1.2.4.1.1. Customary International Law, p. 23.

¹⁰¹⁵ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

¹⁰¹⁶ 2.1.3.4.1. US Unilateralism under Article V: The “Affirmative Commitment”, p. 26.

¹⁰¹⁷ i.C.37. Article 88 – Use of Force under DO (STS, AAS [Occurrence]), p. 318.

¹⁰¹⁸ i.C.56. Article 95 – Use of Weapons for Protection of Weapons, etc., p. 329.

¹⁰¹⁹ i.C.57. Article 95-2 – Use of Weapons to Protect the Weapons, etc. of Units of the United States and Other Militaries, p. 329.

¹⁰²⁰ 3.3.1. Use of Weapons, p. 74.

¹⁰²¹ 3.3.3. Use of Force, p. 79.

¹⁰²² 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁰²³ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

¹⁰²⁴ 4.10. Armed Attack Situation (AAS), p. 110.

¹⁰²⁵ 4.9. Survival-Threatening Situation (STS), p. 104.

¹⁰²⁶ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

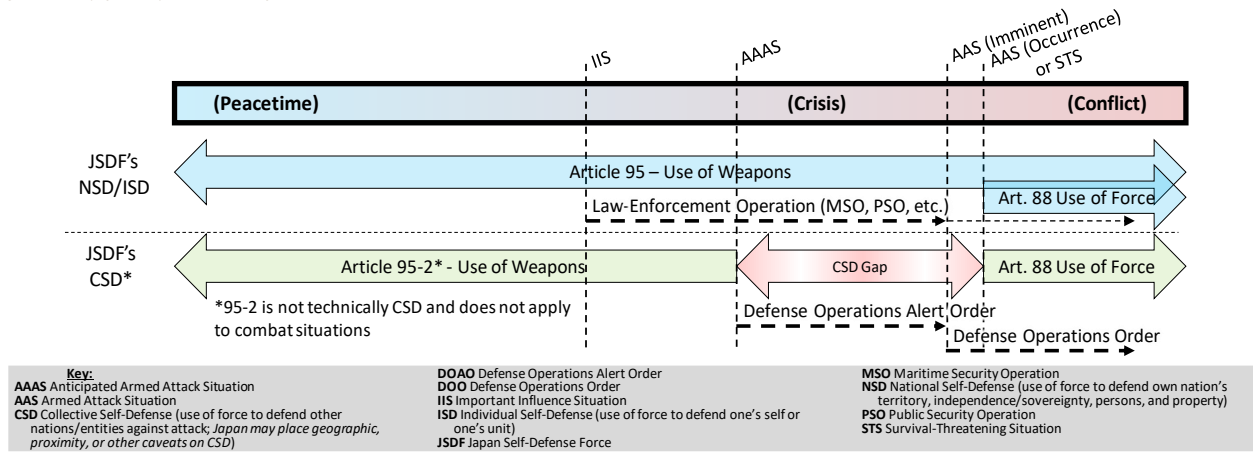
¹⁰²⁷ 2.1.3.1. An “Asymmetric Bargain”, p. 24.

¹⁰²⁸ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹⁰²⁹ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

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Figure 4. Simplified Representation of JSDF's ISD/NSD and CSD Authorities



3.4.2.4. CSD Limitations in Conflict

Japan's highly regulated authorization for Use of Force¹⁰³⁰ in NSD,¹⁰³¹ let alone CSD, may manifest in limited CSD during some conflict scenarios.

3.4.2.4.1. Geographic/Mission-Based Limitations

Proximity v. stipulation patterns

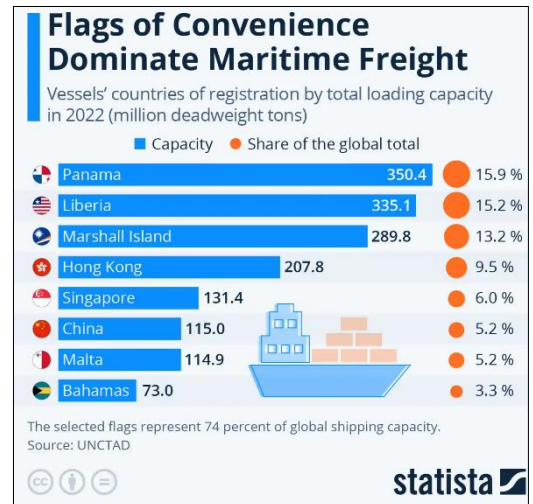
3.4.2.4.2. Limitations on Protecting/Escorting Merchant Ships (Flag State/Flags of Convenience)

Under International (and Japanese¹⁰³²) law, defending a Neutral State's¹⁰³³ ships may provide an enemy the legal grounds to attack, board, seize, etc. the defended ships. Many Japanese-owned or -operated Merchant Ships¹⁰³⁴ sail under "Flags of Convenience" and are therefore not considered Japanese for the legal determination of Belligerency or Neutrality.¹⁰³⁵

Flags of Convenience is a business practice whereby a ship's owners register a merchant ship in a ship register of a country other than that of the ship's owners, and the ship flies the civil ensign of that country (called the Flag State).

The same is true for many other nations, including the US, as shipping companies often flag their ships under nations unrelated to the ship-owner, crew, or cargo, based on favorable financial conditions.

In an IAC¹⁰³⁶ where Japan was a belligerent, protection of shipping operated under the flag of a neutral state (e.g., convoy operations) may be deemed by an adversary to violate the Merchant Ship's (or the Flag State's) Duty of Neutrality¹⁰³⁷ and subject the Flag State or its flagged ships as a lawful object of attack (neutral Merchant Ships sailing under convoy with neutral Warships¹⁰³⁸ only do not violate their Duty of Neutrality; the same is true for neutral aircraft under neutral convoy).¹⁶⁸



¹⁰³⁰ 3.3.3. Use of Force, p. 79.

¹⁰³¹ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

¹⁰³² i.P.1. Article 3 – Definitions, p. 383.

¹⁰³³ 2.1.2.1.4. Law of Neutrality, p. 18.

¹⁰³⁴ E.2.2.2. Merchant Ships, p. 243.

¹⁰³⁵ 2.1.2.1.4. Law of Neutrality, p. 18.

¹⁰³⁶ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

¹⁰³⁷ 2.1.2.1.4. Law of Neutrality, p. 18.

¹⁰³⁸ E.2.2.1.1. Warships, p. 241.

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Thus, GoJ may prohibit the JSDF from providing such protection to Merchant Ships unless flagged as a Japanese ship or under a Flag State authorized for CSD by a DOO.¹⁰³⁹ This, in turn, may require an STS¹⁰⁴⁰ Recognition¹⁰⁴¹ for each Flag State.

As an example, if GoJ successfully Recognized STS for an attack on the US, the JSDF may not be able to provide protection for Philippine-flagged ships without jeopardy to the Philippines' Rights of Inviolability¹⁰⁴² unless and until the Philippines became a co-belligerent in the IAC (and thus forfeited their Rights of Neutrality).

This limitation may lead to significant challenges in ensuring Japan's critical maritime imports¹⁰⁴³ (e.g., fuel, food).

¹⁰³⁹ 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

¹⁰⁴⁰ 4.9. Survival-Threatening Situation (STS), p. 104.

¹⁰⁴¹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁰⁴² 2.1.2.1.4. Law of Neutrality, p. 18.

¹⁰⁴³ D.7. Sea Lines of Communication (SLOC), p. 239.

Chapter 4. JAPAN'S SECURITY SITUATIONS FRAMEWORK

4.1. OVERVIEW

Because the Japanese Constitution¹⁰⁴⁴ makes no provisions for contingency situations, the basis for GoJ to respond to emergency situations stems solely from specific legislation passed for crisis response.

Phase transitions in military plans alone do not grant additional authorities for US force actions without further political action.

The JSDF's authorities in crisis are legally defined in the Securities Situations crisis management framework. Situation Stipulations¹⁰⁴⁵ are context dependent with the same scenario leading to different Stipulations in slightly different situations.

Stipulation of a Security Situation is a political act and subject to interpretation and domestic and international political conditions. Situations Stipulated by the PM¹⁰⁴⁶ require Diet Approval.¹⁰⁴⁷

While Security Situation authorities are constructed in a progressive manner, their Stipulation is neither linear nor predictable, although there are some expected patterns of Stipulation.¹⁰⁴⁸

Stipulation of an actual Security Situation may limit the authorities implemented to less than the maximum authorized under Japanese law.

The framework provides maximum decision space for the GoJ. This is useful to manage escalation but hinders the quick establishment of a crisis force posture.

Planners should expect Japan and the US to be out of sync in authorities until AAS¹⁰⁴⁹ and continued national caveats after AAS.

- The GoJ has never Stipulated a security situation.
- Security Situations are not self-executing. There are no "triggers" and even after an obvious Armed Attack.¹⁰⁵⁰ Even AAS must be actively Stipulated.
- The authorities listed in this chapter are the maximum authorities permitted by Japanese law.

4.1.1. Distinction Between "Security Situations" and Operations

See § 3.1.1. Distinction Between "Security Situations" and Operations (p. 53).

4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement)

GoJ uses the term "Stipulate" rather than "Declare" to refer to the *invocation* of Security Situations. While US planners may use the terms interchangeably, "Stipulate" preserves the legal sense that the PM is *specifying the requirement* for a Security Situation that the Diet then Approves (or Rejects). The term "declare" inadvertently implies the PM possesses unilateral authority that he/she lacks.

¹⁰⁴⁴ 2.1.2. Japanese Constitution (Kenpō), p. 13.

¹⁰⁴⁵ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁰⁴⁶ i.D.4. Article 9 – Basic Response Plan, p. 340.

¹⁰⁴⁷ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁰⁴⁸ 4.12. Expected Patterns of Stipulation (Taiwan Crisis), p. 123.

¹⁰⁴⁹ 4.10. Armed Attack Situation (AAS), p. 110.

¹⁰⁵⁰ 4.11. Definition of "Armed Attack", p. 114.

Chapter 4. Japan's Security Situations Framework

Generally, the GoJ refers to Diet concurrence with a Security Situation Stipulation as “Approval.” “Reject” refers to a Stipulation the Diet does not Approve and means the Security Situation is not Recognized.

And occasionally, “Recognize” (e.g., “when STS is recognized...”) is used to refer to the condition of a Stipulation having been Approved, creating the legal conditions where the PM may act upon the authorities granted to the PM (by Diet Approval) under Japanese law. “Acknowledge” is another common rendering, synonymous in use with “Recognize.” For clarity and consistency, this guide uses Recognize.

(Stipulation) + (Approval) = (Recognition)

For US planners, the most important term to be precise about is “Stipulate” as a “Stipulated situation” is in some ways only a proposal and does not imply the authorities granted by a “Recognized situation” once the Diet “Approves.”

Even in the case where *ex post*¹⁰⁵¹ Approval is permitted and the PM may act with emergency authorities prior to Diet Approval (IIS,¹⁰⁵² AAAS,¹⁰⁵³ AAS [Imminent],¹⁰⁵⁴ AAS [Occurrence]¹⁰⁵⁵), “Stipulate” retains the implication that such emergency actions may be halted or reversed by later Diet Rejection of a Stipulation.

4.1.2.1. Parallel Stipulation (Parallel Recognition)

Parallel Stipulations (or Parallel Recognitions) occur when GoJ divides a single, overarching, or simultaneous geopolitical crisis into two or more distinct crises for the purposes of Stipulating (or Recognizing) different Security Situations for each crisis. This definition is unique to this guide.

Security Situations can be declared in parallel, with the Stipulation of one situation for one aspect of a contingency and a separate situation for another aspect. For example, in 2022, players in a TTX held by JFSS were confronted with Taiwan crisis that included confrontations over the Senkakus. In the TTX, players representing GoJ’s decision-making Recognized STS¹⁰⁵⁶ for the Taiwan crisis but AAS¹⁰⁵⁷ for the Senkaku crisis.¹⁶⁹

Parallel Stipulations may impact US access to Facilities and Areas,¹⁰⁵⁸ GoJ/JSDF support to US forces, or RMCO,¹⁰⁵⁹ based on the nature of the US mission supported.

The mechanics of Parallel Stipulation are not clear, but it is likely that the BRPs¹⁰⁶⁰ for each Stipulation would provide geographic boundaries or other criteria to attempt to distinguish where authorities for each Security Situation would apply.

Parallel Stipulation (or Parallel Recognition) is distinct from Concurrent Stipulation¹⁰⁶¹ (or Concurrent Recognition).

4.1.2.2. Concurrent Stipulation (Concurrent Recognition)

Concurrent Stipulations (or Concurrent Recognitions) occur when GoJ responds to a single, overarching, or simultaneous geopolitical crisis with a single response that combines two or more Stipulations (or Recognitions). Concurrent Stipulations may happen simultaneously, with two or more situations being Stipulated at the time time, or non-simultaneously, with a second Stipulation following the first by a matter of hours, days, or weeks. This definition is unique to this guide.

¹⁰⁵¹ 4.2.1.2. Ex Post (“From After”) Approval, p. 94.

¹⁰⁵² 4.6. Important Influence Situation (IIS), p. 98.

¹⁰⁵³ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

¹⁰⁵⁴ 4.10.1.1. AAS (Imminent), p. 111.

¹⁰⁵⁵ 4.10.1.2. AAS (Occurrence), p. 111.

¹⁰⁵⁶ 4.9. Survival-Threatening Situation (STS), p. 104.

¹⁰⁵⁷ 4.10. Armed Attack Situation (AAS), p. 110.

¹⁰⁵⁸ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

¹⁰⁵⁹ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

¹⁰⁶⁰ 4.3. Basic Response Plan (BRP), p. 95.

¹⁰⁶¹ 4.1.2.2. Concurrent Stipulation (Concurrent Recognition), p. 90.

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For example, an STAA¹⁰⁶² on the US would result in the Stipulation of STS.¹⁰⁶³ But if GoJ's anticipated that its response to STS would result in horizontal escalation of the conflict to Japan, GoJ may Concurrently Stipulate AAAS¹⁰⁶⁴ or even AAS (Imminent)¹⁰⁶⁵

Concurrent Stipulation (or Concurrent Recognition) is distinct from Parallel Stipulation¹⁰⁶⁶ (or Parallel Recognition).

See §§ 4.9.1.1. Relationship between STS and IIS (p. 105), **Error! Reference source not found.. Error! Reference source not found.** (p. **Error! Bookmark not defined.**), and 4.9.5.1. Concurrent STS/AAAS or STS/AAS (Imminent)(p. 108).

4.1.3. Authorities Quick Reference Diagrams

STS¹⁰⁶⁷ and AAS¹⁰⁶⁸ require the US or Japan to be attacked. There is no legal mechanism to declare STS/AAS without an attack.

AAS (Imminent)¹⁰⁶⁹ may be declared upon credible I&W of an imminent Armed Attack¹⁰⁷⁰, but this is a national command-level decision and military formations below the CCMD would have negligible involvement, including requests for its consideration.

STS/AAS "authorities" (e.g., dispersion to private land) must be requested through II 4(b)¹⁰⁷¹ process or other non-combat authorities.

Same summary table format as in Ch 3?

¹⁰⁶² 4.9.1.2. Survival-Threatening Armed Attack (STAA), p. 105.

¹⁰⁶³ 4.9. Survival-Threatening Situation (STS), p. 104.

¹⁰⁶⁴ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

¹⁰⁶⁵ 4.10.1.1. AAS (Imminent), p. 111.

¹⁰⁶⁶ 4.1.2.1. Parallel Stipulation (Parallel Recognition), p. 90.

¹⁰⁶⁷ 4.9. Survival-Threatening Situation (STS), p. 104.

¹⁰⁶⁸ 4.10. Armed Attack Situation (AAS), p. 110.

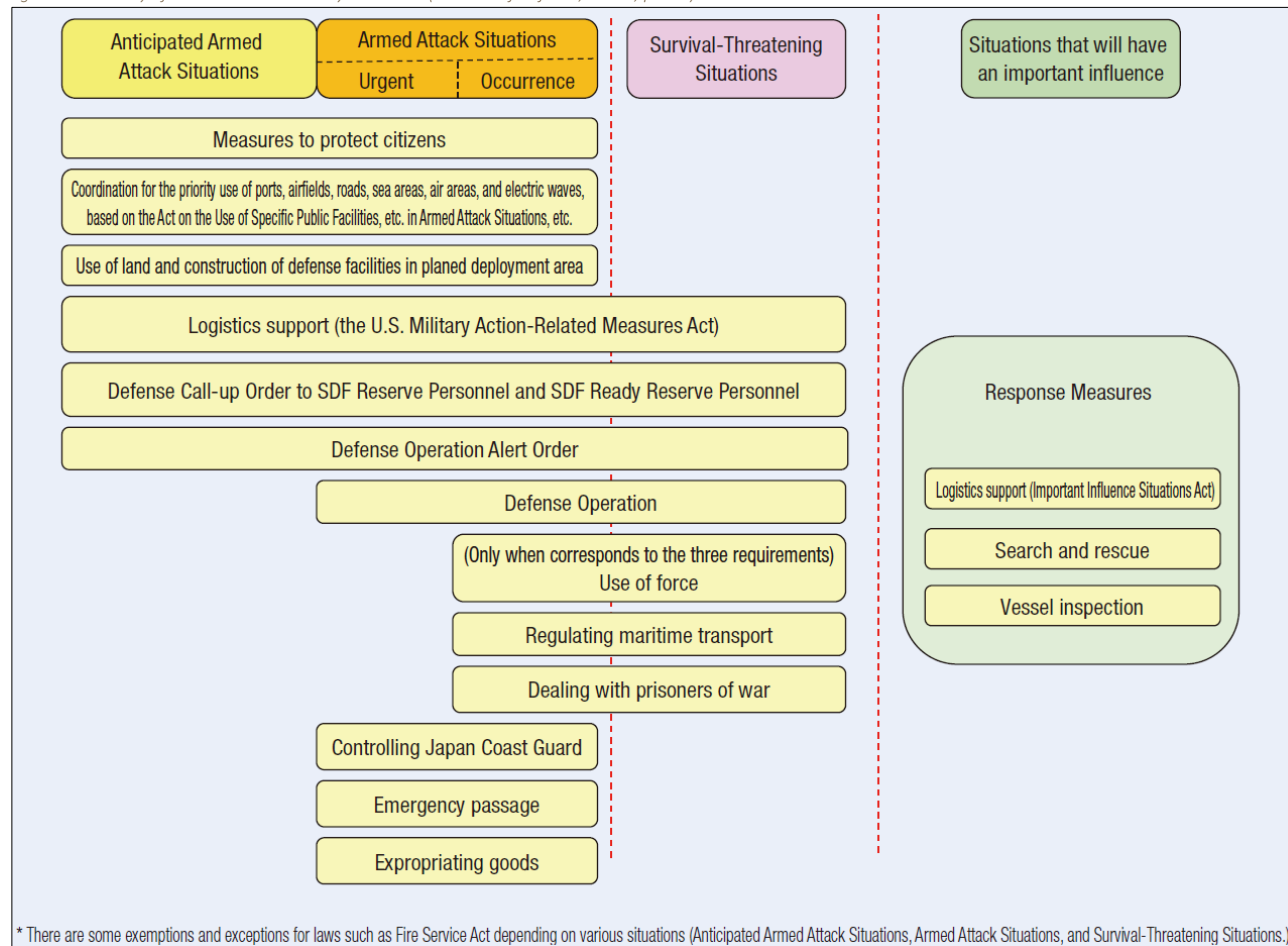
¹⁰⁶⁹ 4.10.1.1. AAS (Imminent), p. 111.

¹⁰⁷⁰ 4.11. Definition of "Armed Attack", p. 114.

¹⁰⁷¹ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

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Figure 5. Summary of JSDF Actions in Security Situations (Minister of Defense, 2023a, p. 284)



4.1.4. Non-Conflict Situations

The 2015 Legislation for Peace and Security¹⁰⁷² also included two additional situations not addressed in this guide. These are:

- Situations Threatening International Peace That the International Community is Collectively Addressing
- Emergency Response Situation

The first addresses a situation where Japan cooperations and supports responses to a UN resolution addressing international peace and security while the second addresses Japan's response to a non-Armed Attack¹⁰⁷³ emergency, such as terrorism.¹⁷⁰

4.2. STIPULATION PROCESS

IIS¹⁰⁷⁴ Stipulations¹⁰⁷⁵ include a BP¹⁰⁷⁶ rather than a BRP.¹⁰⁷⁷ While these two plans are similar, they are regulated by different laws. Unless otherwise stated, in the following section "BRP" may be read as "BP" for IIS Stipulations.

The process for the Stipulation and Approval¹⁰⁷⁸ (or Rejection¹⁰⁷⁹) of a Security Situation follows:

1. Formulation of a BRP

¹⁰⁷² 2.1.6. 2015 Legislation for Peace and Security, p. 35.

¹⁰⁷³ 4.11. Definition of "Armed Attack", p. 114.

¹⁰⁷⁴ 4.6. Important Influence Situation (IIS), p. 98.

¹⁰⁷⁵ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁰⁷⁶ 4.4. Basic Plan (BP), p. 97.

¹⁰⁷⁷ 4.3. Basic Response Plan (BRP), p. 95.

¹⁰⁷⁸ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

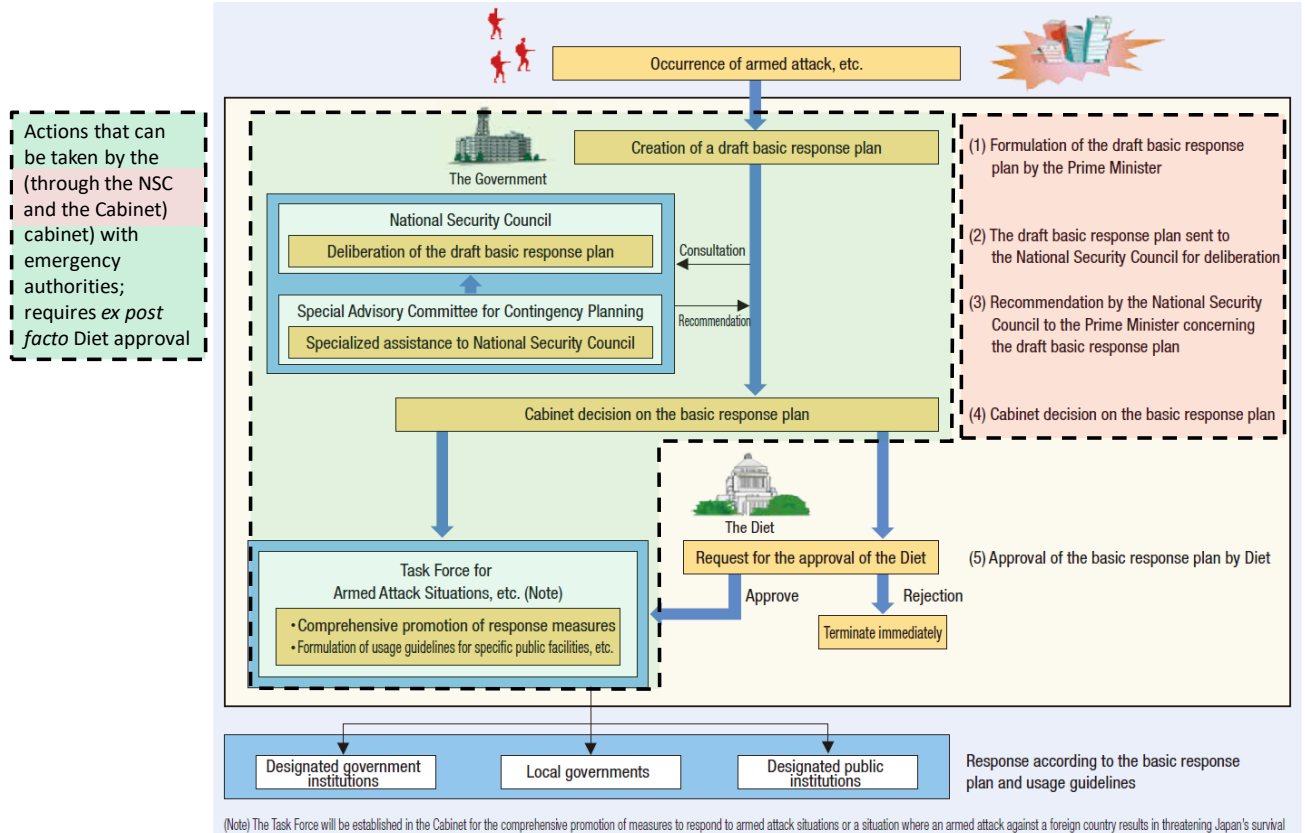
¹⁰⁷⁹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

2. Draft BRP¹⁰⁸⁰ sent to the JNSC¹⁰⁸¹ for deliberation (Japanese law requires the PM to consult with the JNSC on BRPs)
3. JNSC makes recommendation to PM (i.e., approves/modified/rejects draft BRP)
- 3a. Special Advisory Committee for Contingency Planning???
4. PM submits BRP to Cabinet for Approval/Rejection
5. Cabinet issues a Cabinet Decision¹⁰⁸² to Stipulate a Security Situation and submits a BRP to Diet for Approval/Rejection
 - 5a. *In extremis*, the Cabinet may implement the BRP with *ex post*¹⁰⁸³ Diet Approval/Rejection
6. Diet Approves/Rejects BRP

One source estimates 36 hours as an optimistic timeframe for steps 1-5a.¹⁷¹

When the Cabinet decides to implement the BRP, either with *ex post* (step 5a) or with *ex ante* (step 6) Diet Approval, the PM then orders the MinDef to issue a DOO¹⁰⁸⁴ or other applicable order(s).¹⁰⁸⁵

Figure 6. Security Situation Crisis Process (Minister of Defense, 2023a, p. 283)



4.2.1. Diet Approval/Rejection

Diet Approval¹⁰⁸⁶ or Rejection¹⁰⁸⁷ is reached by a resolution of approval or disapproval passed by a simple majority¹⁰⁸⁸ of House members present. If the House of Representatives has been dissolved, Approval is provided by an emergency meeting of the House of Councillors, as for in provided for in Article 54¹⁰⁸⁹ of the Constitution¹⁰⁹⁰ (e.g., an "Article 54 Approval").

¹⁰⁸⁰ 4.3. Basic Response Plan (BRP), p. 95.

¹⁰⁸¹ C.2.6. (Japan) National Security Council (JNSC), p. 228.

¹⁰⁸² C.2.1.4.2. Cabinet Order, p. 226.

¹⁰⁸³ 4.2.1.2. Ex Post ("From After") Approval, p. 94.

¹⁰⁸⁴ 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

¹⁰⁸⁵ Chapter 3. JSDF Operations and Authorities, p. 53.

¹⁰⁸⁶ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁰⁸⁷ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁰⁸⁸ C.3.3. Diet Approvals and Passage of Bills, p. 234.

¹⁰⁸⁹ i.B.6. Article 54 – Dissolution of the House of Representatives, p. 301.

¹⁰⁹⁰ i.D.4. Article 9 – Basic Response Plan, p. 340.

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If a Stipulation is Approved under Article 54, it must be approved by the House of Representatives within 10 days of the next session of the Diet (when the House of Representatives is brought back into session). If the House of Representatives Rejects the “Article 54 Approval,” it becomes null and void (according to the provisions of Article 54).

There are two forms of Approval or Rejection:

- *Ex ante*¹⁰⁹¹ (“before the event”) is when the Diet reviews a BRP¹⁰⁹² prior to implementation (step 6 in § 4.2 Stipulation Process [p. 92])
- *Ex post*¹⁰⁹³ (“after the fact”) is when the Diet reviews a BRP after the PM has directed its implementation (step 5a in § 4.2 Stipulation Process [p. 92])

4.2.1.1. *Ex Ante (“Before the Event”) Approval*

For STS¹⁰⁹⁴ or in circumstances where the PM has sufficient time to seek prior Diet Approval¹⁰⁹⁵ for other Security Situations, the BRP¹⁰⁹⁶ is submitted to the Diet for review prior to its implementation.

When the Diet Rejects¹⁰⁹⁷ a BRP, the Cabinet’s proposed action is denied. Depending on the situation, the Cabinet might immediately resubmit an adjusted BRP or may desist action. As a veto of Executive Branch action by the Legislative Branch, this would be a serious political blow to the Cabinet’s political power. As such, Rejection of an *ex ante* review is unlikely as the Cabinet would likely avoid submitting any BRP that would be Rejected except as an extreme political maneuver.

The Rejection mechanism is unclear as GoJ has never Stipulated¹⁰⁹⁸ a Security Situation. It is possible that the Diet might Reject the facts supporting the Stipulation, asserting that the circumstances do not rise to the threshold for a Security Situation. Or it is possible that the Diet might accept the existence of a Security Situation but Reject the PM’s proposed plan for response.

It is unclear the implications of the Diet Rejecting a plan for response but agreeing to the existence of a Security Situation. It is likely that if the Diet agreed a specific crisis constituted the Stipulated Security Situation, it would defer to the PM in its proposed response, potentially restraining itself to modifying elements of the response (e.g., adjusting ROE,¹⁰⁹⁹ geographic boundaries, or specific authorities for sensitive actions such as Counterstrike¹¹⁰⁰) rather than Rejecting the BRP outright.

When referring to Diet approval, GoJ documents will often use the phrase “prior Diet approval is required in principle.” This rendering implies that *ex ante* approval is the normal or preferred method for seeing Diet approval and that *ex post* approval is reserved for emergency cases.

4.2.1.2. *Ex Post (“From After”) Approval*

Under emergency circumstances, the PM may implement a BRP¹¹⁰¹ for IIS,¹¹⁰² AAAS,¹¹⁰³ AAS (Imminent),¹¹⁰⁴ and AAS (Occurrence)¹¹⁰⁵ prior to Diet review. In such circumstances, the PM must immediately submit the BRP to the Diet for consideration and, if Rejected,¹¹⁰⁶ immediately terminate all activity associated with the BRP.

It’s unclear either the likelihood or implications of the Diet Rejecting the existence of a Security Situation or a plan for response under *ex post* review. It is difficult to imagine an emergency situation demanding immediate Cabinet action (step 5a in § 4.2 Stipulation Process [p. 92]) where the situation would not

¹⁰⁹¹ 4.2.1.1. Ex Ante (“Before the Event”) Approval, p. 94.

¹⁰⁹² 4.3. Basic Response Plan (BRP), p. 95.

¹⁰⁹³ 4.2.1.2. Ex Post (“From After”) Approval, p. 94.

¹⁰⁹⁴ 4.9. Survival-Threatening Situation (STS), p. 104.

¹⁰⁹⁵ 4.1.2. Terminology: Stipulation (vs.

Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁰⁹⁶ 4.3. Basic Response Plan (BRP), p. 95.

¹⁰⁹⁷ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁰⁹⁸ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁰⁹⁹ 3.3.5. Operational Code of Conduct (OCC) – Japanese “ROE”, p. 82.

¹¹⁰⁰ 2.3.5. Counterstrike, p. 46.

¹¹⁰¹ 4.3. Basic Response Plan (BRP), p. 95.

¹¹⁰² 4.6. Important Influence Situation (IIS), p. 98.

¹¹⁰³ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

¹¹⁰⁴ 4.10.1.1. AAS (Imminent), p. 111.

¹¹⁰⁵ 4.10.1.2. AAS (Occurrence), p. 111.

¹¹⁰⁶ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

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escalate or entrench. In such conditions, it seems unlikely it would be *possible* to halt implementation of the BRP without catastrophic (military or political) consequences.

As Approval¹¹⁰⁷/Rejection is an action with potentially as much political as military consequence, it seems unlikely the Diet would Reject the implementation of a BRP *ex post* except in extreme cases.

4.2.2. Stipulation Decision Calculus

As with any state's major national security matters, the decision to Stipulate¹¹⁰⁸ a Security Situation is a political one, taking into account countless factors within both international and domestic politics. There is no manual for statesmen to navigation national crises and there is no checklist for when to Stipulate a Security Situation or how any specific Stipulation will manifest given the circumstances.

However, GoJ is likely to consider the following factors:

- The international response of:
 - The US
 - "Like-minded nations" (especially including other nations similarly impacted by the situation)
 - International and multinational organizations (e.g., UN, G7, NATO, EU)
- The perceived narrative
 - Who is seen as the aggressor?
 - Would Japan be perceived as an aggressor or cause of escalation?
- Domestic political conditions
 - Strength of the party in power
 - Strength of the Cabinet
 - Relationship between the Diet and Cabinet
 - Popular sentiment
- Economic impacts
 - Near-, mid-, and long-term
- Escalation
 - Possible severity
 - Ability to avoid/inevitability of escalation

4.2.2.1. "Legalistic"/Literal Approach to Stipulation

GSO's legal analysis of how GoJ's Security Situation framework would have applied in the 2022 large-scale invasion of Ukraine¹¹⁰⁹ suggests that the examples given during Diet proceedings for the 2015 Legislation for Peace and Security¹¹¹⁰ might be taken literally as "triggers" to Stipulate¹¹¹¹ a Security Situation.

While this no doubt reflects the views of some in Japan, to include potentially some Diet members, there is little evidence that this literalistic approach to Stipulation is realistic in a crisis.

However, the post-war history of Japanese defense policy contains numerous examples of such literalism when non-existential threats are concerned (e.g., Japan's difficulties in supporting the 1991 Gulf War). Applying these lessons to existential threats should be done with extreme caution.

4.3. BASIC RESPONSE PLAN (BRP)

A BRP (sometimes also translated as "Basic Response Policy" or "Basic Response Principles") is a political document that is part of the Cabinet Stipulation¹¹¹² of a particular Security Situation that provides the GoJ justification for exercising crisis authorities as well as outlining the specific authorities to be executed.

¹¹⁰⁷ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹¹⁰⁸ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹¹⁰⁹ Annex v. Japan's Legal Analysis of Russia's 2022 Invasion of Ukraine: Implications for US Planners, p. 438.

¹¹¹⁰ 2.1.6. 2015 Legislation for Peace and Security, p. 35.

¹¹¹¹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹¹¹² 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

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BRPs also serve to outline the specific JSDF operations¹¹¹³ authorized under the plan and associated Security Situation.

A BRP contains:

- Confirmation of the situation with facts supporting Stipulation (e.g., facts of an Armed Attack¹¹¹⁴ or preparations for an Armed Attack)
- Rationale for why a Security Situation response is required and no other appropriate means are available¹¹¹⁵
- Overall plan for the response including:
 - The specific requested authorities from the list of those permissible under law

BRPs are subject to a political paradox whereby:

- They may be extremely difficult to change, once Approved,¹¹¹⁶ incentivizing broad authorities that allow the Cabinet flexibility to address unanticipated conditions and act responsively in a crisis; and
- The Diet will likely want narrowly-scoped and highly-specific authorities that allow it to exercise its constitutional check on the Executive Branch and avoid writing a “blank check”

4.3.1. Objective Confirmation

Certain GoJ sources use the term Objective Confirmation when describing or defining Security Situation definitions. This refers to the first element of the BRP:

Confirmation of the situation with facts supporting Stipulation (e.g., facts of an Armed Attack¹¹¹⁷ or preparations for an Armed Attack)

This Objective Confirmation is based on factors such as international affairs and the military activities of the belligerent country, as well as “clear intention” of an Armed Attack against Japan.

“Objective Confirmation” may require intelligence sharing of I&W with Japan. See § 4.3.1. Objective Confirmation (p. 96).

4.3.2. Cabinet Decision

In addition to the BRP, the Cabinet will issue a formal Cabinet Decision¹¹¹⁸ to Stipulate¹¹¹⁹ a Security Situation.

4.3.1. US Involvement in BRP Formulation

While the BRP¹¹²⁰ is a GoJ document, the US is likely to be directly or indirectly involved in helping the Cabinet shape a response plan. This will include information and intelligence sharing that strengthens the justification for Stipulating¹¹²¹ a Security Situation (i.e., “Objective Confirmation”¹¹²²) as well as details of the US’s intended response and desired Alliance actions, to help shape GoJ’s plan as part of a coherent Alliance response.

Bilateral contingency plans may be used to inform or establish the military requirements for the BRP but are distinct from BRPs.

Additionally, the Japan-US Alliance has demonstrated a strong tendency to be “led” by the US, whereby Japanese planners often admit that certain domestic political decisions are eased “if the US asks for them” or if the US makes the case for their necessity.

¹¹¹³ 3.1.1.1. Distinction Between “Security Situations” and Operations, p. 53.

¹¹¹⁴ 4.1.1. Definition of “Armed Attack”, p. 114.

¹¹¹⁵ 2.3.1. “Three New Conditions” for the Use of Force, p. 41.

¹¹¹⁶ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹¹¹⁷ 4.1.1. Definition of “Armed Attack”, p. 114.

¹¹¹⁸ C.2.1.4.2. Cabinet Order, p. 226.

¹¹¹⁹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹¹²⁰ 4.3. Basic Response Plan (BRP), p. 95.

¹¹²¹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹¹²² 4.3.1. Objective Confirmation, p. 96.

4.4. BASIC PLAN (BP)

Article 4¹¹²³ of IIS Act (Act No. 60 of 1999, as amended) requires the PM to outline response measures authorized under an IIS¹¹²⁴ Stipulation¹¹²⁵ in a BP.

The BP outlines:

- Rationale for Stipulating IIS including:
 - Background of the situation
 - Impact on the peace and security of Japan
 - Rationale for why Japan must implement IIS response measures
- Implementation policies for authorized IIS activities, including
 - Logistics Support Activities¹¹²⁶
 - Type of support
 - Implementation Area¹¹²⁷ for support
 - RSAR Operations¹¹²⁸
 - Implementation Area for support
 - SIO Operations¹¹²⁹
 - Implementation Area for support
 - Size and composition of JSDF units conducting SIO
 - Goods or Contraband¹¹³⁰ subject to regulation

4.4.1. Implementation Area

Article 4¹¹³¹ of IIS Act (Act No. 60 of 1999, as amended) requires the BP to specify an Implementation Area for authorized IIS activities. Implementation areas facilitate the application of the *ittai*¹¹³² principle by scoping IIS support activities outside areas that are the Scene of Combat¹¹³³ and such that they do not constitute integration with the supported military's Use of Force.¹¹³⁴ If combat takes place or is imminent in an Implementation Area, the supporting JSDF commander is required to suspect support activities to maintain the *ittai* principle

If the Implementation Area is in a foreign territory, that foreign State must consent to the authorized support activities and BPs must specify the size, composition, equipment, and deployment period for supporting JSDF units that will conduct supporting operations abroad.

4.5. PEACETIME AUTHORITIES

GoJ/JSDF does not have the authority to use commercial APOD/SPOD with priority in peacetime

4.5.1. Routine Support to US Forces

During peacetime operations, the JSDF is authorized to provide limited support to US forces when co-located with the JSDF and conducting similar activities. This support includes:

- ISR
 - Pursuant to (1)(ix) and (1)(xviii) of Article 4 – Duties of Jurisdiction¹¹³⁵ of the MOD Establishment Act (Act No. 165 of 1954)
- Air and missile defense
- Maritime security
- Bilateral training

¹¹²³ i.E.4. Article 4 - Basic Plan, p. 346.

¹¹²⁴ 4.6. Important Influence Situation (IIS), p. 98.

¹¹²⁵ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹¹²⁶ 4.5.1.1. Logistics Support Activities, p. 98.

¹¹²⁷ 4.4.1. Implementation Area, p. 97.

¹¹²⁸ 3.2.2.6.1. "Rear-Area" Search and Rescue (RSAR), p. 58.

¹¹²⁹ 3.2.3.9. Ship Inspection Operations (SIO), p. 69.

¹¹³⁰ 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

¹¹³¹ i.E.4. Article 4 - Basic Plan, p. 346.

¹¹³² 2.1.2.2. Ittaika (Integration), p. 20.

¹¹³³ 2.1.2.2.1. Scene of Combat, p. 21.

¹¹³⁴ 3.3.3. Use of Force, p. 79.

¹¹³⁵ i.EE.1. Article 4 – Duties of Jurisdiction, p. 419.

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- Logistics Support Activities
- Coordinate for APOD/SPOD access on a case-by-case basis based on US needs
- Peacetime “protection of assets” (Article 95-2¹¹³⁶ of the SDF Act (Law No. 165 of 1954, as amended))

4.5.1.1. Logistics Support Activities

Throughout peacetime, crisis, and conflict, the JSDF can provide mutual logistics support to the US and other militaries. This support generally includes the following:

- Supplies (water, fuel, food, limited types of ammunition)
 - Excluded ammunition generally includes missiles, torpedoes, and other large munitions
- Transportation (persons and goods)
- Repair and maintenance of equipment
- Medical services and treatment of injured personnel
- Communications services and equipment
- APOD and SPOD services (arrival/departure, loading/unloading)
- Base operations support including disposal of waste
- Billeting and temporary use of billeting facilities
- Storage of goods
- Use of JSDF facilities, buildings, and areas
- Training services (materials for educational and training purposes)

Logistics Support Activities are authorized under:

- Article 100-6¹¹³⁷ of the SDF Act (Law No. 165 of 1954, as amended)
- Article 6¹¹³⁸ of the IIS Act (Act No. 60 of 1999, as amended)
- And generally require established ACSAs.¹¹³⁹

Logistical support may also be limited based on:

- The *Ittaika*¹¹⁴⁰ principle
 - When Logistics Support Activities are provided
- The activities of the supported military (i.e., the JSDF and foreign military must normally be conducting similar activities or the foreign military must be contributing to the objectives of the UN Charter of MST.¹¹⁴¹
 - See § 8.2.2. Applicable Conditions for US ACSA Support (p. 168)

4.6. IMPORTANT INFLUENCE SITUATION (IIS)**4.6.1. Definition**

Japan legally defines IIS in the IIS Act (Act No. 60 of 1999, as amended).¹¹⁴² There are no official translations of this law. The definition below is provided in non-legal officially-translated GoJ documents.

Situations that have an important influence on Japan's peace and security including situations that could result in a direct Armed Attack¹¹⁴³ on Japan if left unattended.¹⁷²

situations that have an important influence on Japan's peace and security including situations that could result in a direct armed attack on Japan if left unattended.

¹¹³⁶ i.C.57. Article 95-2 – Use of Weapons to Protect the Weapons, etc. of Units of the United States and Other Militaries, p. 329.

¹¹³⁷ i.C.59. Article 100-6 – Provision of Supplies/Services to the US Armed Forces, p. 330.

¹¹³⁸ i.E.6. Article 6 - Implementation of Provision of Goods and Services as Logistics Support Activities by the SDF, p. 348.

¹¹³⁹ 8.2. Japan-US Acquisition and Cross-Servicing Agreement (ACSA), p. 167.

¹¹⁴⁰ 2.1.2.2. Ittaika (Integration), p. 20.

¹¹⁴¹ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹¹⁴² i.E.3. Article 3 – Definitions, p. 345.

¹¹⁴³ 4.11. Definition of “Armed Attack”, p. 114.

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The full rendering of IIS is “Situations that will have an important influence on Japan’s peace and security.”

IIS may also be rendered as:

- Situations of Significant Influence (SSI)
- Significant Influence Situation (SIS)
- Serious Influence Situation (SIS)
- Serious Impact Situation (SIS)
- Situations of Great Consequence

IIS is sometimes interpreted or presented as an Armed Attack around Japan, but there is scant evidence this reflects a meaningful or practical interpretation.

IIS is not geographically-bound.

Because of the interpretation permitted and required by Security Situations, Stipulating¹¹⁴⁴ the first Situation (normally IIS) may be the largest hurdle. By formally entering a crisis situation, the GoJ may face less reluctance or resistance to subsequent Situation Stipulations.

IIS replaced the legacy term “Situations in Areas Surrounding Japan” (SIASJ).

4.6.1.1. Relationship between IIS and STS

GoJ describes STS¹¹⁴⁵ and IIS as related in the following manner:

While both situations [IIS and STS] ... are different legal concepts that are determined separately based on the requirements set forth in the respective laws, they share common requirements such as the likelihood that Japan may be embroiled in a war and the extent of damage that may be suffered by Japanese nationals. In other words, [STS] may be conceptually subsumed under [IIS]. Accordingly, depending on how a situation evolves, [an IIS] may also satisfy the requirements of [an STS] and may be determined as such.¹⁷³

4.6.2. Authorized Actions in IIS

The authorities granted during an IIS are not significantly more expansive than those authorized during peacetime (non-crisis) operations.

4.6.2.1. JSDF Operations in IIS

In IIS, the JSDF may conduct the following activities:

- RSAR¹¹⁴⁶ under Article 2¹¹⁴⁷ of the IIS Act (Act No. 60 of 1999, as amended)
 - Including for those lost/injured as the result of combat
 - Prohibited at the Scene of any Combat¹¹⁴⁸
- SIO¹¹⁴⁹ (peacetime “Approach and Visit”) as regulated by Ship Inspection Act (Act No. 145 of 2000, amended)¹¹⁵⁰

The JSDF may also conduct the following activities, although they are not inherent in IIS and are conducted under their own authorities:

- Rescue/Transport of Japanese Nationals Overseas (R/TJNO)¹¹⁵¹

¹¹⁴⁴ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹¹⁴⁵ 4.9. Survival-Threatening Situation (STS), p. 104.

¹¹⁴⁶ 3.2.2.6.1. “Rear-Area” Search and Rescue (RSAR), p. 58.

¹¹⁴⁷ i.E.2. Article 2 - Basic Principles, p. 345.

¹¹⁴⁸ 2.1.2.2.1. Scene of Combat, p. 21.

¹¹⁴⁹ 3.2.3.9. Ship Inspection Operations (SIO), p. 69.

¹¹⁵⁰ i.L. Ship Inspection Act (Act No. 145 of 2000, amended), p. 367.

¹¹⁵¹ 3.2.5.2. Rescue and Transportation of Japanese Nationals Overseas (R/TJNO), p. 72.

4.6.2.2. JSDF Support Activities in IIS

In IIS, the JSDF may provide the following support to US forces supporting the objectives of the MST,¹¹⁵² the armed forces of militaries supporting the objectives of the UN Charter (including US forces), and other similar organizations:

- Logistics Support Activities¹¹⁵³
 - Routine (non-combat) support¹¹⁵⁴ to US forces responding to IIS (including for combat-related activities but excluding at the Scene of Combat¹¹⁵⁵ [e.g., *Ittaika*¹¹⁵⁶ principles apply])
 - Supply of combat-related ammunition (but no weapons), refueling, and maintenance is permitted outside the Scene of Combat
 - Routine ACSA procedures and limitations apply¹¹⁵⁷

4.6.2.3. Ittaika Considerations in IIS

*Ittaika*¹¹⁵⁸ principles apply during IIS, prohibiting any activities or support that might constitute integration with the Use of Force¹¹⁵⁹ of supported or adjacent militaries.

4.6.2.4. Employment of Arms in IIS

Article 11 - Use of Weapons¹¹⁶⁰ of IIS Act (Act No. 60 of 1999, as amended) authorizes Type 1¹¹⁶¹ and Type 2¹¹⁶² Use of Weapons¹¹⁶³ under IIS.

4.6.2.5. US Access Authorizations in IIS

IIS provides no additional access authorities for US forces in Japan. US use of Facilities and Areas¹¹⁶⁴ must be requested through routine II 4(b) procedures.¹¹⁶⁵

Article 9¹¹⁶⁶ of the IIS Act (Act No. 60 of 1999, as amended) provides the GoJ with limited authorities to request cooperation from land owners, local governments, or facility operators in providing access to US Forces but there is no obligation for port and airport operators to provide the requested support and no legal mechanism to compel support.

4.6.2.6. Geographic Bounds in IIS

There are no geographic boundaries for activities that may be authorized under IIS. The BP¹¹⁶⁷ may specify geographic areas or other restrictions that bound the implementation of IIS activities or otherwise limit IIS authorizations.

4.6.3. Requirements and Approval

A Recognition¹¹⁶⁸ of IIS requires:

- BP¹¹⁶⁹
- PM Authorization
- Diet Approval¹¹⁷⁰ (*ex ante*¹¹⁷¹ or *ex post*¹¹⁷²) pursuant to Article 5 - Approval of the Diet¹¹⁷³

¹¹⁵² 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹¹⁵³ 4.5.1.1. Logistics Support Activities, p. 98.

¹¹⁵⁴ 4.5.1. Routine Support to US Forces, p. 97.

¹¹⁵⁵ 2.1.2.2.1. Scene of Combat, p. 21.

¹¹⁵⁶ 2.1.2.2. *Ittaika* (Integration), p. 20.

¹¹⁵⁷ 8.2. Japan-US Acquisition and Cross-Servicing Agreement (ACSA), p. 167.

¹¹⁵⁸ 2.1.2.2. *Ittaika* (Integration), p. 20.

¹¹⁵⁹ 3.3.3. Use of Force, p. 79.

¹¹⁶⁰ i.E.11. Article 11 - Use of Weapons, p.350.

¹¹⁶¹ 3.3.1.2. Type 1: "Self-Preservation Type" Use of Weapons, p. 76.

¹¹⁶² 3.3.1.3. Type 2: "Execution of Mission Type" Use of Weapons ("Minor Self-Defense"), p. 77.

¹¹⁶³ 3.3.1. Use of Weapons, p. 74.

¹¹⁶⁴ 2.1.4.1.1. Definition of "Facilities and Areas", p. 31.

¹¹⁶⁵ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

¹¹⁶⁶ i.E.9. Article 9 - Cooperation by Parties Other than the State, p. 350.

¹¹⁶⁷ 4.4. Basic Plan (BP), p. 97.

¹¹⁶⁸ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹¹⁶⁹ 4.4. Basic Plan (BP), p. 97.

¹¹⁷⁰ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹¹⁷¹ 4.2.1.1. Ex Ante ("Before the Event") Approval, p. 94.

¹¹⁷² 4.2.1.2. Ex Post ("From After") Approval, p. 94.

¹¹⁷³ i.E.5. Article 5 - Approval of the Diet, p. 348.

4.6.4. IIS Scenarios

During Diet proceedings for the 2015 Legislation for Peace and Security,¹¹⁷⁴ the following examples were provided as possible conditions that would justify Stipulation¹¹⁷⁵ of IIS:

Neither GoJ nor other sources number potential situations that might precipitate a Security Situation Stipulation. The scheme below (number and letter) is used to facilitate cross-references throughout this guide and is unique to this guide and related documents.

- (1a) Armed conflict¹¹⁷⁶ in areas surrounding Japan is imminent
- (1b) Armed conflict in areas surrounding Japan is occurring
- (1c) Armed conflict in areas surrounding Japan has ceased but restoring and maintaining order has not been achieved
- (1d) "Rebellion" or "civil war" occur in a country and the situation has expanded to a global scale (beyond domestic impact in the country of occurrence)
- (1e) High likelihood that a large number of people would be displaced to Japan from a country due to a political disorder
- (1fe) When the UNSC determines a situation is a threat to the peace, breach of the peace, or act of aggression and economic sanctions are imposed against the country based on UNSCR
- (1g) When grave military tensions rise or an armed clash occurs in areas not surrounding Japan (e.g., Middle East or Indian Ocean) and it is likely that both (1) serious damage is inflicted on Japanese ships carrying goods to Japan and (2) US and others are conducting activities to respond to the circumstances.

Other conditions that might warrant consideration of a situation as IIS include:

- The infringement on the sovereignty or sovereign rights of neighboring countries (e.g., a Exclusion Zone, etc.¹¹⁷⁷ short of Blockade¹¹⁷⁸)
- Hybrid¹¹⁷⁹ or Grey Zone¹¹⁸⁰ warfare against neighboring countries that is liable to expand and impact Japan's overall security

4.7. "ARMED ATTACK SITUATIONS, ETC."

GoJ uses "armed attack situations, etc." as a collective term to refer to both/either AAAS¹¹⁸¹ and AAS¹¹⁸² (including AAS [Imminent]¹¹⁸³ and AAS [Occurrence]¹¹⁸⁴). While this term is normally found only in the titles of laws (e.g., Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended)), it is occasionally used in operational materials (e.g., ROE briefs, etc.). In these latter cases, the term is sometimes rendered merely as "armed attack situations" which creates ambiguity with the plural of AAS.

To make this distinction clear and avoid confusion, this guide presents the collective term in lower case.

Planners should take care when dealing with the term to both ensure they are clearly communicating what they intend or clearly understanding what they are reading/hearing. Especially when involving language barriers (e.g., translation or interpretation) one or both parties may unintentionally use the incorrect term or ambiguous language.

¹¹⁷⁴ 2.1.6. 2015 Legislation for Peace and Security, p. 35.

¹¹⁷⁵ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹¹⁷⁶ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

¹¹⁷⁷ 4.11.7.6. Exclusion Zones, etc., p. 120.8

¹¹⁷⁸ 4.11.6.7. Blockade, p. 119.

¹¹⁷⁹ 11.3. Hybrid Warfare, p. 181.

¹¹⁸⁰ 11.2. Grey Zone, p. 180.

¹¹⁸¹ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

¹¹⁸² 4.10. Armed Attack Situation (AAS), p. 110.

¹¹⁸³ 4.10.1.1. AAS (Imminent), p. 111.

¹¹⁸⁴ 4.10.1.2. AAS (Occurrence), p. 111.

4.8. ANTICIPATED ARMED ATTACK SITUATION (AAAS)

4.8.1. Definition

Japan legally defines AAAS in Article 2¹¹⁸⁵ of Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended). There are no official translations of this law. The definition below is provided in non-legal officially-translated GoJ documents.

Situations that are not yet an Armed Attack Situation¹¹⁸⁶ [AAS] but in which circumstances are critical and an Armed Attack¹¹⁸⁷ against Japan is anticipated.¹⁷⁴

The machine translation of the legal definition of AAAS, from Article 2, ¶(1)(iii) is:

A situation in which an Armed Attack has not yet occurred, but the situation has become so tense that an Armed Attack is anticipated.

AAAS may be rendered as “Expected Armed Attack Situation” or “Armed Attack Prediction Situation.”

Armed Attack is anticipated when armed aggression is expected but the aggressor has not taken any tangible steps towards conducting an attack.

Perception or public sentiment that an evacuation¹¹⁸⁸ out of fear of an Armed Attack would be a strong qualifying criteria or indicator for AAAS Stipulation.¹¹⁸⁹

4.8.2. Authorized Actions in AAAS

4.8.2.1. JSDF Operations in AAAS

In AAAS, the JSDF may conduct the following activities:

- Civil Protection Operations¹¹⁹⁰ as regulated by the Civil Protection Act (Act No. 112 of 2004, as amended)¹¹⁹¹
 - GoJ may issue warning and voluntary evacuation¹¹⁹² orders
 - Civil Protection Act (Act No. 112 of 2004, as amended)¹¹⁹³ authorizes GoJ use of commercial APOD/SPOD
- SAR¹¹⁹⁴
 - Including for those lost/injured as the result of combat
 - Prohibited at the Scene of any Combat (i.e., RSAR¹¹⁹⁵ only)
- SIO¹¹⁹⁶ (peacetime “Approach and Visit”) as regulated by the Ship Inspection Act (Act No. 145 of 2000, amended)¹¹⁹⁷

The following JSDF orders may be issued during AAAS:

- DOAO¹¹⁹⁸
 - Including the Establishment of Defense Facilities¹¹⁹⁹
- Defense Mobilization Order¹²⁰⁰
- MoD control of part/whole of JCG¹²⁰¹

¹¹⁸⁵ i.D.3. Article 2 – Definitions, p. 338.

¹¹⁸⁶ 4.10. Armed Attack Situation (AAS), p. 110.

¹¹⁸⁷ 4.11. Definition of “Armed Attack”, p. 114.

¹¹⁸⁸ 9.2. Evacuation, p. 170.

¹¹⁸⁹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹¹⁹⁰ 3.2.5.1. Civil Protection Operations (CPO), p. 70.

¹¹⁹¹ i.G. Civil Protection Act (Act No. 112 of 2004, as amended), p. 356.

¹¹⁹²

¹¹⁹³ i.G. Civil Protection Act (Act No. 112 of 2004, as amended), p. 356.

¹¹⁹⁴ 3.2.2.6. Search and Rescue (SAR), p. 58.

¹¹⁹⁵ 3.2.2.6.1. “Rear-Area” Search and Rescue (RSAR), p. 58.

¹¹⁹⁶ 3.2.3.9. Ship Inspection Operations (SIO), p. 69.

¹¹⁹⁷ i.L. Ship Inspection Act (Act No. 145 of 2000, amended), p. 367.

¹¹⁹⁸ 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

¹¹⁹⁹ 3.2.2.4. Establishment of Defense Facilities, p. 57.

¹²⁰⁰ 3.2.2.3. Defense Mobilization, p. 57.

¹²⁰¹ 7.4.3. MoD Control over the JCG, p. 156.

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The JSDF may also conduct the following activities, although they are not inherent in IIS and are conducted under their own authorities:

- Rescue/Transport of Japanese Nationals Overseas (R/TJNO)¹²⁰²
- MoD maintains a contract (called PFI¹²⁰³) for two high-speed civilian vessels, taskable within 72 hours of a crisis. For security crises, this authority and the general ability to contract or charter other civilian vessels is available at AAAS.

4.8.2.2. JSDF Support Activities in AAAS

In AAAS, the JSDF may provide the following support to US forces supporting the objectives of the MST,¹²⁰⁴ the armed forces of militaries supporting the objectives of the UN Charter (including US forces), and other similar organizations:

- Logistics Support Activities¹²⁰⁵
 - Routine support¹²⁰⁶ to US forces responding to AAAS (including for combat-related activities but excluding the Scene of Combat¹²⁰⁷)
 - Supply of combat-related ammunition (but no weapons), refueling, and maintenance is permitted outside the Scene of Combat
 - Routine ACSA procedures and limitations apply¹²⁰⁸

4.8.2.3. Ittaika Considerations in AAAS

Limited *Ittaika*¹²⁰⁹ principles apply during AAAS. Logistics Support Activities¹²¹⁰ to US forces responding to the AAAS situation are permitted, including for combat-related activities, but excluding the Scene of Combat.¹²¹¹

Other activities or support that might constitute integration with the Use of Force¹²¹² of supported or adjacent militaries is governed by the *Ittaika* principle and are prohibited.

4.8.2.4. Employment of Arms in AAAS

AAAS provides the JSDF no special authorities for Use of Weapons,¹²¹³ although additional Use of Weapons authorities may be provided by operations (e.g., PSO,¹²¹⁴ MSO¹²¹⁵) conducted under other authorities.

Use of Force¹²¹⁶ is not authorized in AAAS.

4.8.2.5. US Access Authorizations in AAAS

AAAS allows the GoJ to grant the US the joint/shared use of GoJ-controlled Facilities and Areas¹²¹⁷ (e.g., national parks, government-owned land) and grant US use of JSDF bases.

Under the Act on the Use of Specified Public Facilities (Act No. 114 of 2004, as amended),¹²¹⁸ the GoJ can direct local governments or commercial operators to provide access for US forces to port and airfield facilities or other specified public facilities or, if the local government or operator refuses, directly grant access for US forces.

US use of other Facilities and Areas¹²¹⁹ owned or operated privately or by local governments must be requested through II 4(b) procedures,¹²²⁰ though a modified process¹²²¹ is possible.

¹²⁰² 3.2.5.2. Rescue and Transportation of Japanese Nationals Overseas (R/TJNO), p. 72.

¹²⁰³ 8.5. Private Financial Initiative (PFI), p. 169.

¹²⁰⁴ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹²⁰⁵ 4.5.1.1. Logistics Support Activities, p. 98.

¹²⁰⁶ 4.5.1. Routine Support to US Forces, p. 97.

¹²⁰⁷ 2.1.2.2.1. Scene of Combat, p. 21.

¹²⁰⁸ 8.2. Japan-US Acquisition and Cross-Servicing Agreement (ACSA), p. 167.

¹²⁰⁹ 2.1.2.2. Ittaika (Integration), p. 20.

¹²¹⁰ 4.5.1.1. Logistics Support Activities, p. 98.

¹²¹¹ 2.1.2.2.1. Scene of Combat, p. 21.

¹²¹² 3.3.3. Use of Force, p. 79.

¹²¹³ i.E.11. Article 11 - Use of Weapons, p.350.

¹²¹⁴ 3.2.3.1. Public Security Operation (PSO), p. 62.

¹²¹⁵ 3.2.3.2. Maritime Security Operation (MSO), p. 63.

¹²¹⁶ 3.3.3. Use of Force, p. 79.

¹²¹⁷ 2.1.4.1.1. Definition of "Facilities and Areas", p. 31.

¹²¹⁸ i.Q. Act on the Use of Specified Public Facilities (Act No. 114 of 2004, as amended), p. 386.

¹²¹⁹ 2.1.4.1.1. Definition of "Facilities and Areas", p. 31.

¹²²⁰ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

¹²²¹ 5.3.4. Crisis II 4(b) Requests, p. 129.

4.8.2.6. Geographic Bounds of AAAS

There are no necessary geographic boundaries for activities that may be authorized under AAAS. The BRP¹²²² may specify geographic areas or other restrictions that bound the implementation of AAAS activities or otherwise limit AAAS authorizations.

4.8.3. Requirements

- BRP¹²²³
- PM Authorization
- Diet Approval¹²²⁴ (*ex ante*¹²²⁵ or *ex post*¹²²⁶)

4.8.4. AAAS Scenarios

During Diet proceedings for the 2015 Legislation for Peace and Security,¹²²⁷ the following examples were provided as possible conditions that would justify Stipulation¹²²⁸ of AAAS:

Neither GoJ nor other sources number potential situations that might precipitate a Security Situation Stipulation. The scheme below (number and letter) is used to facilitate cross-references throughout this guide and is unique to this guide and related documents.

(2a) A country calls up reserves, orders military personnel to stay at home, or has an emergency call-up as well as constructs new military facilities that indicate preparations to attack Japan.

If STS¹²²⁹ has been Stipulated and the STS conflict is expected to expand to an Armed Attack¹²³⁰ on/in Japan, AAAS or even AAS (Imminent)¹²³¹ may be Stipulated concurrently¹²³² or near-concurrently with STS.

4.8.5. Notes/Caveats

For likely JSDF RMCs¹²³³ in evacuation during AAAS, see § 9.5.1 JSDF Evacuation Operations (p. 173).

See § 4.12.4. Concurrent STS/AAAS or STS/AAS (Imminent) Recognition (p. 123).

4.9. SURVIVAL-THREATENING SITUATION (STS)

4.9.1. Definition

Japan legally defines STS in Article 2¹²³⁴ of Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended). There are no official translations of this law. The definition below is provided in non-legal officially-translated GoJ documents.

*Situations where an Armed Attack¹²³⁵ against a foreign country that is in a close relationship with Japan occurs, which as a result, threatens Japan's survival and poses a clear danger of fundamentally overturning Japanese people's right to life, liberty and pursuit of happiness.*¹⁷⁵

The machine translation of the legal definition of STS, from Article 2, ¶(1)(iv) is:

¹²²² 4.3. Basic Response Plan (BRP), p. 95.

¹²²³ 4.3. Basic Response Plan (BRP), p. 95.

¹²²⁴ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹²²⁵ 4.2.1.1. Ex Ante ("Before the Event") Approval, p. 94.

¹²²⁶ 4.2.1.2. Ex Post ("From After") Approval, p. 94.

¹²²⁷ 2.1.6. 2015 Legislation for Peace and Security, p. 35.

¹²²⁸ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹²²⁹ 4.9. Survival-Threatening Situation (STS), p. 104.

¹²³⁰ 4.11. Definition of "Armed Attack", p. 114.

¹²³¹ 4.10.1.1. AAS (Imminent), p. 111.

¹²³² 4.12.4. Concurrent STS/AAAS or STS/AAS (Imminent) Recognition, p. 123.

¹²³³ 2.3.4.1. Roles/Missions/Capabilities (RMC), p. 46.

¹²³⁴ i.D.3. Article 2 – Definitions, p. 338.

¹²³⁵ 4.11. Definition of "Armed Attack", p. 114.

A situation in which an Armed Attack has occurred against another country with which Japan has a close relationship, which threatens the very existence of our country and poses a clear danger of fundamentally overturning the people's rights to life, liberty, and the pursuit of happiness.

STS may be rendered as:

- Threat of National Existence for Japan

STS is not geographically-bound.

4.9.1.1. Relationship between STS and IIS

GoJ describes STS and IIS¹²³⁶ as related in the following manner:

While both situations [IIS and STS] ... are different legal concepts that are determined separately based on the requirements set forth in the respective laws, they share common requirements such as the likelihood that Japan may be embroiled in a war and the extent of damage that may be suffered by Japanese nationals. In other words, [STS] may be conceptually subsumed under [IIS]. Accordingly, depending on how a situation evolves, [an IIS] may also satisfy the requirements of [an STS] and may be determined as such.¹⁷⁶

4.9.1.2. Survival-Threatening Armed Attack (STAA)

Armed Attacks¹²³⁷ associated with STS Stipulations¹²³⁸ are called Survival-Threatening Armed Attacks (STAA).¹²³⁹

Because Article 2 of Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended) uses the same term, Armed Attack,¹²⁴⁰ for the definition of STS and AAS,¹²⁴¹ the technical standards for what qualifies as an STAA are the same as those for an Armed Attack against Japan.¹²⁴²

However, while AAS concerns itself with any Armed Attack, whether existential or not, STS adds the explicit geostrategic criteria of a situation that “poses a clear risk of threatening Japan’s survival.” This means, that the political calculus will differ when evaluating an STAA.

In addition to the issue of geographic proximity and strategic relevance, GoJ may find it politically challenging or unpalatable to use certain types of Armed Attacks against the US to Stipulate STS. Such situations may include:

- Attacks against the US in Taiwan’s territory, TTA,¹²⁴³ or TTS¹²⁴⁴
- Attacks against the US which are difficult to publicly attribute (e.g., the loss of a submarine)
- Indirect attacks against the US (e.g., a US ship striking a mine associated with a PRC Exclusion Zone, etc.¹²⁴⁵)
- Attacks against the US which fall short of presenting a definitive or convincing case to the Japanese public; this may include:
 - Attacks in space or cyberspace
 - Attacks against non-state US territories (e.g., Guam)
 - Attacks against US forces taking part in activities considered in Japan as controversial or escalatory

4.9.2. Authorized Actions in STS

4.9.2.1. JSDF Operations in STS

In STS, the JSDF may conduct the following activities:

¹²³⁶ 4.6. Important Influence Situation (IIS), p. 98.

¹²³⁷ 4.11. Definition of “Armed Attack”, p. 114.

¹²³⁸ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹²³⁹ i.D.3. Article 2 – Definitions, p. 338.

¹²⁴⁰ 4.11. Definition of “Armed Attack”, p. 114.

¹²⁴¹ 4.10. Armed Attack Situation (AAS), p. 110.

¹²⁴² 4.11. Definition of “Armed Attack”, p. 114.

¹²⁴³ A.4.5. National Airspace (TTA), p. 197.

¹²⁴⁴ A.4.4. Territorial Sea (TTS), p. 196.

¹²⁴⁵ 4.11.7.6. Exclusion Zones, etc., p. 120.

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- CSAR¹²⁴⁶
- MIO¹²⁴⁷ under Article 94-8¹²⁴⁸ of the SDF Act (Law No. 165 of 1954, as amended) as authorized by the Maritime Transportation Restriction Law (Law No. 116 of 2004, as amended).¹²⁴⁹
 - Includes inspection of Merchant Ships¹²⁵⁰ and diversion to a Japanese port to restrict maritime transportation of Contraband¹²⁵¹

The following JSDF orders may be issued during STS:

- DOO¹²⁵²

The JSDF may also conduct the following activities, although they are not inherent in STS and are conducted under their own authorities:

- Rescue/Transport of Japanese Nationals Overseas (R/TJNO)¹²⁵³
- MoD maintains a contract (called PFI¹²⁵⁴) for two high-speed civilian vessels, taskable within 72 hours of a crisis. For security crises, this authority and the general ability to contract or charter other civilian vessels is available at AAAS.

Under STS, the Civil Protection Act (Act No. 112 of 2004, as amended)¹²⁵⁵ does not apply and Civil Protection Operations¹²⁵⁶ or other activities under Civil Protection activities are not permitted.

Under STS, Act on the Use of Specified Public Facilities (Act No. 114 of 2004, as amended)¹²⁵⁷ does not apply and GoJ cannot compel access to port and airfield facilities or other specified public facilities for either JSDF or US forces.

Concurrent Stipulation¹²⁵⁸ (or Concurrent Recognition) of other Security Situations may otherwise authorize these activities.

4.9.2.2. JSDF Support Activities in STS

In STS, the JSDF may provide the following support to US forces responding to the STAA¹²⁵⁹ and other STS-related activities:

- Logistics Support Activities¹²⁶⁰
 - Routine support¹²⁶¹ to US forces responding to STS (including for combat-related activities and including the Scene of Combat¹²⁶²)
 - Routine ACSA procedures and limitations apply¹²⁶³

4.9.2.3. Ittaika Considerations in STS

*Ittaika*¹²⁶⁴ principles do not apply in STS.

In the event of Parallel Stipulation¹²⁶⁵ (or Parallel Recognition), *itika* principles may be applied outside boundaries applicable to the STS Stipulation.¹²⁶⁶

¹²⁴⁶ 3.2.2.6.2. Combat Search and Rescue (CSAR), p. 58.

¹²⁴⁷ 3.2.2.8. Maritime Interdiction Operations (MIO), p. 60.

¹²⁴⁸ i.C.54. Article 94-8 – Authority to Regulate Maritime Transportation during Defense Mobilization, p. 328.

¹²⁴⁹ i.M. Maritime Transportation Restriction Law (Law No. 116 of 2004, as amended), p. 372.

¹²⁵⁰ E.2.2.2. Merchant Ships, p. 243.

¹²⁵¹ 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

¹²⁵² 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

¹²⁵³ 3.2.5.2. Rescue and Transportation of Japanese Nationals Overseas (R/TJNO), p. 72.

¹²⁵⁴ 8.5. Private Financial Initiative (PFI), p. 169.

¹²⁵⁵ i.G. Civil Protection Act (Act No. 112 of 2004, as amended), p. 356.

¹²⁵⁶ 3.2.5.1. Civil Protection Operations (CPO), p. 70.

¹²⁵⁷ i.Q. Act on the Use of Specified Public Facilities (Act No. 114 of 2004, as amended), p. 386.

¹²⁵⁸ 4.1.2.2. Concurrent Stipulation (Concurrent Recognition), p. 90.

¹²⁵⁹ 4.9.1.2. Survival-Threatening Armed Attack (STAA), p. 105.

¹²⁶⁰ 4.5.1.1. Logistics Support Activities, p. 98.

¹²⁶¹ 4.5.1. Routine Support to US Forces, p. 97.

¹²⁶² 2.1.2.2.1. Scene of Combat, p. 21.

¹²⁶³ 8.2. Japan-US Acquisition and Cross-Servicing Agreement (ACSA), p. 167.

¹²⁶⁴ 2.1.2.2. Ittaika (Integration), p. 20.

¹²⁶⁵ 4.1.2.1. Parallel Stipulation (Parallel Recognition), p. 90.

¹²⁶⁶ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

4.9.2.4. Employment of Arms in STS

STS provides the JSDF Use of Force¹²⁶⁷ authorities when the Three New Conditions¹²⁶⁸ are met.

See § 3.3.3.2.1. STS vs. AAS Use of Force (p. 81).

STS provides no special authorities for Use of Weapons,¹²⁶⁹ although additional Use of Weapons authorities may be provided by operations (e.g., PSO,¹²⁷⁰ MSO¹²⁷¹) conducted under other authorities.

4.9.2.5. US Access Authorizations in STS

STS provides no additional access authorities for US forces in Japan. US use of Facilities and Areas¹²⁷² must be requested through routine II 4(b) procedures¹²⁷³ though a modified process¹²⁷⁴ is possible.

GoJ can request cooperation from local governments or commercial operators of ports and airports use but there is no obligation for port and airport operators to provide the requested support and no legal mechanism to compel support.

4.9.2.6. Geographic Bounds of STS

There are no necessary geographic boundaries for activities that may be authorized under STS. The BRP¹²⁷⁵ may specify geographic areas or other restrictions that bound the implementation of STS activities or otherwise limit STS authorizations

4.9.3. Requirements

- BRP¹²⁷⁶
- PM Authorization
- *Ex ante*¹²⁷⁷ Diet Approval¹²⁷⁸

Ex ante Diet Approval is required. *Ex post*¹²⁷⁹ Diet Approval is not permitted for STS Stipulations.¹²⁸⁰ The basic logic for this distinction from AAS's¹²⁸¹ *ex post* Approval is that in STS, Japan has not yet been attacked; there is therefore theoretically sufficient time to deliberate before joining the IAC¹²⁸² as a co-belligerent.

4.9.4. STS Scenarios

During Diet proceedings for the 2015 Legislation for Peace and Security,¹²⁸³ the following examples were provided as possible conditions that would justify Stipulation¹²⁸⁴ of STS:

Neither GoJ nor other sources number potential situations that might precipitate a Security Situation Stipulation. The scheme below (number and letter) is used to facilitate cross-references throughout this guide and is unique to this guide and related documents.

(3a) *Armed Attack*¹²⁸⁵ *against a country in a close relationship with Japan (e.g., an attack on the US in areas close to Japan).*

¹²⁶⁷ 3.3.3. Use of Force, p. 79.

¹²⁶⁸ 2.3.1. "Three New Conditions" for the Use of Force, p. 41.

¹²⁶⁹ i.E.11. Article 11 - Use of Weapons, p.350.

¹²⁷⁰ 3.2.3.1. Public Security Operation (PSO), p. 62.

¹²⁷¹ 3.2.3.2. Maritime Security Operation (MSO), p. 63.

¹²⁷² 2.1.4.1.1. Definition of "Facilities and Areas", p. 31.

¹²⁷³ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

¹²⁷⁴ 5.3.4. Crisis II 4(b) Requests, p. 129.

¹²⁷⁵ 4.3. Basic Response Plan (BRP), p. 95.

¹²⁷⁶ 4.3. Basic Response Plan (BRP), p. 95.

¹²⁷⁷ 4.2.1.1. Ex Ante ("Before the Event") Approval, p. 94.

¹²⁷⁸ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹²⁷⁹ 4.2.1.2. Ex Post ("From After") Approval, p. 94.

¹²⁸⁰ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹²⁸¹ 4.10. Armed Attack Situation (AAS), p. 110.

¹²⁸² 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

¹²⁸³ 2.1.6. 2015 Legislation for Peace and Security, p. 35.

¹²⁸⁴ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹²⁸⁵ 4.1.1. Definition of "Armed Attack", p. 114.

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(3b) The attacking country's behavior suggests that an Armed Attack against Japan is imminent and it possesses a large number of ballistic missiles ranging Japan.

(3c) There is a clear risk of suffering irrecoverable and serious damage from the first attack by a ballistic missile, if Japan does not respond to the situation prior to Armed Attack by preventing an attack against US ships (capable of defending Japan by the potential ballistic missile attack and conducting counter-attack [*i.e.*, *Aegis-capable ships*]).

See § 4.9.5.2. Application of STS to Taiwan (p. 108) for a discussion on STS scenarios as they might apply to Taiwan.

A Stipulation of STS may result in a concurrent or near-concurrent¹²⁸⁶ Stipulation of AAAS¹²⁸⁷ if Japan expects the STS conflict to expand to an Armed Attack on/in Japan.

4.9.5. Notes/Caveats

4.9.5.1. Concurrent STS/AAAS or STS/AAS (Imminent)

See § 4.12.4. Concurrent STS/AAAS or STS/AAS (Imminent) Recognition (p. 123).

4.9.5.2. Application of STS to Taiwan

Whether GoJ would Stipulate¹²⁸⁸ STS based on an attack on Taiwan alone (with no attack on US forces) and then Approve¹²⁸⁹ such a Stipulation is ambiguous.

As with any Stipulation, the decision is a political one based on major factors such as those listed in § 4.2.2. Stipulation Decision Calculus (p. 95).

4.9.5.2.1. Rationale for "Taiwan STS"

The rationale for GoJ to Stipulate¹²⁹⁰ STS based on an attack on Taiwan can be made on at least two grounds:

- An attack on the government and people of Taiwan, as the country in close relationship with Japan¹²⁹¹
- The threat to Japanese nationals in Taiwan as a result of an attack on the government and people of Taiwan¹²⁹²

4.9.5.2.1.1. Attack on the Government and People in Taiwan

During Diet proceedings for the 2015 Legislation for Peace and Security,¹²⁹³ the GoJ's position on this question was:

*Countries with which Japan does not have diplomatic relations can be included, but it is difficult to answer this question because the meaning of 'regarded as countries' [*i.e.*, *status as a sovereign state*¹²⁹⁴] is not always clear.¹⁷⁷*

In 2021, Deputy PM¹²⁹⁵ ASŌ stated:

If a major problem took place in Taiwan, it would not be too much to say that it could relate to a Survival-Threatening Situation.¹⁷⁸

¹²⁸⁶ 4.12.4. Concurrent STS/AAAS or STS/AAS (Imminent) Recognition, p. 123.

¹²⁸⁷ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

¹²⁸⁸ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹²⁸⁹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹²⁹⁰ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹²⁹¹ 4.9.5.2.1.1. Attack on the Government and People in Taiwan, p. 108.

¹²⁹² 4.9.5.2.1.2. Attack (or Hybrid Warfare) on Japanese Nationals in Taiwan, p. 109.

¹²⁹³ 2.1.6. 2015 Legislation for Peace and Security, p. 35.

¹²⁹⁴ 3.3.3.3.1.1. Taiwan's Status as a State, p. 81.

¹²⁹⁵ Deputy PM statements are not necessarily considered authoritative (in a similar way to how a US Vice President might make a statement that does not imply administration policy). See § C.2.1.1.1. Deputy Prime Minister, p. 225. Additionally, Tarō ASŌ has a domestic reputation as "the King of Absurd Comments" (Li, 2024).

Furthermore, the 2014 Advisory Panel on Reconstruction of the Legal Basis for Security, which set the groundwork for the 2015 Legislation for Peace and Security,¹²⁹⁶ recommended the following. While these specific recommendations were not adopted into law or otherwise affirmatively stated in the policy adopted after passage of the legislation, they suggest the plausibility that Japan could rationalize an STS Stipulation in response to an attack on the government and people in Taiwan.

With regard to whether a certain situation would fall under such a case, the Government should take responsibility for making a decision, taking the following points into consideration comprehensively whether there is a high possibility the situation could lead to a direct attack against Japan, whether not taking action could significantly undermine trust in the Japan-U.S. alliance, thus leading to a significant loss of deterrence, whether international order itself could be significantly affected, whether the lives and rights of Japanese nationals could be harmed severely and whether there could otherwise be serious effects on Japan.¹⁷⁹

4.9.5.2.1.2. Attack (or Hybrid Warfare) on Japanese Nationals in Taiwan

A more speculative case might be made for GoJ Stipulating¹²⁹⁷ STS based on the threat to or attacks on Japanese Nationals in Taiwan. While STS is constructed around an attack on a State or State-like entity that threatens the “rights to life, liberty and pursuit of happiness” of the Japanese people, it is possible to make the case that GoJ might consider a direct attack on the “rights to life, liberty and pursuit of happiness” of Japanese people abroad in Taiwan as a qualifying condition to Stipulate STS (or, even more speculative, violence and attacks attributed to a PRC Hybrid Warfare¹²⁹⁸ campaign in and against Taiwan).

Indeed, the 2014 Advisory Panel on Reconstruction of the Legal Basis for Security, which set the groundwork for the 2015 Legislation for Peace and Security,¹²⁹⁹ recommended the “lives and rights of Japanese nationals” be a consideration for STS Stipulation. While this specific recommendations was not adopted into law or otherwise affirmatively stated in the policy adopted after passage of the legislation, it suggests the plausibility that Japan could rationalize an STS Stipulation in response to the threat to Japanese Nationals in Taiwan during an attack on Taiwan.

With regard to whether a certain situation would fall under such a case, the Government should take responsibility for making a decision, taking the following points into consideration comprehensively whether there is a high possibility the situation could lead to a direct attack against Japan, whether not taking action could significantly undermine trust in the Japan-U.S. alliance, thus leading to a significant loss of deterrence, whether international order itself could be significantly affected, whether the lives and rights of Japanese nationals could be harmed severely and whether there could otherwise be serious effects on Japan.¹⁸⁰

Conventionally, such a scenario might be considered as warranting RJNO,¹³⁰⁰ not STS. However, RJNO requires the host nation to maintain public safety and order and for no active combat to be taking place at the location of the rescue. In a PRC attack on Taiwan that endangers Japanese nationals’ lives, such conditions are not probable and GoJ may face extraordinary pressure to rationalize action that protects Japanese lives in Taiwan. In such a situation, STS may present the most obvious solution to enable such defensive action.

4.9.5.2.2. Rationale against “Taiwan STS”

The “legalistic” argument against an attack on Taiwan resulting in STS focuses on three criteria:

- Japan does not have formal diplomatic relations with Taiwan
- Japan is not in a “close” relationship with Taiwan
- Japan does not formally recognize Taiwan as a sovereign state¹³⁰¹

More practical arguments against a “Taiwan STS” focus on the implications of such a Stipulation:¹³⁰²

¹²⁹⁶ 2.1.6. 2015 Legislation for Peace and Security, p. 35.

¹²⁹⁷ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹²⁹⁸ 11.3Hybrid Warfare, p. 181.

¹²⁹⁹ 2.1.6. 2015 Legislation for Peace and Security, p. 35.

¹³⁰⁰ 3.2.5.2.1. Rescue of Japanese Nationals Overseas (RJNO), p. 72.

¹³⁰¹ F.2. Japan’s National Position on Taiwan, p. 257.

¹³⁰² 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

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- STS would functionally shift GoJ's position on Taiwan¹³⁰³ and severely damage the GoJ/PRC relationship, most probably escalating the crisis when GoJ would be seeking to deescalate and/or set conditions to restore the *antebellum* status quo
- STS would permit CSD¹³⁰⁴ for the subject "foreign country" which might give the JSDF more latitude to inadvertently escalate a conflict than the GoJ desires (or give the PM more latitude to do the same than the Diet or popular sentiment desires)
 - CSD for Taiwan could logically be extended to allow JSDF combat forces to be deployed abroad
 - The actual STS Recognition¹³⁰⁵ may scope any Taiwan-based Recognition to exclude or narrowly scope such CSD for Taiwan including JSDF actions in Taiwan territorial land, TTA,¹³⁰⁶ and TTS¹³⁰⁷ or Taiwan civilians/military forces within Japan's territorial land, TTA, or TTS
 - However, the mere existence of this possibility would likely result in paralyzing debate that makes a Taiwan-based STS Stipulation difficult to conceive
- Public polling suggests those who join the JSDF do so out of the motivation to defend Japan with only weak appeal for more vague ideas of international contributions (e.g., PKO¹³⁰⁸) or CSD
 - Such political realities further militate against an expansive interpretation of STS to apply to Taiwan

4.9.5.2.2.1. Taiwan Blockade and STS

For the US or Japan to classify any enforcement of a PRC "Blockade"¹³⁰⁹ of Taiwan (distinct from mere declaration of a Blockade¹³¹⁰ or Exclusion Zone, etc.¹³¹¹) as a belligerent act (i.e., act of war), thus bolstering any case for intervention, or even as a justification to Stipulate¹³¹² STS¹³¹³ on behalf of Taiwan,¹³¹⁴ Japan or the US would be required to recognize Taiwan as not under the sovereignty or administration of PRC in order to counter the PRC's claims that the enforcement of any Exclusion Zones, etc. was merely a domestic security measure.

With both Japan and the US's official positions that they take no position on the sovereignty of Taiwan,¹³¹⁵ any such change in that position would almost certainly be escalatory and be avoided in a Blockade-related crisis.

A Taiwan Blockade (or enforcement of any Exclusion Zones, etc.) that infringed upon Japanese sovereignty or sovereign rights could plausibly¹³¹⁶ result in an AAS¹³¹⁷ Stipulation.

4.10. ARMED ATTACK SITUATION (AAS)

See § 4.11. Definition of "Armed Attack" (p. 114).

4.10.1. Armed Attack Situation (AAS) Definition

Japan legally defines AAS in Article 2¹³¹⁸ of Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended). There are no official translations of this law. The definition below is provided in non-legal officially-translated GoJ documents.

*Situations in which an Armed Attack¹³¹⁹ against Japan from outside occurs or in which it is recognized that clear danger of an Armed Attack against Japan from outside is imminent.*¹⁸¹

The machine translation of the legal definition of AAS, from Article 2, ¶(1)(ii) is:

¹³⁰³ F.2. Japan's National Position on Taiwan, p. 257.

¹³⁰⁴ 3.4.2. Collective Self-Defense (CSD), p. 84.

¹³⁰⁵ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹³⁰⁶ A.4.5. National Airspace (TTA), p. 197.

¹³⁰⁷ A.4.4. Territorial Sea (TTS), p. 196.

¹³⁰⁸ 3.2.6. Peacekeeping Operations (PKO), p. 73.

¹³⁰⁹ 4.11.6.7. Blockade, p. 119.

¹³¹⁰ 4.11.7.5. Declaring a Blockade, p. 120.

¹³¹¹ 4.11.7.6. Exclusion Zones, etc., p. 120.

¹³¹² 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹³¹³ 4.9. Survival-Threatening Situation (STS), p. 104.

¹³¹⁴ 4.9.5.2. Application of STS to Taiwan, p. 108.

¹³¹⁵ Appendix F. Alliance Positions on Taiwan, p. 253.

¹³¹⁶ 4.10.4. AAS Scenarios, p. 114.

¹³¹⁷ 4.10. Armed Attack Situation (AAS), p. 110.

¹³¹⁸ i.D.3. Article 2 – Definitions, p. 338.

¹³¹⁹ 4.11. Definition of "Armed Attack", p. 114.

A situation in which an Armed Attack has occurred [AAS Occurrence], or a situation in which there is a clear and imminent danger of an armed attack [AAS Imminent].

"Armed Attack Situation" is distinct from "armed attack situations, etc."¹³²⁰ The latter refers to AAAS¹³²¹ and AAS, collectively. See § 4.7. "Armed Attack Situations, etc." (p. 101).

4.10.1.1. AAS (Imminent)

A situation where an imminent and clear danger of an Armed Attack¹³²² against Japan is acknowledged [Recognized¹³²³].

During Diet proceedings for the 2015 Legislation for Peace and Security,¹³²⁴ the following example was provided as a possible condition that would justify Stipulation¹³²⁵ of AAS (Imminent):

Neither GoJ nor other sources number potential situations that might precipitate a Security Situation Stipulation. The scheme below (number and letter) is used to facilitate cross-references throughout this guide and is unique to this guide and related documents.

(4i) A country clearly indicates its intention to attack Japan and gathers multiple ships and aircraft for launching an attack.

Because an Armed Attack has yet to occur,¹³²⁶ JSDF does not have Use of Force¹³²⁷ authority (see § i.C.37.A. Article 88 Use of Force During AAS (Imminent) [p. 319]).

AAS (Imminent) may be rendered as: Pressing AAS or AAS (Pressing), Expected AAS or AAS (Expected), Urgent AAS or AAS (Urgent).

4.10.1.1.1. STS/AAS (Imminent) Combination

See § 4.12.4. Concurrent STS/AAAS or STS/AAS (Imminent) Recognition (p. 123).

4.10.1.2. AAS (Occurrence)

Neither GoJ nor other sources number potential situations that might precipitate a Security Situation Stipulation.¹³²⁸ The scheme below (number and letter) is used to facilitate cross-references throughout this guide and is unique to this guide and related documents.

(4o) A situation where an Armed Attack¹³²⁹ against Japan from outside has occurred.

Stipulation of AAS (Occurrence) is not automatic and still requires positive action from the Cabinet. Some actions that appear to US planners to objectively constitute Armed Attack may not be considered by the PM or Diet as such (see § 4.11.7. Situations Excluded from Armed Attack [p. 119]).

Under AAS (Occurrence) the MinDef can authorize Use of Force¹³³⁰ through a DOO.¹³³¹

4.10.2. Authorized Actions in AAS

- Logistics Support
 - Routine support¹³³² to US forces responding to AAS (including for combat-related activities and including the Scene of Combat¹³³³)

¹³²⁰ 4.7. "Armed Attack Situations, etc.", p. 101.

¹³²¹ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

¹³²² 4.11. Definition of "Armed Attack", p. 114.

¹³²³ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹³²⁴ 2.1.6. 2015 Legislation for Peace and Security, p. 35.

¹³²⁵ 4.1.2. Terminology: Stipulation (vs.

Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹³²⁶ 2.3.1. "Three New Conditions" for the Use of Force, p. 41; i.C.37.A. Article 88 Use of Force During AAS (Imminent), p. 319.

¹³²⁷ 3.3.3. Use of Force, p. 79.

¹³²⁸ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹³²⁹ 4.11. Definition of "Armed Attack", p. 114.

¹³³⁰ 3.3.3. Use of Force, p. 79.

¹³³¹ 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

¹³³² 4.5.1. Routine Support to US Forces, p. 97.

¹³³³ 2.1.2.2.1. Scene of Combat, p. 21.

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- ACSA procedures and limitations apply¹³³⁴
- CSAR¹³³⁵
- MIO Operations¹³³⁶
- DOO¹³³⁷ is issued
 - CSD¹³³⁸ may be authorized
- MoD may control part/whole of JCG¹³³⁹
- Use of Facilities by US Forces
 - II 4(b)¹³⁴⁰ does not apply
 - GoJ may grant US Forces access to areas and facilities
 - GoJ can order local authorities to permit US usage or, if refused, directly grant access to privately-owned land
 - Access is not automatic
- MIO Operations¹³⁴¹
- Civil Protection
 - GoJ may issue warning and voluntary evacuation¹³⁴² orders
 - Civil Protection Act¹³⁴³ applies, authorizing GoJ use of commercial APOD/SPOD

4.10.2.1. JSDF Operations In AAS

In AAS, the JSDF may conduct the following activities:

- Civil Protection Operations¹³⁴⁴ as regulated by the Civil Protection Act (Act No. 112 of 2004, as amended)¹³⁴⁵
 - GoJ may issue warning and voluntary evacuation¹³⁴⁶ orders
 - Civil Protection Act (Act No. 112 of 2004, as amended)¹³⁴⁷ authorizes GoJ use of commercial APOD/SPOD
- CSAR¹³⁴⁸
- MIO¹³⁴⁹ under Article 94-8¹³⁵⁰ of the SDF Act (Law No. 165 of 1954, as amended) as authorized by the Maritime Transportation Restriction Law (Law No. 116 of 2004, as amended).¹³⁵¹
 - Includes inspection of Merchant Ships¹³⁵² and diversion to a Japanese port to restrict maritime transportation of Contraband¹³⁵³

The following JSDF orders may be issued during AAS:

- DOO¹³⁵⁴

The JSDF may also conduct the following activities, although they are not inherent in IIS and are conducted under their own authorities:

- Rescue/Transport of Japanese Nationals Overseas (R/TJNO)¹³⁵⁵
- MoD maintains a contract (called PFI¹³⁵⁶) for two high-speed civilian vessels, taskable within 72 hours of a crisis. For security crises, this authority and the general ability to contract or charter other civilian vessels is available at AAAS.

¹³³⁴ 8.2. Japan-US Acquisition and Cross-Servicing Agreement (ACSA), p. 167.

¹³³⁵ 3.2.2.6.2. Combat Search and Rescue (CSAR), p. 58.

¹³³⁶ 3.2.2.8. Maritime Interdiction Operations (MIO), p. 60.

¹³³⁷ 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

¹³³⁸ 3.4.2. Collective Self-Defense (CSD), p. 84.

¹³³⁹ 7.4.3. MoD Control over the JCG, p. 156.

¹³⁴⁰ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

¹³⁴¹ 3.2.2.8. Maritime Interdiction Operations (MIO), p. 60.

¹³⁴²

¹³⁴³

¹³⁴⁴ 3.2.5.1. Civil Protection Operations (CPO), p. 70.

¹³⁴⁵ i.G. Civil Protection Act (Act No. 112 of 2004, as amended), p. 356.

¹³⁴⁶

¹³⁴⁷ i.G. Civil Protection Act (Act No. 112 of 2004, as amended), p. 356.

¹³⁴⁸ 3.2.2.6.2. Combat Search and Rescue (CSAR), p. 58.

¹³⁴⁹ 3.2.2.8. Maritime Interdiction Operations (MIO), p. 60.

¹³⁵⁰ i.C.54. Article 94-8 – Authority to Regulate Maritime Transportation during Defense Mobilization, p. 328.

¹³⁵¹ i.M. Maritime Transportation Restriction Law (Law No. 116 of 2004, as amended), p. 372.

¹³⁵² E.2.2.2. Merchant Ships, p. 243.

¹³⁵³ 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

¹³⁵⁴ 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

¹³⁵⁵ 3.2.5.2. Rescue and Transportation of Japanese Nationals Overseas (R/TJNO), p. 72.

¹³⁵⁶ 8.5. Private Financial Initiative (PFI), p. 169.

4.10.2.2. JSDF Support Activities in AAS

In AAS, the JSDF may provide the following support to US forces responding to the Armed Attack¹³⁵⁷ and other AAS-related activities:

- Logistics Support Activities¹³⁵⁸
 - Routine support¹³⁵⁹ to US forces responding to AAS (including for combat-related activities and including the Scene of Combat¹³⁶⁰)
 - Routine ACSA procedures and limitations apply¹³⁶¹

4.10.2.3. Ittaika Considerations in AAS

*Ittaika*¹³⁶² principles do not apply in AAS.

In the event of Parallel Stipulation¹³⁶³ (or Parallel Recognition), *itika* principles may be applied outside boundaries applicable to the AAS Stipulation.¹³⁶⁴

4.10.2.4. Employment of Arms in AAS

AAS provides the JSDF Use of Force¹³⁶⁵ authorities when the Three New Conditions¹³⁶⁶ are met.

See § 3.3.3.2.1. STS vs. AAS Use of Force (p. 81).

4.10.2.5. US Access Authorizations in AAS

AAS allows the GoJ to grant the US the joint/shared use of GoJ-controlled Facilities and Areas¹³⁶⁷ (e.g., national parks, government-owned land) and grant US use of JSDF bases.

Under the Act on the Use of Specified Public Facilities (Act No. 114 of 2004, as amended),¹³⁶⁸ the GoJ can direct local governments or commercial operators to provide access for US forces to port and airfield facilities or other specified public facilities or, if the local government or operator refuses, directly grant access for US forces.

US use of other Facilities and Areas¹³⁶⁹ owned or operated privately or by local governments may be granted directly by GoJ under Article 15¹³⁷⁰ of the US Military Action Support Act (Law No. 113 of 2004, as amended).

US access to Facilities and Areas not granted through the authorities above must be requested through II 4(b) procedures,¹³⁷¹ though a modified process¹³⁷² is possible.

4.10.2.6. Geographic Bounds of AAS

There are no necessary geographic boundaries for activities that may be authorized under AAS. The BRP¹³⁷³ may specify geographic areas or other restrictions that bound the implementation of AAS activities or otherwise limit AAS authorizations

4.10.3. Requirements

- BRP¹³⁷⁴
- PM Authorization

¹³⁵⁷ 4.11. Definition of "Armed Attack", p. 114.

¹³⁵⁸ 4.5.1.1. Logistics Support Activities, p. 98.

¹³⁵⁹ 4.5.1. Routine Support to US Forces, p. 97.

¹³⁶⁰ 2.1.2.2.1. Scene of Combat, p. 21.

¹³⁶¹ 8.2. Japan-US Acquisition and Cross-Servicing Agreement (ACSA), p. 167.

¹³⁶² 2.1.2.2. Ittaika (Integration), p. 20.

¹³⁶³ 4.1.2.1. Parallel Stipulation (Parallel Recognition), p. 90.

¹³⁶⁴ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹³⁶⁵ 3.3.3. Use of Force, p. 79.

¹³⁶⁶ 2.3.1. "Three New Conditions" for the Use of Force, p. 41.

¹³⁶⁷ 2.1.4.1.1. Definition of "Facilities and Areas", p. 31.

¹³⁶⁸ i.Q. Act on the Use of Specified Public Facilities (Act No. 114 of 2004, as amended), p. 386.

¹³⁶⁹ 2.1.4.1.1. Definition of "Facilities and Areas", p. 31.

¹³⁷⁰ i.F.2. Article 15 – Use of Land, etc., p. 355.

¹³⁷¹ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

¹³⁷² 5.3.4. Crisis II 4(b) Requests, p. 129.

¹³⁷³ 4.3. Basic Response Plan (BRP), p. 95.

¹³⁷⁴ 4.3. Basic Response Plan (BRP), p. 95.

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- Diet Approval¹³⁷⁵ (*ex ante*¹³⁷⁶ or *ex post*¹³⁷⁷)

Ex post Diet Approval is possible.

4.10.4. AAS Scenarios

Qualifying direct attacks¹³⁷⁸ on Japan are described in § 4.11. Definition of “Armed Attack” (p. 114).

In addition to these situations, it is plausible for Japan to interpret gross infringements of its sovereignty or sovereign rights as warranting consideration for Stipulation¹³⁷⁹ of AAS. Such a situation might include a neighboring Blockade¹³⁸⁰ that infringes upon Japan's exercise of its sovereign rights in its TTA¹³⁸¹/TTS¹³⁸², or even CZ¹³⁸³ and EEZ.¹³⁸⁴ In such circumstances, GoJ would need to overcome political resistance to generally-acceptable principles for defining Armed Attacks,¹³⁸⁵ especially including the principle of qualifying Armed Attacks¹³⁸⁶ causing “death, injury, damage, or destruction.”

4.10.4.1. Conditions

Roll into “rule of thumb” section?

- Geographic Boundaries: Within Japanese territorial land, TTA,¹³⁸⁷ or TTS¹³⁸⁸ (including against US Forces in Japan) or against JSDF personnel, assets, or vessels anywhere
- Attribution¹³⁸⁹ of attack and hostile intent to an enemy state combatant
 - Hostile Intent: AAS does not apply to the actions of a “Rogue Commander,” miscalculation, or accident.¹³⁹⁰

4.10.5. Notes/Caveats

For possible JSDF RMCs¹³⁹¹ in evacuation during AAS, see § 9.5.1. JSDF Evacuation Operations (p. 173).

See § 4.12.4. Concurrent STS/AAAS or STS/AAS (Imminent) Recognition (p. 123).

It is unclear that even an overt kinetic attack on Japan/US forces in Japan would be considered an Armed Attack¹³⁹² if it was not clearly attributable¹³⁹³ (e.g., PRC SOF or CMM, lethal drones, etc.). GoJ's decision-making would be heavily influenced by the information environment. If such an attack were unattributable, it is likely GoJ would feel compelled to respond to the attack as a law enforcement matter.

4.11. DEFINITION OF “ARMED ATTACK”

There are various legal definitions and interpretations of Armed Attack and related terms such as “Attack,” “Armed Conflict,” “IAC”¹³⁹⁴ etc., and no single internationally-agreed upon definition for these terms. Because of the Japanese Constitution's Article 9¹³⁹⁵ and Japan's Positive List¹³⁹⁶ approach, Japan defines Armed Attack more narrowly than other states, especially considering the legalistic nature of the Security Situation framework.

Japan defines Armed Attack in Article 2 of the Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended) as merely:

¹³⁷⁵ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹³⁷⁶ 4.2.1.1. Ex Ante (“Before the Event”) Approval, p. 94.

¹³⁷⁷ 4.2.1.2. Ex Post (“From After”) Approval, p. 94.

¹³⁷⁸ 4.11.6. Applicable Situations, p. 117.

¹³⁷⁹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹³⁸⁰ 4.11.6.7. Blockade, p. 119.

¹³⁸¹ A.4.5. National Airspace (TTA), p. 197.

¹³⁸² A.4.4. Territorial Sea (TTS), p. 196.

¹³⁸³ A.4.6. Contiguous Zone (CZ), p. 197.

¹³⁸⁴ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

¹³⁸⁵ 4.11.1. General Principles for Defining an Armed Attack, p. 115.

¹³⁸⁶ 4.11. Definition of “Armed Attack”, p. 114.

¹³⁸⁷ A.4.5. National Airspace (TTA), p. 197.

¹³⁸⁸ A.4.4. Territorial Sea (TTS), p. 196.

¹³⁸⁹ 4.11.6.5. Attribution of Armed Attack Source and Intent, p. 118.

¹³⁹⁰ 4.11.7.1. “Non-Organized” Combat (e.g., “Rogue Commander”), p. 119.

¹³⁹¹ 2.3.4.1. Roles/Missions/Capabilities (RMC), p. 46.

¹³⁹² 4.11. Definition of “Armed Attack”, p. 114.

¹³⁹³ 4.11.6.5. Attribution of Armed Attack Source and Intent, p. 118.

¹³⁹⁴ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

¹³⁹⁵ 2.1.2.1. Article 9 (War Renunciation), p. 13; i.B.2. Article 9 – Renunciation of War, p. 300.

¹³⁹⁶ 2.1.1.1.1. Japanese “Positive List” Approach, p. 12.

- an “Armed Attack¹³⁹⁷ against our country from outside.”¹³⁹⁸

In clarifying remarks to the Diet, the GoJ has explained that this refers to “organized and premeditated external attacks on Japan.”¹⁸²

An Armed Attack against Japan is sometimes referred to as an “Article V Contingency” or “Article V Situation.”

Even this requires case-by-case interpretation in the context of the international situation. Furthermore, because the Stipulation¹³⁹⁹ of Security Situations is a political act, domestic and international political circumstances must also be considered.

While this may seem peculiar to US planners, it is not dissimilar in principle to the US’s approach to the same issue. For example, US policy in cyberspace is to reserve the right to consider and respond to cyber attacks as it would conventional attacks, but in practice, most such activity, even in crisis, would be considered below the threshold for kinetic retaliation. As another example, in 2020, following the US killing of Iranian Major General Qasem Soleimani, Iran launched over a dozen BMs at US forces stationed at al-Asad Air Base in Iraq. While there was no question of whether this was considered an armed attack, what was at issue was whether the US would respond as if it was or (implicitly) consider it an acceptable retaliation and forgo any immediate or overt response.

Assessment of an Armed Attack is performed on a case-by-case basis and remains the independent sovereign right¹⁴⁰⁰ of each Ally.

A Stipulation of AAS¹⁴⁰¹ can be expected to be made concurrently with invocation of MST’s Article V’s¹⁴⁰² mutual defense obligations.

4.11.1. General Principles for Defining an Armed Attack

While each potential Armed Attack scenario will be evaluated on a case-by-case basis, the following serve as principles generalized from the specific factors detailed in the remaining subsections of § 4.11. Definition of “Armed Attack” (p. 114).

As a general rule, attacks that meet all of the criteria below are likely to be considered Armed Attacks.

1. Clearly attributable (i.e., “organized”) to a State or Quasi-State Organization¹⁴⁰³
2. Clearly intended (i.e., “premeditated”) by the State or Quasi-State Organization and not the result of an accident, miscalculation, or “Rogue Commander”¹⁴⁰⁴
3. Either:
 - 3a. Occur within Japan’s territorial land, TTA, or TTS¹⁴⁰⁵ (see § G.3.2.3. US Position on SKI TTS, TTA, CZ [p. 268])
 - 3b. Or occur against a State Vessel or Aircraft in any geographic location¹⁴⁰⁶
4. The impact of the attack results in “death, injury, damage, or destruction” (potentially including non-kinetic or indirect attacks that have comparable impact)¹⁴⁰⁷
5. Are not lawful action or retaliation in response to an unlawful Japanese action¹⁴⁰⁸

¹³⁹⁷ 4.11. Definition of “Armed Attack”, p. 114.

¹³⁹⁸ i.D.3. Article 2 – Definitions, p. 338.

¹³⁹⁹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁴⁰⁰ 2.1.3.4.1. US Unilateralism under Article V: The “Affirmative Commitment”, p.26.

¹⁴⁰¹ 4.10. Armed Attack Situation (AAS), p. 110.

¹⁴⁰² 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

¹⁴⁰³ 3.3.3.3.1. State or Quasi-State Organization, p. 81.

¹⁴⁰⁴ 4.11.7.1. “Non-Organized” Combat (e.g., “Rogue Commander”), p. 119.

¹⁴⁰⁵ 4.11.4. Applicable Geography, p. 117.

¹⁴⁰⁶ 4.11.5. Applicable Worldwide Targets, p. 117.

¹⁴⁰⁷ 4.11.6.3. Armed Attack in Cyberspace, p. 117.

¹⁴⁰⁸ This criteria is not specified or discussed in any materials on Armed Attack but can be

implied from the overall context of other restrictions on qualifying Armed Attacks. For example, if a Japanese State Vessel that unlawfully entered the TTS of another state and did not comply with lawful directions to withdraw and, in response, was attacked by the other State, GoJ would likely be disinclined to define the event as an Armed Attack and, even if inclined, would be challenged to make a sufficiently convincing case for an AAS Recognition.

4.11.1.1. Attempts to Unilaterally Alter the Status Quo

There are some indications that Japan might consider actions to unilaterally alter the geopolitical status quo, even if such actions do not meet all of the criteria listed in § 4.11.1. General Principles for Defining an Armed Attack (p. 115), as achieving the same effect of an Armed Attack and thus, potentially warranting consideration of Security Situations that are normally considered to require Armed Attacks (i.e., STS¹⁴⁰⁹ or AAS¹⁴¹⁰).

For example, the national Cybersecurity Strategy of Japan states:

Cyberspace has become a realm of competition that reflects geopolitical tensions, even during normal times. The situation in cyberspace can no longer be deemed purely peacetime nor wartime, as alleged cases of cyberattacks by a military unit with advanced cyber capabilities targeting the critical infrastructure of another country. As greater segments of society become increasingly digitalized, cyberattacks have the risk of rapidly developing into a graver situation. Influence operations carried out using cyberspace and cyberattacks, which are difficult to attribute and whose incurred damages are hard to assess, can, at times, be conducted in combination with military operations and used in an attempt to change the status quo without engaging in armed attacks.¹⁸³

This does not clearly state how criteria from § 4.11.1. General Principles for Defining an Armed Attack (p. 115), might be applied to such cyberattacks and hybrid warfare. But a close reading of criteria #4 (attacks whose impact resulting in death, injury, damage, or destruction) could be argued to apply to non-lethal attacks that gravely threaten to overturn the status quo unilaterally. Such a reinterpretation of policy and precedent would be characteristic of Japanese defense policy (with the 2014 reinterpretation of Article 9 of the Japanese Constitution¹⁴¹¹ being the most obvious example).

4.11.2. Timing in Armed Attacks

Considering AAS, the JSDF is not authorized the Use of Force¹⁴¹² against the source of danger until the attack has commenced (i.e., pre-emptive or preventative strikes are not permitted).

However, this does not prohibit retaliation until after harm has started. For example, in a missile attack, the JSDF does not have to wait until the missiles have launched, but may be permitted to strike the missiles or otherwise exercise Use of Force when attacking missiles are readied into position, fueled, or the attack is otherwise considered to be irreversible. This would be recognized as the moment when the attack is considered to have “commenced” and would not be considered a pre-emptive or preventative strike.

The determination of attack “commencement” is obviously a complicated issue considering the policy that pre-emption is not permitted but neither is it required for waiting for the harm to have occurred.

This is further complicated by the Use of Force restrictions during¹⁴¹³ AAS (Imminent) due to the fact that the Three New Conditions¹⁴¹⁴ are not yet met. This exceptional interpretation of policy (if not exception to policy itself) would likely require the highest political decision.

4.11.3. Applicable Foreign Military Forces

Foreign Military Forces are the armed forces of a foreign state and other similar organizations¹⁴¹⁵ engaged in Armed Attacks (as defined in Article 2,¹⁴¹⁶ ¶(1)(i) of the Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended).¹⁴¹⁷

¹⁴⁰⁹ 4.9. Survival-Threatening Situation (STS), p. 104.

¹⁴¹⁰ 4.10. Armed Attack Situation (AAS), p. 110.

¹⁴¹¹ ii.A. 2014, p. 422.

¹⁴¹² 3.3.3. Use of Force, p. 79.

¹⁴¹³ i.C.37.A. Article 88 Use of Force During AAS (Imminent), p. 319.

¹⁴¹⁴ 2.3.1. “Three New Conditions” for the Use of Force, p. 41.

¹⁴¹⁵ 3.3.3.3.1. State or Quasi-State Organization, p. 81.

¹⁴¹⁶ i.D.3. Article 2 – Definitions, p. 338.

¹⁴¹⁷ i.M.1. Article 2 – Definitions of Foreign Military Supplies, p. 373.

4.11.4. Applicable Geography

Qualifying¹⁴¹⁸ attacks within Japanese territorial land, TTA,¹⁴¹⁹ or TTS¹⁴²⁰ (i.e., within 12 NM) clearly constitute an Armed Attack (the US recognizes the SKI as territory applicable¹⁴²¹ to Article 5 mutual defense,¹⁴²² but does not recognize¹⁴²³ the surrounding airspace or seas as the TTA, TTS, or CZ¹⁴²⁴ of Japan).

International Law¹⁴²⁵ recognizes a state's authority to exercise sovereignty in its TTS and the airspace above, as well as and specified (i.e., limited) sovereign rights and jurisdiction in its CZ and EEZ.¹⁴²⁶ In disputed areas or areas one party insists are disputed (e.g., SKIs¹⁴²⁷), this creates ambiguity over whether the Use of Force¹⁴²⁸ is an Armed Attack or simply authorized Use of Force to enforce sovereign rights. Such ambiguity may not be recognized by parties to such disputes but would impact international perceptions of the legitimacy of one or all involved parties.

4.11.5. Applicable Worldwide Targets

Attacks outside TTA¹⁴²⁹ or TTS¹⁴³⁰ potentially qualify if they target State Vessels¹⁴³¹ or State Aircraft.¹⁴³²

4.11.6. Applicable Situations

In addition to obvious, overt, and traditional Armed Attacks, the following are situations subject to consideration as an Armed Attack.

4.11.6.1. Lethal or Kinetic Armed Attack in the Maritime, Air, or Land Domains

Attacks against Japanese persons, property, or land within the territory of Japan, land under the administration of Japan,¹⁴³³ Japanese TTA,¹⁴³⁴ and Japanese TTS.¹⁴³⁵ Or attacks against US forces within the same.

4.11.6.1.1. Mining

The laying of a minefield with automatic contact mines for protection or area denial is generally not considered Armed Attack. However, the activation of the minefield is considered Armed Attack.¹⁸⁴

4.11.6.2. Non-Lethal or Non-Kinetic Armed Attacks

There are few resources addressing how Japan would assess non-kinetic or non-lethal attacks that did not obviously constitute an Armed Attack in terrestrial domains.¹⁴³⁶

Applying the logic behind the few resources addressing attacks in space¹⁴³⁷ and cyberspace¹⁴³⁸ (combined with GoJ policy determinations regarding Use of Weapons¹⁴³⁹ against uncrewed systems¹⁴⁴⁰), it is reasonable to conclude that Japan would evaluate the impact of such attacks in terms of whether they caused "death, injury, damage, or destruction."¹⁸⁵

4.11.6.3. Armed Attack in Cyberspace

A 19 April 2019 SCC¹⁴⁴¹ Joint Statement¹⁴⁴² the Allies agreed that attacks in cyberspace could constitute an Armed Attack covered under MST Article V,¹⁴⁴³ stating:

¹⁴¹⁸ 4.11.6. Applicable Situations, p. 117.

¹⁴¹⁹ A.4.5. National Airspace (TTA), p. 197.

¹⁴²⁰ A.4.4. Territorial Sea (TTS), p. 196.

¹⁴²¹ G.3.2. US Position after PRC Normalization, p. 268.

¹⁴²² 2.1.3.4. Article V – Mutual Defense (the "MOD Clause"), p. 25.

¹⁴²³ G.3.2.3. US Position on SKI TTS, TTA, CZ, p. 268.

¹⁴²⁴ A.4.6. Contiguous Zone (CZ)197.

¹⁴²⁵ 2.1.2.4.1. International Law, p. 23.

¹⁴²⁶ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

¹⁴²⁷ G.3.2.3. US Position on SKI TTS, TTA, CZ, p. 268.

¹⁴²⁸ 3.3.3. Use of Force, p. 79.

¹⁴²⁹ A.4.5. National Airspace (TTA), p. 197.

¹⁴³⁰ A.4.4. Territorial Sea (TTS), p. 196.

¹⁴³¹ E.2.2.1. State Vessels, p. 241.

¹⁴³² E.2.2.3. State Aircraft, p. 243.

¹⁴³³ G.2. Bilateral Policy on SKIs, p. 266.

¹⁴³⁴ A.4.5. National Airspace (TTA), p. 197.

¹⁴³⁵ A.4.4. Territorial Sea (TTS), p. 196.

¹⁴³⁶ 4.11.6.1. Lethal or Kinetic Armed Attack in the Maritime, Air, or Land Domains, p. 117.

¹⁴³⁷ 4.11.6.4. Armed Attack in Space, p. 118.

¹⁴³⁸ 4.11.6.3. Armed Attack in Cyberspace, p. 117.

¹⁴³⁹ 3.3.1. Use of Weapons, p. 74.

¹⁴⁴⁰ 3.3.1.4. Use of Weapons Against Uncrewed Systems, p. 78.

¹⁴⁴¹ 6.2.1.2. Security Consultative Committee (SCC) ("2+2"), p. 142.

¹⁴⁴² 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

¹⁴⁴³ 2.1.3.4. Article V – Mutual Defense (the "MOD Clause"), p. 25.

The Ministers affirmed that International Law¹⁴⁴⁴ applies in cyberspace and that a cyber attack could, in certain circumstances, constitute an Armed Attack for the purposes of Article V¹⁴⁴⁵ of the U.S.-Japan Security Treaty [MST]. The Ministers also affirmed that a decision as to when a cyber attack would constitute an Armed Attack under Article V would be made on a case-by-case basis, and through close consultations between Japan and the United States, as would be the case for any other threat.¹⁸⁶

While norms continue to develop in cyberspace, it is generally considered that a cyberspace operation would qualify as an Armed Attack:

...where it has a physical effect that is equivalent to an attack conducted by kinetic means: namely, if it results, or is designed to result, in death, injury, damage, or destruction.¹⁸⁷

4.11.6.4. Armed Attack in Space

In an 11 January 2023 SCC¹⁴⁴⁶ Joint Statement,¹⁴⁴⁷ the Allies agreed that attacks in space could constitute an Armed Attack covered under MST Article V,¹⁴⁴⁸ stating:

The Ministers consider that attacks to, from, or within space present a clear challenge to the security of the Alliance, and affirmed such attacks, in certain circumstances, could lead to the invocation of Article V¹⁴⁴⁹ of the Japan-US Security Treaty [MST]. The Ministers also affirmed that a decision as to when such an attack would lead to an invocation of Article V would be made on a case-by-case basis, and through close consultations between Japan and the United States, as would be the case for any other threat.¹⁸⁸

4.11.6.5. Attribution of Armed Attack Source and Intent

The definition of Armed Attack requires GoJ not only to attribute Armed Attacks to their source, but also attribute the source of their intent.

Hybrid Warfare¹⁴⁵⁰ techniques complicate the attribution of attacks by calling into question whether they are excluded from consideration as an Armed Attack as “non-organized” combat¹⁴⁵¹ or by concealing State or Quasi-State Organization¹⁴⁵² sponsorship (i.e., attribution only to an Armed Agent¹⁴⁵³).

For maritime attacks, International Law¹⁴⁵⁴ considers the employment of arms from Warships,¹⁴⁵⁵ Naval Auxiliaries,¹⁴⁵⁶ and vessels used by Maritime Militia¹⁴⁵⁷ as potentially qualifying as use of force by the State. Customary International Law¹⁴⁵⁸ allows the conduct of every state-operated entity to be attributable to that state.¹⁸⁹ GoJ, however, may establish a more restrictive standard¹⁴⁵⁹ for attribution even from state-operated entities.

For Armed Attack to trigger an IAC,¹⁴⁶⁰ an attack attributable to one state (e.g., conducted by a state-operated entity) must be directed against another state. Generally, this is considered as any attack “directed against the objects or persons on the land territory, in the Territorial Sea,¹⁴⁶¹ or in the Archipelagic Waters¹⁴⁶² of an Archipelagic State, including the TTA”¹⁴⁶³ or “against Sovereign Immune¹⁴⁶⁴ platforms” anywhere.¹⁹⁰

4.11.6.6. Armed Attacks on US Areas and Facilities

In 1959, the CLB¹⁴⁶⁵ Director stated to the Diet that if a US base in Japan was attacked, this would involve invasion of Japan's territorial land, TTA,¹⁴⁶⁶ and TTS¹⁴⁶⁷ meeting the criteria of an Armed Attack.

¹⁴⁴⁴ 2.1.2.4.1. International Law, p. 23.

¹⁴⁴⁵ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

¹⁴⁴⁶ 6.2.1.2. Security Consultative Committee (SCC) (“2+2”), p. 142.

¹⁴⁴⁷ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

¹⁴⁴⁸ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

¹⁴⁴⁹ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

¹⁴⁵⁰ 11.3. Hybrid Warfare, p. 181.

¹⁴⁵¹ 4.11.7.1. “Non-Organized” Combat (e.g., “Rogue Commander”), p. 119.

¹⁴⁵² 3.3.3.3.1. State or Quasi-State Organization, p. 81.

¹⁴⁵³ 11.5. Armed Agents, p. 182.

¹⁴⁵⁴ 2.1.2.4.1. International Law, p. 23.

¹⁴⁵⁵ E.2.2.1.1. Warships, p. 241.

¹⁴⁵⁶ E.2.2.1.2.1. Naval Auxiliaries, p. 242.

¹⁴⁵⁷ E.2.2.1.2.2. Maritime Militia, p. 242.

¹⁴⁵⁸ 2.1.2.4.1.1. Customary International Law, p. 23.

¹⁴⁵⁹ 4.11.7.1. “Non-Organized” Combat (e.g., “Rogue Commander”), p. 119.

¹⁴⁶⁰ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

¹⁴⁶¹ A.4.4. Territorial Sea (TTS), p. 196.

¹⁴⁶² A.4.11. Archipelagic Waters, p. 199.

¹⁴⁶³ A.4.5. National Airspace (TTA), p. 197.

¹⁴⁶⁴ E.2.3.1. Sovereign Immunity of Maritime Vessels and Aircraft, p. 243.

¹⁴⁶⁵ C.2.5. Cabinet Legislation Bureau (CLB), p. 228.

¹⁴⁶⁶ A.4.5. National Airspace (TTA), p. 197.

¹⁴⁶⁷ A.4.4. Territorial Sea (TTS), p. 196.

This position has been repeatedly reinforced at all levels of government, since.

4.11.6.7. Blockade

A Blockade is “a belligerent operation intended to prevent vessel traffic from all States from entering or leaving specified coastal areas that are under sovereignty, occupation, or control of an enemy.”¹⁹¹

Enforcement of a Blockade, recognized by International Law¹⁴⁶⁸ as a belligerent act,¹⁹² could be considered an Armed Attack (for the purposes of both AAS¹⁴⁶⁹ and STS¹⁴⁷⁰). However, mere declaration¹⁴⁷¹ of a Blockade is insufficient. Furthermore, Exclusion Zones, etc.¹⁴⁷², that are not called Blockades will complicate the legal case for determination of an Armed Attack.

See § 4.9.5.2.2.1. Taiwan Blockade and STS (p. 110) for why a “Blockade” of Taiwan would be difficult to define as an Armed Attack.

4.11.7. Situations Excluded from Armed Attack

Just as characterizing an Armed Attack is a political act and not automatic, the same is true for excluding acts from characterization as an Armed Attack.

4.11.7.1. “Non-Organized” Combat (e.g., “Rogue Commander”)

Because combat must be “organized and premeditated” to be considered Armed Attack, any violence or combat that is sporadic or occasional may not be considered Armed Attack. The intent or state control behind such attacks must be interpreted.

Attribution to a State invokes the issue of “State Responsibility” which involves some degree of direction and intent. This potentially excludes “rogue commander” situations, miscalculation, or accident.

Accidental or unauthorized action by foreign armed forces (e.g., actions by a “rogue” commander, operating independent from State direction) may not be considered Armed Attack. As a result, even violence intentionally premeditated and directed by a subordinate commander (e.g., ship captain) may not be considered Armed Attack. In ambiguous circumstances (or situations made to appear ambiguous¹⁴⁷³), either the PM or Diet may require that the origins of orders for violent acts be attributed¹⁴⁷⁴ to senior political or military commanders.

Because of the requirement for intent or attribution to be determined even for certain obvious acts of violence, Hybrid Warfare¹⁴⁷⁵ methods potentially pose a particularly difficult challenge for the GoJ in acknowledging an Armed Attack.

4.11.7.2. Intrusions into TTA and TTS

The GoJ does not consider intrusions into Japanese TTA¹⁴⁷⁶ or TTS¹⁴⁷⁷ as Armed Attack (see § E.5.1.3. Non-Innocent Passage (Violations of Innocent Passage) [p. 250]).

4.11.7.2.1. Intrusions into Japanese Territory

It is unclear where intrusions into Japanese territory would be considered Armed Attack. However, the logic of excluding intrusions into TTA or TTS,¹⁴⁷⁸ combined with the general requirement for hostile actions in cyberspace to amount to “death, injury, damage, or destruction”¹⁴⁷⁹ to be considered an Armed Attack, combine to make it unlikely that even uniformed personnel from a potentially hostile state discovered in

¹⁴⁶⁸ 2.1.2.4.1. International Law, p. 23.

¹⁴⁶⁹ 4.10. Armed Attack Situation (AAS), p. 110.

¹⁴⁷⁰ 4.9. Survival-Threatening Situation (STS), p. 104.

¹⁴⁷¹ 4.11.7.5. Declaring a Blockade, p. 120.

¹⁴⁷² 4.11.7.6. Exclusion Zones, etc., p. 120.

¹⁴⁷³ Chapter 11. Grey Zone and Hybrid Warfare, p. 180.

¹⁴⁷⁴ 4.11.6.5. Attribution of Armed Attack Source and Intent, p. 118.

¹⁴⁷⁵ 11.3. Hybrid Warfare, p. 181.

¹⁴⁷⁶ A.4.5. National Airspace (TTA), p. 197.

¹⁴⁷⁷ A.4.4. Territorial Sea (TTS), p. 196.

¹⁴⁷⁸ 4.11.7.2. Intrusions into TTA and TTS, p. 119.

¹⁴⁷⁹ 4.11.6.3. Armed Attack in Cyberspace, p. 117.

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Japanese territory would be considered an Armed Attack without conclusive proof of violent intent or responsibility for a violent act.

Territorial intrusions by non-uniformed personnel, difficult to definitively attribute to a State actor would likely fall under the excluded category of Grey Zone Activities¹⁴⁸⁰ or Attacks by Armed Agents.¹⁴⁸¹

4.11.7.3. Grey Zone Activities

By (Japan's) definition, Grey Zone¹⁴⁸² activity does not constitute Armed Attack.

See Chapter 11. Grey Zone and Hybrid Warfare (p. 180).

4.11.7.4. Attacks by Armed Agents

Japan has defined a category of Armed Agents¹⁴⁸³ as persons conducting illegal or subversive activities while armed with weapons. Even while this may be applied to State-directed forces, such as guerillas, SOF, etc., this term avoids the attribution implications¹⁴⁸⁴ that would qualify hostile or violent acts by Armed Agents as Armed Attack.

Because actions by Armed Agents fall below the threshold of Armed Attack (unless and until attributed to a State actor), they are, by definition, police matters (although in severe cases, PSO¹⁴⁸⁵ may be enacted).

4.11.7.5. Declaring a Blockade

While a formal Blockade¹⁴⁸⁶ is a belligerent act, not only do States sometimes avoid calling such actions Blockades, but the *declaration* of a Blockade itself does not qualify as an Armed Attack.

Activities to enforce a Blockade may qualify as an Armed Attack.

Blockades are distinct from embargo or sanction enforcement operations which are domestic security measures by a State to restrict access to its own coasts, ports, or harbors.¹⁹³

See § 4.9.5.2.2.1 Taiwan Blockade and STS (p. 110) for why a "Blockade" of Taiwan would be difficult to define as an Armed Attack.

4.11.7.6. Exclusion Zones, etc.

There are a variety of terms, many ill-defined or with no recognized definition or legal status under International Law.¹⁴⁸⁷ Often states use these terms and associated concepts to avoid legal use of or labeling with the term Blockade,¹⁴⁸⁸ given that term's status as a belligerent act.

The declaration of Exclusion Zones, etc., or otherwise implementing restrictions in the vicinity of naval operations does not qualify as Armed Attack.¹⁹⁴

Activities to enforce an Exclusion Zone, etc. may qualify as an Armed Attack under limited cases where such enforcement activities were deemed unlawful.

4.11.7.6.1. Warning Area

States may establish Warning Areas in International Waters¹⁴⁸⁹ and International Airspace¹⁴⁹⁰ to advise vessels of activities that may be hazardous, such as for missile testing or gunnery exercises. The establishing State may exercise the use of proportionate force to protect its activities from interference.¹⁹⁵

Advanced notice of such areas must be provided, such as NOTMAR, NOTAM, etc.

Ships and aircraft not required to remain outside a Warning Area but have an obligation to avoid interference with the activities (i.e., the requirement of Due Regard) being conducted within the area. States

¹⁴⁸⁰ 4.11.7.3. Grey Zone Activities, p. 120.

¹⁴⁸¹ 4.11.7.4. Attacks by Armed Agents, p. 120.

¹⁴⁸² 11.2. Grey Zone, p. 180.

¹⁴⁸³ 11.5. Armed Agents, p. 182.

¹⁴⁸⁴ 4.11.6.5. Attribution of Armed Attack Source and Intent, p. 118.

¹⁴⁸⁵ 3.2.3.1. Public Security Operation (PSO), p. 62.

¹⁴⁸⁶ 4.11.6.7. Blockade, p. 119.

¹⁴⁸⁷ 2.1.2.4.1. International Law, p. 23.

¹⁴⁸⁸ 4.11.6.7. Blockade, p. 119.

¹⁴⁸⁹ A.4.1.2. International Waters, p. 200.

¹⁴⁹⁰ A.4.5.1. International Airspace, p. 197.

may conduct commercial and military activities within Warning Areas, including intelligence collection or other forms of observation.

4.11.7.6.2. Belligerent Control of the Immediate Area of Naval Operations

Within the Immediate Area of Naval Operations, belligerents have the right¹⁴⁹¹ to may establish special control of neutral vessels and aircraft, exercising special restrictions on their activities or even prohibiting their entry into the designated area.¹⁹⁶ Such restrictions may include control over the communication of neutral Merchant Ships¹⁴⁹² or Civil Aircraft.¹⁴⁹³ Neutral vessels that fail to follow a belligerent's direction may assume enemy character and become a lawful object of attack.

The Immediate Area of Naval Operations is "that area within which hostilities are taking place or belligerent forces are operating."¹⁹⁷

The control exercised is belligerent in nature because it derives from the right to attack enemies, self-defense without suffering neutral interference, and the right to ensure the security of belligerent forces.

The control exercised may not deny access to neutral States (e.g., form a *de facto* Blockade¹⁴⁹⁴) or close international straits (unless alternative routes of similar convenience remain available).

4.11.7.6.3. Exclusion Zones or War Zones

Historically, during times of war, some belligerents have established broad "Exclusion Zones" or "War Zones" that either prohibited neutral shipping or placed neutral shipping at additional risk. These zones, which may assume various names, are broad and purport to remove protections from neutral vessels that they retain, even during an IAC¹⁴⁹⁵.¹⁹⁸ By contrast, Belligerent Control of the Immediate Area of Naval Operations¹⁴⁹⁶ is narrow in scope and respects lawful neutral vessel protections.

4.11.7.6.4. Security Zone, Defense Zone, Defensive Sea Area, Maritime Control Area

Historically, during times of war or other national emergencies, some belligerents have established Security Zones, Defense Zones, Defensive Sea Areas, Maritime Control Areas, etc. to exercise control over foreign entities in designated areas beyond their TTS¹⁴⁹⁷ in the interests of their national security and defense.¹⁹⁹

*[The Charter of the UN] and general principles of International Law recognize that a State may exercise measures of ISD and CSD against an Armed Attack or imminent threat of Armed Attack. Those measures may include the establishment of Defense Zones, Defensive Sea Areas, or Maritime Control Areas in which the threatened State seeks to enforce some degree of control over foreign entry into those areas.*²⁰⁰

Some States have attempted to assert similar rights in peacetime, seeking to control foreign Warships¹⁴⁹⁸ and Military Aircraft¹⁴⁹⁹ (i.e., vessels with Sovereign Immunity¹⁵⁰⁰) beyond their TTS. International Law¹⁵⁰¹ does not recognize any such peacetime right.

4.11.7.6.1. Air Trade Protection Act (ATPA)

The ATPA is a hypothesized future PRC law that would authorize PRC to divert aircraft bound for Taiwan to mainland PRC airports for inspection, providing a legal pretense for Blockade-like¹⁵⁰² operations. The PRC would categorize such action as an Enforcement of its Sovereign Right¹⁵⁰³ to control vessels, trade, etc. or Maritime Law Enforcement¹⁵⁰⁴ within its claimed territory.

See § 4.9.5.2.2.1. Taiwan Blockade and STS (p. 110).

¹⁴⁹¹ 2.1.2.1.3. Belligerent Rights, p. 16.

¹⁴⁹² E.2.2.2. Merchant Ships, p. 243.

¹⁴⁹³ E.2.2.4. Civil Aircraft, p. 243.

¹⁴⁹⁴ 4.11.6.7. Blockade, p. 119.

¹⁴⁹⁵ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

¹⁴⁹⁶ 4.11.7.6.2. Belligerent Control of the Immediate Area of Naval Operations, p. 121.

¹⁴⁹⁷ A.4.4. Territorial Sea (TTS), p. 196.

¹⁴⁹⁸ E.2.2.1.1. Warships, p. 241.

¹⁴⁹⁹ E.2.2.3.1. Military Aircraft, p. 243.

¹⁵⁰⁰ E.2.3.1. Sovereign Immunity of Maritime Vessels and Aircraft, p. 243.

¹⁵⁰¹ 2.1.2.4.1. International Law, p. 23.

¹⁵⁰² 4.11.7.6. Exclusion Zones, etc., p. 120.

¹⁵⁰³ 4.11.7.8. Enforcement of Sovereign Rights, p. 122.

¹⁵⁰⁴ 4.11.7.9. Maritime Law Enforcement, p. 122.

4.11.7.6.2. Maritime Trade Protection Act (MTPA)

The MTPA is a hypothesized future PRC law authorizing PRC to divert shipping bound for Taiwan to mainland PRC ports for inspection, providing a legal pretense for Blockade-like¹⁵⁰⁵ operations. The PRC would categorize such action as an Enforcement of its Sovereign Right¹⁵⁰⁶ to control vessels, trade, etc. or Maritime Law Enforcement¹⁵⁰⁷ within its claimed territory and TTS¹⁵⁰⁸/TTA.¹⁵⁰⁹

See § 4.9.5.2.2.1. Taiwan Blockade and STS (p. 110).

4.11.7.7. Attacks Against Non-Government Japanese Entities outside TTS

For Armed Attack to trigger an IAC,¹⁵¹⁰ an attack attributable to one state (e.g., conducted by a state-operated entity) must be directed against another state (e.g., a State Vessel¹⁵¹¹ or State Aircraft¹⁵¹²).

4.11.7.8. Enforcement of Sovereign Rights

Generally, force used in a state's enforcement of its sovereign rights in its TTS,¹⁵¹³ TTA,¹⁵¹⁴ CZ,¹⁵¹⁵ or EEZ,¹⁵¹⁶ are not considered Armed Attacks.

Divergent interpretations of the boundaries of sovereign rights (e.g., in disputed regions) have implications for crisis phases or escalation management in conflict. See § G.3.2.3. US Position on SKI TTS, TTA, CZ (p. 268).

In the context of a Taiwan crisis, the PRC would likely justify what would otherwise seem like illegal or even belligerent acts as Enforcement of Sovereign Rights or Maritime Law Enforcement.¹⁵¹⁷ In the cast of the ATPA¹⁵¹⁸ or MTPA,¹⁵¹⁹ this would include the sovereign right of a State to control vessels and trade, etc. within its territory and TTS/TTA.

4.11.7.9. Maritime Law Enforcement

In addition to the Enforcement of Sovereign Rights,¹⁵²⁰ International Law¹⁵²¹ considers maritime law enforcement (as permitted by various conventions, Treaties,¹⁵²² or Customary International Law¹⁵²³) as not constituting Armed Attack.

Divergent interpretations of the boundaries of sovereign rights (e.g., in disputed regions) have implications what various states consider permissible Maritime Law Enforcement and therefore for how states navigate crisis phases or escalation management in conflict. See § G.3.2.3. US Position on SKI TTS, TTA, CZ (p. 268).

In the context of a Taiwan crisis, the PRC would likely justify what would otherwise seem like illegal or even belligerent acts as Maritime Law Enforcement or Enforcement of Sovereign Rights.¹⁵²⁴ In the cast of the ATPA¹⁵²⁵ or MTPA,¹⁵²⁶ this would include Maritime Law Enforcement within its claimed TTS¹⁵²⁷/TTA.¹⁵²⁸

4.11.7.10. Other Lawful Activities

Lawful capture or destruction of Booty of War¹⁵²⁹ or Prize¹⁵³⁰ or lawful MIO¹⁵³¹ do not qualify as Armed Attack.²⁰¹

¹⁵⁰⁵ 4.11.7.6. Exclusion Zones, etc., p. 120.

¹⁵⁰⁶ 4.11.7.8. Enforcement of Sovereign Rights, p. 122.

¹⁵⁰⁷ 4.11.7.9. Maritime Law Enforcement, p. 122.

¹⁵⁰⁸ A.4.4. Territorial Sea (TTS), p. 196.

¹⁵⁰⁹ A.4.5. National Airspace (TTA), p. 197.

¹⁵¹⁰ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

¹⁵¹¹ E.2.2.1. State Vessels, p. 241.

¹⁵¹² E.2.2.3. State Aircraft, p. 243.

¹⁵¹³ A.4.4. Territorial Sea (TTS), p. 196.

¹⁵¹⁴ A.4.5. National Airspace (TTA), p. 197.

¹⁵¹⁵ A.4.6. Contiguous Zone (CZ), p. 197.

¹⁵¹⁶ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

¹⁵¹⁷ 4.11.7.9. Maritime Law Enforcement, p. 122.

¹⁵¹⁸ 4.11.7.6.1. Air Trade Protection Act (ATPA), p. 121.

¹⁵¹⁹ 4.11.7.6.2. Maritime Trade Protection Act (MTPA), p. 122.

¹⁵²⁰ 4.11.7.8. Enforcement of Sovereign Rights, p. 122.

¹⁵²¹ 2.1.2.4.1. International Law, p. 23.

¹⁵²² 1.6.1.1.1. Treaties (Legal Status), p. 9.

¹⁵²³ 2.1.2.4.1.1. Customary International Law, p. 23.

¹⁵²⁴ 4.11.7.8. Enforcement of Sovereign Rights, p. 122.

¹⁵²⁵ 4.11.7.6.1. Air Trade Protection Act (ATPA), p. 121.

¹⁵²⁶ 4.11.7.6.2. Maritime Trade Protection Act (MTPA), p. 122.

¹⁵²⁷ A.4.4. Territorial Sea (TTS), p. 196.

¹⁵²⁸ A.4.5. National Airspace (TTA), p. 197.

¹⁵²⁹ E.2.4.2. Booty of War, p. 247.

¹⁵³⁰ E.2.4.1. Prize, p. 247.

¹⁵³¹ 3.2.2.8. Maritime Interdiction Operations (MIO), p. 60.

4.12. EXPECTED PATTERNS OF STIPULATION (TAIWAN CRISIS)

Different geopolitical crises (e.g., Korean Peninsula vs. SKI vs. Taiwan crises) will manifest different patterns or sequences of probable Stipulation.¹⁵³²

However, when considering a Taiwan contingency, there are two broad patterns of probably Stipulation that planners may expect, derivable from common Taiwan contingency scenarios and close reading of the relevant GoJ authorities and laws. These patterns should not be taken prescriptively but as demonstrations of how GoJ may tend to view evolving crises and implement responses.

Exclusion Zone/Quarantine/MTPA, etc. on TWN=IIS

Blockade=STS (AAS upon infringement of JPN sov)

4.12.1. "Fishbone"

Op Prep Order

95-2 protection

BMD defense

4.12.2. Initial Threat to Japan and the US

In this scenario, the PRC does not distinguish clearly between the US and Japan in its initial actions to deter intervention in a Taiwan unification campaign. Initial PRC actions in crisis might include cyberspace attacks and/or Grey Zone¹⁵³³ activity against both the US and Japan.

Because the US is not drawn into conflict with the PRC in a meaningful way before Japan is also drawn in, STS and AAS¹⁵³⁴ (or at least AAS [Imminent]¹⁵³⁵) will probably be declared concurrently.

4.12.3. Initial Threat to US Only

In a scenario where the PRC attempts to clearly distinguish its efforts between deterring the US and deterring Japan from intervention, it is likely that Japan will remain at IIS¹⁵³⁶ until the US is attacked.

When the US comes under Armed Attack,¹⁵³⁷ the GoJ is likely to Stipulate¹⁵³⁸ STS.¹⁵³⁹ If the GoJ determines the conflict will likely spread to Japan or US bases and forces in Japan (which is probable), then this also would meet the criteria of AAAS.¹⁵⁴⁰ If and when I&W of PRC expansion of attack to Japan or US forces in Japan, GoJ would likely consider Stipulating AAS (Imminent).¹⁵⁴¹

In such a scenario, US planners can expect some reluctance by GoJ in Recognizing¹⁵⁴² STS. Because STS authorizes CSD¹⁵⁴³ of the US, this potentially authorizes Japanese entry into the IAC¹⁵⁴⁴ as a Belligerent. Such authorization is likely to be considered by both the PRC and Diet as escalatory. With not ability for *ex post* Approval¹⁵⁴⁵ of STS, the PM would require *ex ante* Approval,

4.12.4. Concurrent STS/AAAS or STS/AAS (Imminent) Recognition

In cases where STS and AAS (Imminent)¹⁵⁴⁶ are Concurrently Stipulated or Recognized,¹⁵⁴⁷ the combined authorities for the JSDF effectively amount to the authorities that would be made available under AAS

¹⁵³² 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁵³³ 11.2. Grey Zone, p. 180.

¹⁵³⁴ 4.10. Armed Attack Situation (AAS), p. 110.

¹⁵³⁵ 4.10.1.1. AAS (Imminent), p. 111.

¹⁵³⁶ 4.6. Important Influence Situation (IIS), p. 98.

¹⁵³⁷ 4.11. Definition of "Armed Attack", p. 114.

¹⁵³⁸ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁵³⁹ 4.9. Survival-Threatening Situation (STS), p. 104.

¹⁵⁴⁰ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

¹⁵⁴¹ 4.10.1.1. AAS (Imminent), p. 111.

¹⁵⁴² 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁵⁴³ 3.4.2. Collective Self-Defense (CSD), p. 84.

¹⁵⁴⁴ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

¹⁵⁴⁵ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁵⁴⁶ 4.10.1.1. AAS (Imminent), p. 111.

¹⁵⁴⁷ 4.1.2.2. Concurrent Stipulation (Concurrent Recognition), p. 90.

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(Occurrence).¹⁵⁴⁸ Such a condition might occur if GoJ's estimate of an STS was that horizontal escalation of the STAA¹⁵⁴⁹ to Japan and/or US forces in Japan¹⁵⁵⁰ was imminent.

If GoJ's estimate that STS was that horizontal escalation was likely, but not imminent, STS and AAAS¹⁵⁵¹ might be Concurrently Stipulated or Recognized, instead. A Concurrent AAAS/STS Stipulation would provide GoJ the authorities to grant US forces APOD/SPOD access under AAAS authorities.

¹⁵⁴⁸ 4.10.1.2. AAS (Occurrence), p.111.

¹⁵⁴⁹ 4.9.1.2. Survival-Threatening Armed Attack (STAA), p. 105.

¹⁵⁵⁰ 4.11. Definition of "Armed Attack", p. 114.

¹⁵⁵¹ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

Chapter 5. ACCESS, BASING, AND OVERFLIGHT (ABO)

5.1. OVERVIEW

ABO is a commonly used (but not formally defined) term referring to: agreements between the US and a foreign state for US armed forces to operate in, from, and through territorial land, TTA,¹⁵⁵² and TTS¹⁵⁵³ within specified limitations during peacetime, crisis, and/or conflict.

ABO normally includes SOFA¹⁵⁵⁴ agreements, specific restrictions or authorizations, and any national caveats.

The MST¹⁵⁵⁵ grants the US ABO in Japan. The SOFA governs procedures to exercise this ABO. The Security Situations¹⁵⁵⁶ framework authorizes the GoJ to grant ABO outside SOFA procedures.

Article VI¹⁵⁵⁷ of the MST grants the US ABO in Japan:

For the purposes of contributing to the security of Japan and the maintenance of international peace and security in the Far East,¹⁵⁵⁸ the United States of America is granted the use by its land, air and naval forces of Facilities and Areas¹⁵⁵⁹ in Japan. The use of these Facilities and Areas as well as the status of United States armed forces in Japan shall be governed by a separate agreement...

The separate agreement is the SOFA. SOFA Article II¹⁵⁶⁰ establishes that the specific Facilities and Areas to be granted are agreed to through the JC.¹⁵⁶¹ These include Facilities and Areas for Exclusive Use (e.g., permanent bases) as well as Limited Use¹⁵⁶² (e.g., training or temporary deployment areas).

SOFA Article II 4(b)¹⁵⁶³ governs Limited Use Facilities and Areas:

With respect to Facilities and Areas which are to be used by United States armed forces for limited periods of time, the Joint Committee shall specify in the agreements covering such Facilities and Areas the extent to which the provisions of this Agreement shall apply.

Article II 4(b) establishes the fact of the process, but the specifics of the II 4(b) process is established by JC policy.

5.1.1. Issues in Exercising ABO

During steady-state operations, the US does not always exercise its fully-authorized ABO as understood by some US planners (e.g., full access to APOD and SPODs in Japan¹⁵⁶⁴). While this may be an incorrect understanding of the applicability of the SOFA, it is often in the interest of the US not to press the issue and potentially damage the Alliance (by similar logic, the GoJ may have an interest not to press the issue through domestic legislative or legal means; see § 2.1.4.3.1. Limitations of SOFA Article 5 [p. 33]). Nonetheless, ABO limitations can lead to major operational challenges, even in “peacetime crises” such as SAR¹⁵⁶⁵ operations.

There may also be reluctance for US planners to request ABO they believe is already authorized (e.g., a PPR¹⁵⁶⁶ for routine operations to an airfield) when they anticipate the request will be denied. This may be

¹⁵⁵² A.4.5. National Airspace (TTA), p. 197.

¹⁵⁵³ A.4.4. Territorial Sea (TTS), p. 196.

¹⁵⁵⁴ 2.1.4. Status of Forces Agreement (SOFA), p. 29.

¹⁵⁵⁵ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹⁵⁵⁶ Chapter 4. Japan’s Security Situations Framework, p. 89.

¹⁵⁵⁷ 2.1.3.5. Article VI – Access, Basing, and Overflight (ABO) (the “Far East Clause” or “MOFA Clause”), p. 28.

¹⁵⁵⁸ B.1.4.1. Defining the Far East, p. 209.

¹⁵⁵⁹ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

¹⁵⁶⁰ 2.1.4.1. Article 2 – Use of Facilities and Areas, p. 30.

¹⁵⁶¹ 6.2.1.3. Joint Committee (JC), p. 143.

¹⁵⁶² 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p.127.

¹⁵⁶³ 5.3. Limited Use Agreements (LUA) and II 4(b) Requests, p. 127.

¹⁵⁶⁴ 2.1.4.3.1. Limitations of SOFA Article 5, p. 33.

¹⁵⁶⁵ 3.2.2.6. Search and Rescue (SAR), p. 58.

¹⁵⁶⁶ 5.4.2. PPRs, p. 129.

done to avoid setting or reinforcing precedent for entities (private or at various echelons of GoJ) to deny ABO when US planners believe the authority for such denial does not exist.

5.2. MST, SOFA, AND ABO

5.2.1. ABO Limitations

5.2.1.1. SOFA Article 5: Limitations in Application

See § 2.1.4.3.1. Limitations of SOFA Article 5 (p. 33) for a discussion on the limits of SOFA Article 5's authority and application.

The YARA Memorandum¹⁵⁶⁷ is the most high-profile case of these limitations.

5.2.1.1.1. YARA Memorandum

The "YARA Memorandum"¹⁵⁶⁸ refers to a 1971 official memorandum from Mr. Choby YARA, Chief Executive of the Government of the Ryukyu Islands (the predecessor local government to the OPG, prior to the reversion of Okinawa to Japanese sovereign control in 1972) to the GOJ's Minister of Transportation.

The memo¹⁵⁶⁹ and its response¹⁵⁷⁰ confirm that the intended use for Shimoji-jima Aviation Training Airfield (IATA: SKI; ICAO: RORS) was for civil aviation (and civil aviation training) purposes, and that, as a Locally-Managed Airport¹⁵⁷¹ the Minister of Transportation did not have a legal basis to order the local government to permit its use for other purposes.¹⁵⁷²

In 1979, OPG requested the airport be converted to public use as Locally-Managed Airport. Locally-Managed Airport managed by local governments but are considered public airports. As a public airport, US force access to the airfield is addressed by the SOFA's Article 5.¹⁵⁷³

However, a 1979¹⁵⁷⁴ "Confirmation Letter" from OPG requested the Minister of Transportation to confirm the airport would continue to be operated by the policies of the 1971 YARA Memo. The GOJ's response¹⁵⁷⁵ confirmed "the management policy of Shimoji-jima Airport is to be primarily determined by Okinawa Prefecture," which merely confirms the airport's management status as a Locally-Managed Airport under Article 5¹⁵⁷⁶ ¶(1) of the Airport Act (Act No. 80 of 1965, as amended).

OPG's stance¹⁵⁷⁷ is that the 1971 memo, combined with the 1979 confirmation letter confirms Shimoji-jima airport's excepted status as not required to support military aviation operations.¹⁵⁷⁸ The GoJ has not explicitly accepted this legal reasoning and the airfield has been used for limited military operations, including stopovers during regional exercises.

These divergent interpretations have yielded occasional controversy and protest.

5.2.1.2. Operational Limitations and Prioritization

While US planners can sometimes treat ABO as if it is all-or-nothing, on-or-off, competing priorities will likely limit US ABO even in full-scale combat where Japan is "all in."

These competing priorities for limited ABO resources will include but are not limited to:

- JSDF and JCG requirements for defensive military operations

¹⁵⁶⁷ 5.2.1.1.1. YARA Memorandum, p. 126.

¹⁵⁶⁸ Annex iii. YARA Memorandum, p. 432.

¹⁵⁶⁹ iii.B.1. Original Memo, p. 432.

¹⁵⁷⁰ iii.B.2. Cabinet Response, p. 433.

¹⁵⁷¹ i.T.2. Article 5 - Establishment and management of airports that play an important role in forming international or domestic air transportation networks, p. 397.

¹⁵⁷² iii.B. Original Memorandum and Response (Translations), p. 432.

¹⁵⁷³ 2.1.4.3. Article 5 – US Access to Air and Sea Ports, p. 33.

¹⁵⁷⁴ iii.C.1. Okinawa Governor Confirmation to Minister of Transportation, p. 433.

¹⁵⁷⁵ iii.C.2. Minister of Transportation Response, p. 433.

¹⁵⁷⁶ i.T.2. Article 5 - Establishment and management of airports that play an important role in forming international or domestic air transportation networks, p. 397.

¹⁵⁷⁷ iii.D. Okinawa Prefectural Government's Position on the YARA Memorandum (Translation), p. 434.

¹⁵⁷⁸ iii.D. Okinawa Prefectural Government's Position on the YARA Memorandum (Translation), p. 434.

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- Civil requirements for humanitarian assistance, evacuation, refugee processing, etc.

Limited ABO resources include:

- Land space
- Port berthing
- Apron or hanger space
- Ground support equipment or maintenance capacity
- ATC and runway operating capacity

Limitations placed on US ABO to achieve desired prioritization may include:

- Apportionment of resources
 - By percentage (e.g., a designated percentage of sortie capacity at an airfield)
 - By time (e.g., civil operations prioritized during daytime hours, military operations prioritized during nighttime hours)
- Use of vacant or unused resources (e.g., vacant apron spaces)
- Exclusive use or non-use of selected resources (e.g., segregation of selected ports and airfields for exclusive civilian or military use)

Other considerations for ABO apportionment and prioritization may include facility suitability (e.g., port draft and pier size/strength or airfield runway durability and length).

5.2.1.3. *De Facto Limitations*

Over the years, as US forces have exercised ABO or negotiation conditions for the exercise of ABO, convention and precedent have established other *de facto* limitations on ABO. For example, some airfields may have limited use by certain types or numbers of airframes due to engineering limitations and concern over heavier aircraft damaging runways over time. Or ports may negotiate limited US access based on heavy commercial traffic or infrastructure limitations.

While such quotas may be negotiated during routine operations (for example, permitting only 4x C-130 flights into a given airfield per year), in practice these often harden over time into upper limits that can be difficult to change, even in “peacetime crises” such as SAR or disaster relief.

5.3. LIMITED USE AGREEMENTS (LUA) AND II 4(B) REQUESTS

5.3.1. Overview

II 4(b) may alternatively be rendered as:

- II.4.b
- II.4.(b)
- II, 4(b)

LUAs are required for US forces to conduct exercises or operations off US Exclusive Use (II 1[a]¹⁵⁷⁹) or US-Japan Joint Use (II 4[a]¹⁵⁸⁰) facilities or areas. LUAs are requested under the provisions of SOFA Article II, ¶ 4, sub-paragraph (b), rendered and referred to as the “II 4(b) process” or “II 4(b) requests.”

This II 4(b) process requires US forces to detail the scope, purpose, and duration of the activity and for the GoJ to consult with local authorities and publish approved II 4(b) requests, making routine II 4(b) requests essentially unclassified CONOPS. This process is subject to policy interpretation and may be more flexible in crisis.¹⁵⁸¹

¹⁵⁷⁹ 2.1.4.1. Article 2 – Use of Facilities and Areas, p. 30.

¹⁵⁸⁰ 2.1.4.1. Article 2 – Use of Facilities and Areas, p. 30

¹⁵⁸¹ 5.3.4. Crisis II 4(b) Requests, p. 129.

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The II 4(b) process is required in all situations short of AAS¹⁵⁸² for private land. In AAAS,¹⁵⁸³ STS,¹⁵⁸⁴ or AAS, the GoJ can grant US forces access to public or government-owned land, making II 4(b) requests potentially unnecessary in Security Situations¹⁵⁸⁵ beyond IIS¹⁵⁸⁶ for public land. Under an AAS Stipulation,¹⁵⁸⁷ the II 4(b) still applies, although GoJ has additional authorities to directly grant access outside of the II 4(b) process, if it so desires.

5.3.1.1. ACSA and “Positioning” without II 4(b)

Since LUAs are only required when US forces require access for exercises or operations, under certain conditions, use of the ACSA can enable US forces to preposition or forward-stage equipment and/or supplies without necessitating a II 4(b) request.

See § 8.2.2.1. Prepositioning via US ACSA, in lieu of II 4(b) (p. 168).

5.3.2. II 4(b) Request Components

II 4(b) requests include the following elements:

- Provision Agreement
- Implementation Plan

When requests are approved, these components become part of a “Limited Use Agreement” (LUA).

5.3.2.1. Provision Agreement

Provision Agreements must specify the following requested conditions for use in an Implementation Plan, submitted to the GoJ through the JC¹⁵⁸⁸ or ACG:

- Scope of Facilities and Areas¹⁵⁸⁹ (including areas to be used)
- Purpose, duration, conditions of use
- Forces and equipment to be deployed
- Public safety measures
- Responsibility for maintenance and management

5.3.2.2. Implementation Plan

In addition to the elements of the Provision Agreement, Implementation Plans may include:

- Cost sharing agreements
- Other stipulations determined

5.3.3. II 4(b) Process

The LUA process follows:

- Coordination with MoD/MOFA AO-level representatives
- MoD/MOFA leadership approval
- Gain local understanding
 - The GoJ “shall conduct hearings with relevant local public entities and shall respect their opinions” prior to approval, including governors, mayors, and administrators of key facilities
- Political leader approval
- Formal signature by MOFA DG North America

¹⁵⁸² 4.10. Armed Attack Situation (AAS), p. 110.

¹⁵⁸³ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

¹⁵⁸⁴ 4.9. Survival-Threatening Situation (STS), p. 104.

¹⁵⁸⁵ Chapter 4. Japan’s Security Situations Framework, p. 89.

¹⁵⁸⁶ 4.6. Important Influence Situation (IIS), p. 98.

¹⁵⁸⁷ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁵⁸⁸ 6.2.1.3. Joint Committee (JC), p. 143.

¹⁵⁸⁹ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

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- The GoJ “shall” publish the final Limited Use Agreement, including Provision Agreement and Implementation Plan

The JC¹⁵⁹⁰ is the approval authority for all II 4(b) requests.

5.3.3.1. Agreement Termination

US use of the Facilities and Areas¹⁵⁹¹ terminates when:

- The duration of the Provision Agreement expires
- The Facilities and Areas are no longer needed for the purposes of the Provision Agreement
- When the conditions of the agreement are found not to be fulfilled
- The GoJ may terminate the agreement or change the conditions of the request in the interests of Japan or public safety

5.3.3.2. Peacetime Timeline

The following timelines are generally acknowledged peacetime planning factors:

- JSDF facility: 30 days
- GoJ public land: 45 days
- Private land: 160 days

5.3.4. Crisis II 4(b) Requests

During crisis, it is expected that II 4(b) requests and procedures may be modified from peacetime standards to meet political and military requirements. Such requests may be:

- Expedited (accelerating the timeline for approval)
- Blanket (limited in required detail or broad in scope of approved activities or areas)
- With delayed notification (with public notification delayed to preserve OPSEC)

Article 9¹⁵⁹² of the IIS Act (Act No. 60 of 1999, as amended) provides the GoJ with limited authorities to request cooperation from land owners, local governments, or facility operators in providing access to US Forces.

The likelihood of such expediciencies is difficult to anticipate but probably increases with the severity of a crisis and with the impact to private land owners (e.g., expedited LUAs in IIS¹⁵⁹³ might be expected for government-owned land or expedited LUAs [consistency – LUA: agreement, II 4(b): process] during AAAS¹⁵⁹⁴ for land where owners are being/have been evacuated).

5.4. OTHER ABO MECHANISMS**5.4.1. Contingency Use****5.4.2. PPRs****5.4.3. Sovereign Right****5.5. PRIOR CONSULTATION FOR (REGIONAL) MILITARY COMBAT OPERATIONS (RMCO)**

See Appendix B. Prior Consultation (p. 207) for an extended discussion of Prior Consultation.¹⁵⁹⁵

¹⁵⁹⁰ 6.2.1.3. Joint Committee (JC), p. 143.

¹⁵⁹¹ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

¹⁵⁹² i.E.9. Article 9 – Cooperation by Parties Other than the State, p. 350.

¹⁵⁹³ 4.6. Important Influence Situation (IIS), p. 98.

¹⁵⁹⁴ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

¹⁵⁹⁵ 5.5.2. Prior Consultation, p. 132.

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While Prior Consultation is a legal obligation under the MST, its implications have unavoidable political and diplomatic consequences. Thus, any discussion of the real-world employment of Prior Consultation must consider not only the legal obligations it explicitly imposes (e.g., specified Subjects of Prior Consultation¹⁵⁹⁶) but also the political and diplomatic obligations it implicitly imposes (e.g., sensitive actions that may technically be outside the formal scope of Prior Consultation).

In its post-war history, Japan has had to navigate a fine line between fears of entrapment in US crises or conflicts and its dependence, as a maritime nation (especially one with the restrictions of Article 9¹⁵⁹⁷), on regional stability (as guaranteed under the MST¹⁵⁹⁸ by US forces based in Japan). This requires it to both permit RMCO¹⁵⁹⁹ from Japan while still retaining a brake on such US operations.

Prior Consultation is the mechanism developed to help the Alliance walk this fine line.¹⁶⁰⁰

In principle, Prior Consultation allows:

- Japan to exercise some degree of influence or control over US ‘unilateral actions’
- Japan to benefit from the regional security offered by the deterrence provided by the prospect of US forces operating from Japan or the security provided by the actual employment of those forces
- The US at least a conditional promise that it may undertake ‘unilateral action’ from US bases in Japan
- The US an enhanced ability to support its other regional security commitments (e.g., to Korea or Taiwan) or otherwise to pursue its national interests in the region

However, when discussing such unilateral actions in crisis or conflict, US planners will often use ill-defined terms such as “Unilateral ABO” or “Lethal ABO,” sometimes interchangeably and often with flexible meanings. This is problematic for two reasons.

First, these terms are not formally or consistently defined, either for US planners or for GoJ planners. This leads to confusion, presumptions, unstated assumptions, and miscommunication.

Second, even when used with clear meaning, these are not “black and white” issues (whether “approved” or “unapproved”) and, in any crisis or conflict, are likely to be treated by both sides as a spectrum.

5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”)

First referenced in the 6 January 1960 “Record of Discussion,” (see § B.3.1. 6 January 1960 Record of Discussion [p. 212]) the term “Military Combat Operations” has been used to refer to Military Combat Operations that may be initiated from Japan against areas outside Japan¹⁶⁰¹ or what many US planners refer to as “unilateral ABO.”

Because “Military Combat Operations,” as a specific term in this context, is not well-known to US planners and is ambiguous in its plain language sense, this guide modifies this term for clarity.

To distinguish (US) Military Combat Operations other than under Article V¹⁶⁰² defense of Japan from (US) military combat operations for Article V defense of Japan, this guide modifies this term to “(US Regional) Military Combat Operations” and uses the acronym “RMCO” (an acronym unique to this guide) to emphasize this distinction.

RMCO includes:

- Direct combat operations (including lethal, non-lethal, kinetic, or non-kinetic attacks):

¹⁵⁹⁶ 5.5.2.2. Subjects of Prior Consultation, p. 133.

¹⁵⁹⁷ 2.1.2.1. Article 9 (War Renunciation), p. 13; i.B.2. Article 9 – Renunciation of War, p. 300.

¹⁵⁹⁸ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹⁵⁹⁹ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

¹⁶⁰⁰ For an in-depth exploration of the history of Prior Consultation, see (KOMINE, Negotiating the U.S.-Japan Alliance: Japan Confidential, 2018).

¹⁶⁰¹ B.3.1. 6 January 1960 Record of Discussion, p. 212.

¹⁶⁰² 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

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- Originating from Japan (e.g., an airborne maritime strike operation flown from bases in Japan or ground-based anti-ship fires)
- Supported from Japan (e.g., an airborne maritime strike operation launched from outside of Japan but landing in Japan to refuel en route to or from the strike)
- Terminating in Japan (e.g., an airborne maritime strike operation launched from outside of Japan landing in Japan to conduct follow-on combat operations from Japan)
- Indirect combat operations:
 - Direct support to combat operations such as aerial refueling support from Japan
- Return of homeported ships involved in combat
 - (US planners often assume that while 7th Fleet ships homeported in Japan may conduct combat operations without Prior Consultation once they exit the TTS¹⁶⁰³ of Japan, their re-entry into Japanese TTS or return to port in Japan would require Prior Consultation¹⁶⁰⁴)

5.5.1.1. Non-Kinetic Operations and Prior Consultation for RMCO

Some sources assert that non-kinetic operations do constitute RMCO and therefore do not require Prior Consultation.²⁰² While certain non-kinetic operations provide greater legal and political ambiguity, many non-kinetic operations are legally characterized as hostile acts that are not legally distinct from kinetic attacks. Thus, in the absence of specific legal reviews and intergovernmental political understandings or agreements, non-kinetic operations cannot be claimed or assumed to be outside of the scope of RMCO activities that would be subject to Prior Consultation.

5.5.1.2. Authorized Unilateral Actions

Based on legal interpretations of the Affirmative Commitment of Article V¹⁶⁰⁵, US actions to meet the “common danger” once Article V of the MST¹⁶⁰⁶ is invoked do not require consultation under Article IV.¹⁶⁰⁷ The scope of this “common danger” may permit RMCO¹⁶⁰⁸ without further consultation (e.g., Prior Consultation¹⁶⁰⁹).

5.5.1.2.1. Unauthorized US Unilateral Actions

Some US planners have hypothesized that Article III¹⁶¹⁰ of the SOFA grants the US authority to “operate” from US bases and installations without regard to Prior Consultation,¹⁶¹¹ further agreement, or other GoJ consideration. This is a misreading¹⁶¹² of Article III.

5.5.1.2.1.1. Why the US Would not Conduct Unauthorized US Unilateral Actions

As described in § 5.5.2.3.1. GoJ Approval vs. Authorization of (p. 135), POTUS and the US chain of command are the sole authority for the conduct of US military operations. This fact, combined with various conditions and interpretations, means the US can theoretically conduct unilateral actions against the intent, desires, or stated prohibitions of GoJ and even that there might be cases to be made that such actions were legal (e.g., under the Affirmative Commitment under Article V of the MST¹⁶¹³). Despite such possibilities, there are a variety of reasons why the US would refrain from doing so.

The first and dominant reason is the Alliance itself. Such actions would likely present an existential threat to the Alliance and it is difficult to conceive of any short-term gains from such actions that would be worth the long-term strategic consequences of permanent damage to (or even dissolution of) the Alliance.

The second reason is that GoJ would likely ‘retaliate’ against such actions. This might take the form of relatively passive action such as withdrawing support for US actions (e.g., access to certain non-US airfields),

¹⁶⁰³ A.4.4. Territorial Sea (TTS), p. 196.¹⁶⁰⁴ 5.5.2. Prior Consultation, p. 132.¹⁶⁰⁵ 2.1.3.4.1. US Unilateralism under Article V: The “Affirmative Commitment”, p. 26.¹⁶⁰⁶ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.¹⁶⁰⁷ 2.1.3.3. Article IV – Consultation, p. 25.¹⁶⁰⁸ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.¹⁶⁰⁹ 5.5.2. Prior Consultation, p. 132.¹⁶¹⁰ 2.1.4.2. Article 3 – Establishing and Operating Facilities and Areas, p. 32.¹⁶¹¹ 5.5.2. Prior Consultation, p. 132.¹⁶¹² 2.1.4.2.1. Misreading of Article 3, p. 32.¹⁶¹³ 2.1.3.4.1. US Unilateralism under Article V: The “Affirmative Commitment”, p. 26.

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placing burdensome limitations on US operations or support activities (e.g., requiring additional time-consuming inspections). Or it may take the form of more active actions such as:

- Refuse aircraft re-entry into Japanese airspace
- Seize equipment
- Detain personnel
- Withdraw critical support (e.g., power/fuel, force protection)
- Impede future operations (e.g., block runways, base gates)

Finally, if Japan has declared a policy of neutrality under the Laws of Neutrality,¹⁶¹⁴ US actions would likely breach Japan's Duty of Neutrality,¹⁶¹⁵ establishing a basis to classify Japan as a "co-belligerent" subject to retaliation from US adversaries.

5.5.1.3. Complicating Factors

The following factors complicate discussions of RMCO.¹⁶¹⁶

- Lack of definition for MST¹⁶¹⁷ "security"¹⁶¹⁸ in the Far East¹⁶¹⁹
 - This ambiguity make it difficult to have a discussion of RMCO outside specific, detailed scenarios; bilateral plans provide such scenarios, but are military documents whereas ABO is a political decision

The ABO assumed in any bilateral plans is a planning assumption, not a political decision or agreement.

- Ambiguous definition of Prior Consultation¹⁶²⁰
- Lack of formal definition of Military Combat Operations associated terms
 - RMCO will probably need to be scoped¹⁶²¹
- Lack of GoJ legislation addressing RMCO (i.e., US operations from Japan outside MST Art. V¹⁶²²) due to Prior Consultation being a political vice legal act¹⁶²³
 - The authorizing authority for ABO and the associated process is unclear (e.g., Diet vs. PM, *in extremis* PM decision with *ex post*¹⁶²⁴ Diet Approval¹⁶²⁵ permitted or not)
- US self-limitation¹⁶²⁶ and precedent during 60+ of peacetime operations under the MST

5.5.2. Prior Consultation

See Appendix B. Prior Consultation (p. 207) for an extended discussion of Prior Consultation.

Prior Consultation may also appear as:

- Consultation in Advance
- Advanced Consultation (not to be confused with "Advanced Prior Consultation"¹⁶²⁷)

In simplest terms, Prior Consultation is the consultation required under Article IV¹⁶²⁸ the MST if Japan is not attacked but the US wants to conduct RMCO¹⁶²⁹ for security of the Far East¹⁶³⁰ (i.e., operations conducted under MST Article VI¹⁶³¹).

¹⁶¹⁴ 2.1.2.1.4. Law of Neutrality, p. 18.

¹⁶¹⁵ 2.1.2.1.4.1. Duties of Neutrality, p. 18.

¹⁶¹⁶ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka "Unilateral ABO" or "Lethal ABO"), p. 130.

¹⁶¹⁷ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹⁶¹⁸ 5.5.2.2. Subjects of Prior Consultation, p. 133.

¹⁶¹⁹ B.1.4.1. Defining the Far East, p. 209.

¹⁶²⁰ 5.5.2. Prior Consultation, p. 132.

¹⁶²¹ 5.5.3. (US) Regional Military Combat Operations (RMCO) Spectrum, p. 136.

¹⁶²² 2.1.3.4. Article V – Mutual Defense (the "MOD Clause"), p. 25.

¹⁶²³ 5.5.2. Prior Consultation, p. 132.

¹⁶²⁴ 4.2.1.2. Ex Post ("From After") Approval, p. 94.

¹⁶²⁵ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁶²⁶ 5.1.1. Issues in Exercising ABO, p. 125.

¹⁶²⁷ 5.5.2.1. Standing Prior Consultation, p. 133.

¹⁶²⁸ 2.1.3.3. Article IV – Consultation, p. 25.

¹⁶²⁹ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka "Unilateral ABO" or "Lethal ABO"), p. 130.

¹⁶³⁰ B.1.4.1. Defining the Far East, p. 209.

¹⁶³¹ 2.1.3.5. Article VI – Access, Basing, and Overflight (ABO) (the "Far East Clause" or "MOFA Clause"), p. 28.

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In a conflict where Japan is attacked, Prior Consultation is not required for US combat operations directly for the defense of Japan (i.e., US combat operations authorized under MST Article V¹⁶³²) but are, in principle, still required for combat operations beyond those directly supporting the defense of Japan.

Prior Consultation is a sovereign right of Japan and thus a political, not legal act.¹⁶³³ US executive authority is the legal basis for RMCO, not any mechanism within Japanese law or government. Prior Consultation is the mechanism for seeking Japanese sovereign consent to such actions from Japan.

While MST Article IV specifies that the US and Japan will “consult,” this is broadly taken to have two meanings:

- Consultation about issues directly impacting the security of Japan or US forces in Japan (e.g., threats to Japan, SOFA¹⁶³⁴ implementation, etc.; normally conducted through the JC¹⁶³⁵)
- Consultation about issues impacting the security of the Far East (e.g., potential US regional operations).

This latter is termed “Prior Consultation” to distinguish it from routine and regular consultation over issues covered by the former meaning.

Because “Prior Consultation” is not formally defined, the two governments and individuals within governments may hold differing views of what constitutes “prior consultation” and what actions would require it.

The issue of Prior Consultation has three components:

- The Subjects of Prior Consultation¹⁶³⁶
- The instrument or Mechanism of Prior Consultation¹⁶³⁷
- The Scope of Prior Consultation¹⁶³⁸

Prior Consultation may occasionally appear as “Pre-Consultation” or “Pre-Notification” (this latter term may imply, intentionally or otherwise, a US interpretation of the Mechanism of Prior Consultation).

5.5.2.1. Standing Prior Consultation

This guide uses the informal term “Standing Prior Consultation” to refer to Prior Consultation concluded pre-crisis in anticipation of exercising the agreed-to actions during the anticipated crisis.

Other sources may refer to Standing Prior Consultation as:

- Advanced Prior Consultation (not to be confused with “Advanced Consultation”¹⁶³⁹)
- Standing Consultation
- Standing Prior Consultation
- Completed Prior Consultation

See also §§ B.1.4. Reluctance Towards “Standing Prior Consultation” (p. 208), B.2.1.4. Standing Prior Consultations Completed (p. 211), and B.3.4. The Korea Minute (p.217).

5.5.2.2. Subjects of Prior Consultation

MST Article IV¹⁶⁴⁰ specifies that Japan and the US will “consult” over security issues in the “Far East.”

MST Article VI¹⁶⁴¹ grants the US ABO in Japan for “maintaining security in the Far East.”

¹⁶³² 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

¹⁶³³ B.1.1. Prior Consultation as a Political, not Legal Act, p. 207.

¹⁶³⁴ 2.1.4. Status of Forces Agreement (SOFA), p. 29.

¹⁶³⁵ 6.2.1.3. Joint Committee (JC), p. 143.

¹⁶³⁶ 5.5.2.2. Subjects of Prior Consultation, p. 133.

¹⁶³⁷ 5.5.2.3. Mechanism of Prior Consultation, p. 135.

¹⁶³⁸ 5.5.2.4. Scope of Prior Consultation, p. 135.

¹⁶³⁹ 5.5.2. Prior Consultation, p. 132.

¹⁶⁴⁰ B.1.4.1. Defining the Far East, p. 209.

¹⁶⁴¹ 2.1.3.5. Article VI – Access, Basing, and Overflight (ABO) (the “Far East Clause” or “MOFA Clause”), p. 28.

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However, the term “Far East” is not bilaterally defined, nor are the applicable Security Situations or any limits to US unilateral action.

A Joint Japan-US Statement at the signing of the MST¹⁶⁴² pronounced:

The Prime Minister [KISHI] discussed with the President [Eisenhower] the question of Prior Consultation under the new Treaty [MST]. The President assured him that the United States Government has no intention of acting in a manner contrary to the wishes of the Japanese Government with respect to the matters involving Prior Consultation under the Treaty [MST].

This leaves the issue of Prior Consultation deliberately ambiguous¹⁶⁴³ and unresolved.

5.5.2.2.1. The Prior Consultation Formula

A diplomatic Exchange-of-Notes¹⁶⁴⁴ at the MST¹⁶⁴⁵ signing, known as the Prior Consultation Formula,¹⁶⁴⁶ establishes the following items is issues subject to Prior Consultation:

- Major changes in the deployment into Japan of United States forces (including forces of or larger than a division-, or wing-, or naval task force-sized element)¹⁶⁴⁷
- Major changes in US force equipment
- The use of Facilities and Areas¹⁶⁴⁸ in Japan as bases for RMCO¹⁶⁴⁹ to be undertaken from Japan other than those conducted under Article V¹⁶⁵⁰ of the MST (i.e., other than combat operations in defense of Japan)

An Expanded Prior Consultation Formula¹⁶⁵¹ also identifies issues not requiring Prior Consultation. See § B.2.1.2. Issues Not Requiring Prior Consultation (p. 210).

5.5.2.2.1.1. Intermediate or Long-Range Missiles and Prior Consultation

Some sources claim that “it is generally understood that conventional missiles would not be included” in the understanding of “intermediate or long-range missiles” and that this term is understood to apply only to nuclear or nuclear-capable intermediate or long-range missiles.²⁰³ There is no clear and available documentation that supports this claim.

The US’s participation in the INF Treaty made this issue largely moot in recent decades, however the US withdrawal from and subsequent expiration of the Treaty in 2019 has raised questions about whether conventional intermediate-range missiles, such as the US Army Medium Range Capability (MRC; also known as the Typhon) or similar (e.g., land-based Tomahawk) launchers, are subject to Prior Consultation.

The case for including conventional intermediate or long-range missiles as a category of capabilities requiring Prior Consultation includes:

- The specification that “Introduction into Japan of non-nuclear weapons, including short-range missiles without nuclear components” is exempt from Prior Consultation (the specified exception for “short-range” conventional missiles proving the implied rule that “intermediate or long-range” conventional missiles are subject to Prior Consultation).¹⁶⁵²
- The separate enumeration of “nuclear weapons” and “intermediate or long-range missiles” in all documents¹⁶⁵³ relating to the Prior Consultation Formula.¹⁶⁵⁴

¹⁶⁴² 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹⁶⁴³ B.1.3. Desirable Ambiguity on the Mechanism of Prior Consultation, p. 207.

¹⁶⁴⁴ 1.6.2.1. Exchange of (Diplomatic) Notes (Legal Status), p. 10.

¹⁶⁴⁵ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹⁶⁴⁶ B.3.2. Prior Consultation Formula (1960), p. 213.

¹⁶⁴⁷ B.3.1.1. FUJIYAMA-MacArthur (Oral) Understanding, p. 213.

¹⁶⁴⁸ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

¹⁶⁴⁹ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

¹⁶⁵⁰ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

¹⁶⁵¹ B.2.1. The Expanded Prior Consultation Formula, p. 209.

¹⁶⁵² B.3.3.2. The Description of Consultation Arrangements Under the MST, p. 215.

¹⁶⁵³ B.3.1. 6 January 1960 Record of Discussion, p. 212; B.3.1.1. FUJIYAMA-MacArthur (Oral) Understanding, p. 213; B.3.3.2. The Description of Consultation Arrangements Under the MST, p. 215.

¹⁶⁵⁴ 5.5.2.2.1. The Prior Consultation Formula, 134.

As a theme across the alliance,¹⁶⁵⁵ one or both Allies may prefer ambiguity on this issue. However, this ambiguity provides the GoJ a basis to insist on classifying conventional intermediate- or long-range missiles as a Subject for Prior Consultation¹⁶⁵⁶ if it so chooses.

5.5.2.3. Mechanism of Prior Consultation

The *Mechanism* for Prior Consultation, or what exactly it means to consult in this context, is not publicly defined.

It is not clear whether Prior Consultation is limited to notification or it requires the GoJ to *approve* the US actions which are the subject of consultation (e.g., conducting combat operations from bases in Japan).

Under US and International Law,¹⁶⁵⁷ the *text* of the MST¹⁶⁵⁸ and SOFA¹⁶⁵⁹ have the status of law. However, the MST text does not define “consultation” and does not include the term “Prior Consultation.” Furthermore, the SOFA text does not enumerate specific ABO restrictions. This makes the question of what constitutes Prior Consultation ambiguous.¹⁶⁶⁰

5.5.2.3.1. GoJ Approval vs. Authorization of RMCO

US planners often discuss “GoJ Authorization” for US actions such as RMCO.¹⁶⁶¹ This is a misnomer that confuses the issue.

“Authority/Authorization” is the legal basis for US force activities. It provides the “left and right lateral limits” within which a commander has freedom of action. Authority has 5 elements:

- Mission: Tasks from a higher command to conduct the authorized activities
- Authorized use of resources: Proper use of the right/required people, money, equipment, facilities, etc.
- COMREL: Appropriate orders and tasks to the parties involved
- Specific Permissions: If required, approval for specified activities from the appropriate authority
- Coordination: If required, seeking concurrence from, or conducting coordination with, entities outside the organization prior to acting

“Approval/Permission” is the sanction of or assent/consent to an action within authority of a US force.

Coordinated (vice combined) C2 (see Chapter 6 Alliance Management and Coordination [p. 141]) means authority for US military action stems solely from US command chains. The GoJ cannot “authorize” or “disauthorize” the employment of US military force(s) but can only express “assent/consent” or “non-assent/non-consent.”

See § 5.5.1.2.1.1. Why the US Would not Conduct Unauthorized US Unilateral Actions (p. 131).

5.5.2.4. Scope of Prior Consultation

With confidential assurances that the US would be permitted to “introduce”¹⁶⁶² US nuclear weapons to Japan (under the US interpretation of “introduce,” which included placement of such weapons on Japanese soil), Japan created a final dimension of Prior Consultation: how “emergency” situations might allow the US to assume the Japanese response to Prior Consultation to introduce US nuclear weapons to Japan in an emergency.

Generally, the Japanese view of “emergency” tended to be narrowly-scoped with specific conditions that would allow Japan to articulate a clear “yes” or “no” without major complicating conditions and caveats. The

¹⁶⁵⁵ B.1.3. Desirable Ambiguity on the Mechanism of Prior Consultation, p. 207.

¹⁶⁵⁶ 5.5.2.2. Subjects of Prior Consultation, p. 133.

¹⁶⁵⁷ 2.1.2.4.1. International Law, p. 23.

¹⁶⁵⁸ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹⁶⁵⁹ 2.1.4. Status of Forces Agreement (SOFA), p. 29.

¹⁶⁶⁰ B.1.3. Desirable Ambiguity on the Mechanism of Prior Consultation, p. 207.

¹⁶⁶¹ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

¹⁶⁶² B.2.1.3. Nuclear Weapon “Introduction” vs. “Transit”, p. 211.

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US view entailed a more flexible and broader vision of “emergency,” that would allow US policy-makers flexibility in exercising Alliance “rights” in pursuit of national and Alliance interests.

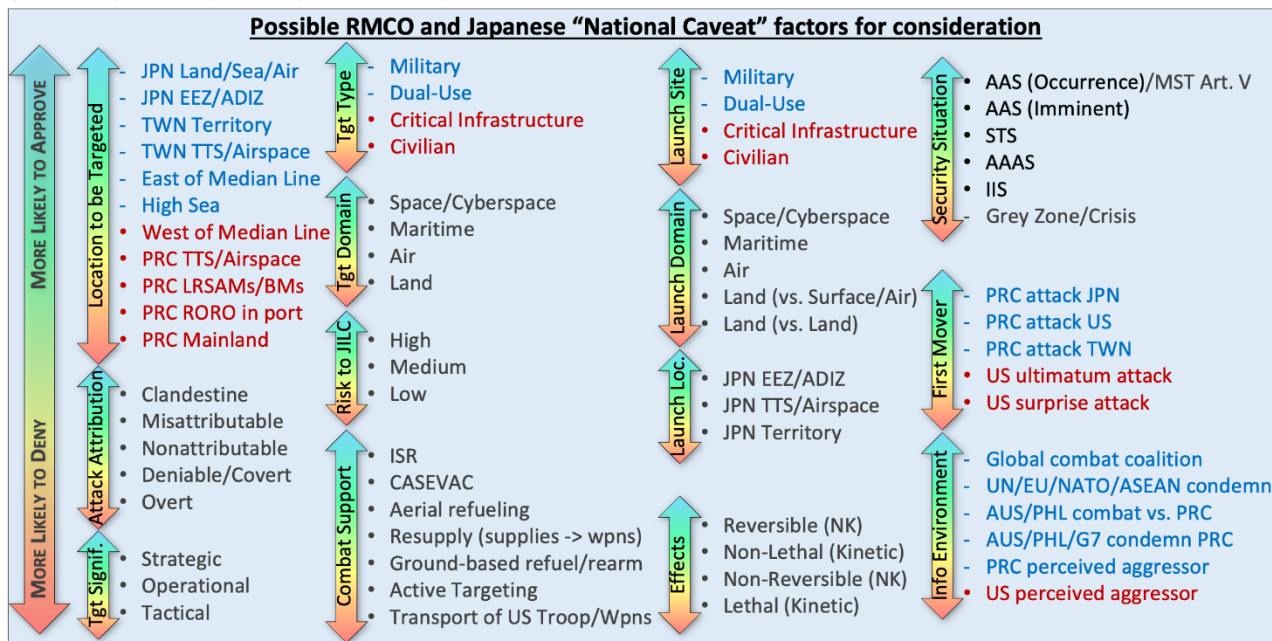
The result of this intractable divergence of views was (with the exception of the Korea Minute¹⁶⁶³ and ambiguous statements about “emergency” introduction of US nuclear weapons) a default to Prior Consultation for specific crises when they arose. The reluctance to conduct “Pre Crisis Consultation”¹⁶⁶⁴ in anticipation of prospective crises.

5.5.3. (US) Regional Military Combat Operations (RMCO) Spectrum

US defense planners and analysts often assume ABO and consent to RMCO¹⁶⁶⁵ as “all-or-nothing.”²⁰⁴ In reality, the issue of RMCO is likely to be treated by both members of the Alliance as a question of permissibility (Frederick, et al., 2023) along a spectrum. This spectrum is likely to consider the criteria below.

The considerations in § 5.5.3. (US) Regional Military Combat Operations (RMCO) Spectrum are purely speculative and not based on any source aside from extremely limited historical examples of minor security incidents or similarly speculative foreign affairs or defense policy articles.

Figure 7. US Regional Military Combat Operations (RMCO) Spectrum



5.5.3.1. (When) Would Japan Fight?

Considering a Taiwan Contingency, the question of would Japan “fight” and, if so, when has significant implications for defense planning at all echelons. This question has two major components:

- When Japan would authorize a DO under wither AAS¹⁶⁶⁶ or STS?¹⁶⁶⁷
- When Japan would agree to RMCO¹⁶⁶⁸ through Prior Consultation?¹⁶⁶⁹

These two questions are not independent for a Taiwan contingency, for agreement to RMCO would almost certainly be seen as accepting eventual horizontal escalation of the conflict to Japan (even if this horizontal escalation did not occur, the presumption of such expansions of a conflict would almost certainly be factored into Japan’s decision-making process).

¹⁶⁶³ B.3.4. The Korea Minute, p. 217.

¹⁶⁶⁴ B.1.4. Reluctance Towards “Standing Prior Consultation”, p. 208.

¹⁶⁶⁵ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

¹⁶⁶⁶ 4.10. Armed Attack Situation (AAS), p. 110.

¹⁶⁶⁷ 4.9. Survival-Threatening Situation (STS), p. 104.

¹⁶⁶⁸ 5.5.3. (US) Regional Military Combat Operations (RMCO) Spectrum, p. 136.

¹⁶⁶⁹ 5.5.2. Prior Consultation, p. 132.

While the first question appears easier to answer by considering scenarios for AAS¹⁶⁷⁰ or STS,¹⁶⁷¹ the Security Situation¹⁶⁷² framework is designed to provide Japan's national leadership flexibility in such decisions.

Because the second question is not necessarily immediately reactive to adversary actions and is, instead, presumably reactive to a US request for RMCO through Prior Consultation, there is presumably more space for a more deliberate consideration of all relevant factors. While there is no checklist for this decision and no way to calculate in advance what combination of factors would lead Japan to join an IAC either through Effective Contribution to Military Action¹⁶⁷³ for the US (as an active belligerent) or by Japan becoming an active belligerent itself.

However, a review of commentary and analysis on this subject allows for the following "reconstruction" of probably decision-making calculus. The following analysis (comprising §§ 5.5.3.1. and 5.5.3.2. and their sub-sections) uses the foundational analysis of RAND's "Improving Conflict-Phase Access: Identifying U.S. Policy Levers" report, enriched by similar analysis from additional sources.²⁰⁵

Japan's decision would be based around the following factors:

- The Government's political survival
 - Public opinion
 - Perceived cause of conflict (e.g., unwarranted PRC aggression vs. inflammatory Taiwanese action)
 - Perception and initial aggressor (e.g., US vs. PRC)
 - Attitudes towards PRC
 - Attitudes towards PM/Cabinet
 - Support for the US/alliance
 - Strength of PM/Cabinet
 - Individual strength of PM
 - Position/alignment of key Cabinet members
 - Diet/Cabinet alignment
- Impact to Japan's security position
 - Threat to JNs
 - In Japan
 - In Taiwan
 - In PRC
 - Regionally
 - US sense of crisis
 - Clear indications of US reactions to perceived threat (draw down of personnel, travel warnings, increased protection/dispersion/deployment of high-value military assets)
 - Ability to maintain adequate defensive posture after US force dispersion/deployment/redeployment/forecast losses (e.g., adequate BMD coverage by Aegis capable vessels)
 - PRC threats/assurances
 - Nature of conflict
 - Intensity
 - Regional containment
 - Russian and North Korean actions
 - Perception of threat/violations to or consequences for Japanese sovereignty
 - Escalation Management
 - Perceived ability to control escalation
 - Perception of escalation inevitability
 - Short-term
 - Likelihood/intensity of military retaliation for Japanese support

¹⁶⁷⁰ 4.10.4. AAS Scenarios, p. 114.

¹⁶⁷¹ 4.9.4. STS Scenarios, p. 107.

¹⁶⁷² Chapter 4. Japan's Security Situations Framework, p. 89.

¹⁶⁷³ 2.1.2.1.4.6, Effective Contribution to Military Action, p. 20.

Chapter 5. Access, Basing, and Overflight (ABO)

- Defensive posture (e.g., IAMD) to mitigate military retaliation
 - Long-term
 - Viability/strength of the US-Japan alliance
 - Impact to the US's extended deterrence
- Impact to outcome of the conflict
 - Likelihood of US/US-led coalition victory vs. loss
 - Criticality of Japanese ABO or other support
- Impact to global and regional decisions
 - Previous US ABO approval from regional allies, partners, and like-minded countries
 - Perception that Japanese-granted ABO will cause band-wagging with US-led coalition
 - Perception of competition for "alliance support" from other US allies (e.g., ROK, Philippines)
 - Ability to demonstrate regional leadership
 - Global consensus, diplomatic or military support to US/Taiwan/US-led coalition from:
 - Australia, Philippines
 - ROK, India
 - G7
 - Vietnam, Indonesia
 - UNGA
- Japan's economic position
 - Economic dependence
 - US/US-led coalition
 - Taiwan
 - PRC
 - Direct economic consequences to Japan
 - From support
 - From abstaining from support
 - Economic security
 - Trade security
 - Food security
 - Energy security
 - SCS and SLOC impacts
 - General (worldwide) economic consequences regardless of Japan support
 - Perceived ability to mitigate or sustain economic costs
- Just War
 - Internal Justness
 - Factors
 - Lawfulness
 - Gross infringement on sovereignty (PRC blockade, MTPA/ATPA extending into or directing impinging on Japan's TTS/TTA or significant infringement on Japan's exercise of economic rights in its EEZ)
 - Armed Attack
 - SOF, cyberspace, non-kinetic, or grey zone/deniable attacks
 - Residual ability to de-escalate
 - Domestic political considerations
 - Interpretation
 - Key Diet constituencies
 - PM
 - Cabinet
 - Governing Coalition constituencies

Chapter 5. Access, Basing, and Overflight (ABO)

- LDP, Komeito
- Public Opinion
- Elite foreign policy “opinion-makers”
 - Former government leaders
 - Think tanks
 - Major news media
- External Justness
 - International Organizations/Forums
 - G7
 - QUAD
 - EU
 - Regional Like-Minded Countries
 - South Korea
 - Australia
 - Philippines
- Preparedness
 - Economic
 - Supply chains
 - Energy
 - Energy stockpiling
 - Agreements for alternate energy sourcing
 - Military
 - Completion of planned deployments
 - Critical munition stockpiles
 - IAMD posture
 - Incl. US IAMD assets
 - THAAD
 - Food security

All factors that make JPN feel vuln could lead just as easily to deciding to enter a conflict early as deciding to try to sit one out

<https://warontherocks.com/2021/11/japans-revolution-on-taiwan-affairs/>

<https://www.japantimes.co.jp/news/2023/01/23/national/japan-role-us-taiwan-conflict/>

<https://thediplomat.com/2022/08/how-would-japan-respond-to-a-taiwan-contingency/>

<https://fsi.stanford.edu/news/japan-must-do-more-and-faster-avert-war-over-taiwan>

<https://www.economist.com/asia/2023/05/10/will-japan-fight>

<https://www.voanews.com/a/despite-tough-words-japan-might-not-enter-a-taiwan-war/6791868.html>

<https://www.vox.com/world-politics/24047940/china-us-war-taiwan-japan-key-role-explained>

“minimum necessary” requires Japan to calibrate/meter its involvement, support of US, or even potentially what it agrees to let the US do (RMCO)

“If Taiwan invades, and the US wants to intervene, Japan has its own dilemma: to say yes potentially signs Japan up for war, leaving itself vulnerable to attack from China. To say no could unravel the US-Japan alliance, leaving itself vulnerable by cutting off its only security guarantor.” <https://www.vox.com/world-politics/24047940/china-us-war-taiwan-japan-key-role-explained>

“Japan’s Civil Protection Act only in an “armed attack situation and anticipated armed attack situation” can the government demand that prefectural and municipal governments work out civil protection plans and allow the central government to use the SDF to evacuate citizens” <https://thediplomat.com/2022/08/how-would-japan-respond-to-a-taiwan-contingency/>

“According to Morimoto, under current Japanese laws, the government can acknowledge a survival-threatening situation only when the U.S. Forces are acting in defense of Japan, thus enabling the SDF to support U.S. troops. It’s unclear the SDF could legally support U.S. troops in defense of Taiwan in this situation, he said.” - <https://thediplomat.com/2022/08/how-would-japan-respond-to-a-taiwan-contingency/>

5.5.3.2. (When) Would Japan Grant Consent to RMCO?

While domestic Japanese laws and agreements under the MST¹⁶⁷⁴ (including the SOFA,¹⁶⁷⁵ any Secret Agreements,¹⁶⁷⁶ etc.) guide the Japan’s decision to consent to RMCO, this is fundamentally a political decision for Japan based on domestic politics and national security concerns. One RAND report summarizes the issue succinctly:

... a prime minister who is less hawkish and may seek to avoid a war coming to Japan’s shores could choose to deny or delay U.S. access to bases in Japan for combat purposes. A more forward-leaning prime minister may choose the opposite. The fact is that this decision is purely a political one and rests with the sitting prime minister at that time. The closer the situation edges to conflict, however—for example, if China were to implement a full blockade around Taiwan—the more likely Japan will support U.S. access requests because this will start to have immediate effects on Japan’s economy. Still, the point remains that in the crisis phase, nothing is automatic. And a decision is likely to take time. If the United States is seeking rapid military action, this political decision-making timeline may not match up with U.S. operational timelines.

...

... approval for any U.S. access request is largely a political decision. This, in turn, depends on how realistic Japanese leaders can be about the prospect of Japan being attacked and how difficult it would be to stay out of a looming conflict. The more likely that hostilities appear, the easier access discussions become. The more hostilities appear contained or at least unlikely to spread to Japan, there is only “a 50-50 chance Japan will allow the United States to use its forces” from U.S. bases in Japan. Japanese leaders do not want to voluntarily join a war with China by granting the United States access to U.S. bases in Japan for a conflict if Japan has not been attacked, but there is also a realistic understanding that if Tokyo rejects U.S. requests, the alliance would be negatively affected. One respondent said, if there were to occur, “our alliance would be broken.” Another said the “alliance would be done.” Having to choose between involvement and sitting out will be difficult for any Japanese leader, made harder by political pressures.

Finally, until Japan is attacked, “the GOJ [government of Japan] would agonize over the situation,” likely resulting in taking a lot of time before deciding. While there is an expectation that Japan will eventually grant access in a conflict in which it has been attacked, Japan’s decisionmaking timelines for everything short of that scenario are unlikely to match U.S. operational timelines.²⁰⁶

¹⁶⁷⁴ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹⁶⁷⁵ 2.1.4. Status of Forces Agreement (SOFA), p. 29.

¹⁶⁷⁶ B.2.2. The Issue of “Secret Agreements”, p. 212.

Chapter 6. ALLIANCE MANAGEMENT AND COORDINATION

6.1. OVERVIEW

The Japan-US Alliance has developed a number of mechanisms for coordination. These are often mistakenly conflated as the ACM,¹⁶⁷⁷ however that particular mechanism has a more specific meaning and scope.

Generally speaking, Alliance coordination can be thought of as having three distinct levels:

- Consultative bodies, consulting on bilateral policy and strategic-level issues, including:
 - ACM
 - BPM¹⁶⁷⁸
- Coordination bodies, conducting coordination of bilateral action during crisis or conflict (at operational and tactical levels)
- Other steady-state, task-specific consultative forms

6.2. CONSULTATIVE BODIES

6.2.1. Alliance Coordination Mechanism (ACM)

6.2.1.1. Overview

In November 2015, the Japanese and US governments established the ACM to improve the Alliance's ability to effectively address any situation that affects Japan's peace and security or any other situation that may require an Alliance response. It includes mechanisms for coordination on policy and strategic issues.

The ACM is an "always on" protocol for collaboration and coordination on defense. It provides a roadmap for how the two countries coordinate.

The "always on" status breaks from the Bilateral Coordination Mechanism (replaced with the ACM), which required the mechanism to be positively activated. GoJ was reluctant to activate the Bilateral Coordination Mechanism as it might have set a constraining precedent and, in adversarial crisis situations, might have been seen as escalatory.

6.2.1.1.1. The ACM as a Policy (not Military) Coordination Body

The ACM coordinates government-to-government action within the Alliance. As a result, it is fundamentally a policy body. And while the militaries of both Allies operate at the direction of their governments and fulfill the policy objectives each nation's leadership lays out, the policy nature of the ACM makes it distinct from the military-to-military coordination bodies like the JTF-CC.¹⁶⁷⁹

While the functional distinction between policy- and military-coordination bodies may appear minor to some planners, the line between the two preserves the operational freedom of military commanders to operate within their tasked mission and constraints without undue policy interference while relieving those same commanders from being mired in policy discussions while attempting to manage crises or conflict.

This distinction is important in unilateral operations. But in coordinated Alliance action, the necessity for this distinction is amplified, ensuring military commanders can focus on crisis and conflict management without undue policy interference or distraction from the other nation's government policy bodies.

¹⁶⁷⁷ 6.2.1. Alliance Coordination Mechanism (ACM), p. 141.

¹⁶⁷⁸ 6.2.2. Bilateral Planning Mechanism (BPM), p. 145.

¹⁶⁷⁹ 6.3.1. Joint Task Force Coordination Center (JTF-CC), p. 147.

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This arrangement preserves the civilian-military relationships of each Ally while also preserving the distinct roles of Executive Branch agencies (e.g., DoD/MoD and DoS/MOFA) and operational military commanders (e.g., JTF or JJOC commanders).

6.2.1.2. Security Consultative Committee (SCC) (“2+2”)

Also known as the “2+2,” the SCC provides the forum for government-level alliance consultation.

The SCC is the primary venue for non-routine consultation regarding the MST,¹⁶⁸⁰ as provided for in MST Article IV.¹⁶⁸¹

Purpose: The SCC studies matters which would promote understanding between the GoJ and USG and contribute to the strengthening of cooperative relations in the areas of security, which form the basis of security, and are related to security.

Active: “Always on;” when meetings are convened

Japan Participants: Minister for Foreign Affairs, MinDef¹⁶⁸²

US Participants: SecState, SecDef

6.2.1.2.1. Security Subcommittee (SSC)

The SSC is a subcommittee of the SCC¹⁶⁸³ for working-level coordination.

Purpose: Exchange views on security issues of mutual concern to Japan and the US.

Active: “Always on;” when meetings are convened

Participants: Not specified, but normally at the Vice-Minister or Assistant Secretary rank.

6.2.1.2.2. Subcommittee for Defense Cooperation (SDC)

The SDC is a subcommittee of the SCC¹⁶⁸⁴ for working-level coordination on operations, logistics, and intelligence. See § 6.2.2.1.1. SDC (for BPM) (p. 145) for SDC roles in the BPM.¹⁶⁸⁵

Purpose: Study and consider consultative measures for Japan and the United States including guidelines to ensure consistent joint responses covering the activities of the JSDF and US forces in emergencies.

Active: “Always on;” when meetings are convened

Japan Participants: DG¹⁶⁸⁶ of NAAB,¹⁶⁸⁷ MOFA; DDG¹⁶⁸⁸ for Defense Policy,¹⁶⁸⁹ MoD; representatives from JJS¹⁶⁹⁰

US Participants: Assistant Secretary¹⁶⁹¹ of State; Assistant Secretary of Defense; representatives from USEMB Tokyo, USFJ, JS, USINDOPACOM

6.2.1.2.2.1. SDC Background

In 1976, the SCC¹⁶⁹² decided to establish an SDC to explore matters concerning Prior Consultation,¹⁶⁹³ including matters related to an actual¹⁶⁹⁴ or imminent¹⁶⁹⁵ Armed Attack, regional situations with important influence¹⁶⁹⁶ on Japan’s security, and other related issues such as joint exercises and training.²⁰⁷

¹⁶⁸⁰ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹⁶⁸¹ 2.1.3.3. Article IV – Consultation, p. 25.

¹⁶⁸² 7.5.1. Minister of Defense (MinDef), p. 158.

¹⁶⁸³ 6.2.1.2. Security Consultative Committee (SCC) (“2+2”), p. 142.

¹⁶⁸⁴ 6.2.1.2. Security Consultative Committee (SCC) (“2+2”), p. 142.

¹⁶⁸⁵ 6.2.2. Bilateral Planning Mechanism (BPM), p. 145.

¹⁶⁸⁶ C.1.2. Levels of Executive Leadership, p. 223.

¹⁶⁸⁷ C.2.8.1. North American Affairs Bureau (NAAB), p. 230.

¹⁶⁸⁸ C.1.2. Levels of Executive Leadership, p. 223.

¹⁶⁸⁹ 7.5.2.2. Bureau of Defense Policy, p. 159.

¹⁶⁹⁰ 7.5.4.2. Japan Joint Staff (JJS), p. 161.

¹⁶⁹¹ C.1.2. Levels of Executive Leadership, p. 223.

¹⁶⁹² 6.2.1.2. Security Consultative Committee (SCC) (“2+2”), p. 142.

¹⁶⁹³ 5.5.2. Prior Consultation, p. 132.

¹⁶⁹⁴ 4.10.1.2. AAS (Occurrence), p. 111.

¹⁶⁹⁵ 4.10.1.1. AAS (Imminent), p. 111.

¹⁶⁹⁶ 4.6. Important Influence Situation (IIS), p. 98.

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The SDC would explicitly exclude exploring issues related to Japanese constitutional limitations¹⁶⁹⁷ or the 3NP¹⁶⁹⁸ and would avoid making *recommendations* to the SCC that would create legal, budgetary, or administrative obligations for either Ally.

The result of the SDC's first comprehensive study was the first Guidelines for Japan-US Defense Cooperation (1978).

6.2.1.2.3. Alliance Manager's Meeting (AMM)

Alliance *Management* Meeting?

OSD, DoS, USINDOPACOM, USFJ

Formerly known as the Mini-SSC of the SSC¹⁶⁹⁹ (i.e., the SSC's Security Subcommittee)

6.2.1.2.4. RMC Working Group?**6.2.1.3. Joint Committee (JC)**

The JC is the primary venue for routine consultation¹⁷⁰⁰ regarding the SOFA.¹⁷⁰¹

The JC is established by SOFA Article 25.¹⁷⁰²

Purpose: Consultation concerning implementation of the SOFA

Active: "Always on;" meetings are convened monthly

Japan Participants: DG¹⁷⁰³ of NAAB,¹⁷⁰⁴ MOFA; DG of the BLC,¹⁷⁰⁵ MoD; and others

US Participants: Deputy Commander of USFJ; **Minister** at the USEMB Tokyo; and others

6.2.1.3.1. Facilities Subcommittee (FSC)

The FSC is a subcommittee of the JC responsible to make recommendations to the JC concerning use, acquisition and release of Facilities and Areas.¹⁷⁰⁶

6.2.1.4. Alliance Coordination Group (ACG)

The ACG enables interagency coordination and is broken up into three levels.

- DG¹⁷⁰⁷ Level (ACG-DG) (**rescrub section for across**)
 - Includes representatives at the DG/DASD level and above
- Director-Level (ACG-D)
 - Includes representatives at the Director/O-6 level (e.g., Director for OSD's Japan Desk, USFJ's J5, and USINDOPACOM's Chief, Northeast Asia)
 - Policy Division J51
- Executive Secretariat-Level (ACG-ES)
 - Includes representatives at the action officer-level

These levels operate to handle issues at the lowest level while refining issues for consideration at higher levels. In this way, the ACG operates like the US NSC which uses a Principals Committee (PC) for Presidential and Secretary-level discussion and decisions, a Deputies Committee (DC) for executive leadership below the principals level, and a Policy Coordination Committee (PCC) for action officer-level coordination.

¹⁶⁹⁷ 2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP), p. 13; 2.1.2.1.3. Belligerent Rights, p. 16; 2.1.2.1.4. Law of Neutrality, p. 18; 2.1.2.2. Ittaika (Integration), p. 20; 2.1.2.4. Japan's Constitutional Compliance with International Law, p. 22.

¹⁶⁹⁸ 2.3.3.1. Three Non-Nuclear Principles (3NP), p. 42.

¹⁶⁹⁹ 6.2.1.2.3. **Alliance Manager's Meeting (AMM)**, p. 143.

¹⁷⁰⁰ 2.1.3.3. Article IV – Consultation, p. 25.

¹⁷⁰¹ 2.1.4. Status of Forces Agreement (SOFA), p. 29.

¹⁷⁰² 2.1.4.6. Article 25 – Joint Committee (JC), p. 34.

¹⁷⁰³ C.1.2. Levels of Executive Leadership, p. 223.

¹⁷⁰⁴ C.2.8.1. North American Affairs Bureau (NAAB), p. 230.

¹⁷⁰⁵ 7.5.2.3. Bureau of Location Cooperation (BLC), p. 160.

¹⁷⁰⁶ 2.1.4.1.1. Definition of "Facilities and Areas", p. 31.

¹⁷⁰⁷ C.1.2. Levels of Executive Leadership, p. 223.

Chapter 6. Alliance Management and Coordination

Purpose: To coordinate closely with the JC¹⁷⁰⁸ in policy coordination on all matters requiring coordination in relation to activities of the JSDF and US forces

Active: Established during crisis

Japan Participants: DG-level, Director-level, and action officer-level representatives from the Cabinet Secretariat¹⁷⁰⁹ (including the JNSS¹⁷¹⁰), MOFA,¹⁷¹¹ MoD,¹⁷¹² JSDF,¹⁷¹³ and other **RMA**s as needed

US Participants: Representatives from the NSC, DoS, USEMB Tokyo, OSD, JS, USINDOPACOM, USFJ, and other relevant ministries, departments, and agencies as needed

6.2.1.4.1. Types of Coordination

The ACG conducts two basic types of coordination:

- Policy coordination
 - MFDOS
 - Strategic messaging
 - Information sharing
 - Etc.
- Operational/interagency coordination
 - Requests/responses
 - HNS¹⁷¹⁴
 - Etc.

6.2.1.5. Other

The policy-level also includes other minister/secretary-level discussions or bilateral meetings as appropriate.

6.2.1.6. Bilateral Operations Coordination Center (BOCC)

Purpose: Responsible for conducting strategic and high-operational coordination related to activities of the JSDF and US forces

Active: Established during crisis

Japan Participants: JJS,¹⁷¹⁵ ASO,¹⁷¹⁶ GSO,¹⁷¹⁷ MSO¹⁷¹⁸

US Participants: USINDOPACOM, USFJ

The BOCC may also be referred to as the BJOCC or the B(J)OCC.

6.2.1.7. Component Coordination Center-Air/-Ground/-Maritime (CCC-A/-G/-M)

Purpose: Facilitate component-level bilateral coordination for non-combat operations (e.g., Guard & Protect, RSO&I, BOS-I support)

Active: Established during crisis

Japan Participants: ASO,¹⁷¹⁹ GSO,¹⁷²⁰ MSO¹⁷²¹ (may include GCC¹⁷²² upon establishment of the JJOC¹⁷²³) **[does this change to GOF MOF AOF with JJOC?]**

US Participants: 5AF, CNFJ, USARJ, MARFORJ

¹⁷⁰⁸ 6.2.1.3. Joint Committee (JC), p. 143.

¹⁷⁰⁹ C.2.4. Cabinet Secretariat, p. 227.

¹⁷¹⁰ C.2.6.3. (Japan) National Security Secretariat (JNSS), p. 229.

¹⁷¹¹ C.2.8. Ministry of Foreign Affairs (MOFA), p. 230.

¹⁷¹² 7.5. Ministry of Defense (MoD) Structure and Roles, p. 157.

¹⁷¹³ 7.5.4. JSDF Structure, p. 161.

¹⁷¹⁴ 7.5.2.3.1. Host Nation Support (HNS), p. 160.

¹⁷¹⁵ 7.5.4.2. Japan Joint Staff (JJS), p. 161.

¹⁷¹⁶ 7.5.4.3.2. Air Staff Office (ASO), p. 162.

¹⁷¹⁷ 7.5.4.3.3. Ground Staff Office (GSO), p. 162.

¹⁷¹⁸ 7.5.4.3.4. Maritime Staff Office (MSO), p. 162.

¹⁷¹⁹ 7.5.4.3.2. Air Staff Office (ASO), p. 162.

¹⁷²⁰ 7.5.4.3.3. Ground Staff Office (GSO), p. 162.

¹⁷²¹ 7.5.4.3.4. Maritime Staff Office (MSO), p. 162.

¹⁷²² 7.5.4.8.2. Ground Component Command (GCC), p. 162.

¹⁷²³ 7.5.4.6. Japan Joint Operations Command (JJOC), p. 162.

6.2.2. Bilateral Planning Mechanism (BPM)

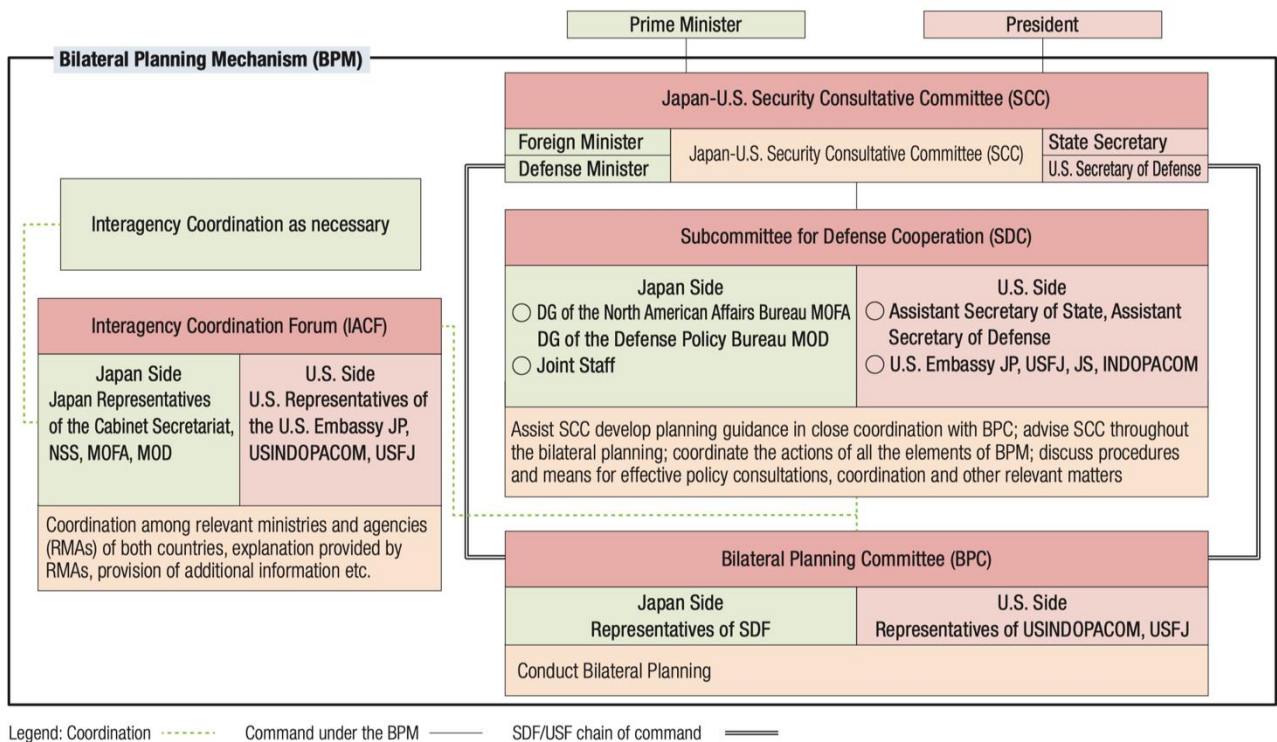
The BPM is the Alliance's mechanism for developing bilateral plans for Far Eastern Contingency Scenarios (i.e., those associated with requirements under Article VI¹⁷²⁴ of the MST) and undertaking associated planning activities (e.g., **feasibility of support studies**).

While outside of the formal definition of the ACM,¹⁷²⁵ the BPM practically functions as a parallel but synchronized element.

The BPM is comprised of:

- Security Consultative Committee (SCC)¹⁷²⁶
- Subcommittee for Defense Cooperation (SDC)¹⁷²⁷
- Bilateral Planning Committee (BPC)¹⁷²⁸
- Interagency Coordination Forum (IACF)¹⁷²⁹

Figure 8. The Framework of the BPM (Minister of Defense, 2024, p. 346)



Bilateral plans provide: common facts, assumptions, mutual support and facilities requirements, etc. allowing for coordination, preparation, and planning in peacetime to accelerate response in crisis

6.2.2.1. SCC (for the BPM)

See § 6.2.1.2. Security Consultative Committee (SCC) (“2+2”) (p. 142).

6.2.2.1.1. SDC (for BPM)

See § 6.2.1.2.2 Subcommittee for Defense Cooperation (SDC) (p.142) for SDC roles outside of the BPM.

The SDC is a subcommittee of the SCC¹⁷³⁰ for working-level coordination. Within the BPM, the SDC is normally the approval authority for bilateral plans and bilateral plan-related matters.

¹⁷²⁴ 2.1.3.5. Article VI – Access, Basing, and Overflight (ABO) (the “Far East Clause” or “MOFA Clause”), p. 28.

¹⁷²⁵ 6.2.1. Alliance Coordination Mechanism (ACM), p. 141.

¹⁷²⁶ 6.2.2.1. SCC (for the BPM), p. 145.

¹⁷²⁷ 6.2.2.1.1. SDC (for BPM), p. 145.

¹⁷²⁸ 6.2.2.1.1.1. Bilateral Planning Committee (BPC), p. 146.

¹⁷²⁹ 6.2.2.1.1.2. Interagency Coordination Forum (IACF), p. 146.

¹⁷³⁰ 6.2.2.1. SCC (for the BPM), p. 145.

Chapter 6. Alliance Management and Coordination

Purpose: Assist SCC in developing strategic direction and planning guidance in close coordination with the BPC; advise SCC throughout bilateral planning; coordinate the actions of all the elements of the BPM; validate progress of bilateral planning; resolve policy and planning issues that cannot be resolved within the BPC,¹⁷³¹ discuss procedures and means for effective policy consultations, coordination, and other relevant matters

Active: “Always on;” when meetings are convened

Japan Participants: DG of NAAB,¹⁷³² MOFA; DDG for Defense Policy,¹⁷³³ MoD; representatives from JJS¹⁷³⁴

US Participants: Assistant **SecState**; Assistant **SecDef**; representatives from USEMB Tokyo, USFJ, JS, USINDOPACOM

6.2.2.1.1.1. Bilateral Planning Committee (BPC)

Subordinate committee to the SDC for bilateral planning.

Purpose: Conduct or direct bilateral planning; refer any policy of planning issues to the SDC that cannot be resolved within the BPC

Active: “Always on;” when meetings are convened

Japan Participants: Representatives of JSDF

US Participants: Representatives of USINDOPACOM, USFJ

6.2.2.1.1.2. Interagency Coordination Forum (IACF)

Purpose: Coordination among RMAs of both countries, as necessary to support the BPC¹⁷³⁵ especially with regard to validating the feasibility of US requirements for use of Facilities and Areas¹⁷³⁶ in Japan associated with BPM activities. The IACF is hosted by the SDC.

Active: “Always on;” when meetings are convened

Japan Participants: Representatives of the Cabinet Secretariat,¹⁷³⁷ JNSS,¹⁷³⁸ MOFA,¹⁷³⁹ MoD¹⁷⁴⁰

US Participants: Representatives of USEMB Tokyo, USINDOPACOM, USFJ

6.2.2.2. Bilateral and Unilateral Plans

Coordination vs. executable plan

No TPFDD

All bc no combined C2

Bilateral plans != BRPs but may be used to inform¹⁷⁴¹ (cross-ref this up in 4.5)

6.2.2.3. Feasibility of Support Studies**6.3. COORDINATION BODIES**

Revise section and organization

¹⁷³¹ 6.2.2.1.1.1. Bilateral Planning Committee (BPC), p. 146.

¹⁷³² C.2.8.1. North American Affairs Bureau (NAAB), p. 230.

¹⁷³³ 7.5.2.2. Bureau of Defense Policy, p. 159.

¹⁷³⁴ 7.5.4.2. Japan Joint Staff (JJS), p. 161.

¹⁷³⁵ 6.2.2.1.1.1. Bilateral Planning Committee (BPC), p. 146.

¹⁷³⁶ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

¹⁷³⁷ C.2.4. Cabinet Secretariat, p. 227.

¹⁷³⁸ C.2.6.3. (Japan) National Security Secretariat (JNSS), p. 229.

¹⁷³⁹ C.2.8. Ministry of Foreign Affairs (MOFA), p. 230.

¹⁷⁴⁰ 7.5. Ministry of Defense (MoD) Structure and Roles, p. 157.

¹⁷⁴¹ 4.3.1. US Involvement in BRP Formulation, p. 96.

Chapter 6. Alliance Management and Coordination

Operating to coordinate the unilateral direction from their respective chains of command, Alliance coordination centers are responsible for:

- Executing policy- and operational-level direction, plans, and policy
- Carrying out operational- and tactical-level bilateral coordination to facilitate policy execution
- Providing COAs/recommendations for policy-level decision-making
- Keeping the policy level informed of situations and developments
- Providing bilateral/joint functional component commander advice to the JTF commanders

Tactical coordination bodies include:

- Joint Task Force Coordination Center (JTF-CC)¹⁷⁴²
- Bilateral Air Operations Coordination Center (BAOCC)¹⁷⁴³
- Bilateral Ground Operations Coordination Center (BGOCC)¹⁷⁴⁴
- Bilateral Ground Tactical Coordination Center (BGTCC)¹⁷⁴⁵
- Maritime Force Coordination Center (MFCC)¹⁷⁴⁶
- Bilateral Space Operations Coordination Center (BSOCC)¹⁷⁴⁷

Tactical coordination centers take various forms, including combining with CCCs (e.g., BAOCC and CCC-A) into a single organization, execution through robust LNO networks, or stand-alone entities. While functions remain the same, the form is dictated by domain, COMREL, geographic constraints, staffing, and other factors.

6.3.1. Joint Task Force Coordination Center (JTF-CC)

Purpose: Facilitate JTF-level bilateral coordination for operational maneuver and fires

Active: Established during crisis

Japan Participants: JJOC¹⁷⁴⁸

US Participants: US JTF HQ

The JTF-CC may appear as the CCC-JTF (Component Coordination Center-Joint Task Force) in legacy documents. This CC's name has evolved as Joint C2 for each nation develops with various crisis and contingency planning.

6.3.2. Bilateral Air Operations Coordination Center (BAOCC)

Purpose: Facilitate aviation bilateral coordination for air tactical maneuver and fires

Active: Established during crisis

Participants: AOF¹⁷⁴⁹ and US JFACC representatives

6.3.3. Bilateral Ground Operations Coordination Center-Central (BGOCC-C)

The BGOCC-C provides land-force bilateral coordination for ground operations conducted and coordinated with GCC.

The nature of this coordination, focus of operations, and US counterpart organizations vary by contingency as they are dictated by where US forces are located, their command relationships, and their primary missions and roles.

¹⁷⁴² 6.3.1. Joint Task Force Coordination Center (JTF-CC), p. 147.

¹⁷⁴³ 6.3.2. Bilateral Air Operations Coordination Center (BAOCC), p. 147.

¹⁷⁴⁴ 6.3.4. Bilateral Ground Operations Coordination Center (BGOCC), p.148.

¹⁷⁴⁵ 6.3.4.3.1. Bilateral Ground Tactical Coordination Center (BGTCC), p. 149.

¹⁷⁴⁶ 6.3.5. Maritime Force Coordination Center (MFCC), p. 149.

¹⁷⁴⁷ 6.3.1. Bilateral Space Operations Coordination Center (BSOCC), p. 149.

¹⁷⁴⁸ 7.5.4.6. Japan Joint Operations Command (JJOC), p. 162.

¹⁷⁴⁹ 7.5.4.6.1.3. Air Operations Forces (AOF), p. 162.

6.3.4. Bilateral Ground Operations Coordination Center (BGOCC)

A BGOCC or BGOCCs are established in crisis to coordinate land force operations. BGOCC-C may be established between an appropriate US counterpart and GCC¹⁷⁵⁰ and one or more BGOCC-Rs¹⁷⁵¹ may be established between appropriate US counterparts and one or more RAs.¹⁷⁵²

The roles and missions of each BGOCC differ between BGOCCs and across contingencies. The roles, missions, counterparts, and make-up of each BGOCC may vary significantly and are driven by factors including:

- Nature of contingency
- Actual and expected locations of contingency conflict
- Nature of conflict at various locations (i.e., long-range missile attacks only vs. missile and invasion threat)
- Roles and missions of US counterparts in each location
- US and JSDF COMREL

The distinctions between ground coordination structures and those for other domains and services derives from the comparatively centralized command of both US and JSDF forces in most contingencies for air, maritime, space, and cyber forces. For land forces, both US and JSDF forces adopt a more segmented approach where, even with a centralized JFLCC-like organization (i.e., the GOF¹⁷⁵³) the roles, responsibilities, missions vary significantly from the GOF level to the RA level and vary even more substantially across RAs, depending on the location and nature of the conflict.

Combined with the smaller geographic span of control of land operations, land force coordination requires a more granular coordination structure, sometimes with multiple BGOCCs and, even under a single BGOCC, multiple BGTCCs.¹⁷⁵⁴

6.3.4.1. BGOCC-C vs. BGOCC-R

While BGOCC-R¹⁷⁵⁵ counterparts, roles, and responsibilities are often clear from a basic analysis of US and JGSDF tactical missions and capabilities in a given contingency, BGOCC-C¹⁷⁵⁶ counterparts, roles, and responsibilities can be a more confusing or ambiguous issue.

Some US and Japanese planners seek to designate a US counterpart for GCC's¹⁷⁵⁷ roles and responsibilities (e.g., specialized amphibious operations or as the JFLCC-like GOF¹⁷⁵⁸) and establish BGOCC-C as the location of coordination for all land force operations within Japan. This approach tends to privilege command and COMREL alignment over symmetry in combat coordination.

Other US and Japanese planners seek a BGOCC-C whose functions and counterpart relationships are dictated by the overlap in GCC and US force operating areas and missions and roles (rather than attempting to achieve symmetry). Thus, regardless of GCC's full scope of responsibilities, if US land forces are conducting rear-area land operations in mainland Japan, BGOCC-C functions and partnerships would focus on coordinating such rear-area land operations. Compared to the alternative concept above, this approach privileges aligned combat coordination (i.e., ensuring US-JGSDF alignment in AOs, missions, and capabilities focused in a single RA's¹⁷⁵⁹ AO) over command and COMREL alignment.

The approach must be tailored to each contingency.

6.3.4.2. Bilateral Ground Operations Coordination Center-Central (BGOCC-C)

The BGOCC-C provides land-force bilateral coordination for ground operations conducted and coordinated with Japanese GOF.¹⁷⁶⁰

¹⁷⁵⁰ 7.5.4.8.2. Ground Component Command (GCC), p. 162.

¹⁷⁵¹ 6.3.4. Bilateral Ground Operations Coordination Center (BGOCC), p. 148.

¹⁷⁵² 7.5.4.8.3. Regional Armies (RA), p. 162.

¹⁷⁵³ 7.5.4.6.1.1. Ground Operations Forces (GOF), p. 162.

¹⁷⁵⁴ 6.3.4.3.1. Bilateral Ground Tactical Coordination Center (BGTCC), p. 149.

¹⁷⁵⁵ 6.3.4. Bilateral Ground Operations Coordination Center (BGOCC), p. 148.

¹⁷⁵⁶ 6.3.4.2. Bilateral Ground Operations Coordination Center-Central (BGOCC-C), p. 148.

¹⁷⁵⁷ 7.5.4.8.2. Ground Component Command (GCC), p. 162.

¹⁷⁵⁸ 7.5.4.6.1.1. Ground Operations Forces (GOF), p. 162.

¹⁷⁵⁹ 7.5.4.8.3. Regional Armies (RA), p. 162.

¹⁷⁶⁰ 7.5.4.6.1.1. Ground Operations Forces (GOF), p. 162.

6.3.4.3. Bilateral Ground Operations Coordination Center-Regional (BGOCC-R)

Purpose: Facilitate land force bilateral coordination for ground tactical maneuver and fires within the respective Regional Army AO

Active: Established during crisis

Participants: Japanese and US land component representatives for specified region

When multiple BGOCCs exist, the BGOCC coordinating with GCC¹⁷⁶¹ is normally named BGOCC-Central or BGOCC(C) and BGOCCs coordinating with RAs¹⁷⁶² are normally named BGOCC-Regional or BGOCC(R).

6.3.4.3.1. Bilateral Ground Tactical Coordination Center (BGTCC)

Purpose: Facilitate island-level bilateral coordination for ground tactical maneuver and fires

Active: Established during crisis

Participants: Japanese and US representatives for ground forces by each island

6.3.4.3.1. Bilateral Ground Sustainment Coordination Center (BGSCC)

BGSCCs may also be referred to as BGLCCs or Bilateral Ground Logistics Coordination Centers.

Purpose: Facilitate main island-level bilateral coordination for ground tactical sustainment

Active: Established during crisis

Participants: Japanese and US representatives for ground sustainment forces for main island(s)

6.3.4.3.1. Bilateral Ground Medical Coordination Center (BGMCC)

Purpose: Facilitate main island-level bilateral coordination for ground tactical medical operations

Active: Established during crisis

Participants: Japanese and US representatives for ground medical forces for main island(s)

6.3.5. Maritime Force Coordination Center (MFCC)

Purpose: Facilitate fleet bilateral coordination for maritime tactical maneuver and fires

Active: Established during crisis

Participants: Japanese MOF¹⁷⁶³ and US JFMCC representatives

6.3.1. Bilateral Space Operations Coordination Center (BSOCC)

Purpose: Facilitate bilateral coordination for space operations

Active: Established during crisis

Participants: Japanese and US representatives for space forces

6.4. OTHER CONSULTATION AND COORDINATION VENUES

Beyond the coordination bodies described above, Japan and the US have numerous other bilateral coordination or consultation bodies.

¹⁷⁶¹ 7.5.4.8.2. Ground Component Command (GCC), p. 162.

¹⁷⁶² 7.5.4.8.3. Regional Armies (RA), p. 162.

¹⁷⁶³ 7.5.4.6.1.2. Maritime Operations Forces (MOF), p. 162.

6.4.1. Mount Fuji Dialogue

The Mt. Fuji Dialogue is an annual meeting of experts in the Japan-US Alliance under the U.S.-Japan Business/Policy Dialogue Program, a program launched by JIIA and JCER to bring together leaders involved in policy and business to developing shared understanding and strengthening the Japan-US Alliance.

6.4.2. Cyber Defense Policy Working Group (CDPWG)

6.4.3. Systems and Technology Forum (S&TF)

6.4.4. Bilateral Intelligence Analysis Cell (BIAC)

6.4.5. Bilateral Information Security Consultation (BISC)

Since 2007, GoJ and USG have held an extended dialogue to strengthen information security and ensure the protection of defense-related classified information, advanced systems, and technological advantages. BISC is an inter-ministerial forum to bolster government-wide GoJ security posture, practices, and procedures. As of early 2024, BISC had four lines of effort:

- Security professionalization
- Handling of classified information in the Japanese courts
- Background investigations
- Industrial security

6.4.6. Extended Deterrence Dialogue (EDD)

See § 2.3.3.2.1. Extended Deterrence Dialogue (EDD) (p. 44).

6.4.7. Joint Senior Leader Seminar (JSLS)

The JSLS is co-chaired by the Commander, USINDOPACOM and Chief of Staff, JJS. JSLS is an annual mil-to-mil engagement on exercises and strategic military topics

6.4.8. Joint Shared Use Working Group (JSUWG)

The JSUWG is co-chaired by the OSD IPSA Director for Japan Policy, State Department EAP Director for Japan, and their Japanese counterparts. The JSUWG coordinates the use of shared facilities between the JSDF and US forces.

6.4.9. Roles, Missions, and Capabilities Working Group (RMCWG)

The RMCWG is co-chaired by the OSD IPSA Director for Japan Policy, State Department EAP Director for Japan, and their Japanese counterparts. The RMCWG seeks to broaden the roles of the JSDF. USEMB Tokyo Political Minister Counselor and USFJ DCOM participate at the principle level. US JS and USINDOPACOM participate at the working level

6.4.10. Regional Capacity Building Bilateral (RCBB)

The RCBB is co-chaired by the USINDOPACOM J5 Policy and the MoD's Indo-Pacific Policy Division. The RCBB enables collaboration between the GoJ and the US security cooperation enterprise, especially in the USINDOPACOM Sub-Regional Policy Desks and in-country Security Cooperation Organizations on developing security capacity of key partners in the Indo-Pacific.

6.5. CHALLENGES TO COMBINED COMMAND

Combined Command, where US and Japanese forces are integrated in a single command structure, is often considered by US planners, many of whom have experience with combined commands in Korea, NATO, Iraq, or Afghanistan, etc.

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Although not explicitly prohibited, it is GoJ's current interpretation that Combined Command is not permitted by the Japanese Constitution because of the principles listed below.

In addition to and supporting this interpretation (that might conceivably change), there are a number of obstacles to combined command within the Japan-US alliance. These can be understood in the fundamental differences with which the two Allies approach decisions to go to war (i.e., justification for legitimate employment of force: *jus ad bellum*) and how war should be conducted (i.e., how legitimate force should be applied: *jus in bello*).

Resolving any of the below obstacles would fundamentally alter the constitutional basis for Japan's defense,¹⁷⁶⁴ cultural landscape with respect to national security, and the political relationships among the branches of GoJ. Such changes are difficult to imagine outside a major crisis.

6.5.1. *Jus ad Bellum (Justification for Use of Force) Challenges*

Change to paragraph form

- Article 9's¹⁷⁶⁵ EDOP¹⁷⁶⁶
 - In 1959, the Japanese Supreme Court rejected an argument that US bases in Japan violated Article 9 on the basis that Japan did not command US forces based in Japan and therefore forces not under the command of GoJ could not be interpreted as violating the Japanese Constitution¹⁷⁶⁷
 - This judgement highlights the legal dilemma of Japan either placing JSDF units under a US commander who is not bound by Japan's EDOP or a JSDF commander exercising command over (and responsibility for) US forces unbound by those same restrictions
 - Rejection of the Rights of Belligerency¹⁷⁶⁸
- Defense policy preference for "political validity" vs. "military rationality"
- Approaches to deterrence and escalation management¹⁷⁶⁹
- Divergent national interests and boundaries for military action
 - Given Japan's constitutional limitations and the US's role in the alliance of protecting the security of the Far East,¹⁷⁷⁰ any combined command would likely place burdensome national caveats on elements of any combined force that might be more restrictive than Japanese and US commands operating in *coordination*
 - Differing scale of desired response/retaliation to attacks on Japan or in the region
 - Different geographic boundaries for response activities (e.g., the deployment of forces within the territorial land, TTA,¹⁷⁷¹ or TTS¹⁷⁷² of another nation or different interpretations of Far East)
 - Alliance asymmetries create asymmetries in partnered unit RMCs¹⁷⁷³
 - Japan's "theater" is Japan; the US "theater" is USINDOPACOM AOR
 - JSDF missions are limited to defense of Japan; US unit missions may extend regionally
 - JSDF peacetime AO boundaries are to a certain extent enduring; US unit boundaries may be flexible/changeable

6.5.2. *Jus in Bello (Just Use of Force) Challenges*

- Positive vs Negative List approaches to authorities¹⁷⁷⁴
 - Because of Japan's Positive List¹⁷⁷⁵ approach, it's unclear whether the PM has a legal basis to transfer command of JSDF units to a US command or for a JSDF commander to exercise command over non-Japanese forces
- Homeland defense prioritization¹⁷⁷⁶

¹⁷⁶⁴ 2.1. Basic Policy of Japanese Defense, p. 12.

¹⁷⁶⁵ 2.1.2.1. Article 9 (War Renunciation), p. 13;
i.B.2. Article 9 – Renunciation of War, p. 300.

¹⁷⁶⁶ 2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP), p. 13.

¹⁷⁶⁷ 2.1.2. Japanese Constitution (Kenpō), p. 13.

¹⁷⁶⁸ 2.1.2.1.3. Belligerent Rights, p. 16.

¹⁷⁶⁹ Chapter 10. Alliance Conceptions of Deterrence, p. 177.

¹⁷⁷⁰ B.1.4.1. Defining the Far East, p. 209.

¹⁷⁷¹ A.4.5. National Airspace (TTA), p. 197.

¹⁷⁷² A.4.4. Territorial Sea (TTS), p. 196.

¹⁷⁷³ 2.3.4.1. Roles/Missions/Capabilities (RMC), p. 46.

¹⁷⁷⁴ 2.1.1.1. Positive vs. Negative List Approach to Authorities, p. 12.

¹⁷⁷⁵ 2.1.1.1.1. Japanese "Positive List" Approach, p. 12.

¹⁷⁷⁶ 10.2.3. Homeland Defense Prioritization, p. 179.

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- The Japanese constitutional principle of *Ittaika*¹⁷⁷⁷
- CSD¹⁷⁷⁸ gaps
 - JSDF authorization for CSD only after STS¹⁷⁷⁹/AAS¹⁷⁸⁰
- Executive vs. Administrative authority for directing armed forces¹⁷⁸¹

6.5.3. Examples of US-Japan Combined Command

During RIMPAC 2012, the US placed an element of a US fleet under the command of a JMSDF officer.²⁰⁸

¹⁷⁷⁷ 2.1.2.2. Ittaika (Integration), p. 20.

¹⁷⁷⁸ 3.4.2. Collective Self-Defense (CSD), p. 84.

¹⁷⁷⁹ 4.9. Survival-Threatening Situation (STS), p. 104.

¹⁷⁸⁰ 4.10. Armed Attack Situation (AAS), p. 110.

¹⁷⁸¹ 7.1. Command of the JSDF, p. 153.

Chapter 7. JSDF COMMAND AND MoD STRUCTURE

7.1. COMMAND OF THE JSDF

From a legal standpoint, PM command of the JSDF is executed through administrative orders to an administrative branch of the GoJ. Furthermore, because of Japan's Positive List¹⁷⁸² approach, such command is only authorized through a legislatively-defined emergency management and administrative control framework (i.e., Security Situations¹⁷⁸³).

The PM, on behalf of the Cabinet, holds supreme command and supervision of the JSDF. Because the Constitution¹⁷⁸⁴ grants the PM no inherent executive C2 authority over the JSDF, the PM cannot order a deployment of the JSDF without a specific authorizing law.

C2 of JSDF is based on Article 72¹⁷⁸⁵ of the Constitution, which states that the PM represents the Cabinet and submits bills to the Diet for the “exercise of control and supervision over various administrative branches.” This is the root of constraints on JSDF employment in crisis and conflict. Article 65¹⁷⁸⁶ of the Constitution vests “executive control and supervision” over GoJ administrative branches with the PM.

The MinDef exercises general control and directs the functions of the JSDF.

Chiefs of Staff of the Staff Offices (JSO, GSO, MSO, ASO) supervise the functions of the JSDF.

7.1.1. Lack of a Military Justice System

Article 76¹⁷⁸⁷ of the Japanese Constitution¹⁷⁸⁸ vests “whole judicial power” in the Supreme Court, placing JSDF members under the jurisdiction of domestic (not military) courts.

No Japanese military justice system exists (e.g., no UCMJ or courts martial).

7.2. JSDF COMMAND AND SUPPORT RELATIONSHIPS

JSDF have similar concepts for COMREL and Support Relationships as exist in US doctrine, but use slightly different definitions and some distinct terms.

- Assignment – A permanent subordinate relationship to MinDef or a force commander
- Attachment – A temporary operational subordinate relationship to a force commander (OPCON-like)
- General Support – A support relationship where support is given to the supported force as a whole and not a specific element of that force
- Direct Support – A support relationship where support is given to the specific supported force
- Reinforcement – An increase to a force to strengthen its combat power, and its capability of support or cooperation.
- Direct Command – The temporary command of a subordinate attached or assigned force more than one echelon down (e.g., a battalion commander commands a platoon under an assigned company)
- Control – Control over specified functions, activities, or matters of non-subordinate force
- Partial Command – Temporary operational and tailored administrative command (similar to the combination of US OPCON and ADCON authorities)

¹⁷⁸² 2.1.1.1.1. Japanese “Positive List” Approach, p. 12.

¹⁷⁸³ Chapter 4. Japan’s Security Situations Framework, p. 89.

¹⁷⁸⁴ 2.1.2. Japanese Constitution (Kenpō), p. 13.

¹⁷⁸⁵ i.B.12. Article 72 – The Prime Minister, p. 302.

¹⁷⁸⁶ i.B.9. Article 65 – Executive Power, p.301.

¹⁷⁸⁷ i.B.14. Article 76 – The Supreme Court, p. 302.

¹⁷⁸⁸ 2.1.2. Japanese Constitution (Kenpō), p. 13.

7.3. CREATION OF JAPAN JOINT OPERATIONS COMMAND (JJOC)

7.3.1. Overview

Poor communication and coordination after the 2011 earthquake, tsunami, and nuclear meltdowns in northeastern Japan, combined with increasingly challenging contingency scenarios, revealed the need to split Chief of Staff, JSO's policy and operational responsibilities.

Japan's 2022 National Defense Strategy announced the creation of a JJOC to improve joint command of JSDF forces.

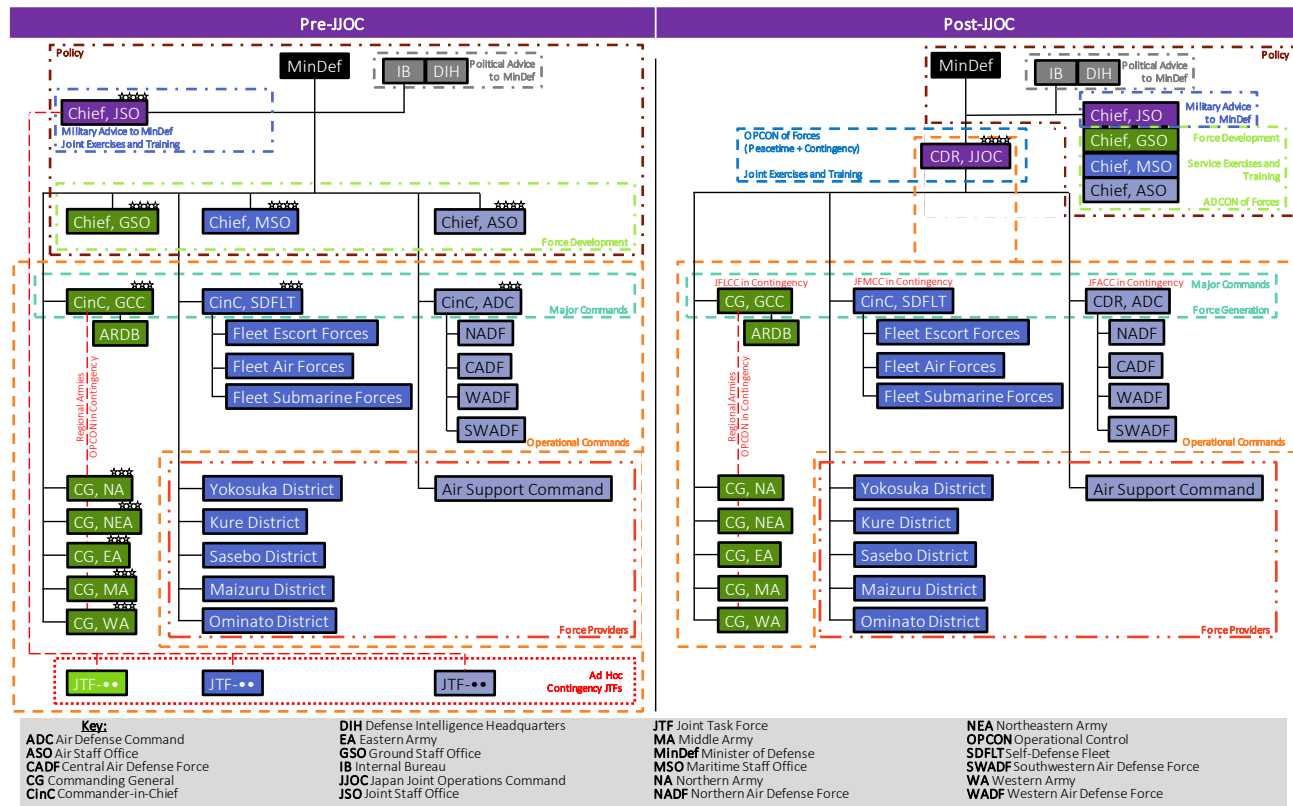
JJOC will be located at the Japan MoD in Ichigaya, Tokyo.

7.3.1.1. Activation Timeline

The JJOC will reach IOC at the end of JFY24¹⁷⁸⁹ (March 2025). And FOC by the beginning of JFY27 (April 2027).

REDO JJOC graphic

JJOC Comparison of Changes



7.3.1.1.1. Pre-JJOC

- Service-aligned combat formations in contingencies
- Complicated bilateral coordination with US JTF in contingencies
- Chief of Staff, JSO commands JSDF, serves as military advisor to the cabinet, coordinates between US forces and JSDF

¹⁷⁸⁹ K.1. Japan Fiscal Year, p. 278.

7.3.1.1.2. Post-JJOC

- Unified JTF headquarters (JJOC) with subordinate functional component commands in contingencies
- Simplified and mirrored bilateral coordination with US JTF in contingencies
- Chief of Staff, JSO serves as military advisor to the cabinet
- Commander, JJOC serves as operational commander of JSDF, coordinates between US forces and JSDF
- Both Chief of Staff, JSO and Commander, JJOC report directly to the MinDef

7.3.2. JJOC Roles and Responsibilities, and Counterparts

Move to JJOC section below

7.3.2.1. Chief of Staff, Japan Joint Staff (Strategic)

- Support the MinDef and others in decision-making
- Formulate strategic guidelines, etc. for deterrence and response
- Coordinate and cooperate with allies and like-minded countries

7.3.2.2. Commander, Japan Joint Operations Command (Operational)

- Develop and implement joint and bilateral operational plans
- Continuously refine and monitor the joint operational capabilities of units
- OPCON of JJOF¹⁷⁹⁰
- Joint exercises and training

7.3.2.3. Chief of Staff, Staff Offices (Service)

- Force development
- Service exercises and training
- ADCON of operational forces
- Organize, train, and equip
- Oversee functional component bilateral and unilateral planning

7.4. JAPAN COAST GUARD (JCG) OPERATIONS**7.4.1. Routine JCG Operations**

The JCG's duties and functions are defined by Articles 2¹⁷⁹¹ and 5¹⁷⁹² of the Coast Guard Act (Law No. 28 of 1948, as amended). These include:

- Maintaining good order at sea (including in the High Sea¹⁷⁹³)
 - Non-Innocent Passage¹⁷⁹⁴ is considered by Japan to be disruptions of Good Order at Sea,¹⁷⁹⁵ allowing JCG to take "administrative measures"
- Patrolling Japan's TTS¹⁷⁹⁶
- Suppressing and investigating¹⁷⁹⁷ crime
- Conducting SAR¹⁷⁹⁸
- Protecting the maritime environment
- Carrying out hydrographic surveillance
- Ensuring the safety of maritime traffic

¹⁷⁹⁰ 7.5.4.6.1. Japan Joint Operating Forces (JJOF), p. 162.

¹⁷⁹¹ i.K.1. Article 2 – Japan Coast Guard Mission, p. 363.

¹⁷⁹² i.K.3. Article 5 – Functions of the Coast Guard, p. 364.

¹⁷⁹³ A.4.10. High Sea(s), p. 199; A.4.10.1. GoJ Definition of High Sea(s), p. 199.

¹⁷⁹⁴ E.5.1.3. Non-Innocent Passage (Violations of Innocent Passage), p. 250.

¹⁷⁹⁵ E.7. Maintaining "Good Order" at Sea, p. 252.

¹⁷⁹⁶ A.4.4. Territorial Sea (TTS), p. 196.

¹⁷⁹⁷ 7.4.1.1. JCG Investigative Authorities, p. 156.

¹⁷⁹⁸ 3.2.2.6. Search and Rescue (SAR), p. 58.

7.4.1.1. JCG Investigative Authorities

JCG officers are authorized to act as judicial police, including the authority to:

- Conduct investigations
- Perform arrests
- Execute search and seizure warrants
- Refer investigations for prosecution
- Contribute to follow-up investigations

When operating under MSO,¹⁷⁹⁹ JMSDF officers lack these law enforcement authorities, requiring the JMSDF to hand-off vessels violating Japanese law to the JCG for investigation, etc.

7.4.2. Armament

Under the Dual-Layer Security System¹⁸⁰⁰ and limited by Coast Guard Act (Law No. 28 of 1948, as amended) Articles 4¹⁸⁰¹ and 25,¹⁸⁰² GoJ has continued to limit the armament JCG vessels. Many JCG vessels are armed only with small arms and heavy machine guns up to 12.7mm (.50 caliber) or 14mm, but some JCG ships (hull classification PL: Patrol Vessel, Large) are equipped with 20mm rotary cannons, 30mm chain guns, and/or 35mm and 40mm auto cannons.

7.4.3. MoD Control over the JCG

Article 80¹⁸⁰³ of SDF Act (Law No. 165 of 1954, as amended) allows the PM to place all or part of the JCG under the control of the MoD during AAAS¹⁸⁰⁴ or AAS¹⁸⁰⁵ (but not during STS¹⁸⁰⁶).

When exercised, this authority brings the JCG (in whole or part) under the control of the MoD and not the JSDF. This distinction is a key aspect of the legislation and a sensitive political and cultural issue within the JSDF, JCG, and the broader GoJ.

When this occurs, there is no change in JCG missions, jurisdiction, authority, and non-military nature, and the control of the JCG is not "incorporation of the JCG into the JSDF" or "paramilitarization of the JCG."¹⁸⁰⁷

The MoD and JSDF concentrate on combat operations, while the JCG plays a maximum role in measures for the protection of the people and the preservation of human life at sea. Examples of tasks envisioned for the JCG under such circumstances include:

- Evacuation¹⁸⁰⁸ and rescue of civilians
- SAR¹⁸⁰⁹ and life-saving operations
- Provision of information to vessels and evacuation support
- Alerting port facilities to terrorist attacks, etc.
- Measures for mass evacuation

7.4.3.1. Limitations to Coordination between the JSDF and JCG

Coast Guard Act (Law No. 28 of 1948, as amended) Article 4¹⁸¹⁰ limits the construction of JCG vessels to ensure the avoidance of the paramilitarization of the JCG (Coast Guard Act (Law No. 28 of 1948, as amended) Article 25¹⁸¹¹). Because of this, vessels of the JCG are more similar to merchant ships than JMSDF ships in

¹⁷⁹⁹ 3.2.3.2. Maritime Security Operation (MSO), p. 63.

¹⁸⁰⁰ E.3. Dual-Layer Security System, p. 247.

¹⁸⁰¹ i.K.2. Article 4 – Structure, Equipment, and Functions of Coast Guard Vessels, p. 363.

¹⁸⁰² i.K.8. Article 25 – Prohibition Against Paramilitarization of the Coast Guard, p. 367.

¹⁸⁰³ i.C.22. Article 80 – Control of the Japan Coast Guard (JCG), p. 313.

¹⁸⁰⁴ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

¹⁸⁰⁵ 4.10. Armed Attack Situation (AAS), p. 110.

¹⁸⁰⁶ 4.9. Survival-Threatening Situation (STS), p. 104.

¹⁸⁰⁷ i.K.8. Article 25 – Prohibition Against Paramilitarization of the Coast Guard, p. 367.

¹⁸⁰⁸ Chapter 9. Evacuation, Refugees, and Detainees, p. 170.

¹⁸⁰⁹ 3.2.2.6. Search and Rescue (SAR), p. 58.

¹⁸¹⁰ i.K.2. Article 4 – Structure, Equipment, and Functions of Coast Guard Vessels, p. 363.

¹⁸¹¹ i.K.8. Article 25 – Prohibition Against Paramilitarization of the Coast Guard, p. 367.

terms of operating systems, equipment, communications capabilities, etc. In crisis or conflict coordination, this may lead to significant challenges in interoperability.

7.5. MINISTRY OF DEFENSE (MOD) STRUCTURE AND ROLES

The MoD is organized as follows:

- MinDef?
- IB¹⁸¹²
- ATLA¹⁸¹³
- JSDF¹⁸¹⁴
- Regional Defense Bureaus¹⁸¹⁵
- Educational Institutions
- Defense Boards

¹⁸¹² 7.5.2. Internal Bureau (IB), p. 159.

¹⁸¹³ 7.5.3. Acquisition, Technology, and Logistics Agency (ATLA), p. 161.

¹⁸¹⁴ 7.5.4. JSDF Structure, p. 161.

¹⁸¹⁵ 7.5.5. Regional Defense Bureaus, p. 166.

Chapter 7. JSDF Command and MoD Structure

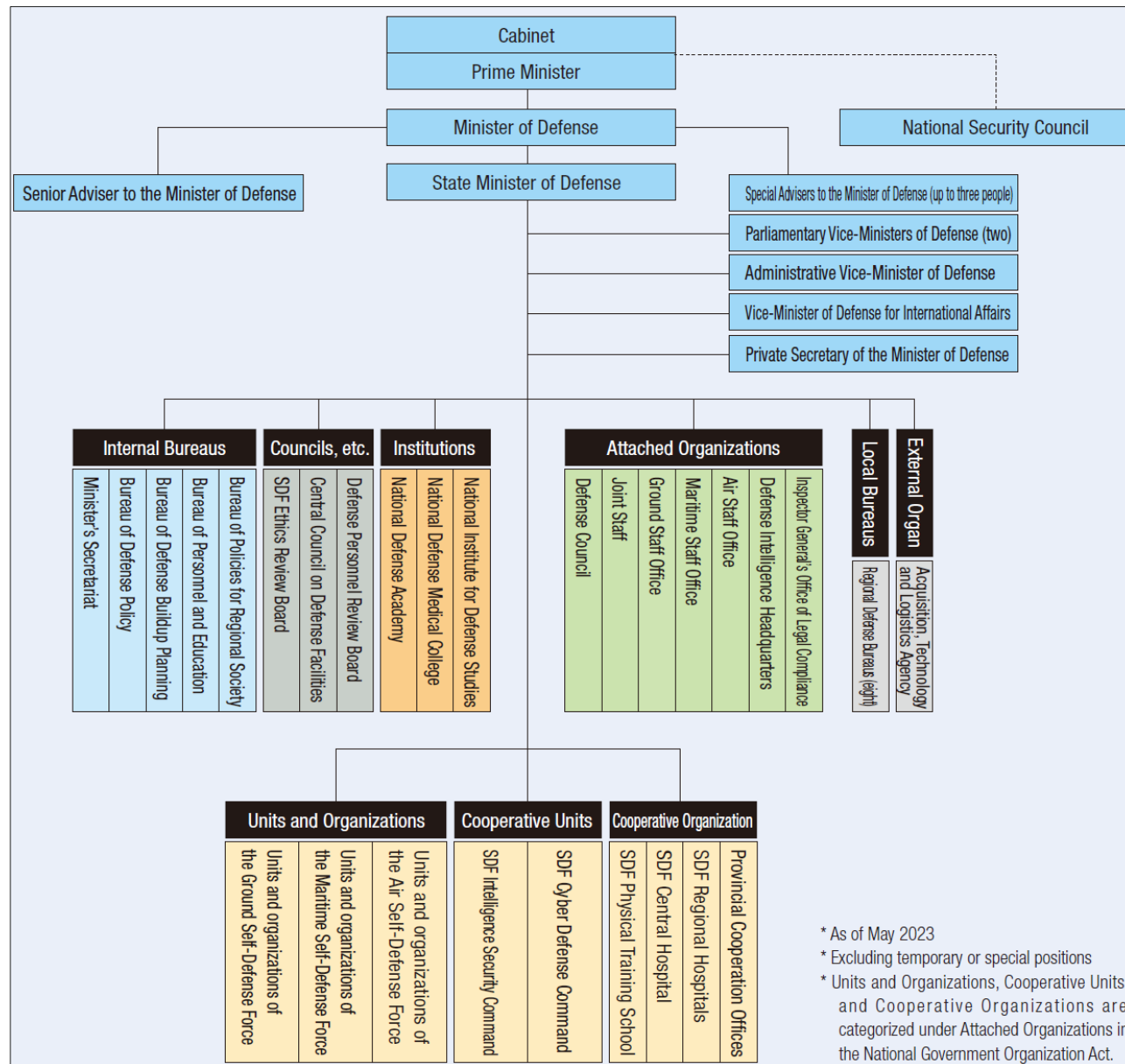


Figure 9. Organizational Chart of the MoD (Minister of Defense, 2023a, p. 275)

7.5.1. Minister of Defense (MinDef)

The MinDef is a Cabinet¹⁸¹⁶ post with command and authority over the JSDF.¹⁸¹⁷ The MinDef is appointed by the PM and is a member of the JNSC.¹⁸¹⁸ The State Minister of Defense and two Parliamentary Ministers of Defense assist the MinDef in policy planning and political affairs. Special Advisers to the Minister of Defense provide the MinDef with advice on important affairs under the jurisdiction of the MOD based on their expertise and experience. A Defense Council consists of political appointees, civilian officials and uniformed JSDF personnel and deliberates on basic principles concerning affairs under the MOD's jurisdiction.

¹⁸¹⁶ C.2.1. Cabinet, p. 225.

¹⁸¹⁷ i.C.4. Article 8 – Command and Supervision by the Minister of Defense, p. 305.

¹⁸¹⁸ C.2.6. (Japan) National Security Council (JNSC), p. 228.

7.5.1.1. State Minister of Defense

7.5.2. Internal Bureau (IB)

IB manages the operation, personnel, planning, and acquisition of the JSDF, making it the most consequential organization within MoD for management of the military parts of the Japan-US Alliance. It serves similar functions as the US OSD and is the civilian component of MoD.

IB reviews everything going to the MinDef for conformity with legal restrictions, giving IB tremendous influence over all MoD actions.

IB is comprised of five sections.

- Minister's Secretariat¹⁸¹⁹
- Bureau of Defense Policy¹⁸²⁰
- Bureau of Defense Buildup Planning
- Bureau of Personnel and Education
- Bureau of Location Cooperation¹⁸²¹

7.5.2.1. Minister's Secretariat

The Minister's Secretariat is comprised of seven Councilors (*shingikan*) who function as Deputies to the MoD for specific functional areas, similar to US Under Secretaries of Defense.

7.5.2.2. Bureau of Defense Policy

The Bureau of Defense Policy (*Bōei Seisaku-kyoku*) is IB's most important section, responsible for developing Japan's defense strategy and considering issues impacting Japan's national interest and national security policy. It is a direct counterpart to MOFA's Foreign Policy Bureau.¹⁸²²

The Bureau of Defense Policy is comprised of four Divisions

- Japan-US Defense Cooperation Division¹⁸²³
- Operational Policy Division¹⁸²⁴
- Strategy Planning Division¹⁸²⁵
- International Policy Division¹⁸²⁶

7.5.2.2.1. Japan-US Defense Cooperation Division

The Japan-US Defense Cooperation Division (*Nichi-Bei Bōei Kyōryoku-ka*) is responsible for all aspects of Japanese defense policy related to the US, including RMCs,¹⁸²⁷ basic framework issues,¹⁸²⁸ and matters pertaining to US force realignment under DPRI¹⁸²⁹ and SACO.¹⁸³⁰

When JSDF RMCs change, US defense cooperation (including bilateral plans and planning guidelines¹⁸³¹) must be changed to reflect new expectations of the Alliance's duties and responsibilities.

The Japan-US Defense Cooperation Division is the direct counterpart to MOFA's Japan-US Security Treaty Division¹⁸³² with responsibilities between the divisions split along military-diplomatic issues.

The Division shares responsibility with the BLC¹⁸³³ for HNS.¹⁸³⁴

¹⁸¹⁹ 7.5.2.1. Minister's Secretariat, p. 159.

¹⁸²⁰ 7.5.2.2. Bureau of Defense Policy, p. 159.

¹⁸²¹ 7.5.2.3. Bureau of Location Cooperation (BLC), p. 160.

¹⁸²² C.2.8.2. Foreign Policy Bureau, p. 231.

¹⁸²³ 7.5.2.2.1. Japan-US Defense Cooperation Division, p. 159.

¹⁸²⁴ 7.5.2.2.2. Operational Policy Division, p. 160.

¹⁸²⁵ 7.5.2.2.3. Strategy Planning Division, p. 160.

¹⁸²⁶ 7.5.2.2.4. International Policy Division, p. 160.

¹⁸²⁷ 2.3.4.1. Roles/Missions/Capabilities (RMC), p. 46.

¹⁸²⁸ 2.3.4. 2015 Guidelines for Japan-US Defense Cooperation, p. 45..

¹⁸²⁹ Appendix I. Defense Policy Review Initiative, p. 275.

¹⁸³⁰ I.2. Special Action Committee on Okinawa (SACO), p. 275.

¹⁸³¹ 6.2.2. Bilateral Planning Mechanism (BPM), p. 145.

¹⁸³² C.2.8.1.1. Japan-US Security Treaty Division, p. 231.

¹⁸³³ 7.5.2.3. Bureau of Location Cooperation (BLC), p. 160.

¹⁸³⁴ 7.5.2.3.1. Host Nation Support (HNS), p. 160.

7.5.2.2.2. Operational Policy Division

The Operational Policy Division (*Unyō Seisaku-ka*) is responsible for legal and policy aspects of JSDF operations in Japan and abroad. The Division interprets the laws passed by the Diet and is responsible for formulating the laws necessary for implementation of higher-level laws and guidance.

7.5.2.2.3. Strategy Planning Division

The Strategy Planning Division (*Senryaku Kikaku-ka*) is responsible for mid- to long-term strategic planning on issues including outer space policy, missile defense policy, and cyber policy.

7.5.2.2.4. International Policy Division

The International Policy Division (*Kokusai Seisaku-ka*) is responsible for bilateral defense exchanges and cooperations with foreign defense organizations other than the US.

7.5.2.3. Bureau of Location Cooperation (BLC)

地方協力局 may occasionally be translated as Bureau of Policies for Regional Society.

The BLC (地方協力局, *Chihō Kyōryoku-kyoku*) is responsible for engaging with Japanese communities with (US or JSDF) base-related issues, serving to communicate those concerns to the US or JSDF. In a secondary capacity, it maintains communications with the US on daily base management issues that arise. BLC has some overlap with MOFA's SOFA Division.¹⁸³⁵

BLC has the following divisions:

- Local Cooperation Planning Division: Supervises all BLC Divisions and chairs Japan-US meetings on related issues
- Local Coordination Division: Coordinates relations between US forces and local communities in areas other than Okinawa
- Okinawa Coordination Division: Coordinates relations between US forces and local communities in Okinawa
- Living Environment Improvement Division: Manages subsidies from GoJ to local base-housing communities
- Soundproof Measures Division: Manages noise mitigation around US bases
- Compensation Division: Responsible for compensation following accidents or incidents related to US personnel
- Facilities Administration Division: Administers US force facilities
- Facilities Improvement Program Division: Implements the Facilities Improvement Program budget
- Labor Management Division: Addresses issues related to Japanese laborers on US bases

7.5.2.3.1. Host Nation Support (HNS)

HNS is the Japan-US agreement under which the GoJ pays portions of yen-denominated expenses for US forces in Japan.

The HNS program was initiated in 1978 to increase Japan's share of the burden of the Alliance by paying a portion of the US's Yen-denominated costs of operating forces stationed in Japan. HNS has also been called the *omoiyari yosan* or "sympathy budget."²⁰⁹

HNS is realized through periodically negotiated SMAs.¹⁸³⁶

¹⁸³⁵ C.2.8.1.2. Status of US Forces Agreement (SOFA) Division, p. 231.

¹⁸³⁶ 1.6.1.1.2.1. Special Measures Agreements (SMA) (Legal Status), p. 9.

7.5.3. Acquisition, Technology, and Logistics Agency (ATLA)

ATLA (*Bōei Sōbi-Chō*) manages project management, technology management, research and development, and procurement of defense equipment for the JSDF.

ATLA is organized as follows:

- Secretariat
- Department of Equipment Policy
- Department of Project Management
- Department of Technology Strategy
- Department of Procurement Management
- Department of Procurement Operations
- Research and Test Centers

ATLA is considered an “external bureau,” meaning that it is not one of the units of IB.¹⁸³⁷

7.5.4. JSDF Structure

Use DoJ diagram

- JJS¹⁸³⁸
- JSO¹⁸³⁹
- GSO¹⁸⁴⁰
- MSO¹⁸⁴¹
- ASO¹⁸⁴²
- Cyber¹⁸⁴³
- Space¹⁸⁴⁴
- JJOC¹⁸⁴⁵
- JDIH¹⁸⁴⁶
- Defense Council
- Major Commands¹⁸⁴⁷

7.5.4.1. JSDF Branches

7.5.4.1.1. Air Self-Defense Force (JASDF)

With an increased emphasis on the importance of the space domain for its defense, Japan has announced plans to strengthen the space domain capabilities of the JASDF and rename it to the Air and Space Self-Defense Force.²¹⁰

7.5.4.1.2. Ground Self-Defense Force (JGSDF)

7.5.4.1.3. Maritime Self-Defense Force (JMSDF)

7.5.4.2. Japan Joint Staff (JJS)

Distinct from JSO

¹⁸³⁷ 7.5.2. Internal Bureau (IB), p. 159.

¹⁸³⁸ 7.5.4.2. Japan Joint Staff (JJS), p. 161.

¹⁸³⁹ 7.5.4.3.1. Joint Staff Office (JSO), p. 162.

¹⁸⁴⁰ 7.5.4.3.3. Ground Staff Office (GSO), p. 162.

¹⁸⁴¹ 7.5.4.3.4. Maritime Staff Office (MSO), p. 162.

¹⁸⁴² 7.5.4.3.2. Air Staff Office (ASO), p. 162.

¹⁸⁴³ 7.5.4.4. Cyber, p. 162.

¹⁸⁴⁴ 7.5.4.5. Space, p. 162.

¹⁸⁴⁵ 7.5.4.6. Japan Joint Operations Command (JJOC), p. 162.

¹⁸⁴⁶ 7.5.4.7. (Japan) Defense Intelligence Headquarters (DIH), p. 162.

¹⁸⁴⁷ 7.5.4.8. Major Commands, p. 162.

7.5.4.3. Staff Offices

7.5.4.3.1. Joint Staff Office (JSO)

7.5.4.3.2. Air Staff Office (ASO)

7.5.4.3.3. Ground Staff Office (GSO)

7.5.4.3.3.1. G-Codes

7.5.4.3.4. Maritime Staff Office (MSO)

7.5.4.4. Cyber

7.5.4.5. Space

7.5.4.6. Japan Joint Operations Command (JJOC)

7.5.4.6.1. Japan Joint Operating Forces (JJOF)

7.5.4.6.1.1. Ground Operations Forces (GOF)

7.5.4.6.1.2. Maritime Operations Forces (MOF)

7.5.4.6.1.3. Air Operations Forces (AOF)

7.5.4.6.1.4. Cyber Operations Forces (CyOF)

7.5.4.6.1.5. Space Operations Forces (SpOF)

7.5.4.7. (Japan) Defense Intelligence Headquarters (DIH)

(See § M.5. DIH [p. 284.])

7.5.4.8. Major Commands

7.5.4.8.1. Air Defense Command (ADC)

7.5.4.8.2. Ground Component Command (GCC)

7.5.4.8.3. Regional Armies (RA)

7.5.4.8.4. Self-Defense Fleet (SDFLT)

7.5.4.8.5. Cyber Defense Command?

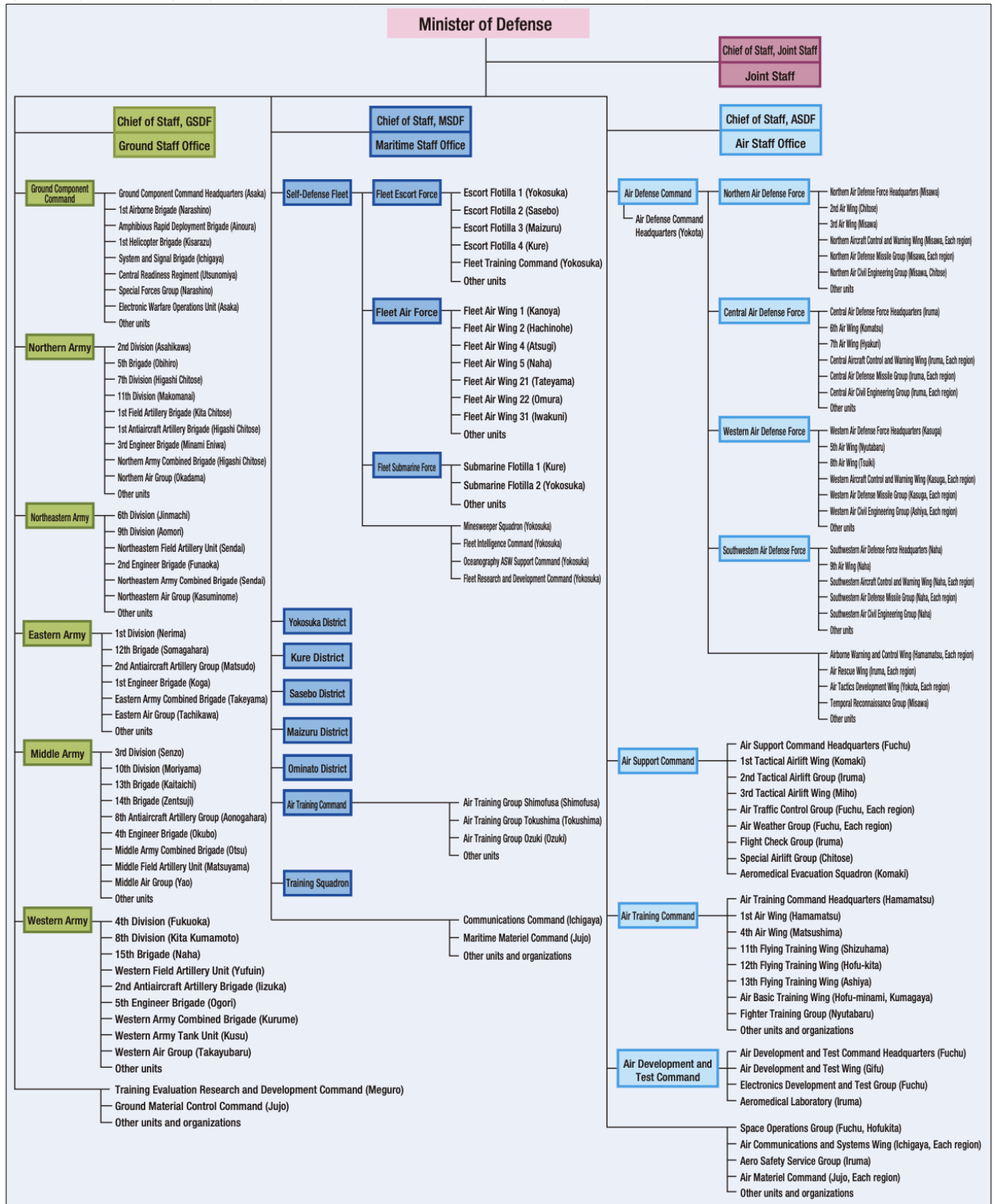
Newly formed March 2022

7.5.4.9. JSDF Order of Battle

The following graphics provide an unclassified peacetime overview of the JSDF order of battle.

Chapter 7. JSDF Command and Mod Structure

Figure 10. Organizational Diagram of the Self-Defense Forces (CAO 31 March 2023) (Minister of Defense, 2023a, p. 277)



Chapter 7. JSDF Command and MoD Structure

Figure 11. Location of Principal JSDF Units (CAO 31 March 2022) (Minister of Defense, 2023a, p. 278)



Chapter 7. JSDF Command and MoD Structure

Table 1. Number of Tanks and Major Artillery Owned (CAO 31 March 2023) (Minister of Defense, 2023b, p. 106)

Type	Recoilless Guns	Mortars	Field Artillery	Rocket Launchers, etc.	Anti-aircraft Machine Guns	Tanks	Armored Vehicles	Mobile Combat Vehicles
Approximate number owned	2,600	1,200	370	40	50	450	980	160

Table 2. Number of Major Aircraft and Performance Specifications (CAO 31 March 2023) (Minister of Defense, 2023b, p. 107)

Service	Type	Model	Use	Number Owned	Maximum Speed (knots)	Crew (number)	Full Length (m)	Full Width (m)	Engine
GSDF	Fixed-wing	LR-2	Liaison and Reconnaissance	8	300	2 (8)	14.2	17.7	Turboprop, twin-engines
		Rotary-wing	AH-1S	Anti-tank	44	120	2	13.6	3.6
	OH-1		Observation	37	140	2	12.0	3.3	Turboshaft, twin-engines
	UH-1J		Utility	112	110	2 (11)	12.7	2.8	Turboshaft, single-engine
	UH-2		Utility	7	130	2 (11)	13.1	2.9	Turboshaft, twin-engines
	CH-47J/JA		Transport	50	150/140	3 (55)	15.9	3.8/4.8	Turboshaft, twin-engines
	UH-60JA		Utility	40	150	2 (12)	15.6	5.5	Turboshaft, twin-engines
	AH-64D	Combat	12	150	2	15.0	5.7	Turboshaft, twin-engines	
Tilt Rotor	V-22	Transport	13	280	3 (24)	17.5	15.5	Turboshaft, twin-engines	
MSDF	Fixed-wing	P-1	Patrol	34	450	11	38.0	35.4	Turbofan, quadruple-engine
		P-3C	Patrol	35	400	11	35.6	30.4	Turboprop, quadruple-engine
		US-2	Rescue	7	320	11	33.3	33.2	Turboprop, quadruple-engine
	Rotary-wing	SH-60J	Patrol	10	150	4	15.3	4.4	Turboshaft, twin-engines
		SH-60K	Patrol	73	140	4	15.9	4.4	Turboshaft, twin-engines
		MCH-101	Minesweeping and transport	10	150	4	19.5	5.1	Turboshaft, triple engine
ASDF	Fixed-wing	F-15J/DJ	Fighter	200	Mach 2.5	1/2	19.4	13.1	Turbofan, twin-engine
		F-2A/B	Fighter	91	Mach 2	1/2	15.5	11.1	Turbofan, single-engine
		F-35A	Fighter	33	Mach 1.6	1	15.6	10.7	Turbofan, single-engine
		C-1	Transport	6	Mach 0.76	5 (60)	29.0	30.6	Turbofan, twin-engine
		C-2	Transport	16	Mach 0.82	2-5 (110)	43.9	44.4	Turbofan, twin-engine
		C-130H	Transport	13	320	6 (92)	29.8	40.4	Turboprop, quadruple-engine
		KC-767	Aerial refueling transport	4	Mach 0.84	4-8 (200)	48.5	47.6	Turbofan, twin-engine
		KC-46A	Aerial refueling transport	2	Mach 0.86	3-14 (104)	50.4	47.6	Turbofan, twin-engine
		KC-130H	Aerial refueling transport	3	320	6 (92)	29.8	40.4	Turboprop, quadruple-engine
		E-2C	Early warning	10	320	5	17.6	24.6	Turboprop, twin-engines
		E-2D	Early warning	3	350	5	17.6	24.6	Turboprop, twin-engines
		E-767	Early warning and control	4	450	20	48.5	47.6	Turbofan, twin-engine
	RQ-4B	Surveillance	2	570 km/h	0	14.5	39.9	Turbofan, single-engine	
	Rotary-wing	CH-47J	Transport	15	160	5 (48)	15.9	4.8	Turboshaft, twin-engines
		UH-60J	Rescue	37	140	5	15.7	5.4	Turboshaft, twin-engines

Notes: 1. The number of aircraft possessed indicates numbers registered in the national property ledger as of March 31, 2023.

2. Parenthetical figures in the item "Crew" represents the number of people transported.

3. The full lengths and widths of rotary-wing aircraft and tilt-rotor aircraft do not include the rotor diameter.

4. Maximum speed is approximate.

Table 3. Number of Major Ships Commissioned into Service (CAO 31 March 2023) (Minister of Defense, 2023b, p. 107)

Category	Destroyer	Submarine	Mine Warfare Ship	Patrol Combatant Craft	Amphibious Ship	Auxiliary Ship
Number (vessels)	50	22	21	6	10	29
Standard Displacement (1,000 tons)	279	63	22	1	28	130

Notes: Figures are rounded off, so the totals may not tally.

7.5.4.10. JSDF Reserve Components

7.5.4.10.1. JSDF Ready Reserves

Introduced 1998

7.5.5. Regional Defense Bureaus

The MoD has 8 RDBs, each led by a DG.

Each RDB is civilian-led and responsible for the smooth execution of daily defense-related matters in their assigned region. JSDF commanders operating within each region have “tenant command” like relationships to the respective RDB with the RDB exercising broad authority for defense-related operations within their area of responsibility.

While the RDBs take day-to-day direction from IB¹⁸⁴⁸ (especially BLC¹⁸⁴⁹ and Bureau of Defense Policy¹⁸⁵⁰), the DG of any RDB may bypass the IB for any issues of serious disagreement. As a result, the RDBs hold significant bureaucratic power within the MoD.

¹⁸⁴⁸ 7.5.2. Internal Bureau (IB), p. 159.

¹⁸⁴⁹ 7.5.2.3. Bureau of Location Cooperation (BLC), p. 160.

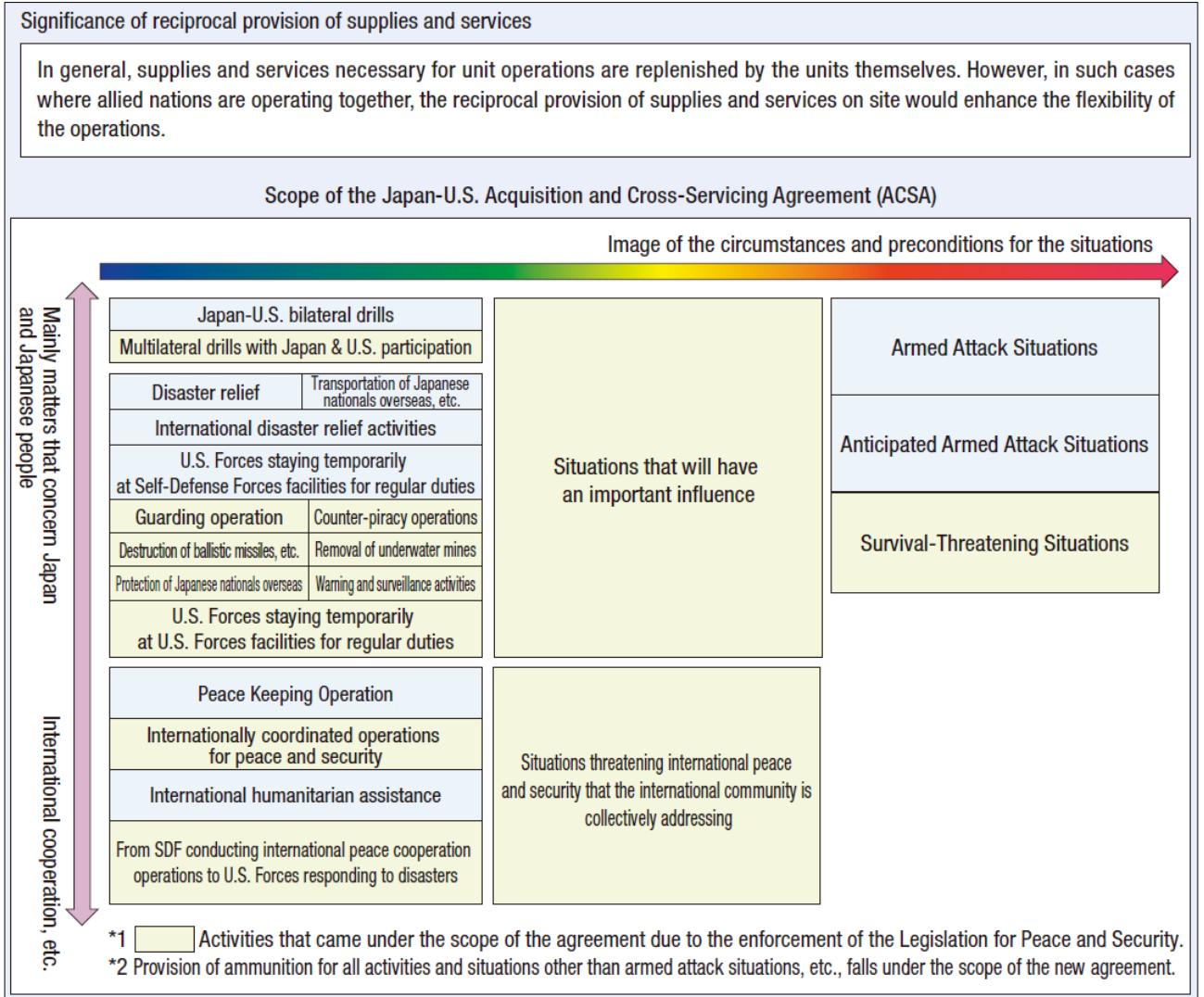
¹⁸⁵⁰ 7.5.2.2. Bureau of Defense Policy, p. 159.

Chapter 8. MUTUAL LOGISTICS SUPPORT

8.1. OVERVIEW

8.2. JAPAN-US ACQUISITION AND CROSS-SERVICING AGREEMENT (ACSA)

The Japan-US ACSA is a formal agreement that allows the governments and their military forces to acquire and logistic support, supplies, and services from each other.



8.2.1. Other ACSA Agreements with Japan

As of early 2024, Japan also has ACSA agreements with:

- Australia
- Canada
- France
- Germany
- India
- UK

As of early 2024, Japan has ACSAs under negotiation/discussion with:

Chapter 8. Mutual Logistics Support

- New Zealand

8.2.2. Applicable Conditions for US ACSA Support

- Article 2: Exercises and training with participation by both the JSDF and US forces
- Article 3: UN Peacekeeping, internationally-coordinated peace and security operations, or disaster relief conducted by either force
- Article 4: Operations that contribute to the achievement of the purposes of the MST¹⁸⁵¹ or the UN Charter, conducted by either the JSDF or US forces during IIS¹⁸⁵²
 - While not stipulated in the ACSA, these operations may include:
 - Guard & Protect Operations¹⁸⁵³
 - Counter-Piracy Operations¹⁸⁵⁴
 - BMD Operations¹⁸⁵⁵
 - Domestic and International Disaster Relief, etc.¹⁸⁵⁶
 - Minesweeping¹⁸⁵⁷
 - T/RJNO¹⁸⁵⁸
 - ISR¹⁸⁵⁹
 - Other Activities that Contribute to the Defense of Japan¹⁸⁶⁰
- Article 5: During AAAS¹⁸⁶¹, STS¹⁸⁶², or AAS¹⁸⁶³ either party may request or provide logistics support, supplies, and services
- Article 6: Operations in support of international community efforts that address: international peace and security, disaster relief, or other purposes

8.2.2.1. Prepositioning via US ACSA, in lieu of II 4(b)

When applicable conditions apply (see § 8.2.2. Applicable Conditions for US ACSA Support [p. 168]), ACSA support can enable US forces (or other governments with compatible ACSAs¹⁸⁶⁴) to preposition approved supplies or equipment on GoJ or JSDF facilities. Because such prepositioning may not require US access, a LUA¹⁸⁶⁵ and II 4(b) request would not necessarily be required. Without a II 4(b), maintenance of prepositioned stores could, if agreed to, be conducted contractually by non-US force personnel (e.g., civilian contractors or JSDF personnel) or otherwise conducted episodically under conditions that would not necessitate a II 4(b) request.

8.2.3. Applicable Classes of Supply

- Class I: Food, water
- Class II: Clothing
- Class III: POL
- Class V: Ammunition
- Class IX: Spare parts and components
- Services
 - Billeting, transportation (including airlift)
 - Communications
 - Medical
 - Base Operations Support
 - Storage

¹⁸⁵¹ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹⁸⁵² 4.6. Important Influence Situation (IIS), p. 98.

¹⁸⁵³ 3.2.3.4. Guard & Protect Operations at SDF and US Facilities and Areas, p. 65.

¹⁸⁵⁴ 3.2.3.7. Counter-Piracy Operations, p. 68.

¹⁸⁵⁵ 3.2.3.6. Ballistic Missile Defense (BMD) Operations, p. 67.

¹⁸⁵⁶ 3.2.4. Disaster Relief, etc., p. 70.

¹⁸⁵⁷ 3.2.3.8. Minesweeping, p. 69.

¹⁸⁵⁸ 3.2.5.2. Rescue and Transportation of Japanese Nationals Overseas (R/TJNO), p. 72.

¹⁸⁵⁹ 4.5.1. Routine Support to US Forces, p. 97.

¹⁸⁶⁰ 2.1.2.2.1. Activities that Contribute to the Defense of Japan, p. 22.

¹⁸⁶¹ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

¹⁸⁶² 4.9. Survival-Threatening Situation (STS), p. 104.

¹⁸⁶³ 4.10. Armed Attack Situation (AAS), p. 110.

¹⁸⁶⁴ 8.2.1. Other ACSA Agreements with Japan, p. 167.

¹⁸⁶⁵ 5.3 Limited Use Agreements (LUA) and II 4(b) Requests¹²⁷

Chapter 8. Mutual Logistics Support

- Use of Facilities
- Training
- Airport and seaport services

8.3. MEDICAL**8.4. RESTRICTION ON CLASS V MOVEMENT***8.4.1. US**8.4.2. JSDF***8.5. PRIVATE FINANCIAL INITIATIVE (PFI)**

MoD maintains a contract with the private company Kosoku Marine Transport under PFI for two high-speed civilian ferries (*Nacchan World* and *Hakuo*), taskable within 72 hours of a crisis. For security crises, this authority is generally considered to be available at AAAS.¹⁸⁶⁶ However, threat perceptions under AAAS may preclude commercial operation of PFI vessels and either result in their non-use or require operation of the vessels by JSDF or GOJ personnel.

8.6. CRAF AND VISA*8.6.1. CRAF*

Stage I is for minor regional crises and HA/DR efforts.

Stage II would be used for major theater war.

Stage III for periods of national mobilization.

¹⁸⁶⁶ 4.8.2. Authorized Actions in AAAS, p. 102.

Chapter 9. EVACUATION, REFUGEES, AND DETAINEES

9.1. OVERVIEW

As with the US's DoS, for Japan the primary duty of safeguarding citizens abroad falls to MOFA.

There are a few broad authorities the JSDF have for conducting evacuation-related operations:

- Domestically
 - CPO?
- Abroad
 - RNJO
 - TJNO¹⁸⁶⁷
- Bi-/Multilateral support
 - Rear Area Support¹⁸⁶⁸ under IIS¹⁸⁶⁹
 - The JSDF may support rear-area evacuation operations, potentially even to include transportation

9.2. EVACUATION

9.3. REFUGEES

Reorganize

9.3.1. Evacuation RMCs

§ IV.B.1. of the 2015 Defense Guidelines¹⁸⁷⁰ state the following with respect to RMCs¹⁸⁷¹ for evacuation (under IIS,¹⁸⁷² AAAS,¹⁸⁷³ or AAS¹⁸⁷⁴):

When Japanese and U.S. noncombatants need to be evacuated from a third country to a safe haven, each government is responsible for evacuating its own nationals, as well as dealing with the authorities of the affected area. As appropriate, the two governments will coordinate in planning and cooperate in carrying out evacuations of Japanese or U.S. noncombatants. These evacuations will be carried out using each country's capabilities such as transportation means and facilities in a mutually supplementary manner. The two governments may each consider extending evacuation assistance to third-country noncombatants.

The two governments will conduct early-stage coordination through the Alliance Coordination Mechanism,¹⁸⁷⁵ as appropriate, to carry out cooperation in fields such as the safety of evacuees, transportation means and facilities, customs, immigration and quarantine processing, safe havens, and medical services.

The two governments will enhance coordination in noncombatant evacuation operations from peacetime, as appropriate, including by conducting training and exercises.²¹¹

¹⁸⁶⁷ 3.2.5.2.2. Transportation of Japanese Nationals Overseas (TJNO), p. 73.

¹⁸⁶⁸ i.C.33. Article 84-5 – Logistics Support Activities, etc. (Rear Area Support), p. 317.

¹⁸⁶⁹ 4.6. Important Influence Situation (IIS), p. 98.

¹⁸⁷⁰ 2.3.4. 2015 Guidelines for Japan-US Defense Cooperation, p. 45.

¹⁸⁷¹ 2.3.4.1. Roles/Missions/Capabilities (RMC), p. 46.

¹⁸⁷² 4.6. Important Influence Situation (IIS), p. 98.

¹⁸⁷³ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

¹⁸⁷⁴ 4.10. Armed Attack Situation (AAS), p. 110.

¹⁸⁷⁵ 6.2.1. Alliance Coordination Mechanism (ACM), p. 141.

9.3.2. Refugee RMCs

§ IV.B.3. of the 2015 Defense Guidelines¹⁸⁷⁶ state the following with respect to RMCs¹⁸⁷⁷ for handling refugees (under IIS,¹⁸⁷⁸ AAAS,¹⁸⁷⁹ or AAS¹⁸⁸⁰):

If a situation develops such that a flow of refugees into Japan becomes likely or actually begins, the two governments will cooperate to maintain Japan's peace and security while handling refugees in a humane manner consistent with applicable obligations under international law. Primary responsibility for such refugee response lies with Japan. The United States will provide appropriate support upon a request from Japan.²¹²

9.3.3. GoJ View of Evacuation

The GoJ's view of evacuation tends to focus on three populations:

- Japanese nationals attempting to depart Taiwan
- Japanese nationals attempting to depart from the SSIs (and possibly Okinawa)
- Third country nationals (e.g., refugees) departing Taiwan to Japan

GoJ acknowledges the need to screen third country nationals entering Japan for routine customs and immigration purposes, but also to identify possible foreign agents or saboteurs.

9.3.4. Populations Estimates in and Surrounding Japan (as of 2023)

Japan

- Mainland
 - US:
- Okinawa
 - Japanese nationals: 1,400,000
 - US:
- SSI
 - JN
 - Miyako: 50,000
 - Ishigaki: 50,000
 - Yonaguni: 2,000
 - Tourists: up to 10,000

Taiwan

- US
- Japanese nationals: 17,000
- Philippine Nationals: 150,000

PRC

- US
- Japanese nationals:
- Philippine Nationals: 150,000

9.3.5. Evacuation SOFA Article II Access

Limited Disaster Preparedness/Response Access¹⁸⁸¹ provides specified access to Facilities and Areas¹⁸⁸² for the purposes of evacuation operations (and other disaster activities). Limited Disaster

¹⁸⁷⁶ 2.3.4. 2015 Guidelines for Japan-US Defense Cooperation, p. 45.

¹⁸⁷⁷ 2.3.4.1. Roles/Missions/Capabilities (RMC), p. 46.

¹⁸⁷⁸ 4.6. Important Influence Situation (IIS), p. 98.

¹⁸⁷⁹ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

¹⁸⁸⁰ 4.10. Armed Attack Situation (AAS), p. 110.

¹⁸⁸¹ 2.1.4.1.2.3. Limited Disaster Preparedness/Response Access, p. 31.

¹⁸⁸² 2.1.4.1.1. Definition of "Facilities and Areas", p. 31.

Chapter 9. Evacuation, Refugees, and Detainees

Preparedness/Response Access does not apply to Armed Attack¹⁸⁸³ as a human-made disasters, but it is unclear if this access might be granted (or would even be necessary) for man-made disasters that were caused indirectly as a result of an Armed Attack.

9.4. POLICY**9.4.1. Bilateral****9.4.1.1. 2015 Defense Guidelines**

The 2015 Defense Guidelines¹⁸⁸⁴ provide the following guidance on evacuation:

- “When Japanese and US noncombatants need to be evacuated from a third country to a safe haven, each government is responsible for evacuating its own nationals, as well as dealing with the authorities of the affected area.”
- “As appropriate, the two governments will coordinate in planning and cooperate in carrying out evacuations of Japanese of US noncombatants.”
- “Evacuations will be carried out using each country’s capabilities such as transportation means and facilities in a mutually supplementary manner.”
- “The two governments may each consider extending evacuation assistance to third-country noncombatants.”
- “The two governments will conduct early-stage coordination through the Alliance Coordination Mechanism, as appropriate, to carry out cooperation in fields such as the safety of evacuees, transportation means and facilities, customs, immigration and quarantine processing, safe havens, and medical services.”
- “Primary responsibility for ... refugee response lies with Japan. The United States will provide appropriate support upon a request from Japan.”
- “If a situation develops such that a flow of refugees into Japan becomes likely or actually begins ... Primary responsibility for such refugee response lies with Japan.”

9.4.2. Japan

If the US evacuates AMCITs from areas around Japan, the GoJ can accept evacuees who temporarily stay in Japan in addition to coordinating use of APOD/SPODs for US evacuation operations.

GoJ cannot force civilians to leave (i.e., evacuation orders are not mandatory). But Japanese police can remove civilians from unsafe areas.

Japan’s Civil Protection Law requires Okinawa (all prefectures?) to draft evacuation plans

9.4.3. US**9.4.3.1. No Double Standard**

The DoS “No Double Standard” policy requires security threat information provided to US officials in-country (e.g., military or embassy personnel) also be provided to non-official US personnel in-country if the information applies to them as well. The policy also requires the same evacuation opportunities/assistance be provided to both official and non-official US communities in-country.

In the context of a Taiwan contingency, this means that DoS cannot provide information or evacuation opportunities/assistance to military or DoS personnel on Okinawa, for example, without providing that same information or evacuation opportunity/assistance to the non-official US population on Okinawa, which includes significant numbers of expatriates, etc.

¹⁸⁸³ 4.11. Definition of “Armed Attack”, p. 114.

¹⁸⁸⁴ 2.3.4. 2015 Guidelines for Japan-US Defense Cooperation, p. 45.

The policy officially states:

In administering the Consular Information Program, the Department of State applies a “No Double Standard” policy to important security threat information, including criminal information.

- *Generally, if the Department shares information with the official U.S. community, it should also make the same or similar information available to the non-official U.S. community if the underlying threat applies to both official and non-official U.S. citizens/nationals.*
- *If a post issues information to its employees about potentially dangerous situations, it should evaluate whether the potential danger could also affect private U.S. citizens/nationals living in or traveling through the affected area.*
- *If so, post should notify the Department and request approval of dissemination of the post-issued information to the public. In such cases, the CA/OCS/ACS Director will coordinate with the CA/OCS Managing Director, CA/OCS/ACS staff, the Bureau of Diplomatic Security, Threat Investigations and Analysis (DS/ITA) country officer, the regional desk officer, and others as appropriate to the situation at hand.*
- *The policy is not intended to prevent the limited distribution of information about threats to specific U.S. citizens/nationals or U.S. organizations. The Department may share credible security-related information on a limited basis when directed toward a specific target or when appropriate to counter a particular threat. The Regional Security Officer normally performs this “duty to warn” function at post.*
- *All “duty to warn” threat notifications made to U.S. private sector organizations at post must be coordinated with the Bureau of Diplomatic Security, Threat Investigations and Analysis, Overseas Security Advisory Council (DS/TIA/OSAC) to ensure simultaneous or near-simultaneous threat warning is also conveyed to the domestic headquarters of the U.S. organization.²¹³*

9.5. ROLES, MISSIONS, AND CAPABILITIES

9.5.1. JSDF Evacuation Operations

The 2005 Basic Guidelines for the Protection of the People¹⁸⁸⁵ provides a basic policy for JSDF responsibility in Armed Attack,¹⁸⁸⁶ including assisting in the evacuation of residents.

The JSDF would likely have the following evacuation-related roles in the following Security Situations:¹⁸⁸⁷

- AAAS:¹⁸⁸⁸ When the governor or the Task Force Chief¹⁸⁸⁹ (normally the PM) makes a request, the MinDef, following the approval of the PM, will issue a CPO¹⁸⁹⁰ order to relevant units to implement civil protection measures. Deployed units will assess damage, save lives, and support civil evacuation as part of the civil protection measure.
- AAS:¹⁸⁹¹ Work with police and fire authorities to provide the same support as in AAAS, but while conducting its primary mission of terminating an Armed Attack.

JSDF may consider utilizing its vessels and aircraft to evacuate civilians, depending on the situation (outer islands with limited transportation options).

A Civil Protection Recall Order may be considered with the approval of the PM to recall JSDF Ready Reserve Personnel and/or JSDF Reserve Personnel.

¹⁸⁸⁵ 3.2.5.1.1. Basic Guidelines for the Protection of the People, p. 71.

¹⁸⁸⁶ 4.11. Definition of “Armed Attack”, p. 114.

¹⁸⁸⁷ Chapter 4. Japan’s Security Situations Framework, p. 89.

¹⁸⁸⁸ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

¹⁸⁸⁹ i.D.1. Note on the Positions of “Task Force Chief” vs. Prime Minister, p. 337.

¹⁸⁹⁰ 3.2.5.1. Civil Protection Operations (CPO), p. 70.

¹⁸⁹¹ 4.10. Armed Attack Situation (AAS), p. 110.

9.6. CONSIDERATIONS FOR EVACUATION SCENARIOS

9.6.1. Selection of Transports

In a situation where conflict has begun or is imminent (or expansion of conflict to Japan is imminent) or when attempting to control escalation, GoJ is likely to give strong consideration to the specific selection of vessels used for civilian evacuation.

As with the US, GoJ's strong preference will likely be for Merchant Ships¹⁸⁹² and Civil Aircraft,¹⁸⁹³ as well as government-chartered or -contracted vessels (e.g., PFI¹⁸⁹⁴) (government charter classifies the vessel as State operated¹⁸⁹⁵).

Because GoJ places the safety of its civilian population beyond almost all other national security objectives (even to a greater extent than most states), any use of GoJ-operated vessels will be limited to unarmed craft that are easily-distinguishable (by type of craft but also behavior) from craft being used to support operations involving the Use of Force.¹⁸⁹⁶ In this way, GoJ is likely to attempt to draw a bright red line between "defensive" and CPO.¹⁸⁹⁷ This distinction may extend to attempts to separate even Provision of Protection¹⁸⁹⁸ Use of Weapons¹⁸⁹⁹ and Civil Protection Operations.

Ref law of war auxiliary ships?

Unarmed JMSDF¹⁹⁰⁰ Auxiliary¹⁹⁰¹ vessels such as training support ships, cable laying ships, submarine rescue vessels, oceanographic surveillance vessels, icebreakers, diving support vessels, etc. may be considered to support evacuation.

The use of hospital ships for civilian evacuation is not an authorized function and may subject the ship to the loss of its Specially Protected status.¹⁹⁰²

Use of JCG?

9.6.2. Taiwan Evacuation

In considering RJNO¹⁹⁰³ in Taiwan during a crisis, one of the issues involved would be whether the Taiwan government would qualify as a competent authority under the required conditions for RNJO in Article 84-3,¹⁹⁰⁴ ¶(1):

- Host nation authorities are maintaining public safety and order
 - No active combat¹⁹⁰⁵ at the location of the rescue
- Host nation consent to the operation (may be implicit)
- Coordination and cooperation can be ensured between JSDF and host nation authorities

Such an operation might require a legal judgment by GoJ that the government in Taipei, not Beijing, had authority to provide such confirmation and coordination and to grant such consent (or the reverse determination). Since normalization of PRC-Japan relations in 1972, Japan has avoided making such a determination.

However, there is some precedent GoJ might lean on to avoid addressing the issue. GoJ has occasionally provided humanitarian assistance to Taiwan. For example after an earthquake in 1999, GoJ sent an international fire and rescue team, including the National Police Agency and JCG personnel to Taiwan.

¹⁸⁹² E.2.2.2. Merchant Ships, p. 243.

¹⁸⁹³ E.2.2.4. Civil Aircraft, p. 243.

¹⁸⁹⁴ 8.5. Private Financial Initiative (PFI), p. 169.

¹⁸⁹⁵ E.2.2.1. State Vessels, p. 241; E.2.2.3. State Aircraft, p. 243.

¹⁸⁹⁶ 3.3.3. Use of Force, p. 79.

¹⁸⁹⁷ 3.2.5.1. Civil Protection Operations (CPO), p. 70.

¹⁸⁹⁸ 3.3.1.3.1. Type 2a: "Provision of Protection" Use of Weapons, p. 77.

¹⁸⁹⁹ 3.3.1. Use of Weapons, p. 74.

¹⁹⁰⁰ 7.5.4.1.3. Maritime Self-Defense Force (JMSDF), p. 161.

¹⁹⁰¹ E.2.2.1.2.1. Naval Auxiliaries, p. 242.

¹⁹⁰² E.2.3.2.4.1. Conditions of Protection, p. 246.

¹⁹⁰³ 3.2.5.2.1. Rescue of Japanese Nationals Overseas (RJNO), p. 72.

¹⁹⁰⁴ i.C.31. Article 84-3 – Measures to Rescue Japanese Nationals Overseas (RJNO), p. 315.

¹⁹⁰⁵ 2.1.2.2.1. Scene of Combat, p. 21.

Additionally, during the Third Taiwan Strait Crisis in 1996, GoJ considered sending the JSDF to rescue Japanese citizens from Taiwan but lacked the legal authority to do so. SDF Law¹⁹⁰⁶ was amended the following year to provide such authorities, suggesting GoJ was willing to conduct an evacuation from Taiwan.

9.6.3. SCATANA ?

Japan does not have

- No CRAF
- No VISA voluntary intermodal sealift agreement
- Reliant on ferry system
- Airlines manage their own risk
- Most islands have large enough runway to support military lift (C-17, etc.)
- Robust existing airline and ferry routes (but may not be optimized for evac)
- Practice surging before major storms and servicing backlogs after major storm

Security Control of Air Traffic and Air Navigation Aids (SCATANA) is an emergency preparedness plan of the United States which prescribes the joint action to be taken by appropriate elements of the Department of Defense, Federal Aviation Administration, and the Federal Communications Commission in the interest of national security in order to effectively control air traffic and air navigation aids under emergency conditions.

9.7. EVACUATION DRILLS

9.7.1. 17 March 2023 Okinawa Prefectural Government (OPG) Drill

Date/Time: 17 March 2023 (Fri) / 1300-1600

Major Participants: OPG, Ishigaki City, Miyakojima City, Tarama Village, Taketomi Town, Yonaguni Town, Cabinet Secretariat, Fire and Disaster Management Agency, Okinawa Prefectural Police, Okinawa General Bureau, 11th Regional Coast Guard, JGSDF,¹⁹⁰⁷ JMSDF,¹⁹⁰⁸ JASDF,¹⁹⁰⁹ JSDF Okinawa Provincial Cooperation Office, JJS, Okinawa Defense Bureau (ODB), private entities

Objective: Improve effectiveness of civil protection measures by confirming and sharing understanding of cooperation guidelines as well as evacuation implementation guidelines at the time of initial response prior to and following the Recognition¹⁹¹⁰ of AAS.¹⁹¹¹ Specifically, practice cooperation and coordination between relevant agencies for civil protection measures in a deteriorating situation in the Sakishima Area.

Lessons Learned:

- Municipalities must secure transportation for personnel requiring special assistance.
- Medical and Welfare departments must be included when considering such transportation, and coordination mechanism must be established.
- Must consider guidelines for support by police and fire authorities.
- Must establish guidelines for municipalities receiving evacuees
- Must confirm guidelines for coordination with municipalities (outside Okinawa) where evacuation shelters are located.

¹⁹⁰⁶ i.C. SDF Act (Law No. 165 of 1954, as amended), p. 303.

¹⁹⁰⁷ 7.5.4.1.2. Ground Self-Defense Force (JGSDF), p. 161.

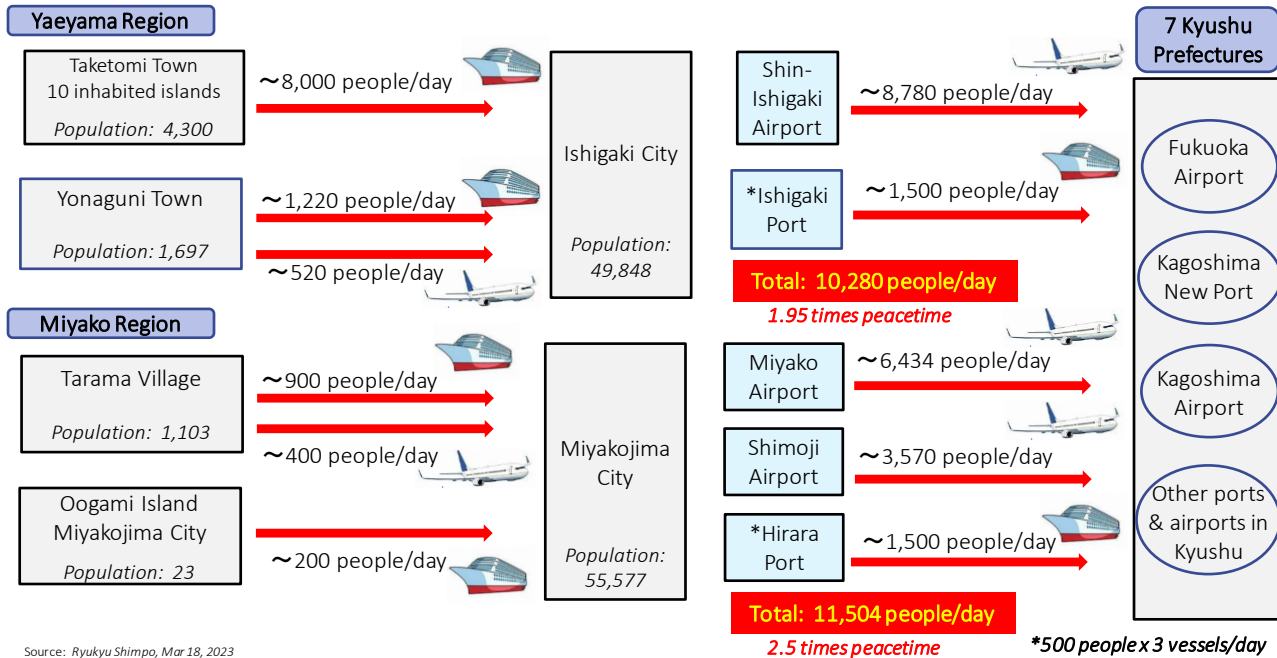
¹⁹⁰⁸ 7.5.4.1.3. Maritime Self-Defense Force (JMSDF), p. 161.

¹⁹⁰⁹ 7.5.4.1.1. Air Self-Defense Force (JASDF), p. 161.

¹⁹¹⁰ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁹¹¹ 4.10. Armed Attack Situation (AAS), p. 110.

17 March 2023 OPG Civil Evacuation TTX



9.7.1.1. Estimated Throughput

- 20,000 per day (~17.5k by air, ~3k by sea) with expanded flight and ship traffic (6 days to evac)
 - No nighttime evacuation or weather impacts
 - No competing military use of APOD/SPODs
 - Transportation capacity 2.36x higher than the usual level if the numbers of flights and passengers were raised to the maximum
- 10 days without expanded operations (12,000/day)
 - No nighttime evacuation or weather impacts
 - No competing military use of APOD/SPODs

9.8. DETAINEES AND POWS

Army Regulation 190-8, ¶13-11 requires SecDef approval prior to the transfer of EPWs and a bilateral agreement with the country to which the transfer is to be conducted.²¹⁴

SDF Act (Law No. 165 of 1954, as amended) Articles 24¹⁹¹² and 29-2¹⁹¹³ provides for the establishment of JSDF POW camps.

¹⁹¹² i.C.6. Article 24 – Organs of the JSDF, p. 306.

¹⁹¹³ i.C.7. Article 29-2 – Prisoner of War Camps, p. 306.

Chapter 10. ALLIANCE CONCEPTIONS OF DETERRENCE

10.1. BASIC CONCEPTS OF DETERRENCE

10.1.1. Credibility

10.1.2. Assurances and Threats

Assurance + threat (x credibility of each)

Assurances without threats is appeasement. Threats without assurances is escalation

10.1.3. Escalation

10.1.3.1. Mechanisms and Motives of Escalation

10.1.3.1.1. Deliberate Escalation

Actions of an actor cross an escalatory threshold in a conflict or confrontation intentionally. Results may not be precisely as expected.

10.1.3.1.2. Inadvertent Escalation

Intentional actions are unintentionally escalatory, usually due to crossing a threshold of intensity or scope that matters to the adversary, but appears insignificant to the party taking action.

10.1.3.1.3. Accidental Escalation

The consequences of events were not intended in the first place. Sources usually reside at the front line, instead of centers of command, underscoring the need for appropriate ROE.

10.1.3.2. Dimensions of Escalation

10.1.3.2.1. Vertical Escalation

Expansion in:

- Types of weapons
- Types of targets
- Frequency of attacks
- Number of targets

10.1.3.2.2. Horizontal Escalation

Expansion in:

- Boundaries of conflict
- Locations of targets
- Locations of bases
- Elimination of sanctuaries
- Violation of neutrality¹⁹¹⁴

10.1.3.2.3. Political Escalation

Expansion of:

¹⁹¹⁴ 2.1.2.1.4. Law of Neutrality, p. 18.

Chapter 10. Alliance Conceptions of Deterrence

- Objectives, demands, rhetoric, and other characteristics
- Relaxing or abandoning behavioral constraints or ROE

10.1.4. Half-Life of Deterrence

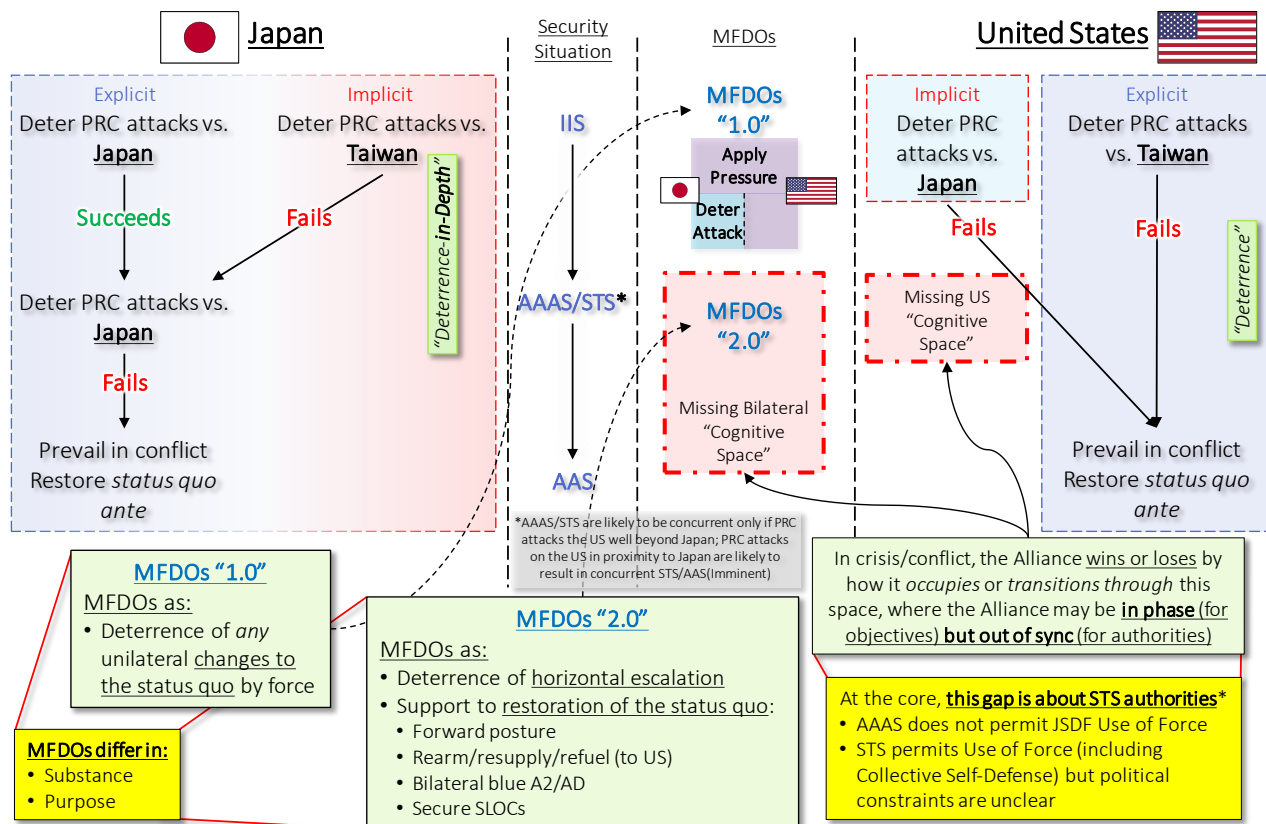
Deterrence has a “half-life” whereby the effect of deterrence tends to diminish over time. The rate of this diminishing is effected in part by the “background level” of violence or instability. In a volatile environment (such as where norms are regularly challenged or where there is a constant low-level of violence or threat of violence), the deterrent effect of actions will tend to diminish more rapidly. When environments are relatively peaceful and stable, deterrent actions will tend to maintain their deterrent value for longer after they are taken.

10.2. DIVERGENT CONCEPTS OF DETERRENCE

Add “offramps” and divergent placement between US and JPN

Alliance Conceptions of Deterrence

Key:
A2/AD Anti-Access/Area-Denial
AAAS Armed Attack Situation
AAAS Anticipated Armed Attack Situation
IIS Important Influence Situation
JSDF Japan Self-Defense Forces
MFDO Military Flexible Deterrent Option
PRC People's Republic of China
SLOC Sea Line of Communication
STS Survival-Threatening Situation



10.2.1. Implicit vs. Explicit

10.2.2. GoJ Requirements to Continue Deterrence

The principles derived from GoJ’s interpretations of Article 9¹⁹¹⁵ collectively establish an implicit requirement¹⁹¹⁶ to continue pursuing deterrence regardless of the severity of a crisis or deterioration of a situation.

¹⁹¹⁵ 2.1.2.1. Article 9 (War Renunciation), p. 13.

¹⁹¹⁶ 2.1.2.3. Requirement for Continued Deterrence Efforts, p. 22.

Chapter 10. Alliance Conceptions of Deterrence

When would Japan consider deterrence no longer viable? When Japan believes the PRC no longer has a choice to offramp.

10.2.3. Homeland Defense Prioritization

10.3. MFDOS

Chapter 11. GREY ZONE AND HYBRID WARFARE

11.1. OVERVIEW

Competition	Crisis	Conflict
Grey zone to compel	Hybrid warfare to delay TPI	Hybrid warfare to complicate Tgting/ROE Hybrid warfare to delay Japan entry into conflict

Without a Stipulation¹⁹¹⁷ of AAS,¹⁹¹⁸ attacks by guerillas, SOF, saboteurs, etc. are consider criminal acts and require response by police or JSDF under PSO¹⁹¹⁹ authorities only.

11.1.1. Competitive Coercion

Competitive Coercion describes a technique to reduce the effectiveness of an alliance by exploiting gaps in alliance structures and advancing an adversary's aims below the threshold of Treaty¹⁹²⁰ provisions.²¹⁵

Competitive Coercion encompasses terms like Grey Zone,¹⁹²¹ Hybrid Warfare,¹⁹²² or other related concepts (like Information Warfare¹⁹²³).

Competitive Coercion, while frustrating for alliance managers to contend with, is in some ways a product of otherwise functioning deterrence.²¹⁶ If deterrence were failing, potential adversaries would have little incentive to pursue strategies of Competitive Coercion in place of more direct, aggressive approaches.

11.2. GREY ZONE

11.2.1. Definitions

The concept of "Grey Zone" refers to the area between wholly peacetime (i.e., "white") and wholly wartime (i.e., "black"). The Grey Zone features a mix of civilian and military capabilities, authorities, and assets, both on the parts of the aggressor and the recipient of such Grey Zone aggression. Grey Zone activities often include violating norms and laws but doing so in a manner calibrated to complicate any response or retaliation, including by complicating attribution.

In the context of PRC Grey Zone activity, the term "little blue men" may be used to refer to CMM, other paramilitary forces, or apparent civilians believed to be acting at the direction of the PRC.

11.2.1.1. Japanese Definition

By (Japan's) definition, Grey Zone activity does not constitute¹⁹²⁴ an Armed Attack¹⁹²⁵ and Use of Force¹⁹²⁶ would not be authorized.

The Defense of Japan 2020 white paper defines Grey Zone as:

The so-called gray-zone situations simply represent a wide range of situations that are neither peacetime nor wartime. In a gray-zone situation, for example, a country that confronts another over territory, sovereignty or

¹⁹¹⁷ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁹¹⁸ 4.10. Armed Attack Situation (AAS), p. 110.

¹⁹¹⁹ 3.2.3.1. Public Security Operation (PSO), p. 62.

¹⁹²⁰ 1.6.1.1.1. Treaties (Legal Status), p. 9.

¹⁹²¹ 11.2. Grey Zone, p. 180.

¹⁹²² 11.3. Hybrid Warfare, p. 181.

¹⁹²³ 11.4. Information Warfare, p. 181.

¹⁹²⁴ 4.11.7.3. Grey Zone Activities, p. 120.

¹⁹²⁵ 4.11. Definition of "Armed Attack", p. 114.

¹⁹²⁶ 3.3.3. Use of Force, p. 79.

maritime and other economic interests uses some forceful organization [to the extent in which the action does not constitute an Armed Attack] to demonstrate its presence in the relevant disputed region in a bid to alter the status quo or force other countries to accept its assertions or demands.

[Underlined, bracketed red] text was contained in the original Japanese but omitted in the English language translation.

The 2023 white paper stated more simply:

So-called “grey zone” situations simply represent a wide range of situations that are neither peacetime nor wartime.

In a grey-zone situation, for example, a country that confronts another over territory, sovereignty or maritime and other economic interests uses some forceful organization to demonstrate its presence in the relevant disputed region in a bid to alter the status quo or force other countries to accept its assertions or demands.²¹⁷

11.2.1.1. Implications for Use of Force/Use of Weapons

Because Grey Zone activity is neither a military act nor a matter purely for law enforcement, it creates another ‘Grey Zone’ between Use of Weapons¹⁹²⁷ (authorized for law enforcement) and Use of Force¹⁹²⁸ (authorized for NSD¹⁹²⁹ and CSD¹⁹³⁰).

International Law¹⁹³¹ may permit acts of hostility conducted from vessels by non-State armed groups to be considered piracy, allowing GoJ to potentially employ anti-piracy authorities in maritime Grey Zone situations.

11.2.1.2. US Definition

11.2.2. Alliance Vulnerabilities in the Grey Zone

One observer identifies four major vulnerabilities in an Alliance response to grey zone activities:²¹⁸

-

11.3. HYBRID WARFARE

11.3.1. Definition

The Defense of Japan 2023 white paper defines Hybrid Warfare as:

The so-called “hybrid warfare” represents methods intentionally blurring the boundaries between the military and non-military realms, forcing affected actors to take complex measures that are not limited to military actions. The means of hybrid warfare include operations using military units of unidentified nationality, cyberattacks to affect communications and other critical infrastructure, the spread of false information through the internet and the media, and other influential operations. The combination of these measures is considered as amounting to hybrid warfare. In hybrid warfare, a country takes measures that are difficult to identify definitively as an “Armed Attack”¹⁹³² based on its outward appearance. It is said that such an approach is taken with an intent to make it difficult for the target country to address the situation, such as delaying the military’s initial response, while denying the attacker country’s own involvement.²¹⁹

11.4. INFORMATION WARFARE

11.4.1. Definition

While not always considered distinct, Japan’s concept of information warfare is:

¹⁹²⁷ 3.3.1. Use of Weapons, p. 74.

¹⁹²⁸ 3.3.3. Use of Force, p. 79.

¹⁹²⁹ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.

¹⁹³⁰ 3.4.2. Collective Self-Defense (CSD), p. 84.

¹⁹³¹ 2.1.2.4.1. International Law, p. 23.

¹⁹³² 4.11. Definition of “Armed Attack”, p. 114.

Chapter 11. Grey Zone and Hybrid Warfare

*Attempts to create a favorable security environment by influencing the public opinion and decision-making of other countries through disinformation and strategic communications, etc., and minimizing the impact to one's own decision-making, even when conflict has yet to arise.*²²⁰

11.5. ARMED AGENTS

Because of Japan's clear delineation between hostilities or violent actions that constitute attributable Armed Attacks¹⁹³³ that qualify for a Stipulation¹⁹³⁴ of AAS,¹⁹³⁵ it uses the term "Armed Agent" as a category to refer to the perpetrators of such actions and avoid implying attribution that would constitute an obvious Armed Attack.

Armed Agent is defined as:

*Persons committing illegal acts such as subversive activities in Japan while possessing weapons with significant wounding and killing power.*²²¹

In response to Armed Agents, the police have primary responsibility.

Law?**11.5.1. The Agreement on the Maintenance of Public Order in the Event of PSO**

JDA and NPSC in 1954, revised 2000

11.5.1.1. Guidelines for Dealing Jointly with PSO in the event of Armed Agent Incidents

2004

¹⁹³³ 4.11. Definition of "Armed Attack", p. 114.

¹⁹³⁴ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

¹⁹³⁵ 4.10. Armed Attack Situation (AAS), p. 110.

Chapter 12. SECURITY

12.1. INFORMATION SECURITY

12.1.1.1. Information Sharing

12.1.1.2. General Security of Military Intelligence Agreement (GSOMIA)

A General Security Agreement (GSA) or General Security of Information Agreement (GSOIA) is a government-to-government agreement concerning the use and protection of each government's classified information, third party transfers, and proprietary rights.

A General Security of Military Intelligence Agreement, or GSOMIA, is a narrower form of a GSOIA focused on Classified Military Intelligence (CMI).

GSOIA/GSOMIA are legally-binding International Agreements¹⁹³⁶ that establish terms for the protection and handling of classified information provided by either partner to the other.

The US-Japan GSOMIA covers:

- Destruction, Reproduction, Release, Transmission and Storage of CMI
- Protection of CMI
- Security and Classification Markings
- Personnel Access to CMI
- Facility Security
- Translation
- Loss or Compromise of CMI

As of 2023, Japan established Information Sharing Agreements (ISA) with the following countries/organizations:

- Australia
- France
- Germany
- India
- Italy
- NATO
- RoK
- UK
- US

As of 2023, Japan was under negotiations/discussions for ISAs with the following countries:

- Canada
- New Zealand
- Ukraine

12.1.1.3. Trilateral Information Sharing Agreements (TISA)

TISAs provide for information sharing on specified subjects. Unlike a GSOMIA,¹⁹³⁷ information sharing under TISA is restricted to the specified cooperative activities.

¹⁹³⁶ 1.6.1.1. International Agreements (Legal Status), p. 8.

¹⁹³⁷ 12.1.1.2. General Security of Military Intelligence Agreement (GSOMIA), p. 183.

Chapter 12. Security

TISA information is marked “[Country Name] TISA//REL to AUS, JPN, USA.” TISA markings are not considered a US classification marking and TISA materials must also be marked with recognized US markings.

12.1.1.3.1. Japan-US-RoK TISA

The Japan-US-RoK TISA provides for information sharing on the subject of DPRK nuclear weapons and missiles.

12.1.1.3.2. Japan-US-Australia TISA

The Japan-US-Australia TISA consolidates the following “Security of Information Agreements” and provides a framework for the sharing of classified information pertaining to the planning or conduct of “Cooperative Activities.”

- 2012 Japan-Australia GSOIA
- 2002 Australia-US GSOIA
- 2007 Japan-US GSOIA

Cooperative Activities are mutually determined activities specified in an Annex to the TISA. These currently include: “Planning or conduct of defense exercises or operations in which all of the participants are involved, taking into account situational awareness of the region.” Annex contents are currently UNCLASSIFIED but an expansion of the Annex may result in its classification.

12.1.1.4. Bilateral Information Security Consultation

See § 6.4.5. Bilateral Information Security Consultation (BISC) (p. 150).

12.1.2. Classification Markings**12.1.2.1. //JOINT Production Guidance**

JOINT production refers to CUI or CMI material bilaterally produced with the JSDF, derived from bilateral plans marked as //JOINT SECRET JPN USA//REL TO USA, JPN.

Material derived exclusively from //JOINT SECRET JPN USA//REL TO USA, JPN is not subject to FDO review/release approval.

Material that combines //JOINT SECRET JPN USA//REL TO USA, JPN and SECRET//REL TO USA, JPN material must be marked SECRET//REL TO USA, JPN and is subject to FDO review/release approval and must undergo Foreign Disclosure procedures.

//JOINT SECRET JPN USA//REL TO USA, JPN material may not be released to third parties without approval from both the US and Japanese governments.

Joint Secret or Joint CUI materials are marked in accordance with derivative classification instructions no differently than unilateral US-owned CMI or CUI.

//JOINT SECRET or //JOINT CUI material is derived from Joint Secret or Joint CUI bilateral planning efforts that jointly created by the US and Japan. Material exclusively derived from //JOINT S material is jointly-owned and marked as //JOINT S, regardless of whether they are created in the presence or with the immediate collaboration of JSDF personnel.

12.1.2.2. CENTRIXS-JPN Marking Guidance

All material created or transferred to CENTRIXS-JPN must include the marking “REL TO USA, JPN,” whether the material is US-owned (e.g., S//REL) or Joint-owned (e.g., //JOINT SECRET JPN USA//REL).

Chapter 12. Security

S//REL material, whether approved for disclosure or not, is authorized on CENTRIXS-JPN. S//REL material on CENTRIXS-JPN that has not been approved for disclosure or release must be stored in a location that is not available to JSDF (e.g., a US-only share drive, within an e-mail inbox, or stored locally on a US user’s account).

12.1.2.3. MoD Dissemination Markings

MoD classification markings lack dissemination markings to specify releasability beyond Japan. This complicates information sharing when working in trilateral or multilateral environments where Japan’s information security policies may permit sharing of information with the US that is not permitted to third countries.

12.1.2.4. Comparison of Japan-US Classification Markings

Figure 12. US-Japan Classification Markings

US Banner Marking	US Portion Marking	JSDFBanner Marking	US FDO Review Required	Notes
UNCLASSIFIED	(U)	[None]	No	
CUI	(CUI)	[None]	Yes	
CUI//REL TO USA, JPN	(CUI//REL TO USA, JPN) or (CUI//REL)†	注意	Yes	注意 (“Chui”) indicates material that must be handled carefully
CUI//FGI//REL TO USA, JPN‡	(CUI//FGI JPN//REL TO USA, JPN) or (CUI//FGI JPN//REL)†	对外厳秘 会議参加者限定	Yes	对外厳秘 (“Taigai-Genpi”) indicates the marked document is registered as protected information and release is strictly controlled
//JOINT CUI JPN USA//REL TO USA, JPN	//JOINT CUI//REL TO USA, JPN or //JOINT CUI//REL)†		No FDO Required	会議参加者限定 (“Kaigi-Sankaysa-Gentei”) indicates the marked document is for dissemination to event attendees only
CONFIDENTIAL	(C)			
CONFIDENTIAL//REL TO USA, JPN	(C//REL TO USA, JPN) or (C//REL)†	秘	Yes	秘 (“Hi”) is “Confidential” in English but may correspond to information classified as SECRET under US classification guidance
CONFIDENTIAL//FGI JPN//REL TO USA, JPN‡	(C//FGI JPN//REL TO USA, JPN) or (S//FGI JPN//REL)†	对外厳秘 (秘)	Yes	对外厳秘 (“Taigai-Genpi”) indicates the marked document is registered as protected information and release is strictly controlled
//JOINT CONFIDENTIAL JPN USA//REL TO USA, JPN	//JOINT C//REL TO USA, JPN or //JOINT C//REL)†	指定前秘密 (秘)	No	指定前秘密 (“Shiteizen-Bi”) indicates the marked document is to be registered as protected information
SECRET	(S)		Yes	
SECRET//REL TO USA, JPN	(S//REL TO USA, JPN) or (S//REL)†	特定秘密	Yes	特定秘密 (“Tokutei-Himitsu”) information is protected under Japan’s SDS law.
SECRET//FGI JPN//REL TO USA, JPN‡	(S//FGI JPN//REL TO USA, JPN) or (S//FGI JPN//REL)†		Yes	
//JOINT SECRET JPN USA//REL TO USA, JPN	//JOINT S//REL TO USA, JPN or //JOINT S)†		No	
†When not intermingled with out REL markings		‡FGI is used when US-produced and Japanese-produced material is intermingled		
Additional markings are available at a higher classification				
Table is classified: UNCLASSIFIED				

12.1.2.4.1. Anatomy of Japanese Classification Markings

JSDF markings with two lines generally indicate classification on the lower line (e.g., “(秘)”) and dissemination controls on the upper line (e.g., “对外厳秘”).

Some information marked under the Japanese system as confidential (i.e., 秘 [“Hi]) may be marked as SECRET under US security classification guidance.

The JSDF classification marking system lacks “REL” markings and does not distinguish between “Japanese NOFORN” and “Japanese REL” material. The table in § 12.1.2.4. Comparison of Japan-US Classification Markings (p. 185) draws comparisons with US REL and JSDF markings that presumes releasability in accordance with JSDF information security policies.

12.1.2.5. TISA

TISA information is marked “[Country Name] TISA//REL to AUS, JPN, USA.” TISA markings are not considered a US classification marking but may appear on FGI material. Derivative classifieds must add the appropriate US-recognized classification marking to any TISA-derived material.

12.2. PHYSICAL SECURITY

Designated sites law

12.3. JAPANESE SECRECY LAW

12.3.1. Act on Specially Designated Secrets (SDS)

SDS Law establishes punitive sanctions on the unauthorized disclosure/receipt (intentional or negligent) of classified material.

Exceptions may be made for freedom of news reporting which furthers the public interest

Protected subjects include:

- Defense
- Diplomacy
- Counterintelligence
- Counterterrorism

12.3.1.1. Designation of Secrets

The SDS authorizes the head of a GoJ administrative organ to designate the following as protected secrets:

- Designated types of protected information;¹⁹³⁸
- Which is not publicly disclosed; and
- Which, if disclosed without authorization, has the risk of causing severe damage to Japan’s National Security

The duration of protection may not exceed a (renewable) period of 5 years. The total period of renewed protection shall not exceed 30 years without approval of the Cabinet. The Cabinet may extend protection to a maximum total period of 60 years.

12.3.1.1.1. Protected Information

12.3.1.1.1.1. Defense

- Operation of the Self-Defense Forces or assessments, plans or studies relevant thereto
- Signal information, image information and other important information collected in relation to defense
- Collection and sorting of the information set forth in (b) or the capacity thereof
- Assessments, plans or studies relevant to the defense capability build-up
- Type or quantity of weapons, ammunition, aircraft and other goods provided for use in defense
- Structure of the communications network or means of communications provided for use in defense
- Cryptology provided for use in defense
- Specifications, performance or method of Use of Weapons, ammunition, aircraft and other goods provided for use in defense or of those in the research and development stage
- Methods of production, inspection, repair or test of weapons, ammunition, aircraft and other goods provided for use in defense or of those in the research and development stage
- Designs, performance or internal use of facilities provided for use in defense

¹⁹³⁸ 12.3.1.1.1.1. Protected Information, p. 186.

12.3.1.1.1.2. Diplomacy

- (a) Policies or contents of negotiations or cooperation with the government of a Foreign Country or an international organization which are important to National Security, such as the protection of the lives and bodies of citizens or territorial integrity
- (b) Prohibition of import or export or other measures taken by Japan for National Security or the policy thereof
- (c) Important information pertaining to the protection of the lives and bodies of citizens, territorial integrity or peace and security of the international community or information that requires protection based on Treaties¹⁹³⁹ and other International Agreements¹⁹⁴⁰, which has been collected in relation to National Security
- (d) Collection and sorting of the information set forth in (c) or the capacity thereof
- (e) Cryptology provided for use in communications between the Ministry of Foreign Affairs and overseas diplomatic establishments and other diplomatic purposes

12.3.1.1.1.3. Prevention of Specified Harmful Activities (e.g., Counterintelligence)

- (a) Measures for Prevention of Specified Harmful Activities or plans or studies relevant thereto
- (b) Important information pertaining to the protection of the lives and bodies of citizens or information from the government of a Foreign Country or an international organization, which has been collected in relation to Prevention of Specified Harmful Activities
- (c) Collection and sorting of the information set forth in (b) or the capacity thereof
- (d) Cryptology provided for use in the Prevention of Specified Harmful Activities

12.3.1.1.1.4. Prevention of Terrorist Activities

- (a) Measures for Prevention of Terrorist Activities or plans or studies relevant thereto
- (b) Important information pertaining to the protection of the lives and bodies of citizens or information from the government of a Foreign Country or an international organization, which has been collected in relation to the Prevention of Terrorist Activities
- (c) Collection and sorting of the information set forth in (b) or the capacity thereof
- (d) Cryptology provided for use in the Prevention of Terrorist Activities

12.3.1.2. Handling Designated Secrets**12.3.1.2.1. Individual Security Clearances**

SDS handling is limited to the following categories of people:

- Government personnel
- Employees of eligible contractors
- Prefectural police officers

Such personnel are required to undergo a security clearance process and been found to have no risk of unauthorized disclosure of SDS. Exceptions include:

- The heads of administrative organs, Ministers of States,¹⁹⁴¹ Deputy Chief Cabinet Secretaries, Special Advisors to the PM, Parliamentary, Senior Vice-Ministers, Parliamentary Vice-Ministers and other persons who are specified by Cabinet Order in consideration of the nature of their duties
- Those receiving SDS for the sake of the public interest¹⁹⁴²

¹⁹³⁹ 1.6.1.1.1. Treaties (Legal Status), p. 9.

¹⁹⁴⁰ 1.6.1.1. International Agreements (Legal Status), p. 8.

¹⁹⁴¹ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

¹⁹⁴² 12.3.1.2.3. Disclosure for the Sake of the Public Interest, p. 188.

12.3.1.2.2. Handling Between Government Agencies

SDS exchange between government agencies is not automatic. When SDS are required to be exchanged between agencies, the two ministries consult on the scope of the officials handling SDS and other necessary measures for protection.

12.3.1.2.3. Disclosure for the Sake of the Public Interest

SDS may be disclosed under the following conditions:

- To foreign governments or international organizations: when measures necessary for ensuring the protection of SDS are taken (e.g., a GSOMIA¹⁹⁴³)
- To undisclosed reviews or research by the Diet: when
 - Measures specified by the Diet pursuant to Article 10 of the Supplementary Provisions are taken
 - The head of the providing administrative organ confirms such provision would not cause severe damage to the national security of Japan
- For criminal investigations and other activities for the sake of special public interest: when
 - Measures necessary for ensuring the protection of SDS are taken
 - The head of the providing administrative organ confirms such provision would not cause severe damage to the national security of Japan
- To courts: in accordance with ¶(6), Article 223 of the Code of Civil Procedure
- To review boards for examinations: when
 - In accordance with ¶(1), Article 9 of the Act on the Establishment of the Information Disclosure and Personal Information Protection Review Board
 - When SDS is presented under so-called “in-camera” (i.e., eyes only) procedure

12.3.1.3. Exceptions for News Reporting

The SDS act requires due consideration be given to freedom of news reporting or freedom of news coverage that contributes to guaranteeing the right of citizens to know. The act also outlines that news coverage of protected secrets performed shall be considered lawful as long as it is conducted solely for the benefit of the public and is not found to have been performed through violation of laws or regulations or by extremely unreasonable means.

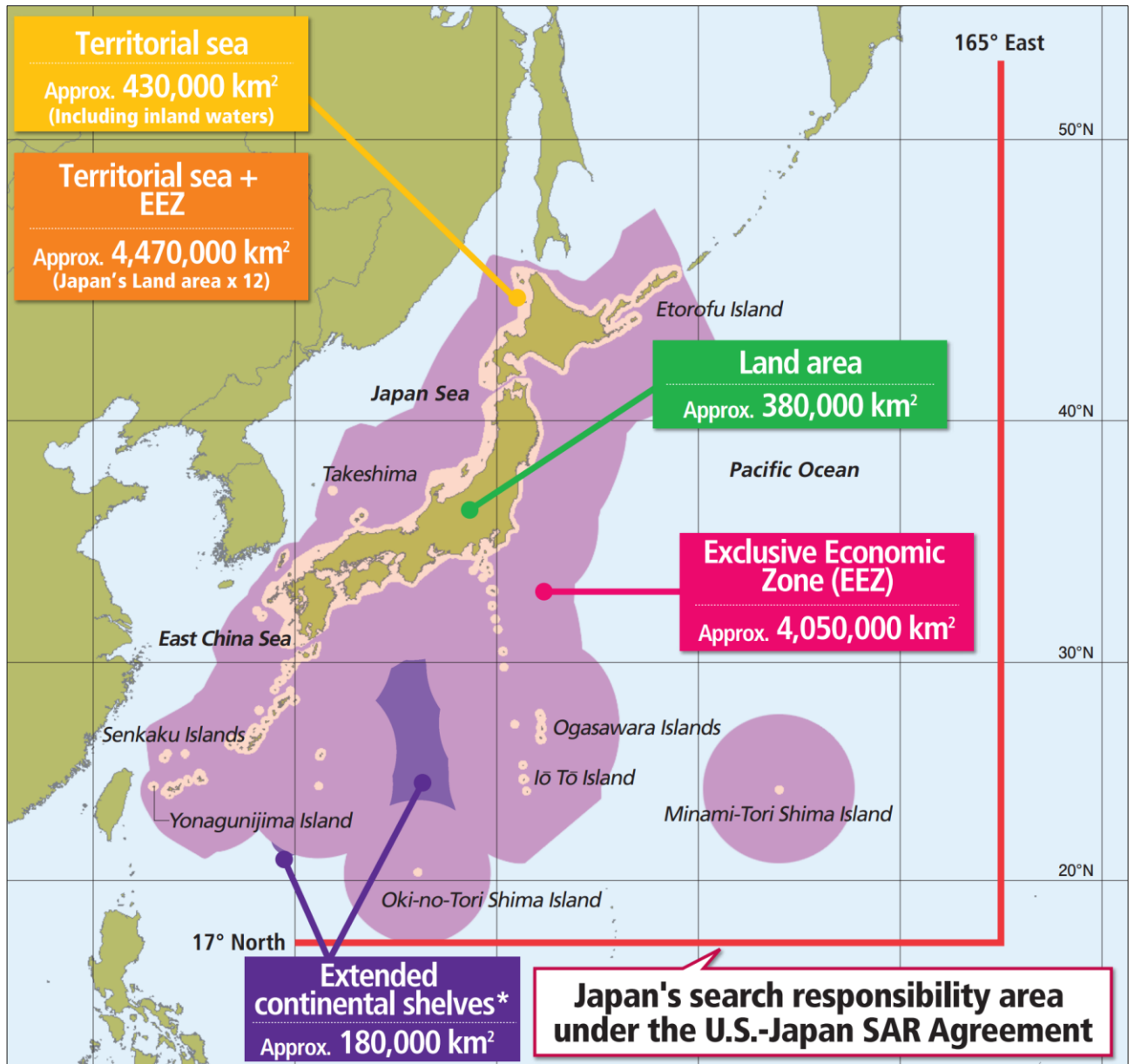
12.3.1.4. SDF Law Obligation to Preserve Secrecy

See § i.C.10 Article 59 – Obligation to Preserve Secrecy (p. 307) for SDF Law Article 59, which applies SDS law to SDF personnel.

¹⁹⁴³ 12.1.1.2. General Security of Military Intelligence Agreement (GSOMIA), p. 183.

Appendix A. PHYSICAL AND POLITICAL GEOGRAPHY OF JAPAN AND THE WPTO

A.1. JAPAN



A.1.1. Japanese Territories

A.1.1.1. Mainland

The islands of Hokkaidō, Honshū, Shikoku, and Kyūshū are collectively referred to as the Japanese mainland.

A.1.1.2. SWI

A.1.1.2.1. Ryūkyū Islands

The term Ryūkyū Islands (or Ryūkyū Arc) is often used synonymously with either the SWI or the islands that comprise Okinawa Prefecture. This term is ambiguous as it alludes to the historic domain of the Ryūkyū

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Kingdom, which extended north of Okinawa, but does not clearly refer to any specific set of islands or historic extent of the Ryūkyū Kingdom. The term “Ryūkyūs” is then more useful as a general cultural or historical region rather than a specific geographic zone.

A.1.1.2.2. SSI

Sometimes referred to as “SWI” (sometimes in context of “the SWI of the Ryukyu Island Chain”)

A.1.1.2.2.1. SKI

“Territories Under the Administration of Japan”

See also Appendix G. Policy on the Senkaku Islands (p. 264).

A.1.1.3. Ogasawara Islands**A.1.1.4. Volcano Islands**

The Volcano Island chain includes Kitaiwo Island, Iwo Island, and Minamiwo Island.

A.1.1.5. Okinotorishima

Okinotorishima Island is an uninhabited island that was claimed by Japan in 1931 and Japan’s southernmost island territory. The nearby Kitakojima and Higashikojima Islands were eroded by seawater to become reefs of Okinotorishima.

A.1.1.6. Minamitorishima

Minamitorishima is Japan’s easternmost island territory.

A.1.2. “Disputed” Territories**A.1.2.1. What is (and Isn’t) a “Dispute?”**

Regional nations, including Japan, draw diplomatic distinctions between regions or territories that are “disputed” and those over which there are differing positions. This distinction can sometimes seem tortured to military planners but holds real significance in the domain of diplomacy.

Generally, regional states consider an area “disputed” if there is a mutual agreement (explicit or implicit) that the degree of control is unresolved. The degree of control in question could extend from full sovereignty to less-than sovereign administration to limited rights such as in an EEZ. Key to this concept is the implicit acknowledgement that the dispute might be resolved in more than one way.

In contrast, countries rhetorically reject the “existence of a dispute” when they are asserting that there is only one acceptable resolution for a disagreement. For example, Japan rejects that the SKIs are “disputed” territories because its national position is that its control is wholly legitimate and incontestable and that the islands are an “integral” (and thus non-negotiable) part of Japan.

Under International Law,¹⁹⁴⁴ a contributing factor in the resolution of disagreements or disputes is a nation’s consistent application and manifestation of its claims. Thus, to acknowledge a “dispute” weakens a nation’s claims both rhetorically and legally.

For the purposes of readability and clarity, this guide may use the term “disputed territories” loosely with non-diplomatic connotations and does not imply the formal diplomatic recognition of a “dispute.”

A.1.2.2. Senkaku Islands (SKI)

See Appendix G. Policy on the Senkaku Islands (p. 264).

¹⁹⁴⁴ 2.1.2.4.1. International Law, p. 23.

A.1.2.2.1. Vs. “Nine-Dash Line”?

A.1.2.3. Takeshima Islands

The Takeshima islands, including Ojima Island and Mejima Island, called the Dokdo islands by the Republic of Korea and also known as the Liancourt Rocks, are a grouping of islets located in the Sea of Japan approximately halfway between the Japan and the Republic of Korea and are claimed by both states.

The Japanese claim to the Takeshimas dates at least to the 17th century, citing old maps and documentation of GOJ granting its people passages to the islands. The South Korean claim dates back to the 6th century, however Japan maintains that these claims refer to different islands and have no bearing on the claim to the island grouping identified as the Takeshimas, today. North Korea also maintains a claim to the island grouping.

During the US occupation of Japan, the Allies established what became known as the MacArthur Line (which South Korea would later call the Syngman Rhee Line) based on a demarcation made by SCAPIN 677¹⁹⁴⁵ and SCAPIN 1033.¹⁹⁴⁶ This line was intended as temporary occupation policy and not a determination of territorial control. However, South Korea construed the fact that Takeshima was on the South Korean side of the MacArthur Line as justification for its territorial claim. South Korean maritime police occupied Takeshima in 1954 and have maintained control since.²²²

During the negotiations for the Treaty of San Francisco,¹⁹⁴⁷ South Korea requested that Japan renounce its claims to the Takeshima islands. The US secretly communicated to South Korea (via the “Rusk Documents”) that it held the islands to have never been a part of Korea, implying support for Japan’s territorial claim. This resulted in South Korea issuing a proclamation of its maritime sovereignty prior to the Treaty’s signature and exercising de facto administration over the islands, beginning in 1952.²²³

South Korea maintains the position that:

Article 2(a) of the Treaty of Peace with Japan of 1951 [Treaty of San Francisco] provides, “Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.” Of Korea’s some 3,000 islands, the said article refers to only Jejudo (Quelpart), Geomundo (Port Hamilton), and Ulleungdo (Dagelet) as examples. Therefore, the mere fact that Dokdo [Takeshima] is not explicitly mentioned in the said article does not suggest that Dokdo [Takeshima] is not included among those territories of Korea separated from Japan.²²⁴

Since 1953, the US has maintained neutrality over the question of sovereignty for the islands.

Some Japanese see maintaining control of the Takeshima islands as imperative to validating or supporting their claims to other contested islands in the region.

A.1.2.3.1. SCAPIN 677

SCAPIN 677 “Governmental and Administrative Separation of Certain Outlying Areas from Japan,” issued 29 January 1946, defines for the purpose of occupation policy, the boundaries of Japan. The geographic boundaries and definition used in the note excludes the Liancourt Rocks.

The instruction states:

1. The Imperial Japanese Government is directed to cease exercising, or attempting to exercise, governmental or administrative authority over any area outside of Japan, or over any government officials and employees or any other persons within such areas.

...

3. For the purpose of this directive, Japan is defined to include the four main islands of Japan (Hokkaido, Honshu, Kyushu and Shikoku) and the approximately 1,000 smaller adjacent islands, including the Tsushima Islands and the Ryukyu (Nansei) Islands north of 30° North Latitude (excluding Kuchinoshima Island); and

¹⁹⁴⁵ A.1.2.3.1. SCAPIN 677, p. 191.

¹⁹⁴⁶ A.1.2.3.1. SCAPIN 1033, p. 192.

¹⁹⁴⁷ F.1.2.3 Treaty of San Francisco, p. 255.

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excluding (a) Utsuryo (Ullung) Island, Liancourt Rocks (Take Island) and Quelpart (Saishu or Cheju) Island, (b) the Ryukyu (Nansei) Islands south of 30° North Latitude (including Kuchinoshima Island), the Izu, Nanpo, Bonin (Ogasawara) and Volcano (Kazan or Iwo) Island Groups, and all other outlying Pacific Islands including the Daito (Ohigashi or Oagari) Island Group, and Parece Vela (Okino-tori), Marcus (Minami-tori) and Ganges (Nakano-tori) Islands, and (c) the Kurile (Chishima) Islands, the Habomai (Hapomaze) Island Group (including Suisho, Yuri, Akiyuri, Shibotsu and Taraku Islands) and Shikotan Island.

...

6. Nothing in this directive shall be construed as an indication of Allied policy relating to the ultimate determination of the minor islands referred to in Article 8 of the Potsdam Declaration¹⁹⁴⁸.²²⁵

A.1.2.3.1. SCAPIN 1033

SCAPIN 1033 “Area Authorized for Japanese Fishing and Whaling,” issued 22 June 1946, authorizes Japanese fishing, whaling, and similar activities within a specified area.

The instruction states:

2. Effective this date and until further notice Japanese fishing, whaling and similar operations are authorized within the area bounded as follows: From a point midway between Nosappu Misaki and Kaigara Jima at approximately 43°23' North Latitude, 145°51' East Longitude; to 43° North Latitude, 146°30' East Longitude; thence to 45° North Latitude, 165° East Longitude; thence south along 165th Meridian to 24° North Latitude; west along the 24th Parallel to 123° East Longitude; thence north to 26° North Latitude, 123° East Longitude; thence to 32°30' North Latitude, 125° East Longitude; thence to 33° North Latitude, 127°40' East Longitude; thence to 40° North Latitude, 135° East Longitude; to 45°30' North Latitude, 140° East Longitude; thence east to 45°30' North Latitude 145° East Longitude rounding Soya Misaki at a distance of three (3) from shore; south along 145th Meridian to a point three (3) miles off the coast of Hokkaido; thence along a line three (3) miles off the coast of Hokkaido rounding Shiretoko Saki and passing through Nemuro Kaikyo to the starting point midway between Nosappu Misaki and Kaigara Jima.

...

5. The present authorization is not an expression of allied policy relative to ultimate determination of national jurisdiction, international boundaries or fishing rights in the area concerned or in any other area.²²⁶

A.1.2.4. Northern Territories

Japan claims the southernmost islands of the Kuril (or Kurile) Island chain (a collection of islands extending approximately 1,300 km from Hokkaido to the Kamchatka Peninsula known in Japan as Kuriru rettō or Chishima rettō).

These islands claimed by Japan are Kunashiri, Etorofu, Shikotan, and the Habomai island group (Hamomai guntō). Japan refers to these as the “Northern Territories” and the GoJ stance is that these are inherent territories of Japan.

The Soviet Union maintained that the 1945 Yalta Agreement transferred sovereignty of the Kuril Islands to the USSR and refused to sign the Treaty of San Francisco¹⁹⁴⁹ on the basis that Article 2(c)¹⁹⁵⁰ did not transfer the islands to the USSR.²²⁷ The Yalta conference promised the USSR control over South Sakhalin and the Kuril islands if it entered the war against Japan. Since 1956, the US position is that the Yalta Agreement was a statement of common purpose and did not have legal effect; as a result, the US position is that the islands should be acknowledged as Japanese sovereign territory.²²⁸

The islands have remained under Soviet and then Russian Federation control since 1945 and their return to Japanese control has been a precondition set by Tokyo for a peace Treaty¹⁹⁵¹ with the Soviets (and then the Russian Federation). In 1956, the USSR promised to transfer Habomai and Shikotan Islands to Japan as an

¹⁹⁴⁸ F.1.2.1. The Potsdam Declaration, p. 254.¹⁹⁵⁰ A.1.2.4.2. Treaty of San Francisco (Northern Territories), p. 193.¹⁹⁵¹ 1.6.1.1.1. Treaties (Legal Status), p. 9.¹⁹⁴⁹ F.1.2.3. Treaty of San Francisco, p. 255.

expression of goodwill, however, since the signing of the MST,¹⁹⁵² the USSR has made the removal of US military installations in Japan a precondition for the return of these two islands.²²⁹ The continuation of this dispute means Japan and Russia have still not signed a peace Treaty ending their state of hostility from World War II.

A.1.2.4.1. Treaty of Portsmouth

The Treaty of Portsmouth, which ended the 1904-1905 Russo-Japanese War, ceded control of the Sakhalin islands from Russia to Japan.

Article 9 of the Treaty¹⁹⁵³ states:

(1) The Imperial Russian Government cedes to the Imperial Government of Japan in perpetuity and full sovereignty the southern portion of the Island of Saghalin [Sakhalin] and all the islands adjacent thereto and the public works and properties thereon. The fiftieth degree of north latitude is adopted as the northern boundary of the ceded territory. The exact alignment of such territory shall be determined in accordance with the provisions of the additional article II annexed to this treaty.

(2) Japan and Russia mutually agree not to construct in their respective possessions on the Island of Saghalin [Sakhalin] or the adjacent islands any fortification or other similar military works. They also respectively engage not to take any military measures which may impede the free navigation of the Strait of La Perouse¹⁹⁵⁴ and the Strait of Tartary.²³⁰

A.1.2.4.2. Treaty of San Francisco (Northern Territories)

Article 2 of the Treaty of San Francisco¹⁹⁵⁵ states:

(c) Japan renounces all right, title and claim to the Kurile Islands, and to that portion of Sakhalin and the islands adjacent to it over which Japan acquired sovereignty as a consequence of the Treaty of Portsmouth of September 5, 1905.²³¹

The Treaty of San Francisco did not determine the residual sovereignty over the islands.²³²

A.2. OCEANS AND SEAS

A.2.1. Sea of Japan

The Sea of Japan extends from the northwestern coast of Honshū and Hokkaidō to the eastern coast of the Korean peninsula and the Russian far east.

The RoK uses the name “East Sea” to refer to the same region.

A.2.2. Okhotsk Sea

A.2.3. EEZ and CS

Multiple parts of Japan’s EEZ¹⁹⁵⁶ and CS¹⁹⁵⁷ are pending delimitations with neighboring countries and are, therefore, either in dispute or not mutually agreed upon.²³³

There are no delimitation agreements between Japan and the PRC for the EEZ and CS, however the two nations reached an agreement¹⁹⁵⁸ on the joint development of the CS in 2008.²³⁴

A.2.3.1. 2008 Cooperation between Japan and China in the East China Sea

The 2008 agreement establishes joint development zones in areas that cross over the median line between Japan and the PRC.

¹⁹⁵² 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

¹⁹⁵³ 1.6.1.1.1. Treaties (Legal Status), p. 9.

¹⁹⁵⁴ A.3.1.1. Soya Strait (La Perouse), p. 195.

¹⁹⁵⁵ F.1.2.3. Treaty of San Francisco, p. 255.

¹⁹⁵⁶ A.4.7, Exclusive Economic Zone (EEZ), p. 198.

¹⁹⁵⁷ A.4.9, Continental Shelf (CS), p. 198.

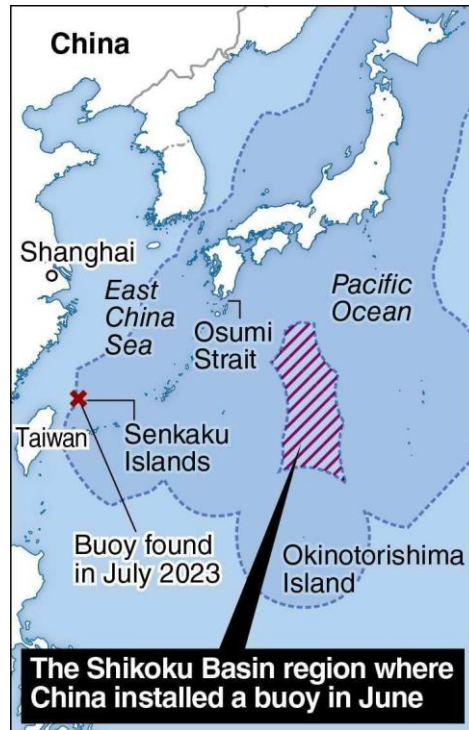
¹⁹⁵⁸ A.2.3.1. 2008 Cooperation between Japan and China in the East China Sea, p. 193.

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A.2.4. Takeshima Islands

A.2.5. Shikoku Basin

The Shikoku Basin region is surrounded by Japan's EEZ and covers an area almost equivalent to half the size of Japan, which is 378,000 square kilometers. Since there are no islands in or around the region, it is supposed to be outside the EEZ. However, the U.N. Commission on the Limits of the Continental Shelf (CLCS) recognized the Shikoku Basin region as Japan's continental shelf in 2012, with Okinotorishima Island as its base point. Under the U.N. Convention on the Law of the Sea, Japan exercises sovereign rights over the continental shelf for the purpose of exploring the sea bed and exploiting its natural resources. [China Installs Buoy on Japan's Continental Shelf in Shikoku Basin Region; Government to Examine Purpose of Unusual Move in Pacific Ocean - The Japan News \(yomiuri.co.jp\)](#)



Japan's exclusive economic zone

A.3. KEY STRAITS

A.3.1. Designated Straits Used for International Navigation

Article 1¹⁹⁵⁹ of the TTS Law (Act No. 30 of 1977, as amended) and pursuant Cabinet Order (Cabinet Order No. 206 of 1993²³⁵) identify the following five straits as

- Soya Strait (also known as La Perouse)¹⁹⁶⁰
- Tsugaru Strait¹⁹⁶¹
- Tsushima Strait-Eastern Channel¹⁹⁶²
- Tsushima Strait-Western Channel¹⁹⁶³
- Ōsumi Strait¹⁹⁶⁴

¹⁹⁵⁹ i.X.1. Article 1 – Extent of Territorial Sea, p. 402.

¹⁹⁶⁰ A.3.1.1. Soya Strait (La Perouse), p. 195.

¹⁹⁶¹ A.3.1.2. Tsugaru Strait, p. 195.

¹⁹⁶² A.3.1.3.1. Tsushima Strait-Eastern Channel, p. 195.

¹⁹⁶³ A.3.1.3.2. Tsushima Strait-Western Channel, p. 195.

¹⁹⁶⁴ A.3.1.4. Ōsumi Strait, p. 195.

A.3.1.1. Soya Strait (La Perouse)**A.3.1.2. Tsugaru Strait****A.3.1.3. Tsushima Strait****A.3.1.3.1. Tsushima Strait-Eastern Channel****A.3.1.3.2. Tsushima Strait-Western Channel****A.3.1.4. Ōsumi Strait****A.3.2. Other Straits****A.3.2.1. Tokara Strait**

Article 1¹⁹⁶⁵ of the TTS Law (Act No. 30 of 1977, as amended) and pursuant Cabinet Order (Cabinet Order No. 206 of 1993²³⁶) do not designate the Tokara Strait as a Strait Used for International Navigation. Thus, under Japanese Law, navigation through the Tokara Strait is not regarded as Transit Passage¹⁹⁶⁶ and is instead considered by GoJ as Innocent Passage.¹⁹⁶⁷ This impacts the mode of navigation of foreign ships, especially Warships¹⁹⁶⁸ and Military Aircraft¹⁹⁶⁹ (see § E.5.1.1. Transit Passage (through Straits Used for International Navigation) [p. 249]).

The US, PRC, and other States assert that the Tokara Strait is a Strait Used for International Navigation and vessels transiting the strait should be subject to the restrictions of Transit Passage rather than Innocent Passage.

A.3.2.2. Miyako Strait

The Miyako Strait is also rendered as:

- Kerama Gap
- Okimiya Strait

A.3.2.3. Yonaguni Strait

The Yonaguni Strait is also rendered as:

- Yonaguni Gap
- Yonaguni Passage
- Yonaguni Channel

A.4. ZONES OF ADMINISTRATION

Understanding the various distances and levels of jurisdiction GoJ exercises over various waters requires familiarity with various zones of administration. For this, UNCLOS is the primary reference as it formally defines many of these zones and does so in the way that is generally internationally-recognized, even by non-signatories (e.g., the US).

Various zones of administration are formally- or informally-recognized by precedent, convention, or in international Agreements.¹⁹⁷⁰ Exact distances and applications are variable according to numerous caveats.

¹⁹⁶⁵ i.X.1. Article 1 – Extent of Territorial Sea, p. 402.

¹⁹⁶⁶ E.5.1.1. Transit Passage (through Straits Used for International Navigation), p. 249.

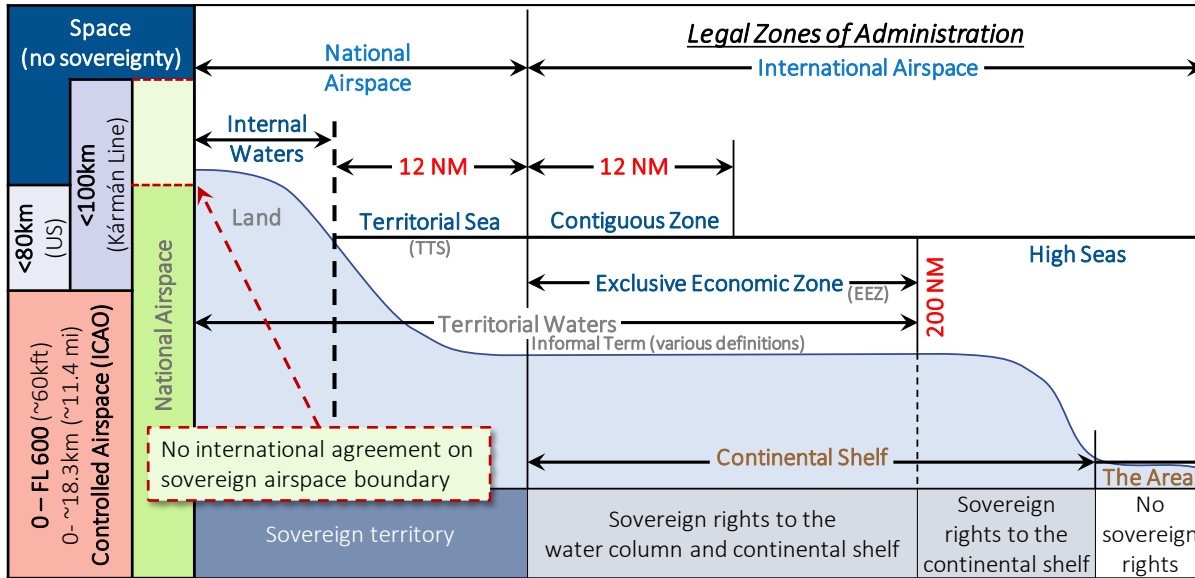
¹⁹⁶⁷ E.5.1. Innocent Passage, p. 249.

¹⁹⁶⁸ E.2.2.1.1. Warships, p. 241.

¹⁹⁶⁹ E.2.2.3.1. Military Aircraft, p. 243.

¹⁹⁷⁰ 1.6.1.1. International Agreements (Legal Status), p. 8.

Zones of Administration



Key:
 EEZ Exclusive Economic Zone
 FL Flight Level
 ICAO International Civil Aviation Organization
 NM Nautical Mile
 TTS Territorial Sea

A.4.1. State Definitions

A.4.1.1. Coastal State

A.4.1.2. Archipelagic State

A.4.2. Internal Waters

Internal (or inland) waters are on the landward side of the Baseline¹⁹⁷¹ from which the TTS¹⁹⁷² is measured. The Coastal State¹⁹⁷³ has full sovereignty over its Internal Waters as if they were part of its land territory. The Coastal State may exclude foreign flag vessels from its Internal Waters subject to the right of entry of vessels in distress. The right of Innocent Passage¹⁹⁷⁴ does not apply in Internal Waters. Examples of Internal Waters include rivers, canals, and lakes.

A.4.3. Baseline

The Baseline is the low-water line along the coast as marked on large-scale charts officially recognized by the Coastal State.¹⁹⁷⁵

A.4.4. Territorial Sea (TTS)

Sovereign territory (air and sea) of a state (out to 12 NM beyond the Baseline¹⁹⁷⁶).²³⁷

The Coastal State¹⁹⁷⁷ exercises sovereignty over its TTS, the airspace above it, and the seabed and subsoil beneath it. Foreign flag ships enjoy the right of Innocent Passage¹⁹⁷⁸ while transiting the TTS subject to laws and regulations adopted by the Coastal State that are in conformity with UNCLOS and other rules of International Law¹⁹⁷⁹ relating to such passage.

¹⁹⁷¹ A.4.3. Baseline, p. 196.

¹⁹⁷⁴ E.5.1. Innocent Passage, p. 249.

¹⁹⁷⁷ A.4.1.1. Coastal State, p. 196.

¹⁹⁷² A.4.4. Territorial Sea (TTS), p. 196.

¹⁹⁷⁵ A.4.1.1. Coastal State, p. 196.

¹⁹⁷⁸ E.5.1. Innocent Passage, p. 249.

¹⁹⁷³ A.4.1.1. Coastal State, p. 196.

¹⁹⁷⁶ A.4.3. Baseline, p. 196.

¹⁹⁷⁹ 2.1.2.4.1. International Law, p. 23.

The TTS is often incorrectly referred to as “Territorial Waters”¹⁹⁸⁰ (TTW), which is a less well-defined and less formal term that can refer to anything from TTS with Internal Waters¹⁹⁸¹ or refer to zones out to the High Sea,¹⁹⁸² including the EEZ.¹⁹⁸³

A.4.4.1. US FONOPS

Under the US Oceans Policy of 1983, where the US does not recognize a (sovereign) territorial claim (either a claim the US rejects as unlawful or one the US does not take a position on), it may conduct FONOPS to assert the principles of International Law¹⁹⁸⁴ and free passage.²³⁸

FONOPS involve naval units transiting disputed areas to avoid setting the precedent that the international community has accepted unlawful or unrecognized claims. ISO coordinates DOS clearance for FON operations.

Where military operations, to include FONOPS would have significant diplomatic or political implications, the DoS maintains a PSA list, identifying the additional level of notification, coordination, or approval required prior to such military operations.²³⁹

A.4.5. National Airspace (TTA)

National Airspace (also called Territorial Airspace or TTA) is the airspace above the territorial land and TTS of a State.

A state’s ADIZ¹⁹⁸⁵ is often incorrectly referred to as TTA or “sovereign airspace.”

There is no consensus on the vertical limit of a State’s TTA, although the Kármán line is often used to bound the upper limit of TTA sovereignty.²⁴⁰

The Kármán line is the boundary where the atmosphere is too thin to allow conventional aircraft to maintain controlled flight. This boundary is approximately 100 km MSL.

The US has generally treated 80 km MSL as the upper boundary of national sovereignty. ICAO-controlled airspace extends up to ~60,000 ft (~18.3 km).

A.4.5.1. International Airspace

International Airspace is any airspace outside TTA.

A.4.6. Contiguous Zone (CZ)

Area where a sovereign state can exert limited control to prevent or punish infringements of relevant laws applicable within TTS¹⁹⁸⁶ (12 out to 24 NM beyond the Baseline¹⁹⁸⁷).

In its CZ, a Coastal State¹⁹⁸⁸ may exercise the control necessary to prevent the infringement of its customs, fiscal, immigration, or sanitary laws and regulations within its territory or TTS, and punish infringement of those laws and regulations committed within its territory or TTS.²⁴¹ Additionally, to control trafficking in archaeological and historical objects found at sea, a Coastal State may presume that their removal from the seabed of the CZ without its consent is unlawful.

A Coastal State’s enforcement authorities in the CZ do not affect or limit any State’s right to exercise Belligerent Rights at Sea¹⁹⁸⁹ in this zone.²⁴²

¹⁹⁸⁰ A.4.1.1. Territorial Waters (TTW), p. 199.

¹⁹⁸¹ A.4.2. Internal Waters, p. 196.

¹⁹⁸² A.4.10. High Sea(s), p. 199; A.4.10.1. GoJ Definition of High Sea(s), p. 199.

¹⁹⁸³ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

¹⁹⁸⁴ 2.1.2.4.1. International Law, p. 23.

¹⁹⁸⁵ A.4.8. Air Defense Identification Zone (ADIZ), p. 198.

¹⁹⁸⁶ A.4.4. Territorial Sea (TTS), p. 196.

¹⁹⁸⁷ A.4.3. Baseline, p. 196.

¹⁹⁸⁸ A.4.1.1. Coastal State, p. 196.

¹⁹⁸⁹ E.2.3.2. Belligerent Rights at Sea, 244.

A.4.7. Exclusive Economic Zone (EEZ)

Each Coastal State¹⁹⁹⁰ may claim an Exclusive Economic Zone (EEZ) beyond and adjacent to its TTS¹⁹⁹¹ up to 200 NM from the Baseline¹⁹⁹² (or out to a maritime boundary with another Coastal State).

Within its EEZ, a Coastal State has:

- Sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, whether living or nonliving, of the seabed and subsoil and the superjacent waters and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;
- Jurisdiction as provided for in International Law¹⁹⁹³ with regard to the establishment and use of artificial islands, installations, and structures, marine scientific research, and the protection and preservation of the marine environment
- Other rights and duties provided for under International Law

UNCLOS does not clearly define the legal status of EEZs.²⁴³

Additionally, because UNCLOS does not define the geographic extent of the High Sea,¹⁹⁹⁴ there is no clear consensus on whether EEZs “constitute a unique body water distinct from the territorial sea and the high seas, on the one hand, or whether they are bodies of water within the high seas to which special regulations have been applied.”²⁴⁴

A Coastal State’s sovereign rights and jurisdiction in its EEZ do not affect or limit any State’s right to exercise Belligerent Rights at Sea¹⁹⁹⁵ in this zone.²⁴⁵

A.4.8. Air Defense Identification Zone (ADIZ)

An ADIZ is a region of airspace in which a state intends to identify, locate, and control aircraft in the interest of national security. It is declared unilaterally and may extend beyond a country’s territory to give the country more time to respond to possibly hostile aircraft.

Aircraft within an ADIZ may be required to provide identification and other flight path information but only as a condition of entry into the TTA¹⁹⁹⁶ of the State enforcing the ADIZ. Enforcement of ADIZ procedures on aircraft transiting an ADIZ with no intent to enter the TTA associated with the ADIZ is not consistent with International Law¹⁹⁹⁷.²⁴⁶

Non-compliance with ADIZ requirements is often incorrectly referred to as an “ADIZ violation,” but non-compliance is only an ADIZ violation if the aircraft in question intends to enter TTA.

“ADIZ incursions” are often referred to as “airspace violations” but are not a violation of state sovereignty unless there is an incursion within 12 NM of a state’s Baseline.¹⁹⁹⁸

Additionally, entry into an ADIZ without complying with ADIZ procedures may be incorrectly referred to as an “ADIZ violation,” but compliance with ADIZ procedures is only required as a

A state’s ADIZ is often incorrectly referred to as TTA or “sovereign airspace.” And entry into an ADIZ may incorrectly be referred to as an “airspace incursion,”

A.4.9. Continental Shelf (CS)

The CS includes the seabed that extends beyond a state’s TTS,¹⁹⁹⁹ throughout the natural prolongation of its land territory to the outer edge of the Continental Margin (i.e., the sloping of the CS down to the deep ocean

¹⁹⁹⁰ A.4.1.1. Coastal State, p. 196.

¹⁹⁹¹ A.4.4. Territorial Sea (TTS), p. 196.

¹⁹⁹² A.4.3. Baseline, p. 196.

¹⁹⁹³ 2.1.2.4.1. International Law, p. 23.

¹⁹⁹⁴ A.4.10. High Sea(s), p. 199; A.4.10.1. GoJ Definition of High Sea(s), p. 199.

¹⁹⁹⁵ E.2.3.2. Belligerent Rights at Sea, 244.

¹⁹⁹⁶ A.4.5. National Airspace (TTA), p. 197.

¹⁹⁹⁷ 2.1.2.4.1. International Law, p. 23.

¹⁹⁹⁸ A.4.3. Baseline, p. 196.

¹⁹⁹⁹ A.4.4. Territorial Sea (TTS), p. 196.

floor), or to a distance of 200 NM from the Baseline²⁰⁰⁰ in cases where the Continental Margin does not extend up to that distance.

A.4.9.1. Okinawa Trough

A.4.10. High Sea(s)

UNCLOS does not clearly define the geographic extent of the High Sea.²⁴⁷

Additionally, because UNCLOS does not define the geographic extent of the High Sea, there is no clear consensus on whether EEZs²⁰⁰¹ “constitute a unique body water distinct from the territorial sea and the high seas, on the one hand, or whether they are bodies of water within the high seas to which special regulations have been applied.”²⁴⁸

The High Sea (or High Seas) is comprised of all parts of the sea that are not included in the EEZ, TTS,²⁰⁰² or Internal Waters²⁰⁰³ of a State, or in the archipelagic waters of an Archipelagic State.

The High Sea is where no state exercises any form or degree of jurisdiction or rights.

A.4.10.1. GoJ Definition of High Sea(s)

GoJ documents, including some laws,²⁰⁰⁴ generally interpret EEZs (Japan’s and other nations’) as a region of the High Sea to which special economic regulations are applied.²⁴⁹

Japanese references to High Sea(s) should be read or interpreted carefully with regard to this ambiguity.

A.4.11. Archipelagic Waters

Archipelagic Waters are the waters enclosed by the archipelagic baselines drawn in accordance with UNCLOS. The Archipelagic State has full sovereignty over these waters, but foreign vessels have the right of Innocent Passage²⁰⁰⁵ through Archipelagic Waters subject to UNCLOS.

A.4.11.1. Archipelagic Sea Lane Passage (ASLP)

ASLP means the exercise of the non-suspendable right of navigation and overflight in the normal mode solely for the purpose of continuous, expeditious, and unobstructed transit between one part of the High Seas²⁰⁰⁶ or EEZ²⁰⁰⁷ and another part of the High Seas or EEZ.²⁵⁰

A.4.12. The Area

The Area is comprised of the seabed and subsoil beyond the limits of national jurisdiction. It does not include the water column) or the air space above those waters. The Area and its resources are the common heritage of humanity, and no state may claim or exercise sovereignty or sovereign rights over any part of the Area or its resources.

A.4.1. Informal/Ambiguous Terms

A.4.1.1. Territorial Waters (TTW)

TTW is an informal term referring to an inconsistently-defined set of areas inside International Waters.²⁰⁰⁸

Japan occasionally defines the term as all areas within the High Sea.²⁰⁰⁹

²⁰⁰⁰ A.4.3. Baseline, p. 196.

²⁰⁰¹ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

²⁰⁰² A.4.4. Territorial Sea (TTS), p. 196.

²⁰⁰³ A.4.2. Internal Waters, p. 196.

²⁰⁰⁴ i.N.1. Article 2 – Definitions, p. 378.

²⁰⁰⁵ E.5.1. Innocent Passage, p. 249.

²⁰⁰⁶ A.4.10. High Sea(s), p. 199.

²⁰⁰⁷ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

²⁰⁰⁸ A.4.1.2. International Waters, p. 200.

²⁰⁰⁹ A.4.10. High Sea(s), p. 199; A.4.10.1. GoJ Definition of High Sea(s), p. 199.

Appendix A. Physical and Political Geography of Japan and the WPTO

Japan's Internal Waters,²⁰¹⁰ Territorial Sea,²⁰¹¹ Contiguous Zone,²⁰¹² Exclusive Economic Zone,²⁰¹³ and Continental Shelf.²⁰¹⁴

But in other locations, GoJ defines TTW as the combination of TTS and Internal Waters.²⁵¹

TTW is inconsistently used.

In some uses, TTW refers to areas within the TTS (<12 NM), in others, this refers to areas within the CZ (<24 NM), and in yet others, this refers to areas within the EEZ²⁰¹⁵ (<200 NM). This ambiguity makes it more useful to use formally defined UNCLOS terms and/or specify demonstrative mile distances (e.g., "within 12 NM") to ensure clarity.

A.4.1.2. International Waters

International Waters is an informal term referring to the area where ships are under the jurisdiction of only their Flag State²⁰¹⁶ (with some exceptions, e.g., piracy).

In some uses, International Waters refers to areas beyond TTS²⁰¹⁷ (>12 NM), in others, this refers to areas beyond the CZ²⁰¹⁸ (>24 NM), and in yet others, this refers to areas beyond the EEZ²⁰¹⁹ (>200 NM). This ambiguity makes it more useful to use formally defined UNCLOS terms and/or specify demonstrative mile distances (e.g., "beyond 12 NM") to ensure clarity.

The Law of Naval Warfare may use the term International Waters but defines it as²⁵² the collective area including: the High Seas,²⁰²⁰ the Area,²⁰²¹ and Coastal State CZs, EEZs, and CSs.²⁰²² This is more unambiguously termed "Waters Beyond the Sovereignty of the Coastal State."

A.4.2. Related Terms

Shotō*: Archipelago

Guntō*: Cluster of Islands

Rettō*: String of Islands

Shima/Jima**: Island

Ōshima: Large Island

Kōjima: Small Island

* "Shotō," "Guntō," and "Rettō" are often used interchangeably and the same island cluster may appear referenced with different terms in different contexts

** When appended to the name of an island, "shima" or "jima" distinguish between the main island being referenced (e.g., "Miyakojima") and a cluster of smaller associated islands (e.g., "Miyako Rettō" or just "Miyako")

Acronyms

SKI – Senkaku Islands

²⁰¹⁰ A.4.2. Internal Waters, p. 196.

²⁰¹¹ A.4.4. Territorial Sea (TTS), p. 196.

²⁰¹² A.4.6. Contiguous Zone (CZ), p. 197.

²⁰¹³ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

²⁰¹⁴ A.4.9. Continental Shelf (CS), p. 198.

²⁰¹⁵ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

²⁰¹⁶ 3.4.2.4.2. Limitations on Protecting/Escorting Merchant Ships (Flag State/Flags of Convenience), p. 87.

²⁰¹⁷ A.4.4. Territorial Sea (TTS), p. 196.

²⁰¹⁸ A.4.6. Contiguous Zone (CZ), p. 197.

²⁰¹⁹ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

²⁰²⁰ A.4.10. High Sea(s), p. 199.

²⁰²¹ A.4.12. The Area, p. 199.

²⁰²² A.4.9. Continental Shelf (CS), p. 198.

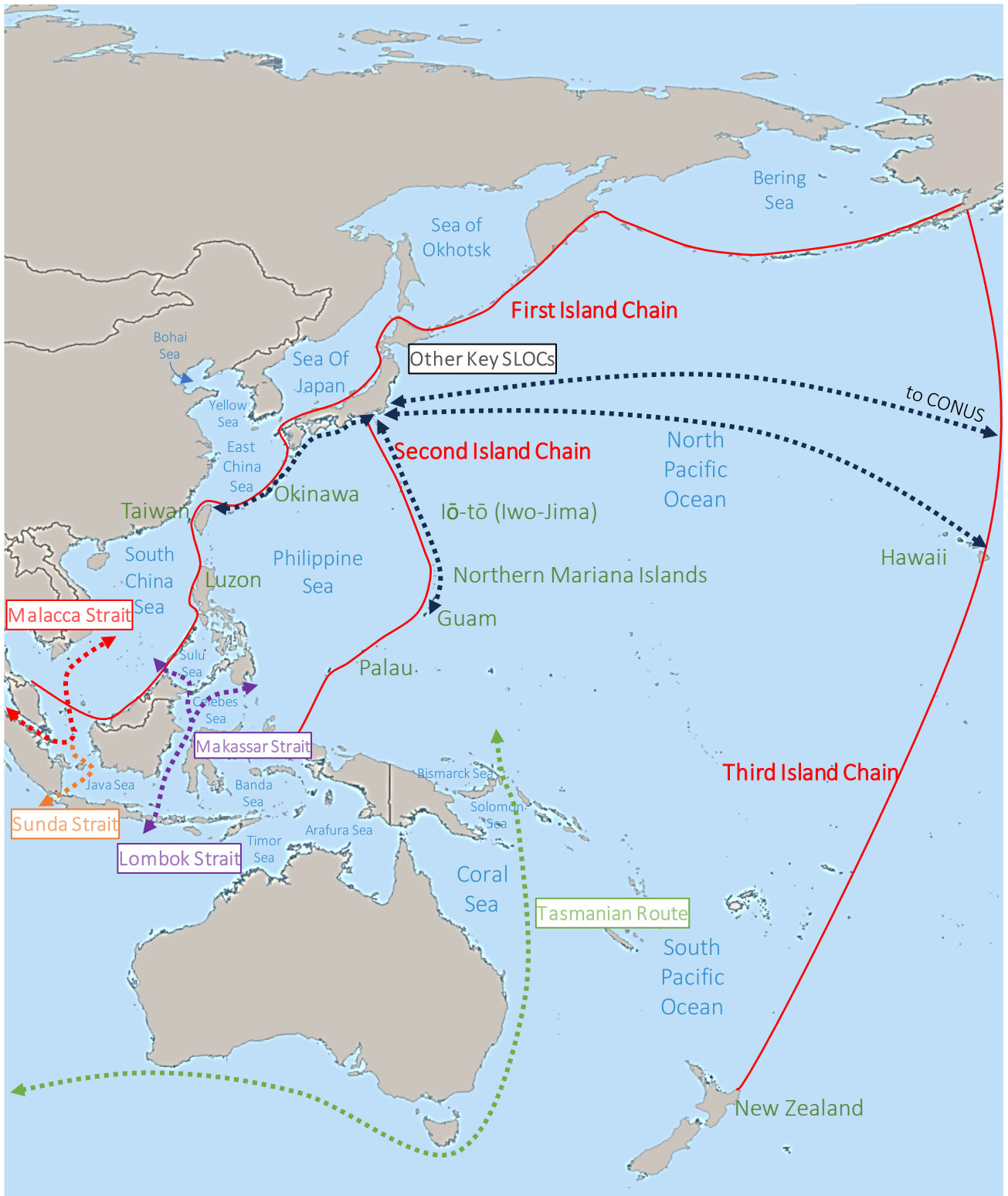
Appendix A. Physical and Political Geography of Japan and the WPTO

SSI – Sakishima Islands

SWI – Southwest Islands

A.5. SELECTED MAPS OF THE WPTO

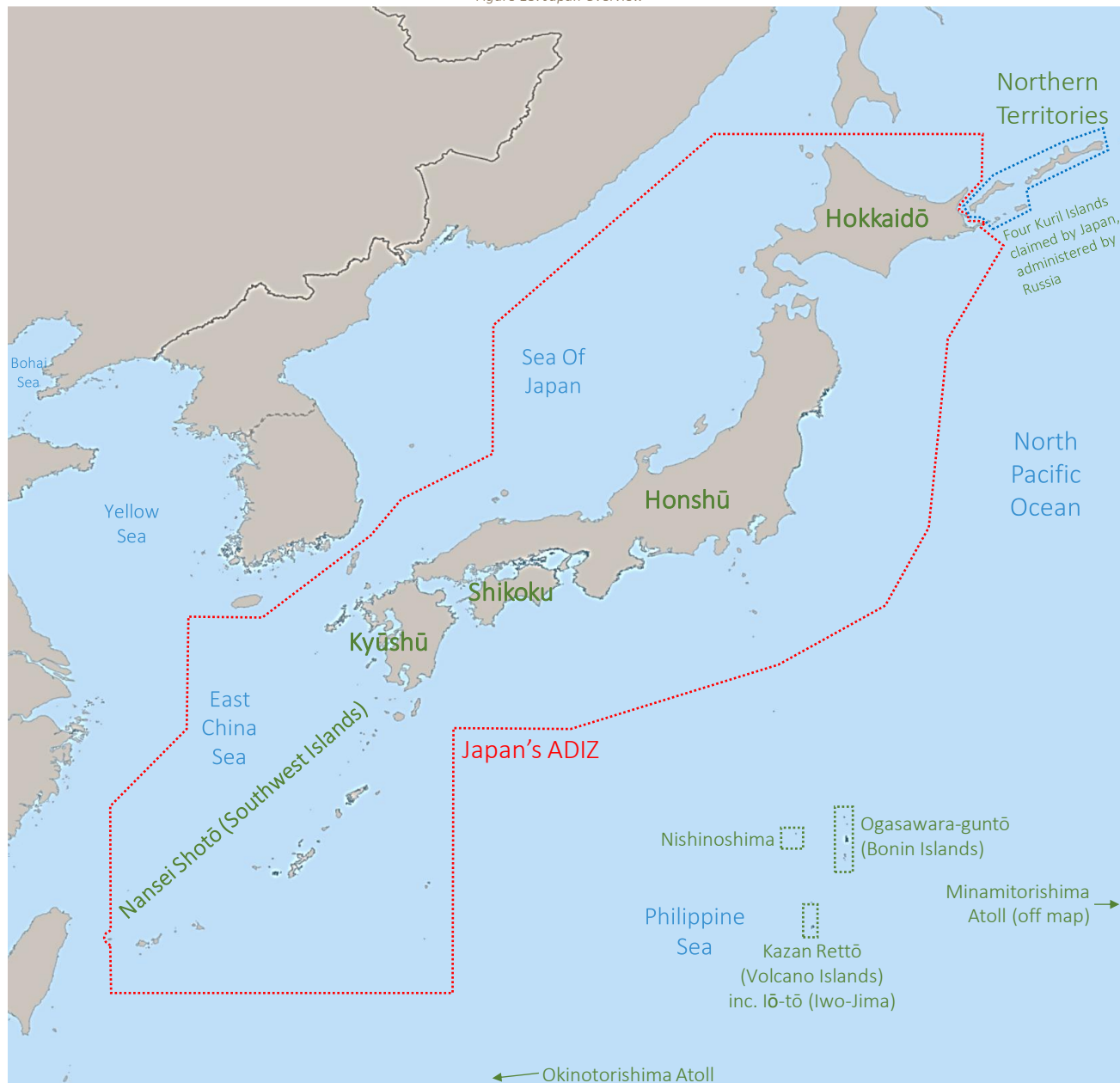
Western Pacific – Island Chains and Key SLOCs



Appendix A. Physical and Political Geography of Japan and the WPTO

Appendix A. Physical and Political Geography of Japan and the WPTO

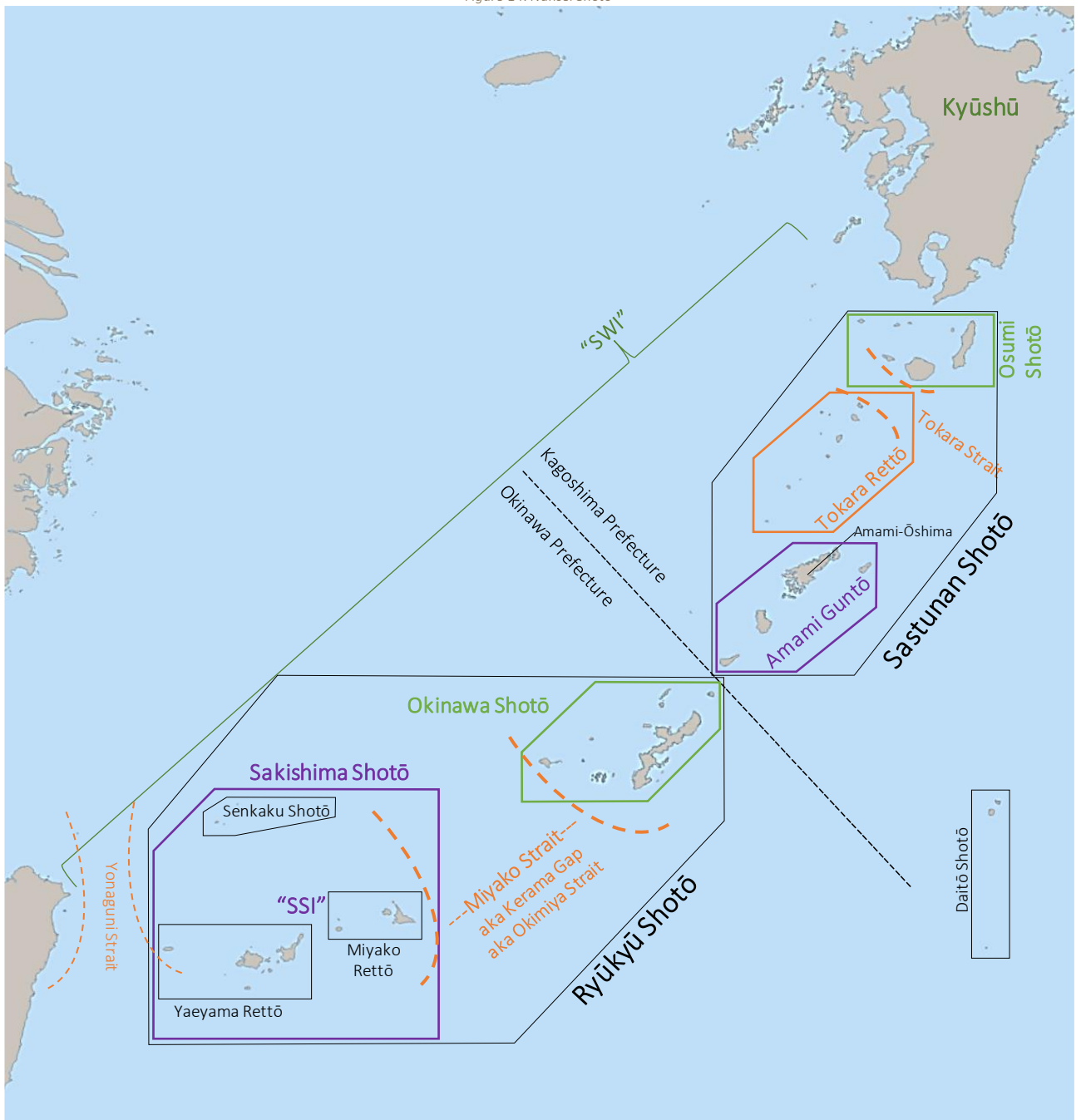
Figure 13. Japan Overview



Appendix A. Physical and Political Geography of Japan and the WPTO

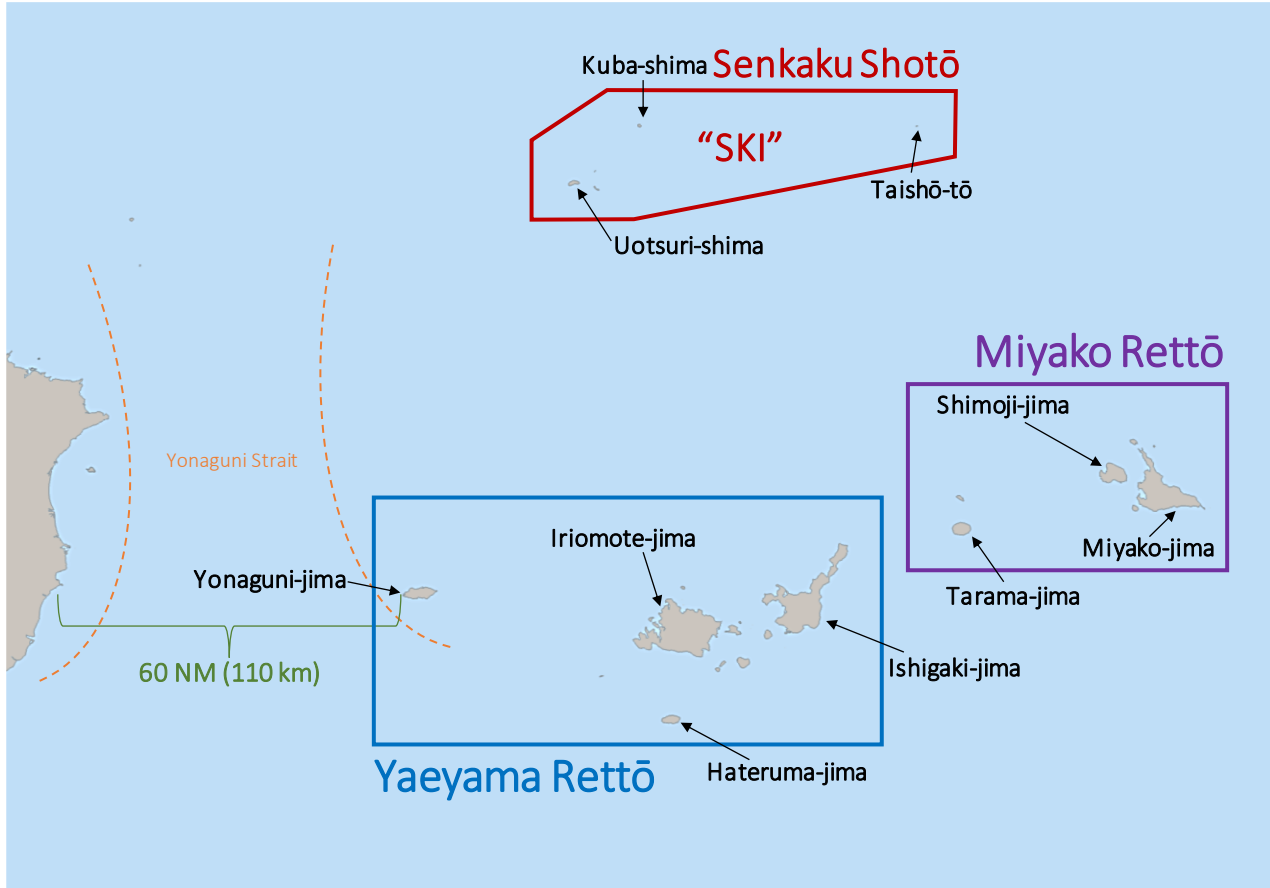
Appendix A. Physical and Political Geography of Japan and the WPTO

Figure 14. Nansei Shotō



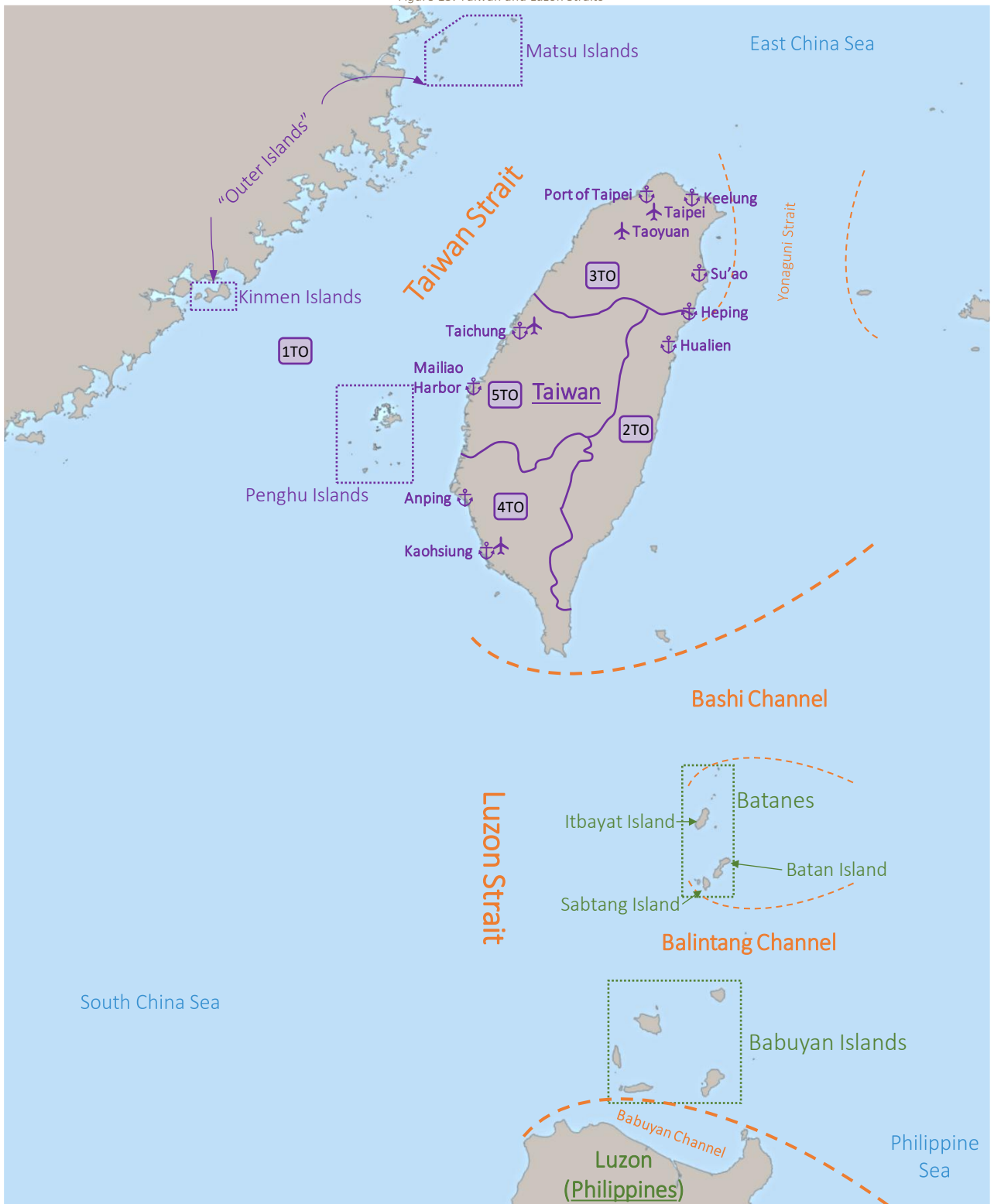
Appendix A. Physical and Political Geography of Japan and the WPTO

Sakishima Shotō (“SSI”)



Appendix A. Physical and Political Geography of Japan and the WPTO

Figure 15. Taiwan and Luzon Straits



Appendix A. Physical and Political Geography of Japan and the WPTO

Figure 16. Philippines with US EDCA Sites



Sub-terranean geography

Australia (Tyndall, Clark, Buttersworth)

Appendix B. PRIOR CONSULTATION

B.1. OVERVIEW

MST Article IV (Consultation)²⁰²³ establishes that Japan and the US will consult “whenever the security of Japan or international peace and security in the Far East²⁰²⁴ is threatened” while Article VI (SOFA)²⁰²⁵ grants the US ABO subject to mutually agreed upon arrangements under the MST.²⁰²⁶

While the MST does not use the term Prior Consultation (*jizen-kyôgi*),²⁰²⁷ the term appears in the Prior Consultation Formula²⁰²⁸ and, by convention, is used to refer to non-routine consultation, especially regarding the subjects agreed to as requiring such consultation.²⁰²⁹

Historically, Japan has viewed the Prior Consultation mechanism as a brake on RMCO²⁰³⁰ from bases in Japan and a tool to avoid entrapment in regional crises or conflicts involving the US.

B.1.1. Prior Consultation as a Political, not Legal Act

As assessed by MOFA’s Treaties Bureau,²⁰³¹ and as a result of parallel (vice combined) military C2,²⁰³² Prior Consultation is a political act, not a legal one. As an independent sovereign nation, Japan has no legal basis to authorize²⁰³³ any US military action, though it does retain a sovereign right to refuse consent to RMCO²⁰³⁴ from Japan. This makes Prior Consultation (when an agreement is reached) a political act to allow US action, not a legal one that sanctions such actions under any Japanese law.

B.1.2. Origins of Prior Consultation (MST Joint Statement)

Following the Second Taiwan Strait Crisis in 1958 and Japanese fears of “entrapment” in a US conflict, Japan sought to restore some of its sovereign rights over RMCO²⁰³⁵ through revisions to the 1951 US-Japan Security Treaty²⁰³⁶.²⁵³ The mechanism Japan sought to do so was Prior Consultation. At the signature of the MST²⁰³⁷ in 1960, a Joint Statement²⁰³⁸ pronounced:

The Prime Minister [KISHI] discussed with the President [Eisenhower] the question of Prior Consultation under the new Treaty [MST]. The President assured him that the United States Government has no intention of acting in a manner contrary to the wishes of the Japanese Government with respect to the matters involving Prior Consultation under the Treaty [MST].²⁵⁴

B.1.3. Desirable Ambiguity on the Mechanism of Prior Consultation

Ambiguity on the Mechanism of Prior Consultation²⁰³⁹ complicates military planning but provides political leadership on both sides diplomatic maneuver space. Furthermore, as suggested by the deliberate evasion in addressing this issue in the 1960 Joint Statement on Prior Consultation²⁰⁴⁰ and the fact that this issue has been left unresolved for more than 60 years, this ambiguity appears to serve both members of the Alliance.

For the US, the idea of discussing Standing Prior Consultation²⁰⁴¹ with GoJ *in any formal venue* may presume greater GoJ authority over RMCO²⁰⁴² than is in the US strategic national interest. For example, raising the

²⁰²³ 2.1.3.3. Article IV – Consultation, p. 25.

²⁰²⁴ B.1.4.1. Defining the Far East, p. 209.

²⁰²⁵ 2.1.3.5. Article VI – Access, Basing, and Overflight (ABO) (the “Far East Clause” or “MOFA Clause”), p. 28.

²⁰²⁶ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²⁰²⁷ 5.5.2. Prior Consultation, p. 132.

²⁰²⁸ B.3.2. Prior Consultation Formula (1960), p. 213.

²⁰²⁹ 5.5.2.2. Subjects of Prior Consultation, p. 133.

²⁰³⁰ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

²⁰³¹ C.2.8.3.1. Treaties Bureau (Treaties Division), p. 232.

²⁰³² 6.5. Challenges to Combined Command, p. 150.

²⁰³³ 5.5.1.2.1. Unauthorized US Unilateral Actions, p. 131.

²⁰³⁴ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

²⁰³⁵ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

²⁰³⁶ F.1.2.4. (1951) Security Treaty Between the US and Japan, p. 256.

²⁰³⁷ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²⁰³⁸ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

²⁰³⁹ 5.5.2.3. Mechanism of Prior Consultation, p. 135.

²⁰⁴⁰ B.1.2. Origins of Prior Consultation (MST Joint Statement), p. 207.

²⁰⁴¹ 5.5.2.1. Standing Prior Consultation, p. 133.

²⁰⁴² 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

Appendix B. Prior Consultation

issue may effectively stipulate a GoJ “veto” over RMCO that is not codified in any agreement (Prior Consultation has occurred, but it is not clear that the Mechanism of Prior Consultation²⁰⁴³ has been formalized).

Internally, the US has established its interpretation of the Mechanism of Prior Consultation as “notification,”²⁰⁴⁴ though it does not appear the US has ever attempted to assert this position in the face of formal disagreement with Japan over the Mechanism of Prior Consultation.

For the GoJ, the prospect of discussing RMCO with the US in any formal venue risks “losing” a degree of sovereignty (i.e., by failing to agree that GoJ has a presumed veto) or causing a rift in the alliance (i.e., by demanding a veto that reduces critical ABO the US may presume).

For both Allies, the point of holding a formal discussion about RMCO would likely be to come to formal agreement on policy or law that both limits US lethal ABO and the GoJ’s ability to authorize it.

Some observers assert that US policymakers believed Prior Consultation granted GoJ veto power²⁰⁴⁵ until the Emergency Nuclear Re-Entry Agreed Minute (“Record of Discussion”)²⁰⁴⁶ in 1969.²⁵⁵

B.1.4. Reluctance Towards “Standing Prior Consultation”

Apart from the Korea Minute,²⁰⁴⁷ the Allies have also demonstrated a reluctance towards Standing Prior Consultation.²⁰⁴⁸

During negotiations for the Okinawa reversion, both sides discussed the possibility of Standing Prior Consultation that might assuage US fears of undue (in US eyes) restrictions on US combat operations from Okinawa (then used for supporting US operations in the Vietnam war) while easing and speeding the agreement to revert full sovereignty of Okinawa back to Japan. Not only did the Japanese negotiators find it difficult to establish advanced criteria for what they might agree to ahead of time, but they were concerned that such criteria might change or, if leaked, be weaponized in domestic politics. For their part, the some on the US side came to view rejection of Standing Prior Consultation as weakening the “veto” position on the Mechanism of Prior Consultation²⁰⁴⁹ that Japan held.²⁵⁶

In the end, initiating such a discussion in peacetime about procedures for crisis- or conflict-management risked developing overly-restrictive or insufficiently-responsive procedures (due in part to the limitations of the Positive List²⁰⁵⁰ approach). Furthermore, any such peacetime discussion would be likely to incur some political or diplomatic cost without an obvious or guaranteed benefit to either side. In contrast, addressing and authorizing RMCO²⁰⁵¹ for an ongoing a crisis is likely to be less politically costly than pre-authorizing lethal ABO during peacetime for a hypothetical crisis in the future.

Furthermore, the Emergency Nuclear Re-Entry Agreed Minute²⁰⁵² provides a case study on why Standing Prior Consultations may have marginal value²⁰⁵³ (especially with the passage of time and changing of strategic conditions).

Some observers have concluded that the relative absence of Prior Consultation’s use indicates that it was deemed ineffective and, thus, ignored.²⁵⁷

²⁰⁴³ 5.5.2.3. Mechanism of Prior Consultation, p. 135.

²⁰⁴⁴ B.3.3.1. Status of US-Japan Treaty Negotiations, p. 214.

²⁰⁴⁵ 5.5.2.3. Mechanism of Prior Consultation, p. 135.

²⁰⁴⁶ B.3.7. Emergency Nuclear Re-Entry Agreed Minute (“Record of Discussion”), p.220.

²⁰⁴⁷ B.3.4. The Korea Minute, p. 217.

²⁰⁴⁸ 5.5.2.1. Standing Prior Consultation, p. 133.

²⁰⁴⁹ 5.5.2.3. Mechanism of Prior Consultation, p. 135.

²⁰⁵⁰ 2.1.1.1.1. Japanese “Positive List” Approach, p. 12.

²⁰⁵¹ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

²⁰⁵² B.3.7. Emergency Nuclear Re-Entry Agreed Minute (“Record of Discussion”), p. 220.

²⁰⁵³ B.3.7.3. Relevance of Standing Prior Consultation Agreements, p. 222.

B.1.4.1. Defining the Far East

Many US planners, especially including those directly involved in alliance management, avoid using the term “Far East,” preferring the term “the region.” Not only is the “Far East” a dated term with colonialist or imperialist connotations, but it risks implying the appearance of specificity on a region that the Allies have not mutually agreed or implying specific historical connotations that no longer pertain.

Using an obviously ambiguous term, such as “the region,” maintains ambiguity where ambiguity is intended or desired.

In 1960, the CLB²⁰⁵⁴ (unilaterally) defined the Far East as “the Philippines and northward, Japan and its neighborhood, South Korea and Taiwan.”²⁵⁸

The Allies have never jointly defined the Far East. In the 1960s and 1970s it had been understood to include the three areas presenting the greatest likelihood of geopolitical flare-up: Korea, Taiwan, and Vietnam.²⁵⁹ However, with the end of the Vietnam War, the Korean War solidifying into a frozen conflict, and the normalization of relations with the PRC by both the US and Japan, the implicit regions intended by the term “Far East” have become less clear and both Allies have found it useful to maintain a degree of ambiguity²⁰⁵⁵ on the issue, often by referring to “the region” instead.

B.2. ISSUES OF PRIOR CONSULTATION

A diplomatic Exchange-of-Notes²⁰⁵⁶ at the MST²⁰⁵⁷ signing, known as the Prior Consultation Formula,²⁰⁵⁸ establishes the following items as issues subject to Prior Consultation:²⁰⁵⁹

- Major changes in the deployment into Japan of United States armed forces
- Major changes in [US armed forces in Japan] equipment
- The use of Facilities and Areas²⁰⁶⁰ in Japan as bases for RMCO²⁰⁶¹ to be undertaken from Japan other than those conducted under MST Article V²⁰⁶²

B.2.1. The Expanded Prior Consultation Formula

A declassified DoS memo from 1 June 1960,²⁰⁶³ prepared for Secretary of State Christian Herter to use in testifying before Congress on the MST,²⁰⁶⁴ expands on Prior Consultation Formula²⁰⁶⁵ by establishing the following more detailed issues as elements of major changes in US equipment:

- Introduction into Japan of nuclear weapons²⁰⁶⁶
- Introduction into Japan of intermediate or long-range missiles
- Construction in Japan of bases for nuclear weapons, including intermediate and long-range missiles

This list was repeated in Diet proceedings by then-PM FUJIYAMA, who added:

- If the Seventh Fleet engages in strategic combat using Japan as its base

In 1968, then-PM SATŌ stated that:

- Any visit to Japan by a nuclear-armed submarine would be subject to Prior Consultation²⁰⁶⁷

²⁰⁵⁴ C.2.5. Cabinet Legislation Bureau (CLB), p. 228.

²⁰⁵⁵ B.1.3. Desirable Ambiguity on the Mechanism of Prior Consultation, p. 207.

²⁰⁵⁶ 1.6.2.1. Exchange of (Diplomatic) Notes (Legal Status), p. 10.

²⁰⁵⁷ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²⁰⁵⁸ B.3.2. Prior Consultation Formula (1960), p. 213.

²⁰⁵⁹ 5.5.2. Prior Consultation, p. 132.

²⁰⁶⁰ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

²⁰⁶¹ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.129

²⁰⁶² 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

²⁰⁶³ B.3.3.2. The Description of Consultation Arrangements Under the MST, p. 215.

²⁰⁶⁴ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²⁰⁶⁵ B.3.2. Prior Consultation Formula (1960), p. 213.

²⁰⁶⁶ B.2.1.3. Nuclear Weapon “Introduction” vs. “Transit”, p. 211.

²⁰⁶⁷ 5.5.2. Prior Consultation, p. 132.

Appendix B. Prior Consultation

When the DoS announced in 1969 that it would remove chemical weapons from Okinawa, then-FM AICHI stated that:

- Introduction of biological or chemical weapons [to Okinawa, after its reversion] would require “Pre-Consultation”

B.2.1.1. Compiled Prior Consultation Requirements

Combining the above lists, the following represents the publicly-available list of officially-understood (bilaterally or unilaterally) situations requiring Prior Consultation:²⁰⁶⁸

1. Major changes in the deployment into Japan of US armed forces greater or equal to:²⁰⁶⁹
 - 1a. Land forces: one division
 - 1b. Air forces: one wing
 - 1c. Naval forces: com
2. Major changes in [US armed forces in Japan] equipment
 - 2a. Introduction of nuclear weapons into Japan
 - Any port-visit by nuclear-armed vessels
 - 2b. Introduction of biological or chemical weapons into Japan
 - 2c. Introduction of intermediate or long-range missiles into Japan
 - 2d. Construction in Japan of bases for nuclear weapons, including intermediate and long-range missiles
3. Use of Japan as a base for RMCO²⁰⁷⁰ other than those conducted under MST Article V²⁰⁷¹
 - 3a. Strategic combat by Seventh Fleet using bases in Japan

B.2.1.1.1. Intermediate or Long-Range Missiles and Prior Consultation

See § 5.5.2.2.1.1. Intermediate or Long-Range Missiles and Prior Consultation (p. 134).

B.2.1.2. Issues Not Requiring Prior Consultation

One of the Prior Consultation²⁰⁷² memos from 1 June 1960,²⁰⁷³ outlines the following issues as not requiring Prior Consultation:

- “Use of bases in Japan for logistic purposes”
- “Transfer of US forces and their equipment from Japan, whether to the US or to other areas in the Far East”²⁰⁷⁴
 - In the context of Korean contingencies, the Allies determined that the movement of combat aircraft to Korea with direct combat operations originating from Korea would be considered a “transfer” of units and would not be subject to Prior Consultation (only aircraft conducting combat *originating* from Japan would be subject to Prior Consultation)²⁶⁰
- “Transit of ports or airbases in Japan by United States vessels and aircraft, regardless of their armament”
- “Introduction into Japan of non-nuclear weapons, including short-range missiles without nuclear components”

In addition to these four issues, the following also does not require Prior Consultation²⁰⁷⁵:

- Facilities and Areas²⁰⁷⁶ in Japan as bases for combat operations to be undertaken from Japan conducted under Article V²⁰⁷⁷ (e.g., not RMCO²⁰⁷⁸).

²⁰⁶⁸ 5.5.2. Prior Consultation, p. 132.

²⁰⁶⁹ B.3.1. 6 January 1960 Record of Discussion, p. 212.

²⁰⁷⁰ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

²⁰⁷¹ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

²⁰⁷² 5.5.2. Prior Consultation, p. 132.

²⁰⁷³ B.3.3.2. The Description of Consultation Arrangements Under the MST, p. 215.

²⁰⁷⁴ B.1.4.1. Defining the Far East, p. 209.

²⁰⁷⁵ See § B.3.3.1. Status of US-Japan Treaty Negotiations (p. 214) for the exception (Prior Consultation required for military combat operations “other than under Article V”) proving the rule (that military combat operations for Article V) are not subject to Prior Consultation. Also see § 5.5.1. (US Regional) Military Combat

Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”) (p. 130).

²⁰⁷⁶ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

²⁰⁷⁷ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

²⁰⁷⁸ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

B.2.1.3. Nuclear Weapon “Introduction” vs. “Transit”

Both governments agreed to Prior Consultation²⁰⁷⁹ before the US would “introduce” nuclear weapons into Japan. But the two governments held differing views on the threshold for “introduction.”

GoJ held that “transit” (including port calls and entry into Japan’s TTS²⁰⁸⁰) was included in the term “introduction.” (During these debates, then Director of the MOFA Treaties Bureau²⁰⁸¹ Michitoshi TAKAHASHI stated in the Diet that the “transit” of vessels carrying nuclear weapons would constitute Innocent Passage²⁰⁸² and would therefore not be subject to Prior Consultation. There were similar efforts in the GoJ to formally resolve the issue in favor of the US view and thereby change the 3NP²⁰⁸³ to the 2.5NP, but GoJ ultimately decided to leave the issue unresolved.²⁶¹)

The USG held that “introduction” constituted *only* placement of nuclear weapons on Japanese soil and that “transit” through Japan (including in Japanese TTS or ports calls in Japan [and presumably, by extension, overflight through Japanese TTA²⁰⁸⁴]) was not included in “introduction.”²⁶²

Both governments have consistently maintained a tacit agreement to avoid resolving the disagreement.

Because of the US’s NCND policy²⁰⁸⁵ (neither confirming nor denying the presence or non-presence of nuclear weapons aboard Navy ships), the GoJ was able to insist to the Diet that no US nuclear weapons had transited Japan because the US had never asked for Prior Consultation to do so. This claim was made with the full knowledge that for transit only, the US would not have asked for Prior Consultation. This allowed the US the freedom for nuclear-armed ships to transit through Japanese waters or make port calls in Japan²⁰⁸⁶ while allowing the GoJ to plausibly (if not always credibly) deny that US nuclear-armed ships had ever done so.

Some historians of Prior Consultation have noted that the Allies arrive at “secret *disagreements*” (such as the introduction vs. transit issue) as often or more often as they arrive at “secret *agreements*” about Prior Consultation and related issues.²⁶³

B.2.1.3.1. 1963 Request for Nuclear-Armed Submarine Port Calls

On 9 January 1963, then-US Ambassador to Japan Reischauer “made an oral request for ‘permission’ to bring nuclear-powered submarines into Japanese ports. The Japanese government maintained that without Prior Consultations under the Security Treaty, Japan would not allow the entry of Polaris-type nuclear submarines because they carried strategic nuclear weapons.”²⁶⁴

This created concern on the US side that the ambiguity over the term “introduction” might finally require formal clarification. Subsequent debate, however, resulted in concern from both governments that resolving the ambiguity might ultimately be detrimental to both Allies. The result was to maintain a confidential oral agreement that nuclear weapons aboard ship would not constitute introduction while also maintaining the established ambiguity of any public debate or statements related to the matter.²⁶⁵

B.2.1.4. Standing Prior Consultations Completed

The so-called Korea Minute²⁰⁸⁷ served as the first and currently only publicly-known Prior Consultation completed (i.e., Standing Prior Consultation²⁰⁸⁸). This pre-authorized the US to conduct RMCO²⁰⁸⁹ from Japan in the event of a sudden renewal of hostilities on the Korean peninsula.

²⁰⁷⁹ 5.5.2. Prior Consultation, p. 132.

²⁰⁸⁰ A.4.4. Territorial Sea (TTS), p. 196.

²⁰⁸¹ C.2.8.3.1. Treaties Bureau (Treaties Division), p. 232.

²⁰⁸² E.5.1. Innocent Passage, p. 249.

²⁰⁸³ 2.3.3.1. Three Non-Nuclear Principles (3NP), p. 42.

²⁰⁸⁴ A.4.5. National Airspace (TTA), p. 197.

²⁰⁸⁵ B.2.1.3. Nuclear Weapon “Introduction” vs. “Transit”, p. 211.

²⁰⁸⁶ On 10 September 1974, retired Admiral LaRocque stated during a Congressional hearing, “US naval vessels, which are capable of carrying nuclear weapons, always carry nuclear weapons” and that they would make port calls in Japan but not offload the weapons. (KOMINE, Negotiating the U.S.-Japan Alliance: Japan Confidential, 2018, p. 204) This became known as the “LaRocque Shock” and caused considerable consternation in Japan, especially in light of then then-only rumored existence of the

Emergency Nuclear Re-Entry Agreed Minute (B.3.7. Emergency Nuclear Re-Entry Agreed Minute (“Record of Discussion”) [p. 220]). Despite the LaRocque Shock, both Allies were able to maintain their “secret disagreement” on the issue.

²⁰⁸⁷ B.3.4. The Korea Minute, p. 217.

²⁰⁸⁸ 5.5.2.1. Standing Prior Consultation, p. 133.

²⁰⁸⁹ 5.5.3. (US) Regional Military Combat Operations (RMCO) Spectrum, p. 136.

Appendix B. Prior Consultation

The Emergency Nuclear Re-Entry Agreed Minute comes close to a Standing Prior Consultation but falls short by GoJ's standard.²⁰⁹⁰

B.2.2. The Issue of "Secret Agreements"

Some sources may refer to "Secret Agreements" as "Secret Minutes" or "Secret Treaties."

Declassified documents demonstrate that Japan and the US have historically had "secret agreements" on Prior Consultation²⁰⁹¹ topics and related issues (which some critical sources describe as "revisions" to the MST²⁰⁹²).²⁶⁶ Such confidential understandings may reinforce, terminate, or add to those agreements or understandings that are publicly known. This guide relies on and relays only publicly-available knowledge on such issues.

Histories of the Alliance refer to sometimes-extreme measures the Alliance took to ensure such consultations remained confidential, not just from adversaries but also from the Japanese public and sometimes elements of the GoJ. For example, when debating the Prior Consultation Formula,²⁰⁹³ the PM and Foreign Minister sought to avoid²⁶⁷ even a classified Exchange of Notes²⁰⁹⁴ which might be subject to Diet scrutiny. What resulted was a Record of Discussion.²⁰⁹⁵ This compromise aided in keeping such Prior Consultations more confidential than they might have been otherwise, but this came at the cost of an implicit agreement not to formalize the practice and retain "secret *disagreements*" on the Mechanism of Prior Consultation²⁰⁹⁶.²⁶⁸

As a result, completed Prior Consultations or updated understandings about the subjects and mechanisms for consultation may remain closely-held secrets and simply be unavailable to the public or even high-level planners from both nations.

The publicly-available record only indicates two "Secret Agreements:"²⁶⁹ the Korea Minute²⁰⁹⁷ and the Emergency Nuclear Re-Entry Agreed Minute.²⁰⁹⁸

B.3. PRIOR CONSULTATION DOCUMENTS**B.3.1. 6 January 1960 Record of Discussion**

From 1958-1960, then-Foreign Minister FUJIYAMA and then-US Ambassador to Japan, Douglas MacArthur II discussed the details of what would come to be known as the Prior Consultation Formula²⁰⁹⁹ (which did not specify the thresholds for Prior Consultation agreed to in the Record of Discussion). Initially, the mutual understanding only took oral form, with FUJIYAMA initially reluctant to document the agreement in written form²⁷⁰ before agreeing to sign a confidential note (later declassified),²⁷¹ as a Record of Discussion.

This agreement, known as the FUJIYAMA-MacArthur (Oral) Understanding²¹⁰⁰ until documented as the Record of Discussion, clarified details of the consultation mechanism referenced in the soon-to-be-signed MST²¹⁰¹, including criteria or thresholds for Prior Consultation. This Record of Discussion served as Secret Agreement²¹⁰² on the understanding of details of Prior Consultation.²¹⁰³

1. Reference is made to the Exchange of Notes²¹⁰⁴ which will be signed on January 19, 1960 [the Prior Consultation Formula], concerning the implementation of Article VI²¹⁰⁵ of the "Treaty of Mutual Cooperation and Security between the United States of America and Japan", the operative part of which reads as follows:

²⁰⁹⁰ B.3.7.1. Criticism of the Emergency Nuclear Re-Entry Agreement, p. 221.

²⁰⁹¹ 5.5.2. Prior Consultation, p. 132.

²⁰⁹² 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²⁰⁹³ B.3.2. Prior Consultation Formula (1960), p. 213.

²⁰⁹⁴ 1.6.2.1. Exchange of (Diplomatic) Notes (Legal Status), p. 10.

²⁰⁹⁵ B.3.1. 6 January 1960 Record of Discussion, p. 212.

²⁰⁹⁶ 5.5.2.3. Mechanism of Prior Consultation, p. 135.

²⁰⁹⁷ B.3.4. The Korea Minute, p. 217.

²⁰⁹⁸ B.3.7. Emergency Nuclear Re-Entry Agreed Minute ("Record of Discussion"), p. 220.

²⁰⁹⁹ B.3.2. Prior Consultation Formula (1960), p. 213.

²¹⁰⁰ B.3.1.1. FUJIYAMA-MacArthur (Oral) Understanding, p. 213.

²¹⁰¹ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²¹⁰² B.2.2. The Issue of "Secret Agreements", p. 212.

²¹⁰³ 5.5.2. Prior Consultation, p. 132.

²¹⁰⁴ 1.6.2.1. Exchange of (Diplomatic) Notes (Legal Status), p. 10.

²¹⁰⁵ 2.1.3.5. Article VI – Access, Basing, and Overflight (ABO) (the "Far East Clause" or "MOFA Clause"), p. 28.

"Major changes in the deployment into Japan of United States armed forces, major changes in their equipment, and the use of Facilities and Areas²¹⁰⁶ in Japan as bases for Military Combat Operations [RMCO²¹⁰⁷] to be undertaken from Japan other than those conducted under Article V²¹⁰⁸ of the said Treaty, shall be the subjects of prior consultation with the Government of Japan."

2. The Notes were drawn up with the following points being taken into consideration and understood:

a. "Major changes in their equipment" is understood to mean the introduction into Japan of nuclear weapons, including intermediate and long-range missiles as well as the construction of bases for such weapons, and will not, for example, mean the introduction of non-nuclear weapons including short-range missiles without nuclear components.

b. "Military Combat Operations [RMCO]" is understood to mean Military Combat Operations [RMCO] that may be initiated from Japan against areas outside Japan.

c. "Prior Consultation" will not be interpreted as affecting present procedures regarding the deployment of United States armed forces and their equipment into Japan and those for the entry of United States military aircraft and the entry into Japanese waters and ports by United States naval vessels, except in the case of major changes in the deployment into Japan of United States armed forces.

d. Nothing in the Exchange of Notes will be construed as requiring "Prior Consultation" on the transfer of units of United States armed forces and their equipment from Japan.²⁷²

B.3.1.1. FUJIYAMA-MacArthur (Oral) Understanding

A 25 April 1968 MOFA document submitted to Diet members (but not the entire Diet—although it was referred to openly in Diet committee deliberations) stated that GoJ's understanding of the Prior Consultation Formula,²¹⁰⁹ based on an oral understanding reached in during MST²¹¹⁰ negotiations from 1958-1960 (later documented as the Record of Discussion²¹¹¹) between then-Foreign Minister FUJIYAMA and then-US Ambassador to Japan Douglas MacArthur II, was that Prior Consultations would be held:

When "major changes in the deployment into Japan of United States Armed Forces" which means deployment of U.S. forces the minimum size of which would be about one divisional strength in the case of land forces, a comparable air force unit and a navy task force, is made.

When "major change in their equipment" which means introduction into Japan of nuclear warheads or intermediate and long range missiles and the construction of bases for such weapons is made.

When the use is made of Facilities and Areas²¹¹² in Japan as bases for Military Combat Operations [RMCO²¹¹³] to be undertaken from Japan other than those conducted under Article V²¹¹⁴ of the Treaty [MST²¹¹⁵].²⁷³

B.3.2. Prior Consultation Formula (1960)

The Prior Consultation Formula²¹¹⁶ was affirmed by Exchange-of-Notes²¹¹⁷ on 19 January 1960.

B.3.2.1. Japanese Note

Excellency:

²¹⁰⁶ 2.1.4.1.1. Definition of "Facilities and Areas", p. 31.

²¹⁰⁷ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka "Unilateral ABO" or "Lethal ABO"), p. 130.

²¹⁰⁸ 2.1.3.4 Article V – Mutual Defense (the "MOD Clause")²⁵

²¹⁰⁹ 5.5.2.2.1. The Prior Consultation Formula, p. 134.

²¹¹⁰ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²¹¹¹ B.3.1.1. FUJIYAMA-MacArthur (Oral) Understanding, p. 213.

²¹¹² 2.1.4.1.1. Definition of "Facilities and Areas", p. 31.

²¹¹³ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka "Unilateral ABO" or "Lethal ABO"), p. 130.

²¹¹⁴ 2.1.3.4. Article V – Mutual Defense (the "MOD Clause"), p. 25.

²¹¹⁵ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²¹¹⁶ 5.5.2.2.1. The Prior Consultation Formula, p. 134.

²¹¹⁷ 1.6.2.1. Exchange of (Diplomatic) Notes (Legal Status), p. 10.

Appendix B. Prior Consultation

I have the honour to refer to the Treaty of Mutual Cooperation and Security between Japan and the United States of America²¹¹⁸ signed today, and to inform Your Excellency that the following is the understanding of the Government of Japan concerning the implementation of Article VI²¹¹⁹ [SOFA] thereof:

[1] Major changes in the deployment into Japan of United States armed forces, [2] major changes in their equipment, and [3] the use of Facilities and Areas²¹²⁰ in Japan as bases for Military Combat Operations [RMCO²¹²¹] to be undertaken from Japan other than those conducted under Article V²¹²² [Mutual Defense] of the said Treaty, shall be subjects of Prior Consultation²¹²³ with the Government of Japan. [This can be interpreted as the exception that proves the (implied existence of) the rule that military combat operations conducted from Japan for Article V are not subject to Prior Consultation.]

I should be appreciative if Your Excellency would confirm on behalf of your Government that this is also the understanding of the Government of the United States of America.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

B.3.2.2. US Reply

Excellency:

I have the honor to acknowledge the receipt of Your Note of today's date, which reads as follows:

[text of note]

I have the honor to confirm on behalf of my Government that the foregoing is also the understanding of the Government of the United States of America.

Accept, Excellency, the renewed assurances of my highest consideration.

B.3.3. DoS Memos

B.3.3.1. Status of US-Japan Treaty Negotiations

A 26 December 1959 memo from Deputy Assistant Secretary of State for Far Eastern Affairs to then-Secretary of State Herter outlined the US position on the Mechanism of Prior Consultation.²¹²⁴ This is a formulation of the US's desire for ambiguity²¹²⁵ on the issue and its interpretation that Prior Consultation²¹²⁶ does not imply the necessity for Japanese consent.

...

1. Consultation Interpretation

The Japanese have long considered crucial a public indication that under the new consultation agreement [under the then-yet unsigned MST²¹²⁷], we [the US] will not ignore the views of the Japanese Government. While we have resisted any specific public reference to the need for Japanese "agreement," we had agreed to a proposal that Prime Minister KISHI state after his meeting with the President that: "Prime Minister KISHI stated that he had discussed the problem of consultation with the President under the new Treaty²¹²⁸ arrangements. The President had assured him that the U.S. Government had no intention of acting with respect to the matters involving consultation in a manner contrary to the wishes of the Japanese Government."²¹²⁹ This language has been accepted by the Japanese. Prime Minister KISHI considers it essential to Diet ratification that this language be included in the Communiqué²¹³⁰ to be issued after his

²¹¹⁸ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²¹¹⁹ 2.1.3.5. Article VI – Access, Basing, and Overflight (ABO) (the "Far East Clause" or "MOFA Clause"), p. 28.

²¹²⁰ 2.1.4.1.1. Definition of "Facilities and Areas", p. 31.

²¹²¹ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka "Unilateral ABO" or "Lethal ABO"), p. 130.

²¹²² 2.1.3.4. Article V – Mutual Defense (the "MOD Clause"), p. 25.

²¹²³ 5.5.2. Prior Consultation, p. 132.

²¹²⁴ 5.5.2.3. Mechanism of Prior Consultation, p. 135.

²¹²⁵ B.1.3. Desirable Ambiguity on the Mechanism of Prior Consultation, p. 207.

²¹²⁶ 5.5.2. Prior Consultation, p. 132.

²¹²⁷ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²¹²⁸ 1.6.1.1.1. Treaties (Legal Status), p. 9.

²¹²⁹ B.1.2. Origins of Prior Consultation (MST Joint Statement), p. 207.

²¹³⁰ B.1.2. Origins of Prior Consultation (MST Joint Statement), p. 207.

meeting with the President. The questions of U.S. introduction of nuclear weapons²¹³¹ and use of Japanese bases in the event of hostilities elsewhere in the Far East²¹³² have been the subject of prolonged Diet debate for some years. From a political viewpoint, we would agree that it is most important for KISHI to have included in the Communiqué, rather than as a unilateral statement by him, the President's assurances that our agreement to consult on these matters is not a pro-forma exercise.

...²⁷⁴

B.3.3.2. The Description of Consultation Arrangements Under the MST

This memo (dated 1 June 1960) is the first of two documents (alongside Summary of Unpublished Agreements Reached in Connection with the MST²¹³³) prepared for then-Secretary of State Christian Herter before his testimony to Congress in 1960.

Okinawa had not been reverted to the sovereign control of Japan at this time and thus was not subject to the requirements of Prior Consultation.²¹³⁴

Description of Consultation Arrangements Under the Treaty of Mutual Cooperation and Security with Japan

There is set forth below a summary of our arrangements with the Japanese for consultation regarding major changes in the deployment into Japan of United States armed forces, major changes in their equipment, and the use of United States basis in Japan for Military Combat Operations [RMCO²¹³⁵] outside Japan. The texts of the relevant agreements are attached [omitted].

In addition to the specific arrangements for consultation set forth below, Article IV of the Treaty [MST²¹³⁶] provides in general for consultation to implement the Treaty and whenever the security of Japan or international peace and security in the Far East²¹³⁷ is threatened.

I. Consultation with Japan Required

- A. Military Combat Operations [RMCO] that are initiated from Japan against areas outside Japan.
- B. The introduction into Japan of nuclear weapons.
- C. The introduction into Japan of intermediate or long-range missiles.
- D. The construction in Japan of bases for nuclear weapons, including intermediate and long-range missiles.
- E. Major changes in the deployment into Japan of United States armed forces.

II. Presidential Assurance on Consultation

(Extract from Eisenhower-KISHI Joint Communiqué of January 19, 1960²¹³⁸)

"The President assured [the Prime Minister] that the United States Government has no intention of acting in a manner contrary to the wishes of the Japanese Government with respect to the matters involving Prior Consultation under the Treaty.

III. Consultation with Japan not Required

- A. Use of bases in Japan for logistics purposes

²¹³¹ B.2.1.3. Nuclear Weapon "Introduction" vs. "Transit", p. 211.

²¹³² B.1.4.1. Defining the Far East, p. 209.

²¹³³ B.3.3.3. Summary of Unpublished Agreements Reached in Connection with the MST, p. 216.

²¹³⁴ 5.5.2. Prior Consultation, p. 132.

²¹³⁵ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka "Unilateral ABO" or "Lethal ABO"), p. 130.

²¹³⁶ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²¹³⁷ B.1.4.1. Defining the Far East, p. 209.

²¹³⁸ B.1.2. Origins of Prior Consultation (MST Joint Statement), p. 207.

Appendix B. Prior Consultation

B. Transfer of United States armed forces units and their equipment from Japan, whether to the United States or other areas in the Far East.

C. Transit of ports or airbases in Japan by United States vessels and aircraft, regardless of their armament.

D. Introduction into Japan of non-nuclear weapons, including short-range missiles without nuclear components.

IV. Arrangements for Prior Consultation Already Completed

At the first meeting of the United States-Japan Security Consultative Committee²¹³⁹ following the entry into force of the new Treaty arrangements, Foreign Minister FUJIYAMA will state the view of the Japanese Government that “as an exceptional measure in the event of an emergency resulting from an attack against the United Nations Forces in Korea, Facilities and Areas²¹⁴⁰ in Japan may be used for such Military Combat Operations [RMCO] as need be undertaken immediately by the United Nations as the response to such an armed attack in order to enable the United Nations Forces in Korea to repel an armed attack made in violation of the Armistice.”²¹⁴¹ [Korea Minute²¹⁴¹]

B.3.3.3. Summary of Unpublished Agreements Reached in Connection with the MST

This memo (dated 1 June 1960) is the second of two documents (alongside The Description of Consultation Arrangements Under the MST²¹⁴²) prepared for then-Secretary of State Christian Herter before his testimony to Congress in 1960.

Okinawa had not been reverted to the sovereign control of Japan at this time and thus was not subject to the requirements of Prior Consultation.²¹⁴³

Summary of Unpublished Agreements Reached in Connection with the Treaty of Mutual Cooperation and Security with Japan

1. Consultation – Record of Discussion.

This is a confidential interpretation defining more precisely the consultation arrangements combined in the public Exchange of Notes.²¹⁴⁴ This has the effect of restricting our obligations to consult on “deployment” to the introduction into Japan of nuclear weapons and large missiles and on “operations” to Military Combat Operations [RMCO²¹⁴⁵] that may be initiated from Japan against areas outside Japan. (See also description of consultation arrangements.)

2. Consultation – Consultative Committee Minute²¹⁴⁶

This is a secret arrangement for advance consultation that permits us to react immediately from Japanese bases to a renewal of the Communist attack in Korea. (See also description of consultation arrangements.)

3. Agreements of the Joint Committee Established by Article XXVI of the Administrative Agreement [the agreement replaced by the SOFA²¹⁴⁷] – Minute.

The Joint Committee established by Article XXVI of the Administrative Agreement has developed, over the past eight years, a large body of detailed arrangements implementing the Administrative Agreement [e.g., Agreed Views²¹⁴⁸]. These arrangements will be preserved intact by a minute initialed by the negotiators for adoption at the first meeting of the Joint Committee established by Article 25 of the Japan Status of Forces

²¹³⁹ 6.2.1.2. Security Consultative Committee (SCC) (“2+2”), p. 142.

²¹⁴⁰ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

²¹⁴¹ B.3.4. The Korea Minute, p. 217.

²¹⁴² B.3.3.2. The Description of Consultation Arrangements Under the MST, p. 215.

²¹⁴³ 5.5.2. Prior Consultation, p. 132.

²¹⁴⁴ 1.6.2.1. Exchange of (Diplomatic) Notes (Legal Status), p. 10.

²¹⁴⁵ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

²¹⁴⁶ 1.6.2.2. Agreed Minute(s) (Legal Status), p. 11.

²¹⁴⁷ 2.1.4. Status of Forces Agreement (SOFA), p. 29.

²¹⁴⁸ 2.1.4.7. Agreed View, p. 34.

Agreement. This minute bears a low classification at Japanese request in conformity with standard Japanese practice for classifying Joint Committee transactions.

4. United States Base Rights and Waiver of Private Claims – Minute

The negotiators initialed an interpretive minute for the guidance of the new Joint Committee clarifying the meaning of Article 3, ¶(1), and rescinding in part an agreed view relating to Article 18, ¶(4) of the Japan Status of Forces Agreement. This minute bears a low classification at Japanese request in conformity with standard Japanese practice for classifying Joint Committee transactions.²⁷⁶

B.3.4. The Korea Minute

During the first meeting of the SCC²¹⁴⁹ on 6 January 1960, immediately after the signing of the MST,²¹⁵⁰ the following was recorded as a secret Agreed Minute²¹⁵¹ (later declassified²⁷⁷) on the US's ability to use US Facilities and Areas²¹⁵² in Japan for combat operations under UN Command, in the event that hostilities resumed in Korea.

The Korea Minute is also known as the “KISHI Minute,” in reference to Nobusuki KISHI, the PM that Foreign Minister FUJIYAMA served under when he agreed to the minute.

The Korea Minute may also be referenced as the “1961 KISHI Minute.” This a typo in a variety of original source documents and these references are to the 1960 Korea Minute.

Whether the Korea Minute still stands is (deliberately) ambiguous.²¹⁵³ While NSDM 251 of 29 March 1974 outlined the USG decision seek an explicit extension of the Korea Minute,²⁷⁸ US negotiators ultimately dropped this request out of fear that GoJ would confirm a position that the Korea Minute was no longer valid.²⁷⁹ NSDM 262 of 29 July 1974 established a revised US policy to “[retain] at least the effect of the Korean Minute without seeking an explicit, formal extension of the Minute” and “Not raise the question of the Korean Minute itself directly with the Japanese Government.”²⁸⁰

This Korea Minute may be considered by some as a Standing Prior Consultation.²¹⁵⁴

Minutes for Inclusion in the Record of the First Meeting of the Security Consultative Committee

At the meeting of the Security Consultative Committee today the situation in Korea was discussed and the following statements were made by Ambassador MacArthur and Foreign Minister Fujiyama respectively.

Ambassador MacArthur:

Fortunately, since the Armistice Agreement was reached there has been no resumption of the armed attack against the United Nations forces in Korea. It is our hope that a final settlement involving the peaceful reunification of Korea in accordance with the United Nations resolutions can be reached without a recurrence of hostilities. However, the possibility of a renewal of the armed attack cannot be ruled out. In this event, the preservation of the Republic of Korea against aggression not only is essential to the continued effectiveness of the United Nations but has a particular importance for the security of Japan and the other nations of the Far East²¹⁵⁵ endangered by such aggression. While it might be possible to detect in advance preparations for a large-scale armed attack, the possibility of an emergency arising out of an attack cannot be ruled out. Thus it could happen that, unless the United States armed forces undertook Military Combat Operations [RMCO²¹⁵⁶ immediately from Japan, the United Nations forces could not repel an armed attack made in violation of the Armistice. I hereby request, therefore, the views of the Japanese Government regarding the operational use of bases in Japan in the event of an exceptional emergency as mentioned above.

Foreign Minister FUJIYAMA:

²¹⁴⁹ 6.2.1.2. Security Consultative Committee (SCC) (“2+2”), p. 142.

²¹⁵⁰ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²¹⁵¹ 1.6.2.2. Agreed Minute(s) (Legal Status), p. 11.

²¹⁵² 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

²¹⁵³ B.3.4.1. Criticisms of the Korea Minute, p. 218.

²¹⁵⁴ B.2.1.4. Standing Prior Consultations Completed, p. 211.

²¹⁵⁵ B.1.4.1. Defining the Far East, p. 209.

²¹⁵⁶ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

Appendix B. Prior Consultation

The Japanese Government shares with the United States Government the hope that a final settlement in accordance with the resolution of the United Nations can be brought about in Korea without a recurrence of hostilities.

I have been authorized by Prime Minister KISHI to state that it is the view of the Japanese Government that, as an exceptional measure in the event of an emergency resulting from an attack against the United Nations forces in Korea, Facilities and Areas in Japan may be used for such Military Combat Operations [RMCO²¹⁵⁷] as need be undertaken immediately by the United States armed forces in Japan under the Unified Command of the United Nations as the response to such an armed attack in order to enable the United Nations forces in Korea to repel an armed attack made in violation of the Armistice.²⁸¹

The Korea Minute addresses the issue of Prior Consultation, which is an arrangement under the MST and therefore applicable only to US forces. But the operations it approves are for RMCO conducted under UN Command, not US unilateral command.

B.3.4.1. Criticisms of the Korea Minute

Some analysts criticize the Korea Minute (and, by extension, any other Standing Prior Consultations²¹⁵⁸) because it grants “almost automatic affirmative consent for the use of U.S. bases in Japan for conventional combat operations without any approval by the Diet and, thus, exempted the U.S. from the obligation to hold Prior Consultation²¹⁵⁹.”²⁸² Some have gone so far as to classify it as an “exception” to Prior Consultation.²⁸³

This criticism is likely exaggerated as there is little evidence that Prior Consultation presumes or would (in a crisis) be immediately subject to approval by the Diet. However, it is useful in underlining the point that Standing Prior Consultations risk removing Japan from the political decision to exercise the consented actions. During a crisis, the very time Standing Prior Consultations are intended to address, the GoJ would want to exercise its sovereign rights in the political decision to consent to RMCO²¹⁶⁰ from Japan.

Furthermore, as an Agreed Minute²¹⁶¹ to a Treaty (the MST²¹⁶²), the MOFA Treaties Bureau²¹⁶³ assessed that the Korea Minute “held legal effect as an [legally-binding] International Agreement²¹⁶⁴”²⁸⁴ and sources suggest the US interpreted the minute as legally-binding as well.²⁸⁵

Finally, during the course of the Okinawa reversion debates, negotiators for the US sought ways to confirm that the Korea Minute still stood while Japanese officials pressed for an interpretation of the reversion agreement and associated policies (e.g., the Joint Communiqué of United States President Nixon and Japanese Prime Minister SATŌ Issued on November 21, 1969²¹⁶⁵) that would at least implicitly terminate or void the Korea Minute.

Ultimately, the publicly-available record shows that the Allies avoided clarifying known opposing views and opted instead for the ambiguity of not formally terminating the Korea Minute while also not confirming that it was formally extended.²⁸⁶

Whether the Korea Minute has legal effect and still stands is considered by some analysts an academic question and not one relevant to modern Alliance managers. As one source explains:

...it is difficult to imagine ... that the Government of Japan would say “No” to such USFJ operations [RMCO in support of renewed hostilities in Korea] in the prior consultation ... Moreover, if the US Government were to utilize the Korean Minute to override this position of the Japanese Government [objection to RMCO in support

²¹⁵⁷ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

²¹⁵⁸ 5.5.2.1. Standing Prior Consultation, p. 133.

²¹⁵⁹ 5.5.2. Prior Consultation, p. 132.

²¹⁶⁰ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

²¹⁶¹ 1.6.2.2. Agreed Minute(s) (Legal Status), p. 11.

²¹⁶² 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²¹⁶³ C.2.8.3.1. Treaties Bureau (Treaties Division), p. 232.

²¹⁶⁴ 1.6.1.1. International Agreements (Legal Status), p. 8.

²¹⁶⁵ B.3.7.1. Criticism of the Emergency Nuclear Re-Entry Agreement, p. 221.

of renewed hostilities in Korea], it would likely cause irreparable harm to the relationship of trust of the Japan-US Alliance...²⁸⁷

B.3.4.1.1. Korea Clause

The 1969 SATO-Nixon Joint Communiqué²¹⁶⁶ included what some have referred to as the “Korea Clause,” linking the security of RoK with the security of Japan.

The Prime Minister deeply appreciated the peacekeeping efforts of the United Nations in the area and stated that the security of the Republic of Korea was essential to Japan's own security.²⁸⁸

Some have argued that this public “Korea Clause” was Japan’s attempt to nullify the Korea Minute, however this attempt was largely ignored by the US.²⁸⁹

When this statement was reaffirmed by 1975 Ford-MIKI Joint Communiqué,²¹⁶⁷ some considered it the “New Korea Clause.”

B.3.4.2. 1951 YOSHIDA-Acheson Exchange of Notes

Some analysts link the Korea Minute, the UN SOFA,²¹⁶⁸ and a 8 September 1951 Exchange of Notes²¹⁶⁹ between PM Shigeru YOSHIDA and Secretary of State Dean Acheson as necessary to complete the picture of the agreement the Korea Minute represents.

The 1951 Exchange of Notes established that Japan would provide “every assistance” to UN actions in the Far East²¹⁷⁰

The 1951 Exchange of Notes stated:

Upon the coming into force of the Treaty of Peace [1951 US-Japan Security Treaty²¹⁷¹] signed today, Japan will assume obligations expressed in Article 2 of the Charter of the United Nations which requires the giving to the United Nations of “every assistance in any action it takes in accordance with the present Charter”.

As we know, armed aggression has occurred in Korea, against which the United Nations and its members are taking action. There has been established a unified command of the United Nations under the United States pursuant to Security Council Resolution of July 7, 1950, and the General Assembly, by Resolution of February 1, 1951, has called upon all states and authorities to lend every assistance to the United Nations action and to refrain from giving any assistance to the aggressor. With the approval of SCAP, Japan has been and now is rendering important assistance to the United Nations action in the form of facilities and services made available to the members of the United Nations, the Armed Forces of which are participating in the United Nations action.

Since the future is unsettled and it may unhappily be that the occasion for facilities and services in Japan in support of United Nations action will continue or recur, I would appreciate confirmation, on behalf of your Government, that if and when the forces of a member or members of the United Nations are engaged in any United Nations action in the Far East after the Treaty of Peace comes into force, Japan will permit and facilitate the support in and about Japan, by the member or members, of the forces engaged in such United Nations action; the expenses involved in the use of Japanese facilities and services to be borne as at present or as otherwise mutually agreed between Japan and the United Nations member concerned. In so far as the United States is concerned the use of facilities and services, over and above those provided to the United States pursuant to the Administrative Agreement which will implement the Security Treaty between the United States and Japan, would be at United States expense, as at present.²⁹⁰

This 1951 Exchange of Notes was confirmed to remain in force by an notes exchanged on 19 January 1960²⁹¹ at the signing of the MST.²¹⁷²

²¹⁶⁶ B.3.7. Emergency Nuclear Re-Entry Agreed Minute (“Record of Discussion”), p. 220.

²¹⁶⁷ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

²¹⁶⁸ 2.3.8. UN SOFA, p. 48.

²¹⁶⁹ 1.6.2.1. Exchange of (Diplomatic) Notes (Legal Status), p. 10.

²¹⁷⁰ B.1.4.1. Defining the Far East, p. 209.

²¹⁷¹ F.1.2.4. (1951) Security Treaty Between the US and Japan, p. 256.

²¹⁷² 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

B.3.5. NSC Report 6008/1 US Policy Towards Japan

Released on 11 June 1960, NSC Report 6008/1 United States Policy Towards Japan provided a summary of US policy and guidelines towards Japan. These guidelines included the following items related to Prior Consultation:

41. Under the provisions of the security arrangements with Japan:

a. Assist in the defense of Japan in the event of an armed attack against the territories under the administration of Japan.

b. Consult with the Japanese Government prior to (1) major changes in the deployment into Japan of US armed forces, (2) the introduction into Japan of nuclear weapons and intermediate and long-range missiles, and (3) the launching of US military combat operations [RMCO²¹⁷³] from bases in Japan against areas outside Japan when Japan is not a party to the conflict, other than those operations outlined in subparagraph c below.

c. In the event of an emergency resulting from an attack against the UN Forces in Korea, use the Facilities and Areas in Japan for such military combat operations as needed be undertaken immediately by the US armed forces in Japan under the unified command of the UN as the response to such an armed attack in order to enable the UN Forces in Korea to repel an armed attack made in violation of the Korean Armistice.²⁹² [a reference to the Korea Minute²¹⁷⁴]

B.3.6. Guidelines of US Policy and Operations Towards Japan

Released in March 1962, the Guidelines of US Policy and Operations Towards Japan provided a summary of US policy and guidelines towards Japan. These guidelines included the following items related to Prior Consultation:

b) Adhere rigidly to the provisions of the consultation arrangements, avoiding actions contrary to the wishes of the Japanese Government as expressed in such consultations.

c) Implement the (less than 1 line of source text not declassified [a reference to the Korea Minute²¹⁷⁵]) response to an attack against the United Nations Forces in Korea only with the authorization of the President.²⁹³

B.3.7. Emergency Nuclear Re-Entry Agreed Minute (“Record of Discussion”)

Under the utmost caution and secrecy, on 19 November 1969, President Nixon and PM SATŌ signed the Agreed Minute to Joint Communiqué of United States President Nixon and Japanese Prime Minister SATŌ Issued on November 21, 1969 [the Joint Communiqué²¹⁷⁶ agreeing to some of the terms of the forthcoming Okinawa reversion agreement]:

United States President:

As stated in our Joint Communiqué, it is the intention of the United States Government to remove all the nuclear weapons from Okinawa by the time of actual reversion of the administrative rights to Japan; and thereafter the Treaty of Mutual Cooperation and Security²¹⁷⁷ and its related arrangements will apply to Okinawa, as described in the Joint Communiqué.

However, in order to discharge effectively the international obligations assumed by the United States for the defense of countries in the Far East including Japan, in time of great emergency the United States Government will require the re-entry of nuclear weapons and transit rights in Okinawa with Prior

²¹⁷³ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

²¹⁷⁴ B.3.4. The Korea Minute, p. 217.

²¹⁷⁵ B.3.4. The Korea Minute, p. 217.

²¹⁷⁶ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

²¹⁷⁷ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

Consultation²¹⁷⁸ with the Government of Japan. The United States Government would anticipate a favorable response.

The United States Government also requires the standby retention and activation in time of great emergency of existing nuclear storage locations in Okinawa:

Kadena, Naha, Henoko and Nike Hercules units.

Japanese Prime Minister:

The Government of Japan, appreciating the United States Government's requirements in time of great emergency stated above by the President will meet these requirements without delay when such Prior Consultation takes place.

The President and the Prime Minister agreed that this Minute,²¹⁷⁹ in duplicate, be kept each only in the offices of the President and the Prime Minister and be treated between only the President of the United States and the Prime Minister of Japan.²⁹⁴

This Agreed Minute may be referred to as a "Record of Discussion" or "Record of Conversation," not to be confused with the 1960 Record of Discussion.²¹⁸⁰

Many pre-2010 sources cite this minute either as a document available unofficially only in memoirs or as not officially recognized by either government. After the 2009 elections placed the DPJ in power, breaking almost half a century of uninterrupted LDP control of the GoJ, the DPJ-controlled government commissioned an expert panel to study the issue of Secret Agreements²¹⁸¹ and their final report both published the existence of this Agreed Minute while providing their analysis. Ultimately, while officially revealing the Agreed Minute, the panel concluded that it did not, legally, constitute a secret *agreement* because it both subject the request to Prior Consultation and was an Agreed Minute to a Communiqué, denying the Minute the legal status of a legally-binding International Agreement.²¹⁸²

On 27 September 1991, then-President Bush announced that the US would withdraw all land-and sea-based tactical nuclear weapons overseas and aboard ship apart from Ohio-class submarines armed with strategic nuclear weapons.²⁹⁵ This public announcement, in effect, ended both the NCND policy²¹⁸³ as well as the debate about the US's nuclear transit rights.

B.3.7.1. Criticism of the Emergency Nuclear Re-Entry Agreement

In addition to its confidential nature, criticism of this "Secret Agreement" in Japan generally revolves around its perceived inconsistency with ¶(8) of the Communiqué²¹⁸⁴ it augments (Joint Communiqué of United States President Nixon and Japanese Prime Minister SATŌ Issued on November 21, 1969), which states:

8. *The Prime Minister described in detail the particular sentiment of the Japanese people against nuclear weapons and the policy of the Japanese Government reflecting such sentiment. The President expressed his deep understanding and assured the Prime Minister that, without prejudice to the position of the United States Government with respect to the prior consultation system under the Treaty of Mutual Cooperation and Security, the reversion of Okinawa would be carried out in a manner consistent with the policy of the Japanese Government as described by the Prime Minister.²⁹⁶*

The rumored existence of and later discovery, declassification, and publication of the Agreed Minute, signed two days before the publication of the Joint Communiqué, highlighted the deliberately ambiguous phrasing of ¶(8), suggesting that it was carefully tailored to appear to assuage public Japanese sentiment that sought a reversion of a nuclear-free Okinawa while retaining the ability of the US to use Okinawa as a base for US nuclear weapons in an emergency. When revealed, the GoJ's role in this perceived betrayal of the Japanese

²¹⁷⁸ 5.5.2. Prior Consultation, p. 132.

²¹⁷⁹ 1.6.2.2. Agreed Minute(s) (Legal Status), p. 11.

²¹⁸⁰ B.3.1. 6 January 1960 Record of Discussion, p. 212.

²¹⁸¹ B.2.2. The Issue of "Secret Agreements", p. 212.

²¹⁸² 1.6.1.1. International Agreements (Legal Status), p. 8.

²¹⁸³ B.2.1.3. Nuclear Weapon "Introduction" vs. "Transit", p. 211.

²¹⁸⁴ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

Appendix B. Prior Consultation

public's desires caused a relatively short-lived political scandal, but one that retains rhetorical value among those who seek to check the US's ability to use its bases in Japan for regional operations.

Ultimately MOFA's Report of the Expert Committee on the So-Called "Secret Agreements Issue" criticized the Minute for going beyond the public meaning of ¶(8) but concluded that it did not constitute a "Secret Agreement" because it did not directly agree to any actions or create any obligations—it merely outlined the parameters and expectations of a potential *future* Prior Consultation.

B.3.7.2. Emergency Re-Entry Agreement Applicability to a Taiwan Crisis

At least one source²⁹⁷ asserts that, in conjunction with the SATŌ-Nixon Joint Communiqué issued on November 21, 1969, PM SATŌ provided verbal assurance that Japan would favorably respond to Prior Consultations regarding RMCO²¹⁸⁵ in response to an attack on Taiwan.

It seems unlikely that if such a verbal agreement existed, such a sensitive and highly secretive agreement as the Emergency Nuclear Re-Entry Agreed Minute would exclude the comparatively less controversial approval for RMCO to uphold what were then US treaty commitments to Taiwan. Regardless, the same source states that normalization of US and Japanese relations with the PRC and termination of US treaty obligations to defend Taiwan nullified any such verbal agreement, if one existed.

B.3.7.3. Relevance of Standing Prior Consultation Agreements

Until declassified and published by the GoJ in 2010, evidence of the Emergency Nuclear Re-Entry Agreed Minute existed only as rumors or as partial recounting in memoirs. During this time commentators grappling with uncertainty as to the veracity of such rumors resolved the question by instead addressing the relevance of such Standing Prior Consultations²¹⁸⁶ in general, considering them of little practical relevance:

Former [MOFA] Treaties Bureau²¹⁸⁷ official KURIYAMA describes the "Agreed Minute" prepared by Kissinger and WAKAIZUMI as being some kind of ceremonial garnishment, which was "meaningless" as a diplomatic document in U.S.-Japan relations. In his memoirs, Kissinger states, "In a sense we were arguing about window dressing: a decision of the magnitude of introducing nuclear weapons would not depend on quoting clauses from long-ago Communiqué, but on the conditions prevailing at the time."²⁹⁸

In assessing the agreement (Joint Communiqué of United States President Nixon and Japanese Prime Minister SATŌ Issued on November 21, 1969²¹⁸⁸) to remove nuclear weapons from Okinawa at reversion, combined with the Emergency Nuclear Re-Entry Agreed Minute, the Treaties Bureau assessed the political and legal aspects of the Prior Consultations implied by the communiqué, concluding:

The Treaties Bureau appraised Japan's possible affirmative responses, expressing "yes," to the U.S. in Prior Consultations as a political, but not legal, commitment.²⁹⁹

This logic extends to greater or lesser degrees to other existing or hypothetical Standing Prior Consultation agreements.

²¹⁸⁵ 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka "Unilateral ABO" or "Lethal ABO"), p. 130.

²¹⁸⁶ 5.5.2.1. Standing Prior Consultation, p. 133.

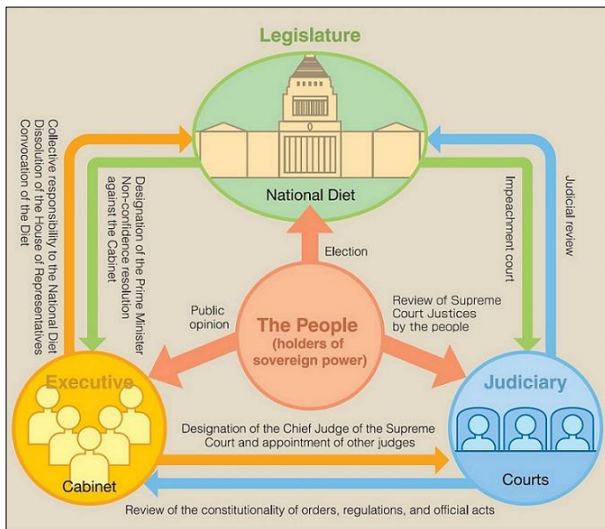
²¹⁸⁷ C.2.8.3.1. Treaties Bureau (Treaties Division), p. 232.

²¹⁸⁸ B.3.7.1. Criticism of the Emergency Nuclear Re-Entry Agreement, p. 221.

Appendix C. GOVERNMENT OF JAPAN

C.1. OVERVIEW

Like the US, the Japanese Constitution²¹⁸⁹ provides for the principle of the separation of powers. Three independent organs — the Diet, the Cabinet, and the Judiciary — are established, and each limits the power of the others through a system of checks and balances. This prevents the abuse of power and guarantees the rights and freedom of the people.



C.1.1. Levels of Administration

Japan has three levels of governmental administration:

- National
- Prefectural
- Municipal

The national level of Japan's government (GoJ) includes the executive, legislative, and judicial branches.

The prefectural level is the first level of jurisdiction below the national government. Prefectures have directly-elected governors and pass ordinances and budgets through a unicameral assembly. There are 47 prefectures in Japan. As with US states, while prefectures possess significant legal autonomy, the national government is able to exert additional control or influence through indirect mechanism such as budgets, taxation, etc. Also as with US states, a combination of political factors give some prefectures outsized independence, influence, or control within Japanese politics.

The municipal level ranks below the prefectural level and typically governs at the level of village, town, or city. Especially large cities, such as Tokyo, may be broken up into multiple wards, each acting as a somewhat independent municipality.

C.1.2. Levels of Executive Leadership

Japanese bureaucracy generally relies on a bottom-up approach to decision-making. Within executive structures, this typically results in policies being shaped at the Division level before being communicated up and out by leadership positions at or above the Division.³⁰⁰

²¹⁸⁹ 2.1.2. Japanese Constitution (Kenpō), p. 13.

Appendix C. Government of Japan

	Japan	US
Level	Leader	Leader
Cabinet/Ministerial	Minister	Secretary
Sub-Cabinet	Vice Minister	Under Secretary
“Senior Official”		
Bureau (<i>kyoku</i>)	Director General (DG) (<i>kyoku-chō</i>)	Assistant Secretary
	Deputy Director General (DDG) (<i>shingi-kan</i>)	Deputy Assistant Secretary
Division (<i>ka</i>)	Director (<i>ka-chō</i>)	O-6

C.2. EXECUTIVE BRANCH

The Executive Branch of the GoJ is comprised of:

- PM,²¹⁹⁰ as head of the Cabinet
- Cabinet Office
- 11 Ministries
 - Ministry of Internal Affairs and Communications
 - Ministry of Justice
 - Ministry of Foreign Affairs
 - Ministry of Finance
 - Ministry of Education, Culture, Sports, Science and Technology
 - Ministry of Health, Labour and Welfare
 - Ministry of Agriculture, Forestry and Fisheries
 - Ministry of Economy, Trade and Industry
 - Ministry of Land, Infrastructure, Transport and Tourism
 - Ministry of the Environment
 - Ministry of Defense

Executive power is vested in the Cabinet, which consists of the PM and other Ministers of State.²¹⁹¹ The Cabinet is collectively responsible to the Diet in the exercise of executive power.

A system where the Cabinet, or Executive Branch of government, is dependent on the support of the Diet,²¹⁹² or Legislative Branch, to exist is called a *parliamentary cabinet system*.

The Executive Branch may be referred to by Japanese sources as “the Government,” especially in reference to *executive action* taken by the GoJ. For example, when discussing Security Situations,²¹⁹³ Japanese sources may refer to “the Government” Stipulating²¹⁹⁴ a Security Situation to the Diet, meaning that the Cabinet, as advised by its bodies (e.g., JNSC²¹⁹⁵) and ministries (e.g., MoD) is taking the executive action of Stipulating²¹⁹⁶ a Security Situation for the legislature (Diet) to Approve.²¹⁹⁷

US military sources are typically concerned with the actions or approvals (executive actions) of Japan. Thus, US sources often use “GoJ” to refer to the Executive Branch. But US interactions with Japan are often concerned with the holistic operation of the Japanese government and thus “GoJ” may refer to the government writ large.

²¹⁹⁰ C.2.1.1. Prime Minister, p. 225.

²¹⁹¹ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

²¹⁹² C.3. Diet, p. 233.

²¹⁹³ Chapter 4. Japan’s Security Situations Framework, p. 89.

²¹⁹⁴ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

²¹⁹⁵ C.2.6. (Japan) National Security Council (JNSC), p. 228.

²¹⁹⁶ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

²¹⁹⁷ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

C.2.1. Cabinet

The Cabinet is comprised of the PM²¹⁹⁸ and other Ministers of State,²¹⁹⁹ the organizations and committees established to facilitate the Cabinet's Operations, and the 11 Ministries established by respective Establishment Laws and enumerated in the National Government Organization Law.

To a certain extent, the Cabinet is an extension of the PM. But the parliamentary cabinet system is designed to diffuse power among the Cabinet and limit the PM's sole authority. Cabinet Decisions²²⁰⁰ or Orders²²⁰¹ can only be made unanimously,²²⁰² which slows and limits the Cabinet's decision-making authority.³⁰¹

C.2.1.1. Prime Minister

The PM is the leader of the Cabinet and *de facto* chief executive of the GoJ. However,

*Japan's Prime Minister is institutionally inhibited from exercising strong leadership in setting policy agendas, providing strategic guidance and supervision of his/her government. The current arrangement compels the Prime Minister to rely too heavily on the expertise of a bureaucracy that is fundamentally risk-averse, self-preserving and status quo-oriented.*³⁰²

The PM is designated from among the Members of the Diet by a resolution of the Diet, although the PM is nearly always²²⁰³ the leader of the majority party in the House of Representatives.²²⁰⁴

The PM appoints the Ministers of States and may dismiss them as he chooses. The PM, representing the Cabinet, submits bills to the Diet, reports to the Diet on general national affairs and foreign relations, and exercises control and supervision over various administrative branches.

C.2.1.1.1. Deputy Prime Minister

The Deputy PM is not a permanent position and exists at the discretion of the PM.

When established, the Deputy PM is appointed by the PM from Ministers of State.²²⁰⁵ If the PM is incapacitated or resigns, the Deputy PM is the first in the line of succession to the PM, with authority to exercise the duties of the PM until the Diet elects a successor.

C.2.1.1.2. Prime Minister Selection and Party Elections

The PM is almost always the leader of the majority party (or leader of the senior partner in governing coalitions) in the House of Representatives.²²⁰⁶

The term for members of the House of Representatives is four years. Historically, however, Prime Ministers and their Cabinets typically dissolve the House of Representatives, resulting in General Elections to elect all members of the House of Representatives at once (i.e., a "snap election"). This is often done when the leading party either feels their national political position is strongest (allowing the party to convert national political sentiment into additional seats within the House of Representatives) or in as national political favor is perceived as on the decline (seeing to head off a scheduled General Election when the party may be in a weaker position and lose more seats than in a snap election).

The Constitution requires a Cabinet to resign en masse upon the convocation of the first Diet session after a General Election of the House of Representatives and Prime Ministers are selected by votes of both chambers of the Diet (though the House of Representatives has the decisive vote). This may result in a "reshuffling" of the Cabinet.

Furthermore, in practice, the President of the leading political party (during Japan's post-war history, almost always the LDP) is voted by the House of Representatives to fill the post of Prime Minister. This makes party

²¹⁹⁸ C.2.1.1. Prime Minister, p. 225.

²¹⁹⁹ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

²²⁰⁰ C.2.1.4.2. Cabinet Order, p. 226.

²²⁰¹ C.2.1.4.2. Cabinet Order, p. 226.

²²⁰² C.2.1.4.3. Unanimous Cabinet Consent/Agreement, p. 227.

²²⁰³ C.2.1.1.2. Prime Minister Selection and Party Elections, p. 225.

²²⁰⁴ C.3.1. House of Representatives, p. 234.

²²⁰⁵ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

²²⁰⁶ C.3.1. House of Representatives, p. 234.

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politics and elections within the LDP central factors in the political strength and longevity of the Prime Minister and Japan's Cabinet.

These factors can have a major influence in Japan's willingness to either push foreign policy or defense agendas or to hold back in periods of political weakness. These dynamics may also make senior defense officials, even those who are not political appointees, highly sensitive to Japan-US defense issues. An awareness of Japanese domestic and party politics can often explain the JSDF's willingness (or lack thereof) to advance issues that have political implications.

C.2.1.2. Ministers of State (Cabinet Members)

Ministers of State are members of the Cabinet other than the PM.

C.2.1.3. Cabinet Dissolution

The Constitution requires the Cabinet to resign *en masse* when the post of PM becomes vacant or at the convocation of the first session of the Diet after a General Election of members of the House of Representatives.

If the House of Representatives passes a no-confidence resolution or rejects a confidence resolution the Cabinet is also required to resign *en masse*, unless the House of Representatives is dissolved within ten days.

C.2.1.4. Cabinet Authority

Article 73²²⁰⁷ of the Japanese Constitution establishes the Cabinet as the executive arm of the GoJ. Cabinet Act (Act No. 5 of 1947, as amended) establishes the Cabinet and scopes its composition and authorities, which is supplemented and various other laws that grant the Cabinet general authorities and grant individual Ministers specific administrative authorities to direct their ministry.

For matters beyond the authority granted in issue- or Ministry-specific laws, the Cabinet may exercise its authority by Cabinet action, which includes Cabinet Decisions²²⁰⁸ and Cabinet Orders.²²⁰⁹

C.2.1.4.1. Cabinet Decision

As a deliberative body, the Cabinet makes decisions through unanimous consent.²²¹⁰ The Cabinet memorializes these positions in Cabinet Decisions which may announce related Cabinet actions, such as the issuance of a Cabinet Order²²¹¹ (thus, there is often "Cabinet Decision on Cabinet Order on the Matter of xyz..." accompanying a separate "Cabinet Order on the Matter of xyz...")

Cabinet Decisions serve as policy statements or political commitments and themselves do not carry authoritative enforceable weight. Cabinet Decisions represent the intent and position of the Cabinet and may aid in the interpretation of subsequent actions, such as the issuance and content of a Cabinet Order.

C.2.1.4.2. Cabinet Order

Cabinet Orders are issued under the authority of Article 73²²¹² of the Constitution and have a similar legal status to US Executive Orders, which have the legal weight of federal law though they are subordinate in authority and status to enacted legislation. Like US Executive Orders, Cabinet Orders exercise authority granted to the Cabinet by enacted legislation.

Article 11²²¹³ of the Cabinet Act (Act No. 5 of 1947, as amended) limits the authority of the Cabinet to impose obligations or restrict rights through Cabinet Orders unless otherwise authorized by law. This is one of the forms of Positive List²²¹⁴ restrictions on the authority of GoJ.

"Cabinet Order" may also be rendered as "government ordinance."

²²⁰⁷ i.B.13. Article 73 – The Cabinet, p. 302.

²²⁰⁸ C.2.1.4.1. Cabinet Decision, p. 226.

²²⁰⁹ C.2.1.4.2. Cabinet Order, p. 226.

²²¹⁰ C.2.1.4.3. Unanimous Cabinet Consent/Agreement, p. 227.

²²¹¹ C.2.1.4.2. Cabinet Order, p. 226.

²²¹² i.B.13. Article 73 – The Cabinet, p. 302.

²²¹³ i.DD.3. Article 11, p. 418.

²²¹⁴ 2.1.1.1.1. Japanese "Positive List" Approach, p. 12.

C.2.1.4.3. Unanimous Cabinet Consent/Agreement

Article 1²²¹⁵ of the Cabinet Act (Act No. 5 of 1947, as amended) establishes the Cabinet's collective responsibility to the Diet. Article 3²²¹⁶ establishes that Ministers of State²²¹⁷ share in the management and administration of the government, as provided for in separate laws.

The CLB²²¹⁸ has traditionally held the view that the Cabinet's collective responsibility, flowing from Article 3, requires unanimous agreement for Cabinet actions such as Cabinet Decisions²²¹⁹ and Orders^{2220, 303}.

Stated in other terms, Article 1 establishes shared responsibility for the Cabinet except for (Article 3) where separate authorizing laws specify the authority of an individual Ministers. Combined with the CLB's interpretation, this requires any action by the Cabinet, within its authority to administer the government, not otherwise specified as the sole responsibility of an individual Minister, to be unanimous.

Article 68, ¶(2)²²²¹ of the Japanese Constitution, grants the Prime Minister the authority to dismiss Ministers of State²²²² at his discretion. This potentially allows the Prime Minister to dismiss ministers unwilling to agree to proposed Cabinet Decisions or Orders, though there is an obvious political cost to such action.

C.2.2. Prime Minister's Office (Kantei)

The Kantei refers to the PM and his/her staff. A loose US analog to the term and its use would be "the White House" or "the West Wing."

C.2.3. Cabinet Office

The Cabinet Office manages the daily affairs of the Cabinet.

C.2.3.1. National Public Safety Commission

Chaired by a Minister of State,²²²³ the National Public Safety Commission is an external office of the Cabinet Office, run independently of the Cabinet. The Commission's role is to ensure the neutrality and democratic methods of the police system.

The Commission administers the National Police Agency.²²²⁴

C.2.3.1.1. National Police Agency

(See also § M.4. Public Security Bureau, NPA [p. 284])

The NPA supports the National Public Safety Commission's management of the national police organization, including in a significant advisory role in determining how to respond to situations impacting national public safety, including natural disasters, domestic disturbances, etc.

The NPA does not possess any operational law enforcement units but sets policies and supervises prefectural police agencies and can command designated police agencies in a national emergency.

C.2.4. Cabinet Secretariat

The Cabinet Secretariat is the highest level of policy coordination below the Cabinet itself. The Cabinet Secretariat shapes policies important to the PM and Cabinet, mediates among the various ministries as necessary, and has the authority to independently draft policies at the direction of the PM.

²²¹⁵ i.DD.1. Article 1, p. 418.

²²¹⁶ i.DD.2. Article 3, p. 418.

²²¹⁷ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

²²¹⁸ C.2.5. Cabinet Legislation Bureau (CLB), p. 228.

²²¹⁹ C.2.1.4.1. Cabinet Decision, p. 226.

²²²⁰ C.2.1.4.2. Cabinet Order, p. 226.

²²²¹ i.B.11. Article 68 – Ministers of State, p. 301.

²²²² C.2.1.2. Ministers of State (Cabinet Members), p. 226.

²²²³ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

²²²⁴ C.2.3.1.1. National Police Agency, p. 227.

C.2.4.1. Chief Cabinet Secretary

Second to the PM, the Chief Cabinet Secretary is the most important position with regard to Japanese national security policy. This position oversees the Cabinet Secretariat and is a Minister of State.²²²⁵ In US terms, the Chief Cabinet Secretary is the Vice President, National Security Advisor, and White House Chief of Staff, all combined into one position.³⁰⁴

C.2.4.2. National Security Secretariat

The NSS, established within the Cabinet Secretariat, provides support to the JNSC.²²²⁶ The NSS also supports the “planning, design, and overall coordination of basic guidelines and important matters with regard to foreign, defense, and economic policies pertaining to national security.”³⁰⁵

C.2.4.3. Cabinet Intelligence and Research Office (CIRO)

See § M.3. CIRO (p. 284)

C.2.5. Cabinet Legislation Bureau (CLB)

Japan’s CLB (*Naikaku Hōseiikyoku*) is responsible for legal interpretations of the Constitution,²²²⁷ acting as legal counsel to the Cabinet, similar to how the US Attorney General provides legal opinions to the US Executive regarding the legality of proposed policies or actions. CLB has presented authoritative constitutional interpretations that have been deferred as established precedent by all branches of the GoJ with remarkable consistency (until 2005, no bill examined by Japan’s Supreme Court had ever been judged unconstitutional, making the CLB a highly-respected and authoritative body).

The CLB is comprised of 26 counselors who are experts on legal matters. All ministries, the National Police Agency, and the Cabinet office contribute at least one counselor to the CLB

The CLB has two primary duties:

- Giving opinions on legal issues to the PM and to individual Ministers as well as to the Cabinet as a whole ("opinion-giving work")
 - Interpretation of law is normally carried out by legal counsels within each respective Ministry
 - The CLB provides an authoritative Executive Branch legal opinion when:
 - Ministries have doubts about interpretation
 - Ministries have disagreements about interpretation
 - The Diet requests a legal interpretation of existing laws (including the Constitution)
- Examining legislative bills, draft Cabinet orders and draft Treaties²²²⁸ that are to be brought before Cabinet meetings ("examination work")

The CLB has provided major constitutional interpretations about the Use of Force²²²⁹ including:

- 2014 reinterpretation of Article 9²²³⁰ of the Japanese Constitution
- The prohibition and subsequent allowance for CSD²²³¹
- Expanded roles of the JSDF in international peacekeeping or logistical support to other militaries

Short of a constitutional amendment, the CLB is the main way to the GoJ to gain legal maneuver space for the employment of the JSDF.

C.2.6. (Japan) National Security Council (JNSC)

The JNSC (*Anzen-Hoshō-Kaigi*) is often described as the “control tower” of Japanese national security policies and is a rough counterpart to the US NSC.

²²²⁵ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

²²²⁶ C.2.6. (Japan) National Security Council (JNSC), p. 228.

²²²⁷ 2.1.2. Japanese Constitution (Kenpō), p. 13.

²²²⁸ 1.6.1.1.1. Treaties (Legal Status), p. 9.

²²²⁹ 3.3.3. Use of Force, p. 79.

²²³⁰ 2.1.2.1. Article 9 (War Renunciation), p. 13;
i.B.2. Article 9 – Renunciation of War, p. 300.

²²³¹ 3.4.2. Collective Self-Defense (CSD), p. 84.

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The JNSC acts as a consultation forum for relevant ministers to coordinate and advise to the PM on national security issues.

JNSC membership includes:

- Core (called the “Four Ministers’ Meeting”)
 - PM
 - Chief Cabinet Secretary
 - Minister for Foreign Affairs
 - MinDef
- Expanded members (called the “Nine Ministers’ Meeting”)
 - Deputy PM
 - Minister of Finance
 - Minister of Economy, Trade, and Industry
 - Minister of Public Management, Home Affairs, Posts, and Telecommunications
 - Minister of Land, Infrastructure, and Transportation
 - Chairman of the National Public Safety Commission²²³²

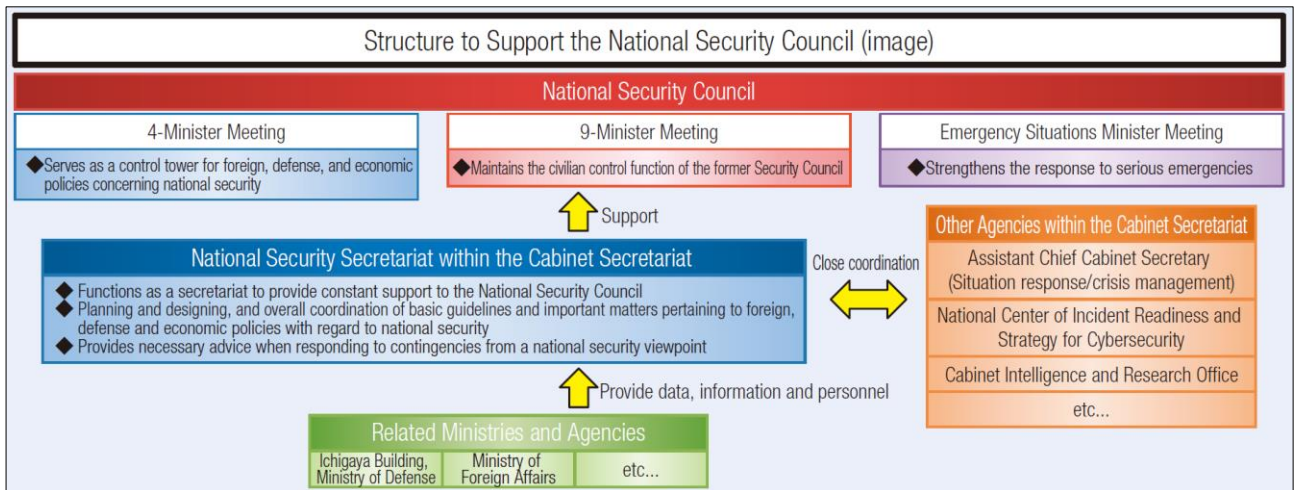


Figure 17. Organization of the JNSC (Minister of Defense, 2023a, p. 273)

C.2.6.1. “Four Ministers’ Meeting”

Four Ministers’ Meetings, held once every two weeks, host “substantive discussions on diplomatic and defense policies related to national security and determine the basic policy direction from a strategic viewpoint.”³⁰⁶

C.2.6.2. “Nine Ministers’ Meeting”

C.2.6.3. (Japan) National Security Secretariat (JNSS)

The JNSS (*Kokka Anzen Hoshō Kyoku*) is responsible for supporting the smooth operations of the JNSC,²²³³ including planning, design, and overall coordination of basic guidelines and important matters with regard to foreign, defense, and economic policies pertaining to national security.

The JNSS is an advisory and coordinating office rather than a lead agency, responsible for preparing meetings with the PM and other ministers. In this capacity, the JNSS is often consulted on defense issues by MoD and MOFA.

The JNSS is organized according to the following structure:

- Secretary General (*kyoku-chō*)

²²³² C.2.3.1. National Public Safety Commission, p. 227.

²²³³ C.2.6. (Japan) National Security Council (JNSC), p. 228.

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- 2x Deputy Secretaries General (*jichō*) representing MOFA and MoD
 - MOFA Councilor (*shingikan*) (Councilors are DG-level)
 - Administrative Division (each division is led by a Cabinet Counsellor [*naikaku sanjikan*])
 - Second Policy Division
 - Director-General level MoD Councilor
 - First Policy Division
 - Strategic Planning Division
 - Director-General level JSDF Councilor
 - Third Policy Division
 - Intelligence Division

The JNSS is responsible for coordinating actions to defend, deter, and maintain situational awareness of cyber attacks,

C.2.7. Ministry of Defense (MoD)

Part of the Executive Branch, ...

See § 7.5 Ministry of Defense (MoD) Structure and Roles (p. 157).

C.2.8. Ministry of Foreign Affairs (MOFA)

MOFA (Gaimushō) is divided into twelve regional and functional Bureaus.²²³⁴

Most issues are managed within Divisions (*ka*), subordinate to the Bureaus, each led by Directors (*ka-chō*).

- Regional Bureaus
 - Asian and Oceanian Affairs
 - North American Affairs²²³⁵
 - Latin American and Caribbean Affairs
 - European Affairs
 - Middle Eastern and African Affairs
- Functional Bureaus
 - Minister's Secretariat
 - Foreign Policy²²³⁶
 - Economic Affairs
 - International Cooperation
 - International Legal Affairs²²³⁷
 - Consular Affairs
 - Intelligence and Analysis Service

C.2.8.1. North American Affairs Bureau (NAAB)

NAAB (*Hoku Bei-kyoku*) exclusively focuses on the Japan-US alliance and is organized into four Divisions:

- Japan-US Security Treaty Division²²³⁸
- SOFA Division²²³⁹
- First North America Division²²⁴⁰
- Second North America Division

²²³⁴ C.1.2. Levels of Executive Leadership, p. 223.

²²³⁵ C.2.8.1. North American Affairs Bureau (NAAB), p. 230.

²²³⁶ C.2.8.2. Foreign Policy Bureau, p. 231.

²²³⁷ C.2.8.3. International Legal Affairs Bureau, p. 231.

²²³⁸ C.2.8.1.1. Japan-US Security Treaty Division, p. 231.

²²³⁹ C.2.8.1.2. Status of US Forces Agreement (SOFA) Division, p. 231.

²²⁴⁰ C.2.8.1.3. First North America Division, p. 231.

C.2.8.1.1. Japan-US Security Treaty Division

The Japan-US Security Treaty Division (*Nichi-Bei Anzen Hoshō Jōyaku-ka*) shares responsibility for various elements of the Alliance with other Divisions, but takes the prominent position as manager of the Alliance, overall.

C.2.8.1.2. Status of US Forces Agreement (SOFA) Division

The SOFA²²⁴¹ Division (*Nichi-Bei Chii Kyōtei-shitsu*) primarily handles SOFA-related matters such as SOFA interpretations, incidents and accidents involving US service members in Japan, and other related issues.

C.2.8.1.3. First North America Division

The First North America Division (*Hokubei Dai-Ichi-ka*) oversees political aspects of the Alliance including state visits, visas, exchanges, etc.

Economic issues are overseen by the Second North America Division.

C.2.8.2. Foreign Policy Bureau

The Foreign Policy Bureau (*Sōgō Gaikō Seisaku-kyoku*) coordinates all policies formulated by MOFA's other Bureaus and formulates broad middle- and long-term foreign policy for GoJ. The Foreign Policy Bureau has twelve divisions:

- Policy Coordination Division
- National Security Policy Division²²⁴²
- United Nations Planning and Administration Division
- United Nations Policy Division
- United Nations Sanctions Division
- Human Rights and Humanitarian Affairs Division
- Arms Control and Disarmament Division
 - Biological and Chemical Weapons Conventions Division
 - Conventional Arms Division
- Non-Proliferation, Science and Nuclear Energy Division
 - International Science Cooperation Division
 - International Nuclear Energy Cooperation Division

C.2.8.2.1. National Security Policy Division

The National Security Policy Division (*Anzen Hoshō Seisaku-ka*) provides policy input to the other Bureaus in issues involving the US and maintains the ability to veto Division-level decisions within MOFA that are inconsistent with existing policy.

C.2.8.3. International Legal Affairs Bureau

The International Legal Affairs Bureau (*Kokusai Hō-kyoku*) is responsible for concluding Treaties²²⁴³ and International Agreements²²⁴⁴ and for matters regarding International Law²²⁴⁵ and foreign relations. The Bureau has 7 Divisions:

- International Legal Affairs Division
 - Law of the Sea Division
 - International Judicial Proceedings Division
- Treaties Division²²⁴⁶
- Economic Treaties Division
- Economic Dispute Settlement Division

²²⁴¹ 2.1.4. Status of Forces Agreement (SOFA), p. 29.

²²⁴² C.2.8.2.1. National Security Policy Division, p. 231.

²²⁴³ 1.6.1.1.1. Treaties (Legal Status), p. 9.

²²⁴⁴ 1.6.1.1. International Agreements (Legal Status), p. 8.

²²⁴⁵ 2.1.2.4.1. International Law, p. 23.

²²⁴⁶ C.2.8.3.1. Treaties Bureau (Treaties Division), p. 232.

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- Social Treaties Division

C.2.8.3.1. Treaties Bureau (Treaties Division)

The Treaties Division (*Jōyaku-ka*), often appearing as “Treaties Bureau” addresses issues synchronizing Japanese domestic law with political and security related Treaties,²²⁴⁷ including (for the Japan-US relationship) the MST,²²⁴⁸ SOFA,²²⁴⁹ transfer of defense equipment and technologies,²²⁵⁰ ACSA,²²⁵¹ and GSOMIA.²²⁵²

C.2.9. MLIT**C.2.10. Ministry of Economy, Trade, and Industry (METI)**

METI is a significant actor in military-industrial issues with respect to their role in the Japanese economy.³⁰⁷

C.2.11. Cybersecurity Strategic Headquarters

The Cabinet established the Cybersecurity Strategic Headquarters in November of 2014 to promote cybersecurity policies. The organization is headed by the Chief Cabinet Secretary.²²⁵³

²²⁴⁷ 1.6.1.1.1. Treaties (Legal Status), p. 9.

²²⁴⁸ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²²⁴⁹ 2.1.4. Status of Forces Agreement (SOFA), p. 29.

²²⁵⁰ 2.3.2. Three Principles on Arms Exports (3P), p. 41.

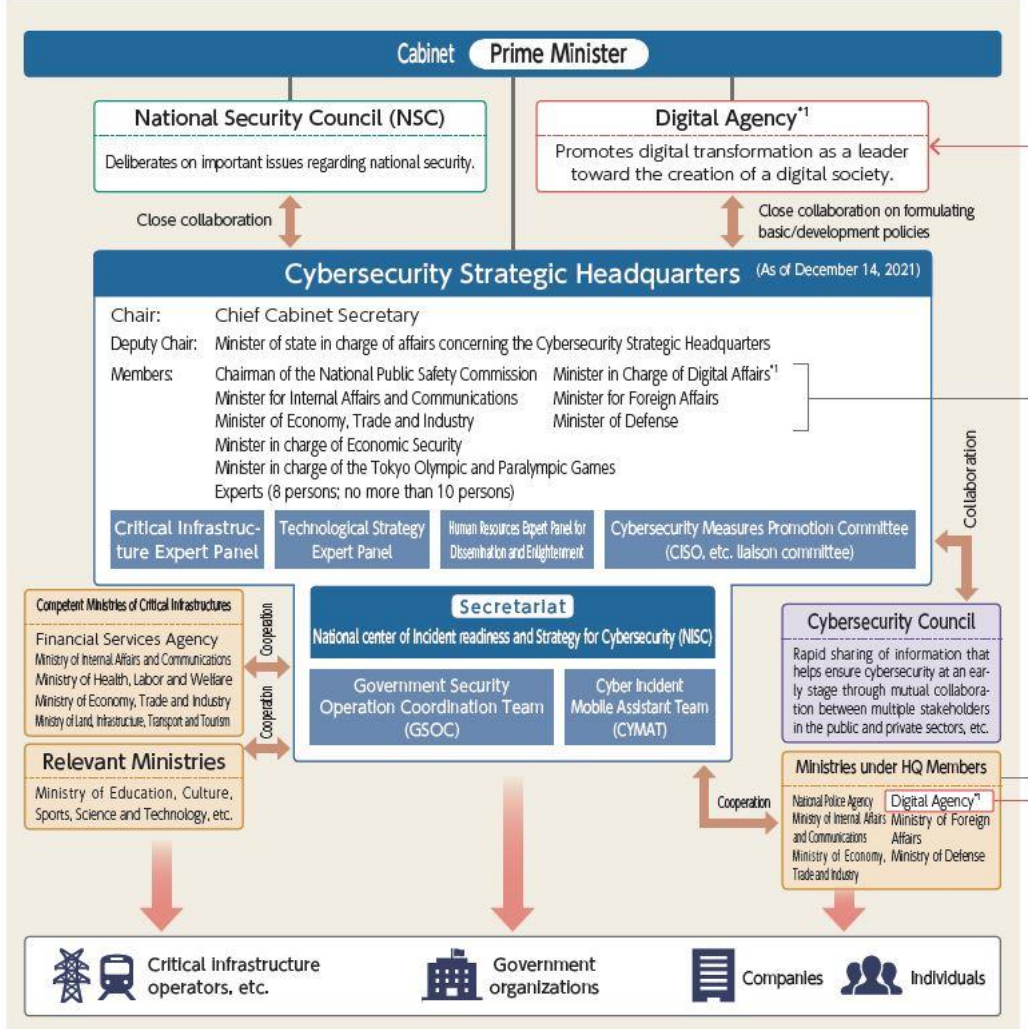
²²⁵¹ 8.2. Japan-US Acquisition and Cross-Servicing Agreement (ACSA), p. 167.

²²⁵² 12.1.1.2. General Security of Military Intelligence Agreement (GSOMIA), p. 183.

²²⁵³ C.2.4.1. Chief Cabinet Secretary, p. 228.

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Figure 18. Cabinet Cybersecurity Structure and Organizations (National Center of Incident Readiness and Strategy for Cybersecurity, 2024)



(*1) Basic Act on Creation of a Digital Society (Act No. 35 of 2021), Act for Establishment of the Digital Agency (Act No. 36 of 2021), (effective since September 1, 2021)

C.2.11.1. National Center of Incident Readiness and Strategy for Cybersecurity (NISC)

The NISC is operated as a secretariat under the Cybersecurity Strategy Headquarters and coordinates Japan's cybersecurity policy.

C.2.12. Other Ministries

C.3. DIET

Article 41²²⁵⁴ of the Japanese Constitution²²⁵⁵ provides that:

The Diet shall be the highest organ of State power, and shall be the sole law-making organ of the State.

The National Diet is a bicameral parliamentary-style legislature composed of two houses:

- House of Representatives
- House of Councillors

Both Houses have the same power with some exceptional cases in which the decision of the House of Representatives precedes that of the House of Councillors.

²²⁵⁴ I.B.5. Article 41 – The Diet and Legislative Power, p. 300.

²²⁵⁵ 2.1.2. Japanese Constitution (Kenpō), p. 13.

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The Diet begins its 150-day ordinary session from January each year, which may be extended only once by the Diet. The Cabinet may determine to convoke extraordinary sessions whenever necessary.

There are three types of Diet sessions:

Type	Convocation	Term of Session
Ordinary session	Once a year, starting in January	150 days (one extension possible)
Extraordinary session	<ol style="list-style-type: none"> 1. When deemed necessary by the Cabinet 2. When requested by one-quarter or more of the total Members of either House 3. After a general election called due to the expiration of the term of office of the Members of the House of Representatives or after a regular election of the House of Councillors 	Determined by agreement of both Houses (two extensions possible)
Special session	After a general election called after the dissolution of the House of Representatives	

C.3.1. House of Representatives

The House of Representatives is composed of 480 members, of whom 300 are elected from the single-seat constituencies and 180 by the proportional representation system in which the nation is divided into 11 electoral blocs which according to size return between 6 and 30 members. Their term of office is 4 years, but shall be terminated, before the full term is up, if the House is dissolved.

The House of Representatives is the more powerful chamber in the Diet. If the House of Councillors rejects, amends, or fails to approve a bill (passed by the House of Representatives) within 60 days, the House of Representatives can force its passage by adopting the bill by a two-thirds majority after the 60 day period. Additionally, it is only the House of Representatives that can eject a PM through loss of confidence.

C.3.2. House of Councillors

The total membership of the House of Councillors is 242, of whom 96 are elected by the proportional representation system from a single nationwide electoral district and 146 from 47 prefectural constituencies, each returning 2 to 8 members. Their term of office is 6 years, and a half of the members being elected every 3 years.

C.3.3. Diet Approvals and Passage of Bills

The Article 56 of the Japanese Constitution and Diet procedure³⁰⁸ establishes a simple majority for the passage of bills, resolutions, and approval of other business (except where a super-majority or other percentage of specified by the Constitution).

C.4. JUDICIARY

The whole judicial power is vested in the Supreme Court, and in such inferior courts as High Courts, District Courts, Family Courts and Summary Courts. (This eliminates the possibility of a military justice system like the UCMJ²²⁵⁶).

No extraordinary court can be established, nor can any organ of the Executive have final judicial power.

The Justices of the Supreme Court, except the Chief Justice who is appointed by the Emperor, are appointed by the Cabinet. The Judges of inferior courts are also appointed by the Cabinet but only from a list of persons nominated by the Supreme Court.

²²⁵⁶ 7.1.1.1. Lack of a Military Justice System, p. 153.

C.5. EMPEROR

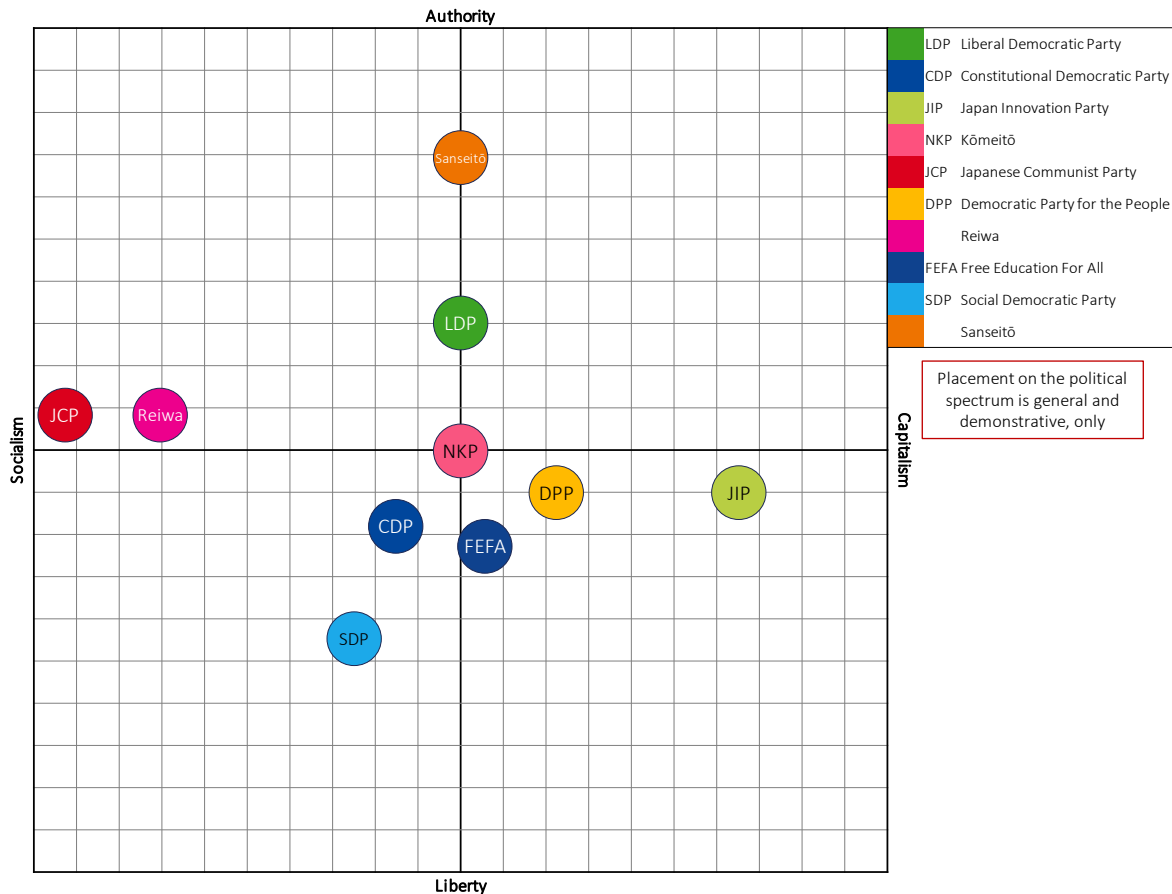
The Emperor remains the symbol of the nation and performs the following duties, with the advice and approval of the Cabinet:

- Promulgation of amendments of the Constitution,²²⁵⁷ laws, cabinet orders and Treaties²²⁵⁸
- Convocation of the Diet
- Dissolution of the House of Representatives
- Proclamation of general election of members of the Diet
- Attestation of the appointment and dismissal of Ministers of State²²⁵⁹ and other officials as provided by laws, and of full powers and credentials of Ambassadors and Ministers
- Awarding of honors
- Attestation of instruments of ratification and other diplomatic documents as provided by laws
- Receiving foreign Ambassadors and Ministers
- Performance of ceremonial functions
- Appointment of the PM and the Chief Justice of the Supreme Court as designated by the Diet and the Cabinet respectively

The Emperor has no powers related to government.

C.6. MAJOR JAPANESE POLITICAL PARTIES

C.6.1. Overview



²²⁵⁷ 2.1.2. Japanese Constitution (Kenpō), p. 13.

²²⁵⁹ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

²²⁵⁸ 1.6.1.1.1. Treaties (Legal Status), p. 9.

C.6.2. Liberal Democratic Party (LDP)

The LDP is the historically dominant national ruling party of Japan, characterized by conservatism and nationalism. While the LDP's historical dominance has sometimes led Japan to be characterized as a *de facto* one party state, the LDP generally requires a second party to join it in a coalition²²⁶⁰ to form a government.

Since 1999, the junior member of LDP governments has been the Kōmeitō.²²⁶¹

C.6.3. Kōmeitō

The Kōmeitō is generally characterized by centrism and conservatism. It is often described as the “pacifist party,” though its stance on related issues such as the constitutionality of the JSDF²²⁶² has become less absoluteist since its founding.

C.6.4. Implications of Coalition Rule

When the LDP²²⁶³ (or another governing majority party) joins with a minority party in a coalition to form a government, one or more Cabinet positions are likely to be filled by members of the minority party. Especially when the minority party is the Kōmeitō²²⁶⁴ (a pacifist-leaning party), Cabinet Decisions²²⁶⁵ will be directly impacted by inter-party dynamics. Furthermore, decisions falling to a Ministry led by a minority party may be more reflective of the minority party than the majority member of the coalition.

For example, as of 2024, the Minister for MLIT is a Kōmeitō party member, meaning that decisions regarding land use or employment of the JCG²²⁶⁶ may reflect more pacifist Kōmeitō views than those of the rest of the GoJ during a crisis.

²²⁶⁰ C.6.4. Implications of Coalition Rule, p. 236.

²²⁶¹ C.6.3. Kōmeitō, p. 236.

²²⁶² Appendix H. Constitutionality of the JSDF and Japan's Right to Self-Defense, p. 271.

²²⁶³ C.6.2. Liberal Democratic Party (LDP), p. 236.

²²⁶⁴ C.6.3. Kōmeitō, p. 236.

²²⁶⁵ C.2.1.4.2. Cabinet Order, p. 226.

²²⁶⁶ 7.4. Japan Coast Guard (JCG) Operations, p. 155.

Appendix D. JAPAN'S STRATEGIC POSITION

D.1. OVERVIEW

Japan's 2022 National Security Strategy states:

At this time of an inflection point in history, Japan is finding itself in the mist of the most severe and complex security environment since the end of WWII.

PM KISHIDA has said:

Ukraine today may be East Asia tomorrow.

Japan recognizes has long recognized that it lacks the defense capabilities to defend itself without outside assistance. But recent changes in the security environment have led it to conclude that no one state can provide for its own defense and that security must be a cooperative effort among like-minded countries.³⁰⁹

D.2. UNITED NATIONS

Japan, long a supporter of the multilateralism centered on the UN and believer in the UN's power and authority, is beginning to turn away from reliance on the UN or its actions as a reliable defender of the rules-based international order based on the threats posed by two permanent members of the UNSC.

It is difficult to say that the United Nations (UN) is adequately fulfilling the expected functions in face of the crises to which the international community urgently needs to respond,

...

The act of a permanent member of the UN Security Council blatantly violating the principles of the UN Charter, such as sovereignty, territorial integrity, and the general prohibition of the use of force, is an outrageous act that shakes the very foundation of the existing international order, ...³¹⁰

D.3. PEOPLE'S REPUBLIC OF CHINA

Role as a permanent member of UNSC²²⁶⁷

In Japan's estimation, Ukraine's lack of defense capabilities contributed to its inability to effectively deter Russia.³¹¹ This has led Japan to emphasize increasing defense capabilities as not only necessary for defense of Japan in light of an increasingly-capable PLA, but also as an essential contribution to deterrence of aggression that might destabilize the region.

Japan also recognizes the difficulty in assessing the PRC's intentions, given its closed system, stating:

When threats materialize through a combination of capability and intention, difficulties arise in accurately gauging [a] party's intention from the outside. If a nation's decision-making process is opaque, there will always exist conditions under which threats may materialize.³¹²

China is reinforcing its military capabilities, primarily A2/AD capabilities, aimed at transforming the U.S. forces-led security order in East Asia. By physically obstructing U.S. military operations and conducting more joint exercises and coordinated activities with Russian forces in China's periphery, Beijing seeks to ratchet up pressure on the United States and Japan and weaken the presence of U.S. forces.³¹³

²²⁶⁷ D.10. United Nations and International Law, p. 240.

D.3.1. SCS Activity

Perceived as foreshadowing of ECS activity

Low-Tide Elevation reclamation and conversion into military bases

D.3.2. ECS Activity

13 Nov 2013 declared ADIZ in ECS

D.4. TAIWAN

Japan's third- or fourth largest trading partner

A PLAAF Command College handbook titled *The Japanese Air Self Defense Force* state the following expected impacts on Japan from a PRC-controlled Taiwan:

As soon as Taiwan is reunified with Mainland China, Japan's maritime lines of communication will fall completely within the striking ranges of China's fighters and bombers.... Our analysis shows that, by using blockades, if we can reduce Japan's raw imports by 15-20%, it will be a heavy blow to Japan's economy. After imports have been reduced by 30%, Japan's economic activity and war-making potential will be basically destroyed. After imports have been reduced by 50%, even if they use rationing to limit consumption, Japan's national economy and war-making potential will collapse entirely ... blockages can cause sea shipments to decrease and can even create a famine within the Japanese islands.³¹⁴

D.5. US

Dependent on US for security

D.5.1. US Intervention in a Taiwan Crisis

Because of Japan's reliance on the US for its national security and Japan's close proximity to Taiwan, many Japanese national security experts consider the US's intervention or non-intervention in a Taiwan conflict as well as its messaging on Taiwan in competition and crisis to be important bellwethers of the US's long-term commitment to the Japan-US Alliance (or, at a minimum, the US's long-term ability to uphold its commitments to the Alliance).

The immediate impact of a forcible PRC unification with Taiwan presents its own physical and economic security threats to Japan, including the presumptive stationing of PLA forces on Taiwan and their proximity to the Nansei Shotō.

However, the issue of US intervention or non-intervention as well as the ultimate success of a potential intervention are significant strategic security concerns for Japan.

In the event of US non-intervention in a forcible PRC unification campaign, the US's commitment to the status quo in the Western Pacific would be destroyed and its commitment to its treaty allies called into serious question. Such non-intervention would lead to destabilizing debates about the development of Japanese and Korean nuclear weapons (with neither state likely comfortable with asymmetry in nuclear capability) and other actions to ensure physical security in the absence of reliable US military commitments.

In the event of failed US intervention, with a PRC military victory and/or US withdrawal of forces, not only would the US's enduring commitment to security and treaty alliances be called into question, but the US's military capability to back any residual commitments up with force in the defense of Japan, Korea, the Philippines, or other regional allies and partners would also be called into question. Furthermore, a US military defeat could turn US public opinion against existing or expanded military commitments for regional allies.

Appendix D. Japan's Strategic Position

In either event, PRC control over Taiwan would almost by necessity extend PLA military influence deep into Japan's EEZ, increasing the potential for harassment and coercion, especially in areas of territorial dispute, such as the Senkaku Islands.²²⁶⁸

Even a partially successful US intervention that leaves the PRC with expanded or unchecked military influence over the SCS and/or freedom of maneuver for the PLAN into the Philippine Sea would be existentially threatening to Japan given its extraordinary reliance on trade flowing through the region.

In sum, it is difficult to imagine any forcible PRC unification campaign that does not dramatically and negatively alter Japan's security situation except one that results in an unambiguous defeat of the PRC's unification attempt.

D.6. NANSEI SHOTŌ

PRC threats to Ryukyus, etc.

PRC cites UNCLOS CS clause to claim EEZ almost to Okinawa

In 1879, Japan dethroned the Luchu (Okinawan) Prince, converting the Okinawan islands to a Japanese prefecture. At the time, China contested Japan's actions and the legitimacy of Japan's possession of the islands. In 1895 **the Treaty of Shimonoseki**²²⁶⁹ transfer of Formosa from China to Japan and concluded China's dispute over Japan's possession of the Ryukyu islands.³¹⁵ With the PRC's general perception of the illegitimacy of the Treaty of Shimonoseki, the PRC has **brought into question the legitimacy of Japan's sovereignty over the historic Ryukyu Kingdom as well.**

When the PRC became more assertive and aggressive in the SKIs over its territorial claims, it began a "semiofficial campaign ... to question Japanese rule of [the Ryukyu islands]," using PLA officials to outright state that "the Ryukyus do not belong to Japan."³¹⁶

In part, this argument rests on a minority reading of the Cairo Declaration's²²⁷⁰ intent to strip Japan of "all the islands in the Pacific which she has seized or occupied since the beginning of the first World War in 1914," combined with claimed (ROC) Abrogation of the Treaty of Shimonoseki²²⁷¹ to assert that the Cairo Declaration should be interpreted as stripping Japan of all territorial gains as far back as the Treaty of Shimonoseki²²⁷² in 1895. While this logic may seem outlandish to some, it is a core element of the PRC's asserted legal territorial claim to Taiwan and, therefore, there would be no logical inconsistency in the PRC using this logic also as the basis for assertions that Japan has no territorial claim to the Ryukyus.

D.7. SEA LINES OF COMMUNICATION (SLOC)

Japan depends on imports for nearly all raw materials necessarily for the daily lives of most Japanese, including majors materials such as oil, coal, iron, food, clothing, and materials for shelter and construction. Maritime transport accounts for 99.6% of all Japan's trade volume.

GoJ has identified that "if our country comes under armed attack, etc., [**what does the Japanese say—which term exactly?**] maritime transportation routes will be the foundation to maintain war sustainability and enable U.S. Forces to come and assist in the defense of Japan."³¹⁷

JMSDF²²⁷³ required to operate "beyond the BOA" to secure SLOCs

D.7.1. Economic Figures**D.7.1.1. Import Figures**

- 97% of Energy imported (crude oil and LNG) ([Yes, Japan Will Defend Taiwan – The Diplomat](#))

²²⁶⁸ Appendix G. Policy on the Senkaku Islands, p. 264.

²²⁶⁹ F.1.1. Pre-WW II: 1895 Treaty of Shimonoseki, p. 253.

²²⁷⁰ F.1.2.2. The Cairo Declaration, p. 254.

²²⁷¹ F.1.1.1. Abrogation of the Treaty of Shimonoseki, p. 254.

²²⁷² F.1.1Pre-WW II: 1895 Treaty of Shimonoseki253

²²⁷³ 7.5.4.1.3. Maritime Self-Defense Force (JMSDF), p. 161.

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- 90% from Middle East via maritime shipping ([Yes, Japan Will Defend Taiwan – The Diplomat](#))
 - 80% through Taiwan Strait ([Yes, Japan Will Defend Taiwan – The Diplomat](#))
- 99% Mineral Resources³¹⁸
- 100% Nuclear Fuel³¹⁹
- 500 million tons³²⁰
 - 80% through TWN strait³²¹

D.7.1.2. Trade with PRC***D.7.1.3. Trade with Taiwan*****D.8. RUSSIA**

Unresolved territorial dispute²²⁷⁴

This has especially concerned Japan in light of Russia's apparent willingness to threaten nuclear use over the conflict in Ukraine.

Role as a permanent member of UNSC²²⁷⁵

RUS-DPRK alliance

D.9. DPRK**D.10. UNITED NATIONS AND INTERNATIONAL LAW**

Japan has historically placed a great deal of trust in the UN and has codified in Japanese law both respect and compliance with international governance bodies and International Law.²²⁷⁶ This esteem in the UN has made it particularly distressing to Japan that Russia, a permanent member of the UNSC, has so flagrantly violated International Law.³²² This has brought into question the role of the UN, its ability to uphold and encourage International Law, and, as a consequence, also brought into question one of Japan's basic concepts for pursuing its national security interests.

In the context of the PRC (another permanent member of the UNSC), Japan has turned increasingly to its own ability to ensure its defense in concert with its closest ally, the US.

It remains to be seen how the 2022 renewal of Russia's invasion of Ukraine impact's Japan's deference to and reliance on international laws and consensus-based international governance bodies and activities.

²²⁷⁴ A.1.2.4. Northern Territories, p. 192.

²²⁷⁵ D.10. United Nations and International Law, p. 240.

²²⁷⁶ 2.1.2.4.1. International Law, p. 23.

Appendix E. JAPANESE MARITIME SECURITY

E.1. OVERVIEW

It is an obvious fact, but worth stating, that as an island nation, Japan has no land borders, only maritime boundaries. This heightens the importance of maritime security and its unique characteristics in Japan's overall defense.

E.2. MARITIME SECURITY TERMS

E.2.1. Japanese Maritime Security Terms

Japan has multiple terms and definitions for "maritime security" and related concepts

Kaiyo anzen hoshō may be translated as "maritime security" and refers to general maritime safety.

Kaijō keibi may also be translated as "maritime security" and refers more specifically to security activities by the JCG to maintain Good Order at Sea.²²⁷⁷

Adding *kōdō* to *kaijō keibi* (*kaijō keibi kōdō*) is the term for MSO.²²⁷⁸

Ryōkai keibi is a related term meaning security operations within TTS²²⁷⁹ and Internal Waters²²⁸⁰ (e.g., operations around SKI).

E.2.2. Vessel and Aircraft Classifications

Ground up rework

E.2.2.1. State Vessels

State Vessels include

- Warships²²⁸¹
- Other Government Ships²²⁸²
 - Naval Auxiliaries²²⁸³
 - Maritime Militia²²⁸⁴

E.2.2.1.1. Warships

A Warship is formally defined under International Law²²⁸⁵ as:

A ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government of the State and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline.

Warships include both manned and unmanned surface ships, submarines, and other submersibles that have been designated as Warship by the Flag State²²⁸⁶ and are included in the respective State's list/registry of Warships.³²³

A Warship is, by its nature, a military object (and thus a lawful object of attack) and may be attack anywhere beyond Neutral Sea Areas.²²⁸⁷

²²⁷⁷ 7.4. Japan Coast Guard (JCG) Operations, p. 155.

²²⁷⁸ 3.2.3.2. Maritime Security Operation (MSO), p. 63.

²²⁷⁹ A.4.4. Territorial Sea (TTS), p. 196.

²²⁸⁰ A.4.2. Internal Waters, p. 196.

²²⁸¹ E.2.2.1.1. Warships, p. 241.

²²⁸² E.2.2.1.2. Other Government Ships, p. 242.

²²⁸³ E.2.2.1.2.1. Naval Auxiliaries, p. 242.

²²⁸⁴ E.2.2.1.2.2. Maritime Militia, p. 242.

²²⁸⁵ 2.1.2.4.1. International Law, p. 23.

²²⁸⁶ 3.4.2.4.2. Limitations on Protecting/Escorting Merchant Ships (Flag State/Flags of Convenience), p. 87.

²²⁸⁷ E.2.3.2.1. Neutral Sea Areas, p. 245.

Appendix E. Japanese Maritime Security

E.2.2.1.1.1. "Warships, etc."

Japan defines Foreign Warships as "meaning a Warship²²⁸⁸ and a ship owned or operated by government of various countries that is used only for non-commercial purposes."²²⁸⁹

This is effectively synonymous with the more internationally-recognized term: State Vessel.²²⁹⁰

E.2.2.1.2. Other Government Ships

Other Government Ships include:

*Ships owned or operated by a State and used exclusively on government noncommercial service.*³²⁴

This category includes:³²⁵

- Naval Auxiliaries²²⁹¹
- Maritime Militia²²⁹²
- Coast guard vessels (if not designed as a Warship²²⁹³)
- "Other maritime law enforcement vessels that are clearly marked and identifiable as being on government noncommercial service and authorized to that effect"
- Private vessels flying their State flag while operating under charter to the State

Japan's PFI²²⁹⁴ vessels would be considered Other Government Ships when operating under charter to GoJ.

Because only Warships²²⁹⁵ may exercise Belligerent Rights at Sea,²²⁹⁶ "private vessels operated by a State-sponsored Maritime Militia that have not been converted into Warships are not entitled to engage in offensive belligerent acts or to exercise Prize²²⁹⁷ measures."³²⁶ Maritime Militia engaging in Belligerent Rights at Sea during an IAC²²⁹⁸ may be subject to classification as pirates and subject to anti-piracy measures and authorities.²²⁹⁹

E.2.2.1.2.1. Naval Auxiliaries

Naval Auxiliaries are:

Vessels, other than Warships,²³⁰⁰ that are owned or operated by the armed forces and used, for the time being, only on government noncommercial service. Such vessels are under the command of a civilian master and non a commissioned officer.

A Naval Auxiliary is, by its nature, a military object (and thus a lawful object of attack) and may be attacked anywhere beyond Neutral Sea Areas.²³⁰¹

Some states classify ocean surveillance ships, troop transports, and replenishing ships as Warships, though the norm is for these vessels to be classified as Naval Auxiliaries.

Japan classifies its fleet replenishment oilers as Warships.³²⁷

E.2.2.1.2.2. Maritime Militia

Maritime Militia is not a legal term. In the Law of Naval Warfare, Maritime Militia are considered civilians operating from civilian vessels, augmenting the naval forces of a state.³²⁸

²²⁸⁸ E.2.2.1.1. Warships, p. 241.

²²⁸⁹ i.M.1. Article 2 – Definitions of Foreign Military Supplies, p. 373.

²²⁹⁰ E.2.2.1. State Vessels, p. 241.

²²⁹¹ E.2.2.1.2.1. Naval Auxiliaries, p. 242.

²²⁹² E.2.2.1.2.2. Maritime Militia, p. 242.

²²⁹³ E.2.2.1.1. Warships, p. 241.

²²⁹⁴ 8.5. Private Financial Initiative (PFI), p. 169.

²²⁹⁵ E.2.2.1.1. Warships, p. 241.

²²⁹⁶ E.2.3.2. Belligerent Rights at Sea, p. 244.

²²⁹⁷ E.2.4.1. Prize, p. 247.

²²⁹⁸ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

²²⁹⁹ E.2.3.2.2. Exceptions During Non-International Armed Conflicts, p. 245.

²³⁰⁰ E.2.2.1.1. Warships, p. 241.

²³⁰¹ E.2.3.2.1. Neutral Sea Areas, p. 245.

Appendix E. Japanese Maritime Security

Paramilitary, police, or other forces at sea—for example, civil (non-armed forces) coast guards, maritime police, and so on—are to be considered as part of the armed forces of the adversary...³²⁹

E.2.2.2. Merchant Ships

A Merchant Ship is a non-State Vessel used for commercial purposes including trade, fishing, and passenger transport. Non-commercial privately-owned vessels are considered Merchant Ships for the purposes of the Law of Naval Warfare.³³⁰

Merchant Ships of a belligerent party to an IAC²³⁰² are always subject to capture, but are not a lawful object of attack unless making an Effective Contribution to Military Action.²³⁰³

Passenger ships are categorized as Merchant Ships and, if they have an enemy character, are lawful objects of attack.³³¹

E.2.2.3. State Aircraft

State Aircraft include aircraft used in military, customs, and police services, and any other aircraft operated by a government exclusively for noncommercial purposes.³³²

Some State Aircraft are assimilated into the category of Civil Aircraft²³⁰⁴ for the purposes of LOAC.

E.2.2.3.1. Military Aircraft

Military Aircraft include all aircraft (manned or unmanned) operated by the armed forces of a State, bearing the military markings of that State, commanded by a member of the armed forces; and controlled, manned, or preprogrammed by a crew subject to regular armed forces discipline.³³³

A Military Aircraft is, by its nature, a military object (and thus a lawful object of attack) and may be attacked anywhere beyond Neutral Sea Areas.²³⁰⁵

E.2.2.3.2. Other Government Aircraft

During an IAC,²³⁰⁶ any aircraft assigned to exclusively State service (except for considered Civil Aircraft²³⁰⁷) are considered State Aircraft.³³⁴ This category includes:

- Police Aircraft
- Customs Aircraft

E.2.2.4. Civil Aircraft

Civil Aircraft are any private or commercial aircraft used for purposes including leisure, trade, passenger transport, etc.

For the purposes of LOAC, any state-operated aircraft (or aircraft operated for the state under charter) that do not fall under the categories of Military Aircraft²³⁰⁸ of Other Government Aircraft²³⁰⁹ are considered Civil Aircraft.³³⁵

E.2.3. Law of Armed Conflict Terminology**E.2.3.1. Sovereign Immunity of Maritime Vessels and Aircraft**

Vessels with Sovereign Immunity include:

- Warships²³¹⁰

²³⁰² 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

²³⁰³ 2.1.2.1.4.6. Effective Contribution to Military Action, p. 20.

²³⁰⁴ E.2.2.4. Civil Aircraft, p. 243.

²³⁰⁵ E.2.3.2.1. Neutral Sea Areas, p. 245.

²³⁰⁶ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

²³⁰⁷ E.2.2.4. Civil Aircraft, p. 243.

²³⁰⁸ E.2.2.3.1. Military Aircraft, p. 243

²³⁰⁹ E.2.2.3.2. Other Government Aircraft, p. 243.

²³¹⁰ E.2.2.1.1. Warships, p. 241.

Appendix E. Japanese Maritime Security

- Military small watercraft deployed from larger surface ships (regardless of the status of the launching ship)³³⁶
- Other Government Ships²³¹¹
- State Aircraft²³¹²

Under Article 32 of UNCLOS (**block quote add**), “Warships²³¹³ and Other Government Ships operated for non-commercial purposes” have Sovereign Immunity, excepting them from jurisdiction of another states’ laws. Even within the TTS²³¹⁴ of a state, Article 30 of UNCLOS limits that state to requests for foreign Warships to leave. Use of force beyond such a request might be considered force employed beyond the purposes of law enforcement (i.e., a military act of hostilities).

A state whose sovereignty is being violated by a foreign Warship conducting non-innocent passage Articles 30 and 31 authorize the state to exercise limited coercive measures either:³³⁷

- without those measures being considered a violation of the foreign Warship’s immunity; or
- as an authorized exception to violate the immunity of the foreign Warship as an exception under the *conditions* of that immunity (i.e., because immunity is based on respect for sovereignty, a violation of sovereignty may be grounds for denial of immunity rights)³³⁸

Because the exact legal parameters for such actions are not well defined, the GoJ may be expected to take any such actions in a highly deliberate and conservative manner.

E.2.3.2. Belligerent Rights at Sea

Move up to Belligerent Rights section

Unlike land warfare under the law of armed conflict, under the Law of Naval Warfare, the status of the platform determines its belligerent rights.

Only Warships²³¹⁵ and Military Aircraft²³¹⁶ can exercise belligerent rights at sea during an IAC.²³¹⁷ These rights include:³³⁹

- Conduct of hostilities
- Visit, search, and divert enemy and neutral vessels
- Capture
- Inspect Specially Protected²³¹⁸ enemy vessels (e.g., hospital ships)
- Control neutral vessels and aircraft in proximity to naval operations
- Establish and enforce a Blockade²³¹⁹
- Establish and enforce Exclusion Zones²³²⁰
- Demand the surrender of enemy personnel
- Undertake convoy operations
- Mining³⁴⁰

Ships other than Warships are entitled to defend themselves from attack without such resistance being classified as exercising Belligerent Rights at Sea.³⁴¹

Belligerents may exercise Belligerent Rights at Sea anywhere outside Neutral Sea Areas²³²¹ (except as otherwise prohibited, such as by International Agreements²³²²).

²³¹¹ E.2.2.1.2. Other Government Ships, p. 242.

²³¹² E.2.2.3. State Aircraft, p. 243.

²³¹³ E.2.2.1.1. Warships, p. 241.

²³¹⁴ A.4.4. Territorial Sea (TTS), p. 196.

²³¹⁵ E.2.2.1.1. Warships, p. 241.

²³¹⁶ E.2.2.3.1. Military Aircraft, p. 243.

²³¹⁷ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

²³¹⁸ E.2.3.2.4. Specially Protected Vessels, p. 246.

²³¹⁹ 4.11.6.7. Blockade, p. 119.

²³²⁰ 4.11.7.6.3. Exclusion Zones or War Zones, p. 121.

²³²¹ E.2.3.2.1. Neutral Sea Areas, p. 245.

²³²² 1.6.1.1. International Agreements (Legal Status), p. 8.

E.2.3.2.1. Neutral Sea Areas

With limited exceptions,²³²³ parties to an IAC²³²⁴ may not exercise Belligerent Rights at Sea within Neutral Sea Areas.

Neutral Sea Areas are the Internal Waters,²³²⁵ Archipelagic Waters,²³²⁶ and TTS²³²⁷ of Neutral States.³⁴²

The CZ,²³²⁸ EEZ,²³²⁹ and CS²³³⁰ of a Neutral State are not considered Neutral Sea Areas.

A Coastal State's enforcement authorities in the CZ or its sovereign rights and jurisdiction in its EEZ do not affect or limit any State's right to exercise Belligerent Rights at Sea in these areas.³⁴³

A neutral state may, but is not obligated to, allow passage of belligerents (in a nondiscriminatory manner) through its TTS. Neutral states are also entitled to bar access to their TTS (in a nondiscriminatory manner).³⁴⁴

"Belligerent ships (including submarines) and aircraft retain the right of non-suspendable ASLP²³³¹ in the normal mode of operation through, under, and over all normal passage routes used for international navigation through neutral archipelagic waters whether or not sea lands have been formally designated by the neutral state."³⁴⁵

E.2.3.2.1.1. Lawful Exercise of Belligerent Rights within Neutral Sea Areas

If neutral states are unable or unwilling to enforce they Duty of Neutrality,²³³² under the Right of Self-Help, belligerents "may take necessary measures in neutral territory, waters, and airspace to counter the acts of the enemy force, including the use of force."³⁴⁶

Under the right to self-defense, belligerents may "act in self-defense if attacked or under threat of imminent attack while in, or transiting to or from, neutral waters, airspace, or territory."³⁴⁷

E.2.3.2.2. Exceptions During Non-International Armed Conflicts

The limitations of Belligerent Rights at Sea to Warships²³³³ and Military Aircraft²³³⁴ during an IAC²³³⁵ do not apply to NIACs.²³³⁶ During a NIAC, "any State Vessel²³³⁷ may be used to conduct offensive attacks against vessels operated by a non-State armed group or to visit, board, search, detain, and/or seize such vessels during a NIAC. In some cases, acts of hostility by vessel-borne non-State armed groups directed against a vessel on the High Seas²³³⁸ may be regarded as piracy."³⁴⁸

This exception has consequences for how GoJ might classify Grey Zone²³³⁹ or Hybrid Warfare²³⁴⁰ activities by Chinese fishing vessels that are or are made to appear not operated by the State.

If GoJ determines such vessels are non-State vessels, it may have the legal basis to apply anti-piracy measures.

E.2.3.2.3. Law Enforcement Exclusions from Belligerent Rights at Sea

Within the TTS²³⁴¹ and Internal Waters,²³⁴² states possess civil and criminal jurisdiction over State Vessels²³⁴³ operated for commercial purposes and foreign-flagged Merchant Ships.²³⁴⁴ Within this area, law enforcement action, like MSO,²³⁴⁵ is not considered exercising Belligerent Rights at Sea. A Neutral State may exercise this law enforcement authority without jeopardy to their status as a Neutral.²³⁴⁶

²³²³ E.2.3.2.1.1. Lawful Exercise of Belligerent Rights within Neutral Sea Areas, p. 245.

²³²⁴ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

²³²⁵ A.4.2. Internal Waters, p. 196.

²³²⁶ A.4.11. Archipelagic Waters, p. 199.

²³²⁷ A.4.4. Territorial Sea (TTS), p. 196.

²³²⁸ A.4.6. Contiguous Zone (CZ), p. 197.

²³²⁹ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

²³³⁰ A.4.9. Continental Shelf (CS), p. 198.

²³³¹ A.4.11.1. Archipelagic Sea Lane Passage (ASLP), p. 199.

²³³² 2.1.2.1.4. Law of Neutrality, p. 18.

²³³³ E.2.2.1.1. Warships, p. 241.

²³³⁴ E.2.2.3.1. Military Aircraft, p. 243.

²³³⁵ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

²³³⁶ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

²³³⁷ E.2.2.1. State Vessels, p. 241.

²³³⁸ A.4.10. High Sea(s), p. 199; A.4.10.1. GoJ Definition of High Sea(s), p. 199.

²³³⁹ 11.2. Grey Zone, p. 180

²³⁴⁰ 11.3. Hybrid Warfare, p. 181.

²³⁴¹ A.4.4. Territorial Sea (TTS), p. 196.

²³⁴² A.4.2. Internal Waters, p. 196.

²³⁴³ E.2.2.1. State Vessels, p. 241.

²³⁴⁴ E.2.2.2. Merchant Ships, p. 243.

²³⁴⁵ 3.2.3.2. Maritime Security Operation (MSO), p. 63.

²³⁴⁶ 2.1.2.1.4. Law of Neutrality, p. 18.

E.2.3.2.4. Specially Protected Vessels

Under the Law of Naval Warfare, the following vessels have specially protected status:

- Hospital ships (both military and non-military)
- Coastal rescue craft (an unclearly defined category that may include some coast guard craft)
- Medical transports

As long as these vessels comply with Conditions of Protection,²³⁴⁷ their specially protection status excludes them from being lawful objects of attack or capture.³⁴⁹

Passenger ships are categorized as Merchant Ships²³⁴⁸ and have no specially protected status.

E.2.3.2.4.1. Conditions of Protection

The following are Conditions of Protection for Specially Protected Vessels to maintain their status:

- For hospital ships:³⁵⁰
 - Parties to the IAC²³⁴⁹ are notified of the names and descriptions ten days before employment
 - Must comply with the conditions of Article 30 of Geneva Convention II:
 - Impartial relief and assistance to wounded, sick, and shipwrecked without distinction of nationality
 - Evacuation of civilians fleeing an area of conflict is not an authorized function of hospital ships
 - No use for any military purpose (e.g., gathering of information, relay of messages or carriage of dispatches, or hydrographic surveys of military value)
 - No (intentional) hampering of the movement of combatants
 - During and after engagements, vessels act at their own risk
 - Must comply with the control measures taken by the enemy in accordance with Article 31 of Geneva Convention II (affording parties to an IAC the right to control and search such craft within limits)
 - Marking with a distinctive emblem (i.e., Red Cross, Red Crescent, etc.)
- For coastal rescue craft:³⁵¹
 - Operated by a party to the IAC (i.e., the State) or by an officially-recognized SAR organization
 - Parties to the IAC are notified of the names and descriptions ten days before employment (except for States party to Additional Protocol I to the Geneva Conventions)
 - Must comply with the conditions of Article 30 of Geneva Convention II:
 - Impartial relief and assistance to wounded, sick, and shipwrecked without distinction of nationality
 - No use for any military purpose (e.g., gathering of information, relay of messages or carriage of dispatches, or hydrographic surveys of military value)
 - No (intentional) hampering of the movement of combatants
 - During and after engagements, vessels act at their own risk
 - Must comply with the control measures taken by the enemy in accordance with Article 31 of Geneva Convention II (affording parties to an IAC the right to control and search such craft within limits)
- For medical transports:³⁵²
 - Exclusively transport medical equipment
 - “Particulars regarding their voyage” to be notified and approved by the enemy
 - Comply with legitimate visit and search
 - If agreed by parties to the IAC, permit neutral observers aboard and afford them access to verify the equipment
 - Fulfill the Conditions of Protection of hospital ships.

²³⁴⁷ E.2.3.2.4.1. Conditions of Protection, p. 246.

²³⁴⁸ E.2.2.2. Merchant Ships, p. 243 .

²³⁴⁹ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

E.2.4. Capture, Confiscation, and Condemnation

Generally, there are two legal classifications for objects that may be lawfully captured, confiscated, and/or condemned [i.e., **transfer of ownership**] (destruction may be a lawful alternative in lieu of condemnation³⁵³): Prize²³⁵⁰ and Booty of War.²³⁵¹

Generally, Prize refers to commercial objects subject to capture, whereas Booty refers to state objects or other lawful objects of attack subject to capture.

E.2.4.1. Prize

A Prize is a legal classification “denoting vessels or goods captured at sea and liable to condemnation [i.e., **transfer of ownership**].”³⁵⁴

The law of prize allows belligerent maritime forces to capture enemy Merchant [Ships]²³⁵² and [Commercial] Aircraft²³⁵³ as a right, and neutral Merchant [Ships] or [Commercial] Aircraft for cause [e.g., for violating their Duty of Neutrality²³⁵⁴].³⁵⁵

A Prize is captured through Visit and Search, which is a Belligerent Right at Sea²³⁵⁵ reserved to Warships.²³⁵⁶

Prizes captures are required to be adjudicated by a Prize court.

E.2.4.2. Booty of War

Belligerents may capture enemy State Vessels,²³⁵⁷ State Aircraft,²³⁵⁸ and other military equipment, as well as enemy Merchant Ships²³⁵⁹ that have become military objects (e.g., by making Effective Contribution to Military Action²³⁶⁰) as lawful Booty of War. Lawfully captured Booty is exempt from Prize²³⁶¹ law (e.g., requirements for the capture to be adjudicated by a Prize court).

Military hospital ships, medical aircraft, and medical transports are immune from capture as Booty of War.

E.3. DUAL-LAYER SECURITY SYSTEM

The Dual-Layer (Maritime) Security System refers to Japan’s system of employing the JCG for law enforcement²³⁶² while reserving the JMSDF²³⁶³ for maritime security beyond law enforcement, including higher-intensity operations such as MSO²³⁶⁴ or conflict and war.

This systems allows GoJ more efficient maritime security operations by allocating and optimizing layers. Maritime Security is also made more effective by separating enforcement and deterrence activities (avoiding excessive power at a scene that may be politically sensitive, make the GoJ vulnerable to adversary narratives that the GoJ is escalating, or allow for greater potential miscalculation). This allows the GoJ message potential adversaries on maritime security enforcement with greater control, using a deliberately non-escalatory force (the JCG) for day-to-day enforcement activities while preserving a combat-capable force (the JMSDF) in reserve to deter and, if necessary, escalate at the time and place of the GoJ’s choosing.

Finally, the Dual-Layer Security System also facilitates cooperation on maritime security issues with politically-sensitive partners, including the ROK, Russia, a China, by allowing the JCG, a non-military entity, to be the face of Japanese maritime security.

E.4. 1,000 MILE OPERATIONAL RESPONSIBILITY FOR SLOC DEFENSE

The JMSDF may be referenced to have or have had an intent or obligation to patrol SLOCs out to 1,000 miles from mainland Japan (sometimes termed “Sea Lane Defense”). This predominantly originates from internal

²³⁵⁰ E.2.4.1. Prize, p. 247.

²³⁵¹ E.2.4.2. Booty of War, p. 247.

²³⁵² E.2.2.2. Merchant Ships, p. 243.

²³⁵³ E.2.2.4. Civil Aircraft, p. 243.

²³⁵⁴ 2.1.2.1.4. Law of Neutrality, p. 18.

²³⁵⁵ E.2.3.2. Belligerent Rights at Sea, p. 244.

²³⁵⁶ E.2.2.1.1. Warships, p. 241.

²³⁵⁷ E.2.2.1. State Vessels, p. 241.

²³⁵⁸ E.2.2.3. State Aircraft, p. 243.

²³⁵⁹ E.2.2.2. Merchant Ships, p. 243.

²³⁶⁰ 2.1.2.1.4.6. Effective Contribution to Military Action, p. 20.

²³⁶¹ E.2.4.1. Prize, p. 247.

²³⁶² 7.4.1. Routine JCG Operations, p. 155.

²³⁶³ 7.5.4.1.3. Maritime Self-Defense Force (JMSDF), p. 161.

²³⁶⁴ 3.2.3.2. Maritime Security Operation (MSO), p. 63.

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shifts in Japanese defense thought in the 1970s, combined with the perception that the US's ability to unilaterally provide for the defense of the Western Pacific was challenged and might need to be augmented by Japan for its own defense (e.g., as US Navy forces were drawn away into the Arabian Gulf during the Iran crisis, with the increasing conventional military might of the Soviet Navy, including in the Pacific, and with the withdrawal from Vietnam).

A number of key events mark the progress of this defense concept and it has changed shape over the years from implicit desire to explicit policy to complete omission. While military planners should not consider this defense concept as a hard-and-fast policy, backed up with adequate military capability and capacity, it is useful insight into GoJ's perception of its own national defense.

E.4.1. Contemporary Relevance for SLOC Defense

The 1983 Defense of Japan white paper explained the 1,000-mile SLOC defense concept as an exercise in self-defense in part because of Japan's extreme dependence on its sea lanes for critical food and energy supplies. Contemporary interpretations of such extended military operations as self-defense relied on the idea that Japan's dependence on SLOCs for its national survival eliminated the need for an adversary to invade Japan. Thus, requiring such overt and direct attack (invasion or mainland strike) to trigger self-defense eliminated the most likely and (for an adversary) most favorable course of action of controlling Japan through SLOC denial.

This dependence continues today. And similar rationales can be seen in the 2014 constitutional reinterpretation²³⁶⁵ of Article 9, permitting CSD.²³⁶⁶ While speculative, in a major regional crisis or conflict, where Japan's SLOCs are actively or potentially threatened, there is precedent for Japan to extend its concepts of self-defense (NSD²³⁶⁷ and CSD) to exercise self-defense actions (to include potentially Stipulating²³⁶⁸ Security Situations²³⁶⁹) based on hostilities or potential hostilities as far south as Indonesia and the Malacca and Lombok Straits.²³⁷⁰

E.4.2. Key Milestones in the 1,000-Mile Defense Concept

In the 1970s retired JMSDF officers began publicly stating that Japan must possess greater capabilities to defend its commercial sea lanes, on which the nation relied for vital food and energy supplies. In some cases, these statements included geographic boundaries as far south as Indonesia.

In 1977, the DG of the JDA (predecessor to the MoD), declared that Japan should defend "key sea transport lanes" within 1000 miles of Japan.

In 1981, PM Zenko SUZUKI stated that Japan would provide defense of its SLOCs out to 1,000 miles (this did not necessarily include all maritime operations out to this distance, but merely those conducting protection of commercial sea lanes).

In 1983, PM Yasuhiro NAKASONE stated "For the ocean, our defense should extend several hundred miles, and if we are to establish sea lanes, then our desire would be to defend the sea lanes between Guam and Tokyo and between the Strait of Taiwan and Osaka."³⁵⁶ In 1983 the Defense of Japan white paper later included this goal as a semi-formal policy for Japan's defense.

In 1987, Yushifumi MATSUDA, a MOFA spokesperson stated, "The government's 'legal position' ... is that minesweeping by Japanese forces in international waters is not barred, but that the interpretation is based on protecting sea lanes around Japan."³⁵⁷

²³⁶⁵ ii.A. 2014, p. 422.²³⁶⁶ 3.4.2. Collective Self-Defense (CSD), p. 84.²³⁶⁷ 3.4.1. Individual, Unit, and National Self-Defense (ISD/USD/NSD), p. 83.²³⁶⁸ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.²³⁶⁹ Chapter 4. Japan's Security Situations Framework, p. 89.²³⁷⁰ A.5. Selected Maps, p. 201.

E.4.3. Interpretations of the Sea Lane Defense Concept

A number of studies³⁵⁸ have concluded that the JMSDF has never possessed the capability or capacity to carry out defense of sea lanes out to 1,000 miles. This policy may be interpreted as sincere aspiration that was just never realized or sufficiently resourced.

A more convincing explanation was that this policy was targeted to both appease the US, as the senior military partner in the Alliance, who was pushing Japan to take more responsibility for their defense (while the US attempted to prioritize resources elsewhere in the world during the 1970s and 1980s) while at the same time drawing the US closer to Japan for defense planning, by creating conditions that necessitated closer US-Japan military planning. Whether this was the intent of the policy or not, it was incontrovertibly realized by Japan, creating more favorable defense conditions.

E.5. THE CHALLENGES OF INNOCENT PASSAGE

E.5.1. Innocent Passage

Article 19 of UNCLOS (“Meaning of Innocent Passage”) defines innocent passage as the following:

*(1) Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with this Convention and with other rules of international law.*³⁵⁹

Innocent Passage is the right of a vessel to navigate through the TTS²³⁷¹ of a foreign state for purposes of traveling from one area of High Seas²³⁷² to another or passing between the High Sea and the Internal Waters²³⁷³ of the Coastal State.²³⁷⁴ There is no right of Innocent Passage through the Internal Waters²³⁷⁵ of a state.

Innocent Passage may be suspended (by belligerent or neutral state, alike) in both times of peace and war. Such suspension must be on a nondiscriminatory basis, must be temporary, must take place in a specified area of the state’s TTS, and must be essential for the protection of the state’s security.³⁶⁰

Submarines exercising Innocent Passage must navigate on the surface and show their flag.

Japan does not acknowledge that the right of Innocent Passage extends to ships carrying nuclear weapons.

E.5.1.1. Transit Passage (through Straits Used for International Navigation)

Part III of UNCLOS establishes the regime of Straits Used for International Navigation as a special category of strait. For such straits, UNCLOS does not affect the legal status of such Straits (e.g., does not modify their status of TTS,²³⁷⁶ etc.), but it does establish that navigation through such straits is governed by Transit Passage.

While UNCLOS provides some conditions under which a Coastal State²³⁷⁷ may suspend Innocent Passage,²³⁷⁸ Coastal State may not suspend Transit passage.

Transit Passage is the “freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one part of the High Seas²³⁷⁹ or an EEZ²³⁸⁰ and another part of the High Seas or an EEZ”³⁶¹

*This type of transit would allow submarines to transit submerged (which is not allowed through the Territorial Sea in the absence of coastal State consent). Surface warships would be allowed to transit in a manner necessary to provide the necessary security for the transiting battle group.*³⁶²

²³⁷¹ A.4.4. Territorial Sea (TTS), p. 196.

²³⁷² A.4.10. High Sea(s), p. 199.

²³⁷³ A.4.2. Internal Waters, p. 196.

²³⁷⁴ A.4.1.1. Coastal State, p. 196.

²³⁷⁵ A.4.2. Internal Waters, p. 196.

²³⁷⁶ A.4.4. Territorial Sea (TTS), p. 196.

²³⁷⁷ A.4.1.1. Coastal State, p. 196.

²³⁷⁸ E.5.1. Innocent Passage, p. 249.

²³⁷⁹ A.4.10. High Sea(s), p. 199.

²³⁸⁰ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

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Transit Passage does not permit other activity such as maritime research or survey activity or intelligence collection (without prior authorization from the Coastal State²³⁸¹).

The primary distinction between Transit Passage and Innocent Passage navigation and overflight regimes is the ability (or inability) of Warships²³⁸² and Military Aircraft²³⁸³ to operate in a different manner (e.g., transit submerged, etc.)

Article 39 (Duties of ships and aircraft during transit passage) of UNCLOS places the following duties on ships and aircraft exercising Transit Passage:

1. *Ships and aircraft, while exercising the right of Transit Passage, shall:*

(a) *proceed without delay through or over the strait;*

(b) *refrain from any threat or use of force against the sovereignty, territorial integrity or political independence of States bordering the strait, or in any other manner in violation of the principles of International Law²³⁸⁴ embodied in the Charter of the United Nations;*

(c) *refrain from any activities other than those incident to their normal modes of continuous and expeditious transit unless rendered necessary by force majeure or by distress;*

(d) *comply with other relevant provisions of this Part [Part III of UNCLOS].*

2. *Ships in Transit Passage shall:*

(a) *comply with generally accepted international regulations, procedures and practices for safety at sea, including the International Regulations for Preventing Collisions at Sea [COLREGs];*

(b) *comply with generally accepted international regulations, procedures and practices for the prevention, reduction and control of pollution from ships.*

3. *Aircraft in transit passage shall:*

(a) *observe the Rules of the Air established by the International Civil Aviation Organization as they apply to civil aircraft; state aircraft will normally comply with such safety measures and will at all times operate with due regard for the safety of navigation;*

(b) *at all times monitor the radio frequency assigned by the competent internationally designated air traffic control authority or the appropriate international distress radio frequency.³⁶³*

E.5.1.2. Warships and Innocent Passage

All Warships, regardless of cargo, armament, or means of propulsion enjoy the right of Innocent Passage through the TTS in accordance with International Law. Neither prior notification nor authorization is required.

If a Warship does not comply with Coastal State regulations that conform to established principles of International Law and disregards a request for compliance, the Coastal State may require the Warship immediately to leave the TTS in which case the Warship shall do so immediately.

E.5.1.3. Non-Innocent Passage (Violations of Innocent Passage)

Article 19 ¶(2) of UNCLOS defines the following activities as “prejudicial to the peace, good order or security of the coastal State” and therefore Non-Innocent Passage:

(a) *any threat or use of force against the sovereignty, territorial integrity or political independence of the coastal State, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;*

²³⁸¹ A.4.1.1. Coastal State, p. 196.

²³⁸³ E.2.2.3.1. Military Aircraft, p. 243.

²³⁸² E.2.2.1.1. Warships, p. 241.

²³⁸⁴ 2.1.2.4.1. International Law, p. 23.

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- (b) any exercise or practice with weapons of any kind;
- (c) any act aimed at collecting information to the prejudice of the defence or security of the coastal State; [e.g., collection or “shadow” operations by an AGI vessel or ISR aircraft; however, if the navigation regime of Transit Passage²³⁸⁵ applies, as in Straits used for International Navigation, such operations would be considered lawful under UNCLOS]
- (d) any act of propaganda aimed at affecting the defence or security of the coastal State;
- (e) the launching, landing or taking on board of any aircraft;
- (f) the launching, landing or taking on board of any military device;
- (g) the loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal State;
- (h) any act of willful and serious pollution contrary to this Convention;
- (i) any fishing activities;
- (j) the carrying out of research or survey activities;
- (k) any act aimed at interfering with any systems of communication or any other facilities or installations of the coastal State;
- (l) any other activity not having a direct bearing on passage.³⁶⁴

GoJ interprets “failures to exercise” Innocent Passage as law enforcement matters. Thus, even while they are violations of a state’s sovereignty, they do not justify Use of Force.²³⁸⁶

- Any act “prejudicial to the peace” (e.g., harassment or endangering of other vessels)
- Foreign vessels operated by a foreign authority conducting maritime scientific research (e.g., oceanographic surveys) within another nation’s EEZ²³⁸⁷ without the consent of that nation
- Foreign vessels not transiting TTS²³⁸⁸ (e.g., loitering, hovering, or drifting for extended periods)
- Foreign vessels conducting law enforcement activities (e.g., CCG ships in the TTS surrounding SKI)
- A state may deem the behavior of a foreign Warship²³⁸⁹ to constitute use of force when it maintains its presence in the TTS and does not comply with a request to leave
 - Japan does not acknowledge this interpretation as it does not consider²³⁹⁰ intrusions into TTS as Armed Attack.²³⁹¹

E.5.1.4. Enforcement Against Violations

Article 25 of UNCLOS permits states to “take necessary steps to prevent passage which is not innocent,” including:

- Requesting the ship to stop for inspection
- Arresting persons on board
- Detaining the ship
- Shouldering and bumping the ship to expel it from the TTS²³⁹²
- Use of force (as a last resort)

However, Article 32 of UNCLOS recognizes the Sovereign Immunity²³⁹³ of Warships²³⁹⁴ and therefore does not provide the right of the “victim” state to conduct law enforcement actions against foreign Warship.

²³⁸⁵ E.5.1.1. Transit Passage (through Straits Used for International Navigation), p. 249.

²³⁸⁶ 3.3.3. Use of Force, p. 79.

²³⁸⁷ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

²³⁸⁸ A.4.4. Territorial Sea (TTS), p. 196.

²³⁸⁹ E.2.2.1.1. Warships, p. 241.

²³⁹⁰ 4.11.7.2. Intrusions into TTA and TTS, p. 119.

²³⁹¹ 4.11. Definition of “Armed Attack”, p. 114.

²³⁹² A.4.4. Territorial Sea (TTS), p. 196.

²³⁹³ E.2.3.1. Sovereign Immunity of Maritime Vessels and Aircraft, p. 243.

²³⁹⁴ E.2.2.1.1. Warships, p. 241.

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For Japan, which considers such violations of Innocent Passage as an exclusively law enforcement matter, this creates a dilemma where Japan has limited itself to a law enforcement response in situations where foreign Warships are not subject to such a response.

E.5.1.4.1. JCG Enforcement Against Foreign Warships

JCG is generally limited to sailing side-by-side with offending foreign Warships²³⁹⁵ to prevent them from approaching TTS.²³⁹⁶ The JCG may not board, inspect, search, seize, or arrest offending ships or crew as these actions would constitute law enforcement activities.

E.5.1.5. Temporary Suspension of Innocent Passage

A Coastal State may temporarily suspend Innocent Passage in specified areas of its TTS when it is essential for the protection of its security. Such a suspension must be preceded by a published notice to the international community and may not discriminate in form or fact among foreign ships.

E.5.1.6. JCG Use of Weapons

The JCG is authorized Use of Weapons:²³⁹⁷

1. To approach criminals or prevent criminals from escaping
2. For self-protection or the protection of others
3. To suppress resistance to the execution of official duties

When the subject of such enforcement is considered a foreign Warship²³⁹⁸ (e.g., CCG, CMM):

- The first case does not apply (as foreign Warships have Sovereign Immunity²³⁹⁹ from law enforcement, even in another state's TTS.²⁴⁰⁰)
- The second case is the most likely justification for JCG Use of Weapons against a foreign Warship
 - However, Use of Weapons is restricted to cases where the Use of Weapons would not cause harm exceeding the harm to be prevented; thus, foreign Warships would need to be employing weapons or other destructive means themselves to justify JCG Use of Weapons (e.g., not simply harassing other ships or using non-destructive or minimally-destructive means such as water cannons)
- The third case applies only when JCG must take coercive measures to suppress resistance; however, because of the Sovereign Immunity of foreign Warships, there are limited cases in which JCG would be authorized to take such coercive measures.

E.6. LAWFUL TARGETING OF MARITIME MILITIA

Maritime Militia (e.g., CMM) are lawful targets for the JSDF under the following conditions:

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E.7. MAINTAINING “GOOD ORDER” AT SEA

²³⁹⁵ E.2.2.1.1. Warships, p. 241.

²³⁹⁶ A.4.4. Territorial Sea (TTS), p. 196.

²³⁹⁷ 3.3.1. Use of Weapons, p. 74.

²³⁹⁸ E.2.2.1.1. Warships, p. 241.

²³⁹⁹ E.2.3.1. Sovereign Immunity of Maritime Vessels and Aircraft, p. 243.

²⁴⁰⁰ A.4.4. Territorial Sea (TTS), p. 196.

Appendix F. ALLIANCE POSITIONS ON TAIWAN

F.1. LEGAL DISPOSITION OF TAIWAN (1895-1952)

F.1.1. Pre-WW II: 1895 Treaty of Shimonoseki

The Treaty of Shimonoseki, signed on 17 April 1895, ended the First Sino-Japanese War. The Treaty ceded the island of Formosa (now the main island of Taiwan) and the Penghu (Pescadores) Islands to Japan.

Because the terms of the Cairo Declaration²⁴⁰¹ stripped Japan of “all the islands in the Pacific which she has seized or occupied since the beginning of the first World War in 1914,” some interpret it as intending to leave the island of Taiwan and the Penghus under Japanese control.

The Potsdam Declaration²⁴⁰² stated that it implements the terms of the Cairo Declaration but added “and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.” This left the issue of Japan’s sovereignty over the island of Taiwan and the Penghus unresolved.

Regardless, both declarations were issued as Communiqués²⁴⁰³ and therefore were Non-Binding Instruments.²⁴⁰⁴ Under International Law,²⁴⁰⁵ the Treaty of Shimonoseki, the Treaty of San Francisco,²⁴⁰⁶ and the Treaty of Taipei²⁴⁰⁷ are considered binding International Agreements.²⁴⁰⁸

None of these documents formally recognized the transfer of sovereignty over the island of Taiwan and the Penghus to either the ROC or the PRC. Complicating factors was the fact that Chinese Nationalists, under Chiang Kai-shek had (illegally) occupied these territories in 1945, before they could have been legally transferred to either Chinese government when Treaty of San Francisco went into effect in 1952. Regardless, the Treaty of San Francisco did not address the issue of Taiwan’s sovereignty beyond stripping Japan of its sovereignty over the islands in question.

In a legal sense, when the Declarations are set aside as Non-Binding Instruments, the question of Taiwan’s sovereignty is very much a legally unsettled issue (scholars sometimes call this the Theory of the Undetermined Status of Taiwan). However, the PRC’s view of the Treaty of Shimonoseki as one of the “Unequal Treaties” during its “Century of Humiliation” provide the PRC a rhetorical basis to reject the legal basis of the Treaty of Shimonoseki and emphasize the intent of the less legally-authoritative Declarations.

Article 2 of the Treaty of Shimonoseki states:

<https://www.taiwanbasic.com/treaties/Shimonoseki.htm>

China cedes to Japan in perpetuity and full sovereignty the following territories, together with all fortifications, arsenals, and public property thereon:—

(a) The southern portion of the province of Fêngtien within the following boundaries:

The line of demarcation begins at the mouth of the River Yalu and ascends that stream to the mouth of the River An-ping, from thence the line runs to Fêng-huang, from thence to Hai-cheng, from thence to Ying-kow, forming a line which describes the southern portion of the territory. The places above named are included in the ceded territory. When the line reaches the River Liao at Ying-kow, it follows the course of the stream to its mouth, where it terminates. The mid-channel of the River Liao shall be taken as the line of demarcation.

²⁴⁰¹ F.1.2.2. The Cairo Declaration, p. 254.

²⁴⁰² F.1.2.1. The Potsdam Declaration, p. 254.

²⁴⁰³ 1.6.2.3, Communiqués and Joint Statements (Legal Status), p. 11.

²⁴⁰⁴ 1.6.1.2. Non-Binding Instruments (Legal Status), p. 10.

²⁴⁰⁵ 2.1.2.4.1. International Law, p. 23.

²⁴⁰⁶ F.1.2.3. Treaty of San Francisco, p. 255.

²⁴⁰⁷ F.1.2.5. Treaty of Taipei, p.256.

²⁴⁰⁸ 1.6.1.1. International Agreements (Legal Status), p. 8.

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This cession also includes all islands appertaining or belonging to the province of Fêngtien situated in the eastern portion of the Bay of Liao-tung and the northern portion of the Yellow Sea.

(b) The island of Formosa, together with all islands appertaining or belonging to the said island of Formosa.

(c) The Pescadores Group, that is to say, all islands lying between the 119th and 120th degrees of longitude east of Greenwich and the 23rd and 24th degrees of north latitude.

The Treaty is generally considered one of the “Unequal Treaties” imposed upon China.

F.1.1.1. Abrogation of the Treaty of Shimonoseki

In 1941 the ROC declared war on Japan and issued a proclamation abrogating all Treaties²⁴⁰⁹ with Japan, including the Treaty of Shimonoseki.

Those who support ROC claims over Taiwan cite this abrogation as effectively “returning” Taiwan to the ROC, establishing a legal territorial status following the end of World War II (1945) and the Chinese Civil War (1949).

Critics of this position assert that Executory Treaties²⁴¹⁰ (or executory provisions) may be abrogated, legally terminating obligations and responsibilities established by the Treaty. However, Territorial Treaties²⁴¹¹ (or territorial provisions) are permanent and represent a final exchange or agreement to the bounds of territory, territorial control, or sovereignty. On this basis, the Treaty of Shimonoseki *cannot* be abrogated. This logic reiterates the unsettled nature of Taiwan’s territorial status as outlined in § F.1.1. Pre-WW II: 1895 Treaty of Shimonoseki (p. 253).

F.1.2. Post-WWII Disposition of Taiwan**F.1.2.1. The Potsdam Declaration**

The Potsdam Declaration is also referred to as the Potsdam Proclamation.

The Potsdam Declaration is a is not to be confused with the Potsdam Agreement, issued 1 August 1945, that ended World War II in Europe and addressed occupation and reconstruction in Germany.

The Potsdam Declaration, issued by the US, UK, and ROC (as represented by Chaing Kai-shek) on 26 July 1945, outlined the terms of Japanese surrender at the end of World War II (2 September 1945) and, among other things, implemented the terms of the Cairo Declaration.²⁴¹²

Article 8 states:

*The terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.*³⁶⁵

F.1.2.2. The Cairo Declaration

The Cairo Declaration is also known as the Cairo Communiqué.

The Cairo Declaration (issued in the form of a Communiqué²⁴¹³) was the result of the Cairo Conference on 27 November 1943 where the Allies of World War II set their goals for the post-war order. The terms of the Communiqué were later implemented by the Potsdam Declaration.²⁴¹⁴

The Cairo Declaration states:

²⁴⁰⁹ 1.6.1.1.1. Treaties (Legal Status), p. 9.

²⁴¹⁰ 1.6.1.1.1.1. Executory Treaties (Legal Status), p. 9.

²⁴¹¹ 1.6.1.1.1.2. Territorial Treaties (Legal Status), p. 9.

²⁴¹² F.1.2.2. The Cairo Declaration, p. 254.

²⁴¹³ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

²⁴¹⁴ F.1.2.1. The Potsdam Declaration, p. 254.

The several military missions have agreed upon future military operations against Japan. The Three Great Allies [the US, UK, and Republic of China as represented by Chiang Kai-shek] expressed their resolve to bring unrelenting pressure against their brutal enemies by sea, land, and air. This pressure is already rising.

The Three Great Allies are fighting this war to restrain and punish the aggression of Japan. They covet no gain for themselves and have no thought of territorial expansion. It is their purpose that Japan shall be stripped of all the islands in the Pacific which she has seized or occupied since the beginning of the first World War in 1914, and that all the territories Japan has stolen from the Chinese, such as Manchuria, Formosa, and The Pescadores, shall be restored to the Republic of China. Japan will also be expelled from all other territories which she has taken by violence and greed. The aforesaid three great powers, mindful of the enslavement of the people of Korea, are determined that in due course Korea shall become free and independent.

With these objects in view the three Allies, in harmony with those of the United Nations at war with Japan, will continue to persevere in the serious and prolonged operations necessary to procure the unconditional surrender of Japan.³⁶⁶

Both the PRC and Taiwan have cited the Cairo Declaration as the basis of the One-China Principle²⁴¹⁵ (that Taiwan and Penghu are part of China—with differing understandings of who the rightful government of that one China is).

The controversy over the citation of the Cairo Declaration within the Potsdam Proclamation, in the context of the 1972 Shanghai Communiqué²⁴¹⁶ stems from the following factors:

- The Cairo Declaration was a statement of intent and not a binding resolution
- The Potsdam Proclamation:
 - Provides no mechanism for implementation
 - Provides no timeline
 - Provides no conditions or lack of conditions
 - “Possesses the nature of armistice” and not the “nature of territorial disposition” (FM statement to the Diet in March 1961 (i.e., the Potsdam Proclamation has no legal status to execute the transfer of possession, administration, or sovereignty over territories from one nation to another)
 - The islands of Formosa and Pescadores were under Japanese sovereignty until 1952, when the Treaty of San Francisco²⁴¹⁷ (the peace Treaty²⁴¹⁸ that re-established peaceful relations between Japan and the Allied powers) went into effect
 - Chinese Nationalists had occupied Formosa and Pescadores since 1945
 - This left the question of to whom these territories were transferred (i.e., to the PRC or the Government of Taiwan)

F.1.2.3. Treaty of San Francisco

The Treaty of San Francisco, also known as the San Francisco Peace Treaty, was signed on 8 September 1951 (and took effect 28 April 1952) and ended the state of hostilities and re-established peaceful relations between Japan and the Allied Powers (on behalf of the United Nations).

The Treaty²⁴¹⁹ renounced all Japanese rights, privileges, and demands regarding Taiwan, but maintained ambiguous wording regarding Taiwan’s political and territorial status. Article 2 of the Treaty states:

(b) Japan renounces all right, title and claim to Formosa and the Pescadores.³⁶⁷

Treaty signatories did not include the Soviet Union, ROC, or PRC. Neither the PRC nor the ROC were invited to sign the Treaty due to disagreements over the legitimacy of either government during the Chinese Civil War. The Soviet Union was invited to sign the Treaty but refused.

²⁴¹⁵ F.3.2.1. 1972: Shanghai Communiqué (“One China Policy”), p. 259.

²⁴¹⁶ F.3.2.1. 1972: Shanghai Communiqué (“One China Policy”), p. 259.

²⁴¹⁷ F.1.2.3. Treaty of San Francisco, p. 255.

²⁴¹⁸ 1.6.1.1.1. Treaties (Legal Status), p. 9.

²⁴¹⁹ 1.6.1.1.1. Treaties (Legal Status), p. 9.

Appendix F. Alliance Positions on Taiwan

The San Francisco System,²⁴²⁰ combined with the 1951 Security Treaty between the US and Japan,²⁴²¹ defined Japan's relationships with the US and marks the beginning of Japan's post-war foreign relations history.

The San Francisco Peace Treaty is not to be confused with the Security Treaty between the US and Japan, signed 8 September 1951 (also signed in San Francisco on the same day as the San Francisco Peace Treaty).

See also §§ G.4.2.1. Treaty of San Francisco (SKIs) (p. 269) and A.1.2.4. Northern Territories (p. 192).

F.1.2.3.1. The San Francisco System (Hub-and-Spoke Treaty System)

The Treaty of San Francisco, combined with a series of bilateral Treaties²⁴²² signed shortly before and afterwards (including Treaties with ROK, Taiwan, Australia and New Zealand, and the 1951 Security Treaty between the US and Japan²⁴²³) established the "San Francisco System," also called the "Hub-and-Spoke Treaty System" whereby many regional actors maintained bilateral security relationships and obligations to the US, but not among each other.³⁶⁸

F.1.2.4. (1951) Security Treaty Between the US and Japan

This Treaty,²⁴²⁴ distinct from the Treaty of San Francisco,²⁴²⁵ was signed on 8 September 1951 (and took effect 28 April 1952) ended the US occupation of Japan and restored Japan's sovereignty.

This treaty is the predecessor to the MST.²⁴²⁶

F.1.2.5. Treaty of Taipei

Formally called the Treaty of Peace between the Republic of China and Japan, and also called the Sino-Japanese Peace Treaty, this Treaty,²⁴²⁷ signed 28 April 1952 (and taking effect 5 August 1952) re-established peaceful relations between the ROC and Japan, marking the formal end to the Second Sino-Japanese War (1937-1945).

The Treaty states:

...

Article 2

It is recognized that under Article 2 of the Treaty of Peace with Japan signed at the city of San Francisco in the United States of America on September 8, 1951 (hereinafter referred to as the San Francisco Treaty), Japan has renounced all right, title and claim to Taiwan (Formosa) and Penghu (the Pescadores) as well as the Spratly Islands and the Paracel Islands.

Article 3

The disposition of property of Japan and of its nationals in Taiwan (Formosa) and Penghu (the Pescadores), and their claims, including debts, against the authorities of the Republic of China in Taiwan (Formosa) and Penghu (the Pescadores) and the residents thereof, and the disposition in Japan of property of such authorities and residents and their claims, including debts, against Japan and its nationals, shall be the subject of special arrangements between the Government of the Republic of China and the Government of Japan. The terms nationals and residents whenever used in the present Treaty include juridical persons.

Article 4

²⁴²⁰ F.1.2.3.1. The San Francisco System (Hub-and-Spoke Treaty System), p. 256.

²⁴²¹ F.1.2.4. (1951) Security Treaty Between the US and Japan, p. 256.

²⁴²² 1.6.1.1.1. Treaties (Legal Status), p. 9.

²⁴²³ F.1.2.4. (1951) Security Treaty Between the US and Japan, p. 256.

²⁴²⁴ 1.6.1.1.1. Treaties (Legal Status), p. 9.

²⁴²⁵ F.1.2.3. Treaty of San Francisco, p. 255.

²⁴²⁶ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²⁴²⁷ 1.6.1.1.1. Treaties (Legal Status), p. 9.

It is recognized that all treaties, conventions and agreements concluded before December 9, 1941, between China and Japan have become null and void as a consequence of the war.

...³⁶⁹

F.1.2.6. Treaty of Peace between the Republic of China and Japan of 1952

F.2. JAPAN'S NATIONAL POSITION ON TAIWAN

Japan maintains unofficial relations with Taiwan through civilian representative organizations. Since renouncing all rights, titles, and claims to Taiwan in 1952, when the Treaty of San Francisco²⁴²⁸ went into effect, GoJ has avoided assessing the territorial status of Taiwan, stating that it is not in a position to make such a determination.

F.2.1. Potsdam and Cairo Declarations

The Potsdam Declaration²⁴²⁹ (and by extension Cairo Declaration²⁴³⁰), accepted by Japan through its Instrument of Surrender, has been interpreted as Japan's official position that Taiwan should be returned to the ROC.

Combined with the 1972 Normalization Communiqué,²⁴³¹ which recognizes the PRC as a "sole legal government of China," this is interpreted by some as Japan "obliquely" accepting Taiwan as a part of the PRC,³⁷⁰ however the 1972 Communiqué's²⁴³² statement that Japan "understands and respects" takes a similarly ambiguous position on the territorial status of Taiwan as the US's "One China Policy."²⁴³³

F.2.2. 1969 SATO-Nixon Joint Statement

The 1969 Joint Statement²⁴³⁴ includes the following statement related to Taiwan:

*The President referred to the treaty obligations of his country to the Republic of China which the United States would uphold. The Prime Minister said that the maintenance of peace and security in the Taiwan area was also a most important factor for the security of Japan.*³⁷¹

F.2.2.1. The "Taiwan Clause"

Some commentators refer to these two sentences from the 1969 Joint Statement²⁴³⁵ as the "Taiwan Clause," going so far as to claim that "the Japanese government would guarantee the deployment of US military personnel stationed in Japan" and describing it as creating a legal obligation for the GoJ.³⁷² The wording of the clause, while recognizing the importance of peace and stability surrounding the Taiwan issue, provides only loose support to such an assertion. Those who advocate this view sometimes also refer to the following sentence in the 2021 SUGA-Biden Joint Statement as the "New Taiwan Clause:"³⁷³

*We underscore the importance of peace and stability across the Taiwan Strait and encourage the peaceful resolution of cross-Strait issues.*³⁷⁴

Even if such a "guarantee" were read into the Taiwan Clause, it was nullified with the termination of the Mutual Defense Treaty between the United States and the Republic of China on 1 January 1980. Furthermore, even if the statement were intended to conceal a Secret Agreement²⁴³⁶ related to Taiwan, Joint Statements do not create legally-binding International Agreements²⁴³⁷ nor would any such Standing Prior Consultation²⁴³⁸ be a legal act (being a political act,²⁴³⁹ instead).

²⁴²⁸ F.1.2.3. Treaty of San Francisco, p. 255.

²⁴²⁹ F.1.2.1. The Potsdam Declaration, p. 254.

²⁴³⁰ F.1.2.2. The Cairo Declaration, p. 254.

²⁴³¹ F.2.3. 1972 Normalization of Japan-PRC Relations, p. 258.

²⁴³² 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

²⁴³³ F.3.2.1. 1972: Shanghai Communiqué ("One China Policy"), p. 259.

²⁴³⁴ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

²⁴³⁵ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

²⁴³⁶ B.2.2. The Issue of "Secret Agreements", p. 212.

²⁴³⁷ 1.6.1.1. International Agreements (Legal Status), p. 8.

²⁴³⁸ 5.5.2.1. Standing Prior Consultation, p. 133.

²⁴³⁹ B.1.1. Prior Consultation as a Political, not Legal Act, p. 207.

Appendix F. Alliance Positions on Taiwan

See § B.3.7.2. Emergency Re-Entry Agreement Applicability to a Taiwan Crisis (p. 222) regarding assertions of a Secret Agreement²⁴⁴⁰ (the Record of Discussion²⁴⁴¹) approving RMCO²⁴⁴² in the event of an attack on Taiwan.

F.2.3. 1972 Normalization of Japan-PRC Relations

The 1972 normalization Communiqué²⁴⁴³ between GoJ and PRC (“Joint Communiqué of the Government of Japan and the Government of the People's Republic of China”) states:

...

2. The Government of Japan recognizes that Government of the People's Republic of China as the sole legal Government of China.

3. The Government of the People's Republic of China reiterates that Taiwan is an inalienable part of the territory of the People's Republic of China. The Government of Japan fully understands and respects this stand of the Government of the People's Republic of China, and it firmly maintains its stand under Article 8 of the Potsdam Proclamation. [see § F.1.2 Post-WWII Disposition of Taiwan [p. 254]; the Proclamation does not “recognize” or “affirm” the PRC’s position]

...³⁷⁵

GoJ’s position on Taiwan, in the context of 1972 normalization is that Japan agrees with peaceful unification and cannot agree to coercive behavior.

Since 1972, Japan has maintained unofficial relations with Taiwan.

F.2.4. Other

GoJ and Taiwan have both recently changed the names of their diplomatic exchanges (*de facto* Embassies) to more explicitly reference “Taiwan” vice the PRC’s preferred “Chinese Taipei.”

Deputy PM statements²⁴⁴⁴ (ref STS²⁴⁴⁵ or STS ref this?)

In December 2021, former PM ABE stated:

A Taiwan contingency is a contingency for Japan.

Ref NSS linking of TWN stability to JPN stability

F.2.5. 2022 National Strategy Documents

Japan’s 2022 NSS states:

Japan’s basic position regarding Taiwan remains unchanged. Taiwan is an extremely important partner and a precious friend of Japan, with whom Japan shares fundamental values, including democracy, and has close economic and personal ties. Peace and stability across the Taiwan Strait is an indispensable element for the security and prosperity of the international community, and Japan will continue to make various efforts based on its position that the cross-strait issues are expected to be resolved peacefully.³⁷⁶

Japan’s 2022 NDS states:

It is believed that through the series of activities around Taiwan, China seeks to create a fait accompli where (the) Chinese military is continuously operating and improve its actual combat capabilities. Moreover, China

²⁴⁴⁰ B.2.2. The Issue of “Secret Agreements”, p. 212.

²⁴⁴¹ B.3.7. Emergency Nuclear Re-Entry Agreed Minute (“Record of Discussion”), p. 220.

²⁴⁴² 5.5.1. (US Regional) Military Combat Operations (RMCO) (aka “Unilateral ABO” or “Lethal ABO”), p. 130.

²⁴⁴³ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

²⁴⁴⁴ Deputy PM statements not considered authoritative (in a similar way to how a US Vice President might make a statement that does not imply administration policy).

See § C.2.1.1.1. Deputy Prime Minister, p. 225.

²⁴⁴⁵ 4.9. Survival-Threatening Situation (STS), p. 104.

has launched nine ballistic missiles on August 4, 2022, five of which landed within Japan's Exclusive Economic Zone (EEZ). This was perceived as a threat to local residents.³⁷⁷

F.3. US'S NATIONAL POSITION ON TAIWAN

F.3.1. Overall Policy

The USG's official position on Taiwan, known as the "One China Policy," was established in 1972 by the Shanghai Communiqué²⁴⁴⁶ and is guided by the Three Joint Communiqués,²⁴⁴⁷ TRA,²⁴⁴⁸ Six Assurances,²⁴⁴⁹ and the TTA.²⁴⁵⁰ Collectively, these form the legal basis for US policy regarding Taiwan

The position of the United States, as clarified in the China/Taiwan: Evolution of the "One China" Policy report of the Congressional Research Service (date: 9 July 2007) is summed up in five points:

The United States did not explicitly state the sovereign status of Taiwan in the three US-PRC Joint Communiqués of 1972, 1979, and 1982.

The United States "acknowledged" the "One China" position of both sides of the Taiwan Strait.

U.S. policy has not recognized the PRC's sovereignty over Taiwan;

U.S. policy has not recognized Taiwan as a sovereign country; and

U.S. policy has considered Taiwan's status as unsettled.

The "Three No's" Policy²⁴⁵¹ refers to a general restatement of the US policy on Taiwan, made in 1998.

While broad US policy on Taiwan remains consistent, detailed implementation of such policies are occasionally updated. The information below is for reference purpose only and may not reflect the most current policy interpretations or implementation guidance.

F.3.2. Three Joint Communiqués

The Three Joint Communiqués refer to:

- 1972: Shanghai Communiqué ("One China Policy")²⁴⁵²
- 1979: The Normalization Communiqué²⁴⁵³
- 1982: Arms Sales Communiqué²⁴⁵⁴

F.3.2.1. 1972: Shanghai Communiqué ("One China Policy")

The USG's official position on Taiwan, known as the "One China Policy," was established in 1972 by the Shanghai Communiqué which stated:

The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China. The United States Government does not challenge that position. It reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves.³⁷⁸

This policy does not take a position on issue (i.e., does not agree with or validate either the PRC or Taiwan government's claim to being the legitimate government of the "one China.")

²⁴⁴⁶ F.3.2.1. 1972: Shanghai Communiqué ("One China Policy"), p. 259.

²⁴⁴⁷ F.3.2. Three Joint Communiqués, p. 259.

²⁴⁴⁸ F.3.3. Taiwan Relations Act (TRA), p. 261.

²⁴⁴⁹ F.3.2.3.1. 1982 "Six Assurances", p. 261.

²⁴⁵⁰ F.3.4. Taiwan Travel Act (TTA), p. 262.

²⁴⁵¹ F.3.5. "Three No's" Policy (1998), p. 262.

²⁴⁵² F.3.2.1. 1972: Shanghai Communiqué ("One China Policy"), p. 259.

²⁴⁵³ F.3.2.2. 1979: The Normalization Communiqué, p. 260.

²⁴⁵⁴ F.3.2.3. 1982: Arms Sales Communiqué, p. 261.

F.3.2.1.1. Distinction from “One China Principle,” etc.

This is distinct from the “One China Principle,” which is the PRC’s position that there is only one sovereign state known as “China,” its legitimate government is the PRC, and that Taiwan is an inherent and inseparable part of China.

There is also the “one China with respective interpretations” consensus of 1992 between the (then-KMT) government of Taiwan and the PRC which agreed on “one China” but with disagreement on which was the legitimate government.

These various positions and their intentional ambiguities are often conflated out of ignorance, by mistake, or intentionally.

F.3.2.2. 1979: The Normalization Communiqué

The 1979 Communiqué, known variously as “The Normalization Communiqué “ and the “The Joint Communiqué on the Establishment of Diplomatic Relations” established diplomatic relations between the US and PRC while also reaffirming the Shanghai Communiqué.²⁴⁵⁵

The Communiqué²⁴⁵⁶ states:

The United States of America recognizes the Government of the People’s Republic of China as the sole legal Government of China. Within this context, the people of the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan.

...

—Both wish to reduce the danger of international military conflict.

—Neither should seek hegemony in the Asia-Pacific region or in any other region of the world and each is opposed to efforts by any other country or group of countries to establish such hegemony.

—Neither is prepared to negotiate on behalf of any third party or to enter into agreements or understandings with the other directed at other states.

—The Government of the United States of America acknowledges the Chinese position that there is but one China and Taiwan is part of China.

—Both believe that normalization of Sino-American relations is not only in the interest of the Chinese and American peoples but also contributes to the cause of peace in Asia and the world.³⁷⁹

The Communiqué further terminated official diplomatic relations and mutual defense Treaty²⁴⁵⁷ obligations with Taiwan and committed to withdrawing US military forces from Taiwan.

F.3.2.2.1. Differences in English and Chinese Wording

In English, the Communiqué²⁴⁵⁸ states:

*The United States of America **recognizes** the Government of the People’s Republic of China as the sole legal Government of China. ... The Government of the United States of America **acknowledges** the Chinese position that there is but one China and Taiwan is part of China.*

In the Chinese text, the Communiqué states:

*美利坚合众国**承认**中华人民共和国政府是中国的唯一合法政府。……美利坚合众国政府**承认**中国的立场，即只有一个中国，台湾是中国的一部分。*

²⁴⁵⁵ F.3.2.1. 1972: Shanghai Communiqué (“One China Policy”), p. 259.

²⁴⁵⁶ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

²⁴⁵⁸ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

²⁴⁵⁷ 1.6.1.1.1. Treaties (Legal Status), p. 9.

The Chinese verb “承认” is equivalent to the English word “recognizes.” This discrepancy was noted at the time by both nations but the Communiqué was signed without a joint agreement on the proper way to interpret or reconcile the text.

Since its signature, the PRC has used this language discrepancy to insist the US “recognized” (i.e., agreed to) the Chinese position. When combined with the US “recognition” of the PRC as “the sole legal Government of China,” the PRC has insisted that this constitutes US concurrence to the PRC’s claim to be the rightful government over Taiwan. This is often used as the basis for the PRC’s occasional claims that the US is violating its own policy on “One China.”²⁴⁵⁹

For its part, the US government has insisted on the English language text and that the Communiqué should be read as the US “acknowledging” (i.e., “knowing without necessarily agreeing”) the PRC’s position.²⁴⁶⁰

F.3.2.3. 1982: Arms Sales Communiqué

The third of the “Three Communiqués,” known variously as the “Arms Sales Communiqué” and the “August 17th Communiqué,” reaffirms the positions of the previous two Communiqués²⁴⁶¹ while attempting to address the issue of US arms sales to Taiwan.

While acknowledging that “The question of United States arms sales to Taiwan was not settled in the course of negotiations between the two countries on establishing diplomatic relations,” the Communiqué states:

*...the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution. In so stating, the United States acknowledges China's consistent position regarding the thorough settlement of this issue.*³⁸⁰

This Communiqué was followed by confidential assurances to Taiwan, known as the Six Assurances.²⁴⁶²

F.3.2.3.1. 1982 “Six Assurances”

In 1982, the US secretly communicated “Six Assurances” to Taipei as guiding principles for US policy (declassified in 2020) to clarify :

- (1) *The US has no agreed to set a date for ending arms sales to Taiwan.*
- (2) *The US has not agreed to consult with the PRC on arms sales to Taiwan.*
- (3) *The US will not play a mediation role between Taipei and Beijing.*
- (4) *The US has not agreed to revise the Taiwan Relations Act.*
- (5) *The US has not altered its position regarding Taiwan’s sovereignty.*
- (6) *The US will not exert pressure on Taiwan to enter into negotiations with the PRC.*

These assurances have also appeared in slightly modified forms in other forms, such as a 2016 US Senate resolution.

F.3.3. Taiwan Relations Act (TRA)

The TRA of 1979 outlines unofficial US relations with Taiwan and US commitments to Taiwan’s self-defense. The TRA covers Taiwan’s main island and the Penghu Island Group (historically known as the Pescadores).

Generally the TRA:

²⁴⁵⁹ F.3.2.1. 1972: Shanghai Communiqué (“One China Policy”), p. 259.

²⁴⁶⁰ F.3.2.1.1. Distinction from “One China Principle,” etc., p. 260.

²⁴⁶¹ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

²⁴⁶² F.3.2.3.1. 1982 “Six Assurances”, p. 261.

Appendix F. Alliance Positions on Taiwan

- Preserves and promotes ties to Taiwan, the PRC, and Pacific nations
- Clarifies that US diplomatic relations with the PRC are based upon the expectation that the future of Taiwan will be determined through peaceful means
- Considers any effort to determine the future of Taiwan by other than peaceful means (including boycotts or embargoes) a threat and of graver concern to the US
- Provides Taiwan with arms of a defensive character
- Maintains US capacity to resist any resort to force or coercion that jeopardizes the security, the social, or economic system of the people of Taiwan

The TRA states that it is US policy to:

Sec. 2. (b)

...

(4) to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concerns to the United States [*reserve the right to respond to forceful unification*];

(5) to provide Taiwan with arms of a defensive character [*sell arms to Taiwan*];

(6) to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, or the people on Taiwan [*obligates the US to maintain the capability to defend Taiwan from forceful unification but does not oblige the US to take action to do so*]

US implementation of the TRA:

- Allows the US to make available to Taiwan such defensive articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability
- Permits POTUS and Congress to determine the nature and quantity of such defense articles and services based solely on their judgment of the needs of Taiwan
- Requires POTUS to inform Congress promptly of any threat to the security or the social or economic system of the people of Taiwan and any danger to the interest of the US

F.3.4. Taiwan Travel Act (TTA)

The TTA (Public Law 115-135; effective 16 March 2018) expresses the sense of Congress that:

- the USG should encourage visits between the US and Taiwan officials at all levels
- it should be US policy for US officials to visit Taiwan, Taiwan officials to visit the US, and encourages TECRO to conduct business in the US

Policy implementation of the TTA allows US General Officers and Cabinet Officials to travel to Taiwan in an unofficial capacity (such travel had been previously restricted).

F.3.5. “Three No’s” Policy (1998)

In 1998, the US President stated:

*I had a chance to reiterate our Taiwan policy, which is that we don't support independence for Taiwan, or 'two China's,' or 'one Taiwan, one China,' and we don't believe that Taiwan should be a member in any organization for which statehood is a requirement.*³⁸¹

This statement became known as the “Three No’s” which, restated, are:

(1) Not supporting Taiwanese independence

(2) Not recognizing two Chinas

(3) *Not supporting Taiwan's efforts to join international organizations where sovereignty is a membership requirement*

The PRC often interprets or restates the second No as the US “opposing” Taiwan’s independence but the US position stated was “not supporting” independence.

F.4. BILATERAL

F.4.1. The MST and Taiwan

Article VI²⁴⁶³ of the MST has often been viewed as grating the ABO for US Regional Treaty Obligations²⁴⁶⁴ outside of Japan (subject to Prior Consultation²⁴⁶⁵). While this has never been explicitly and formally stated as the interpretation of Article VI, prior to the termination of the US-Taiwan defense Treaty, it was understood that the MST would (subject to Prior Consultation) allow for US operations in defense of Taiwan. This, combined with other (more recent) national security statements (formal and informal) from GoJ regarding the relationship between peace in the Taiwan Strait and Japan’s national security, gives Article VI of the MST limited value in terms of indirectly characterizing the Alliance stance on Taiwan.

F.5. DIPLOMATIC ORGANIZATIONS

As neither the US nor Japan have formal diplomatic relationships with Taiwan as a sovereign state, there are no formal embassies representing the US or Japan in Taiwan nor Taiwan in the US and Japan. Nevertheless, there are established organizations that conduct pseudo-diplomatic relations that are often characterized as *de facto* embassies.

US exchange to Taiwan: **American Institute in Taiwan (AIT)**

Taiwan exchange to US: **Taipei Economic and Cultural Representative Office (TECRO) in the United States**

Japan exchange to Taiwan: **Japan–Taiwan Exchange Association**

Taiwan exchange to Japan: **Taipei Economic and Cultural Representative Office (TECRO) in Japan**

²⁴⁶³ 2.1.3.5. Article VI – Access, Basing, and Overflight (ABO) (the “Far East Clause” or “MOFA Clause”), p. 28.

²⁴⁶⁴ 2.1.3.5.1. Article VI and US Regional Treaty Obligations (Far Eastern Contingency Scenarios), p. 28.

²⁴⁶⁵ 5.5.2. Prior Consultation, p. 132.

Appendix G. POLICY ON THE SENKAKU ISLANDS

G.1. OVERVIEW AND EARLY HISTORY OF THE SKI ISSUE

The SKIs are a group of uninhabited islands (sometimes referred to as “islets”) located within the SSI archipelago, approximately 90 NM (170 km) north of Ishigaki.

The SKIs include five “major islands” and three reefs (under UNCLOS, the five the SKI “islands” would almost certainly be classified as “rocks,” instead²⁴⁶⁶) with the largest island (Uotsuri-shima) approximately 1.5 square miles in size. The major islands are:

- Uotsuri-shima
- Taishō-tō
- Kuba-shima
- Kita-Kojima
- Minami-Kojima

The PRC and Taiwan also claim the islands with PRC referring to them as the Diaoyu islands (or less commonly the Pinnacle Islands) and Taiwan referring to them as the Daioyutai/Tiaoyutai Islands.

China claims ownership of the SKIs beginning with Chinese discovery in the 14th century, using the islands as navigation markers between mainland China and the Ryūkyū Kingdom.

Japan annexed the islands in 1895 during the First Sino-Japanese War. During most of the period of Japanese administration, the islands have remained in private possession. From approximately 1900-1940, operated a fish processing plant on the islands (the islands have remained uninhabited since the business failure of the fish processing plan).

In 1945, the SKIs were placed under US occupation along with the rest of the Japan.

In 1952, when the Treaty of San Francisco²⁴⁶⁷ restored Japanese sovereignty, the SKIs remained under US control along with Okinawa and the rest of the Ryūkyū Shotō.²⁴⁶⁸

In 1969, the UN Economic Commission for Asia and the Far East identified possible oil and gas reserves in vicinity of the SKI, making the issue of ownership or administration one with potentially significant economic consequences.

In 1971, the PRC began to claim sovereignty over the SKIs.

In 1972, when Okinawa and the Ryūkyū Shotō was reverted from US to GoJ control, the SKIs were included with this reversion, formally passing their administration to Japan.

G.1.1. Military Significance

The islands are well-recognized as having limited military significance. However, within any military context it is important to account for the proximity of the islands in estimating the viability of any military action against them or in their defense. Three of the islands (Uotsuri-shima, Kita-Kojima, Minami-Kojima) and the three reefs are within visual range of each other, making them of greatest value in terms of the ability of involved military forces to mutually-support, whether ashore or at sea.

G.1.1.1. SKI Crisis Scenarios

Some have posited that the most likely SKI crisis would be for the PRC to Blockade the islands. There is also speculation that the PRC might attempt to seize the islands and would do so through airborne operations

²⁴⁶⁶ G.7.1. Rocks or Islands?, p. 270.

²⁴⁶⁷ F.1.2.3. Treaty of San Francisco, p. 255.

²⁴⁶⁸ D.6. Nansei Shotō, p. 239.

Appendix G. Policy on the Senkaku Islands

(for which there would be exceptionally little warning or time for a response before initial forces were landed).³⁸²

The former mayor of Ishigaki stated, “The situation I am worried about is this: a Chinese ship or fishing boat would come to the island, and fishermen land on the island. Then Japanese police and coastguard officials would go on the island to remove them. Then the Chinese will give a reason to deploy warships to the island, saying ‘we need to protect our citizens.’”³⁸³

Outside of a SKI-only scenario, it is also plausible in a Taiwan scenario that the SKIs could be a source of destabilization either the PRC or GoJ

G.1.1.1.1. Challenges of a PRC Blockade of the SKIs

In any scenario involving the SKIs, the issue of their sovereignty would be key. However, the legality and severity of PRC blockade actions beyond the watermark (i.e., in the seas within 12 NM of the islands) would depend in large part on thow parties to the crisis recognized the islands, with GoJ recognizing Japanese sovereignty²⁴⁶⁹ (making PRC actions at sea within 12 NM illegal and violations of GoJ sovereignty), PRC recognizing Chinese sovereignty²⁴⁷⁰ (making their actions plausibly legal defense of PRC sovereignty), and the US taking no formal position on their sovereignty.²⁴⁷¹

In this context, the US position (of taking no position) could seriously disadvantage GoJ in the information environment and theoretically abet PRC “lawfare” techniques, placing significant strain on the Alliance and/or forcing the US to appear to take a position and thus “take unilateral action to change the status quo” (exactly what the US’s formal position has stated it discourages).

G.1.2. Recent History of Senkaku Confrontations

UN

2005: A Japanese fisherman who owned a lighthouse on Uotsuri Island relinquished his ownership of the lighthouse, making it national property of Japan and falling under the operation of the JCG.

2008 saw the first intrusion of PRC maritime patrol vessels (two China’s State Oceanic Administration) into Japan’s TTS²⁴⁷² around SKI.

2010: PRC fishing boat deliberately collided with JCG patrol ships

In 2012, the GoJ purchased Uotsuri-shima, Minami-Kojima, and Kita-Kokima from Japanese private citizens and renting Kuba island (the fifth island, Taisho, is also owned by GoJ). This purchase was made to preempt a the purchase of the islands from a Japanese nationalist. GoJ feared the private purchase by the Japanese nationalist would aggravate tensions with the PRC and that government purchase would be less inflammatory.

2016: Swarm of 300 PRC fishing boats

In 2021, the PRC passed the Coast Guard Law, authorizing the CCG to operate in PRC-claimed waters including around the SKI.

G.1.2.1. Intrusions of PRC Vessels into Senkaku Waters

The chart below is provided by MOFA and contains information current as of 30 November 2023.

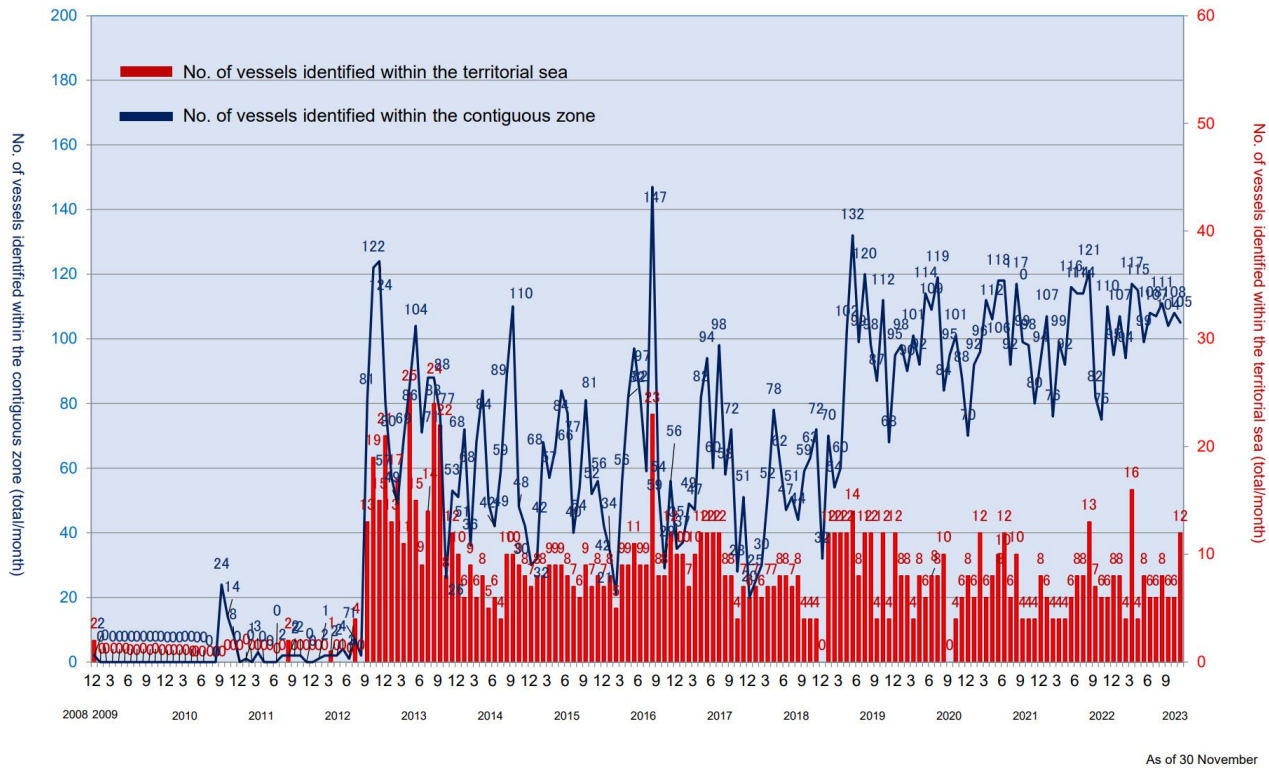
²⁴⁶⁹ G.4.1. Basic Policy, p. 268.

²⁴⁷⁰ G.5. PRC Policy on the SKIs, p. 270.

²⁴⁷¹ G.3.2.3. US Position on SKI TTS, TTA, CZ, p. 268.

²⁴⁷² A.4.4. Territorial Sea (TTS), p. 196.

Appendix G. Policy on the Senkaku Islands



G.2. BILATERAL POLICY ON SKIS

The US and Japan have routinely bilaterally reiterated that the MST²⁴⁷³ covers the Senkaku Islands.

See § G.3.2.3. US Position on SKI TTS, TTA, CZ (p. 268).

On example of this bilateral statement is the 2024 Joint Statement²⁴⁷⁴ declaring:

President Biden also reaffirmed that Article V²⁴⁷⁵ [of the MST] applies to the Senkaku Islands. We reiterated our strong opposition to any attempts by the People’s Republic of China (PRC) to unilaterally change the status quo by force or coercion in the East China Sea, including through actions that seek to undermine Japan’s longstanding and peaceful administration of the Senkaku Islands.³⁸⁴

G.3. US POLICY ON SKIS

US policy on the SKIs can be defined by two eras, before and after PRC normalization.

G.3.1. US Position before PRC Normalization

The Treaty of San Francisco²⁴⁷⁶ transferred administration of the SKI, as part of the Ryūkyū Islands, to the US as the occupying power.²⁴⁷⁷

G.3.1.1. USCAR Proclamation 27

In 1953, U.S. Civil Administration of the Ryūkyūs Proclamation 27 (USCAR 27) defined the area of “Nansei Shotō south of 29 north latitude (including the Ryūkyū Islands and the Daito Islands),” transferred to US administration by Article 3 Treaty of San Francisco²⁴⁷⁸ as the area falling within:

²⁴⁷³ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²⁴⁷⁴ 1.6.2.3. Communiqués and Joint Statements (Legal Status), p. 11.

²⁴⁷⁵ 2.1.3.4. Article V – Mutual Defense (the “MOD Clause”), p. 25.

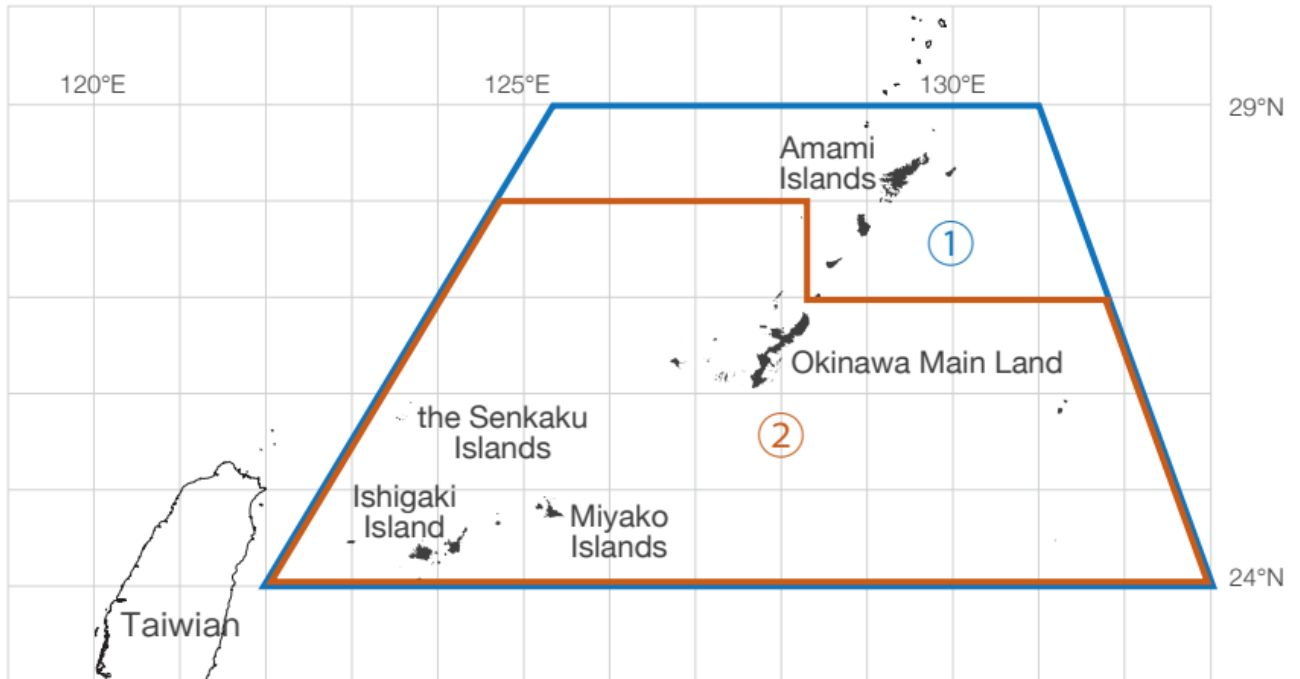
²⁴⁷⁶ F.1.2.3. Treaty of San Francisco, p. 255.

²⁴⁷⁷ G.4.2.1. Treaty of San Francisco (SKIs), p. 269.

²⁴⁷⁸ G.4.2.1. Treaty of San Francisco (SKIs), p. 269.

28° North Latitude, 124°40' East Longitude; thence
 24° North Latitude, 122° East Longitude; thence
 24° North Latitude, 133° East Longitude; thence
 27° North Latitude, 131°50' East Longitude; thence
 27° North Latitude, 128°18' East Longitude; thence
 28° North Latitude, 128°18' East Longitude; thence
 to the point of origin.³⁸⁵ [depicted in Figure 19]³⁸⁶

Figure 19. The Limit of the area of the Ryukyu Islands shown by USCAR 27 (Office of Policy Planning and Coordination on Territory and Sovereignty, Cabinet Secretariat, 2022, p. 10)



From 1953-1971 the US administered the SKIs as part of its administration of Okinawa Prefecture.³⁸⁷

G.3.1.2. Okinawa Reversion Treaty

The 1971 Treaty Between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands, commonly called the Okinawa Reversion Treaty, returned the SKIs to Japanese administration as a part of the broader return of the Ryukyu Islands.

An Agreed Minute²⁴⁷⁹ to the Treaty states:

Regarding Article I: The territories denned in paragraph 2 of Article I are the territories under the administration of the United States of America under Article 3 of the Treaty of Peace with Japan, and are, as designated under Civil Administration Proclamation Number 27 [USCAR 27²⁴⁸⁰] of December 25, 1953, all of those islands, islets, atolls and rocks situated in an area bounded by the straight lines connecting the following coordinates in the listed order: [coordinates as listed in USCAR 27]³⁸⁸

At the time of the signing of the Treaty²⁴⁸¹ several DoS officials stated that “Nansei Shotō south of 29 north latitude”²⁴⁸² was “understood by the United States and Japan to include the Senkaku Islands.”³⁸⁹

During the US Senate deliberations on the Treaty, then-US Secretary of State William Rogers stated the US position that reversion of the Senkakus with Okinawa would “not affect the legal status of those islands at all.”³⁹⁰ Explaining this position further, acting Assistant Legal Advisor Robert Starr stated:

²⁴⁷⁹ 1.6.2.2. Agreed Minute(s) (Legal Status), p. 11.

²⁴⁸¹ 1.6.1.1.1. Treaties (Legal Status), p. 9.

²⁴⁸⁰ G.3.1.1. USCAR Proclamation 27, p. 266.

²⁴⁸² G.4.2.1. Treaty of San Francisco (SKIs), p. 269.

Appendix G. Policy on the Senkaku Islands

The Governments of the Republic of China and Japan are in disagreement as to sovereignty over the Senkaku Islands. You should know as well that the People's Republic of China has also claimed sovereignty over the islands. The United States believes that a return of administrative rights over those islands to Japan, from which the rights were received, can in no way prejudice any underlying claims. The United States cannot add to the legal rights Japan possessed before it transferred administration of the islands to us, nor can the United States, by giving back what it received, diminish the rights of other claimants. The United States has made no claim to the Senkaku Islands and considers that any conflicting claims to the islands are a matter for resolution by the parties concerned.³⁹¹

Essentially, this outlines of the US position that prior to the occupation, Japan maintained only administrative control over the SKI due to their disputed sovereignty, thus the US received only administrative control and therefore could only return administrative, not sovereign control over the SKI with the Okinawa Reversion Treaty.

G.3.2. US Position after PRC Normalization

Since 1972, when the US-PRC normalization or relations began, the US has officially taken no position on the sovereignty of the SKIs.³⁹²

G.3.2.1. Prohibition on Military Use of the SKI

While the SKI have historically been used by the US for military training including target practice, the Department of State has established policies preventing the military use of the SKI by the US since 1979.³⁹³

G.3.2.2. Armitage Doctrine

Throughout the 1990s, a series of bungled statements by US officials that included incorrect, confusing, or misleading statements about the US position on the SKIs (and subsequent corrections, retractions, and caveats to those statements) led to the need for the US to clarify its stance. This clarification, made in 2004 by then-Deputy Secretary of State Richard Armitage, became known as the "Armitage Doctrine:"

The Senkaku Islands have been under the administrative control of Japan since having been returned as part of the reversion of Okinawa in 1972. Article V²⁴⁸³ of the 1960 U.S.-Japan Treaty of Mutual Cooperation and Security [MST] states the treaty applies to the territories under the administration of Japan; thus, Article V of the Mutual Security Treaty applies to the Senkaku Islands. Sovereignty of the Senkakus is disputed. The U.S. does not take a position on the question of the ultimate sovereignty of the Senkaku Diaoyu Islands. This has been our longstanding view. We expect the claimants will resolve this issue through peaceful means and urge all claimants to exercise restraint.³⁹⁴

G.3.2.3. US Position on SKI TTS, TTA, CZ

Because the US does not take a position on sovereignty over the SKIs, it does not recognize the status of the associated airspace or surrounding waters as the TTS,²⁴⁸⁴ CZ,²⁴⁸⁵ or TTA²⁴⁸⁶ of Japan.²⁴⁸⁷

G.4. JAPANESE POLICY ON SKIS**G.4.1. Basic Policy**

Japan outlines its comprehensive position on the SKIs in a pamphlet published by the Cabinet Secretariat's Office of Policy Planning and Coordination on Territory and Sovereignty. The pamphlet states the basic position of Japan as:

There is no doubt that the Senkaku Islands are clearly an inherent part of the territory of Japan, in light of historical facts and based upon international law. Indeed, the Senkaku Islands are under the valid control of Japan.

²⁴⁸³ 2.1.3.4. Article V – Mutual Defense (the "MOD Clause"), p. 25.

²⁴⁸⁵ A.4.6. Contiguous Zone (CZ), p. 197.

²⁴⁸⁷ G.7.2. Sovereignty vs. Administrative Control, p. 270.

²⁴⁸⁴ A.4.4. Territorial Sea (TTS), p. 196.

²⁴⁸⁶ A.4.5. National Airspace (TTA), p. 197.

There exists no issue of territorial sovereignty to be resolved concerning the Senkaku Islands.

Japan will act firmly and calmly to maintain its territorial integrity. Japan continues to strive for peace and stability in the region, which is to be established through the observance of international law.³⁹⁵

G.4.2. Japanese History of Control over the SKIs

Japan first claimed the SKIs in January 1895, by Cabinet Decision,²⁴⁸⁸ incorporating them into Japan's territory, arguing that they were previously uninhabited and thus *terra nullius* (a designation under International Law²⁴⁸⁹ that permits acquisition of territory by occupation).³⁹⁶ This was followed by limited Japanese settlements on the islands to extract materials.

The Treaty of Shimonoseki,²⁴⁹⁰ which ceded Formosa and associated to Japan, did not mention the SKIs. On this basis, Japan claims its possession of the SKIs as separate from the Treaty.²⁴⁹¹ By separating its claim to the SKIs from the Treaty of Shimonoseki, Japan attempts to isolate its SKI claim from any arguments that, as an "unequal treaty" the Treaty of Shimonoseki is illegitimate, other claims about the nullification of the Treaty of Shimonoseki based on the Treaty of Taipei,²⁴⁹² or arguments that the Potsdam²⁴⁹³ and Cairo Declarations²⁴⁹⁴ should be interpreted as intention of force Japan to forfeit any territorial gains (potentially including those from the Treaty of Shimonoseki).

The 1945 relinquishment of Japanese authority over Taiwan also did not mention the SKI.

G.4.2.1. Treaty of San Francisco (SKIs)

Article 3 of the Treaty of San Francisco²⁴⁹⁵ transfers administration of the SKI to the US as the occupying power, stating:

Japan will concur in any proposal of the United States to the United Nations to place under its trusteeship system, with the United States as the sole administering authority, Nansei Shotō south of 29 north latitude (including the Ryūkyū Islands and the Daito Islands), Nanpo Shotō south of Sofu Gan (including the Bonin Islands, Rosario Island and the Volcano Islands) and Parece Vela and Marcus Island. Pending the making of such a proposal and affirmative action thereon, the United States will have the right to exercise all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of these islands, including their territorial waters³⁹⁷

G.4.3. 2008 Japan-China Consensus on the East China Sea Issue

G.4.4. Stance of "Disputes"

Japan denies the status of the SKIs as "disputed,"

The Senkaku Islands are indisputably an inherent part of the territory of Japan in light of historical facts and based upon International Law,²⁴⁹⁶ and are, in fact, effectively under the Japanese control. In the first place, there exists no issue of territorial sovereignty to be resolved concerning the Senkaku Islands

G.4.5. US Position on SKI TTS, TTA, CZ

Because Japan asserts sovereignty over the SKIs, it recognizes the status of the associated airspace or surrounding waters as the TTS,²⁴⁹⁷ CZ,²⁴⁹⁸ and TTA²⁴⁹⁹ of Japan.²⁵⁰⁰

²⁴⁸⁸ C.2.1.4.1. Cabinet Decision, p. 226.

²⁴⁸⁹ 2.1.2.4.1. International Law, p. 23.

²⁴⁹⁰ F.1.1. Pre-WW II: 1895 Treaty of Shimonoseki, p. 253.

²⁴⁹¹ 1.6.1.1.1. Treaties (Legal Status), p. 9.

²⁴⁹² F.1.2.5. Treaty of Taipei, p. 256.

²⁴⁹³ F.1.2.1. The Potsdam Declaration, p. 254.

²⁴⁹⁴ F.1.2.2. The Cairo Declaration, p. 254.

²⁴⁹⁵ F.1.2.3. Treaty of San Francisco, p. 255.

²⁴⁹⁶ 2.1.2.4.1. International Law, p. 23.

²⁴⁹⁷ A.4.4. Territorial Sea (TTS), p. 196.

²⁴⁹⁸ A.4.6. Contiguous Zone (CZ), p. 197.

²⁴⁹⁹ A.4.5. National Airspace (TTA), p. 197.

²⁵⁰⁰ G.7.2. Sovereignty vs. Administrative Control, p. 270.

G.5. PRC POLICY ON THE SKIS

The PRC asserts that the Ming Dynasty, from 1368-1644, considered the SKIs as part of its territory, with the Qing Dynasty, from 1644-1911, placing the SKIs under the jurisdiction of its Taiwan province.

In February 2021, the PRC passes a law permitting CCG to use weapons against foreign ships illegally entering its waters.

G.6. TAIWAN'S POLICY ON THE SKIS

G.7. STATUS UNDER INTERNATIONAL LAW

G.7.1. Rocks or Islands?

UNCLOS Article 121 “Regime of Islands” defines Islands as:

(1) *An island is a naturally formed area of land, surrounded by water, which is above water at high tide.*

(2) *Except as provided for in ¶(3), the Territorial Sea,²⁵⁰¹ the Contiguous Zone,²⁵⁰² the Exclusive Economic Zone²⁵⁰³ and the Continental Shelf²⁵⁰⁴ of an island are determined in accordance with the provisions of this Convention applicable to other land territory.*

(3) *Rocks which cannot sustain human habitation or economic life of their own shall have no Exclusive Economic Zone or Continental Shelf.³⁹⁸*

Based on this definition, it is unclear that the SKIs would constitute “islands” under International Law.²⁵⁰⁵ The UNCLOS

The PCA Tribunal, in the case of the South China Sea Arbitration (between the Philippines and PRC over claims in the SCS) restated the meaning of Article 121 ¶(3) as: “an island that is able to sustain either human habitation *or* an economic life of its own.” It further clarified that the “ability to sustain human habitation” means that “a feature be able to support, maintain, and provide food, drink, and shelter to some humans to enable them to reside there permanently or habitually over an extended period of time.” And that the terms “economic life of their own” means that an Article 121 ¶(1) feature must be able to “support an independent economic life, without relying predominantly on the infusion of outside resources or serving as an object for extractive activities, without the involvement of a local population.”³⁹⁹

Collectively, this determination would suggest that the SKIs would not be Article 121 ¶(1) features (i.e., Islands) and instead would be considered Article 121 ¶(3) features (i.e., Rocks).

Thus, the SKIs would generate a TTS (and TTA²⁵⁰⁶) and CZ, but no EEZ or CS. However, formal recognition of a TTS or CZ is dependent on recognition of sovereignty claims over the SKIs.²⁵⁰⁷

G.7.2. Sovereignty vs. Administrative Control

UNCLOS makes no provision for “non-sovereign territory” (e.g., “territory under the administration of Japan”). Thus, the territorial properties of the SKIs and associated waters and airspace, derive from sovereignty recognition and not any lesser territorial status (e.g., administration).

As a consequences, the recognized status of land, airspace, and waters associated with the SKIs only have the status of TTS,²⁵⁰⁸ CZ,²⁵⁰⁹ or TTA²⁵¹⁰ for states that recognize a sovereign claim over the SKIs.

²⁵⁰¹ A.4.4. Territorial Sea (TTS), p. 196.

²⁵⁰² A.4.6. Contiguous Zone (CZ), p. 197.

²⁵⁰³ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

²⁵⁰⁴ A.4.9. Continental Shelf (CS), p. 198.

²⁵⁰⁵ 2.1.2.4.1. International Law, p. 23.

²⁵⁰⁶ A.4.5. National Airspace (TTA), p. 197.

²⁵⁰⁷ G.7.2. Sovereignty vs. Administrative Control, p. 270.

²⁵⁰⁸ A.4.4. Territorial Sea (TTS), p. 196.

²⁵⁰⁹ A.4.6. Contiguous Zone (CZ), p. 197.

²⁵¹⁰ A.4.5. National Airspace (TTA), p. 197.

Appendix H. CONSTITUTIONALITY OF THE JSDF AND JAPAN'S RIGHT TO SELF-DEFENSE

As outlined in § 2.1.2.1.2 Parsing Article 9 (p. 14), there are a number of constitutional arguments to be made against the existence of the JSDF⁴⁰⁰ and Japan's right(s) to self-defense²⁵¹¹ though they tend to be in the minority.

The Japanese courts have assiduously avoided addressing the constitutionality of the JSDF and the GoJ has paid no attention to constitutional scholars who insist on stricter interpretations of Article 9²⁵¹² that would prohibit the existence of the JSDF and almost all of Japan's modern defense apparatus. This is based on the philosophy of "judicial negativism," which is the policy of not ruling on constitutional issues unless absolutely necessary. While a number of cases have been brought before the Japanese Supreme Court regarding the constitutionality of the JSDF, the court's judgements have never addressed the issue, instead rendering judgments based on other aspects of the cases.

Furthermore, like the US courts, Japan's courts generally apply the "state governance" theory, which holds that certain aspects of state activity are fundamentally political, not legal matters, and are therefore outside the scope of judicial review. The Sapporo High Court applied this theory to the question of the constitutionality of the JSDF, stating:

*The choice of means of defense is nothing other than a determination of the most fundamental national policy, requiring both a high level of specialized technical judgment and a high level of political judgment.*⁴⁰¹

The Japanese Supreme Court confirmed the overall judgment of the Sapporo High Court in the case, implicitly endorsing this view that the constitutionality of the JSDF is outside the scope of judicial review.

Separate from the issue of the JSDF's constitutionality as an organization, the Japanese Supreme Court has recognized the inherent right to self-defense of Japan, ruling that Article 9:

*...renounces the so-called war and prohibits the maintenance of the so-called war potential, but certainly there is nothing in it which would deny the right of self-defense inherent in our nation as a sovereign power. The pacifism advocated in our Constitution²⁵¹³ was never intended to mean defenselessness or nonresistance.*⁴⁰²

As a practical matter, since the establishment of the JSDF in 1954, the courts have largely ignored cases involving Article 9 and the Japanese electorate continues to vote for the same ruling parties, suggesting that the constitutionality of the JSDF is moot, especially given the tight legislative constraints that have been placed on its operations.

Observers have pointed out that polling consistently indicates an apparently paradoxical attitude among the Japanese populace: strong support for the anti-militarism of Article 9 at the same time as strong support for both the increasing capabilities of the JSDF and cooperation with the US to secure Japan's national defense.⁴⁰³

From a utilitarian view, Japan's security relies on the US. As established by the principles of the MST²⁵¹⁴ and reinforced over the decades of Alliance cooperation, continued US willingness to maintain the MST and extend Japan security guarantees requires Japan to cooperate with the US on mutual defense issues. Since 1954, when the JSDF was established, this has included the maintenance of the ability for Japan to exercise

²⁵¹¹ 3.4. Japan's Rights to Self-Defense, p. 83.

²⁵¹² 2.1.2.1. Article 9 (War Renunciation), p. 13;
i.B.2. Article 9 – Renunciation of War, p.
300.

²⁵¹³ 2.1.2. Japanese Constitution (Kenpō), p. 13.

²⁵¹⁴ 2.1.3. The Treaty of Mutual Cooperation and
Security between the United States and
Japan (MST), p. 23.

Appendix H. Constitutionality of the JSDF and Japan's Right to Self-Defense

the “self-help” principle of the MST through its own defense forces. Japan has successfully balanced its own interests and constitutional values against US demands to do more through its restrictions on JSDF activities.

Despite what appears on one hand to be a “hollowing out” of Article 9 and a series of new laws, policies, and (re)interpretations that authorized expanded activities for the JSDF, the war renunciation of the Constitution has indisputably placed strong normative constraints on Japanese defense.

Finally, even advocates for constitutional revision have reason to accept Article 9 as written. There is a case to be made that revision of Article 9 might be perceived as *required* to legitimize the creation and maintenance of the JSDF.⁴⁰⁴ Any public debate regarding revisions to Article 9 is bound to feature opponents to revision using this argument (that revisions are required to legitimize the JSDF) during public and legislative debate. While there is no serious risk of such an argument unraveling the existing case for JSDF constitutionality, it presents a real rhetorical challenge and political cost for advocates of revision. Given that Japan has successfully maintained and evolved its organs of defense, such a cost might appear unwise for what is likely to only be a marginal increase in defense capabilities.

H.1. ISSUES SURROUNDING JAPAN'S RIGHT TO SELF-DEFENSE

At least two cases comprised the judicial review of the question of Japan's right to self-defense:

- The 1957 Sunakawa Case²⁵¹⁵
- The 1982 Naganuma Case²⁵¹⁶

H.1.1. 1952 Sunakawa Case

The Sunakawa Case is also known as SAKATA v. Japan.

In 1957,, residents of Sunakawa (also Sunagawa), brought suit to halt the expansion of a runway at a nearby US base, arguing that US forces in Japan and the 1951 Security Treaty²⁵¹⁷ violated Article 9 ¶(2).²⁵¹⁸ After rulings in favor of the defendants, the Japanese Supreme Court ruled that Article 81 of the Constitution limited its ability to review only concrete cases, not those where the harm was hypothetical. It furthermore decided that the Treaty was beyond the scope of judicial review unless “obviously unconstitutional and void,” because it “featured with an extremely high degree of political consideration ... having a direct bearing upon the very existence of our country [as a sovereign power].”⁴⁰⁵

All the opinions, including those of the three dissenting justices, accepted without any analysis that Japan had an inherent right of self-defense, and that nothing in Article 9 foreclosed the exercise of that right. This part of the judgment was not necessary to the decision, but it remains the only Supreme Court pronouncement on the issue of the right to self-defense. The Court also held that the U.S. forces, not being under the command and control of the Japanese government, did not constitute the armed forces or other war potential prohibited by Article 9(2).⁴⁰⁶

H.1.2. 1982 Naganuma Case

The Naganuma Case is also known as UNO et al. v. Minister of Agriculture and Forestry.

In 1969, residents of Naganuma brought suit against the GoJ to prevent the reclassification of a nearby forest removed environmental protections to enable the construction of a JSDF missile base. The residents argued that because the JSDF was unconstitutional, the cancellation of the designation on the basis of public benefit was invalid. The courts initially ruled in favor of the defendants that decided the JSDF constituted war potential that was prohibited by Article 9 ¶(2)²⁵¹⁹ and rejected the Supreme Court's political question doctrine established by the 1952 *Sunakawa Case*²⁵²⁰.⁴⁰⁷

²⁵¹⁵ H.1.1. 1952 Sunakawa Case, p. 272.

²⁵¹⁶ H.1.2. 1982 Naganuma Case, p. 272.

²⁵¹⁷ F.1.2.4. (1951) Security Treaty Between the US and Japan, p. 256.

²⁵¹⁸ i.B.2. Article 9 – Renunciation of War, p. 300.

²⁵¹⁹ i.B.2. Article 9 – Renunciation of War, p. 300.

²⁵²⁰ H.1.1. 1952 Sunakawa Case, p. 272.

In 1982, upon review, the Supreme Court denied the claim on the basis the residents lacked standing because the missile base had been constructed by then and a series of mitigations had prevented the environmental harm residents sought to avoid. Thus, the Supreme Court's decision side-stepped the question of constitutionality and avoided addressing the Sapporo District Court's rejection of the *Sunakawa* Case reasoning.

H.2. ISSUES SURROUNDING CREATION OF THE JSDF

Because the US occupation powers (GHQ) was the authority for the creation of the National Police Reserve, there was no GoJ legislative act to create the NPR, making the NPR's creation an extra-constitutional act.

When the NPR was reorganized into the JSDF, GoJ was forced to rationalize its constitutionality through interpretations of Article 9.²⁵²¹ In the (continual) process of legitimizing the JSDF, GoJ

*created an elaborate and meticulous legal argument on why the existence of the JSDF does not violate Article 9 of the Japanese Constitution. The legal labyrinth created henceforth, together with the JSDF's original nature as a constabulary force, has prevented the JSDF from gaining an identity as a professional military organizations.*⁴⁰⁸

This "continues to handicap it today."⁴⁰⁹

At least two cases comprised the judicial review of the question of the JSDF's constitutionality:

- The 1952 SUZUKI Case²⁵²²
- The 1962 Eniwa Case²⁵²³

H.2.1. 1952 SUZUKI Case

In 1952, Mosaburo SUZUKU, then-Secretary-General of the Social Democratic Party, brought a case before the Supreme Court, arguing that the creation of the NPA, predecessor to the JSDF, constituted war potential and was therefore unconstitutional under Article 9.²⁵²⁴ The court refused to hear the case on the basis that SUZUKI lacked standing as no concrete legal dispute had occurred.⁴¹⁰

H.2.2. 1962 Eniwa Case

In 1962, farmers in Hokkaido were charged with destroying defense equipment after they cut telephone cables on a JSDF base. They argued that because the JSDF was unconstitutional, the law criminalizing the destruction of defense equipment was void. The Sapporo High Court acquitted the defendants on the basis that the telephone cables did not constitute "defense equipment" and avoided ruling on the issue of JSDF constitutionality.⁴¹¹

H.2.3. Hyakuri Base Case

H.3. GOJ POSITION ON THE CONSTITUTIONALITY OF THE JSDF

The GoJ's official view on the constitutionality of the JSDF, established in 1954, outlined that:

- (i) *the Constitution did not deny the right of self-defense;*
- (ii) *Japan renounced war, but did not renounce the right to struggle in order to defend itself;*
- (iii) *establishment of the SDF was not contrary to the Constitution because the SDF's mission was self-defense and its ability was limited to necessary and adequate levels of self-defense.*⁴¹²

In 2004, GoJ stated:

²⁵²¹ i.B.2. Article 9 – Renunciation of War, p. 300.

²⁵²³ H.2.2. 1962 Eniwa Case, p. 273.

²⁵²² H.2.1. 1952 SUZUKI Case, p. 273.

²⁵²⁴ i.B.2. Article 9 – Renunciation of War, p. 300.

Appendix H. Constitutionality of the JSDF and Japan's Right to Self-Defense

The provisions of Article 9²⁵²⁵ of the Constitution seem to prohibit Japan completely from using force in international relations, but in light of the preamble of the Constitution which confirms the right of the Japanese people to live in peace and Article 13²⁵²⁶ of the Constitution which states that people's right to life, liberty, and the pursuit of happiness shall be the supreme consideration in legislation and in other governmental affairs, the government interprets that Article 9 of the Constitution does not prohibit Japan from using minimum and necessary force to remove the risk caused to the people's lives and persons by an armed attack from the outside.⁴¹³

²⁵²⁵ i.B.2. Article 9 – Renunciation of War, p. 300.

²⁵²⁶ i.B.3. Article 13 – Fundamental Rights of the People, p. 300.

Appendix I. DEFENSE POLICY REVIEW INITIATIVE

I.1. OVERVIEW

“DPRI” used to refer to a set of three agreements:

- FRF
- Force Reductions and Relocations to Guam
- Land Returns and Shared Use of Facilities

Okinawa comprises <1% of Japan’s land area but hosts more than half of the 54,000 US military personnel in Japan and approximately 70% of all “exclusive use” (II.1.[a]²⁵²⁷) US Facilities and Areas²⁵²⁸ in Japan.

The SCC²⁵²⁹ established DPRI in 2002 with the aim of drawing down US military forces in Okinawa, increasing Alliance interoperability, and enhancing Alliance capability. A 2006 “Realignment Roadmap” was updated in 2012, becoming what is now sometimes referred to as the “Program of Record”

<https://www.mofa.go.jp/region/n-america/us/security/agree0902.pdf>

I.2. SPECIAL ACTION COMMITTEE ON OKINAWA (SACO)

On 4 September 1995, two US Marines and a US Sailor kidnapped and raped a 12-year old Okinawan girl. The brutality of the crime caused shock and anger than incited both GOJ and USG to action, forming the SACO on 2 November 1995.

The SACO was formed as a working group under the SCC²⁵³⁰ to study ways to “reduce the burden on the people of Okinawa and thereby strengthen the U.S.-Japan alliance.”

The SACO is

I.2.1. SACO Final Report

The SACO completed its work with the issuance of a Final Report which:

stipulates the return of land the adjustment of training and operational procedures, noise reduction, and the improvement of operational procedures regarding the SOFA...⁴¹⁴

I.2.2. Futenma Replacement Facility (FRF)

Originally agreed to in SACO Final Report in 1998.

I.3. GPR

In August 2001, SecDef directed a review of worldwide US defense posture, which at the time was based largely on Cold War-era conditions, in light of the changing strategic environment.

²⁵²⁷ 2.1.4.1. Article 2 – Use of Facilities and Areas, p. 30.

²⁵²⁸ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

²⁵²⁹ 6.2.1.2. Security Consultative Committee (SCC) (“2+2”), p. 142.

²⁵³⁰ 6.2.1.2. Security Consultative Committee (SCC) (“2+2”), p. 142.

I.4. DPRI

The DPRI was directed in 2002 by the to review bilateral RMCs that strengthen the Alliance and ensure relevancy in future strategic environments. This review process resulted in an April 2012 agreement that set the framework for a reduction of Marines in Okinawa by redistributing them to Guam, Hawaii, and the continental US. The latest review, in January 2023, amended the final location of certain units allowing them to remain in Okinawa while still adhering to the previous tenets of approximately 9,000 Marines and their families moving out of Okinawa and force flow starting in the first half of the 2020s.

The DPRI served both as a sub-component of the GPR as well as to address the “Okinawa Problem.”

December 2002-May 2006

Perception gap (US-GPR; JPN-SACO)

Three elements:

- February 2005 Joint Statement²⁵³¹
- October 2005 US-Japan Alliance: Transformation and Realignment for the 21st Century (ATARA Report)²⁵³²
- May 2006 US-Japan Alliance: Roadmap for Implementing the Realignment²⁵³³

I.4.1. February 2005 Joint Statement

I.4.2. October 2005 US-Japan Alliance: Transformation and Realignment for the 21st Century (ATARA Report)

During this period, one of the major stumbling blocks for DPRI was the US proposal to forward-base I Corps in Japan. GoJ was concerned that since I Corps’ area of responsibility would extend beyond the area of the Far East,²⁵³⁴ the realignment would fall outside the principles of the MST²⁵³⁵ (particularly Article VI²⁵³⁶).⁴¹⁵

I.4.3. May 2006 US-Japan Alliance: Roadmap for Implementing the Realignment

I.5. THE GUAM INTERNATIONAL AGREEMENT

The Guam International Agreement is a legally-binding International Agreement.²⁵³⁷

“The Agreement Between the Government of Japan and the Government of the United States of America Concerning the Implementation of the Relocation of the III MEF Personnel and Their Dependents from Okinawa to Guam.”

8k MEF + 9k dependents

I.6. TIMELINES

²⁵³¹ I.4.1. February 2005 Joint Statement, p. 276.

²⁵³² I.4.2. October 2005 US-Japan Alliance: Transformation and Realignment for the 21st Century (ATARA Report), p. 276.

²⁵³³ I.4.3. May 2006 US-Japan Alliance: Roadmap for Implementing the Realignment, p. 276.

²⁵³⁴ B.1.4.1. Defining the Far East, p. 209.

²⁵³⁵ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

²⁵³⁶ 2.1.3.5. Article VI – Access, Basing, and Overflight (ABO) (the “Far East Clause” or “MOFA Clause”), p. 28.

²⁵³⁷ 1.6.1.1. International Agreements (Legal Status), p. 8.

Appendix J. OTHER JAPAN DEFENSE PARTNERSHIPS

J.1. MUTUAL LOGISTICS SUPPORT

J.1.1. Acquisition and Cross-Servicing Agreements (ACSA)

As of 2024, in addition to the Japan-US ACSA, Japan also has ACSA agreements with:

- Australia
- Canada
- France
- Germany
- India
- UK

As of early 2024, Japan has ACSAs under negotiation/discussion with:

- New Zealand

J.1.2. Reciprocal Access Agreements (RAA)

RAAs establish procedures between governments for the cooperative activities conducted by militaries of one country while visiting the other country, and defines a status of the visiting force. RAAs enable shared military training and military operations.

As of 2024, Japan has established RAAs with:

- Australia
- UK
- Philippines

As of 2024, Japan has RAAs under negotiation/discussion with:

- France

The SOFA²⁵³⁸ makes a Japan-US RAA unnecessary.

J.2. INTELLIGENCE AND INFORMATION SHARING

²⁵³⁸ 2.1.4. Status of Forces Agreement (SOFA), p. 29.

Appendix K. JAPANESE YEAR NUMBERING

K.1. JAPAN FISCAL YEAR

The GoJ Fiscal Year (JFY) begins on 1 April and uses the current calendar year's numbering (e.g., 1 April 2024 begins JFY24).

Defense reporting often refers to IOC or acquisition dates in terms of "fiscal year" without specifying and may occasionally conflate JFY and US FY (beginning 1 October and using the following calendar year's numbering). This may result in inadvertently incorrect information, such as stating or implying that something occurring at the end of JFY26 (March 31, 2027) will occur as early as 1 January 2026 (JFY25).

K.2. TRADITIONAL ERA NAMES

The traditional Japanese calendar counts years of the Emperor's reign. Each era begins with the ascension of an Emperor to the throne.

- First element: *gengō* or "year name" (i.e., "Reiwa")
- Second element: year number (i.e., "05")

Upon death, the emperor is thereafter referred to by the era of his reign.

It is protocol in Japan that the reigning emperor be referred to as *Tennō Heika* ("His Majesty the Emperor") or *Kinjō Tennō* ("current emperor").

To call the current emperor by the current era name, i.e. "Reiwa", even in English, is a faux pas, as this is – and will be – his posthumous name

Use of the emperor's given name is rare and is considered vulgar.

The Era Name Law of 1979 established the traditional "*gengō*" system as Japan's official method of naming the years. Japan's shortest law, it states:

(1) *The era name shall be determined by cabinet ordinance.*

(2) *The era name shall be changed only in the case of a succession to the imperial throne.*

K.2.1. Reiwa Era

The current era began on 1 May 2019 and assumes the *gengō* "Reiwa." *Reiwa* means "beautiful harmony."

The year number rolls over with the Julian calendar year on 1 January

- 1 May 2019–31 December 2019 was "Reiwa 01" or "R01"
- 2023 is *Reiwa* 05 or "R05"
- 2024: R06
- 2025: R07
- 2026: R08
- 2027: R09
- Etc.

K.2.2. Previous Eras

- *Heisei*: 8 January 1989 – 30 April 2019
- *Shōwa*: 25 December 1926 – 7 January 1989
- *Taishō*: 30 July 1912 – 25 December 1926

Appendix K. Japanese Year Numbering

- Meiji: 23 October 1868 – 30 July 1912

K.2.3. Traditional Era Name–Western Year Conversion Table

1867	M01	1897	M31	1927	S02	1957	S32	1987	S62	2017	H29
1868	M02	1898	M32	1928	S03	1958	S33	1988	S63	2018	H30
1869	M03	1899	M33	1929	S04	1959	S34	1989	S64/H01	2019	H31/R01
1870	M04	1900	M34	1930	S05	1960	S35	1990	H02	2020	R02
1871	M05	1901	M35	1931	S06	1961	S36	1991	H03	2021	R03
1872	M06	1902	M36	1932	S07	1962	S37	1992	H04	2022	R04
1873	M07	1903	M37	1933	S08	1963	S38	1993	H05	2023	R05
1874	M08	1904	M38	1934	S09	1964	S39	1994	H06	2024	R06
1875	M09	1905	M39	1935	S10	1965	S40	1995	H07	2025	R07
1876	M10	1906	M40	1936	S11	1966	S41	1996	H08	2026	R08
1877	M11	1907	M41	1937	S12	1967	S42	1997	H09	2027	R09
1878	M12	1908	M42	1938	S13	1968	S43	1998	H10	2028	R10
1879	M13	1909	M43	1939	S14	1969	S44	1999	H11	2029	R11
1880	M14	1910	M44	1940	S15	1970	S45	2000	H12	2030	R12
1881	M15	1911	M45	1941	S16	1971	S46	2001	H13	2031	R13
1882	M16	1912	M46/T01	1942	S17	1972	S47	2002	H14	2032	R14
1883	M17	1913	T02	1943	S18	1973	S48	2003	H15	2033	R15
1884	M18	1914	T03	1944	S19	1974	S49	2004	H16	2034	R16
1885	M19	1915	T04	1945	S20	1975	S50	2005	H17	2035	R17
1886	M20	1916	T05	1946	S21	1976	S51	2006	H18	2036	R18
1887	M21	1917	T06	1947	S22	1977	S52	2007	H19	2037	R19
1888	M22	1918	T07	1948	S23	1978	S53	2008	H20	2038	R20
1889	M23	1919	T08	1949	S24	1979	S54	2009	H21	2039	R21
1890	M24	1920	T09	1950	S25	1980	S55	2010	H22	2040	R22
1891	M25	1921	T10	1951	S26	1981	S56	2011	H23	2041	R23
1892	M26	1922	T11	1952	S27	1982	S57	2012	H24	2042	R24
1893	M27	1923	T12	1953	S28	1983	S58	2013	H25	2043	R25
1894	M28	1924	T13	1954	S29	1984	S59	2014	H26	2044	R26
1895	M29	1925	T14	1955	S30	1985	S60	2015	H27	2045	R27
1896	M30	1926	T15/S01	1956	S31	1986	S61	2016	H28	2046	R28

Appendix L. INTERNATIONAL COOPERATION ACTIVITIES

L.1. INTERNATIONAL PEACE COOPERATION ACT (IPCA) FOR PEACEKEEPING OPERATIONS (PKO)

The 2015 PKO Act establishes three categories of UN PKO operations

1. Operations conducted without partiality when consent exists among the warring parties concerning the cessation of cease-fire of an armed conflict and the consent from a host nation and warring parties concerning the acceptance of such operations
 - 1a. All 5 conditions must be met
2. Operations conducted with the consent of the host nation when an armed conflict has been concluded and warring parties have ceased to exist and the consent from a host nation and warring parties concerning the acceptance of such operations
 - 2a. Conditions 2, 4, and 5 must be met
3. Operations conducted without partiality for the purpose of conflict prevention when an armed conflict has not yet occurred with the consent of the host nation concerning the acceptance of such operations
 - 3a. Conditions 2, 4, and 5 must be met

Cross-walk (& fix) the below with the principle requirements above

IPCA provides the legal basis for JSDF contributions to UN PKOs under Five Conditions.²⁵³⁹

In addition to the Five Conditions, any of the following conditions must be met:

(1) Based on resolutions adopted by the General Assembly, Security Council, or Economic and Social Council of the United Nations.

(2) At the request of:

(i) The United Nations

(ii) Organizations established by the UN General Assembly or UN specialized agencies, such as the Office of the UN High Commissioner for Refugees or otherwise specified by a Cabinet Order.

(iii) Regional agencies with a track record of relevant operations or with professional capacity set forth under Article 52 of the UN Charter or organizations established under multilateral Treaties,²⁵⁴⁰ and by the European Union (EU) and others set forth by ordinances.

(3) At the requests of countries to which the area where those operations are to be conducted belongs (limited to only those supported by principal UN organizations prescribed in Article 7-1 of the UN Charter.

Diet Approval²⁵⁴¹ (ex ante²⁵⁴² or ex post²⁵⁴³) is required.

L.1.1. Five Conditions for UN Peacekeeping Operations (PKO)

For Japan to authorize participation in UN PKO, the following five conditions must be met:

(1) Agreement on a ceasefire shall have been reached among the parties to armed conflict.

²⁵³⁹ L.1.1. Five Conditions for UN Peacekeeping Operations (PKO), p. 280.

²⁵⁴⁰ 1.6.1.1.1. Treaties (Legal Status), p. 9.

²⁵⁴¹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

²⁵⁴² 4.2.1.1. Ex Ante ("Before the Event") Approval, p. 94.

²⁵⁴³ 4.2.1.2. Ex Post ("From After") Approval, p. 94.

(2) Consent for the understanding of UN peacekeeping operations as well as Japan's participation in such operations shall have been obtained from the host countries as well as the parties to armed conflict.

(3) The operation shall strictly maintain impartiality, not favoring any of the parties to armed conflict.

(4) Should any of the requires in the above-mentioned guidelines [¶¶(1)-(3)] cease to be satisfied, the Government of Japan may terminate the dispatch of the personnel engaged in International Peace Cooperation Assignments.

(5) The Use of Weapons²⁵⁴⁴ shall be limited to the minimum necessary for the protection of the lives of the personnel dispatched, in principle. When the consent of acceptance is deemed to be consistently maintained, the Use of Weapons for the defense of mandate missions [i.e., including "kaketsuke-keigo," which is coming to the aid of geographically distant unit or personnel under attack] is allowed.

L.1.2. Use of Weapons during Peacekeeping Operations (PKO)

JSDF personnel engaged in PKO are authorized Use of Weapons²⁵⁴⁵ for self-preservation and kaketsuke-keigo.

L.2. INTERNATIONAL PEACE SUPPORT ACT (IPSA) OPERATIONS

IPSA is the second legal basis for JSDF to participate in international activities. When the International Community is acting collectively for international peace, Japan may implement cooperation and support activities for the armed forces of foreign countries engaging in such collective activities where:

- Situations threaten the peace and security of the international community; and
- The international community undertakes joint response in accordance with the objectives of the UN Charter to remove the threat; and
- When Japan, as a member of the international community, needs to independently and proactively contribute to these operations

IPSA covers logistics support, SAR, and SIO.²⁵⁴⁶

L.2.1. Requirements

The following UN resolutions (by the General Assembly or the Security Council) are required:

- Resolutions that decide, call upon, recommend, or authorize that foreign countries subject to IPSA support conduct operations to respond to situations that threaten the peace and security of the international community; and
- Resolutions that recognize that the situation is a threat against peace or breach of the peace and call on UN members states to respond to the situation concerned.

Ex ante²⁵⁴⁷ Diet Approval²⁵⁴⁸ is required.

L.2.2. Response Measures

The response measures authorized by IPSA include:

- Cooperation and Support Activities
 - Provision of goods and services to armed forces of foreign countries
 - Supply, transportation, repair and maintenance, medical activities, communications, APOD and SPOD services (arrival/departure, loading/unloading), billeting, storage, use of facilities, training services, and construction
 - Provisions of weapons is not included
- SAR operations

²⁵⁴⁴ 3.3.1. Use of Weapons, p. 74.

²⁵⁴⁵ 3.3.1. Use of Weapons, p. 74.

²⁵⁴⁶ 3.2.3.9. Ship Inspection Operations (SIO), p. 69.

²⁵⁴⁷ 4.2.1.1. Ex Ante ("Before the Event") Approval, p. 94.

²⁵⁴⁸ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

Appendix L. International Cooperation Activities

- SIO operations²⁵⁴⁹
- Use of Weapons²⁵⁵⁰ (“Self-Preservation Type”²⁵⁵¹ only)

L.3. JAPAN DISASTER RELIEF TEAM LAW

The Japan Disaster Relief Team Law allows GoJ to contribute to the following activities overseas, especially in less-developed regions

- Rescue
- Medical treatment (including the prevention of epidemics)
- Activities for disaster emergent response and recovery
- Transportation of personnel or equipment and goods for related activities

²⁵⁴⁹ 3.2.3.9. Ship Inspection Operations (SIO), p. 69.

²⁵⁵⁰ 3.3.1. Use of Weapons, p. 74.

²⁵⁵¹ 3.3.1.2. Type 1: “Self-Preservation Type” Use of Weapons, p. 76.

Appendix M. JAPANESE INTELLIGENCE COMMUNITY

M.1. OVERVIEW

Japan's IC has five major government agencies and operates in a relatively decentralized manner, with coordination at the CIC²⁵⁵² and JIC²⁵⁵³:

- CIRO²⁵⁵⁴
- Security Bureau, NPA²⁵⁵⁵
- DIH, MOD²⁵⁵⁶
- IAS, MOFA²⁵⁵⁷
- PSIA, Ministry of Justice²⁵⁵⁸
- FSA²⁵⁵⁹
- Ministry of Finance²⁵⁶⁰
- METI²⁵⁶¹
- JCG²⁵⁶²

Japan's IC is generally characterized by insiders, and scholars both within Japan and abroad as undersized and underfunded, relying heavily on intelligence sharing and liaison, especially with the US.⁴¹⁶

M.2. IC COORDINATION AND DIRECTION

M.2.1. Cabinet Intelligence Council (CIC)

The CIC is a sub-cabinet (vice-ministerial) level organization that meets twice yearly to coordinate IC activities and associated issues. The CIC includes the following standing members:⁴¹⁷

- Chief Cabinet Secretary (Chair of the CIC)
- Deputy Chief Cabinet Secretaries
- Deputy Chief Cabinet Secretary for Crisis Management
- Assistant Chief Cabinet Secretary in charge of National Security and Crisis Management
- Director of Cabinet Intelligence
- DG, NPA
- Vice Minister, MOD
- DG, PSIA
- Vice Minister, MOFA

M.2.2. Joint Intelligence Council (JIC)

The JIC is a senior official-level organization that meets twice monthly to coordinate IC activities and associated issues. The JIC's standing members include senior officials of the agencies that comprise standing members of the CIC²⁵⁶³:⁴¹⁸

- Deputy Chief Cabinet Secretary for Administration (Chair of the JIC)
- Assistant Chief Cabinet Secretary in charge of National Security and Crisis Management
- Director of Cabinet Intelligence

²⁵⁵² M.2.1. Cabinet Intelligence Council (CIC), p. 283.

²⁵⁵³ M.2.2. Joint Intelligence Council (JIC), p. 283.

²⁵⁵⁴ M.3. CIRO, p. 284.

²⁵⁵⁵ M.4. Public Security Bureau, NPA, p. 284.

²⁵⁵⁶ M.5. DIH, p. 284.

²⁵⁵⁷ M.6. Intelligence Analysis Service (IAS), MOFA, p. 285.

²⁵⁵⁸ M.7. Public Security Investigation Agency (PSIA), MOJ, p. 285.

²⁵⁵⁹ M.8. Financial Services Agency (FSA), p. 285.

²⁵⁶⁰ M.9. Ministry of Finance, p. 285.

²⁵⁶¹ M.10. Ministry of Economy, Trade, and Industry (METI), p. 285.

²⁵⁶² M.11. Japan Coast Guard (JCG) Intelligence, p. 285.

²⁵⁶³ M.2.1. Cabinet Intelligence Council (CIC), p. 283.

Appendix M. Japanese Intelligence Community

- DG, Security Bureau, NPA
- Deputy Director, PSIA
- DG, Intelligence and Analysis Service,²⁵⁶⁴ MOFA
- DG, Defense Policy Bureau, MOD

M.3. CIRO

CIRO (内閣情報調査室, *Naikaku Jōhō Chōsashitsu*; sometimes shortened to 内調, *Naichō*) is Japan's national intelligence agency responsible to the Cabinet for intelligence on high-priority policy issues and reports to the Prime Minister. While it is sometimes characterized as "Japan's CIA," it lacks its own information collection capabilities and relies on collection from other elements of Japan's IC and it staffed mostly with "secondes" from other ministries and agencies throughout the GoJ.⁴¹⁹

CIRO works closely with the JNSC.²⁵⁶⁵

CIRO has five departments and three centers:⁴²⁰

- General Affairs Department: personnel, budget, and public relations
- Economic Affairs Department: economic activities
- Domestic Affairs Department: domestic issues
- International Affairs Department: foreign affairs
- Research Department: in-depth analysis on foreign affairs
- Cabinet Satellite Intelligence Center (CISCE): operation of Japan's intelligence satellites including imagery analysis (officially termed Information-Gathering Satellites or IGS)
- Cabinet Intelligence Collection Center (CICC): 24-hour operations center to monitor and collect information related to national emergencies or incidents/situations that might lead to national emergencies
- International Terrorism Intelligence Collation Office (ITICO): performs liaison across Japan's IC on terrorism-related matters

M.4. PUBLIC SECURITY BUREAU, NPA

NPA's²⁵⁶⁶ Public Security Bureau focuses on intelligence related to organized crime, counter-terrorism, and cyber-crime. NPA has been characterized as the most influential organization in Japan's IC due in large part to its budget and staffing, which significantly exceeds that of other Japanese IC elements.⁴²¹

Foreign intelligence activities of the Public Security Bureau are organized under its Foreign Affairs and Intelligence Department (FAID) which has two divisions: the Foreign Affairs and Counter International Terrorism Division and the Foreign Affairs Division (FAD).

M.5. DIH

DIH provides MoD with national defense- and military-related strategic intelligence necessary to MOD and JSDF operations. The creation of DIH consolidated intelligence organizations within the MOD, organizing them to report directly to the MinDef.

DIH is headed by a three-star general officer and includes the following directorates:⁴²²

- General Affairs Directorate: responsible for human resources, budget, acquisition, and administrative procedures
- Planning Directorate: responsible for intelligence collection and analyses plans, coordination with other intelligence-related organizations within MOD)

²⁵⁶⁴ M.6. Intelligence Analysis Service (IAS), MOFA, p. 285.

²⁵⁶⁵ C.2.6. (Japan) National Security Council (JNSC), p. 228.

²⁵⁶⁶ C.2.3.1.1. National Police Agency, p. 227.

Appendix M. Japanese Intelligence Community

- Analyses Directorate: responsible for collecting open source, imagery, and signals intelligence as well as intelligence gained through intelligence cooperation activities
- Joint Intelligence Directorate: responsible for supporting the CSJSO on JSDF operations
- Imagery and Geography Directorate: responsible for collection and analysis of satellite imagery, to include that purchased from commercial providers
- Signals Directorate: Japan's only SIGINT organization (formerly operated by JGSDF's Annex Chamber of the Second Section of the Intelligence Division [*Rikujo Jeitai Daini Chousa Besshitsu*, better known by its acronym *Cho-betsu*])

M.6. INTELLIGENCE ANALYSIS SERVICE (IAS), MOFA

Intelligence Analysis Service or IAS (*Kokusai Jōhō Tōkatsukan Soshiki*) is MOFA's intelligence service, analogous to DoS's Bureau of Intelligence and Research.

Intelligence Analysis Service is organized into four divisions:⁴²³

- First Division: coordinator of activities across the IAS and processes publicly-available intelligence, human intelligence
- Second Division: analyses intelligence on functional issues, such as counter-terrorism, proliferation of WMD, etc.
- Third Division: regional issues for Asia and Oceania
- Fourth Division: regional issues for Europe, the Americas, the Middle East, and Africa

M.7. PUBLIC SECURITY INVESTIGATION AGENCY (PSIA), MOJ

PSIA (*Kōanchōsachō*) is MOJ's law enforcement-oriented intelligence organization, focused on intelligence related to domestic terrorism and domestic threats from regional adversaries. PSIA is generally analogous to the US Federal Bureau of Investigation.

Domestically, the First Division of PSIA's Internal Bureau is tasked with the intelligence and analysis that supports the enforcement of

- Subversive Activities Prevention Act (Act No. 240 of 1952)
- Act on the Control of Organizations Which Have Committed Acts of Indiscriminate Mass Murder (Act No. 147 of 1999)

The Second Division of PSIA's Internal Bureau is tasked with international liaison. The Third, Fourth, and Fifth Divisions focus on collection and analysis of intelligence related to domestic activities related to regional threats including North Korea (Third Division), other countries (Fourth Division), and Islamic fundamentalism (Fifth Division).

Due to concerns over potential government restriction of citizen's activities, PSIA is tightly regulated and its authorizing laws explicitly prohibit any expansive interpretation of their authorities. As a result, PSIA can only collect and analyze intelligence. Actual enforcement of law or arrests based on PSIA activities must be conducted by operational law enforcement organizations.

M.8. FINANCIAL SERVICES AGENCY (FSA)**M.9. MINISTRY OF FINANCE****M.10. MINISTRY OF ECONOMY, TRADE, AND INDUSTRY (METI)****M.11. JAPAN COAST GUARD (JCG) INTELLIGENCE**

Appendix N. JAPANESE MILITARY NETWORKS

N.1. OVERVIEW

CCS

Defense Information Infrastructure (DII)

Byosoin?

MoD

- Shōsōin (JGSDF²⁵⁶⁷ Japan Secret) – emailable from CX-J
- CX-J (S/REL) – emailable from Shōsōin
- Sho O A (CUI)
- White line (no CUI) – emailable from US NIPR

Units (outside MoD)

- Gyomu System (“GyoSys”)
- White line (no CUI) – select people only

²⁵⁶⁷ 7.5.4.1.2. Ground Self-Defense Force
(JGSDF), p. 161.

Appendix O. JAPANESE NUCLEAR DETERRENCE

0.1. THRESHOLD STATUS

1-2 years optimal timeline⁴²⁴

0.2. NUCLEAR AUTONOMY

Japan has explored the possibility of Nuclear Autonomy in the past and determined that, as an option, it is inferior to continued reliance on US Extended Deterrence.²⁵⁶⁸ In addition to the economic and cultural obstacles, there are serious imbalances in autonomous nuclear deterrence that call into question the credibility of a Nuclear Autonomous Japan.

0.2.1. Arguments Against Nuclear Autonomy

1968/70 Internal Report

One source⁴²⁵ outlines the following rationale against Japanese Nuclear Autonomy:

- Imbalance of Conflict Costs (the “Smallness” of Japan)
 - The overconcentration of the Japanese population in a small number of metropolitan areas increases the risks to Japan of nuclear conflict while presenting nuclear adversaries a critical vulnerability (informally put: the US as a nation would survive if it lost New York, Japan would not survive if it lost Tokyo)
 - This means a potential nuclear adversary need only possess a relatively limited nuclear arsenal to impose a substantial nuclear cost on Japan
 - This dynamic is also relative to a potential nuclear adversary; for example, the PRC’s ‘largeness’ in terms of population, geography, industrial capacity, etc. means a nominally equal nuclear exchange would have outsized effects against Japan but ‘undersized’ effects against the PRC (by comparison)
 - Japan lacks strategic depth to even hypothetically absorb the costs of even limited nuclear conflict
 - In contrast, under Extended Deterrence, the credibility of Japan nuclear deterrence is bolstered by the ‘largeness’ of the US as the “nuclear deterrer,” which balances this “smallness” factor
- Imbalance of Nuclear Offensive Power from Proximity
 - Proximity to potential nuclear adversaries...
 - Reduces BMD effectiveness by shortening response times (which reduces aggregate P_k of any BMD network)
 - Increases the number of nuclear delivery systems an adversary can use (i.e., allows the use of artillery rocket, SRBM, or aircraft-based delivery systems), increasing the nuclear threat that must be credibly deterred
 - Reduces national decision-making time in response to a first-strike (reducing the credibility and deterrent value of a second-strike capability)
 - Increases the ambiguity when rapidly identifying attack indications For example, a nuclear autonomous Japan would have to definitively identify any nuclear launches towards parts of Japan from either the PRC or DPRK as being directed at Japan (thus requiring a second-strike retaliation) instead of being directed over Japan (e.g., at the US). By contrast, the US can have higher confidence that any nuclear launches west over the Atlantic, east over the Pacific, or across the Arctic Circle, over Canada are directed at the US and not another target.
- Imbalance of Resolve from Lack of Weaponization Experience
 - The “smallness” and proximity challenges increase the need for high confidence in the effectiveness of any nuclear weapon used for deterrence. With no nuclear weaponization experience, the

²⁵⁶⁸ 2.3.3.2. US Extended (Nuclear) Deterrence, p. 44.

Appendix O. Japanese Nuclear Deterrence

effectiveness of any Japanese-developed nuclear weapon would be in question both by the GoJ and any target of nuclear deterrence, overall reducing the credibility of such a deterrent. The timelines required for testing would mean that any threshold development of a nuclear weapons capability²⁵⁶⁹ might result in limited deterrent value until extensive testing could be conducted and the weapon's effectiveness proved. This would take the "A" out of "MAD."

It is also often recognized that a superpower's Extended Deterrence will (if credible) always be more potent than a weaker state could accomplish with its own nuclear weapons.⁴²⁶

²⁵⁶⁹ O.1. Threshold Status, p. 287.

Appendix P. JAPAN'S GNSS - QUAZI-ZENITH SATELLITE SYSTEM (QZSS)

P.1. OVERVIEW

QZSS, also known as Michibiki (みちびき) is Japan's domestic GNSS constellation with (as of early 2024) 4 satellites (known as Quazi-Zenith Satellites or QZS) operational, 7 planned, with possible future expansion to 11.²⁵⁷⁰

US planner familiarity with QZSS is limited and, with focus on GPS-contested or GPS-denied environments, US planners often have basic questions about QZSS and how it might complement or substitute for US GPS-based PNT.

QZSS may be referred to as Japan's "domestic GPS," implying that it is a redundant or alternative system, independent of GPS. But QZSS augments and integrates with GPS and provides its services using the same signals and frequencies as GPS, increasing reliability and accuracy, but providing limited protection from attacks on GPS.

P.2. QZSS BASICS

Japan's extensive urban and mountainous terrain makes sole reliance on the US-operated GPS system unreliable due to factors like satellite availability (e.g., too few satellites in view) or multipath errors (e.g., signals reflected off terrain or buildings, resulting in positioning errors or reduced precision).

To reduce these issues, QZSS was launched to augment the US GPS constellation, providing Japan-based users a higher number of available satellites and thus providing a similar level of GPS-based PNT as is available elsewhere.

As a result, QZSS increases GPS-signal availability in Japan, with limited benefits for PNT resilience against GPS-denial (or other interference). QZSS does not offer an "alternative" to GPS in the sense of a PNT availability in a GPS-degraded environment.

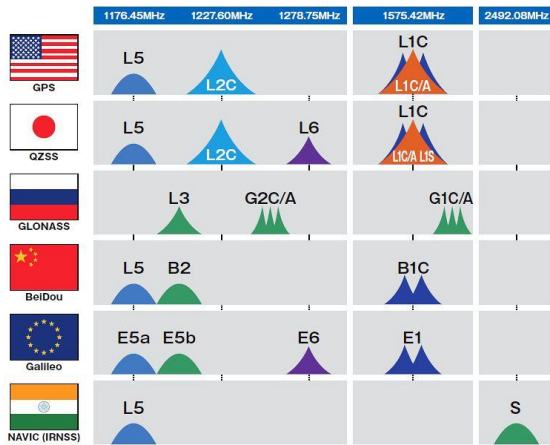
P.2.1. QZSS Signals and Frequencies

As a GPS-augmentation system, QZSS uses on the same signals, frequencies, and timing as GPS with the addition of the L6 signal (1278.75 MHz), which provides additional capabilities suitable for high-lag civilian applications.

²⁵⁷⁰ P.3. Future Plans, p. 291.

Appendix P. Japan's GNSS - Quazi-Zenith Satellite System (QZSS)

Figure 20. Comparison of GNSS Signals and Frequencies (Cabinet Office, National Space Policy Secretariat, 2021)



Because QZSS is designed to augment GPS, its current and planned orbits do not support PNT for real-time use cases (with low DoP²⁵⁷¹) from QZSS satellites alone. The US-operated GPS constellation must also be accessible by users of QZSS for real-time and near-real-time uses.

P.2.1.1. Services

Through its provided signals, QZSS provides the following services:

- PNT services integrated with GPS
- SLAS (Sub-meter Level Augmentation) – processes L1S signals to reduce precision errors from sources such as ionospheric delay, orbit errors, and clock errors; suitable for moderate-lag use cases such as shipping, pedestrians, and bicycles.
- CLAS (Centimeter Level Augmentation) – processes L6D signals received from mobile users, fixed user control stations, and QZSS control stations to provide precise location data; suitable for high-lag use cases such as land surveys, automated construction, and automated agriculture
- MADOCA-PPP (Multi-GNSS Advanced Orbit and Clock Augmentation – Precise Point Positioning) – processes observations from multiple GNSS services to provide highly-precise location information; suitable for high-lag use cases
- DC Report – satellite-based broadcasts over the L1S signal to provide information related to disaster or crisis management (e.g., text for display on user devices or traffic signs)

P.2.2. Orbit

The current QZSS constellation (with 4 satellites, as of early 2024), employs one geostationary satellite with the other three satellites in “Tundra” orbits (with ground traces drawing asymmetric figures-8 patterns known as analemmas), with each orbit 120° from the other two. This orbit may also be referred to as Quazi-Zenith Orbit (QZO). The QZSS orbits ensure at least one satellite is always almost directly overhead of Japan (at or near a zenith, hence the system’s name).

P.2.1. QZSS Clocks and Ground Control System

The QZSS ground segment provides Japan a completely independent ability to maintain the QZSS constellation and all of its services, including maintaining independent timing (which can be synchronized with the UTC standard, just as US GPS does).

The QZSS ground segment includes the Master Control Station (MCS), Monitoring Stations (MS), and Telemetry, Tracking, and Command stations (TTC).

²⁵⁷¹ P.4.1.1. Physical Challenges (the DoP Problem), p. 291.

Appendix P. Japan's GNSS - Quazi-Zenith Satellite System (QZSS)

The MCS controls QZS navigation processes telemetry data to maintain awareness of satellite location and health.

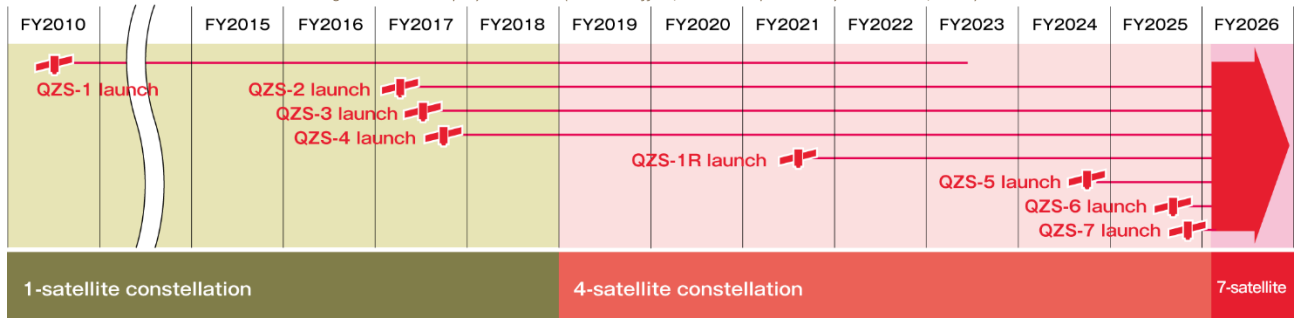
MSs are located domestically within Japan and at foreign sites under QZSS orbits. **QZSS MSs are collocated with GPS MSs.**

Unlike MSs, QZSS maintains its own TTCs, located in Ishigaki, Miyako, Kumejima, Okinawa, Tanegashima, and Hitachi Ota, with MCSs located at Kobe and Hitachi-Ohta

P.3. FUTURE PLANS

Japan's updated July 2023 Basic Space Law and Space Security Initiative announced plans to grow the QZSS program up to an 11-satellite constellation, beginning in 2030. The 4 additional satellites are to be developed with input from the JSDF to integrate military signals into a resilient satellite bus.

Figure 21. QZS Deployment Plan (Cabinet Office, National Space Policy Secretariat, 2019)



In addition to PNT capabilities, GoJ has plans to include SSA payloads on satellites 6 and 7 with deployment projected in 2025.

P.4. QZSS AS A GPS FALLBACK

P.4.1. Challenges

P.4.1.1. Physical Challenges (the DoP Problem)

In GNSS, Dilution of Precision (DoP) refers to a measure of the geometric distribution of satellites in view of a given receiver. Closely positioned satellites result in a higher DOP with lower precision. When fully-fielded, QZSS will provide two geostationary and one pseudo-geostationary satellites with four satellites in QZO.

Without augmentation by the US GPS constellation, QZSS alone will provide PNT only at high DOP values and only in regions immediately surrounding Japan. At greater distances from Japan, DOP values will increase and QZSS-based PNT is not possible.

P.4.1.2. Technical Challenges (PRN Codes)

GPS-based systems identify satellites by their unique PRN code. Legacy versions of the GPS technical interface specification IS-GPS-200 only accounted for 32 PRNs. While updated versions of this specification allow for PRNs above 32, legacy receivers may have implemented the 32 PRN limit such that PRNs above 32 are not able to be processed as valid signals by the receiver (making the receiver functionally "blind" to signals from such satellites).

QZSS PRNs are greater than 32, meaning that legacy GPS receivers may be unable to process QZSS signals.

P.4.1.3. Policy Challenges

Appendix Q. CALENDAR FOR JAPAN PLANNERS

Q.1. ANNUAL EVENTS

- July-August: MOD Defense of Japan White Paper (Japanese; English Digest)
- MOFA Bluebook Publication (Japanese; English Digest)
- September: MOD Defense of Japan White Paper (English)
- MOFA Bluebook Publication (English)
- November: NIDS China Security Report
- DoD China Military Power Report

Q.2. STRATEGIC CALENDAR

CY	FY				JPN	US	TWN	PRC	RUS	Other
	Q	US	Q	J						
Reiwa 07 CY 2025	1	2	3	4						
	1	2	3	4						
	1	2	3	4						
	1	2	3	4						
Reiwa 08 CY 2026	1	2	3	4						
	1	2	3	4						
	1	2	3	4						
	1	2	3	4	OPG election	Mid-term Elections	National Election	21 st CCP Congress		
Reiwa 09 CY 2027	1	2	3	4						
	1	2	3	4						
	1	2	3	4				Xi Term ends?		
	1	2	3	4				National People's Congress		
Reiwa 10 CY 2028	1	2	3	4						
	1	2	3	4						
	1	2	3	4						
	1	2	3	4		Presidential Election				
Reiwa 11 CY 2029	1	2	3	4						
	1	2	3	4						
	1	2	3	4						
	1	2	3	4						
Reiwa 12 CY 2030	1	2	3	4						
	1	2	3	4						
	1	2	3	4						
	1	2	3	4		Mid-term Elections				
Reiwa 13 CY 2031	1	2	3	4						
	1	2	3	4						
	1	2	3	4						
	1	2	3	4						

Russia: Q1CY30 Presidential Election

Olympics: Q3CY28

Appendix R. REFERENCES

The following references are provided as general sources for additional or important information. See vii.A. Bibliography (p. 443) for a complete list of sources used in this guide.

	<p>The Constitution of Japan https://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html</p>
	<p>National Security Strategy Japan's supreme national security policy document. It outlines the Government's strategy to respond with a whole-of-government approach in a wide range of areas including economic security, technology, and intelligence, in addition to the traditional areas of diplomacy and defense. https://www.mod.go.jp/j/approach/agenda/guideline/pdf/security_strategy_en.pdf</p>
	<p>National Defense Strategy Outlines Japan's defense objectives and its approaches and means by which Japan accomplishes those objectives. The NDS establishes a policy for the fundamental reinforcement of defense capabilities, including the possession of counterstrike capabilities. (10-year outlook) https://www.mod.go.jp/j/approach/agenda/guideline/strategy/pdf/strategy_en.pdf</p>
	<p>Defense Buildup Program Prescribes levels of defense capabilities for Japan to possess, JSDF's architecture (10-year outlook), and total sum of 5-year expenditures and quantity of major equipment. (5-year outlook) https://www.mod.go.jp/j/approach/agenda/guideline/plan/pdf/program_en.pdf</p>

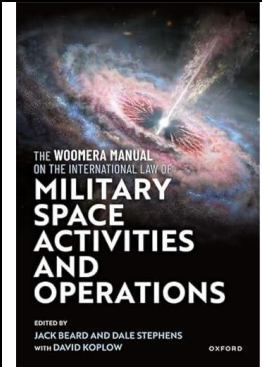
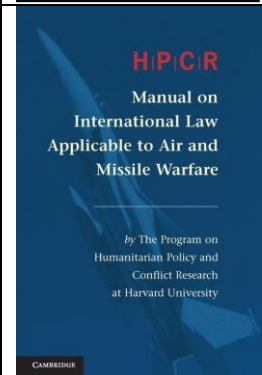
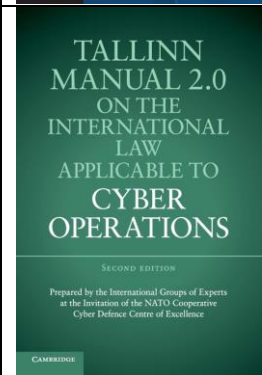
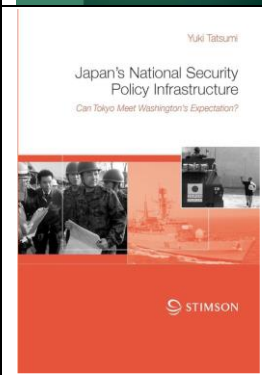
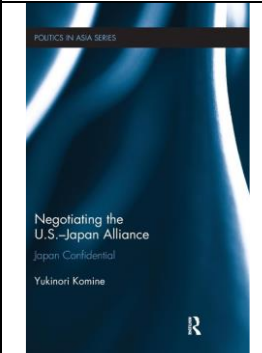
Appendix R. References

 <p>DEFENSE of JAPAN 2023 防衛 白書 MINISTRY of DEFENSE</p>	<p><u>Defense of Japan 2023 White Paper</u> By Japan Ministry of Defense Comprehensively explains Japan’s defense approach, capabilities, legal foundation, and authorities. Provides detailed explanations and graphics for all aspects of Japan’s defense, including the US-Japan Alliance https://www.mod.go.jp/en/publ/w_paper/index.html (Issued annually in the July-August timeframe; digest version normally precedes full translation by approx. 6 weeks)</p>
 <p>DIPLOMATIC BLUEBOOK 2023 Ministry of Foreign Affairs, Japan</p>	<p><u>Japan Diplomatic Blue Book 2023</u> By Japan Ministry of Foreign Affairs Annual report on Japan's Foreign Policy and Activities https://www.mofa.go.jp/policy/other/bluebook/index.html (Issued annually in the July-August timeframe; digest version normally precedes full translation by approx. 6 weeks)</p>
 <p>NIDS China Security Report 2024 China, Russia, and the United States Striving for a New International Order National Institute for Defense Studies, Japan</p>	<p><u>China Security Report 2024</u> By National Institute for Defense Studies Annual report on the strategic and military trends of China. https://www.nids.mod.go.jp/english/publication/chinareport/index.html (Issued annually in the mid-November timeframe)</p>
 <p>The Japan Self-Defense Forces Law Translation, History, and Analysis Edited by Robert D. Eldridge Musashi Katsuhiko</p>	<p><u>The Japan Self-Defense Forces Law: Translation, History, and Analysis</u> Ed. Robert D. Eldridge and Musashi Katsuhiko The first and only English-language translation of the Japan Self-Defense Forces Law. https://cambridgescholars.com/product/978-1-5275-3351-6</p>
 <p>Japanese Law Translation 法外訳語訳語集本「ワザウ」(WAZU) 「WAZU」 means "translation" in Japanese</p>	<p><u>Japanese Law Translation</u> By Government of Japan Full text translation of select Japanese laws (excluding SDF Law and select other laws). Translations are GoJ-provided but considered “unofficial” or “provisional.” https://www.japaneselawtranslation.go.jp/en/</p>
 <p>e-GOV</p>	<p><u>Japanese Law Text</u> By Government of Japan Full Japanese language text of Japanese laws. https://elaws.e-gov.go.jp/</p>


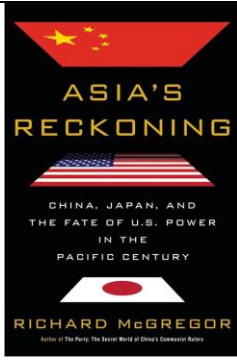
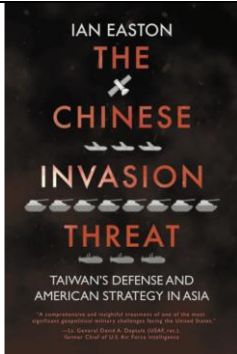
Appendix R. References

 <p>Underwriting the Alliance 2021 Edition John Bradford & Michael Bosack</p>	<p><u>Underwriting the Alliance (2021 Edition)</u> <i>By John Bradford and Mike Bosack</i> An annotated collection of the key bilateral treaties, agreements, and policy documents that provide the structure of the US-Japan Alliance https://www.ycaps.org/blog/underwriting-the-alliance</p>
	<p><u>SOFA, Agreed Minutes, and Exchange of Notes</u> The “Agreed Minutes” and “Exchange of Notes” add agreed to understandings of specific provisions of the SOFA https://www.mofa.go.jp/region/n-america/us/q&a/ref/2.html</p>
	<p><u>US Treaties and Other International Acts Series (TIAS)</u> The US Department of State publishes Treaties and other International Agreements to which the US is a party through the TIAS. https://www.state.gov/tias/</p>
	<p><u>San Remo Manual on International Law Applicable to Armed Conflicts at Sea</u> <i>By Louise Doswald-Beck, et al.</i> The “San Remo Manual” presents International Law and the Law of Naval Warfare as it exists (<i>lex lata</i>) regarding military conflict at sea. The San Remo manual is viewed as the template for a variety of similar projects that followed (including the Newport, McGill, Woomera, and Harvard Manuals). While it is dated, an update is currently underway, although the Newport Manual provides a more current reference that corrects some of the acknowledged shortcomings of the San Remo Manual.</p>
	<p><u>Newport Manual on the Law of Naval Warfare</u> <i>By James Kraska, et al.</i> The “Newport Manual” presents International Law and the Law of Naval Warfare as it exists (<i>lex lata</i>) regarding military conflict at sea. The Newport Manual is the result of a group of experts participating in the San Remo Manual update who felt an alternative publication, completed in a more rapid manner, would be a valuable addition to the community. https://digital-commons.usnwc.edu/ils/vol101/iss1/1/</p>
	<p><u>McGill Manual on International Law Applicable to Military Uses of Outer Space (MILAMOS)</u> <i>By Ram S. Jakhu, et al.</i> The “McGill Manual” presents International Law as it exists (<i>lex lata</i>) regarding military uses of space. The manual summarizes the application of International Law to space in the form of 52 consensus rules as agreed to by subject matter experts and institutions. Volume I presents the 52 rules. Volume II (unpublished) will present accompanying commentary and analysis. https://www.mcgill.ca/milamos/files/milamos/mcgill_manual_volume_i_-_rules_final_0.pdf</p>

Appendix R. References

	<p><u>The Woomera Manual on the International Law of Military Space Operations</u> By Jack Beard, et al.</p> <p>The “Woomera Manual” draws upon space law, national security law, technology, international law, and diplomacy to present International Law as it exists (<i>lex lata</i>) regarding military uses of space.</p> <p>https://law.adelaide.edu.au/woomera/</p>
	<p><u>HPCR Manual on International Law Applicable to Air and Missile Warfare</u> By Program On Humanitarian Policy And Conflict Research At Harvard University</p> <p>The “Harvard Manual” presents International Law as it exists (<i>lex lata</i>) regarding air and missile warfare, listing rules and analysis and commentary regarding their application.</p> <p>https://www.cambridge.org/core/books/hpcr-manual-on-international-law-applicable-to-air-and-missile-warfare/EB28F7A1701637CA2390B25FB4840629</p>
	<p><u>Tallinn Manual 2.0 on the International Law Applicable to Cyber Operations</u> By Michael Schmitt, et al.</p> <p>The “Tallinn Manual 2.0” is an update to the original, presenting International Law as it exists (<i>lex lata</i>) regarding cyber operations, listing rules and analysis and commentary regarding their application.</p> <p>https://www.cambridge.org/core/books/tallinn-manual-20-on-the-international-law-applicable-to-cyber-operations/E4FFD83EA790D7C4C3C28FC9CA2FB6C9</p>
	<p><u>Japan's National Security Policy Infrastructure</u> By Yuki TATSUMI</p> <p>Provides a comprehensive review of the organizations and organizational dynamics involved in Japan's national security policy. Despite its 2008 publishing date, much of the information remains current and relevant.</p> <p>https://www.stimson.org/2010/japans-national-security-policy-infrastructure/</p>
	<p><u>Negotiating the U.S.-Japan Alliance: Japan Confidential</u> By Yukinori KONIME</p> <p>Provides a comprehensive review of US and Japanese perspectives on Alliance negotiations, to include major issues related to Prior Consultation.</p>

Appendix R. References

	<p><u>Line of Advantage: Japan's Grand Strategy in the Era of ABE Shinzō</u> <i>By Michael J. Green</i> Provides a comprehensive account of Japan's grand strategy, developed under former PM ABE, including its roots, nuances, and unique features.</p>
	<p><u>Asia's Reckoning: China, Japan, and the Fate of U.S. Power in the Pacific Century</u> <i>By Richard McGregor</i> An overview of the trilateral dynamics between Chia, Japan, and the US.</p>
	<p><u>The Chinese Invasion Threat: Taiwan's Defense and American Strategy in Asia</u> <i>By Ian Easton</i> Provides a detailed "unclassified Intelligence Preparation of the Battlespace" of the PRC's cross-strait campaigns and the challenges of an island landing campaign or alternative campaign options to seize Taiwan by force.</p>

Annex i. SELECTED ANNOTATED JAPANESE LAWS

i.A. OVERVIEW

Scrub to remove unnecessary articles, etc.

i.A.1. Purpose

The purpose of this section is not to replace authoritative sources on or translations of Japanese laws but to provide and annotate the body of selected text for militarily-relevant SDF Law²⁵⁷² and related laws often referenced in operational planning documents that enable or constrain JSDF operations.

This section provides additional analysis beyond the mere translation of the law's text, providing specific context for operational military planners. The intent is for this appendix to provide an educational resource that transforms the mere text of the law into a resource specifically for US planners to understand how SDF Law impacts their official duties and responsibilities.

This Appendix also seeks to “de-obfuscate” the text of the translations by explaining applicable situations in operational planning terms, transforming “legalese” such as “in accordance with the provisions of ¶(1), Article 76 (limited to No. (i))” into “[during AAS (Imminent) and AAS (Occurrence) but not during STS].

i.A.2. Other Defense Laws Not Listed

This Annex lists selected articles from selected Japanese laws relevant to defense, specifically necessary or useful for issues addressed in this guide.

The Japanese Law Index provided by the National Diet Library categorizes laws, Cabinet Orders, Act Enforcement Orders, Ministerial Ordinances, and other related issuances by subject. The following link provides search results for all issuances classified under the category “dealing with defense/armed attacks” and may be used to discover applicable laws and other issuances not referenced in this guide:

<https://hourei.ndl.go.jp/#/result?cc=%E5%9B%BD%E9%98%B2/%E6%AD%A6%E5%8A%9B%E6%94%BB%E6%92%83%E4%BA%8B%E6%85%8B%E7%AD%89%E3%81%B8%E3%81%AE%E5%AF%BE%E5%87%A6>

i.A.3. Basic Law vs. Special Law

Japanese laws or references to Japanese laws may sometimes use the term “Basic Law,” “Basic Act,” or “General Law,” etc. This refers to laws intended to outline the basic policies or other legal requirements for the issue at hand. By contrast, a “Special Law” or “Special Measures Law” may provide more specialized policies or legal requirements that, if in conflict, generally take precedence over Basic or General Laws. Such Special laws may also have a sunset period, requiring them to be reauthorized or, if not, automatically expire.

i.A.4. Reference on Applicable Japanese Law

The slide below is often provided by Japanese planners to explain the application of various articles from applicable laws in various Security Situations.²⁵⁷³

²⁵⁷² i.C. SDF Act (Law No. 165 of 1954, as amended), p. 303.

²⁵⁷³ Chapter 4. Japan's Security Situations Framework, p. 89.

Japanese Law and Authorities by Situation

Situation	Important Influence Situation (IIS)	Anticipated Armed Attack Situation (AAAS)	Armed Attack Situation (AAS)	Survival Threatening Situation (STS)	
Definition	Situations that have possibility to influence Japan critically, like a situation leading to Armed Attacks if Japan doesn't commit.	Situations that anticipate Armed Attacks by other countries with escalated situations before armed conflict.	Situations in which armed attack occurred or obvious danger of armed attack is recognized urgent (SDF Law art. 76-1-1)	Situations in which armed attack to the closely related nations entailing obvious danger that threatens national existence and people's life, freedom and the right to pursue happiness (SDF Law art. 76-1-2)	
Use of Force	Use of weapons for self-defense potentially exists (SIS Law art.11 etc.)		Use of Force Collective Self-Defense (SDF Law 88-1)		
SDF Law	Public Security	x	The Police Duties Execution Law (art. 92-1)	x	
			Use of weapons for escort / suppression (art. 90-1)		
			Traffic control etc. (art. 92-4)		
	Other authority	x	Task organization of special purpose unit (art. 22-1)		x
			Enlistment / retirement extension (art. 45-3)		
			Recall of reservists (art. 70 etc.)		
			Control of JCG (art. 80)		
			Emergency traffic (art. 92-2)		
			Material expropriation etc. (art. 103)		
			The Order to preparation of defensive facilities: Able to use the location (art. 103-2)		
Other relevant Laws /Acts	x	Exclusion of application of related laws (SDF Law art. 115 etc.)		x	
		Authority for control of maritime transport (art. 94-8)			
		Authority for treatment of POW (art. 94-9)			
		Act on the Use of Specific Public Facilities			
		Act on the US Forces activities			
		Act of Maritime Transport Regulation			
		Act of POW treatment			
		Act of Civil Protection			
Violation Penalty Act to the International Humanitarian Law					
Act of Cultural Property Protection in the Event of Armed conflict					
International Humanitarian law (Geneva Convention etc.)					

Key:
AAS Armed Attack Situation
AAAS Anticipated Armed Attack Situation
Art. Article
JCG Japan Coast Guard
IIS Important Influence Situation
POW Prisoner of War
SDF Self-Defense Force
SIS ???
STS Survival-Threatening Situation

i.A.5. Japanese Act Naming: "Law No. ## of YYYY"

Japanese law names are translated inconsistently, even by official GoJ sources. Furthermore, law titles are occasionally updated when the content of laws is modified (for example, changing "...in Armed Attack Situations, etc." to "...in Armed Attack Situations, etc. and Survival-Threatening Situations." For this reason, references to law titles may be ambiguous and readers consulting two different sources may see what appear to be references to two distinct laws without realizing they are, in fact, references to the same law.

To facilitate readability, this guide uses the short name of Japanese laws. For example, Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended) rather than "Act on the Peace and Independence of Japan and Maintenance of the Nation and the People's Security in Armed Attack Situations, etc., and Survival-Threatening Situations."

To remove ambiguity, this guide always references the law number of the base law (i.e., "Act No. ## of YYYY").

Subsequent updates to a law do not change its base reference. For example, while SDF Law has been continuously amended, it remains "Act No. 165 of 1954."

i.B. JAPANESE CONSTITUTION

Unless otherwise noted, all block quotations²⁵⁷⁴ found within this section are from GoJ's official Japanese Constitution translation.²⁵⁷⁵

²⁵⁷⁴ 1.3.2. Block Quotations, p. 2.

²⁵⁷⁵ Appendix R. References, p. 293.

i.B.1. Preamble

(1) We, the Japanese people, acting through our duly elected representatives in the National Diet, determined that we shall secure for ourselves and our posterity the fruits of peaceful cooperation with all nations and the blessings of liberty throughout this land, and resolved that never again shall we be visited with the horrors of war through the action of government, do proclaim that sovereign power resides with the people and do firmly establish this Constitution. Government is a sacred trust of the people, the authority for which is derived from the people, the powers of which are exercised by the representatives of the people, and the benefits of which are enjoyed by the people. This is a universal principle of mankind upon which this Constitution is founded. We reject and revoke all constitutions, laws, ordinances, and rescripts in conflict herewith.

(2) We, the Japanese people, desire peace for all time and are deeply conscious of the high ideals controlling human relationship, and we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world. We desire to occupy an honored place in an international society striving for the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth. We recognize that all peoples of the world have the right to live in peace, free from fear and want.

(3) We believe that no nation is responsible to itself alone, but that laws of political morality are universal; and that obedience to such laws is incumbent upon all nations who would sustain their own sovereignty and justify their sovereign relationship with other nations.

(4) We, the Japanese people, pledge our national honor to accomplish these high ideals and purposes with all our resources.

i.B.2. Article 9 – Renunciation of War

(1) Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or Use of Force²⁵⁷⁶ as means of settling international disputes.

(2) In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The Right of Belligerency²⁵⁷⁷ of the state will not be recognized.

i.B.3. Article 13 – Fundamental Rights of the People

(1) All of the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs.

i.B.4. Article 21 – Freedom of Expression

For some critics, Article 21 presents challenges to the constitutionality of future ACD²⁵⁷⁸ authorities.

(1) Freedom of assembly and association as well as speech, press and all other forms of expression are guaranteed.

(2) No censorship shall be maintained, nor shall the secrecy of any means of communication be violated.

i.B.5. Article 41 – The Diet and Legislative Power

(1) The Diet shall be the highest organ of state power, and shall be the sole law-making organ of the State.

²⁵⁷⁶ 3.3.3. Use of Force, p. 79.

²⁵⁷⁷ 2.1.2.1.3. Belligerent Rights, p. 16.

²⁵⁷⁸ 3.2.2.7. Active Cyber Defense (ACD), p. 60.

i.B.6. Article 54 – Dissolution of the House of Representatives

(1) When the House of Representatives is dissolved, there must be a general election of members of the House of Representatives within forty (40) days from the date of dissolution, and the Diet must be convoked within thirty (30) days from the date of the election.

(2) When the House of Representatives is dissolved, the House of Councillors is closed at the same time. However, the Cabinet may in time of national emergency convoke the House of Councillors in emergency session.

(3) Measures taken at such session as mentioned in the proviso of the preceding paragraph [*an emergency session of the House of Councillors*] shall be provisional and shall become null and void unless agreed to by the House of Representatives within a period of ten (10) days after the opening of the next session of the Diet.

i.B.7. Article 56 – Deliberation

(1) Business cannot be transacted in either House unless one-third or more of total membership is present.

(2) All matters shall be decided, in each House, by a majority of those present, except as elsewhere provided in the Constitution, and in case of a tie, the presiding officer shall decide the issue.

i.B.8. Article 59 – Passage of Bills

(1) A bill becomes a law on passage by both Houses, except as otherwise provided by the Constitution.

(2) A bill which is passed by the House of Representatives, and upon which the House of Councillors makes a decision different from that of the House of Representatives, becomes a law when passed a second time by the House of Representatives by a majority of two-thirds or more of the members present.

(3) The provision of the preceding paragraph does not preclude the House of Representatives from calling for the meeting of a joint committee of both Houses, provided for by law.

(4) Failure by the House of Councillors to take final action within sixty (60) days after receipt of a bill passed by the House of Representatives, time in recess excepted, may be determined by the House of Representatives to constitute a rejection of the said bill by the House of Councillors.

i.B.9. Article 65 – Executive Power

(1) Executive power shall be vested in the Cabinet.

i.B.10. Article 66 – The Cabinet

(1) The Cabinet shall consist of the Prime Minister, who shall be its head, and other Ministers of State,²⁵⁷⁹ as provided for by law.

(2) The Prime Minister and other Ministers of State must be civilians.

(3) The Cabinet, in the exercise of executive power, shall be collectively responsible to the Diet.

i.B.11. Article 68 – Ministers of State

(1) The Prime Minister shall appoint the Ministers of State.²⁵⁸⁰ However, a majority of their number must be chosen from among the members of the Diet.

(2) The Prime Minister may remove the Ministers of State as he chooses.

²⁵⁷⁹ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

²⁵⁸⁰ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

i.B.12. Article 72 – The Prime Minister

(1) The Prime Minister, representing the Cabinet, submits bills, reports on general national affairs and foreign relations to the Diet and exercises control and supervision over various administrative branches.

i.B.13. Article 73 – The Cabinet

(1) The Cabinet, in addition to other general administrative functions, shall perform the following functions:

(i) Administer the law faithfully; conduct affairs of state.

(ii) Manage foreign affairs.

(iii) Conclude treaties. However, it shall obtain prior or, depending on circumstances, subsequent approval of the Diet.

(iv) Administer the civil service, in accordance with standards established by law.

(v) Prepare the budget, and present it to the Diet.

(vi) Enact cabinet orders in order to execute the provisions of this Constitution and of the law. However, it cannot include penal provisions in such cabinet orders unless authorized by such law.

(vii) Decide on general amnesty, special amnesty, commutation of punishment, reprieve, and restoration of rights.

The Cabinet Act (Act No. 5 of 1947, as amended)²⁵⁸¹ establishes the Cabinet under the authority of Article 73 and establishes its scope and authorities.

i.B.14. Article 76 – The Supreme Court

(1) The whole judicial power is vested in a Supreme Court and in such inferior courts as are established by law.

(2) No extraordinary tribunal shall be established, nor shall any organ or agency of the Executive be given final judicial power.

(3) All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws.

i.B.15. Article 98 – Supremacy of the Constitution

Combined with Article 99,²⁵⁸² this article effectively creates an obligation²⁵⁸³ for GoJ (and its laws) to comply with International Law.²⁵⁸⁴

(1) This Constitution shall be the supreme law of the nation and no law, ordinance, imperial rescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity.

(2) The Treaties²⁵⁸⁵ concluded by Japan and established laws of nations [*International Law*] shall be faithfully observed.

i.B.16. Article 99 – Obligation to Uphold the Constitution

Combined with Article 98,²⁵⁸⁶ this article effectively creates an obligation²⁵⁸⁷ for GoJ (and its laws) to comply with International Law.²⁵⁸⁸

²⁵⁸¹ i.DD. Cabinet Act (Act No. 5 of 1947, as amended), p. 418.

²⁵⁸² i.B.16. Article 99 – Obligation to Uphold the Constitution, p. 302.

²⁵⁸³ 2.1.2.4. Japan's Constitutional Compliance with International Law, p. 22.

²⁵⁸⁴ 2.1.2.4.1. International Law, p. 23.

²⁵⁸⁵ 1.6.1.1.1. Treaties (Legal Status), p. 9.

²⁵⁸⁶ i.B.15. Article 98 – Supremacy of the Constitution, p. 302.

²⁵⁸⁷ 2.1.2.4. Japan's Constitutional Compliance with International Law, p. 22.

²⁵⁸⁸ 2.1.2.4.1. International Law, p. 23.

(1) *The Emperor or the Regent as well as Ministers of State,²⁵⁸⁹ members of the Diet, judges, and all other public officials have the obligation to respect and uphold this Constitution.*

i.C. SDF ACT (LAW NO. 165 OF 1954, AS AMENDED)

This law establishes authorities for the operation of the JSDF during peacetime, crisis, and conflict.

The full title of this law is:

- Self-Defense Force Act

Unless otherwise noted, all block quotations²⁵⁹⁰ found within this section are from the GoJ's official (Japanese language) Japanese Law e-Library.²⁵⁹¹ The Japanese has been machine translated²⁵⁹² with the content of the machine translation generally validated against Robert Eldridge's *The Japan Self-Defense Forces Law: Translation, History, and Analysis*.²⁵⁹³

The source text was published on 19 May 2021 and reflects all amendments up to and including Act No. 24 of 2024.

Amendments made after 2024 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.C.1. Self-Defense Force (SDF) Law Organization

SDF Law is organized into 9 chapters with sections and sub-sections for certain chapters and supplementary provisions:

- Chapter I – General Provisions (Articles 1 to 6)
- Chapter II – Command and Supervision (Articles 7 to 9-2)
- Chapter III – Units
 - Section 1 – Structure and Organization of Units of the JGSD²⁵⁹⁴ (Articles 10 to 14)
 - Section 2 – Structure and Organization of Units of the JMSDF²⁵⁹⁵ (Articles 15 to 19)
 - Section 3 – Structure and Organization of Units of the JASDF²⁵⁹⁶ (Articles 20 and 21)
 - Section 4 – Joint Units (Article 21-2)
 - Section 5 – Provisions for Exceptions to Unit Organization and Delegation of Authority (Articles 24 to 30)
- Chapter IV – Organs (Articles 24 to 30)
- Chapter V – Self-Defense Personnel
 - Section 1 – General Rules (Articles 30-2 to 34)
 - Section 2 – Appointment and Dismissal (Articles 35 to 41)
 - Section 3 – Status, Disciplinary Punishment, and Guarantees (Articles 42 to 51)
 - Section 4 – Service (Articles 52 to 65)
 - Section 5 – Managing Retirement
 - Subsection 1 – Restrictions for Reemployment after Leaving One's Job (Article 65-2 to 65-4)
 - Subsection 2 – Investigations Into Violations (Article 65-5 to 65-9)
 - Subsection 3 – Various Stipulations (Article 65-10 to 65-13)
 - Section 6 – Self-Defense Force Reserve Personnel
 - Subsection 1 – Self-Defense Force Reserve Personnel (Articles 66 to 75)
 - Subsection 2 – Self-Defense Force Ready Reserve Personnel (Article 75-2 to 75-8)
 - Subsection 3 – Candidates for Self-Defense Force Reserve Personnel (Article 75-9 to 75-13)
- Chapter VI – Activities of the Self-Defense Forces (Articles 76 to 86) [**provides authorization for each operation**]

²⁵⁸⁹ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

²⁵⁹⁰ 1.3.2. Block Quotations, p. 2.

²⁵⁹¹ Appendix R. References, p. 293.

²⁵⁹² 1.5.2.2. Machine Translations, p. 7.

²⁵⁹³ Appendix R. References, p. 293.

²⁵⁹⁴ 7.5.4.1.2. Ground Self-Defense Force (JGSD), p. 161.

²⁵⁹⁵ 7.5.4.1.3. Maritime Self-Defense Force (JMSDF), p. 161.

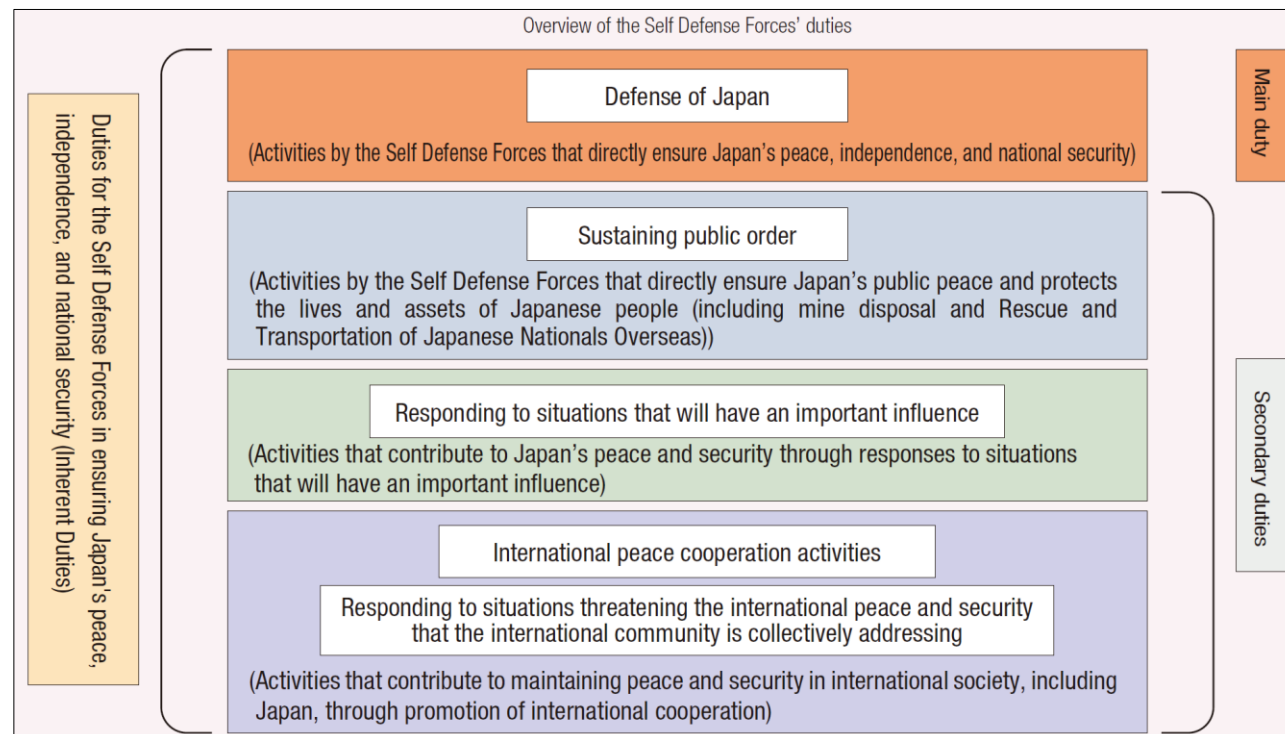
²⁵⁹⁶ 7.5.4.1.1. Air Self-Defense Force (JASDF), p. 161.

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- Chapter VII – Powers of the Self-Defense Forces (Articles 87 to 96-2) [**provides the rules for execution of each operation, including the rules on using weapons**]
- Chapter VIII – Miscellaneous Provisions (Articles 97 to 117-2)
- Chapter IX – Penal Provisions (Articles 118 to 126)
- Supplementary Provisions

i.C.2. Article 3 – Mission of the Self-Defense Forces

This article establishes the primary and secondary missions of the JSDF and establishes the various branches of the JSDF²⁵⁹⁷ as primarily responsible for JSDF operations within their domain.



(1) The primary mission of the Self-Defense Forces is to defend our country in order to protect our peace and independence and maintain our national security, and, as necessary, to maintain public order.

(2) In addition to what is provided for in the preceding paragraph, the Self-Defense Forces shall be responsible for the following activities, which are to be implemented by the Self-Defense Forces pursuant to a separate law, to the extent that they do not impede the performance of their primary mission under the preceding paragraph [*i.e., on a not-to-interfere basis with the primary mission of the JSDF*] and do not involve the threat or Use of Force²⁵⁹⁸ [*i.e., non-combat missions such as defense cooperation, PKO,²⁵⁹⁹ etc.*].

(i) Activities that contribute to ensuring the peace and security of our country in response to situations that have a significant impact on our country's peace and security.

(ii) Activities that contribute to maintaining the peace and security of the international community, including our country, through contributions to international peace efforts centered on the United Nations and other international cooperation.

(3) The mission of the Ground Self-Defense Force is to operate primarily on land, the Maritime Self-Defense Force primarily at sea, and the Air Self-Defense Force primarily in the air.

²⁵⁹⁷ 7.5.4.1. JSDF Branches, p. 161.

²⁵⁹⁸ 3.3.3. Use of Force, p. 79.

²⁵⁹⁹ 3.2.6. Peacekeeping Operations (PKO), p. 73.

i.C.3. Article 7 – The Prime Minister’s Power of Command and Supervision

(1) The Prime Minister, representing the Cabinet, shall have supreme command and supervision over the Self-Defense Forces.

i.C.4. Article 8 – Command and Supervision by the Minister of Defense

(1) The Minister of Defense shall supervise the affairs of the Self-Defense Forces in accordance with the provisions of this Act. However, the command and supervision by the Minister of Defense over the units and organs of the Ground Self-Defense Force, the Maritime Self-Defense Force, or the Air Self-Defense Force (hereinafter referred to as "units, etc.") shall be exercised through the person specified in each of the following items according to the classification of service affairs.

(i) Chief of Staff of the Joint Staff for the affairs of the Ground Self-Defense Force, the Maritime Self-Defense Force, or the Air Self-Defense Force under the jurisdiction of the Joint Staff Office

(ii) Chief of Ground Staff for the affairs of the Ground Self-Defense Force under the jurisdiction of the Ground Staff Office.

(iii) Chief of Maritime Staff for the affairs of the Maritime Self-Defense Force under the jurisdiction of the Maritime Staff Office.

(iv) Chief of Air Staff for the affairs of the Air Self-Defense Force under the jurisdiction of the Air Staff Office.

i.C.5. Article 22 – Organization of Special Units

Article 22 authorizes the task-organization of JSDF units.

Article 22 is likely to be altered with the implementation of JJOC.²⁶⁰⁰

(1) When the Prime Minister orders the mobilization of the Self-Defense Forces pursuant to the provisions of ¶(1), Article 76²⁶⁰¹ [DO²⁶⁰² for STS, ²⁶⁰³ AAS (Imminent), ²⁶⁰⁴ or AAS (Occurrence)²⁶⁰⁵], ¶(1), Article 78²⁶⁰⁶ [PSO by Order²⁶⁰⁷], ¶(2) Article 81²⁶⁰⁸ [PSO by Request²⁶⁰⁹], or or ¶(2)(i), Article 81-2²⁶¹⁰ [Guarding Operations at SDF Facilities²⁶¹¹], he/she may organize special units or place necessary units under the partial command of a commander other than the commander to which they are [normally] subordinate.

(2) When necessary for civil protection and other deployments pursuant to Article 77-4,²⁶¹² [CPO²⁶¹³], Maritime Security Operations [MSO²⁶¹⁴] pursuant to Article 82,²⁶¹⁵ anti-piracy operations²⁶¹⁶ pursuant to Article 82-2,²⁶¹⁷ destruction measures against ballistic missiles, etc.²⁶¹⁸ pursuant to ¶(1), Article 82-3,²⁶¹⁹ disaster deployments pursuant to ¶(2), Article 83²⁶²⁰ [Disaster Relief Operations²⁶²¹], earthquake disaster prevention deployments pursuant to Article 83-2 [Earthquake Disaster Prevention Operations²⁶²²], nuclear disaster deployments pursuant to Article 83-3 [Nuclear Disaster Relief Operations²⁶²³], protective measures pursuant to Article 84-3, paragraph 1, training, or other reasons, the Minister of Defense may temporarily organize special units or place necessary units under the partial command of a commander other than the commander to which they are [normally] subordinate.

²⁶⁰⁰ 7.5.4.6. Japan Joint Operations Command (JJOC), p. 162.

²⁶⁰¹ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

²⁶⁰² 3.2.2.1. Defense Operation (DO), p. 310.

²⁶⁰³ 4.9. Survival-Threatening Situation (STS), p. 104.

²⁶⁰⁴ 4.10.1.1. AAS (Imminent), p. 111.

²⁶⁰⁵ 4.10.1.2. AAS (Occurrence), p. 111.

²⁶⁰⁶ i.C.19. Article 78 – Public Security Operation (PSO) by Order, p. 312.

²⁶⁰⁷ 3.2.3.1.1. PSO By Order, p. 62.

²⁶⁰⁸ i.C.23. Article 81 – Public Security Operation (PSO) by Request, p. 313.

²⁶⁰⁹ 3.2.3.1.2. PSO By Request, p. 62.

²⁶¹⁰ i.C.24. Article 81-2 – Guarding Operation at Self-Defense Force Facilities, etc., p. 313.

²⁶¹¹ 3.2.5.1. Civil Protection Operations (CPO), p. 70.

²⁶¹² i.C.18. Article 77-4 – Civil Protection Operations, p. 311.

²⁶¹³ 3.2.5. Civil Protection, etc., p. 70.

²⁶¹⁴ 3.2.3.2. Maritime Security Operation (MSO), p. 63.

²⁶¹⁵ i.C.25. Article 82 – Maritime Security Operations (MSO), p. 314.

²⁶¹⁶ 3.2.3.7. Counter-Piracy Operations, p. 68.

²⁶¹⁷ i.C.26. Article 82-2 – Counter-Piracy Operations, p. 314.

²⁶¹⁸ 3.2.3.6. Ballistic Missile Defense (BMD) Operations, p. 67.

²⁶¹⁹ i.C.27. Article 82-3 – Destruction Measures Against Ballistic Missiles, etc., p. 314.

²⁶²⁰ i.C.28. Article 83 – Disaster Relief Operations (DRO), p. 315.

²⁶²¹ 3.2.4.1. Disaster Relief Operations (DRO), p. 70.

²⁶²² 3.2.4.2. Earthquake Disaster Prevention Operations, p. 70.

²⁶²³ 3.2.4.3. Nuclear Disaster Relief Operations, p. 70.

Annex i. Selected Annotated Japanese Laws

(3) In the case where a unit organized in accordance with the provisions of the preceding two paragraphs or placed under the same commander consists of two or more units of the Ground Self-Defense Forces, the Maritime Self-Defense Force, or the Air Self-Defense Force, the Minister of Defense's command of the operation of said unit shall be exercised through the Chief of Staff of the Joint Staff, and the orders of the Minister of Defense in this regard shall be executed by the Chief of Staff of the Joint Staff. In addition, the duties of the Chief of Staff regarding the command and supervision of the Minister of Defense over said unit shall be determined in accordance with the provisions of the Minister of Defense.

i.C.6. Article 24 – Organs of the JSDF

Article 24 establishes elements of the SDF branches, including the authority to establish POW camps.

(1) The types of organs of the Ground Self-Defense Force, Maritime Self-Defense Force, or Air Self-Defense Force are as follows. However, some of them may not be established.

(i) Schools

(ii) Supply Depots

(iii) Hospitals

(iv) Regional Cooperation Headquarters

(2) In addition to those provided for in the preceding paragraph [¶(1)], the Education and Training Research Headquarters and the Supply Control Headquarters may be established as organs of the Ground Self-Defense Force, and the Supply Headquarters as organs of the Maritime Self-Defense Force or Air Self-Defense Force.

(3) In addition to those provided for in the preceding two paragraphs [¶¶(1)-(2)], prisoner-of-war camps may be established temporarily as organs of the Ground Self-Defense Force, Maritime Self-Defense Force, or Air Self-Defense Force.

(4) In addition to those provided for in the preceding three paragraphs [¶¶(1)-(3)], in cases where it is particularly necessary for the performance of the Self-Defense Force's duties, organs of the Ground Self-Defense Force, Maritime Self-Defense Force, or Air Self-Defense Force may be established temporarily, as provided for by Cabinet Order.²⁶²⁴

(5) The organs provided for in ¶¶(1), (3), and (4) may be established as joint organs of the Ground Self-Defense Force, Maritime Self-Defense Force, and Air Self-Defense Force, in cases where it is necessary to ensure unified management in the performance of the Self-Defense Force's duties.

(6) In the event that a joint organization is established pursuant to the provisions of the preceding paragraph [¶(5)], the duties of the Chief of Staff in relation to the command and supervision of said organization by the Minister of Defense shall be determined in accordance with the provisions of the Minister of Defense.

i.C.7. Article 29-2 – Prisoner of War Camps

(1) Prisoner of war camps shall carry out the detention and repatriation of prisoners of war as provided for in the POW Law (Law No. 117 of 2004, as amended),²⁶²⁵ as well as other duties as determined by the Minister of Defense.

(2) Prisoner of war camps shall have a director who shall be a Self-Defense Forces official (limited to a person of the rank of 2nd Lieutenant in the Ground Self-Defense Force, Ensign in the Maritime Self-Defense Force, and 2nd Lieutenant in the Air Self-Defense Force, or higher).

(3) The Commandant of the Prisoner of War Camp shall administer the affairs of the camp as determined by the Minister of Defense.

²⁶²⁴ C.2.1.4.2. Cabinet Order, p. 226.

²⁶²⁵ i.P. POW Law (Law No. 117 of 2004, as amended), p. 383.

i.C.8. Article 36 – Terms of appointment, etc. of Chief Sergeant, Chief Petty Officer, and Chief Airman, etc.

This article provides for extension of enlistment for junior enlisted JSDF personnel for up to 1 year in the case of their mobilization for a DO.²⁶²⁶

[(1)-(7) omitted]

(8) When the Minister of Defense finds that the retirement of a first sergeant, etc., a senior seaman, etc., or a first airman, etc., who has been appointed for a fixed term of employment, due to the expiration of his/her term of employment, will cause serious hindrance to the performance of the missions of the Self-Defense Forces, he/she [Minister of Defense] may extend the term of enlistment for a period not exceeding one year in cases where the first sergeant, etc., a senior seaman, etc., or a first airman, etc., has been ordered to engage in defense mobilization pursuant to the provisions of ¶(1), Article 76 [DO for STS,²⁶²⁷ AAS (Imminent),²⁶²⁸ or AAS (Occurrence)²⁶²⁹], or for a period not exceeding six months in other cases.

i.C.9. Article 45 – Special Provisions Regarding the Retirement Age and Retirement due to the Retirement Age for SDF Personnel

This article provides for extension of retirement age for less than 1 year for JSDF personnel in the case of their mobilization for a DO.²⁶³⁰

(1) When an SDF personnel (excluding ground sergeants, etc., sea sergeants, etc., and air force sergeants, etc.; the same applies in this article and the following article) reaches the retirement age, he/she shall retire on the day following the day on which he/she reaches the retirement age.

(2) The retirement age in the preceding paragraph shall be determined by government ordinance for each rank according to the nature of the service.

(3) If the Minister of Defense determines that the retirement of an SDF personnel due to reaching the retirement age would seriously impede the performance of the SDF's missions, he/she may have the SDF personnel continue to work as an SDF personnel after reaching the retirement age for a period of up to one year if the SDF personnel has been ordered to deploy in accordance with the provisions of ¶(1), Article 76 [DO for STS,²⁶³¹ AAS (Imminent),²⁶³² or AAS (Occurrence)²⁶³³], or for a period of up to six months in other cases.

(4) When the period prescribed in the preceding paragraph or this paragraph expires and the Minister of Defense finds that the circumstances of the preceding paragraph still exist, he may, with the consent of the Self-Defense Forces Personnel, have them continue to serve as Self-Defense Forces Personnel for a period not exceeding one year, provided, however, that the last day of such period may not exceed three years counting from the day after the day on which the Self-Defense Forces Personnel reach the retirement age.

i.C.10. Article 59 – Obligation to Preserve Secrecy

Article 59 establishes the JSDF obligation for secrecy, including the provisions applied separately by the SDS Act (Act No. 103 of 2014).²⁶³⁴

(1) A member of the Self-Defense Forces must not disclose any secrets that he or she has come to know in the course of his or her official duties. This applies even after leaving his or her position [i.e., after leaving uniformed service].

(2) When a member of the Self-Defense Forces becomes a legal witness, expert witness, etc. and discloses any matter that is classified as a secret in the course of his or her official duties, he or she must obtain

²⁶²⁶ 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

²⁶²⁷ 4.9. Survival-Threatening Situation (STS), p. 104.

²⁶²⁸ 4.10.1.1. AAS (Imminent), p. 111.

²⁶²⁹ 4.10.1.2. AAS (Occurrence), p. 111.

²⁶³⁰ 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

²⁶³¹ 4.9. Survival-Threatening Situation (STS), p. 104.

²⁶³² 4.10.1.1. AAS (Imminent), p. 111.

²⁶³³ 4.10.1.2. AAS (Occurrence), p. 111.

²⁶³⁴ 12.3.1. Act on Specially Designated Secrets (SDS), p. 186.

permission from the Minister of Defense. This applies even after leaving his or her position [i.e., after leaving uniformed service].

(3) The permission in the preceding paragraph cannot be refused, except as otherwise provided by law.

(4) The provisions of the preceding three paragraphs do not apply to cases in which a member of the Self-Defense Forces makes a statement or testifies about any matter that is classified as a secret in the course of his or her official duties, or submits or presents documents or other objects in which such matters are stated, recorded, or labeled, during an investigation conducted by the Reemployment Monitoring Committee, which has been delegated authority pursuant to the provisions of Article 18-4 of the National Public Service Act, as applied mutatis mutandis²⁶³⁵ pursuant to the provisions of ¶(1), Article 18-3 of the same Act, as applied mutatis mutandis pursuant to the provisions of ¶(1), Article 65-8.

i.C.11. Article 68 – Terms of Appointment and Extension

This article provides for extension of terms of service for Reserve personnel under a Defense Mobilization²⁶³⁶ for a DO,²⁶³⁷ DOAO,²⁶³⁸ CPO,²⁶³⁹ PSO,²⁶⁴⁰ or Disaster Mobilization.²⁶⁴¹

(1) The term of appointment of an SDF reserve member pursuant to the provisions of ¶¶(1) or (2) of the preceding Article shall be three years from the date of appointment.

(2) When a SDF reserve member (including a member who has received a Defense Mobilization Order pursuant to the provisions of each item of ¶(1) Article 70²⁶⁴² [*Defense Operations Call-Up for Reserve Personnel*] and who has become a SDF member pursuant to the provisions of ¶(3) of the same Article) has completed his/her term of appointment, the Minister of Defense may, if he/she [SDF reserve member] volunteers, appoint him/her [SDF reserve member] as a SDF reserve member for a period of three years (or, in the case of a member who will have reached 62 years of age at the time of completion of his/her term of appointment, a period not exceeding three years as separately determined by the Minister of Defense). In this case, the starting date of the term of appointment shall be the date of the continued appointment.

(3) In the case where a reserve SDF member has received a Defense Mobilization Order pursuant to any of the provisions of ¶(1), Article 70, and has become a SDF member pursuant to the provisions of ¶(3) of the same Article, if the Minister of Defense finds that the SDF member's retirement upon expiration of his/her term of appointment as a reserve SDF member would seriously impede the performance of the missions of the Self-Defense Forces, the Minister of Defense may extend the member's term of appointment for a period not exceeding one year if the member has been ordered to deploy for defense purposes pursuant to the provisions of Defense Mobilization Order²⁶⁴³ or for a period not exceeding six months in other cases.

(4) The period during which a reserve SDF member received a convocation order pursuant to any of the provisions of ¶(1) Article 70, and has become a SDF member pursuant to the provisions of ¶(3) of the same Article shall be included in the calculation of the period of appointment of the reserve SDF member.

i.C.12. Article 70 – Defense Mobilization, Civil Protection Mobilization, etc., and Disaster Mobilization for Reserve Personnel

This article provides for the mobilization of Reserve personnel under Defense Mobilization²⁶⁴⁴ for a DO,²⁶⁴⁵ DOAO,²⁶⁴⁶ CPO,²⁶⁴⁷ PSO,²⁶⁴⁸ or Disaster Mobilization.²⁶⁴⁹

²⁶³⁵ Making necessary changes to account for differing situations, but the basic point remains the same.

²⁶³⁶ 3.2.2.3. Defense Mobilization, p. 57.

²⁶³⁷ 3.2.2.1. Defense Operation (DO), p. 55.

²⁶³⁸ 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

²⁶³⁹ 3.2.5.1. Civil Protection Operations (CPO), p. 70.

²⁶⁴⁰ 3.2.3.1. Public Security Operation (PSO), p. 62.

²⁶⁴¹ 3.2.4.4. Disaster Mobilization Directive, p. 70.

²⁶⁴² i.C.12. Article 70 – Defense Mobilization, Civil Protection Mobilization, etc., and Disaster Mobilization for Reserve Personnel, p. 308.

²⁶⁴³ 3.2.2.3. Defense Mobilization, p. 57.

²⁶⁴⁴ 3.2.2.3. Defense Mobilization, p. 57.

²⁶⁴⁵ 3.2.2.1. Defense Operation (DO), p. 55.

²⁶⁴⁶ 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

²⁶⁴⁷ 3.2.5.1. Civil Protection Operations (CPO), p. 70.

²⁶⁴⁸ 3.2.3.1. Public Security Operation (PSO), p. 62.

²⁶⁴⁹ 3.2.4.4. Disaster Mobilization Directive, p. 70.

(1) In the cases listed below, the Minister of Defense may, with the approval of the Prime Minister, issue a Mobilization Order to reserve SDF personnel using the mobilization order prescribed in the relevant item.

(i) When a Defense Operations Order²⁶⁵⁰ has been issued pursuant to ¶(1), Article 76 [DO for STS,²⁶⁵¹ AAS (Imminent),²⁶⁵² or AAS (Occurrence)²⁶⁵³], or when the situation has become tense and a Defense Operations Order is expected to be issued [e.g., with the issuance of a DOAO²⁶⁵⁴] pursuant to the same paragraph [¶(1), Article 76], a Defense Mobilization Order²⁶⁵⁵ based on a Defense Mobilizing Directive,²⁶⁵⁶ is issued when it is deemed particularly necessary.

(ii) Pursuant to Article 77-4²⁶⁵⁷ [CPO], measures for the protection of the people (meaning measures for the protection of the people prescribed in ¶(3), Article 2²⁶⁵⁸ [measures for the protection of the people] of the Civil Protection Act (Act No. 112 of 2004, as amended)²⁶⁵⁹, excluding those related to the maintenance of public order; the same applies below) or emergency response protection measures. (This refers to emergency response protection measures stipulated in ¶(1), Article 172 of the same law [Civil Protection Act (Act No. 112 of 2004, as amended)], excluding those related to maintaining public order. The same applies below.) When units, etc. are dispatched to carry out such measures, a Civil Protection Mobilization Order²⁶⁶⁰ based on a Civil Protection Mobilization Directive²⁶⁶¹ is issued when it is deemed particularly necessary.

(iii) When units, etc. are dispatched for relief pursuant to the provisions of ¶(2), Article 83²⁶⁶² [Disaster Relief Operation²⁶⁶³], and it is deemed particularly necessary, a Disaster Mobilization Order based on a Disaster Mobilization Directive is issued when it is deemed particularly necessary.

(2) Reserve SDF personnel who receive a Mobilization Order under any of the preceding paragraphs must report to the designated place on the designated date and time to respond to the mobilization.

(3) A reserve SDF member who is mobilized under any of the preceding paragraphs will not be issued an appointment order and will become an SDF member of the designated rank on the day he or she reports in response to the mobilization. In this case, the number of such SDF members will not be included in the number of employees of the Ministry of Defense.

[(4)-(9) omitted]

i.C.13. Article 75-4 – Defense Mobilization, Civil Protection Mobilization, etc., and Disaster Mobilization for Ready Reserve Personnel

This article provides for the mobilization of Ready Reserve personnel under Mobilization Orders.

(1) In the cases listed below, the Minister of Defense may, with the approval of the Prime Minister, issue a Mobilization Order to the Ready Reserve SDF personnel by written Mobilization Order as specified in the relevant item when he deems it necessary.

(i) When a Defense Operations Order²⁶⁶⁴ has been issued pursuant to ¶(1), Article 76 [DO for STS,²⁶⁶⁵ AAS (Imminent),²⁶⁶⁶ or AAS (Occurrence)²⁶⁶⁷], or when the situation has become tense and a Defense Operations Order is expected to be issued [i.e., with the issuance of a DOAO²⁶⁶⁸] pursuant to the same paragraph [¶(1), Article 76]: a Defense Mobilization Order²⁶⁶⁹ based on a Defense Mobilizing Directive.²⁶⁷⁰

²⁶⁵⁰ 3.2.2.3. Defense Mobilization, p..57.

²⁶⁵¹ 4.9. Survival-Threatening Situation (STS), p. 104.

²⁶⁵² 4.10.1.1. AAS (Imminent), p. 111.

²⁶⁵³ 4.10.1.2. AAS (Occurrence), p. 111.

²⁶⁵⁴ 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

²⁶⁵⁵ 3.2.2.3. Defense Mobilization, p..57.

²⁶⁵⁶ 3.2.2.3.1. Defense Mobilization Directive (DMD), p. 57.

²⁶⁵⁷ i.C.18. Article 77-4 – Civil Protection Operations, p. 311.

²⁶⁵⁸ i.G.1. Article 2 – Definitions, p. 357.

²⁶⁵⁹ i.G. Civil Protection Act (Act No. 112 of 2004, as amended), p. 356.

²⁶⁶⁰ 3.2.5.1.4.1. Civil Protection Mobilization Order (CPMO), p. 72.

²⁶⁶¹ 3.2.5.1.4. Civil Protection Mobilization Directive (CPMD), p. 72.

²⁶⁶² i.C.28. Article 83 – Disaster Relief Operations (DRO), p. 315.

²⁶⁶³ 3.2.4.1. Disaster Relief Operations (DRO), p. 70.

²⁶⁶⁴ 3.2.2.3. Defense Mobilization, p..57.

²⁶⁶⁵ 4.9. Survival-Threatening Situation (STS), p. 104.

²⁶⁶⁶ 4.10.1.1. AAS (Imminent), p. 111.

²⁶⁶⁷ 4.10.1.2. AAS (Occurrence), p. 111.

²⁶⁶⁸ 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

²⁶⁶⁹ 3.2.2.3. Defense Mobilization, p..57.

²⁶⁷⁰ 3.2.2.3.1. Defense Mobilization Directive (DMD), p. 57.

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(ii) When units, etc. are dispatched to implement measures for the protection of the people or emergency response protection measures pursuant to Article 77-4²⁶⁷¹ [CPO]: Civil Protection Mobilization Order²⁶⁷² based on a Civil Protection Mobilization Directive.²⁶⁷³

(iii) When a Public Security Operation Order²⁶⁷⁴ is issued pursuant to ¶(1), Article 78²⁶⁷⁵ [PSO by Order²⁶⁷⁶], and ¶(2), Article 81²⁶⁷⁷ [PSO by Request²⁶⁷⁸], or when the situation is tense and it is expected that a Public Security Operation Order will be issued pursuant to the provisions of ¶(1), Article 78 [PSO by Order]: a Public Security Operation Order under the provisions of the Public Security Operation Directive.²⁶⁷⁹

(iv) When a unit, etc. is dispatched for relief pursuant to the provisions of ¶(2), Article 83²⁶⁸⁰ [DRO²⁶⁸¹], or when a unit, etc. is dispatched for support pursuant to the provisions of ¶(2), Article 83: Disaster Mobilization Order under the provisions of the Disaster Mobilization Directive.

[(2)-(7) omitted]

i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence])

(1) In the following situations [AAS²⁶⁸² and STS²⁶⁸³], if the Prime Minister deems it necessary to defend Japan, he may order the mobilization of all or part of the Self-Defense Forces. In such cases, approval of the Diet must be obtained pursuant to Article 9²⁶⁸⁴ [BRP²⁶⁸⁵] of the Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended).

(i) A situation in which an Armed Attack²⁶⁸⁶ against Japan from outside has occurred [AAS (Occurrence)²⁶⁸⁷], or a situation in which it is recognized that there is a clear and imminent danger of an Armed Attack against Japan from outside [AAS (Imminent)²⁶⁸⁸].

(ii) A situation in which an Armed Attack against a foreign country that has a close relationship with Japan has occurred, threatening the existence of Japan and creating a clear danger of fundamentally overturning the lives, liberty, and right to pursue happiness of the people [STS].

(2) When the need for deployment no longer exists, the Prime Minister must immediately order the withdrawal of the Self-Defense Forces.

i.C.15. Article 77 – Defense Operation Alert Order (DOAO)

A DOAO²⁶⁸⁹ permits the JSDF to conduct preparation activities for a DO²⁶⁹⁰ and may be issued during or prior to AAAS.²⁶⁹¹

(1) When the situation becomes tense and it is predicted that a Defense Operation Order [DOO²⁶⁹²] pursuant to the provisions of the preceding Article, ¶(1) [for STS,²⁶⁹³ AAS (Imminent),²⁶⁹⁴ or AAS (Occurrence)²⁶⁹⁵], will be issued, the Minister of Defense may, with the approval of the Prime Minister, issue a Defense Operations Alert Order [DOAO²⁶⁹⁶] for all or part of the Self-Defense Forces when he/sh deems it necessary.

²⁶⁷¹ i.C.18. Article 77-4 – Civil Protection Operations, p. 311.

²⁶⁷² 3.2.5.1.4.1. Civil Protection Mobilization Order (CPMO), p. 72.

²⁶⁷³ 3.2.5.1.4. Civil Protection Mobilization Directive (CPMD), p. 72.

²⁶⁷⁴ 3.2.3.1.3.1. PSO Order, p. 63.

²⁶⁷⁵ i.C.19. Article 78 – Public Security Operation (PSO) by Order, p. 312.

²⁶⁷⁶ 3.2.3.1.1. PSO By Order, p. 62.

²⁶⁷⁷ i.C.23. Article 81 – Public Security Operation (PSO) by Request, p. 313.

²⁶⁷⁸ 3.2.3.1.2. PSO By Request, p. 62.

²⁶⁷⁹ 3.2.3.1.3. PSO Directive, p. 63.

²⁶⁸⁰ i.C.28. Article 83 – Disaster Relief Operations (DRO), p. 315.

²⁶⁸¹ 3.2.4.1. Disaster Relief Operations (DRO), p. 70.

²⁶⁸² 4.10. Armed Attack Situation (AAS), p. 110.

²⁶⁸³ 4.9. Survival-Threatening Situation (STS), p. 104.

²⁶⁸⁴ i.D.4. Article 9 – Basic Response Plan, p. 340.

²⁶⁸⁵ 4.3. Basic Response Plan (BRP), p. 95.

²⁶⁸⁶ 4.11. Definition of “Armed Attack”, p. 114.

²⁶⁸⁷ 4.10.1.2. AAS (Occurrence), p. 111.

²⁶⁸⁸ 4.10.1.1. AAS (Imminent), p. 111.

²⁶⁸⁹ 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

²⁶⁹⁰ 3.2.2.1. Defense Operation (DO), p. 55.

²⁶⁹¹ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

²⁶⁹² 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

²⁶⁹³ 4.9. Survival-Threatening Situation (STS), p. 104.

²⁶⁹⁴ 4.10.1.1. AAS (Imminent), p. 111.

²⁶⁹⁵ 4.10.1.2. AAS (Occurrence), p. 111.

²⁶⁹⁶ 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

i.C.16. Article 77-2 – Measures to Establish Defense Facilities

When operating under the authority of this article, SDF Law Article 92-4²⁶⁹⁷ provides the JSDF authority for Use of Weapons²⁶⁹⁸ and SDF Law Article 103-2²⁶⁹⁹ provides authority for the expropriation of property and land. Expected to be authorized during AAAS.²⁷⁰⁰

(1) In cases where the situation is tense and a Defense Operation Order [DOO²⁷⁰¹] is expected to be issued [i.e., with the issuance of a DOAO²⁷⁰²] pursuant to ¶(1), Article 76²⁷⁰³ (limited to No. [i]. Same hereinafter. [DO²⁷⁰⁴ for AAS (Imminent)²⁷⁰⁵ and AAS (Occurrence);²⁷⁰⁶ limitation to No. (i) excludes STS,²⁷⁰⁷ which is Article 76, ¶(1), No (ii)]), if there is an area where the Self-Defense Forces units ordered to be mobilized pursuant to the provisions of the same paragraph are expected to be deployed and where it is deemed necessary to strengthen defenses in advance (hereinafter referred to as the "proposed deployment area"), the Minister of Defense may, with the approval of the Prime Minister, specify the scope of the area and order the Self-Defense Forces units, etc. to take measures to construct positions and other defensive facilities (hereinafter referred to as "defensive facilities") within the proposed deployment area.

i.C.17. Article 77-3 Measures to be Taken before a DOO

Authorizes provision of support and services to the US Military under a DOAO.²⁷⁰⁸ Expected to be authorized during AAAS.²⁷⁰⁹

(1) When the situation is tense and a Defense Operation Order [DOO²⁷¹⁰] is expected to be issued [i.e., with the issuance of a DOAO²⁷¹¹] pursuant to the provisions of ¶(1), Article 76 [for STS,²⁷¹² AAS (Imminent),²⁷¹³ or AAS (Occurrence)²⁷¹⁴], the Minister of Defense or a person delegated by him may provide goods as an action-related [i.e., authorized] measure pursuant to the provisions of the US Military Action Support Act (Law No. 113 of 2004, as amended).²⁷¹⁵

(2) In the cases prescribed in the preceding paragraph [in advance of a DOO issued under STS, AAS (Imminent), or AAS (Occurrence); e.g., with the issuance of a DOAO], the Minister of Defense may have the Ministry of Defense agencies and units, etc. provide services as action-related [i.e., authorized] measures pursuant to the provisions of the US Military Action Support Act (Law No. 113 of 2004, as amended).²⁷¹⁶

i.C.18. Article 77-4 – Civil Protection Operations

Authorizes CPO by Request²⁷¹⁷ and CPO by Order²⁷¹⁸ under the Civil Protection Act (Act No. 112 of 2004, as amended).²⁷¹⁹

(1) When the Minister of Defense receives a request from a prefectural governor pursuant to ¶(1), Article 15²⁷²⁰ [Prefectural requests for SDF deployment] of the Civil Protection Act (Act No. 112 of 2004, as amended), and deems the situation unavoidable, or when the Task Force Chief²⁷²¹ makes a request pursuant to under ¶(2) of the same Article [Article 15] of the same Law, he/she [Minister of Defense] may, with the approval of the Prime Minister, deploy units, etc. to implement the emergency response protection measures related to the request or request, if he deems the situation unavoidable.

(2) When the Minister of Defense receives a request from a prefectural governor pursuant to ¶(1), Article 15 [Prefectural requests for SDF deployment] of the Civil Protection Act (Act No. 112 of 2004, as amended), as

²⁶⁹⁷ i.C.45. Article 92-4 – Use of Weapons in a Planned Area of Deployment, p. 324.

²⁶⁹⁸ 3.3.1. Use of Weapons, p. 74.

²⁶⁹⁹ i.C.63. Article 103-2 – Use of Land in Planned Area of Development, p. 335.

²⁷⁰⁰ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

²⁷⁰¹ 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

²⁷⁰² 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

²⁷⁰³ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

²⁷⁰⁴ 3.2.2.1. Defense Operation (DO), p. 55.

²⁷⁰⁵ 4.10.1.1. AAS (Imminent), p. 111.

²⁷⁰⁶ 4.10.1.2. AAS (Occurrence), p. 111.

²⁷⁰⁷ 4.9. Survival-Threatening Situation (STS), p. 104.

²⁷⁰⁸ 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

²⁷⁰⁹ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

²⁷¹⁰ 3.2.2.1.1. Defense Operation Order (DOO), p. 55.

²⁷¹¹ 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

²⁷¹² 4.9. Survival-Threatening Situation (STS), p. 104.

²⁷¹³ 4.10.1.1. AAS (Imminent), p. 111.

²⁷¹⁴ 4.10.1.2. AAS (Occurrence), p. 111.

²⁷¹⁵ i.F. US Military Action Support Act (Law No. 113 of 2004, as amended), p. 351.

²⁷¹⁶ i.F. US Military Action Support Act (Law No. 113 of 2004, as amended), p. 351.

²⁷¹⁷ 3.2.5.1.2. CPO by Request, p. 71.

²⁷¹⁸ 3.2.5.1.3. CPO by Order, p. 71.

²⁷¹⁹ i.G. Civil Protection Act (Act No. 112 of 2004, as amended), p. 356.

²⁷²⁰ i.G.4. Article 15 – (Prefectural) Request for dispatch of Self-Defense Forces units, etc., p. 358.

²⁷²¹ i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister, p. 337.

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applied *mutatis mutandis*²⁷²² by Article 183 [*Mutatis Mutandis provisions*] of the same Law, he/she [*Minister of Defense*] may, with the approval of the Prime Minister, dispatch units, etc. to implement the emergency response protection measures related to the request or request, if he deems the situation unavoidable, or when the *Task Force Chief*²⁷²³ makes a request pursuant to under ¶(2), Article 15 of the same Law, as applied *mutatis mutandis* by Article 183 of the same Law.

i.C.19. Article 78 – Public Security Operation (PSO) by Order

Authorizes PSO by Order.²⁷²⁴

(1) In the event of indirect aggression or other emergency, when it is deemed that public order cannot be maintained by ordinary police forces alone, the Prime Minister may order the deployment of all or part of the Self-Defense Forces.

(2) When the Prime Minister orders a deployment pursuant to the provisions of the preceding paragraph, he/she must submit the matter to the Diet for its Approval²⁷²⁵ within 20 days from the date of the order. However, if the Diet is not in session or the House of Representatives has been dissolved, he must promptly seek approval at the first Diet convened thereafter.

(3) In the case of the preceding paragraph, when a resolution of disapproval [*i.e., Rejection*²⁷²⁶] is passed or the need for deployment has ceased, the Prime Minister must promptly order the withdrawal of the Self-Defense Forces.

i.C.20. Article 79 – Public Security Operation Alert Order

Authorizes a PSO Alert Order.²⁷²⁷

(1) When the situation becomes tense and it is predicted that a Public Security Operation Order²⁷²⁸ pursuant to the provisions of ¶(1) of the preceding article [*Article 78 – PSO by Order*] will be issued, the Minister of Defense may, with the approval of the Prime Minister, issue a Public Security Operation Alert Order for all or part of the Self-Defense Forces if he deems it necessary.

(2) In the case of the preceding paragraph, the Minister of Defense shall maintain close liaison with the National Public Safety Commission.²⁷²⁹

i.C.21. Article 79-2 – Information Gathering before PSO Order

Authorizes the limited deployment of the JSDF for information-gathering in advance of PSO.²⁷³⁰

(1) When the situation becomes tense and it is predicted that a Public Security Operation Order²⁷³¹ pursuant to the provisions of ¶(1) Article 78²⁷³² [*PSO by Order*²⁷³³], and when an illegal act is predicted to be committed by a person possessing a rifle, machine gun (including a handgun), artillery, chemical weapon, biological weapon, or other weapon with similar lethality, the Minister of Defense may, in consultation with the National Public Safety Commission²⁷³⁴ and with the approval of the Prime Minister, order a unit of the Self-Defense Forces to be armed and to deploy to gather the relevant information in or near the location where the person is expected to be located.

²⁷²² Making necessary changes to account for differing situations, but the basic point remains the same.

²⁷²³ i.D.1. Note on the Positions of “Task Force Chief” vs. Prime Minister, p. 337.

²⁷²⁴ 3.2.3.1.1. PSO By Order, p. 62.

²⁷²⁵ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

²⁷²⁶ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

²⁷²⁷ 3.2.3.1.4. PSO Alert Order, p. 63.

²⁷²⁸ 3.2.3.1.3.1. PSO Order, p. 63.

²⁷²⁹ C.2.3.1. National Public Safety Commission, p. 227.

²⁷³⁰ 3.2.3.1.4.1. Information Gathering before PSO Order, p. 63.

²⁷³¹ 3.2.3.1.3.1. PSO Order, p. 63.

²⁷³² i.C.19. Article 78 – Public Security Operation (PSO) by Order, p.312.

²⁷³³ 3.2.3.1.1. PSO By Order, p. 62.

²⁷³⁴ C.2.3.1. National Public Safety Commission, p. 227.

i.C.22. Article 80 – Control of the Japan Coast Guard (JCG)

Permits the PM to, under an **armed attack situation**, etc.²⁷³⁵ (AAAS²⁷³⁶ or AAS²⁷³⁷ but not STS²⁷³⁸) or through PSO by Order,²⁷³⁹ bring all or part of the JCG under the control of the MoD²⁷⁴⁰ **when he/she issues a Defense Mobilization Order**.²⁷⁴¹ (where are AAAS or DMO bits from?)

(1) When all or part of the Self-Defense Forces are ordered into operation pursuant to the provisions of ¶(1), Article 76²⁷⁴² (limited to No. [i]) [DO²⁷⁴³ for AAS (Imminent)²⁷⁴⁴ and AAS (Occurrence);²⁷⁴⁵ limitation to No. (i) excludes STS, which is Article 76, ¶(1), No (ii)], or ¶(1), Article 78²⁷⁴⁶ [PSO by Order], and the Prime Minister deems it necessary, he/she may place all or part of the Japan Coast Guard under the control of the Minister of Defense [distinct from under the control of the JSDF].

(2) When the Prime Minister has placed all or part of the Japan Coast Guard under the control of the Minister of Defense pursuant to the provisions of the preceding paragraph, he shall have the Minister of Defense command it as provided for by Cabinet Order.²⁷⁴⁷

(3) When the Prime Minister deems it no longer necessary to exercise control pursuant to the provisions of ¶(1), he/she must promptly remove such control.

i.C.23. Article 81 – Public Security Operation (PSO) by Request

Authorizes PSO by Request.²⁷⁴⁸

(1) When a prefectural governor deems it unavoidable in the event of a serious situation in terms of maintaining public order, he/she may, in consultation with the Prefectural Public Safety Commission of the prefecture, request the Prime Minister to deploy a unit, etc., into operation.

(2) When a request as provided for in the preceding paragraph is made and the Prime Minister deems the situation unavoidable, he/she may order the deployment of a unit, etc., into operation.

(3) When a prefectural governor deems the situation has been resolved and there is no longer any need to deploy forces, etc., he/she must request the Prime Minister to withdraw forces, etc. without delay.

(4) When a request as provided for in the preceding paragraph is made or when the Prime Minister deems there is no longer any need to deploy forces, etc., he/she must immediately order the withdrawal of forces, etc.

(5) When a prefectural governor has made a request as provided for in ¶(1), he/she must report to that effect to the prefectural assembly as soon as the situation has been resolved.

(6) The procedures for making requests as provided for in ¶¶(1) and (3) shall be determined by Cabinet Order.²⁷⁴⁹

i.C.24. Article 81-2 – Guarding Operation at Self-Defense Force Facilities, etc.

Provides authority to conduct Guard & Protect Operations²⁷⁵⁰ for SDF and US Facilities and Areas.²⁷⁵¹

(1) When the Prime Minister determines that there is a risk of acts being carried out in any of the following facilities or Facilities and Areas within Japan that will result in the killing or injuring of many people or the destruction of important facilities or other objects, based on political or other principles, with the intent of coercing the state or other people or causing anxiety or fear in society, and that there is a special need to

²⁷³⁵ 4.7. “Armed Attack Situations, etc.”, p. 101.

²⁷³⁶ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

²⁷³⁷ 4.10. Armed Attack Situation (AAS), p. 110.

²⁷³⁸ 4.9. Survival-Threatening Situation (STS), p. 104.

²⁷³⁹ 3.2.3.1.1. PSO By Order, p. 62.

²⁷⁴⁰ 7.4.3. MoD Control over the JCG, p. 156.

²⁷⁴¹ 3.2.2.3. Defense Mobilization, p. 57.

²⁷⁴² i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

²⁷⁴³ 3.2.2.1. Defense Operation (DO), p. 55.

²⁷⁴⁴ 4.10.1.1. AAS (Imminent), p. 111.

²⁷⁴⁵ 4.10.1.2. AAS (Occurrence), p. 111.

²⁷⁴⁶ i.C.19. Article 78 – Public Security Operation (PSO) by Order, p. 312.

²⁷⁴⁷ C.2.1.4.2. Cabinet Order, p. 226.

²⁷⁴⁸ 3.2.3.1.2. PSO By Request, p. 62.

²⁷⁴⁹ C.2.1.4.2. Cabinet Order, p. 226.

²⁷⁵⁰ 3.2.3.4. Guard & Protect Operations at SDF and US Facilities and Areas, p. 65.

²⁷⁵¹ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

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prevent such damage, s/he may order the deployment of units, etc. to guard the facility or Facilities and Areas in question.

(i) Facilities of the Self-Defense Forces

(ii) Facilities and Areas under the ¶(1), Article 2²⁷⁵² [e.g., SOFA II 1(a)²⁷⁵³ “Exclusive Use” US facilities, such as permanent US bases] of the Agreement Under Article VI of the Treaty of the Mutual Cooperation and Security between Japan and the United States of America [SOFA²⁷⁵⁴] (limited to those designated by the Joint Committee under Article 25²⁷⁵⁵ [Establishment of the JC] of the Agreement [SOFA] as being guarded by Self-Defense Force units, etc.)

(2) When ordering the deployment of units, etc. pursuant to the provisions of the preceding paragraph, the Prime Minister must designate the facility or Facilities and Areas to be guarded, as well as the period, after first hearing the opinions of the governors of the prefectures concerned and having the Minister of Defense and the National Public Safety Commission²⁷⁵⁶ hold consultations.

(3) If the Prime Minister finds that the deployment of units, etc. is no longer necessary, even during the period specified in the preceding paragraph, he/she must promptly order the withdrawal of units, etc.

i.C.25. Article 82 – Maritime Security Operations (MSO)

Provides authority to conduct MSO.²⁷⁵⁷

(1) When there is a special need for the protection of human life or property at sea or for the maintenance of public order, the Minister of Defense may, with the approval of the Prime Minister, order units of the Self-Defense Forces to take necessary actions at sea.

i.C.26. Article 82-2 – Counter-Piracy Operations

Provides authority to conduct Counter-Piracy Operations.²⁷⁵⁸

(1) The Minister of Defense may have units of the Self-Defense Forces carry out anti-piracy operations pursuant to the Counter-Piracy Act (Law No. 55 of 2009, as amended).²⁷⁵⁹

i.C.27. Article 82-3 – Destruction Measures Against Ballistic Missiles, etc.

Provides the JSDF authority to conduct BMD Operations.²⁷⁶⁰

(1) When the Minister of Defense deems it necessary to prevent damage to human life or property in Japan's territory [i.e., within Japanese TTS²⁷⁶¹ and TTA²⁷⁶²] due to the risk of a ballistic missile, etc. (meaning a ballistic missile or other object other than an aircraft that is deemed to cause serious damage to human life or property if it falls; the same applies hereinafter) flying into Japan [i.e., within Japanese TTA], and [the Minister of Defense] obtaining the approval of the Prime Minister, s/he [Minister of Defense] may order Self-Defense Forces units to take measures to destroy ballistic missiles, etc. currently flying toward Japan in the airspace above Japan's territory [i.e., within Japanese TTA] or the High Seas²⁷⁶³ (including the Exclusive Economic Zone²⁷⁶⁴ as provided for in the United Nations Convention on the Law of the Sea).

(2) When the Minister of Defense deems that the risk prescribed in the preceding paragraph has been eliminated, he must promptly cancel the order in the same paragraph with the approval of the Prime Minister.

(3) In addition to the cases referred to in ¶(1), in the case of an emergency in which a ballistic missile or other similar object is launched toward Japan without the time to obtain the Prime Minister's approval under the

²⁷⁵² 2.1.4.1. Article 2 – Use of Facilities and Areas, p. 30.

²⁷⁵³ 2.1.4.1. Article 2 – Use of Facilities and Areas, p. 30.

²⁷⁵⁴ 2.1.4. Status of Forces Agreement (SOFA), p. 29.

²⁷⁵⁵ 6.2.1.3. Joint Committee (JC), p. 143.

²⁷⁵⁶ C.2.3.1. National Public Safety Commission, p. 227.

²⁷⁵⁷ 3.2.3.2. Maritime Security Operation (MSO), p. 63.

²⁷⁵⁸ 3.2.3.7. Counter-Piracy Operations, p. 68.

²⁷⁵⁹ i.N. Counter-Piracy Act (Law No. 55 of 2009, as amended), p. 378.

²⁷⁶⁰ 3.2.3.6. Ballistic Missile Defense (BMD) Operations, p. 67.

²⁷⁶¹ A.4.4. Territorial Sea (TTS), p. 196.

²⁷⁶² A.4.5. National Airspace (TTA), p. 197.

²⁷⁶³ A.4.10.1. GoJ Definition of High Sea(s), p. 199.

²⁷⁶⁴ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

same paragraph due to a sudden change in the situation, the Minister of Defense may issue the order referred to in ¶(1) to Self-Defense Force units in advance in accordance with the emergency response guidelines prepared by the Minister of Defense and approved by the Prime Minister, in order to prevent damage to human life or property within Japan's territory. In this case, the Minister of Defense shall determine the period within which the measures related to the order are to be taken.

(4) The necessary matters concerning the preparation of the emergency response guidelines and the Prime Minister's approval under the preceding paragraph shall be determined by Cabinet Order.

Necessary measures concerning the establishment of the emergency guidelines and the approval of it by the Prime Minister as found in the previous paragraph will be provided by Cabinet Order.²⁷⁶⁵

(5) When the measures under the provisions of ¶¶(1) and (3) have been taken, the Prime Minister shall promptly report the results to the Diet.

i.C.28. Article 83 – Disaster Relief Operations (DRO)

Authorizes DRO.²⁷⁶⁶

[¶¶(1) through (4) omitted]

(5) The provisions of ¶¶(1) through (3) shall not apply to Armed Attack Disasters²⁷⁶⁷ as provided for in ¶(4), Article 2²⁷⁶⁸ [Definitions] of the Civil Protection Act (Act No. 112 of 2004, as amended), and disasters in emergency response situations as provided for in ¶(1), Article 14²⁷⁶⁹ [Acting by Prefectural Governors] of the same law mutated in Article 183 [Mutatis Mutandis²⁷⁷⁰ provisions] in the same law.

i.C.29. Article 84 – Measures Against Violations of Territorial Airspace (TTA)

Authorizes Counter-Airspace Incursion Measures.²⁷⁷¹

(1) When a foreign aircraft invades the airspace above our country [TTA²⁷⁷²] in violation of International Laws²⁷⁷³ or the Civil Aeronautics Act (Act No. 231 of 1950, as amended), or other laws and regulations, the Minister of Defense may order Self-Defense Forces units to take the necessary measures to have the aircraft land or withdraw from the airspace above our country.

i.C.30. Article 84-2 – Mine Disposal

Article 84-2 permits the JMSDF to conduct mine-clearing operations.²⁷⁷⁴ This authority is specific to the JMSDF and is not geographically bound.

When hostilities are underway, minesweeping may be considered Use of Force.²⁷⁷⁵ During peacetime or when a ceasefire is in effect, minesweeping operations are not considered Use of Force.²⁷⁷⁶

(1) Under the orders of the Minister of Defense, the Maritime Self-Defense Forces shall remove and dispose of mines and other explosive hazards at sea.

i.C.31. Article 84-3 – Measures to Rescue Japanese Nationals Overseas (RJNO)

Authorizes the JSDF to protect and rescue Japanese nationals abroad and transport them to safety (TJNO²⁷⁷⁷ is an independent authority from RJNO;²⁷⁷⁸ RJNO includes the authority to transport).

²⁷⁶⁵ C.2.1.4.2. Cabinet Order, p. 226.

²⁷⁶⁶ 3.2.4.1. Disaster Relief Operations (DRO), p. 70.

²⁷⁶⁷ 4.11. Definition of "Armed Attack", p. 114.

²⁷⁶⁸ i.G.1. Article 2 – Definitions, p. 357.

²⁷⁶⁹ i.G.3. Article 14 – Acting by Prefectural Governors, p. 358.

²⁷⁷⁰ Making necessary changes to account for differing situations, but the basic point remains the same.

²⁷⁷¹ 3.2.3.3. Counter Airspace Incursion Measures, p. 65.

²⁷⁷² A.4.5. National Airspace (TTA), p. 197.

²⁷⁷³ 2.1.2.4.1. International Law, p. 23.

²⁷⁷⁴ 3.2.3.8. Minesweeping, p. 69.

²⁷⁷⁵ 3.3.3. Use of Force, p. 79.

²⁷⁷⁶ 2.1.6.1.3.7. Case 14: Participation in International Minesweeping Operations, p. 38.

²⁷⁷⁷ 3.2.5.2.2. Transportation of Japanese Nationals Overseas (TJNO), p. 73.

²⁷⁷⁸ 3.2.5.2.1. Rescue of Japanese Nationals Overseas (RJNO), p. 72.

(1) When the Minister of Defense is requested by the Minister of Foreign Affairs to provide guarding, rescue, or other measures (including transportation; hereinafter referred to as "protective measures") for Japanese nationals whose lives or bodies are at risk in the event of an emergency in a foreign country, the Minister of Defense may, in consultation with the Minister of Foreign Affairs, have units, etc., carry out the protective measures if it is deemed that any of the following items apply:

(i) In the place [*i.e., the location of RJNO*] in the territory of the foreign country where the protective measures are to be carried out, the competent authorities of the foreign country are currently maintaining public safety and order, and it is deemed that no combat actions (meaning actions that kill or injure people or destroy property as part of an International Armed Conflict [IAC²⁷⁷⁹]; the same applies in ¶(1), Article 95-2²⁷⁸⁰ [Use of Weapons to Protect Weapons]) are taking place. [*Ensures the JSDF will not be required to suppress armed forces to protect Japanese nationals.*]

(ii) The consent of the foreign country (or, in the case where a foreign country has an organ exercising government in accordance with a resolution of the General Assembly or Security Council of the United Nations, that organ) has been obtained for the Self-Defense Forces to implement the protective measures (including the Use of Weapons²⁷⁸¹). [*Ensures the JSDF does not violate the sovereignty of a nation by entering it without consent—which can be implicit.*]

(iii) It is expected that coordination and cooperation will be ensured between the units, etc. and the competent authorities of the foreign country as provided for in No. (i) in order to implement the protective measures as smoothly and safely as possible in response to anticipated dangers. [*Ensures the JSDF are able to implement protective measures smoothly and without excessive necessity to overcome resistance.*]

(2) The Prime Minister shall grant the approval under the preceding paragraph only if he/she finds that the case falls under all of the items of the same paragraph, taking into account the results of the consultation between the Minister of Foreign Affairs and the Minister of Defense pursuant to the provisions of the preceding paragraph.

(3) When implementing protective measures pursuant to the provisions of ¶(1), the Minister of Defense may have the units, etc. take measures to protect the lives or bodies of persons who have been requested by the Minister of Foreign Affairs to be protected as foreigners (referred to as "other persons subject to protection" in ¶(1), Article 94-5²⁷⁸² [Authority when Protecting Japanese Nationals and Others Aboard]) who are at risk of harm to their lives or bodies in the event of an emergency as provided for in the same paragraph. [*i.e., MOFA may designate non-Japanese nationals as persons to be protected and rescued during RJNO.*]

i.C.32. Article 84-4 – Transportation of Japanese Nationals Overseas (TJNO)

Authorizes TJNO.²⁷⁸³

(1) When the Minister of Foreign Affairs requests the transport of a Japanese national whose life or body requires protection in the event of a disaster, disturbance, or other emergency overseas (including the spouse or child of a Japanese national, an honorary consul general or honorary consul as provided for in Article 24 of the Foreign Service Officers Act (Act No. 41 of 1952), or a person employed pursuant to the provisions of ¶(2), Article 25 of the same Act, or a person employed overseas to work for an independent administrative institution under a contract with said institution and who does not have Japanese nationality; the same applies hereinafter in this paragraph and Article 94-6²⁷⁸⁴ [Authority for TJNO²⁷⁸⁵]), the Minister of Defense may, after consulting with the Minister of Foreign Affairs regarding anticipated dangers in the transport and measures to avoid them, transport the Japanese national if he or she deems it possible to implement such measures. In this case, the Minister of Defense may allow on board a person who has been requested by the Minister of Foreign Affairs to accompany the Self-Defense Forces personnel engaged in the duties of the transport in order to take liaison and coordination with the foreign country and other measures required for the implementation of the transport, or a family member or other related person of the Japanese national or

²⁷⁷⁹ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

²⁷⁸⁰ i.C.57. Article 95-2 – Use of Weapons to Protect the Weapons, etc. of Units of the United States and Other Militaries, p. 329.

²⁷⁸¹ 3.3.1. Use of Weapons, p. 74.

²⁷⁸² i.C.51. Article 94-5 – Authority when Protecting Japanese Nationals and Others Abroad, p. 326.

²⁷⁸³ 3.2.5.2.2 Transportation of Japanese Nationals Overseas (TJNO), p. 73.

²⁷⁸⁴ i.C.52. Article 94-6 – Authority for Transportation of Japanese Nationals and Others Abroad, p. 327.

²⁷⁸⁵ 3.2.5.2.2. Transportation of Japanese Nationals Overseas (TJNO), p. 73.

foreign national who is deemed appropriate to meet with or accompany the Japanese national or foreign national at an early stage.

(2) The transport referred to in the preceding paragraph may be carried out by the following aircraft or vessels.

(i) Aircraft used primarily transportation [i.e., non-combat aircraft].

(ii) Ships suitable for the transportation referred to in the preceding item [(i); i.e., non-combat transport ships].

(iii) Rotary-wing aircraft other than those listed in item (i) that are based on ships listed in the preceding item [(ii); non-combat transport ships] (limited to those used for transportation between said ships and land)

(3) In addition to the aircraft or ships listed in the preceding paragraph, the transportation referred to in ¶(1) may be carried out by vehicles suitable for said transportation (including those rented and used for said transportation; the same applies in Article 94-6 [Authority for TJNO]) when it is deemed particularly necessary.

i.C.33. Article 84-5 – Logistics Support Activities, etc. (Rear Area Support)

(1) The Minister of Defense or a person delegated by him may carry out the activities set forth in each of the following items as activities set forth in ¶(2), Article 3²⁷⁸⁶ [JSDF secondary missions not involving the threat of or Use of Force²⁷⁸⁷], pursuant to the provisions of the respective laws.

(i) Provision of goods as logistical support activities pursuant to IIS Act (Act No. 60 of 1999, as amended).²⁷⁸⁸

(ii) Provision of goods as logistical support activities or cooperative support activities pursuant to Ship Inspection Act (Act No. 145 of 2000, amended)²⁷⁸⁹ [during IIS].

(iii) Provision of goods to the armed forces of the United States, Australia, the United Kingdom, France, Canada, India, or Germany responding to large-scale natural disasters Act on Cooperation with United Nations Peacekeeping Operations and Other Operations (Act No. 79 of 1992, as amended).²⁷⁹⁰

(iv) Provision of goods as cooperative support activities pursuant to Law on Cooperative Support Activities for Foreign Armed Forces, etc. Carried Out by Japan in the Event of an International Peace Cooperation Situation (Law No. 77 of 2015).

(2) The Minister of Defense may, as the activities prescribed in ¶(2), Article 3 [JSDF secondary missions not involving the threat of or Use of Force], have the activities prescribed in each of the following items carried out pursuant to the provisions of the respective laws.

(i) Provision of services as logistical support activities by Ministry of Defense agencies or units, etc., and search and rescue activities [RSAR²⁷⁹¹] by units, etc. pursuant to IIS Act (Act No. 60 of 1999, as amended).

(ii) Provision of services as logistical support activities or cooperative support activities associated with ship inspection activities by units, etc. pursuant to Ship Inspection Act (Act No. 145 of 2000, amended) [during IIS].

(iii) International emergency relief activities by units, etc. or [SDF] members, and the transportation of personnel engaged in such activities or materials necessary for such activities pursuant to Law on the Dispatch of Japan Disaster Relief Teams (Act No. 93 of 1987).

(iv) International peace cooperation activities by units, etc., transportation based on commission, and provision of services to the armed forces of the United States, Australia, the United Kingdom, France, Canada,

²⁷⁸⁶ i.C.2. Article 3 – Mission of the Self-Defense Forces, p. 304.

²⁷⁸⁷ 3.3.3. Use of Force, p. 79.

²⁷⁸⁸ i.EIIS Act (Act No. 60 of 1999, as amended)³⁴⁴

²⁷⁸⁹ i.LShip Inspection Act (Act No. 145 of 2000, amended)³⁶⁷

²⁷⁹⁰ i.OAct on Cooperation with United Nations Peacekeeping Operations and Other

Operations (Act No. 79 of 1992, as amended)³⁷⁹

²⁷⁹¹ 3.2.2.6.1. “Rear-Area” Search and Rescue (RSAR), p. 58.

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India, or Germany responding to large-scale disasters pursuant to Act on Cooperation with United Nations Peacekeeping Operations and Other Operations (Act No. 79 of 1992, as amended).

(v) Provision of services as cooperative support activities by units, etc., and search and rescue [RSAR] activities by units, etc. pursuant to Law on Cooperative Support Activities for Foreign Armed Forces, etc. Carried Out by Japan in the Event of an International Peace Cooperation Situation (Law No. 77 of 2015).

i.C.34. Article 85 – Mutual Liaison between the Minister of Defense and the National Public Safety Commission

(1) When issuing a mobilization order pursuant to the provisions of ¶(1), Article 78²⁷⁹² [PSO by Order], or ¶(2), Article 81²⁷⁹³ [PSO by Request], the Prime Minister shall ensure that the Minister of Defense and the National Public Safety Commission²⁷⁹⁴ maintain close mutual liaison.

i.C.35. Article 86 – Liaison and Cooperation with Related Organizations

(1) When a unit, etc. operates pursuant to the provisions of ¶(1), Article 76²⁷⁹⁵ [DO²⁷⁹⁶ for STS,²⁷⁹⁷ AAS (Imminent),²⁷⁹⁸ or AAS (Occurrence)²⁷⁹⁹], Article 77-2²⁸⁰⁰ [Establishment of Defense Facilities], Article 77-4²⁸⁰¹ [Civil Protection Operations²⁸⁰²], ¶(1), Article 78²⁸⁰³ [PSO by Order²⁸⁰⁴], ¶(2), Article 81²⁸⁰⁵ [PSO by Request²⁸⁰⁶], ¶(1), Article 81-2²⁸⁰⁷ [when guarding JSDF or US facilities], ¶¶(1) and (3), Article 82-3²⁸⁰⁸ [BMD Operations], ¶(2), Article 83²⁸⁰⁹ [Disaster Relief Operations²⁸¹⁰], Article 83-2 [Earthquake Disaster Prevention Operations²⁸¹¹], or Article 83-3 [Nuclear Disaster Relief Operations²⁸¹²] the unit, etc. and the prefectural governor, mayor, police and fire department, and other national or local government organizations related to the unit, etc. shall maintain close mutual liaison and cooperation.

i.C.36. Article 87 – Possession of Weapons

(1) The Self-Defense Forces may possess weapons necessary for the performance of their missions.

i.C.37. Article 88 – Use of Force under DO (STS, AAS [Occurrence])

Article 88 authorizes “necessary force” (i.e., Use of Force²⁸¹³) to defend Japan during a DO²⁸¹⁴ during AAS²⁸¹⁵ or STS²⁸¹⁶ (including Use of Force for CSD²⁸¹⁷), within the bounds of both International Law²⁸¹⁸ or international convention as well as the “minimum necessary” provisions of the Japanese Constitution’s²⁸¹⁹ Article 9²⁸²⁰ and the “Three New Conditions.”²⁸²¹

(1) The Self-Defense Forces ordered to deploy pursuant to the provisions of ¶(1), Article 76²⁸²² [DO²⁸²³ for STS or AAS (Occurrence)²⁸²⁴], may use force necessary to defend our country. [see §§ i.C.37.A. Article 88 Use of Force During AAS (Imminent) [p. 319] and i.C.37.B. Article 88 Use of Force during STS [p. 319]]

²⁷⁹² i.C.19. Article 78 – Public Security Operation (PSO) by Order, p. 312.

²⁷⁹³ i.C.23. Article 81 – Public Security Operation (PSO) by Request, p. 313.

²⁷⁹⁴ C.2.3.1. National Public Safety Commission, p. 227.

²⁷⁹⁵ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

²⁷⁹⁶ 3.2.2.1. Defense Operation (DO), p. 55.

²⁷⁹⁷ 4.9. Survival-Threatening Situation (STS), p. 104.

²⁷⁹⁸ 4.10.1.1. AAS (Imminent), p. 111.

²⁷⁹⁹ 4.10.1.2. AAS (Occurrence), p. 111.

²⁸⁰⁰ i.C.16. Article 77-2 – Measures to Establish Defense Facilities, p. 311.

²⁸⁰¹ i.C.18. Article 77-4 – Civil Protection Operations, p. 311.

²⁸⁰² 3.2.5.1. Civil Protection Operations (CPO), p. 70.

²⁸⁰³ i.C.19. Article 78 – Public Security Operation (PSO) by Order, p. 312.

²⁸⁰⁴ 3.2.3.1.1. PSO By Order, p. 62.

²⁸⁰⁵ i.C.23. Article 81 – Public Security Operation (PSO) by Request, p. 313.

²⁸⁰⁶ 3.2.3.1.2. PSO By Request, p. 62.

²⁸⁰⁷ i.C.24. Article 81-2 – Guarding Operation at Self-Defense Force Facilities, etc., p. 313.

²⁸⁰⁸ i.C.27. Article 82-3 – Destruction Measures Against Ballistic Missiles, etc., p. 314.

²⁸⁰⁹ i.C.28. Article 83 – Disaster Relief Operations (DRO), p. 315.

²⁸¹⁰ 3.2.4.1. Disaster Relief Operations (DRO), p. 70.

²⁸¹¹ 3.2.4.2. Earthquake Disaster Prevention Operations, p. 70.

²⁸¹² 3.2.4.3. Nuclear Disaster Relief Operations, p. 70.

²⁸¹³ 3.3.3. Use of Force, p. 79.

²⁸¹⁴ 3.2.2.1. Defense Operation (DO), p. 55.

²⁸¹⁵ 4.10. Armed Attack Situation (AAS), p. 110.

²⁸¹⁶ 4.9. Survival-Threatening Situation (STS), p. 104.

²⁸¹⁷ 3.4.2. Collective Self-Defense (CSD), p. 84.

²⁸¹⁸ 2.1.2.4.1. International Law, p. 23.

²⁸¹⁹ 2.1.2. Japanese Constitution (Kenpō), p. 13.

²⁸²⁰ 2.1.2.1. Article 9 (War Renunciation), p. 13; i.B.2. Article 9 – Renunciation of War, p. 300.

²⁸²¹ 2.3.1. “Three New Conditions” for the Use of Force, p. 41.

²⁸²² i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

²⁸²³ 3.2.2.1. Defense Operation (DO), p. 55.

²⁸²⁴ 4.10.1.2. AAS (Occurrence), p. 111.

(2) When using force as provided for in the preceding paragraph, international laws and customs must be observed when appropriate, and the Use of Force must not exceed the limits deemed reasonably necessary depending on the circumstances.

i.C.37.A. Article 88 Use of Force During AAS (Imminent)

Article 88 authorizes Use of Force²⁸²⁵ for SDF units ordered into operation under ¶(1), Article 76.²⁸²⁶

¶(1), Article 76 authorizes DO²⁸²⁷ to respond to STS²⁸²⁸ or AAS,²⁸²⁹ including AAS (Occurrence)²⁸³⁰ and AAS (Imminent).²⁸³¹

However, during AAS (Imminent), while Use of Force is *authorized*, the necessary conditions (the “Three New Conditions”²⁸³²) have not been met to Use of Force to be *exercised*.

While formal transition from AAS (Imminent) to AAS (Occurrence) may require the Stipulation²⁸³³ process (or aspects of it, including Cabinet-level action or decisions), the “Three New Conditions” do not necessarily specify this as a requirement. Thus, Article 88 authorization for the Use of Force during AAS (Imminent) enables SDF members or unit commanders the ability to *exercise* Use of Force when attacked, without any requirement to wait for Stipulation of AAS (Occurrence) or any other formal recognition of transition.

Such procedures may be specified in OCC.²⁸³⁴

Also see § 4.11.2. Timing in Armed Attacks (p. 116).

i.C.37.B. Article 88 Use of Force during STS

Some commentators⁴²⁷ highlight that the 2015 Legislation for Peace and Security²⁸³⁵ did not result in a change to Article 88, which specifies “may use force necessary to defend our country,” and that, as a result, CSD²⁸³⁶ under STS²⁸³⁷ may remain geographically bound (for example, within Japan’s EEZ²⁸³⁸ or ADIZ²⁸³⁹) or that Article 88 Use of Force²⁸⁴⁰ may not apply under STS. The legal reasoning of this argument is questionable and is not supported by GoJ’s statements and official documents describing the Use of Force under STS or GoJ’s explicit statements that STS is not geographically-bound.

i.C.38. Article 89 – Powers while in Public Security Operation (PSO)

This article applies the laws governing and authorities of police officials onto JSDF units operating under PSO²⁸⁴¹ “as if” they were law enforcement bodies.

This article should be read in conjunction with SDF Law Articles 90²⁸⁴² Article 91.²⁸⁴³

(1) The provisions of the Police Duties Execution Act (Law No. 136 of 1948, as amended)²⁸⁴⁴ shall apply *mutatis mutandis*²⁸⁴⁵ to the execution of duties by SDF personnel who are ordered to deploy pursuant to the provisions of ¶(1), Article 78²⁸⁴⁶ [PSO by Order²⁸⁴⁷] or ¶(2), Article 81²⁸⁴⁸ [PSO by Request²⁸⁴⁹]. In this case, “Public Safety Commission” in ¶(2), Article 4²⁸⁵⁰ [Measures for Refuge], of the same law shall be read as “person designated by the Minister of Defense.”

²⁸²⁵ 3.3.3. Use of Force, p. 79.

²⁸²⁶ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

²⁸²⁷ 3.2.2.1. Defense Operation (DO), p. 55.

²⁸²⁸ 4.9. Survival-Threatening Situation (STS), p. 104.

²⁸²⁹ 4.10. Armed Attack Situation (AAS), p. 110.

²⁸³⁰ 4.10.1.2. AAS (Occurrence), p. 111.

²⁸³¹ 4.10.1.1. AAS (Imminent), p. 111.

²⁸³² 2.3.1. “Three New Conditions” for the Use of Force, p. 41.

²⁸³³ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

²⁸³⁴ 3.3.5. Operational Code of Conduct (OCC) – Japanese “ROE”, p. 82.

²⁸³⁵ 2.1.6. 2015 Legislation for Peace and Security, p. 35.

²⁸³⁶ 3.4.2. Collective Self-Defense (CSD), p. 84.

²⁸³⁷ 4.9. Survival-Threatening Situation (STS), p. 104.

²⁸³⁸ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

²⁸³⁹ A.4.8. Air Defense Identification Zone (ADIZ), p. 198.

²⁸⁴⁰ 3.3.3. Use of Force, p. 79.

²⁸⁴¹ 3.2.3.1. Public Security Operation (PSO), p. 62.

²⁸⁴² i.C.39. Article 90 – Use of Weapons while in Public Security Operation (PSO), p. 320.

²⁸⁴³ i.C.40. Article 91 – Use of Weapons while in Public Security Operation (PSO), p. 320.

²⁸⁴⁴ i.I. Police Duties Execution Act (Law No. 136 of 1948, as amended), p. 360.

²⁸⁴⁵ Making necessary changes to account for differing situations, but the basic point remains the same.

²⁸⁴⁶ i.C.19. Article 78 – Public Security Operation (PSO) by Order, p. 312.

²⁸⁴⁷ 3.2.3.1.1. PSO By Order, p. 62.

²⁸⁴⁸ i.C.23. Article 81 – Public Security Operation (PSO) by Request, p. 313.

²⁸⁴⁹ 3.2.3.1.2. PSO By Request, p. 62.

²⁸⁵⁰ i.I.2. Article 4 – Measures for Refuge, p. 360.

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(2) In order for SDF personnel to use weapons [i.e., *Use of Weapons*²⁸⁵¹] pursuant to the provisions of Article 7²⁸⁵² of the Police Duties Execution Act (Law No. 136 of 1948, as amended), which apply mutatis mutandis in the preceding paragraph, they must do so under the orders of the unit commander, except in cases falling under Article 36²⁸⁵³ [*Self-Defense*] or 37²⁸⁵⁴ [*Necessity*] of the Penal Code (Law No. 45 of 1907, as amended).

i.C.39. Article 90 – Use of Weapons while in Public Security Operation (PSO)

Provides JSDF authority for Use of Weapons²⁸⁵⁵ during PSO operations.²⁸⁵⁶

This article should be read in conjunction with SDF Law Articles 89²⁸⁵⁷ and 91.²⁸⁵⁸

(1) Self-Defense Force personnel who are ordered to deploy pursuant to the provisions of ¶(1), Article 78²⁸⁵⁹ [*PSO by Order*] or ¶(2), Article 81²⁸⁶⁰ [*PSO by Request*] may use weapons [i.e., *Use of Weapons*²⁸⁶¹] pursuant to the provisions of the previous article [*Article 89*²⁸⁶²], and may use weapons to the extent that is deemed reasonably necessary depending on the situation, when there is sufficient reason to deem that any of the following applies:

(i) When there is a clear danger that a person, facility or property being guarded in the course of duty is being assaulted or violated, or is about to be assaulted, and there is no other appropriate means to eliminate this other than by Use of Weapons.

(ii) When there is a clear danger that a large group of people will assemble and commit assault or intimidation, or are about to commit assault or intimidation, and there is no other appropriate means to suppress or prevent this other than by Use of Weapons.

(iii) In addition to the cases listed in the preceding paragraph, when there is a high probability that a person who possesses, or who is reasonably suspected to possess, a rifle, machine gun (including a handgun), artillery, chemical weapon, biological weapon, or other weapon with similar lethality will commit assault or intimidation, and there is no other appropriate means to suppress or prevent this other than by Use of Weapons.

(2) The provisions of the ¶(2) of the preceding Article [*granting JSDF Use of Weapons “in conformance with the order of the commanding official of the unit concerned”*] shall apply mutatis mutandis²⁸⁶³ to the cases in the preceding paragraph.

i.C.40. Article 91 – Use of Weapons while in Public Security Operation (PSO)

This article should be read in conjunction with SDF Law Articles 89²⁸⁶⁴ and 90.²⁸⁶⁵

(1) Article 16²⁸⁶⁶ [*Request of Cooperation for Citizen and Ship*], ¶(1), Article 17²⁸⁶⁷ [*Ship Boarding and Inspection*], and Article 18²⁸⁶⁸ [*Control of a Ship*] of the Coast Guard Act (Law No. 28 of 1948, as amended), shall apply mutatis mutandis²⁸⁶⁹ to the performance of duties of Maritime Self-Defense Force personnel of the rank of petty officer 3rd class or higher who are ordered to deploy pursuant to the provisions of ¶(1), Article 78²⁸⁷⁰ [*PSO by Order*²⁸⁷¹] or ¶(2), Article 81²⁸⁷² [*PSO by Request*²⁸⁷³]

²⁸⁵¹ 3.3.1. Use of Weapons, p. 74.

²⁸⁵² i.I.5. Article 7 – Use of Weapons, p. 361.

²⁸⁵³ i.H.1. Article 36 – Self-Defense, p. 360.

²⁸⁵⁴ i.H.2. Article 37 – Necessity, p. 360.

²⁸⁵⁵ 3.3.1. Use of Weapons, p. 74.

²⁸⁵⁶ 3.2.3.1. Public Security Operation (PSO), p. 62.

²⁸⁵⁷ i.C.38. Article 89 – Powers while in Public Security Operation (PSO), p. 319.

²⁸⁵⁸ i.C.40. Article 91 – Use of Weapons while in Public Security Operation (PSO), p. 320.

²⁸⁵⁹ i.C.19. Article 78 – Public Security Operation (PSO) by Order, p. 312.

²⁸⁶⁰ i.C.23. Article 81 – Public Security Operation (PSO) by Request, p. 313.

²⁸⁶¹ 3.3.1. Use of Weapons, p. 74.

²⁸⁶² i.C.38. Article 89 – Powers while in Public Security Operation (PSO), p. 319.

²⁸⁶³ Making necessary changes to account for differing situations, but the basic point remains the same.

²⁸⁶⁴ i.C.38. Article 89 – Powers while in Public Security Operation (PSO), p. 319.

²⁸⁶⁵ i.C.39. Article 90 – Use of Weapons while in Public Security Operation (PSO), p. 320.

²⁸⁶⁶ i.K.4. Article 16 – Request of Cooperation for Citizen and Ship, p. 365.

²⁸⁶⁷ i.K.5. Article 17 – Query, Order to Submit Documents, Order to Stop Ship, and Ship Visit, p. 365.

²⁸⁶⁸ i.K.6. Article 18 – Measures of Displacement, Expulsion, Takedown, and Stopping a Vessel, p. 366.

²⁸⁶⁹ Making necessary changes to account for differing situations, but the basic point remains the same.

²⁸⁷⁰ i.C.19. Article 78 – Public Security Operation (PSO) by Order, p. 312.

²⁸⁷¹ 3.2.3.1.1. PSO By Order, p. 62.

²⁸⁷² i.C.23. Article 81 – Public Security Operation (PSO) by Request, p. 313.

²⁸⁷³ 3.2.3.1.2. PSO By Request, p. 62.

(2) The provisions of ¶(2), Article 20²⁸⁷⁴ [Use of Weapons] of the Coast Guard Act (Law No. 28 of 1948, as amended) shall apply mutatis mutandis to the performance of duties of Maritime Self-Defense Force personnel who are ordered to deploy pursuant to the provisions of ¶(1), Article 78 [PSO by Order] or ¶(2), Article 81 [PSO by Request]. In this case, in ¶(2), Article 20 of the same Act, "Police Duties Execution Act (Law No. 136 of 1948, as amended) Article 7²⁸⁷⁵ as applied mutatis mutandis pursuant to the preceding paragraph" shall be read as "Article 7 and ¶(1) of the preceding Article of the Police Duties Execution Act (Law No. 136 of 1948, as amended) as applied mutatis mutandis pursuant to ¶(1), Article 89", "¶(1), Article 17" shall be read as "¶(1), Article 17, paragraph 1 of the Coast Guard Act (Law No. 28 of 1948, as amended) as applied mutatis mutandis pursuant to the preceding paragraph", "the duties of a coast guard officer or assistant coast guard officer" shall be read as "the duties of a self-defense force official who is ordered to deploy pursuant to the provisions of ¶(1), Article 78 [PSO by Order] or ¶(2), Article 81 [PSO by Request]", and "the Commandant of the Japan Coast Guard" shall be read as "the Minister of Defense".

(3) The provisions of ¶(2), Article 89 shall apply mutatis mutandis to cases where a self-defense force official of the Maritime Self-Defense Force uses a weapon pursuant to the provisions of ¶(2), Article 20²⁸⁷⁶ of the Coast Guard Act (Law No. 28 of 1948, as amended) as applied mutatis mutandis pursuant to the preceding paragraph.

i.C.41. Article 91-2 – Authority During Guarding Operations

Authorizes police authorities (¶[1]) and Use of Weapons²⁸⁷⁷ (¶¶[2]-[5]; including Types 1²⁸⁷⁸ and 2²⁸⁷⁹) during Guard & Protect Operations.²⁸⁸⁰

(1) The provisions of Articles 2²⁸⁸¹ [Questioning] 4²⁸⁸² [Measures for Refuge] and ¶¶(1), (3), and (4) of Article 6²⁸⁸³ [Entry] of the Police Duties Execution Act (Law No. 136 of 1948, as amended), shall apply mutatis mutandis²⁸⁸⁴ to the performance of duties by Self-Defense Force members of units, etc., ordered to deploy pursuant to the provisions of ¶(1), Article 81-2²⁸⁸⁵ [when guarding JSDF or US facilities], only when no police officers are present at the scene. In this case, "Public Safety Commission" in ¶(2), Article 4²⁸⁸⁶ [Measures for Refuge] of the same law shall be read as "person designated by the Minister of Defense."

(2) The provisions of Articles 5²⁸⁸⁷ [Prevention and Suppression of Crime] and 7²⁸⁸⁸ [Use of Weapons] of the Police Duties Execution Act (Law No. 136 of 1948, as amended) shall apply mutatis mutandis to the performance of duties by Self-Defense Force members of units, etc., ordered to deploy pursuant to the provisions of ¶(1), Article 81-2 [when guarding JSDF or US facilities].

(3) In addition to the cases where weapons are used pursuant to the provisions of Article 7 [Use of Weapons] of the Police Duties Execution Act (Law No. 136 of 1948, as amended) as applied mutatis mutandis in the preceding paragraph, Self-Defense Forces personnel of a unit, etc. who have been ordered to deploy pursuant to the provisions of ¶(1), Article 81-2 [when guarding JSDF or US facilities] may use weapons to the extent that is deemed reasonably necessary in accordance with the circumstances when there is a clear danger that the facility which they are guarding in the course of their duties will be subjected to an infringement that may result in large-scale destruction and there is sufficient reason to believe that there is no appropriate means of eliminating this other than using weapons [i.e., Use of Weapons].

(4) The authority pursuant to the provisions of the Police Duties Execution Act (Law No. 136 of 1948, as amended) as applied mutatis mutandis in ¶¶(1) and (2) and the authority in the preceding paragraph may be exercised outside the facility or Facilities and Areas²⁸⁸⁹ designated pursuant to the provisions of ¶(2), Article 81-2 [when guarding JSDF or US facilities], to the extent necessary, when there is an unavoidable need for the guarding of such facilities or Facilities and Areas.

²⁸⁷⁴ i.K.7. Article 20 – Use of Weapons, p. 366.

²⁸⁷⁵ i.L.5. Article 7 – Use of Weapons, p. 361.

²⁸⁷⁶ i.K.7. Article 20 – Use of Weapons, p. 366.

²⁸⁷⁷ 3.3.1. Use of Weapons, p. 74.

²⁸⁷⁸ 3.3.1.2. Type 1: "Self-Preservation Type" Use of Weapons, p. 76.

²⁸⁷⁹ 3.3.1.3. Type 2: "Execution of Mission Type" Use of Weapons ("Minor Self-Defense"), p. 77.

²⁸⁸⁰ 3.2.3.4. Guard & Protect Operations at SDF and US Facilities and Areas, p. 65.

²⁸⁸¹ i.L.1. Article 2 – Questioning, p. 360.

²⁸⁸² i.L.2. Article 4 – Measures for Refuge, p. 360.

²⁸⁸³ i.L.4. Article 6 – Entry, p. 361.

²⁸⁸⁴ Making necessary changes to account for differing situations, but the basic point remains the same.

²⁸⁸⁵ i.C.24. Article 81-2 – Guarding Operation at Self-Defense Force Facilities, etc., p. 313.

²⁸⁸⁶ i.L.2. Article 4 – Measures for Refuge, p. 360.

²⁸⁸⁷ i.L.3. Article 5 – Prevention and Suppression of Crime, p. 361.

²⁸⁸⁸ i.L.5. Article 7 – Use of Weapons, p. 361.

²⁸⁸⁹ 2.1.4.1.1. Definition of "Facilities and Areas", p. 31.

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(5) The provisions of ¶(2), Article 89²⁸⁹⁰ [Use of Weapons under PSO “in conformance with the order of the commanding official of the unit concerned”] shall apply mutatis mutandis to cases where Self-Defense Forces personnel use weapons pursuant to the provisions of ¶(3), Article 7²⁸⁹¹ [Use of Weapons], of the Police Duties Execution Act (Law No. 136 of 1948, as amended), as applied mutatis mutandis in ¶(2).

i.C.42. Article 92 – Authority for Maintenance of Public Order During DO

Authorizes JSDF units to take action to maintain public order, including the authority for the Use of Weapons²⁸⁹² and Use of Force,²⁸⁹³ during a DO.²⁸⁹⁴

(1) The Self-Defense Forces ordered to deploy pursuant to the provisions of ¶(1), Article 76²⁸⁹⁵ (limited to the part relating to item (i) [AAS (Imminent)²⁸⁹⁶ and AAS (Occurrence),²⁸⁹⁷ limitation to item (i) excludes STS,²⁸⁹⁸ which is Article 76, ¶(1), item (ii)]; the same applies hereinafter in this Article) may, in addition to using force [i.e., Use of Force] pursuant to the provisions of Article 88²⁸⁹⁹ [Use of Force under a DO], take action to maintain public order as necessary.

(2) The provisions of the Police Duties Execution Act (Law No. 136 of 1948, as amended) and ¶(1), Article 90²⁹⁰⁰ [Use of Weapons during PSO] shall apply mutatis mutandis²⁹⁰¹ to the performance of duties for the maintenance of public order by Self-Defense Force personnel who are ordered to deploy pursuant to the provision of ¶(1), Article 76 [DO for STS, AAS (Imminent), and AAS (Occurrence)], pursuant to the provision of the preceding paragraph; the provisions of Article 16²⁹⁰² [Request of Cooperation for Citizen and Ship], ¶(1), Article 17²⁹⁰³ [Ship Boarding and Inspection], and Article 18²⁹⁰⁴ [Control of a Ship] of the Coast Guard Act (Law No. 28 of 1948, as amended) shall apply mutatis mutandis to the performance of duties for the maintenance of public order by Self-Defense Force personnel of the rank of petty officer 3rd class or higher who are ordered to deploy pursuant to the provision of ¶(1), Article 76 [STS, AAS (Imminent), and AAS (Occurrence)], pursuant to the provision of the preceding paragraph; and the provision of ¶(2), Article 20²⁹⁰⁵ [Use of Weapons] of the same Law shall apply mutatis mutandis to the performance of duties for the maintenance of public order by Self-Defense Force personnel of the Maritime Self-Defense Force who are ordered to deploy pursuant to the provision of ¶(1), Article 76 [STS, AAS (Imminent), and AAS (Occurrence)], pursuant to the provision of the preceding paragraph. In this case, "Public Safety Commission" in ¶(2), Article 4²⁹⁰⁶ [Measures for Refuge] of the Police Duties Execution Act (Law No. 136 of 1948, as amended) is read as "person designated by the Minister of Defense," "Article 7²⁹⁰⁷ [Use of Weapons] of the Police Duties Execution Act (Law No. 136 of 1948, as amended) as applied mutatis mutandis in the preceding paragraph" in ¶(2), Article 20 [Use of Weapons] of the Coast Guard Act (Law No. 28 of 1948, as amended) is read as "Article 7 [Use of Weapons] of the Police Duties Execution Act (Law No. 136 of 1948, as amended) and ¶(1), Article 90²⁹⁰⁸ [Use of Weapons while in PSO] of this Law as applied mutatis mutandis in this paragraph," "¶(1), Article 17," is read as "¶(1), Article 17, of the Coast Guard Act (Law No. 28 of 1948, as amended) as applied mutatis mutandis in this paragraph," "duties of a coast guard officer or assistant coast guard officer" is read as "duties performed by a member of the Self-Defense Forces who has been ordered to deploy pursuant to the provisions of ¶(1), Article 76²⁹⁰⁹ (limited to the part relating to item (i) [AAS (Imminent)²⁹¹⁰ and AAS (Occurrence),²⁹¹¹ limitation to item (i) excludes STS,²⁹¹² which is Article 76, ¶(1), item (ii)] for the maintenance of public order," and "Commandant of the Japan Coast Guard" is read as "Minister of Defense."

(3) The provisions of ¶(2), Article 89²⁹¹³ [Use of Weapons under PSO “in conformance with the order of the commanding official of the unit concerned”] shall apply mutatis mutandis to cases where a Self-Defense Forces official uses a weapon pursuant to the provisions of Article 7 [Use of Weapons] of the Police Duties

²⁸⁹⁰ i.C.38. Article 89 – Powers while in Public Security Operation (PSO), p. 319.

²⁸⁹¹ i.I.5. Article 7 – Use of Weapons, p. 361.

²⁸⁹² 3.3.1. Use of Weapons, p. 74.

²⁸⁹³ 3.3.3. Use of Force, p. 79.

²⁸⁹⁴ 3.2.2.1. Defense Operation (DO), p. 55.

²⁸⁹⁵ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

²⁸⁹⁶ 4.10.1.1. AAS (Imminent), p. 111.

²⁸⁹⁷ 4.10.1.2. AAS (Occurrence), p. 111.

²⁸⁹⁸ 4.9 Survival-Threatening Situation (STS), p. 104.

²⁸⁹⁹ i.C.37. Article 88 – Use of Force under DO (STS, AAS [Occurrence]), p. 318.

²⁹⁰⁰ 3.3.1. Use of Weapons, p. 74.

²⁹⁰¹ Making necessary changes to account for differing situations, but the basic point remains the same.

²⁹⁰² i.K.4. Article 16 – Request of Cooperation for Citizen and Ship, p. 365.

²⁹⁰³ i.K.5. Article 17 – Query, Order to Submit Documents, Order to Stop Ship, and Ship Visit, p. 365.

²⁹⁰⁴ i.K.6. Article 18 – Measures of Displacement, Expulsion, Takedown, and Stopping a Vessel, p. 366.

²⁹⁰⁵ i.K.7. Article 20 – Use of Weapons, p. 366.

²⁹⁰⁶ i.I.2. Article 4 – Measures for Refuge, p. 360.

²⁹⁰⁷ i.I.5. Article 7 – Use of Weapons, p. 361.

²⁹⁰⁸ i.C.39. Article 90 – Use of Weapons while in Public Security Operation (PSO), p. 320.

²⁹⁰⁹ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

²⁹¹⁰ 4.10.1.1. AAS (Imminent), p. 111.

²⁹¹¹ 4.10.1.2. AAS (Occurrence), p. 111.

²⁹¹² 4.9 Survival-Threatening Situation (STS), p. 104.

²⁹¹³ i.C.38. Article 89 – Powers while in Public Security Operation (PSO), p. 319.

Execution Act (Law No. 136 of 1948, as amended) or ¶(1), Article 90²⁹¹⁴ [*Use of Weapons while in PSO*] of this Act, as applied mutatis mutandis in the preceding paragraph, and where a Maritime Self-Defense Force official uses a weapon pursuant to the provisions of ¶(2), Article 20 [*Use of Weapons*] of the Coast Guard Act (Law No. 28 of 1948, as amended), as applied mutatis mutandis in the preceding paragraph.

(4) Self-Defense Forces personnel who have been ordered to deploy pursuant to the provisions of ¶(1), Article 76 [*DO for STS, AAS (Imminent), and AAS (Occurrence)*], who is engaged in duties for the maintenance of public order pursuant to the provisions of ¶(1) [*acting to preserve public order under a DO during AAS (Imminent) or AAS (Occurrence)*], may take the measures provided for in ¶(1) of Article 114-5²⁹¹⁵ of The Road Traffic Act (Law No. 105 of 1960, as amended) [*Regulation of Traffic When SDF Are Mobilized; Related Considerations*] pursuant to the provisions of the same Article and the orders thereunder.

i.C.43. Article 92-2 – Emergency Passage During Defense Operations (DO)

Authorizes JSDF units to conduct passage through areas not open to the general public when necessary under a DO²⁹¹⁶ during AAS.²⁹¹⁷

(1) Self-Defense Force personnel who have been ordered to deploy pursuant to the provisions of ¶(1), Article 76²⁹¹⁸ (limited to first clause only [*DO for AAS (Imminent)*²⁹¹⁹ and *AAS (Occurrence)*;²⁹²⁰ limitation to No. (i). *excludes STS*,²⁹²¹ which is Article 76, ¶(1), No. (ii)), when making an emergency move within the area related to the Self-Defense Forces' operations, may pass through passages not used for general traffic or open spaces or water surfaces not used for public purposes if it is necessary to go around a place where passage is impeded. In this case, if a person who has suffered damage as a result of said passage requests compensation for the loss, the loss shall be compensated as provided for by government ordinance.

i.C.44. Article 92-3 – Authority During Civilian Protection Operations

(1) The provisions of Articles 4²⁹²² [*Measures for Refuge*], 5²⁹²³ [*Prevention and Suppression of Crime*], and ¶¶(1), (3), and (4), Article 6²⁹²⁴ [*Entry*] of the Police Duties Execution Act (Law No. 136 of 1948, as amended) shall apply mutatis mutandis²⁹²⁵ to the performance of duties by SDF members of units, etc., ordered to be dispatched pursuant to the provisions of Article 77-4²⁹²⁶ [*Civil Protection Operations*²⁹²⁷], only when no police officers are present at the scene. In this case, "Public Safety Commission" in ¶(2), Article 4 [*Measures for Refuge*], of the same law shall be read as "person designated by the Minister of Defense."

(2) The provisions of ¶(2) of the Police Duties Execution Act (Law No. 136 of 1948, as amended) shall apply mutatis mutandis to the performance of duties by SDF members of units, etc., ordered to be dispatched pursuant to the provisions of Article 77-4 [*Civil Protection Operations*], only when no police officers, coast guard officers, or assistant coast guard officers are present at the scene.

(3) The provisions of ¶(2), Article 89²⁹²⁸ [*granting JSDF Use of Weapons "in conformance with the order of the commanding official of the unit concerned"*] shall apply mutatis mutandis to cases in which SDF members use weapons pursuant to the provisions of Article 7 [*Use of Weapons*] of the Police Duties Execution Act (Law No. 136 of 1948, as amended), as applied mutatis mutandis in the preceding paragraph.

(4) The provisions of Article 16²⁹²⁹ [*Request of Cooperation for Citizen and Ship*] of the Coast Guard Act (Law No. 28 of 1948, as amended) shall apply mutatis mutandis to the performance of duties by Maritime Self-Defense Force personnel of the rank of petty officer third class or higher who are ordered to be dispatched pursuant to the provisions of Article 77-4 [*Civil Protection Operations*], and the provisions of Article 18²⁹³⁰ [*Measures of Displacement, Expulsion, Takedown, and Stopping a Vessel*] of the same Act shall apply mutatis

²⁹¹⁴ i.C.39. Article 90 – Use of Weapons while in Public Security Operation (PSO), p. 320.

²⁹¹⁵ i.J.1. Article 114-5 – Regulation of Traffic When Self-Defense Forces (SDF) Are Mobilized; Related Considerations, p. 362.

²⁹¹⁶ 3.2.2.1. Defense Operation (DO), p. 55.

²⁹¹⁷ 4.10. Armed Attack Situation (AAS), p. 110.

²⁹¹⁸ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

²⁹¹⁹ 4.10.1.1. AAS (Imminent), p. 111.

²⁹²⁰ 4.10.1.2. AAS (Occurrence), p. 111.

²⁹²¹ 4.9. Survival-Threatening Situation (STS), p. 104.

²⁹²² i.I.2. Article 4 – Measures for Refuge, p. 360.

²⁹²³ i.I.3. Article 5 – Prevention and Suppression of Crime, p. 361.

²⁹²⁴ i.I.4. Article 6 – Entry, p. 361.

²⁹²⁵ Making necessary changes to account for differing situations, but the basic point remains the same.

²⁹²⁶ i.C.18. Article 77-4 – Civil Protection Operations, p. 311.

²⁹²⁷ 3.2.5.1. Civil Protection Operations (CPO), p. 70.

²⁹²⁸ i.C.38. Article 89 – Powers while in Public Security Operation (PSO), p. 319.

²⁹²⁹ i.K.4. Article 16 – Request of Cooperation for Citizen and Ship, p. 365.

²⁹³⁰ i.K.6. Article 18 – Measures of Displacement, Expulsion, Takedown, and Stopping a Vessel, p. 366.

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mutatis mutandis to the performance of duties by Maritime Self-Defense Force personnel of the rank of petty officer third class or higher who are ordered to be dispatched pursuant to the provisions of Article 77-4 [Civil Protection Operations], only when a coast guard officer is not present at the scene.

(5) When a Self-Defense officer of a unit, etc. who is ordered to be dispatched pursuant to the provisions of Article 77-4 [Civil Protection Operations] has taken any of the measures provided for in Article 5 [Prevention and Suppression of Crime] of the Police Duties Execution Act (Law No. 136 of 1948, as amended) as applied mutatis mutandis in ¶(1) or Article 7 [Use of Weapons] of the same Act as applied mutatis mutandis in ¶(2), or when s/he [Self-Defense officer of a unit, etc.] has taken any of the measures provided for in Article 18 [Measures of Displacement, Expulsion, Takedown, and Stopping a Vessel] of the Coast Guard Act (Law No. 28 of 1948, as amended) as applied mutatis mutandis in the preceding paragraph, s/he shall immediately notify the police officer or coast guard officer to that effect.

i.C.45. Article 92-4 – Use of Weapons in a Planned Area of Deployment

Authorizes Use of Weapons²⁹³¹ when operating under the authority of Article 77-2²⁹³² for Establishment of Defense Facilities.²⁹³³

(1) When a SDF member engaged in duties under the provisions of Article 77-2 [Establishment of Defense Facilities] performs said duties within the planned deployment area, if there is sufficient reason to deem it unavoidable for the protection of his/her life or body or that of members of the Self-Defense Forces who are engaged in said duties together with him/her, he/she may use weapons to the extent that is deemed reasonably necessary according to the circumstances. However, except in cases falling under Articles 36²⁹³⁴ [Self-Defense] or 37²⁹³⁵ [Necessity] of the Penal Code (Law No. 45 of 1907, as amended), SDF personnel must not cause harm to persons.

i.C.46. Article 92-5 – Use of Weapons for Gathering Information before Order for Mobilization

Authorizes Use of Weapons²⁹³⁶ when operating under the authority of Article 79-2²⁹³⁷ for Information Gathering before PSO Order²⁹³⁸

(1) Self-Defense Force personnel engaged in information-gathering duties pursuant to Article 79-2 [Information Gathering before a PSO Order] may, in the course of performing said duties, use weapons to the extent that is deemed reasonably necessary depending on the circumstances if there is sufficient reason to deem it unavoidable for the protection of their own life or body or that of members of the Self-Defense Forces engaged in said duties together with them. However, except in cases falling under Articles 36²⁹³⁹ [Self-Defense] or 37²⁹⁴⁰ [Necessity] of the Penal Code (Law No. 45 of 1907, as amended), SDF personnel must not cause harm to persons.

i.C.47. Article 93 – Authority while in MSO

Authorizes use of Weapons,²⁹⁴¹ and SIO²⁹⁴² authorities to JSDF operating under MSO.²⁹⁴³

(1) The provisions of Article 7²⁹⁴⁴ [Use of Weapons] of the Police Duties Execution Act (Law No. 136 of 1948, as amended) shall apply mutatis mutandis²⁹⁴⁵ to the performance of duties by SDF personnel who are ordered to act pursuant to Article 82²⁹⁴⁶ [MSO].

²⁹³¹ 3.3.1. Use of Weapons, p. 74.

²⁹³² i.C.16. Article 77-2 – Measures to Establish Defense Facilities, p. 311.

²⁹³³ 3.2.2.4. Establishment of Defense Facilities, p. 57.

²⁹³⁴ i.H.1. Article 36 – Self-Defense, p. 360.

²⁹³⁵ i.H.2. Article 37 – Necessity, p. 360.

²⁹³⁶ 3.3.1. Use of Weapons, p. 74.

²⁹³⁷ i.C.21. Article 79-2 – Information Gathering before PSO Order, p. 312.

²⁹³⁸ 3.2.3.1.4.1. Information Gathering before PSO Order, p. 63.

²⁹³⁹ i.H.1. Article 36 – Self-Defense, p. 360.

²⁹⁴⁰ i.H.2. Article 37 – Necessity, p. 360.

²⁹⁴¹ 3.3.1. Use of Weapons, p. 74.

²⁹⁴² 3.2.3.9. Ship Inspection Operations (SIO), p. 69.

²⁹⁴³ 3.2.3.2. Maritime Security Operation (MSO), p. 63.

²⁹⁴⁴ i.I.5. Article 7 – Use of Weapons, p. 361.

²⁹⁴⁵ Making necessary changes to account for differing situations, but the basic point remains the same.

²⁹⁴⁶ i.C.25. Article 82 – Maritime Security Operations (MSO), p. 314.

(2) The provisions of Article 16²⁹⁴⁷ [*Request of Cooperation for Citizen and Ship*], ¶(1), Article 17²⁹⁴⁸ [*Ship Boarding and Inspection*], and Article 18²⁹⁴⁹ [*Control of a Ship*] of the Coast Guard Act (Law No. 28 of 1948, as amended) shall apply mutatis mutandis to the performance of duties by SDF personnel of the rank of petty officer 3rd class or higher who are ordered to act pursuant to Article 82 [MSO].

(3) The provisions of ¶(2), Article 20²⁹⁵⁰ [*Use of Weapons*] of the Coast Guard Act (Law No. 28 of 1948, as amended) shall apply mutatis mutandis to the performance of duties by SDF personnel of the Japan Coast Guard who are ordered to act pursuant to Article 82 [MSO]. In this case, in ¶(2), Article 20 [*Use of Weapons*] of the same Act, "the preceding paragraph" shall be read as "¶(1)," "¶(1), Article 17 [*Ship Boarding and Inspection*]" shall be read as "¶(1), Article 17 [*Ship Boarding and Inspection*] of the Coast Guard Act (Law No. 28 of 1948, as amended) as applied mutatis mutandis pursuant to the preceding paragraph," "the duties of a coast guard officer or an assistant coast guard officer" shall be read as "the duties of a self-defense force official who is ordered to act pursuant to the provisions of Article 82 [MSO]," and "the Commandant of the Japan Coast Guard" shall be read as "Minister of Defense."

(4) The provisions of ¶(2), Article 89²⁹⁵¹ [*granting JSDF Use of Weapons "in conformance with the order of the commanding official of the unit concerned"*] shall apply mutatis mutandis to cases where a self-defense force official uses a weapon pursuant to the provisions of Article 7 [*Use of Weapons*] of the Police Duties Execution Act (Law No. 136 of 1948, as amended) as applied mutatis mutandis pursuant to ¶(1), and where a self-defense force official of the Maritime Self-Defense Force uses a weapon pursuant to the provisions of ¶(2), Article 20 [*Use of Weapons*] of the Coast Guard Act (Law No. 28 of 1948, as amended) as applied mutatis mutandis pursuant to the preceding paragraph.

i.C.48. Article 93-2 – Authority During Counter-Piracy Operations

(1) Self-Defense Force personnel who are ordered to take anti-piracy operations pursuant to Article 82-2²⁹⁵² [*Counter-Piracy Operations*²⁹⁵³] may exercise the authority provided for in the Counter-Piracy Act (Law No. 55 of 2009, as amended).

i.C.49. Article 93-3 – Use of Weapons against Destruction of Ballistic Missiles

Authorizes the Type 2 Use of Weapons²⁹⁵⁴ for BMD Operations.²⁹⁵⁵

(1) Self-Defense Force units who are ordered to take measures pursuant to the provisions of ¶¶(1) and (3), Article 82-3²⁹⁵⁶ [*BMD Operations*], may use weapons necessary to destroy ballistic missiles, etc.

i.C.50. Article 94-2 – Authority of Measures for Civil Protection

(1) The following SDF personnel may, in accordance with the provisions of the the Civil Protection Act (Act No. 112 of 2004, as amended) and the orders thereunder, take measures related to the guidance of evacuated residents as stipulated in Chapter II Section 3 of said Law, emergency measures, etc. as stipulated in Chapter IV, Section 2 of said Law, and measures related to traffic control, etc. as stipulated in Article 155 of said Law.

(i) SDF personnel ordered to deploy pursuant to ¶(1), Article 76²⁹⁵⁷ (limited to the part relating to item (i) [*AAS (Imminent)*²⁹⁵⁸ and *AAS (Occurrence)*],²⁹⁵⁹ limitation to item (i) excludes STS,²⁹⁶⁰ which is Article 76, ¶(1), item (ii)], who are engaged in duties for maintaining public order pursuant to ¶(1), Article 92²⁹⁶¹ [*Powers for Maintenance of Public Order while in DO*²⁹⁶² for *AAS (Imminent)* and *AAS (Occurrence)* but not *STS*].

(ii) SDF personnel of units ordered to deploy pursuant to ¶(1), Article 77-4 [*CPO*²⁹⁶³].

²⁹⁴⁷ i.K.4. Article 16 – Request of Cooperation for Citizen and Ship, p. 365.

²⁹⁴⁸ i.K.5. Article 17 – Query, Order to Submit Documents, Order to Stop Ship, and Ship Visit, p. 365.

²⁹⁴⁹ i.K.6. Article 18 – Measures of Displacement, Expulsion, Takedown, and Stopping a Vessel, p. 366.

²⁹⁵⁰ i.K.7. Article 20 – Use of Weapons, p. 366.

²⁹⁵¹ i.C.38. Article 89 – Powers while in Public Security Operation (PSO), p. 319.

²⁹⁵² i.C.26. Article 82-2 – Counter-Piracy Operations, p. 314.

²⁹⁵³ 3.2.3.7. Counter-Piracy Operations, p. 68.

²⁹⁵⁴ 3.3.1.3. Type 2: "Execution of Mission Type" Use of Weapons ("Minor Self-Defense"), p. 77.

²⁹⁵⁵ 3.2.3.6. Ballistic Missile Defense (BMD) Operations, p. 67.

²⁹⁵⁶ i.C.27. Article 82-3 – Destruction Measures Against Ballistic Missiles, etc., p. 314.

²⁹⁵⁷ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

²⁹⁵⁸ 4.10.1.1. AAS (Imminent), p. 111.

²⁹⁵⁹ 4.10.1.2. AAS (Occurrence), p. 111.

²⁹⁶⁰ 4.9 Survival-Threatening Situation (STS), p. 104.

²⁹⁶¹ i.C.42 Article 92 – Authority for Maintenance of Public Order During DO322

²⁹⁶² 3.2.2.1. Defense Operation (DO), p. 55.

²⁹⁶³ 3.2.5.1. Civil Protection Operations (CPO), p. 70.

(iii) SDF personnel ordered to deploy pursuant to ¶(1), Article 78²⁹⁶⁴ [PSO by Order²⁹⁶⁵] or ¶(2), Article 81²⁹⁶⁶ [PSO by Request²⁹⁶⁷] (limited to SDF personnel who are ordered to deploy when the Prime Minister orders such deployment as specified in ¶(2) item (iii) of the Basic Policy for Responses stipulated in Article 9, ¶(1), Article 9²⁹⁶⁸ [BRP²⁹⁶⁹] of the Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended)).

(2) The following SDF personnel may take measures to respond to emergency response situations stipulated in Chapter VIII [Measures to Deal with Emergency Situations] of the Civil Protection Act (Act No. 112 of 2004, as amended) and orders thereunder.

(i) SDF personnel of units etc. ordered to be dispatched pursuant to the provisions of ¶(2), Article 77-4 [CPO].

(ii) SDF personnel ordered to be deployed pursuant to the provisions of ¶(1), Article 78 [PSO by Order] or ¶(2), Article 81 [PSO by Request] (limited to Self-Defense Forces personnel who are ordered to be deployed in emergency response situations stipulated in ¶(1), Article 22²⁹⁷⁰ [Emergency Response Plan] of the Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended), in order to respond to attacks equivalent to Armed Attacks stipulated in of ¶(1), Article 14²⁹⁷¹ [Acting by Prefectural Governors] of the Civil Protection Act (Act No. 112 of 2004, as amended), as applied mutatis mutandis pursuant to Article 183 [Mutatis Mutandis Provisions] of the same Law).

i.C.51. Article 94-5 – Authority when Protecting Japanese Nationals and Others Abroad

Authorizes Use of Weapons²⁹⁷² during RJNO.²⁹⁷³

(1) When a Self-Defense Forces official engaged in protective measures in the territory of a foreign country pursuant to the provisions of ¶(1), Article 84-3²⁹⁷⁴ [RJNO] falls under both items (i) and (ii) of the same paragraph, and there is reasonable cause to deem it unavoidable to protect the life or body of the Self-Defense Forces official or the Japanese nationals or other protected persons who are the subject of the protective measures, or to eliminate acts that interfere with the performance of the duties, the Self-Defense Forces official may use weapons to the extent that is deemed reasonably necessary according to the circumstances. However, except in cases falling under Articles 36²⁹⁷⁵ [Self-Defense] or 37²⁹⁷⁶ [Necessity] of the Penal Code (Law No. 45 of 1907, as amended), SDF personnel must not cause harm to persons.

(2) The provisions of ¶(2), Article 89²⁹⁷⁷ [granting JSDF Use of Weapons “in conformance with the order of the commanding official of the unit concerned”] shall apply mutatis mutandis²⁹⁷⁸ to cases in which a Self-Defense Forces official uses weapons pursuant to the provisions of the preceding paragraph.

(3) Even if the SDF personnel prescribed in ¶(1) do not fall under ¶(1)(i) of Article 84-3²⁹⁷⁹ [no combat taking place²⁹⁸⁰ in the location of RJNO²⁹⁸¹], when performing their duties and there is sufficient reason to deem it necessary to protect the life or body of their own SDF personnel or that of other SDF members engaged in said duties together with them, or of persons who have come under their control [supervision/responsibility of protection] in the course of performing said duties, they may use weapons to the extent that is deemed reasonably necessary according to the circumstances, provided, except in cases falling under Articles 36²⁹⁸² [Self-Defense] or 37²⁹⁸³ [Necessity] of the Penal Code (Law No. 45 of 1907, as amended), SDF personnel must not cause harm to persons.

²⁹⁶⁴ i.C.19. Article 78 – Public Security Operation (PSO) by Order, p. 312.

²⁹⁶⁵ 3.2.3.1.1. PSO By Order, p. 62.

²⁹⁶⁶ i.C.23. Article 81 – Public Security Operation (PSO) by Request, p. 313.

²⁹⁶⁷ 3.2.3.1.2. PSO By Request, p. 62.

²⁹⁶⁸ i.D.4. Article 9 – Basic Response Plan, p. 340.

²⁹⁶⁹ 4.3. Basic Response Plan (BRP), p. 95.

²⁹⁷⁰ i.D.7. Article 22 – Emergency Response Plan, p. 343.

²⁹⁷¹ i.G.3. Article 14 – Acting by Prefectural Governors, p. 358.

²⁹⁷² 3.3.1. Use of Weapons, p. 74.

²⁹⁷³ 3.2.5.2.1. Rescue of Japanese Nationals Overseas (RJNO), p. 72.

²⁹⁷⁴ i.C.31. Article 84-3 – Measures to Rescue Japanese Nationals Overseas (RJNO), p. 315.

²⁹⁷⁵ i.H.1. Article 36 – Self-Defense, p. 360.

²⁹⁷⁶ i.H.2. Article 37 – Necessity, p. 360.

²⁹⁷⁷ i.C.38. Article 89 – Powers while in Public Security Operation (PSO), p. 319.

²⁹⁷⁸ Making necessary changes to account for differing situations, but the basic point remains the same.

²⁹⁷⁹ i.C.31. Article 84-3 – Measures to Rescue Japanese Nationals Overseas (RJNO), p. 315.

²⁹⁸⁰ 2.1.2.2.1. Scene of Combat, p. 21.

²⁹⁸¹ 3.2.5.2.1. Rescue of Japanese Nationals Overseas (RJNO), p. 72.

²⁹⁸² i.H.1. Article 36 – Self-Defense, p. 360.

²⁹⁸³ i.H.2. Article 37 – Necessity, p. 360.

i.C.52. Article 94-6 – Authority for Transportation of Japanese Nationals and Others Abroad

Authorizes the Use of Weapons²⁹⁸⁴ for TJNO.²⁹⁸⁵

(1) A Self-Defense Forces official engaged in the transport duties set forth in in ¶(1), Article 84-4²⁹⁸⁶ [TJNO] in the territory of a foreign country may use weapons to the extent deemed reasonably necessary in accordance with the circumstances when performing his/her duties in the location of the aircraft, vessel, or vehicle used for said transport, the route leading the person to be transported (meaning a Japanese national who has come under the control [supervision/responsibility of protection] of said Self-Defense Forces official or a person who is to be brought aboard under the latter provision of said paragraph; the same applies hereinafter in this Article) to said aircraft, vessel, or vehicle, the location where the person to be transported is waiting to board said aircraft, vessel, or vehicle, or the location where confirmation of the status of the transport route or other duties necessary for the implementation of the transport by said vehicle carried out away from the location of said vehicle is performed, if there is reasonable cause to deem it unavoidable to protect the life or body of himself/herself, or of members of the Self-Defense Forces engaged in said transport duties [TJNO] together with him/her, the person to be transported, or any other person who has come under his/her control [supervision/responsibility of protection] in the course of performing said duties. However, except in cases falling under Articles 36²⁹⁸⁷ [Self-Defense] or 37²⁹⁸⁸ [Necessity] of the Penal Code (Law No. 45 of 1907, as amended), SDF personnel must not cause harm to persons.

i.C.53. Article 94-7 – Authority During Logistics Support Activities, etc.

Authorizes the Use of Weapons²⁹⁸⁹ for Rear-Area Support.²⁹⁹⁰

(1) Self-Defense Force personnel engaged in activities prescribed in ¶(2), Article 3²⁹⁹¹ [secondary missions of the JSDF], or Self-Defense Force personnel of a unit, etc., who have been ordered to carry out such activities and who fall under any of the following items, may use weapons in accordance with the provisions of the law governing the said activities in the cases specified in the respective items.

(i) When there is a reasonable justification to deem it necessary to protect the life or body of the Self-Defense Forces member of a unit, etc., who has been ordered to provide services as a rear support activity or to conduct search and rescue activities [RSAR] as prescribed in No. (i), ¶(2), Article 84-5²⁹⁹² [rear area support for SIO²⁹⁹³ during IIS²⁹⁹⁴], him/herself, or other members of the Self-Defense Forces who are present at the site with him/her, or a person who has come under his control [supervision/responsibility of protection] in the course of performing said duties, or a person who is present at the camp (meaning the camp as prescribed in ¶(5), Article 11²⁹⁹⁵ [Use of Weapons] of the IIS Act (Act No. 60 of 1999, as amended)) where he is camped with him/her.

(ii) SDF personnel of a unit, etc., who have been ordered to carry out ship inspection activities [SIO²⁹⁹⁶] as provided for in No. (ii), ¶(2), Article 84-5 [rear area support for SIO during IIS]. When there is reasonable cause to deem it unavoidable to protect the life or body of the Self-Defense Forces personnel themselves, other members of the Self-Defense Forces who are present at the site with the Self-Defense Forces personnel, or persons who come under the Self-Defense Forces' control in the course of carrying out said duties.

(iii) A Self-Defense Force member (excluding those set forth in the following item [No. (iv)] and in No. [v]) engaged in International Peace Cooperation Activities²⁹⁹⁷ prescribed in No. (iv), ¶(2), Article 84-5 [rear area support for SIO during IIS], when there is reasonable cause to deem it unavoidable to protect the life or body of himself/herself, or of other members of the Self-Defense Forces (meaning members as prescribed in ¶(5), Article 2) who are present at the site with him/her, members of the International Peace Cooperation Corps

²⁹⁸⁴ 3.3.1. Use of Weapons, p. 74.

²⁹⁸⁵ 3.2.5.2.2. Transportation of Japanese Nationals Overseas (TJNO), p. 73.

²⁹⁸⁶ i.C.32. Article 84-4 – Transportation of Japanese Nationals Overseas (TJNO), p. 316.

²⁹⁸⁷ i.H.1. Article 36 – Self-Defense, p. 360.

²⁹⁸⁸ i.H.2. Article 37 – Necessity, p. 360.

²⁹⁸⁹ 3.3.1. Use of Weapons, p. 74.

²⁹⁹⁰ 3.2.2.9. Rear Area Support, p. 62.

²⁹⁹¹ i.C.2. Article 3 – Mission of the Self-Defense Forces, p. 304.

²⁹⁹² i.C.33. Article 84-5 – Logistics Support Activities, etc. (Rear Area Support), p. 317.

²⁹⁹³ 3.2.3.9. Ship Inspection Operations (SIO), p. 69.

²⁹⁹⁴ 4.6. Important Influence Situation (IIS), p. 98.

²⁹⁹⁵ i.E.11. Article 11 - Use of Weapons, p. 350.

²⁹⁹⁶ 3.2.3.9. Ship Inspection Operations (SIO), p. 69.

²⁹⁹⁷ 3.2.6.1. IPCA, p. 73.

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(meaning members of the Cooperation Corps as prescribed in Article 10 of the Act on Cooperation with United Nations Peacekeeping Operations and Other Operations (Act No. 79 of 1992, as amended)), or persons who have come under his/her control in the course of performing said duties, or persons who are present with him/her in the camp where he/she is camped (meaning the camp as prescribed in ¶(7), Article 25 of the same Act).

(iv) Self-Defense Forces personnel engaged in international peace cooperation duties prescribed in No. (iv), ¶(2), Article 84-5 [rear area support for SIO during IIS], which are listed in Point (u), No. (v), Article 3, to of the Act on Cooperation with United Nations Peacekeeping Operations and Other Operations (Act No. 79 of 1992, as amended), or those specified by Cabinet Order in the same item, Point (g), as being similar to them. In the case specified in the preceding item, or when performing such duties, there is a reasonable reason to deem it unavoidable to protect the life, body, or property of oneself or others, or to eliminate acts that interfere with such duties.

(v) In the case specified in No. (iii) of the Self-Defense Forces engaged in international peace cooperation activities prescribed in No. (iv), ¶(2), Article 84-5 [rear area support for SIO during IIS], which are listed in Point (v), No. (v), Article 3 of the of the Act on Cooperation with United Nations Peacekeeping Operations and Other Operations (Act No. 79 of 1992, as amended), or when there is reasonable cause to deem that there is an unavoidable need to protect the life or body of the Self-Defense Forces member or the persons involved in the activities that he/she wishes to protect (meaning the persons involved in the activities prescribed in Point (v), No. (v), Article 3 of the same Law) when performing such activities.

(vi) In the case specified in No. (iii) of the Self-Defense Forces member of a unit, etc., who has been ordered to provide services as cooperative support activities or to conduct search and rescue activities prescribed in No. (v), ¶(2), Article 84-5 [RSAR²⁹⁹⁸], there is reasonable cause to deem that there is an unavoidable need to protect the life or body of the Self-Defense Forces member himself/herself, other members of the Self-Defense Forces member who are present at the scene together with him/her, persons who have come under his/her control in the course of performing such duties, or persons who are present at the camp where he/she is camped together with him/her (meaning the camp as prescribed in ¶(5), Article 11 of the Law on Cooperation and Support Activities for Foreign Armed Forces, etc. Implemented by Japan in the Event of Situations of Joint Response to International Peace).

i.C.54. Article 94-8 – Authority to Regulate Maritime Transportation during Defense Mobilization

Defense Mobilization Order²⁹⁹⁹

(1) Self-Defense Force personnel who are ordered to deploy pursuant to the provisions of ¶(1), Article 76³⁰⁰⁰ [STS,³⁰⁰¹ AAS (Imminent),³⁰⁰² and AAS (Occurrence)³⁰⁰³], may exercise the authority provided for in the Maritime Transportation Restriction Law (Law No. 116 of 2004, as amended).³⁰⁰⁴

i.C.55. Article 94-9 – Concerning the Treatment of Prisoners of War and Other Detainees

During AAS,³⁰⁰⁵ this article grants authority to the JSDF to conduct POW/detainee operations as authorized under the separate law, “Act on the Treatment of Prisoners of War and Other Detainees in Armed Attack Situations.”

(1) Self-Defense Force personnel may exercise the authority provided for in the POW Law (Law No. 117 of 2004, as amended).³⁰⁰⁶

²⁹⁹⁸ 3.2.2.6.1. “Rear-Area” Search and Rescue (RSAR), p. 58.

²⁹⁹⁹ 3.2.2.3. Defense Mobilization, p. 57.

³⁰⁰⁰ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

³⁰⁰¹ 4.9. Survival-Threatening Situation (STS), p. 104.

³⁰⁰² 4.10.1.1. AAS (Imminent), p. 111.

³⁰⁰³ 4.10.1.2. AAS (Occurrence), p. 111.

³⁰⁰⁴ i.M. Maritime Transportation Restriction Law (Law No. 116 of 2004, as amended), p. 372.

³⁰⁰⁵ 4.10. Armed Attack Situation (AAS), p. 110.

³⁰⁰⁶ i.P. POW Law (Law No. 117 of 2004, as amended), p. 383.

i.C.56. Article 95 – Use of Weapons for Protection of Weapons, etc.

Article 95 permits the Use of Weapons³⁰⁰⁷ to protect JSDF weapons and other equipment as a law-enforcement act.

“Protection of weapons, etc.” may be translated as “protection of assets.”

See § 3.2.3.5 Use of Weapons to Protect Weapons, etc. (p. 66).

(1) When on duty guarding SDF weapons, ammunition, explosives, vessels, aircraft, vehicles, wired electric communication equipment, radio equipment, or liquid fuel (hereinafter referred to as "weapons, etc."), SDF personnel may use weapons to the extent deemed reasonably necessary depending on the situation if there is sufficient reason to deem it necessary to protect people or weapons, etc. However, except in cases falling under Articles 36³⁰⁰⁸ [Self-Defense] or 37³⁰⁰⁹ [Necessity] of the Penal Code (Law No. 45 of 1907, as amended), SDF personnel must not cause harm to persons.

i.C.57. Article 95-2 – Use of Weapons to Protect the Weapons, etc. of Units of the United States and Other Militaries

Article 95-2 authorizes the Use of Weapons³⁰¹⁰ for “asset protection” of US and other foreign armed forces’ weapons and other assets during routine peacetime operations and IIS³⁰¹¹ (i.e., does not apply in AAAS,³⁰¹² STS,³⁰¹³ or AAS³⁰¹⁴).

“Protection of weapons, etc.” may be translated as “protection of assets.”

See § 3.2.3.5 Use of Weapons to Protect Weapons, etc. (p. 66).

(1) When on duty guarding weapons, etc. of units of the United States armed forces, other foreign armed forces, or similar organizations (referred to in the following paragraph as "United States armed forces, etc.") currently engaged in activities contributing to the defense of Japan in cooperation with the Self-Defense Forces (including joint training, excluding those conducted at sites where combat is currently taking place), Self-Defense Force personnel may use weapons to the extent deemed reasonably necessary depending on the situation, if there is sufficient reason to deem it necessary to protect persons or weapons, etc. However, except in cases falling under Articles 36³⁰¹⁵ [Self-Defense] or 37³⁰¹⁶ [Necessity] of the Penal Code (Law No. 45 of 1907, as amended), SDF personnel must not cause harm to persons.

(2) The guard referred to in the preceding paragraph shall be provided by Self-Defense Force personnel only when requested by the United States armed forces, etc., and when the Minister of Defense deems it necessary.

i.C.58. Article 95-3 – Use of Weapons When Protecting SDF Facilities

(1) When an SDF official guards an SDF facility in Japan that contains facilities or equipment for storing, housing, or maintaining SDF weapons, etc., or facilities or equipment related to barracks, harbors, or airports, he/she may use weapons within the facility to the extent that is deemed reasonably necessary depending on the situation, if there is sufficient reason to deem it necessary to perform said duties or to protect himself/herself or others. However, except in cases falling under Articles 36³⁰¹⁷ [Self-Defense] or 37³⁰¹⁸ [Necessity] of the Penal Code (Law No. 45 of 1907, as amended), SDF personnel must not cause harm to persons.

³⁰⁰⁷ 3.3.1. Use of Weapons, p. 74.

³⁰⁰⁸ i.H.1. Article 36 – Self-Defense, p. 360.

³⁰⁰⁹ i.H.2. Article 37 – Necessity, p. 360.

³⁰¹⁰ 3.3.1. Use of Weapons, p. 74.

³⁰¹¹ 4.6. Important Influence Situation (IIS), p. 98.

³⁰¹² 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

³⁰¹³ 4.9. Survival-Threatening Situation (STS), p. 104.

³⁰¹⁴ 4.10. Armed Attack Situation (AAS), p. 110.

³⁰¹⁵ i.H.1. Article 36 – Self-Defense, p. 360.

³⁰¹⁶ i.H.2. Article 37 – Necessity, p. 360.

³⁰¹⁷ i.H.1. Article 36 – Self-Defense, p. 360.

³⁰¹⁸ i.H.2. Article 37 – Necessity, p. 360.

i.C.59. Article 100-6 – Provision of Supplies/Services to the US Armed Forces

This article implements the Japan-US ACSA³⁰¹⁹ under the following conditions, granting the MoD and JSDF the authority to execute the ACSA under specific situations (Nos. [i]-[xi]).

¶¶ (1) and (2) authorize the following support on a not-to-interfere basis with JSDF missions.

- No. (i): US forces conducting training
- No. (ii): US forces conducting US facility Guard & Protect during PSO by Request³⁰²⁰
- No. (iii): US forces conducting Anti-Piracy with JSDF
- No. (iv): US forces conducting BMD³⁰²¹ with JSDF
- No. (v): US forces conducting disaster relief with JSDF
- No. (vi): US forces conducting mine disposal with JSDF
- No. (vii): US forces conducting civil protection outside Japan with JSDF conducting R/TJNO³⁰²²
- No. (viii): US forces conducting international emergency response with JSDF
- No. (ix): US forces conducting ISR contributing to defense of Japan with JSDF
- No. (x): US forces transiting JSDF facilities
- No. (xi): US forces at locations where JSDF are transiting US facilities

¶(3) authorizes the following types of services under the situations in ¶¶(1) and (2)

- Services during situations Nos. (i), (x), and (xi):
 - Supply
 - Transportation
 - Repair or Maintenance
 - Medical Treatment
 - Communications
 - Service concerning APODs and SPODs
 - Base Operations Support
 - Billeting
 - Storage
 - Use of Facilities
 - Training
- Services during situations Nos. (ii)-(ix):
 - The same services listed above for Nos. (i), (x), and (xi) except training

¶(4) excludes the provision of weapons and ammunition under ¶(1) (i.e., ammunition and weapons may be provided on a not-to-interfere basis [¶(2)], but not when it would interfere with JSDF missions [¶(1)]).

(1) When requested by any of the following United States armed forces (meaning the armed forces of the United States of America; the same applies hereinafter in this Article and the next Article [Article 100-7]), the Minister of Defense or a person delegated by him/her may provide supplies belonging to the Self-Defense Forces to the said United States armed forces, to the extent that this does not impede the performance of the Self-Defense Forces' missions.

(i) United States armed forces participating in training conducted with the participation of both the Self-Defense Forces and the United States armed forces (excluding United States armed forces that fall under the United States armed forces, etc. prescribed in No. (i), ¶(1), Article 3³⁰²³ of the IIS Act (Act No. 60 of 1999, as amended), specific United States armed forces prescribed in No. (vi), ¶(1), Article 2,³⁰²⁴ of the US Military Action Support Act (Law No. 113 of 2004, as amended), United States armed forces that fall under the

³⁰¹⁹ 8.2. Japan-US Acquisition and Cross-Servicing Agreement (ACSA), p. 167.

³⁰²⁰ 3.2.3.1.2. PSO By Request, p. 62.

³⁰²¹ 3.2.3.6. Ballistic Missile Defense (BMD) Operations, p. 67.

³⁰²² 3.2.5.2. Rescue and Transportation of Japanese Nationals Overseas (R/TJNO), p. 72.

³⁰²³ i.E.3. Article 3 – Definitions, p. 345.

³⁰²⁴ i.F. US Military Action Support Act (Law No. 113 of 2004, as amended), p. 351.

foreign armed forces prescribed in No. (vii), ¶(1), Article 3, of the Act on Cooperation and Support Activities for Foreign Armed Forces, etc. Implemented by Japan in Situations of Joint Response to International Peace. The same applies in the following [No. (ii)] to No. (iv), and Nos. (vi)-(xi) [No. (v), excluded from this listing, refers to US forces conducting disaster relief with JSDF]).

(ii) When a unit, etc., guards the Facilities and Areas³⁰²⁵ set forth in No. (ii), ¶(1), Article 81³⁰²⁶ [SOFA II 1(a)³⁰²⁷ US “exclusive use” (e.g., permanent bases) during PSO by Request³⁰²⁸], the United States armed forces that are present in the Facilities and Areas together with the unit, etc. and guard the facilities and Facilities and Areas.

(iii) When a unit of the Self-Defense Forces conducts counter-piracy operations as provided for in Article 82-2³⁰²⁹ [Counter-Piracy Operations], the United States armed forces that are present at the scene together with the unit and conduct activities similar to the counter-piracy operations.

(iv) When a unit of the Self-Defense Forces takes necessary actions to destroy ballistic missiles, etc. pursuant to the provisions of ¶¶(1) and (3), Article 82-3³⁰³⁰ [Missile Destruct/BM Destruction], the United States armed forces that are present at the scene together with the unit and conduct activities similar to the actions.

(v) United States armed forces that carry out disaster emergency response activities at the request of the government in the event of a natural disaster or other disaster and that are present at the scene together with the [SDF] units, etc. dispatched pursuant to the provisions of ¶(2), Article 83 [Disaster Relief Dispatch] or Article 83-3 [Nuclear Disaster Relief Dispatch].

(vi) United States armed forces that are present at the scene together with the units and carry out activities similar to those activities when Self-Defense Force units remove and dispose of mines and other explosive hazards as provided for in ¶(2), Article 84-2 [Mine Disposal].

(vii) When a unit, etc. implements the protective measures prescribed in ¶(1), Article 84-3 [RJNO³⁰³¹] in the event of a foreign emergency as prescribed in the same paragraph, or when a unit, etc. transports Japanese nationals as prescribed in ¶(1), Article 84-4³⁰³² [TJNO³⁰³³] in the event of a foreign emergency as prescribed in the same paragraph, the United States armed forces that are present at the scene together with the unit, etc. and perform activities similar to those protective measures or transport.

(viii) When a unit, etc., is engaged in international emergency relief activities as provided for in No. (iii), ¶(2), Article 84-5 [providing transportation during disaster relief], or when transporting personnel engaged in such activities or materials necessary for such activities, the United States armed forces that are present at the site together with the unit, etc. to carry out activities of the same kind in order to respond to the same disaster.

(ix) When a unit of the Self-Defense Forces is engaged in activities to collect information on the movements of foreign armed forces and other information that contributes to the defense of Japan by ship or aircraft, the United States armed forces that are present at the site together with the unit, etc. to carry out activities of the same kind in order to respond to the same disaster.

(x) In addition to those listed in the preceding paragraphs [Nos. (i)-(ix), above], United States armed forces that arrive at a facility of the Self-Defense Forces in Japan by aircraft, vessel or vehicle and stay there temporarily for training, liaison and coordination, or other daily activities.

(xi) In addition to those listed in Nos. (i) through (ix), United States armed forces that are present at the site together with a [JSDF] unit, etc. that arrives at a facility of the United States armed forces by aircraft, vessel or vehicle and stays there [US facility] temporarily for training, liaison and coordination, or other daily activities.

³⁰²⁵ 2.1.4.1.1. Definition of “Facilities and Areas”, p. 31.

³⁰²⁶ i.C.23. Article 81 – Public Security Operation (PSO) by Request, p. 313.

³⁰²⁷ 2.1.4.1. Article 2 – Use of Facilities and Areas, p. 30.

³⁰²⁸ 3.2.3.1.2. PSO By Request, p. 62.

³⁰²⁹ i.C.26. Article 82-2 – Counter-Piracy Operations, p. 314.

³⁰³⁰ i.C.27. Article 82-3 – Destruction Measures Against Ballistic Missiles, etc., p. 314.

³⁰³¹ 3.2.5.2.1. Rescue of Japanese Nationals Overseas (RJNO), p. 72.

³⁰³² i.C.32. Article 84-4 – Transportation of Japanese Nationals Overseas (TJNO), p. 316.

³⁰³³ 3.2.5.2.2. Transportation of Japanese Nationals Overseas (TJNO), p. 73.

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(2) When requested by any of the United States armed forces listed in the preceding paragraph, the Minister of Defense may have an organ or unit of the Ministry of Defense provide services to the United States armed forces, to the extent that this does not impede the performance of the Self-Defense Forces' missions.

(3) The provision of goods belonging to the Self-Defense Forces and the provision of services by an organ or unit of the Ministry of Defense pursuant to the provisions of the preceding two paragraphs shall be as stipulated in the following paragraphs according to the classification of the United States armed forces listed in the following paragraphs.

(i) The United States armed forces supply, transportation, repair or maintenance, medical care, communications, airport or port-related services, base-related services, lodging, storage, use of facilities, or training services set forth in Nos. (i), (x), and (xi), ¶(1) (including services incidental to [associated with providing] each of these services).

(ii) The United States armed forces supply, transportation, repair or maintenance, medical care, communications, airport or port-related services, base-related services, lodging, storage, or use of facilities set forth in Nos. (ii)-(ix), ¶(1) (including services incidental to [associated with providing] each of these services).

(4) The provision of goods as provided for in ¶(1) does not include the provision of weapons.

i.C.60. Article 100-7 – Procedures for Providing Goods and Services to US Forces

Article 100-7 designates the procedures of the Japan-US ASCA as the authoritative procedures for the provisioning of support to US forces outlined in Article 100-6.

(1) When the Minister of Defense or a person designated by him provides supplies belonging to the Self-Defense Forces to the United States armed forces pursuant to the provisions of this Act or other laws, and when an agency or unit of the Ministry of Defense provides services, settlement and other procedures shall be governed by the Agreement between the Government of Japan and the Government of the United States of America Concerning the Mutual Provision of Logistical Support, Supplies, or Services between the Self-Defense Forces of Japan and the United States of America Armed Forces [i.e., the Japan-US ASCA], except as otherwise provided by law.

i.C.61. Article 101 – Relations with Coast Guard, etc.

Article 101 requires the JCG, other non-defense government agencies and bodies, to comply with MoD requests necessary for performance of the JSDF mission, unless otherwise prevented from compliance.

(1) The Self-Defense Forces and the Japan Coast Guard, Regional Aviation Bureaus, Air Traffic Control Departments, Meteorological Offices, the Geospatial Information Authority of Japan, the companies prescribed in ¶(3), Article 1 of the Act on Passenger Railway Companies and Japan Freight Railway Company (Act No. 88 of 1986, as amended), East Nippon Telegraph and Telephone Corporation prescribed in ¶(3), Article 1-2, of the Act on Nippon Telegraph and Telephone Corporation, etc. (Act No. 85 of 1984, as amended), and West Nippon Telegraph and Telephone Corporation prescribed in ¶(3) of the same Article (hereinafter referred to in this Article as the "Japan Coast Guard, etc.") must maintain close contact with each other at all times.

(2) The Minister of Defense may request cooperation from the Japan Coast Guard, etc. when he deems it particularly necessary for the performance of the Self-Defense Forces' missions. In such cases, the Japan Coast Guard, etc. must comply with such request unless there are special circumstances.

i.C.62. Article 103 – Requisition of Materials during Defense Operations, etc.

Article 103 authorizes Prefectural Governor, the MinDef, or designated official to expropriate property and land, administer critical facilities (such as hospitals), and direct the personnel involved in the operation of critical facilities in support of a DO.³⁰³⁴

(1) When the Self-Defense Forces are ordered to deploy pursuant to the provisions ¶(1), Article 76³⁰³⁵ (limited to No. [i]) [DO³⁰³⁶ for AAS (Imminent)³⁰³⁷ and AAS (Occurrence),³⁰³⁸ limitation to No. (i) excludes STS, which is Article 76, ¶(1), No (ii)]; the same applies hereinafter in this Article), and it is deemed necessary for the Self-Defense Forces to carry out their mission in the area in which the Self-Defense Forces are to operate, the prefectural governor, upon request from the Minister of Defense or a person designated by Cabinet Order, may order those [i.e., direct or compel compliance with SDF operational requirements related to the personnel, workers, facilities, or supplies specified] who manage hospitals, clinics, and other facilities designated by Cabinet Order (hereinafter referred to as "facilities" in this Article), use land, buildings, or materials (hereinafter referred to as "land, etc." in this Article), and are engaged in the business of producing, collecting, selling, distributing, storing, or transporting materials to store the materials they handle, or may requisition such materials. However, when it is deemed necessary in light of the situation, the Minister of Defense or a person designated by Cabinet Order may exercise these powers himself after notifying the prefectural governor. [i.e., broad authority to support or enable DOO under AAS³⁰³⁹; MinDef or designated official can exercise this authority directly but, in contrast to ¶(2), only in the area of DOO operations and not during STS]

(2) In the event that the Self-Defense Forces are ordered to be mobilized pursuant to the provisions of Article under ¶(1), Article 76 [STS, AAS (Imminent), and AAS (Occurrence)], even in areas other than [outside of] those involved in the Self-Defense Forces' operations, prefectural governors, upon request of the Minister of Defense or a person designated by Cabinet Order, may, when they deem it particularly necessary for the Self-Defense Forces to carry out their missions, manage facilities, use land, etc., or expropriate supplies, or issue orders to store supplies handled, only within the areas designated by public notice by the Minister of Defense, and may order persons engaged in medical care, civil engineering and construction work, or transportation within those areas to engage in work of the same type as the medical care, civil engineering and construction work, or transportation work in which they are currently engaged, which is designated by the Minister of Defense or a person designated by Cabinet Order. [i.e., a similar authority to ¶(1), applicable outside areas of JSDF operations, but only at the Prefectural Governor's direction, not "personally exercised" by the MinDef or designated official]

(3) When land is used pursuant to the provisions of the preceding two paragraphs, if standing trees or other objects fixed to the land (excluding buildings; hereinafter referred to as "standing trees, etc.") on said land are deemed to be an impediment to the performance of the Self-Defense Forces' missions, the prefectural governor (in the case of the proviso to ¶(1) [AAS (Imminent) and (Occurrence) but not STS], the Minister of Defense or a person specified by government ordinance under the proviso to the same paragraph; the same applies in the following paragraph [¶(4), ¶(7), ¶(13), and ¶(14)]) may relocate said standing trees, etc. in accordance with the provisions of ¶(1). In this case, if it is deemed that relocation is extremely difficult in light of the circumstances, he/she may dispose of [destroy] said standing trees, etc. in accordance with the provisions of the same paragraph.

(4) When a building is used pursuant to the provisions of ¶(1) [AAS (Imminent) and (Occurrence) but not STS], and it is deemed to be unavoidable for the performance of the duties of the Self-Defense Forces, the prefectural governor may change the shape of the building to the extent necessary, in accordance with the provisions of the same paragraph.

(5) The scope of persons engaged in medical care, civil engineering and construction work, or transportation, as provided for in ¶(2) [Prefectural expropriation during STS, AAS (Imminent), AAS and (Occurrence)], shall be determined by Cabinet Order.

³⁰³⁴ 3.2.2.1. Defense Operation (DO), p. 55.³⁰³⁵ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.³⁰³⁶ 3.2.2.1. Defense Operation (DO), p. 55.³⁰³⁷ 4.10.1.1. AAS (Imminent), p. 111.³⁰³⁸ 4.10.1.2. AAS (Occurrence), p. 111.³⁰³⁹ 4.10. Armed Attack Situation (AAS), p. 110.

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(6) The matters necessary to make facilities, land, etc., or materials subject to disposition pursuant to the provisions of the main text of ¶(1) [AAS (Imminent) and (Occurrence) but not STS] or ¶(2) [Prefectural expropriation during STS, AAS (Imminent), AAS and (Occurrence)] available for use by the Self-Defense Forces ordered to deploy pursuant to the provisions of ¶(1), Article 76 [STS, AAS (Imminent), and AAS (Occurrence)], shall be determined in consultation between the prefectural governor and the person who requested the disposition.

(7) When taking measures pursuant to the provisions of ¶¶(1) to (4), the prefectural governor must do so by issuing a Written Official Order as provided for by Cabinet Order. However, in cases where the location of the party to whom a Written Official Order should be issued at the time of land use is unknown or in other cases as provided for by Cabinet Order, it shall be sufficient to issue the Written Official Order after the fact as provided for by Cabinet Order.

(8) The Written Official Order in the preceding paragraph must contain the following items.

(i) Name of the person to whom the official order is issued (or, in the case of a corporation, the name of the company) and address

(ii) Provision of this Act on which the disposition is based

(iii) The following items are specified according to the following disposition categories:

(a) Management of facilities: Location of the facilities to be managed and period of management

(b) Use of land or buildings: Location of the land or buildings to be used and period of use

(c) Use of materials: Type, quantity, location and period of use of materials to be used

(d) Order to store materials handled: Type, quantity, location and period of storage of materials to be stored

(e) Acquisition [expropriation] of materials: Type, quantity, location and date of expropriation of materials

(f) Order to engage in work: Work to be engaged in, location and period

(g) Relocation or disposal [destruction] of standing trees, etc.: Type, quantity and location of standing trees, etc. to be relocated or disposed of

(h) Change in shape of building: Location of building and details of change

(iv) Reason for carrying out the disposition [destruction]

(9) In addition to what is provided for in the preceding two paragraphs, the format of official orders and other necessary matters concerning official orders shall be prescribed by Cabinet Order.

(10) When a disposition [destruction] pursuant to the provisions of ¶¶(1) to (4) (excluding an order to engage in work pursuant to the provisions of ¶(2) [Prefectural expropriation during STS, AAS (Imminent), and AAS (Occurrence)]) is taken, the prefecture (or the national government) must compensate for losses that would ordinarily arise from said disposition [destruction].

(11) Prefectures must reimburse actual expenses to persons who have engaged in work pursuant to an order to engage in work pursuant to the provisions of ¶(2) [Prefectural expropriation during STS, AAS (Imminent), and AAS (Occurrence)], in accordance with the standards prescribed by Cabinet Order.

(12) When a person who has engaged in work pursuant to a work order under the provisions of ¶(2) [Prefectural expropriation during STS, AAS (Imminent), and AAS (Occurrence)] dies, is injured, or becomes ill or disabled as a result, the prefecture must compensate that person or his/her surviving family members or dependents for the damages suffered as a result of such work, as may be provided for by Cabinet Order.

(13) Prefectural governors, when necessary to manage facilities, use land, etc., order the storage of handled materials, or expropriate materials pursuant to the provisions of ¶¶(1) or (2) [Prefectural or GoJ

expropriation during AAS (Imminent) or (Occurrence), and Prefectural expropriation during STS], may have their officials enter the facilities, land, buildings, or places where the materials are located, or the places where the handled materials are stored, and inspect the conditions of the facilities, land, buildings, or materials.

(14) *Prefectural governors*, when they have stored handled materials pursuant to the provisions of ¶¶(1) or (2) [*Prefectural or GoJ expropriation during AAS (Imminent) or (Occurrence), and Prefectural expropriation during STS*], *may request* necessary reports from the person who ordered the storage, or have their officials enter the places where the materials are stored and inspect the conditions of the storage of the materials.

(15) When an on-site inspection is conducted pursuant to the provisions of the preceding two paragraphs, the governor must notify the manager of the place in advance.

(16) Officials conducting on-site inspections pursuant to the provisions of ¶¶(13) or (14) must carry identification cards and present them when requested by the relevant parties.

(17) In addition to what is provided for in the preceding paragraphs, the procedures necessary for dispositions [*destruction*] pursuant to the provisions of ¶¶(1) to (4) shall be prescribed by *Cabinet Order*.

(18) No request for review may be made for dispositions [*destruction*] pursuant to the provisions of ¶¶(1) to (4).

(19) The expenses required for the implementation of the provisions of ¶¶(1)-(4), (6), (7), and (10)-(15) [*i.e., all expropriation authorized under this Article*] shall be borne by the national treasury.

i.C.63. Article 103-2 – Use of Land in Planned Area of Development

This article provides authority for expropriation of facilities, land, and goods when required to establish defensive facilities.³⁰⁴⁰ This article applies similar authorities, restrictions, and guidelines to activities under Article 77-2³⁰⁴¹ (Establishment of Defense Facilities) as are applied to expropriation under DOO³⁰⁴² (during STS,³⁰⁴³ AAS (Imminent),³⁰⁴⁴ or AAS (Occurrence).³⁰⁴⁵

(1) When it is deemed necessary for the performance of the missions of the Self-Defense Forces units, etc. that have been ordered to take measures pursuant to the provisions of Article 77-2³⁰⁴⁶ [*Establishment of Defense Facilities*], the *prefectural governor* may use land within the planned deployment area at the request of the *Minister of Defense* or a person specified by Cabinet Order.

(2) When using land pursuant to the provisions of the preceding paragraph, if it is deemed that standing trees, etc. will hinder the performance of the missions of the Self-Defense Forces, the *prefectural governor* may relocate the standing trees, etc. in accordance with the provisions of the same paragraph. In this case, if it is deemed that relocation is extremely difficult in light of the circumstances, the prefectural governor may dispose of [*destroy*] the standing trees, etc. in accordance with the provisions of the same paragraph.

(3) The provisions of ¶¶(7) to (10) [*destruction of facilities, land, and goods*] and ¶¶(17) to (19) [*destruction of other necessary obstacles*] of the preceding article [*Article 100-3*³⁰⁴⁷] shall apply mutatis mutandis³⁰⁴⁸ to cases where land is used or standing trees, etc. are relocated or disposed of in accordance with the provisions of the preceding two paragraphs, and the provisions of ¶¶(6), (13), (15), and (16) [*expropriation of facilities, land, or goods*] of the same article shall apply mutatis mutandis to cases where land is used pursuant to the provisions of ¶(1). In this case, the phrase "the Self-Defense Forces ordered to be mobilized pursuant to the provisions of ¶(1), Article 76³⁰⁴⁹ [*STS, AAS (Imminent), or AAS (Occurrence)*]" in ¶(6) of the preceding Article [*Article 100-3*], shall be deemed to be replaced with "Self-Defense Forces units, etc. ordered to take measures pursuant to the provisions of Article 77-2 [*Establishment of Defense Facilities*]."

³⁰⁴⁰ 3.2.2.4. Establishment of Defense Facilities, p. 57.

³⁰⁴¹ i.C.16. Article 77-2 – Measures to Establish Defense Facilities, p. 311.

³⁰⁴² i.C.62. Article 103 – Requisition of Materials during Defense Operations, etc., p. 333.

³⁰⁴³ 4.9. Survival-Threatening Situation (STS), p. 104.

³⁰⁴⁴ 4.10.1.1. AAS (Imminent), p. 111.

³⁰⁴⁵ 4.10.1.2. AAS (Occurrence), p. 111.

³⁰⁴⁶ i.C.16. Article 77-2 – Measures to Establish Defense Facilities, p. 311.

³⁰⁴⁷ i.C.62. Article 103 – Requisition of Materials during Defense Operations, etc., p. 333.

³⁰⁴⁸ Making necessary changes to account for differing situations, but the basic point remains the same.

³⁰⁴⁹ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

(4) When land is being used pursuant to the provisions of ¶(1) [when required for establishment of defense facilities], if the Self-Defense Forces are ordered to be mobilized pursuant to the provisions of ¶(1), Article 76 (limited to the part relating to No. (i) [AAS (Imminent) and AAS (Occurrence); limitation to No. (i) excludes STS, which is Article 76, ¶(1), No 2]) and the land in question becomes included in an area subject to the provisions of the preceding Article, ¶¶(1) and (2) [Prefectural or GoJ expropriation during AAS (Imminent) or (Occurrence), and Prefectural expropriation during STS], the dispositions [destruction], procedures and other actions taken by the prefectural governor pursuant to the provisions of the preceding three paragraphs shall be deemed to be dispositions [destruction], procedures and other actions taken pursuant to the provisions of the preceding [Article 100-3].

i.C.64. Article 104 – Use, etc., of Communications Facilities

(1) When the Minister of Defense deems it necessary for the Self-Defense Forces ordered to deploy pursuant to the provisions of ¶(1), Article 76³⁰⁵⁰ (limited to the part relating to No. (i) [AAS (Imminent) and AAS (Occurrence); limitation to No. (i) excludes STS, which is Article 76, ¶(1), No 2]), he may request the Minister for Internal Affairs and Communications to take necessary measures to ensure urgent communications by giving priority to the use of telecommunications facilities used by telecommunications carriers stipulated in Article 2, paragraph 5 of the Telecommunications Business Law (Law No. 86 of 1984) for their business, or to use telecommunications facilities installed by persons listed in No. (iii), ¶(4), Article 4 of the Wire Telecommunications Act (Law No. 96 of 1953).

(2) When a request under the preceding paragraph is made, the Minister for Internal Affairs and Communications shall take appropriate measures to meet the request.

i.C.65. Article 105 – Restriction or Prohibitions on Fishing Vessels Operating for Training

Article 105 establishes the PM's authority to establish restrictions functionally similar to a MEZ (a widely accepted but legally informal measure that controls maritime traffic during a crisis or conflict situation—Maritime Operational Zone⁴²⁸ is a form of MEZ during IAC,³⁰⁵¹ Article 105 is distinct from a MEZ in that it is intended for) for the purposes of JSDF training.

(1) When it is necessary to use water surfaces for training and test and research conducted by the Self-Defense Forces, the Minister of Defense may, after hearing the opinions of the Minister of Agriculture, Forestry and Fisheries and the prefectural governors concerned, determine certain areas and periods and restrict or prohibit fishing vessels from operating.

(2) The State shall compensate persons who have previously engaged in lawful fishing in the area for losses incurred in the management of fishing operations due to the restrictions or prohibitions imposed under the provisions of the preceding paragraph.

[¶¶(3) through (12) detail procedures for the compensation process]

i.C.66. Article 112 – Exemption of Application of the Radio Act

(1) Notwithstanding the provisions of Article 104 of the Radio Act (Act No. 131 of 1950, as amended), the provisions of said Law relating to the licensing, registration, and inspection of radio stations and radio operators shall not apply when the Self-Defense Forces use the radio equipment of their radar and mobile bodies.

(2) When the Self-Defense Forces use the radio equipment of their radar and mobile bodies, the Minister of Defense must obtain approval from the Minister of Internal Affairs and Communications for the frequencies to be used.

³⁰⁵⁰ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

³⁰⁵¹ 2.1.2.1.3.1. International Armed Conflict (IAC) and Non-International Armed Conflict (NIAC), p. 18.

(3) When the Self-Defense Forces use the radio equipment of their radar and mobile bodies, the use of the frequencies prescribed in the preceding paragraph shall be in accordance with the provisions of the Minister of Internal Affairs and Communications in order to prevent interference that may hinder the operation of other radio stations.

(4) In order to ensure the smooth operation of radio communications, the Minister of Defense must establish the necessary standards for the establishment and inspection of radio stations and for persons engaged in radio communications at said radio stations when the Self-Defense Forces use the radio equipment of their radar and mobile bodies.

i.D. ARMED ATTACK SITUATIONS, ETC. RESPONSE ACT (ACT NO. 79 OF 2003, AS AMENDED)

This law establishes a system for GoJ to respond to AAAS,³⁰⁵² STS,³⁰⁵³ and AAS³⁰⁵⁴ situations.

The full title of this law is:

- Act on the Peace and Independence of Japan and Maintenance of the Nation and the People's Security in Armed Attack Situations, etc., and Survival-Threatening Situations³⁰⁵⁵

Prior to this law the JSDF lacked a statutory process to conduct Defense Operations³⁰⁵⁶,⁴²⁹

The full title of this law may also appear as:

- Act on Ensuring the Peace and Independence of Japan and the Security of Japan and its People in Armed Attack Situations, etc., and Survival-Threatening Situations
- Act on Ensuring the Peace and Independence of Japan and the Security of the State and People in Armed Attack Situations, etc., and Survival-Threatening Situations

Unless otherwise noted, all block quotations³⁰⁵⁷ found within this section are from the GoJ's official (Japanese language) Japanese Law e-Library.³⁰⁵⁸ The Japanese has been machine translated.³⁰⁵⁹

The source text was published on 19 May 2021 and reflects all amendments up to and including Act No. 36 of 2021.

Amendments made after 2021 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister

Article 11³⁰⁶⁰, ¶(1) states:

(1) The Director of the Crisis Management Headquarters (hereinafter referred to as the "Task Force Chief") shall be the Prime Minister (or the Minister of State³⁰⁶¹ designated in advance by the Prime Minister if there is an emergency).

Because the positions of PM and Task Force Chief are regulated as separate entities and because Task Force Chief *may* be designated to a Minister of State, the relevant laws refer to this position as "Task Force Chief" and not PM. (Minister of Defense, 2023a, p. 283)

³⁰⁵² 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

³⁰⁵³ 4.9. Survival-Threatening Situation (STS), p. 104.

³⁰⁵⁴ 4.10. Armed Attack Situation (AAS), p. 110.

³⁰⁵⁵ This is the English rendering used in the Defense of Japan 2023 white paper. (Minister of Defense, 2023a, p. 282)

³⁰⁵⁶ 3.2.2. Defense Operations, etc., p. 55.

³⁰⁵⁷ 1.3.2. Block Quotations, p. 2.

³⁰⁵⁸ Appendix R. References, p. 293.

³⁰⁵⁹ 1.5.2.2. Machine Translations, p. 7.

³⁰⁶⁰ i.D.6. Article 11 – Organization of the Task Force, p. 343.

³⁰⁶¹ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

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“Task Force Chief” is the shortened title of “Director of the Crisis Management Headquarters.” This full title may also be rendered as “Head of the Emergency Response Situation Task Force.”³⁰⁶²

i.D.2. Article 1 – Purpose

(1) This law applies to armed attack situations, etc. (meaning Armed Attack Situations and Anticipated Armed Attack Situations; the same shall apply hereinafter). By establishing basic principles, the responsibilities of the national government, local governments, etc., cooperation of the people, and other basic matters regarding dealing with situations that pose an existential crisis, we will establish a system for dealing with armed attack situations, etc. and Survival Threatening Situations. The purpose is to contribute to ensuring the peace and independence of our country and the security of the country and its people.

i.D.3. Article 2 – Definitions

(1) In this Act (for the terms listed in ¶(1), excluding items (iv) and **viii c (1)**), the meanings of the terms listed in each of the following items shall be as defined in each respective item. It shall be in accordance with the provisions.

(i) Armed Attack: refers to an Armed Attack³⁰⁶³ against our country from outside.

(ii) Armed Attack Situation [AAS]: A situation in which an Armed Attack has occurred [AAS Occurrence], or a situation in which there is a clear and imminent danger of an armed attack [AAS Imminent].

(iii) Situation in which an Armed Attack is anticipated [AAAS]: A situation in which an Armed Attack has not yet occurred, but the situation has become so tense that an Armed Attack is anticipated.

(iv) Survival-Threatening Situation [STS]: A situation in which an Armed Attack has occurred against another country with which Japan has a close relationship, which threatens the very existence of our country and poses a clear danger of fundamentally overturning the people's rights to life, liberty, and the pursuit of happiness.

(v) Designated Administrative Agencies: The following organizations specified by Cabinet Order:

(a) The Cabinet Office, the Imperial Household Agency, the agencies stipulated in Article 49, ¶¶(1) and (2) of the Cabinet Office Establishment Act (Act No. 89 of 1999), the Digital Agency, and the National Administrative Organization Act (1949) (Act No. 120 of 2003) Organs prescribed in Article 3, ¶(2).

(b) Organs prescribed in Articles 37 and 54 of the Cabinet Office Establishment Act, Article 16, ¶(1) of the Imperial Household Agency Act (Act No. 70 of 1947), and Article 8 of the National Administrative Organization Act.

(c) Organs prescribed in Articles 39 and 55 of the Cabinet Office Establishment Act, Article 16, ¶(2) of the Imperial Household Agency Act, and Article 8-2 of the National Administrative Organization Act.

(d) Organs prescribed in Articles 40 and 56 of the Cabinet Office Establishment Act and Article 8-3 of the National Administrative Organization Act.

(vi) Designated local administrative organs, local branch departments of Designated Administrative Agencies (Articles 43 and 57 of the Cabinet Office Establishment Act [including cases where applied mutatis mutandis³⁰⁶⁴ pursuant to Article 18, ¶(1) of the Imperial Household Agency Act] and the Imperial Household Agency Act) (Refers to local branch bureaus in Article 17, ¶(1) and Article 9 of the National Administrative Organization Law.) Refers to local administrative organs in other countries specified by Cabinet Order.

(vii) Designated public institutions: Independent Administrative Agencies (independent administrative agencies as defined in Article 2, ¶(1) of the Act on General Rules for Incorporated Administrative Agencies (Act No. 103 of 1999)), Bank of Japan, Japanese Red Cross Society, Nippon Broadcasting Corporation

³⁰⁶² “Director of the Crisis Management Headquarters” is the English rendering

used by the Defense of Japan 2023 white paper. (Minister of Defense, 2023a, p. 283)

³⁰⁶⁴ Making necessary changes to account for differing situations, but the basic point remains the same.

³⁰⁶³ 4.11. Definition of “Armed Attack”, p. 114.

Associations and other public institutions, as well as corporations that operate electricity, gas, transportation, communications, and other public interest businesses, as specified by Cabinet Order.

(viii) Response Measures: The following measures to be implemented by Designated Administrative Agencies, local governments, or designated public institutions based on the provisions of law between the time the Basic Response Plan set forth in Article 9, ¶(1) is established until its abolition.

(a) The following measures to be implemented in accordance with the situation in order to end armed attack situations, etc.³⁰⁶⁵ [AAAS, AAS (Imminent), AAS (Occurrence)]

(1) Use of Force, deployment of troops, etc. and other actions carried out by the Self-Defense Forces necessary to eliminate Armed Attacks.

(2) The actions of the Self-Defense Forces listed in (1) and the actions of the United States military to eliminate Armed Attacks pursuant to the Treaty of Mutual Cooperation and Security between Japan and the United States (hereinafter referred to as the "Japan-U.S. Security Treaty") [MST³⁰⁶⁶] Provision of goods, facilities, or services and other measures taken to ensure smooth and effective actions necessary to eliminate armed attacks in cooperation with the Self-Defense Forces carried out by other foreign militaries.

(3) Diplomatic measures and other measures in addition to those listed in (1) and (2)

(b) In order to protect the lives, bodies, and property of the people from Armed Attacks, or to minimize the impact of Armed Attacks on people's lives and the national economy, depending on the progress of armed attack situations, etc. [AAAS, AAS (Imminent), AAS (Occurrence)] The following measures will be implemented:

(1) Issue of warnings, evacuation instructions, rescue of disaster victims, emergency restoration of facilities and equipment, and other measures

(2) Price stabilization, allocation and other measures for daily life-related goods, etc.

(c) The following measures to be implemented according to the situation in order to end the Survival-Threatening Situation [STS]:

(1) Use of Force,³⁰⁶⁷ deployment of troops, etc. and other actions necessary by the Self-Defense Forces to eliminate an Armed Attacks against other countries that have a close relationship with Japan, where there is a clear danger that the existence of Japan will be threatened and the rights of the people to life, liberty, and the pursuit of happiness will be fundamentally overturned (hereinafter referred to as an "Survival-Threatening Armed Attack" [STAA³⁰⁶⁸]). [Authorizes Use of Force in responding to STS and defines Armed Attacks associated with STS Stipulations³⁰⁶⁹ as STAA]

(2) Goods and facilities carried out in order to smoothly and effectively carry out the actions of the Self-Defense Forces listed in (1) and the actions necessary to eliminate Survival-Threatening Armed Attacks in cooperation with the Self-Defense Forces carried out by foreign militaries, or provision of services or other measures.

(3) Diplomatic measures and other measures in addition to those listed in (1) and (2).

(d) To protect the lives, bodies, and property of the people from the serious and significant effects of a Survival-Threatening Armed Attack [STAA], or to minimize the impact when a Survival-Threatening Armed Attack [STAA] affects the lives of the people and the national economy, actions may be implemented to ensure the security of public facilities, ensure the stable supply of daily necessities, etc., and other measures in accordance with the evolution of the Survival-Threatening Situation [STS].

³⁰⁶⁵ 4.7. "Armed Attack Situations, etc.", p. 101.

³⁰⁶⁶ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

³⁰⁶⁷ 3.3.3. Use of Force, p. 79.

³⁰⁶⁸ 4.9.1.2. Survival-Threatening Armed Attack (STAA), p. 105.

³⁰⁶⁹ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

i.D.4. Article 9 – Basic Response Plan

(1) In the event of an armed attack situation, etc. [AAAS,³⁰⁷⁰ AAS (Imminent),³⁰⁷¹ AAS (Occurrence)³⁰⁷²] or a Survival-Threatening Situation [STS³⁰⁷³], the government shall establish a basic plan for dealing with the armed attack situation, etc. or a Survival-Threatening Situation (hereinafter referred to as the "Basic Response Plan" [BRP³⁰⁷⁴]).

(2) The matters stipulated in the Basic Response Plan [BRP] are as follows.

(i) The following matters regarding the situation to be dealt with:

(a) The circumstances of the situation, the recognition that the situation is an Armed Attack Situation [AAS³⁰⁷⁵ including (Imminent), or AAS (Occurrence)], an Anticipated Armed Attack Situation [AAAS], or a Survival-Threatening Situation [STS], and the facts that were the basis for such recognition.

(b) In cases where the situation is determined to be an Armed Attack Situation [AAS including (Imminent), or AAS (Occurrence)] or a situation in which the survival of Japan is threatened [i.e., STS], and there is no other appropriate means to ensure the survival of our country and protect the people, and the Use of Force³⁰⁷⁶ is necessary to deal with the situation. Reasons why it is deemed necessary.

(ii) General policy regarding dealing with armed attack situations, etc.³⁰⁷⁷ [AAAS, AAS (Imminent), AAS (Occurrence)] or Survival-Threatening Situations [STS].

(iii) Important matters regarding response measures.

(3) In the event of an Armed Attack Situation [AAS including (Imminent), or AAS (Occurrence)] or Survival-Threatening Situations [STS], the Basic Response Plan [BRP] must state, as a matter stipulated in item (iii) of the preceding paragraph [response measures], if the Prime Minister's approval for the below to be granted: [i.e., the BRP must state the PM's approval for the response measures listed in ¶(3), items (i)-(vi)]

(i) The Prime Minister may approve a Defense Mobilization Order [DMO³⁰⁷⁸], issued by the Minister of Defense pursuant to the provisions of Article 70,³⁰⁷⁹ ¶(1) or ¶(8) of the SDF Act (Law No. 165 of 1954, as amended) as specified in Article 70, ¶(1), item (i).

(ii) The Prime Minister may approve a Defense Mobilization Order [DMO], issued by the Minister of Defense pursuant to the provisions of Article 75-4³⁰⁸⁰ [DMO for Ready Reserve Personnel], ¶(1) or ¶(6) of the SDF Act (Law No. 165 of 1954, as amended), as specified in ¶(1), item (i) of the same article [Article 75-4].

(iii) Approval given by the Prime Minister pursuant to the provisions of Article 77³⁰⁸¹ of the SDF Act (Law No. 165 of 1954, as amended) regarding a Defense Operations Alert Order [DOAO³⁰⁸²] issued by the Minister of Defense pursuant to the provisions of the same article [Article 77].

(iv) Approval given by the Prime Minister pursuant to the provisions of Article 77-2³⁰⁸³ of the SDF Act (Law No. 165 of 1954, as amended) regarding Measures to Establish Defense Facilities³⁰⁸⁴ ordered by the Minister of Defense pursuant to the provisions of the same article [Article 77-2].

(v) Based on the provisions of Article 10,³⁰⁸⁵ ¶(3) of the US Military Action Support Act (Law No. 113 of 2004, as amended), the Minister of Defense Approval given by the Prime Minister pursuant to the provisions

³⁰⁷⁰ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

³⁰⁷¹ 4.10.1.1. AAS (Imminent), p. 111.

³⁰⁷² 4.10.1.2. AAS (Occurrence), p. 111.

³⁰⁷³ 4.9. Survival-Threatening Situation (STS), p. 104.

³⁰⁷⁴ 4.3. Basic Response Plan (BRP), p. 95.

³⁰⁷⁵ 4.10. Armed Attack Situation (AAS), p. 110.

³⁰⁷⁶ 3.3.3. Use of Force, p. 79.

³⁰⁷⁷ 4.7. "Armed Attack Situations, etc.", p. 101.

³⁰⁷⁸ 3.2.2.3.1.1. Defense Mobilization Order (DMO), p. 57.

³⁰⁷⁹ i.C.12. Article 70 – Defense Mobilization, Civil Protection Mobilization, etc., and Disaster Mobilization for Reserve Personnel, p. 308.

³⁰⁸⁰ i.C.13. Article 75-4 – Defense Mobilization, Civil Protection Mobilization, etc., and Disaster Mobilization for Ready Reserve Personnel, p. 309.

³⁰⁸¹ i.C.15. Article 77 – Defense Operation Alert Order (DOAO), p. 310.

³⁰⁸² 3.2.2.1.2. Defense Operation Alert Order (DOAO), p. 56.

³⁰⁸³ i.C.16. Article 77-2 – Measures to Establish Defense Facilities, p. 311.

³⁰⁸⁴ 3.2.2.4. Establishment of Defense Facilities, p. 57.

³⁰⁸⁵ i.F.1. Article 10 – Implementation of Provision of Goods and Services as Operation-Related Measures by the Self-Defense Forces, p. 354.

of the same paragraph regarding the provision of services as an action-related measure ordered to be implemented.

(vi) The provisions of Chapter 4 of the Maritime Transportation Restriction Law (Law No. 116 of 2004, as amended) ordered by the Minister of Defense pursuant to the provisions of Article 4³⁰⁸⁶ of the same Act. Approval given by the Prime Minister pursuant to the provisions of the same article regarding measures taken under the act.

(4) In the event of an Armed Attack Situation [AAS (Imminent), or AAS (Occurrence)] or Survival Threatening Situation, the Basic Response Plan shall include, in addition to what is provided for in the preceding paragraph [PM approval for response measures to be implemented], a request for Approval from the Diet³⁰⁸⁷ by the Prime Minister listed in item (i) [DOO submitted for ex ante approval] (If the House of Representatives has been dissolved, approval by the House of Councillors through an emergency meeting as provided for in Article 54³⁰⁸⁸ of the Constitution of Japan. The same shall apply hereinafter in this article.). If the Prime Minister orders a Defense Operation³⁰⁸⁹ listed in item (ii) [ex post request for approval], it must be stated to that effect. However, a statement to the effect of ordering a Defense Operation listed in the same item [item (ii), DOO issued with ex post request for approval] may not be made unless there is a particularly urgent need and there is no time to obtain the Diet's Approval in advance. [i.e., the BRP must include one of the two following items, item (i) requesting approval for a DOO, or item (ii) the DOO issued for ex post Diet Approval (which is permitted only when "there is a particularly urgent need and there is no time to obtain the Diet's Approval in advance")]

(i) Request for approval from the Diet based on the provisions of Article 76,³⁰⁹⁰ ¶(1) of the SDF Act (Law No. 165 of 1954, as amended) regarding the Prime Minister ordering a Defense Operation [STS, AAS (Imminent), or AAS (Occurrence)].

(ii) Defense Operation Order by the Prime Minister pursuant to the provisions of Article 76, Paragraph 1 of the SDF Act (Law No. 165 of 1954, as amended) [DOO for STS, AAS (Imminent), or AAS (Occurrence)].

(5) In a situation in which an Armed Attack is anticipated, the Basic Response Plan must state, as a matter stipulated in ¶(2), item (iii), if the Prime Minister's approval for the below to be granted:

(i) With regard to Defense Call-Up Orders issued by Defense Call-Up Order issued by the Minister of Defense pursuant to the provisions of Article 70, ¶(1) or ¶(8) of the SDF Act (Law No. 165 of 1954, as amended), pursuant to the Defense Call-Up Order prescribed in Article 70, ¶(1), item (i) (limited to cases where the situation is tense and it is anticipated that a Defense Operation Order pursuant to the provisions of Article 76, ¶(1) of the Act [for STS, AAS (Imminent), or AAS (Occurrence)] will be issued) approval given by the Prime Minister pursuant to the provisions of Article 70, Article 70, ¶(1) or ¶(8) of the SDF Act (Law No. 165 of 1954, as amended).

(ii) Pursuant to the provisions of ¶(1) [MinDef issuance of Defense Mobilization Order for SDF Ready Reserve Personnel] or ¶(6) of Article 75-4 [Defense Operations Call-Up for Ready Reserve Personnel] of the SDF Act (Law No. 165 of 1954, as amended), the Prime Minister may approve a Defense Call-Up Order prescribed in ¶(1), item (i) of the same Article [Article 75-4] (limited to cases where the situation is tense and it is anticipated that a Defense Operation Order pursuant to the provisions of Article 76, ¶(1) of the Act [for STS, AAS (Imminent), or AAS (Occurrence)] will be issued).

(iii) Approval given by the Prime Minister pursuant to the provisions of Article 77³⁰⁹¹ [Defense Operations Alert Order] of the SDF Act (Law No. 165 of 1954, as amended) regarding a Defense Operations Alert Order issued by the Minister of Defense pursuant to the provisions of the same article.

(iv) Approval given by the Prime Minister pursuant to the provisions of Article 77-2 of the SDF Act (Law No. 165 of 1954, as amended) regarding measures to construct defense facilities ordered by the Minister of Defense pursuant to the provisions of the same article.

³⁰⁸⁶ i.M.2. Article 4 – Measures by the Maritime Self-Defense Force, p. 374.

³⁰⁸⁷ Diet Approval is achieved through simple majority. See § C.3.3. Diet Approvals and Passage of Bills (p. 234).

³⁰⁸⁸ i.B.6. Article 54 – Dissolution of the House of Representatives, p. 301.

³⁰⁸⁹ 3.2.2.1. Defense Operation (DO), p. 55.

³⁰⁹⁰ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

³⁰⁹¹ i.C.15. Article 77 – Defense Operation Alert Order (DOAO), p. 310.

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(v) Based on the provisions of Article 10,³⁰⁹² ¶(3) of the US Military Action Support Act (Law No. 113 of 2004, as amended), the Minister of Defense Approval given by the Prime Minister pursuant to the provisions of the same paragraph regarding the provision of services as an action-related measure ordered to be implemented.

(6) The Prime Minister must draw up a draft of the Basic Response Plan and request a Cabinet Decision.³⁰⁹³

(7) When the Cabinet Decision in the preceding paragraph is made, the Prime Minister shall immediately request the approval of the Diet for the Basic Response Plan (excluding the part related to requesting the approval of the Diet as stipulated in ¶(4), item (i) [DOO submitted for ex ante approval]).

(8) When the Cabinet Decision set forth in ¶(6) is made, the Prime Minister must immediately publicize the Basic Response Plan and disseminate it.

(9) When the Prime Minister has approved the Basic Response Plan pursuant to the provisions of ¶(7), he must immediately make a public announcement to that effect.

(10) When approval is obtained from the Diet regarding the request for approval to order a Defense Operation as prescribed in ¶ 4, item (i) [DOO submitted for ex ante approval], the Basic Response Plan will be changed and the Defense Operation related to the approval will be ordered. This shall be stated.

(11) If a request for approval of the Basic Response Plan pursuant to the provisions of ¶(7) is disapproved [i.e., Rejected³⁰⁹⁴], the response measures related to the resolution must be promptly terminated. In this case, the Prime Minister must immediately order the withdrawal of the Self-Defense Forces that have been ordered to mobilize for defense as prescribed in ¶(4), item (ii) [DOO issued with ex post request for approval].

(12) In implementing response measures, the Prime Minister will direct and supervise each administrative department on behalf of the Cabinet based on the Basic Response Plan.

(13) The provisions of ¶¶(6)-(9) and ¶(11) shall apply mutatis mutandis³⁰⁹⁵ to changes to the Basic Response Plan. However, the provisions of ¶¶(7), (9), and (11) shall not apply to changes based on the provisions of ¶(10) and changes that involve termination of measures constituting response measures.

(14) When the Prime Minister deems that there is no longer a need to implement response measures, or when the Diet has resolved to terminate response measures, he [the Prime Minister] must request a Cabinet Decision to abolish the Basic Response Plan.

(15) When the Cabinet Decision in the preceding paragraph is made, the Prime Minister must promptly report to the Diet that the Basic Response Plan has been abolished and the results of the response measures specified in the Basic Response Plan, and make this publicly available.

i.D.5. Article 10 – Establishment of the Task Force

(1) When a Basic Response Plan is established, in order to promote the implementation of response measures related to the Basic Response Plan, the Prime Minister shall, notwithstanding the provisions of Article 12, ¶(4) of the Cabinet Act (Act No 5 of 1947) [establishment of necessary organizations to assist in the affairs of the cabinet], make an extraordinary decision at a Cabinet meeting to temporarily appoint a situation response headquarters (hereinafter referred to as the "Task Force Headquarters.").

(2) When the Prime Minister establishes a task force, he must report the name of the task force, the location and period of its establishment to the Diet, and publicly announce the same.

³⁰⁹² i.F.1. Article 10 – Implementation of Provision of Goods and Services as Operation-Related Measures by the Self-Defense Forces, p. 354.

³⁰⁹³ C.2.1.4.2. Cabinet Order, p. 226.

³⁰⁹⁴ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

³⁰⁹⁵ Making necessary changes to account for differing situations, but the basic point remains the same.

i.D.6. Article 11 – Organization of the Task Force

- (1) *The Director of the Crisis Management Headquarters (hereinafter referred to as the "Task Force Chief") shall be the Prime Minister (or the Minister of State³⁰⁹⁶ designated in advance by the Prime Minister if there is an emergency).³⁰⁹⁷*
- (2) *The Task Force Chief shall oversee the affairs of the Task Force and direct and supervise the staff of the department.*
- (3) *The Task Force will have a Deputy Director of Emergency Response Situation Task Force (hereinafter referred to as the "Deputy Director of the Task Force"), members of the Emergency Response Situation Task Force (hereinafter referred to as "Members of the Task Force"), and other staff.*
- (4) *The Deputy Director of the Task Force shall be filled by a Minister of State.*
- (5) *The Deputy Director of the Task Force shall assist the Task Force Chief and act in his/her place if the Task Force Chief is incapacitated. If there are two or more Deputy Directors of the Task Force, their duties will be delegated to them in the order determined in advance by the Task Force Chief.*
- (6) *The Members of the Task Force shall be all Ministers of State³⁰⁹⁸ other than the Task Force Chief and the Deputy Director of the Task Force. In this case, if a Minister of State is absent, a Vice Minister designated in advance (including the Deputy Chief Cabinet Secretary) may act in his/her place.*
- (7) *Staff of the Task Force other than the Deputy Director of the Task Force and Members of the Task Force are Cabinet Secretariat officials, heads of Designated Administrative Agencies (excluding the Ministers of State) and staff, or heads of related designated local government organizations and staff, as designated by the Prime Minister.*

i.D.7. Article 22 – Emergency Response Plan

- (1) *When an emergency response situation (referring to an urgent national situation in which a large number of people are killed or injured using means similar to an Armed Attack, or in which there is a clear and imminent danger of such an act occurring (this includes situations that will later be recognized as armed attack situations in the basic response policy); the same applies hereinafter) arises, the government shall establish a policy for dealing with the emergency response situation (hereinafter referred to as the "Emergency Response Plan.").*
- (2) *The matters stipulated in the emergency response policy are as follows.*
- (i) Certification that it is an emergency response situation and the facts that are the premise for such certification*
 - (ii) General policy regarding handling of the emergency response situation*
 - (iii) Important matters regarding emergency response measures*
- (3) *The emergency response measures set forth in item (iii) of the preceding paragraph refer to the following measures that a designated administrative agency, local government, or designated public agency implements based on the provisions of law between the time the emergency response policy is established and the time it is abolished.*
- (i) Attack prevention, suppression, and other measures in the emergency response situation to be implemented according to the progress of the emergency response situation in order to end the emergency response situation.*
 - (ii) Issuance of warnings, evacuation instructions, rescue of disaster victims, emergency restoration of facilities and equipment, and other measures to be implemented according to changes in the situation, in*

³⁰⁹⁶ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

³⁰⁹⁷ i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister, p. 337.

³⁰⁹⁸ C.2.1.2. Ministers of State (Cabinet Members), p. 226.

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order to protect the lives, bodies, and property of the people from attacks during emergency response situations, or to minimize the impact of attacks on the lives of the people and the national economy.

(4) The Prime Minister must prepare a draft Emergency Response Plan and request a Cabinet Decision.³⁰⁹⁹

(5) When the Cabinet decision set forth in the preceding paragraph is made, the Prime Minister must refer the matter to the Diet within 20 days from the date of the decision and request the Diet's approval of the policy for dealing with emergency situations. However, if the Diet is in recess or the House of Representatives has been dissolved, approval must be promptly sought at the first Diet session convened thereafter.

(6) When the Cabinet decision under paragraph 4 is made, the Prime Minister must immediately publicize the emergency response policy and disseminate it.

(7) When the Prime Minister has approved the emergency response policy based on the provisions of paragraph 5, he must immediately make a public announcement to that effect.

(8) If a request for approval of the emergency response policy based on the provisions of paragraph 5 is disapproved [i.e., *Rejected*³¹⁰⁰], the emergency response measures related to the resolution must be promptly terminated.

(9) In implementing emergency response measures, the Prime Minister will direct and supervise each administrative department on behalf of the Cabinet based on the emergency response policy.

(10) The provisions of paragraphs 4 to 8 shall apply *mutatis mutandis*³¹⁰¹ to changes in the emergency response policy. However, the provisions of paragraphs 5, 7, and 8 do not apply to changes that involve the termination of measures that constitute emergency response measures.

(11) When the Prime Minister deems that there is no longer a need to implement emergency response measures, or when the Diet has resolved to end emergency response measures, the Prime Minister must request a Cabinet decision to abolish the emergency response policy.

(12) When the Cabinet decision in the preceding paragraph is made, the Prime Minister shall promptly report to the Diet that the Emergency Response Policy has been abolished and the results of the emergency response measures specified in the Emergency Response Policy and make this publicly announced.

i.E. IIS ACT (ACT NO. 60 OF 1999, AS AMENDED)

During IIS,³¹⁰² provides for support to the US or other foreign countries responding to IIS situations. *Ittaika*³¹⁰³ principle applies.

The full title of this law is:

- Law Concerning Measures to Ensure the Peace and Security of Japan in Situations that Will Have an Important Influence on Japan's Peace and Security³¹⁰⁴

This law may appear in some GoJ documentation as the "SIS Act" (Significant Influence Situation or Serious Influence Situation).

Unless otherwise noted, all block quotations³¹⁰⁵ found within this section are from the GoJ's official (Japanese language) Japanese Law e-Library.³¹⁰⁶ The Japanese has been machine translated.³¹⁰⁷

The source text was published on 19 May 2021 and reflects all amendments up to and including Act No. 36 of 2021.

³⁰⁹⁹ C.2.1.4.2. Cabinet Order, p. 226.

³¹⁰⁰ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

³¹⁰¹ Making necessary changes to account for differing situations, but the basic point remains the same.

³¹⁰² 4.6. Important Influence Situation (IIS), p. 98.

³¹⁰³ 2.1.2.2. *Ittaika* (Integration), p. 20.

³¹⁰⁴ This is the English rendering used in the Defense of Japan 2023 white paper. (Minister of Defense, 2023a, p. 284)

³¹⁰⁵ 1.3.2. Block Quotations, p. 2.

³¹⁰⁶ Appendix R. References, p. 293.

³¹⁰⁷ 1.5.2.2. Machine Translations, p. 7.

Amendments made after 2021 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.E.1. Overview

This law provides for the GoJ authority to take the following measures under a Stipulation³¹⁰⁸ of IIS:³¹⁰⁹

- SIO³¹¹⁰ Operations (Article 2, p. 345)
 - via Article 2³¹¹¹ of the Ship Inspection Act (Act No. 145 of 2000, amended)
- Logistics Support Activities³¹¹² (Article 6, p. 348)
- RSAR³¹¹³ Operations (Article 7, p. 349)

i.E.2. Article 2 - Basic Principles

(1) In the event of an Important Influence Situation [IIS³¹¹⁴], in order to ensure the peace and security of the country, the government shall appropriately and promptly carry out Logistics Support Activities,³¹¹⁵ search and rescue [RSAR³¹¹⁶] operations, and ship inspection activities [SIO³¹¹⁷], in accordance with Article 2³¹¹⁸ of the Ship Inspection Act (Act No. 145 of 2000, amended) (limited to those carried out in the event of a Important Influence Situation [IIS]; hereinafter referred to as "ship inspection activities"), and other necessary measures in response to an Important Influence Situation [IIS] (hereinafter referred to as "response measures").

(2) The implementation of response measures must not amount to the threat or Use of Force.³¹¹⁹

(3) Logistics Support Activities and search and rescue [SAR³¹²⁰] operations shall not be conducted at the site of active hostilities³¹²¹ (refers to acts that kill or injure people or destroy property as part of an international armed conflict, same hereinafter). However, this shall not apply to search and rescue [SAR] operations conducted pursuant to the provisions of Article 7, ¶(6).

(4) Response measures in the territory of a foreign country shall be implemented only if the foreign country (or, if there is an organization that administers the country in accordance with a resolution of the General Assembly or Security Council of the United Nations, that organization) has consented to such response measures being taken.

(5) In implementing response measures, the Prime Minister shall direct and supervise each administrative department on behalf of the Cabinet based on the Basic Plan [BP³¹²²] prescribed in Article 4, ¶(1).

(6) The heads of relevant administrative agencies shall cooperate with each other in implementing response measures in order to achieve the objectives set forth in the preceding article.

i.E.3. Article 3 – Definitions

(1) In this Act, the meanings of the terms listed in each of the following items shall be as specified in each of the respective items:

(i) United States Armed Forces, etc.: Armed forces of the United States that respond to Important Influence Situations [IIS³¹²³] and conduct activities that contribute to the achievement of the objectives of the Japan-U.S. Security Treaty, as well as the armed forces of foreign countries and other similar organizations engaged in activities that contribute to the achievement of the objectives of the Charter of the United Nations.

³¹⁰⁸ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

³¹⁰⁹ 4.6. Important Influence Situation (IIS), p. 98.

³¹¹⁰ 3.2.3.9. Ship Inspection Operations (SIO), p. 69.

³¹¹¹ i.L.1. Article 2 – Definitions, p. 367.

³¹¹² 4.5.1.1. Logistics Support Activities, p. 98.

³¹¹³ 3.2.2.6.1. "Rear-Area" Search and Rescue (RSAR), p. 58.

³¹¹⁴ 4.6. Important Influence Situation (IIS), p. 98.

³¹¹⁵ 4.5.1.1. Logistics Support Activities, p. 98.

³¹¹⁶ 3.2.2.6.1. "Rear-Area" Search and Rescue (RSAR), p. 58.

³¹¹⁷ 3.2.3.9. Ship Inspection Operations (SIO), p. 69.

³¹¹⁸ i.L.1. Article 2 – Definitions, p. 367.

³¹¹⁹ 3.3.3. Use of Force, p. 79.

³¹²⁰ 3.2.2.6. Search and Rescue (SAR), p. 58.

³¹²¹ 2.1.2.2.1. Scene of Combat, p. 21.

³¹²² 4.4. Basic Plan (BP), p. 97.

³¹²³ 4.6. Important Influence Situation (IIS), p. 98.

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(ii) **Logistics Support Activities**:³¹²⁴ Refers to the provision of goods and services, provision of facilities, and other support measures to the United States Armed Forces, etc., which are carried out by Japan.

(iii) **Search and rescue [SAR]**³¹²⁵ operations: Refers to activities carried out by Japan to search for or rescue participants in combat who have been lost due to combat operations conducted in situations of significant impact (including transportation of rescued persons).

(vi) **Relevant administrative agencies**: The following agencies are specified by Cabinet Order:

(a) The Cabinet Office and the agencies stipulated in Article 49, paragraphs 1 and 2 of the Act for Establishment of the Cabinet Office (Act No. 89 of 1999), the **Digital Agency**, and the institutions specified in Article 3, Paragraph 2 of the National Administrative Organization Act (Act No. 120 of 1945).

(b) Special organs stipulated in Articles 40 and 56 of the Act for Establishment of the Cabinet Office (Act No. 89 of 1999) and Article 8-3 of the **National Administrative Organization Act (Act No. 120 of 1945)**.

(2) The provision of goods belonging to the Self-Defense Forces and the provision of services by the Self-Defense Forces (excluding those prescribed in the latter part of the next paragraph) carried out as Logistics Support Activities shall be listed in Attached **Table 1**.

(3) Search and rescue [SAR] operations shall be carried out by units of the Self-Defense Forces (meaning units, etc. prescribed in Article 8 of the SDF Act (Law No. 165 of 1954, as amended); the same shall apply hereinafter). In this case, the Self-Defense Forces, etc. conducting search and rescue [SAR] operations may provide supplies belonging to the Self-Defense Forces as Logistics Support Activities to units such as the United States Armed Forces that conduct activities equivalent to those activities, shall be listed in Table 2.³¹²⁶

i.E.3.A. Table 2

Kinds	Content
Supply	Provision of water, fuel, meals, and similar goods and services
Transportation	Transportation of personnel and goods, provision of transportation materials, and provision of similar goods and services
Repair and Maintenance	Repair and maintenance, provision of repair and maintenance equipment, parts and components, and provision of similar goods and services.
Medical Care	Provision of medical care, sanitary equipment, and similar goods and services to the injured and sick.
Communication	Use of communication facilities, provision of communication equipment, and provision of similar goods and services
Use of Facilities	Use of accommodation facilities, provision of bedding, and provision of similar goods and services
Disinfection	Disinfection, provision of disinfection equipment, and provision of similar goods and services
Remarks	The provision of goods shall not include the provision of weapons.

i.E.4. Article 4 - Basic Plan

(1) If the Prime Minister deems it necessary to implement any of the following measures in the event of a significant impact situation, a Cabinet Decision³¹²⁷ must be sought regarding the implementation of the measures and the draft Basic Plan [BP³¹²⁸] for response measures (hereinafter referred to as the "Basic Plan" [BP]).

(i) **Logistics Support Activities**³¹²⁹ set forth in ¶(2) of the preceding article

³¹²⁴ 4.5.1.1. Logistics Support Activities, p. 98.³¹²⁵ 3.2.2.6. Search and Rescue (SAR), p. 58.³¹²⁶ i.E.3.A. Table 2, p. 346.³¹²⁷ C.2.1.4.2. Cabinet Order, p. 226.³¹²⁸ 4.4. Basic Plan (BP), p. 97.³¹²⁹ 4.5.1.1. Logistics Support Activities, p. 98.

(ii) In addition to what is listed in the previous item, measures that are implemented as logistical support activities by related administrative agencies and that need to be implemented comprehensively and effectively, especially with the involvement of the Cabinet.

(iii) Search and rescue operations [SAR³¹³⁰]

(iv) Ship inspection activities [SIO³¹³¹]

(2) The matters stipulated in the Basic Plan [BP] are as follows.

(i) The following matters regarding significant impact situations:

(a) Background of the situation and its impact on the peace and security of Japan

(b) Reasons why it is deemed necessary for Japan to implement response measures

(ii) In addition to what is listed in the previous item, basic policies regarding the implementation of response measures.

(iii) The following matters when implementing the logistical support activities listed in item 1 or 2 of the preceding paragraph:

(a) Basic matters related to the relevant Logistics Support Activities

(b) Type and content of the relevant Logistics Support Activities

(c) Matters regarding the scope of the area where the relevant Logistics Support Activities will be carried out and the designation of the area.

(d) If the Self-Defense Forces carry out the relevant Logistics Support Activities in foreign territory, the size, composition, equipment, and dispatch period of the Self-Defense Forces units, etc. that will carry out the relevant Logistics Support Activities in the foreign territory.

(e) Other important matters regarding the implementation of the relevant Logistics Support Activities

(iv) The following matters when conducting search and rescue [SAR] operations:

(a) Basic matters related to the search and rescue operations [SAR]

(b) Matters regarding the scope of the area where the search and rescue [SAR] operations will be carried out and the designation of the area.

(c) Important matters regarding the implementation of the Logistics Support Activities set forth in the latter part of ¶(3) of the preceding article in conjunction with the implementation of the search and rescue [SAR] operations (including matters regarding the scope of the area where the Logistics Support Activities will be carried out and the designation of the area)

(d) If the Self-Defense Forces carry out the relevant search and rescue [SAR] operations or the Logistics Support Activities referred to in the latter part of ¶(3) of the preceding article in conjunction with the search and rescue [SAR] operations in foreign territory, the size and composition of the Self-Defense Forces units, etc. that carry out these activities in the foreign territory, as well as equipment and dispatch period.

(e) Other important matters regarding the implementation of search and rescue [SAR] operations.

(v) Matters stipulated in Article 4,³¹³² ¶(1) of the Ship Inspection Act (Act No. 145 of 2000, amended) to be carried out in the event of a significant impact situation, etc. when carrying out ship inspection activities.

(vi) In addition to what is listed in the preceding three items, the types and contents of important response measures implemented by the Self-Defense Forces, and important matters regarding their implementation.

³¹³⁰ 3.2.2.6. Search and Rescue (SAR), p. 58.

³¹³¹ 3.2.3.9. Ship Inspection Operations (SIO), p. 69.

³¹³² i.L.3. Article 4 – Matters Stipulated in the Basic Plan, p. 368.

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(vii) In addition to the items listed in items 3 to 3 above, important matters related to the implementation of response measures implemented by related administrative agencies that particularly need to be implemented comprehensively and effectively with the involvement of the Cabinet.

(viii) Type and content of cooperation when requesting or requesting cooperation from local governments or other parties outside the country regarding the implementation of response measures, and important matters regarding that cooperation.

(ix) Matters related to communication and coordination among related administrative agencies for implementing response measures

(3) If the Logistics Support Activities or search and rescue [SAR] operations referred to in paragraph 2 of the preceding article, or the Logistics Support Activities associated with the implementation referred to in the latter part of paragraph 3 of the same article, are carried out in the territory of a foreign country (or, if there is an organization prescribed in Article 2, paragraph 4, that organization), the scope of the area to be implemented shall be determined in consultation with the foreign country.

(4) The provisions of paragraph 1 and the preceding paragraph shall apply mutatis mutandis³¹³³ to changes to the Basic Plan [BP].

i.E.5. Article 5 - Approval of the Diet

Article 5 proves for both ex ante³¹³⁴ and ex post³¹³⁵ Diet Approval.³¹³⁶

(1) Regarding Logistics Support Activities,³¹³⁷ search and rescue [SAR³¹³⁸] operations, or ship inspection activities carried out by Self-Defense Forces units, etc. as specified in the Basic Plan [BP³¹³⁹], the Prime Minister must obtain approval from the Diet to implement these response measures before implementing them [i.e., ex ante Approval]. However, if there is an urgent need, such Logistics Support Activities, search and rescue [SAR] operations, or ship inspection activities may be carried out without obtaining approval from the Diet [i.e., ex post Approval].

(2) If Logistics Support Activities, search and rescue [SAR] operations, or ship inspection activities are carried out without the approval of the Diet pursuant to the provisions to the preceding paragraph [i.e., under ex post Approval], the Prime Minister shall promptly obtain the approval of the Diet for the implementation of these response measures.

(3) In the case referred to in the preceding paragraph, if there is a resolution of disapproval [i.e., Rejection³¹⁴⁰], the government must promptly terminate the relevant Logistics Support Activities, search and rescue activities, or ship inspection activities.

i.E.6. Article 6 - Implementation of Provision of Goods and Services as Logistics Support Activities by the SDF

(1) The Minister of Defense or a person authorized by the Minister of Defense shall carry out the provision of goods belonging to the Self-Defense Forces as part of the Logistics Support Activities³¹⁴¹ set forth in Article 3, ¶(2), in accordance with the Basic Plan [BP³¹⁴²].

(2) In accordance with the Basic Plan [BP], the Minister of Defense shall establish implementation guidelines for the provision of services by the Self-Defense Forces as Logistics Support Activities under Article 3, ¶(2), and, with the approval of the Prime Minister, agencies of the Ministry of Defense or units of the Self-Defense Forces, etc. shall be ordered to implement them.

³¹³³ Making necessary changes to account for differing situations, but the basic point remains the same.

³¹³⁴ 4.2.1.1. Ex Ante ("Before the Event") Approval, p. 94.

³¹³⁵ 4.2.1.2. Ex Post ("From After") Approval, p. 94.

³¹³⁶ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

³¹³⁷ 4.5.1.1. Logistics Support Activities, p. 98.

³¹³⁸ 3.2.2.6. Search and Rescue (SAR), p. 58.

³¹³⁹ 4.4. Basic Plan (BP), p. 97.

³¹⁴⁰ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

³¹⁴¹ 4.5.1.1. Logistics Support Activities, p. 98.

³¹⁴² 4.4. Basic Plan (BP), p. 97.

(3) The Minister of Defense shall, in the implementation guidelines set forth in the preceding paragraph, take into consideration the specific details of the provision of services that need to be performed, and provide the necessary measures to enable Ministry of Defense agencies or units of the Self-Defense Forces, etc. to perform them smoothly and safely, and shall designate the area (hereinafter referred to as the "implementation area" in this article) in which such Logistics Support Activities will be carried out.

(4) If the Minister of Defense deems it difficult for Self-Defense Forces units, etc. to smoothly and safely carry out the Logistics Support Activities set forth in Article 3, ¶(2) in all or part of the implementation area, or when such Logistics Support Activities are carried out in foreign territory, if it is determined that the consent set forth in Article 2, ¶(4) no longer exists, the designation must be promptly changed or the activities carried out therein must be ordered to be suspended.

(5) The head of a unit of the Self-Defense Forces or a person designated by him who is ordered to carry out the Logistics Support Activities set forth in Article 3, ¶(2) outside the territory of Japan shall be at the location where the Logistics Support Activities is being carried out or in the vicinity thereof. In the event that a combat act has taken place, or if it is predicted that a combat act will take place in light of the surrounding situation, etc., we may temporarily suspend the implementation of the relevant Logistics Support Activities, etc. to prevent the risk of such a combat act. The government shall wait for measures pursuant to the provisions of the preceding paragraph while avoiding the above.

(6) The provisions of ¶(2) shall apply mutatis mutandis³¹⁴³ to changes to the implementation guidelines of the same paragraph (excluding changes that reduce the implementation area pursuant to the provisions of ¶(4)).

i.E.7. Article 7 - Implementation of SAR Operations, etc.

(1) The Minister of Defense shall establish implementation guidelines for search and rescue [SAR³¹⁴⁴] operations in accordance with the Basic Plan [BP³¹⁴⁵], obtain the approval of the Prime Minister, and order units of the Self-Defense Forces, etc. to implement them.

(2) The Minister of Defense shall, in the implementation guidelines set forth in the preceding paragraph, take into consideration the specific details of the search and rescue [SAR] operations that need to be performed, and provide the necessary measures to enable Ministry of Defense agencies or units of the Self-Defense Forces, etc. to perform them smoothly and safely, and shall designate the area (hereinafter referred to as the "implementation area" in this article) in which such search and rescue [SAR] operations will be carried out.

(3) When carrying out search and rescue [SAR] operations, if there are people in distress other than combat participants, they shall be rescued.

(4) The provisions of ¶(4) of the preceding article shall apply mutatis mutandis³¹⁴⁶ to changes in the designation of implementation areas and suspension of activities.

(5) The provisions of ¶(5) of the preceding article shall apply mutatis mutandis to the head of a unit of the Self-Defense Forces, etc. or a person designated by him who is ordered to conduct search and rescue [SAR] operations outside the territory of Japan. In this case, the term "the preceding paragraph" in the same paragraph shall be deemed to be replaced with "the preceding paragraph as applied mutatis mutandis pursuant to ¶(4) of the following article."

(6) Notwithstanding the provisions of ¶(5) of the preceding Article, which applies mutatis mutandis in the preceding paragraph, if a person in distress has already been found and a Self-Defense Forces unit, etc. has begun rescuing the person, as long as the safety of the unit, etc. is ensured, search and rescue [SAR] operations can continue.

(7) The provisions of ¶(1) shall apply mutatis mutandis to changes to the implementation guidelines set forth in the same paragraph (excluding changes that reduce the implementation area pursuant to the provisions of ¶(4) of the preceding Article, which are applied mutatis mutandis in ¶(4)).

³¹⁴³ Making necessary changes to account for differing situations, but the basic point remains the same.

³¹⁴⁴ 3.2.2.6. Search and Rescue (SAR), p. 58.

³¹⁴⁵ 4.4. Basic Plan (BP), p. 97.

³¹⁴⁶ Making necessary changes to account for differing situations, but the basic point remains the same.

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(8) The provisions of the preceding article shall apply mutatis mutandis to the Logistics Support Activities³¹⁴⁷ set forth in the latter part of Article 3, ¶(3), associated with the implementation of search and rescue [SAR] operations.

i.E.8. Article 8 - Implementation of Response Measures by Relevant Administrative Agencies

(1) In addition to what is provided for in the preceding two articles, the Minister of Defense and the heads of other relevant administrative organs shall implement response measures in accordance with laws and Basic Plans [BP³¹⁴⁸].

i.E.9. Article 9 - Cooperation by Parties Other than the State

(1) The heads of relevant administrative organs may, in accordance with laws and regulations and Basic Plans [BP³¹⁴⁹], request the necessary cooperation from the heads of local governments in the exercise of their authority.

(2) In addition to what is provided for in the preceding paragraph, the heads of relevant administrative organs may request necessary cooperation from parties other than the state in accordance with laws and Basic Plans [BP].

(3) If a person other than the country requested or requested to cooperate pursuant to the provisions of the preceding two paragraphs suffers a loss as a result of that cooperation, the government shall take necessary financial measures regarding the loss.

i.E.10. Article 10 - Report to the Diet

(1) The Prime Minister must report to the Diet the matters listed in the following items without delay:

- (i) If there is a decision or change to the Basic Plan [BP], its details;
- (ii) When the response measures specified in the Basic Plan [BP] are completed, the results.

i.E.11. Article 11 - Use of Weapons

Article 11 authorizes Type 1³¹⁵⁰ and Type 2³¹⁵¹ Use of Weapons.³¹⁵²

(1) Units of the Self-Defense Forces that are ordered to provide services as Logistics Support Activities pursuant to the provisions of Article 6, ¶(2) (including cases where it applies mutatis mutandis³¹⁵³ pursuant to Article 7, ¶(8); the same shall apply in ¶¶(5) and (6), or ordered to carry out search and rescue [SAR] operations pursuant to the provisions of Article 7, ¶(1), if it is unavoidable for such Self-Defense Forces to protect the lives or bodies of themselves, other Self-Defense Forces personnel (refers to the personnel stipulated in Article 2, ¶(5) of the Self-Defense Forces Act; the same shall apply in ¶(6)) who are present with them at the scene, or persons who come under their control while performing their duties, if there are reasonable grounds to believe that this is the case, weapons (if the Self-Defense Forces are conducting the relevant Logistics Support Activities or the relevant search and rescue [SAR] operations in foreign territory, limited to equipment that falls under the equipment specified in the Basic Plan [BP³¹⁵⁴] pursuant to the provisions of Article 4, ¶¶(2)(iii)(d) or (2)(iv)(d); the same shall apply hereinafter in this article) may be used to the extent deemed reasonably necessary depending on the situation.

(2) The use of weapons pursuant to the provisions of the preceding paragraph shall be made in accordance with the orders of superiors, if they are present at the scene. However, this shall not apply when there is an imminent threat of harm or danger to life or body and there is no time to obtain the order.

³¹⁴⁷ 4.5.1.1. Logistics Support Activities, p. 98.

³¹⁴⁸ 4.4. Basic Plan (BP), p. 97.

³¹⁴⁹ 4.4. Basic Plan (BP), p. 97.

³¹⁵⁰ 3.3.1.2. Type 1: "Self-Preservation Type" Use of Weapons, p. 76.

³¹⁵¹ 3.3.1.3. Type 2: "Execution of Mission Type" Use of Weapons ("Minor Self-Defense"), p. 77.

³¹⁵² 3.3.1. Use of Weapons, p. 74.

³¹⁵³ Making necessary changes to account for differing situations, but the basic point remains the same.

³¹⁵⁴ 4.4. Basic Plan (BP), p. 97.

(3) In the case referred to in ¶(1), the superior at the scene must take steps to prevent the uncontrolled use of weapons from causing danger to life or limb or chaos, and to prevent the use of such weapons from occurring. In accordance with the provisions of the same paragraph and the following paragraph, necessary orders shall be given from the standpoint of ensuring that the work is carried out properly within the scope of the purpose.

(4) When using weapons pursuant to the provisions of ¶(1), except in cases falling under Articles 36³¹⁵⁵ [Self-Defense] or 37³¹⁵⁶ [Necessity] of the Penal Code (Law No. 45 of 1907, as amended), use of weapons must not cause harm to persons.

(5) Units of the Self-Defense Forces that are ordered to provide services as Logistics Support Activities pursuant to the provisions of Article 6, ¶(2), or ordered to carry out search and rescue [SAR] operations pursuant to the provisions of Article 7, ¶(1), in the event that there is an attack on a camp (an area used for deployment that is distinguished from other areas by the installation of fences; the same applies in this section below) set up in a foreign territory where the relevant [SDF] troops, etc. are camped, and where U.S. military personnel are camped together [with the SDF], if there is no place other than the camp in question that can ensure the safety of Self-Defense Forces units, etc., in the vicinity of the camp, they will work together with the relevant personnel to take measures to protect the lives or bodies of the people located in the camp, Use of Weapons conjunction with such personnel who are taking measures to protect the lives or bodies of persons located at the camp, is permitted, pursuant to the provisions of ¶(1). In this case, with regard to the application of the provisions of the same paragraph to ¶(3) and the following paragraph, in ¶(1), "Other Self-Defense Forces personnel present at the scene (refers to the personnel stipulated in Article 2, ¶(5) of the Self-Defense Forces Act; the same in ¶(6)) or persons who came under their control while performing their duties" refers to "Persons located in the encampment (refers to the encampment prescribed in ¶(5); the same applies to the next and third paragraphs)," "The situation" refers to "the situation, taking into account the measures taken by United States military personnel as provided in ¶(5)," in the second and third paragraphs, the term "site" refers to "encampment," and in the following paragraph, "Self-Defense Forces personnel" refers to "Self-Defense Forces personnel (refers to the members prescribed in Article 2, ¶(5) of the same law)."

(6) For Self-Defense Personnel ordered to provide services as Logistics Support Activities pursuant to the provisions of Article 6, ¶(2) (limited to those outside the territory of Japan) or those who are ordered to carry out search and rescue [SAR] operations pursuant to the provisions of Article 7, ¶(1) (limited to those outside the territory of Japan, the provisions of Article 96 [Authorities for JSDF personnel maintaining order within their unit], ¶(3) of the SDF Act (Law No. 165 of 1954, as amended) do not apply to crimes committed by persons other than Self-Defense Forces personnel.

i.E.12. Article 12 - Delegation to Cabinet Order

(1) In addition to any special provisions in this Act, procedures for implementing this Act and other necessary matters regarding the enforcement of this Act shall be specified by Cabinet Order.

i.F. US MILITARY ACTION SUPPORT ACT (LAW NO. 113 OF 2004, AS AMENDED)

The full title of this law is:

- Act on Measures Conducted by the Government in Line with U.S. and Other Countries' Military Actions in Armed Attack Situations, etc., and Survival Threatening Situations

This law may also appear as:

- Related Measures Law for US Forces
- Law Related to Measures Conducted by the Government in Line with US and Others' Military Actions in Armed Attack Situations, etc.

³¹⁵⁵ i.H.1. Article 36 – Self-Defense, p. 360.

³¹⁵⁶ i.H.2. Article 37 – Necessity, p. 360.

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This law provides for support measures to operations of the US Forces and other military forces:

- In STS;³¹⁵⁷ or
- In AAS³¹⁵⁸ to repel an Armed Attack³¹⁵⁹ against Japan in accordance with the MST³¹⁶⁰

Unless otherwise noted, all block quotations³¹⁶¹ found within this section are from the GoJ's official (Japanese language) Japanese Law e-Library.³¹⁶² The Japanese has been machine translated.³¹⁶³

The source text was published on 30 September 2015 and reflects all amendments up to and including Act No. 76 of 2015.

Amendments made after 2015 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.F.1. Article 1 – Purpose

(1) This law is a measure to ensure that the actions of the United States military necessary to eliminate an armed attack are carried out smoothly and effectively in accordance with the Mutual Cooperation and Security Treaty between Japan and the United States (hereinafter referred to as the "Japan-U.S. Security Treaty") in the event of an armed attack, etc. The purpose of this Act is to contribute to ensuring the peace and independence of Japan as well as the safety of the country and its people by stipulating the measures to be implemented by Japan for the smooth and effective implementation of the actions of Foreign Military Forces³¹⁶⁴ necessary to eliminate armed attacks or Survival-Threatening Armed Attacks³¹⁶⁵ in cooperation with the Self-Defense Forces in armed attack situations, etc. or Survival-Threatening Situations, and other such actions.

i.F.2. Article 2 – Definitions

(1) In this Act, the meanings of the terms listed in each of the following items shall be as specified in each of the respective items.

(i) Armed attack situation, etc. Refers to an armed attack situation, etc. as defined in Article 1³¹⁶⁶ of the Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended) (hereinafter referred to as the "Situation Response Act").

(ii) Armed attack: refers to an armed attack prescribed in Article 2, Item 1 of the Situation Response Act.

(iii) Armed attack situation: refers to an armed attack situation stipulated in Article 2, Item 2 of the Situation Response Act.

(vi) Survival Threatening Situation [STS]: means an existentially endangered situation as stipulated in Article 2, Item 4 [definition of STS] of the Situation Response Act.

(v) Armed attack with existential threat: refers to an armed attack with existential threat as stipulated in Article 2, Item 8, C (1) of the Situation Response Act.

(vi) Specified United States Armed Forces: In the event of an armed attack, etc., it refers to the armed forces of the United States that carry out the necessary actions to eliminate the armed attack in accordance with the Japan-U.S. Security Treaty.

(vii) Foreign Military Forces refers to Foreign Military Forces (excluding certain United States armed forces) that cooperate with the Self-Defense Forces and carry out the necessary actions to eliminate armed

³¹⁵⁷ 4.9. Survival-Threatening Situation (STS), p. 104.

³¹⁵⁸ 4.10. Armed Attack Situation (AAS), p. 110.

³¹⁵⁹ 4.11. Definition of "Armed Attack", p. 114.

³¹⁶⁰ 2.1.3. The Treaty of Mutual Cooperation and Security between the United States and Japan (MST), p. 23.

³¹⁶¹ 1.3.2. Block Quotations, p. 2.

³¹⁶² Appendix R. References, p. 293.

³¹⁶³ 1.5.2.2. Machine Translations, p. 7.

³¹⁶⁴ 4.11.3. Applicable Foreign Military Forces, p. 116.

³¹⁶⁵ 4.9.1.2. Survival-Threatening Armed Attack (STAA), p. 105.

³¹⁶⁶ i.D.2. Article 1 – Purpose, p. 338.

attacks or existentially endangering armed attacks in situations such as armed attacks or existentially endangering situations.

(viii) Operation-Related Measures: The following measures are implemented by the Self-Defense Forces and other designated administrative agencies based on the Basic Response Plan (refers to the Basic Response Plan prescribed in Article 9, ¶(1) of the Situation Response Act; the same shall apply hereinafter).

(a) Measures to ensure that the actions of specified United States forces (referring to the actions prescribed in item 6 (in the case of an armed attack situation other than a situation where an armed attack has occurred, the actions prescribed in the same item for the preparations necessary to eliminate the armed attack in accordance with the Japan-U.S. Security Treaty); the same shall apply hereinafter) are carried out smoothly and effectively in armed attack situations, and other measures that Japan takes in conjunction with the actions of specified United States forces.

(b) Measures to ensure that the actions of Foreign Military Forces (actions prescribed in the previous item (in cases of armed attack situations other than situations where an armed attack has occurred, actions prescribed in the same item for the preparations necessary to eliminate the armed attack in cooperation with the Self-Defense Forces); the same shall apply hereinafter) are carried out smoothly and effectively in armed attack situations, etc. or Survival Threatening Situation [STS], and other measures that Japan takes in conjunction with the actions of Foreign Military Forces.

i.F.3. Article 3 – Government Responsibility

(1) In the event of an armed attack, etc. or a situation in which existence is threatened, the government shall accurately and promptly implement Operation-Related Measures and strive to ensure the peace and independence of our country as well as the safety of the country and its people.

i.F.4. Article 4 – Basic Principles of Operation-Related Measures

(1) Operation-Related Measures must not exceed the limits that are judged to be reasonably necessary depending on the situation, within the scope of the purpose of eliminating armed attacks and existentially endangering armed attacks.

i.F.5. Article 5 – Responsibilities of Local Governments and Businesses

(1) Local governments and business operators shall endeavor to respond to requests from designated administrative agencies for cooperation in Operation-Related Measures in armed attack situations, etc.

i.F.6. Article 6 – Communication with the United States Government, etc.

(1) In order to fulfill its obligations under Article 3, the government shall strive to maintain close contact with the United States government at all times, based on the Japan-U.S. Security Treaty, with regard to recognizing situations such as armed attack situations and responding to armed attack situations.

(2) In addition to what is provided for in the preceding paragraph, in order to fulfill its responsibilities under Article 3, the government shall communicate with relevant foreign governments regarding the recognition of armed attack situations, etc. or existentially endangering situations, and the response to armed attack situations, etc. or existentially endangering situations.

i.F.7. Article 7 – Information Sharing

(1) In situations such as armed attack situations or existential crisis situations, the government will inform the public of the situation regarding the areas related to the actions of specified United States armed forces or foreign forces (hereinafter referred to as “Specified United States Armed Forces **Operations**”), the situation regarding the actions of other specified United States forces, etc., and the implementation status of Operation-Related Measures.

i.F.8. Article 8 – Communication and Coordination with Local Governments

(1) The government shall liaise and coordinate with the local governments concerned when there is a risk that the actions or Operation-Related Measures of specified United States armed forces, etc. will affect response measures taken by local governments (referring to the countermeasures prescribed in Article 2, Item 8 of the Situation Response Act).

i.F.1. Article 9 – Notification Regarding Acts of Specified United States Armed Forces

(1) When the Minister of Defense, in an armed attack situation (limited to cases where there is a Defense Operation Order [DOO] pursuant to the provisions of Article 76, ¶(1) of the SDF Act (Law No. 165 of 1954, as amended); he same applies in Article 14, ¶(1)), receives notification from Specified United States Armed Forces of the actions prescribed in Article 115-11, ¶¶(1) or (2) or Article 115-16, ¶(1) the same Act, notice shall be given in accordance pursuant to these provisions.

i.F.1. Article 10 – Implementation of Provision of Goods and Services as Operation-Related Measures by the Self-Defense Forces

(1) The Minister of Defense or a person authorized by the Minister of Defense may implement the provision of items belonging to the Self-Defense Forces as an Operation-Related Measures [in response to AAAS, AAS, or STS].

(2) The Self-Defense Forces, which has been ordered to mobilize pursuant to the provisions of Article 76, ¶(1) of the SDF Act (Law No. 165 of 1954, as amended), may provide services as Operation-Related Measures.

(3) In addition to what is provided for in the preceding paragraph, the Minister of Defense may, with the approval of the Prime Minister, order organs of the Ministry of Defense or units of the Self-Defense Forces, etc. (referring to the units stipulated in Article 8 of the SDF Act (Law No. 165 of 1954, as amended). The same shall apply hereinafter) to provide services as Operation-Related Measures.

(4) The provision of goods belonging to the Self-Defense Forces pursuant to the provisions of ¶(1) and the provision of services by the Self-Defense Forces pursuant to the provisions of the preceding two paragraphs shall include supply (excluding supplies that provide weapons), transportation, repair or maintenance, medical care, communications, services related to airports or ports, services related to bases, accommodation, storage, use of facilities, or training (including operations incidental to each of these operations).

i.F.1. Article 11 – Implementation of Operation-Related Measures by Designated Administrative Agencies

(1) In addition to what is provided for in the preceding two articles, Designated Administrative Agencies shall implement necessary Operation-Related Measures based on laws and regulations and basic response policies.

i.F.1. Article 12 – Use of Weapons

(1) Self-Defense Force personnel of units of the Self-Defense Forces who are ordered to provide services as Operation-Related Measures pursuant to the provisions of Article 10, ¶(3) shall, when carrying out their duties, provide for themselves or the Self-Defense Forces personnel who are engaged in the duties together with them, if there are reasonable grounds to believe that it is unavoidably necessary to protect the life or body of oneself, other Self-Defense Forces personnel engaged in the relevant duties, or those who come under one's control while performing such duties, may use weapons to the extent deemed reasonably necessary under the circumstances. However, except in cases falling under Articles 36³¹⁶⁷ [Self-Defense] or 37³¹⁶⁸ [Necessity] of the Penal Code (Law No. 45 of 1907, as amended), SDF personnel must not cause harm to persons.

³¹⁶⁷ i.H.1. Article 36 – Self-Defense, p. 360.³¹⁶⁸ i.H.2. Article 37 – Necessity, p. 360.

i.F.1. Article 13 – Creation of Guidelines Regarding Operation-Related Measures

(1) In order to implement Operation-Related Measures accurately and promptly, the Situation Headquarters Director (Referring to the Chief of the Situation Response Headquarters as provided in Article 11, ¶(1) of the Situation Response Act.) may establish guidelines regarding Operation-Related Measures based on the Basic Response Plan.

(2) When the guidelines prescribed in the preceding paragraph are established, designated administrative agencies must appropriately implement the necessary Operation-Related Measures based on the guidelines.

i.F.1. Article 14 – Compensation for Loss

(1) If any person suffers a loss due to the acts listed in the following items by specified United States armed forces, the state must compensate the person for that loss in accordance with the provisions of the laws specified in each item.

(i) In an armed attack situation, when moving urgently within an area where specified United States military forces are operating, passing through areas stipulated in the first sentence of Article 92-2 [use of land, water, and air space not open to general traffic] of the SDF Act (Law No. 165 of 1954, as amended) in order to bypass areas that pose a hindrance to passage; second part of the same article [i.e., pursuant to the provisions of Article 92-2 regarding requests for compensation for loss when such action causes damage]

(ii) In an armed attack situation, pursuant to the provisions of ¶(1) of Article 114-5³¹⁶⁹ of the The Road Traffic Act (Law No. 105 of 1960, as amended) [Regulation of Traffic When SDF Are Mobilized; Related Considerations], vehicles other than those used by the Self-Defense Forces, etc. as prescribed in the same paragraph are prohibited from passing on the road; or when a Specified United States Armed Forces vehicle (refers to vehicles used by Specified United States Armed Forces; the same shall apply hereinafter in this item) is passing through a restricted area or road section, there is a risk that the vehicles or other objects that obstruct traffic and are likely to significantly impede the performance of Specified United States Armed Forces Operations, and that neither police officers nor the occupants, owners, or managers of the vehicles or other property is present; damage to vehicles and other property carried out within unavoidable limits in order to take necessary measures to ensure the smooth passage of Specified United States Armed Forces vehicle Article 82 [Compensation for Loss]; ¶(1) of the Basic Act on Disaster Management (Act No. 223 of 1961) [i.e., pursuant to the provisions of Article 82 regarding requests for compensation for loss when such action causes damage]

(2) The provisions of the preceding paragraph shall not apply to losses for which the State is responsible for compensation or loss compensation pursuant to the provisions of other laws.

i.F.2. Article 15 – Use of Land, etc.

(1) The Minister of Defense shall, in an Armed Attack Situation [AAS³¹⁷⁰], if land or a house (hereinafter referred to as "land, etc.") is urgently needed for use by the Specified United States Armed Forces, if it is appropriate and reasonable to use the land, etc. for the use of the Specified United States Armed Forces, and it is essential to eliminate Armed Attacks, notwithstanding the provisions of the Act on Special Measures Concerning Use, etc. of Land, etc. Attendant upon the Enforcement of the "Agreement under Article VI of the Treaty of Mutual Cooperation and Security between Japan and the United States of America regarding Facilities and Areas³¹⁷¹ and the Status of United States Armed Forces in Japan" (Act No. 140 of 1952), the land, etc. can be used for a fixed period of time.

(2) When using land pursuant to the provisions of the preceding paragraph, if standing trees or other objects fixed on the land (excluding houses; hereinafter referred to as "standing trees, etc.") are deemed to impede the implementation of Specified United States Armed Forces Operations, the Minister of Defense may

³¹⁶⁹ i.J.1. Article 114-5 – Regulation of Traffic When Self-Defense Forces (SDF) Are Mobilized; Related Considerations, p. 362.

³¹⁷⁰ 4.10. Armed Attack Situation (AAS), p. 110.

³¹⁷¹ 2.1.4.1.1. Definition of "Facilities and Areas", p. 31.

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relocate the standing trees, etc. or, if relocation is deemed to be extremely difficult in light of the circumstances, the trees, etc. in question may be disposed of [e.g., destroyed].

(3) When using a house pursuant to the provisions of ¶(1), if it is deemed to be unavoidably necessary for the conduct of Specified United States Armed Forces **Operations**, the Minister of Defense may change the shape of the house to the extent necessary.

(4) The provisions of Article 103, ¶¶(7) through (10), and (17) and (18) of the SDF Act (Law No. 165 of 1954, as amended) apply to the use of land, etc., relocation or disposal of standing trees, etc. pursuant to the provisions of the preceding three paragraphs, or In the case of changing the shape of a house, the provisions of ¶¶(13), (15), and (16) of the same article [Article 103] shall apply mutatis mutandis³¹⁷² to the case of using land, etc., pursuant to the provisions of ¶(1). In this case, "prefectural governor" in ¶¶(7) and (13) of the same article is the same as "Minister of Defense," and "Prefecture (in the case of the proviso to ¶(1), country)" in ¶(10) of the same article is the same as "country."

(5) Affairs that fall under the authority of the Minister of Defense pursuant to the provisions of each of the preceding paragraphs may be delegated to officials under the Minister of Defense, as specified by Cabinet Order.

i.F.3. Article 16 – Delegation to Cabinet Order

(1) In addition to any special provisions in this Act, procedures for implementing this Act and other necessary matters regarding the enforcement of this Act shall be specified by Cabinet Order.

i.F.4. Article 17 – Penalties

(1) A person who refuses, obstructs, or evades an on-site inspection pursuant to the provisions of Article 13, ¶(13) of the Self-Defense Forces Act, as applied mutatis mutandis³¹⁷³ by replacing the terms in Article 15, ¶(4), shall be punished by a fine of not more than 200,000 yen.

(2) If a representative of a corporation, or an agent, employee, or other employee of a corporation or person commits a violation of the preceding paragraph in connection with the business of that corporation or person, in addition to punishing the offender, the law shall also be imposed against the corporation or person, the punishment set forth in the same [preceding] paragraph shall be imposed.

i.G. CIVIL PROTECTION ACT (ACT NO. 112 OF 2004, AS AMENDED)

This law establishes the responsibilities different levels of government (i.e., national, prefectural, and municipal) and measures that may be taken for evacuation, relief, and response to armed attack situations, etc.,³¹⁷⁴ for civil protection (encompassing the protection of lives, bodies, and property) and otherwise minimizing the impacts of such situations on peoples' lives.

The full title of this law is:

- Act Concerning the Measures for the Protection of the People in Armed Attack Situations, etc.³¹⁷⁵

The full title of this law may also appear as:

- Act on Measures for the Protection of the People in Armed Attack Situations, etc.

Unless otherwise noted, all block quotations³¹⁷⁶ found within this section are from the GoJ's official (Japanese language) Japanese Law e-Library.³¹⁷⁷ The Japanese has been machine translated.³¹⁷⁸

³¹⁷² Making necessary changes to account for differing situations, but the basic point remains the same.

³¹⁷³ Making necessary changes to account for differing situations, but the basic point remains the same.

³¹⁷⁴ 4.7. "Armed Attack Situations, etc.", p. 101.

³¹⁷⁵ This is the English rendering used in the Defense of Japan 2023 white paper. (Minister of Defense, 2023a, p. 283)

³¹⁷⁶ 1.3.2. Block Quotations, p. 2.

³¹⁷⁷ Appendix R. References, p. 293.

³¹⁷⁸ 1.5.2.2. Machine Translations, p. 7.

The source text was published on 26 May 2020 and reflects all amendments up to and including Act No. 36 of 2020.

Amendments made after 2020 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.G.1. Article 2 – Definitions

(1) In this law, "armed attack situations, etc.",³¹⁷⁹ "Armed Attack",³¹⁸⁰ "Armed Attack Situation",³¹⁸¹ "Designated Administrative Agency", "Designated Local Administrative Agency", "Designated Public Institution", "Basic Response Plan",³¹⁸² "Task Force Headquarters" and "Task Force Chief"³¹⁸³ are defined in Article 1³¹⁸⁴ [armed attack situations, etc.], Article 2,³¹⁸⁵ ¶(2)(i)-(vii) [(i) Armed Attack; (ii) AAS, (v) Designated Administrative Agency, (vi) Designated Local Administrative Agency, (vii) Designated Publish Institution] (excluding items (iii) [AAAS] and (iv) [STS]), Article 9,³¹⁸⁶ ¶(1) [BRP], and Article 10,³¹⁸⁷ ¶(1) [what?], and Article 11,³¹⁸⁸ ¶(1) [Task Force Chief] of the Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended), respectively.

(2) In this law, "Designated Local Public Institutions" refer to corporations that operate electricity, gas, transportation, communications, medical care, and other public services in prefectural areas, local road public corporations (referring to local road public corporations under Article 1 of the Local Road Public Corporation Act (Act No. 82 of 1970)), and corporations that manage other public facilities and local independent administrative agencies (meaning local independent administrative agencies under Article 2, ¶(1) of the Local Independent Administrative Corporation Act (Act No. 118 of 2003)), which are designated by the governor of the prefecture after consulting with the corporation in advance.

(3) In this law, "measures for the protection of the people" refers to measures taken by designated administrative agencies, local governments, designated public organizations, or designated local public organizations that comply with the law between the establishment of the Basic Response Plan and its termination, taken in order to protect the lives, bodies, and property of citizens from armed attacks, including the following measures implemented by designated local public institutions based on the provisions of the law, or in cases where armed attacks affect the lives of the people and the national economy (measures listed in item (vi) include those implemented by these persons based on the provisions of the law after the Basic Response Plan is terminated).

(i) Measures related to issuing warnings, evacuation instructions, rescuing evacuated residents, firefighting, etc.

(ii) Measures for emergency restoration of facilities and equipment

(iii) Measures related to ensuring health and hygiene and maintaining social order

(iv) Measures regarding transportation and communication

(v) Measures related to stabilizing the lives of the people

(vi) Measures related to damage recovery

(4) The term "armed attack disaster"³¹⁸⁹ as used in this law refers to human death or injury, fire, explosion, release of radioactive materials, or other human or material disasters directly or indirectly caused by an armed attack.

³¹⁷⁹ 4.7. "Armed Attack Situations, etc.", p. 101.

³¹⁸⁰ 4.11. Definition of "Armed Attack", p. 114.

³¹⁸¹ 4.10. Armed Attack Situation (AAS), p. 110.

³¹⁸² 4.3. Basic Response Plan (BRP), p. 95.

³¹⁸³ i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister, p. 337.

³¹⁸⁴ i.D.2. Article 1 – Purpose, p. 338.

³¹⁸⁵ i.D.3. Article 2 – Definitions, p. 338.

³¹⁸⁶ i.D.4. Article 9 – Basic Response Plan, p. 340.

³¹⁸⁷ i.D.5. Article 10 – Establishment of the Task Force, p. 342.

³¹⁸⁸ i.D.6. Article 11 – Organization of the Task Force, p. 343.

³¹⁸⁹ 3.2.4.1.1. Armed Attack Disaster, p. 70.

i.G.2. Article 4 – Citizens' Cooperation, etc.

- (1) When requested to cooperate in the implementation of measures for the protection of the people pursuant to the provisions of this Act, the people shall endeavor to provide the necessary cooperation.
- (2) The cooperation referred to in the preceding paragraph is left to the voluntary will of the people, and such requests must not involve coercion.
- (3) The State and local public entities must endeavor to provide necessary support for voluntary activities that contribute to measures for the protection of the people, carried out by voluntary disaster prevention organizations (meaning voluntary disaster prevention organizations as defined in Article 2-2, ¶ (2) of the Disaster Countermeasures Basic Act (Act No. 223 of 1961); the same applies hereinafter) and volunteers.

i.G.3. Article 14 – Acting by Prefectural Governors

- (1) When a city, town or village is unable to carry out all or most of its affairs due to the occurrence of an Armed Attack Disaster,³¹⁹⁰ the prefectural governor must implement all or part of the measures for the protection of the people in the area of that city, town or village that should be implemented by the mayor of that city, town or village on behalf of the mayor.
- (2) When a prefectural governor begins or ends acting for the mayor of a city, town or village pursuant to the provisions of the preceding paragraph, he/she must give public notice to that effect.
- (3) Necessary matters concerning the acting of prefectural governors pursuant to the provisions of ¶(1) shall be determined by government ordinance.

i.G.4. Article 15 – (Prefectural) Request for dispatch of Self-Defense Forces units, etc.

Authorizes the deployment of JSDF units for CPO by Request³¹⁹¹ (¶[1]) or CPO by Order³¹⁹² (¶[2]), under Article 77-4³¹⁹³ (CPO³¹⁹⁴) of the SDF Act (Law No. 165 of 1954, as amended)

- (1) When a prefectural governor deems it necessary for the smooth implementation of measures for the protection of the people in the area of the prefecture (excluding matters related to the maintenance of public order; the same applies in the next paragraph and Article 20³¹⁹⁵ [**Municipal request to the Prefectural government for JSDF CPO**]), the Prime Minister may request the Minister of Defense to dispatch units, etc. (hereinafter referred to as "Self-Defense Forces units, etc.") under Article 8³¹⁹⁶ [**Command of the SDF**] of the SDF Act (Law No. 165 of 1954, as amended).
- (2) In the event that a request pursuant to the provisions of the preceding paragraph is not made, the Task Force Chief³¹⁹⁷ may request the Minister of Defense to dispatch Self-Defense Forces units, etc. when he/she deems it urgently necessary to smoothly implement measures to protect the people in the area of the prefecture concerned.
- (3) When the Task Force Chief makes a request pursuant to the provisions of the preceding paragraph [¶(2), **CPO by Order**], he shall promptly notify the prefectural governor to that effect.

i.G.5. Article 20 – (Municipal) Requests for dispatch of Self-Defense Forces units, etc.

- (1) When the mayor of a municipality deems it particularly necessary for the smooth implementation of measures for the protection of citizens pertaining to the area of the municipality concerned, the mayor shall make a request to the prefectural governor pursuant to the provisions Article 15,³¹⁹⁸ ¶(1) [**Prefectural request for JSDF Civil Protection Dispatch**] may be made.

³¹⁹⁰ 3.2.4.1.1. Armed Attack Disaster, p. 70.

³¹⁹¹ 3.2.5.1.2. CPO by Request, p. 71.

³¹⁹² 3.2.5.1.3. CPO by Order, p. 71.

³¹⁹³ i.C.18. Article 77-4 – Civil Protection Operations, p. 311.

³¹⁹⁴ 3.2.5.1. Civil Protection Operations (CPO), p. 70.

³¹⁹⁵ i.G.5. Article 20 – (Municipal) Requests for dispatch of Self-Defense Forces units, etc., p. 358.

³¹⁹⁶ i.C.4. Article 8 – Command and Supervision by the Minister of Defense, p. 305.

³¹⁹⁷ i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister, p. 337.

³¹⁹⁸ i.G.4. Article 15 – (Prefectural) Request for dispatch of Self-Defense Forces units, etc., p. 358.

(2) If the mayor of a municipality is unable to make a request pursuant to the provisions of the preceding paragraph [*Municipal request to the Prefectural government for JSDF Civil Protection Dispatch*], he/she may notify the Minister of Defense to that effect and any matters that he/she deems necessary for the smooth implementation of measures for the protection of the people pertaining to the area of the municipality concerned. In this case, the Minister of Defense must promptly report the details to the Task Force Chief.³¹⁹⁹

i.G.6. Article 32 – Basic Guidelines

(1) The government shall establish in advance the Basic Guidelines for the Protection of the People (hereinafter referred to as the “Basic Guidelines”) regarding the implementation of measures for the protection of the people in preparation for armed attack situations, etc.

(2) The matters stipulated in the basic guidelines are as follows.

(i) Basic policy regarding the implementation of measures for the protection of citizens

(ii) Plans for the protection of citizens of designated administrative organs pursuant to the provisions of ¶(1) of the following Article; plans for the protection of citizens of prefectures pursuant to the provisions of Article 34, ¶(1); plans for the protection of the people of designated public institutions and implementing measures for the protection of the people pursuant to the provisions of matters related to the assumption of an armed attack situation

(iii) Matters related to the measures listed in each item of Article 10, ¶(1), implemented by the state regarding measures for the protection of citizens.

(iv) Matters related to the policy for designating local governments that should establish prefectural task force or municipal task force.

(v) Matters that should serve as standards when creating a national protection plan and a national protection work plan listed in item (ii)

(vi) Matters related to ensuring wide-area coordination and cooperation between local governments and other related organizations in implementing measures for the protection of citizens.

(vii) In addition to what is listed in the preceding items, necessary matters regarding the implementation of measures for the protection of citizens.

(3) The Prime Minister must prepare a draft of the basic guidelines and request a Cabinet decision.³²⁰⁰

(4) When the Cabinet decision set forth in the preceding paragraph is made, the Prime Minister must report the basic guidelines to the Diet without delay and make a public announcement to that effect.

(5) When the government deems it necessary to establish basic guidelines, it may request the heads of local governments, designated public institutions, and other relevant parties to provide materials or information, express opinions, and otherwise provide necessary cooperation.

(6) The provisions of the preceding three paragraphs shall apply *mutatis mutandis*³²⁰¹ to changes to the basic guidelines.

i.H. PENAL CODE (LAW NO. 45 OF 1907, AS AMENDED)

Unless otherwise noted, all block quotations³²⁰² found within § i.H are from the GoJ’s government-provided unofficial (provisional) Japanese Law Translation.³²⁰³

This translation was published on 31 October 2017 and reflects all amendments up to and including Act No. 72 of 2017 (passed July 2017).

³¹⁹⁹ i.D.1. Note on the Positions of “Task Force Chief” vs. Prime Minister, p. 337.

³²⁰⁰ C.2.1.4.2. Cabinet Order, p. 226.

³²⁰¹ Making necessary changes to account for differing situations, but the basic point remains the same.

³²⁰² 1.3.2. Block Quotations, p. 2.

³²⁰³ Appendix R. References, p. 293.

Annex i. Selected Annotated Japanese Laws

Amendments made after 2017 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.H.1. Article 36 – Self-Defense

(1) *An act a person was compelled to take to protect the rights of oneself or any other person against imminent and unlawful infringement is not punishable.*

(2) *An act exceeding the limits of self-defense may lead to the punishment being reduced or may exculpate the offender in light of the circumstances.*

i.H.2. Article 37 – Necessity

(1) *An act a person was compelled to take to avert a present danger to the life, body, liberty or property of oneself or any other person is not punishable only when the harm produced by such act does not exceed the harm to be averted; provided, however, that an act causing excessive harm may lead to the punishment being reduced or may exculpate the offender in light of the circumstances.*

(2) *The preceding paragraph does not apply to a person under special professional obligation.*

i.I. POLICE DUTIES EXECUTION ACT (LAW NO. 136 OF 1948, AS AMENDED)

Unless otherwise noted, all block quotations³²⁰⁴ found within § i.I are from the GoJ's government-provided unofficial (provisional) Japanese Law Translation.³²⁰⁵

This translation was published on 16 March 2022 and reflects all amendments up to and including Act No. 94 of 2006 (passed 23 December 2006).

Amendments made after 2022 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.I.1. Article 2 – Questioning

(1) *A police official may stop and question any person for whom there is sufficient probable cause to suspect that the person has committed or is about to commit a crime or who is deemed to possess information on a crime which has already been committed or is about to be committed, judging reasonably on the basis of unusual behavior and/or other surrounding circumstances.*

(2) *In the event that a police official considers that conducting questioning as set forth in the preceding paragraph on the spot will disadvantage the subject person or impede traffic, the police official may request the subject person to accompany the police official to a nearby police station, police box or residential police box for the purpose of questioning.*

(3) *No person provided for in the preceding two paragraphs is taken into custody, or be conducted to a police station, police box or residential police box by force, or be coerced to answer questions against his or her will unless this is based on the provisions of an act concerning criminal proceedings.*

(4) *With regard to a person who is under arrest pursuant to an act concerning criminal procedure, a police official may search his or her body to check whether he or she possesses weapons.*

i.I.2. Article 4 – Measures for Refuge

(1) *In the event of a dangerous situation, such as a natural disaster, incident, destruction of a structure, traffic accident, explosion of a hazardous materials, appearance of a rabid dog or runaway horse, severe crush, or the like, which is likely to endanger the lives or bodies of people or cause serious damage to property, a police official may provide necessary warning to persons who happen to be at the scene, the controller of relevant items and other persons concerned; and in cases of extreme urgency, the police official*

³²⁰⁴ 1.3.2. Block Quotations, p. 2.

³²⁰⁵ Appendix R. References, p. 293.

may restrain or evacuate persons who are liable to suffer harm within the limits of necessity to escape harm at the scene, or order persons who happen to be at the scene, controller of relevant items and any other persons concerned to take measures generally considered necessary for the prevention of harm, or take such measures himself or herself.

(2) With regard to actions taken by a police official pursuant to the provisions of the preceding paragraph, the police official must report such actions through due steps to the Public Safety Commission to which the police official belongs. In such cases, the Public Safety Commission must take appropriate measures to request other public institutions for such cooperation as is deemed necessary for subsequent actions.

i.I.3. Article 5 – Prevention and Suppression of Crime

(1) A police official may, if they notice that a crime is about to occur, give necessary warning to the persons concerned in order to prevent such occurrence, and may restrain the actions of such persons in the event that such actions may endanger the lives or bodies of persons or cause serious damage to property and the matter is urgent.

i.I.4. Article 6 – Entry

(1) In the event that any dangerous situation provided for in the preceding two Articles [Article 4: Measures for Refuge; Article 5: Prevention and Suppression of Crime] has occurred and the lives, bodies or property of persons are liable to suffer harm, if a police official considers it unavoidable in order to prevent such danger, restrain the spread of damage or rescue victims, such police officer may, to the extent judged reasonably necessary, enter any person's land, building, vessel or vehicle.

(2) The manager or any person in the equivalent position, of a place of entertainment, hotel, restaurant, railway station or any other place accessed by large numbers of patrons, may not, without justifiable grounds, deny entry to a police official who demand entry to such premises during its business hours for the purpose of preventing any crime or danger imperiling the lives, bodies or property of persons.

(3) In making entry under the provisions of the preceding two paragraphs, a police official must not interfere with the lawful operation of the business of the person concerned without good reason.

(4) In making entry under the provisions of either ¶(1) or ¶(2), a police official, if requested, must inform the manager or person in the equivalent position of the reason for his or her entry, and present such person his or her certificate of identification.

i.I.5. Article 7 – Use of Weapons

Establishes three conditions for the Use of Weapons:³²⁰⁶

- Arrest or prevention of escape
- Protection of self or others from harm
- Overcoming or deterring resistance in carrying out official duties

Articles 36³²⁰⁷ (Self-Defense) or 37³²⁰⁸ (Necessity) of the Penal Code (Law No. 45 of 1907, as amended) require the harm created by Use of Weapons not to exceed the harm prevented by their use.

(1) In the event that there is probable cause to deem it necessary for the arrest of a criminal or the prevention of a criminal's escape, for self-protection or the protection of others, or for suppression of resistance to the performance of public duty, a police official may use a weapon within the limits judged reasonably necessary in the situation; Provided, however, that the police official must not inflict injury upon any person except in cases falling under Articles 36 [Self-Defense] or 37 [Necessity] of the Penal Code (Law No. 45 of 1907, as amended), or a case falling under one of the following items:

(i) In the event that a person who is actually in the act of committing, or is suspected on sufficient grounds of having committed, a violent and dangerous crime which is subject to the death penalty, life

³²⁰⁶ 3.3.1. Use of Weapons, p. 74.

³²⁰⁷ i.H.1. Article 36 – Self-Defense, p. 360.

³²⁰⁸ i.H.2. Article 37 – Necessity, p. 360.

imprisonment or life imprisonment without work, or imprisonment or imprisonment without work for a maximum period of not less than three years, resists a police official's performance of duty regarding such person or attempts to escape, or a third party resists the police official in order to allow the subject person to escape; provided there is sufficient probable cause on the part of the police official to believe that there are no other means but to do so either for the prevention of such resistance or escape or for the arrest of such persons.

(ii) In event of arrest of a person under an arrest warrant, or execution of a writ of physical escort or detention warrant, if the subject person resists the police official's performance of duty with respect to such subject person or attempts to escape, or a third person resists the police official in order to allow the subject person to escape; provided there is sufficient probable cause on the part of the police official to believe that there are no other means but to do so either for the prevention of such resistance or escape or for the apprehension of the such persons.

i.J. THE ROAD TRAFFIC ACT (LAW NO. 105 OF 1960, AS AMENDED)

Unless otherwise noted, all block quotations³²⁰⁹ found within this section are from the GoJ's government-provided unofficial (provisional) Japanese Law Translation.³²¹⁰

This translation was published on 26 October 2017 and reflects all amendments up to and including Act No. 76 of 2015.

Amendments made after 2015 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.J.1. Article 114-5 – Regulation of Traffic When Self-Defense Forces (SDF) Are Mobilized; Related Considerations

(1) If a Defense Mobilization Order³²¹¹ is issued under Article 76,³²¹² ¶(1) [DO³²¹³ for STS,³²¹⁴ AAS (Imminent),³²¹⁵ or AAS (Occurrence)³²¹⁶] of the Self-Defense Forces Act and a public safety commission finds it urgently necessary to do so in order for the actions of the Self-Defense Forces or United States Armed Forces prescribed in Article 2, item (iv) of the Act on Measures Implemented by the Government in Line with US Military Actions in Armed Attacks (Act No. 113 of 2004) (hereinafter referred to as the "SDF or [USF³²¹⁷]") to be implemented reliably and smoothly to repel an Armed Attack³²¹⁸ from the exterior against Japan, it may prohibit or restrict vehicle traffic on roads other than those being used by the SDF or [USF], as per Article 155, ¶(1) of the Act on Measures to Protect the People in Armed Attacks (Act No. 112 of 2004).

(2) Article 76, ¶(2), Article 76-2, Article 76-3 (other than ¶(4)), Article 76-5, and Article 82, ¶(1) of The Basic Act on Disaster Management (Act No. 223 of 1961) apply mutatis mutandis³²¹⁹ to the prohibition or restriction of entry onto a road pursuant to the preceding paragraph. In such a case, the term "vehicle allowed emergency entry" in Article 76-2, ¶(1) and ¶(2) and Article 76-3, ¶(1) of that Act is deemed to be replaced with "vehicle used by the SDF or [USF]"; the phrase "¶(1) of the preceding Article" in Article 76-2, ¶(5) of that Act and the phrase "Article 76, ¶(1)" in Article 76-3, ¶(5) of that Act are deemed to be replaced with "Article 114-5, ¶(1) of the Road Traffic Act"; the term "emergency disaster control measures" in ¶(1) of that Article and Article 76-5 of that Act is deemed to be replaced with "actions to repel an Armed Attack³²²⁰ from the outside against Japan"; the phrase "a unit, etc. ordered to serve in a disaster relief operation, etc." in the first sentence of Article 76-3, ¶(3) and ¶(6) of that Act is deemed to be replaced with "the Self-Defense Forces ordered to serve in a defense operation pursuant to Article 76, ¶(1) of the Self-Defense Forces Act"; the phrase "¶(1)" in the second sentence of ¶(3) of that Article is deemed to be replaced with "¶(1) as applied mutatis mutandis pursuant to Article 114-5, ¶(2) of the Road Traffic Act"; the term "vehicle allowed

³²⁰⁹ 1.3.2. Block Quotations, p. 2.

³²¹⁰ Appendix R. References, p. 293.

³²¹¹ 3.2.2.3. Defense Mobilization, p. 57.

³²¹² i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

³²¹³ 3.2.2.1. Defense Operation (DO), p. 55.

³²¹⁴ 4.9. Survival-Threatening Situation (STS), p. 104.

³²¹⁵ 4.10.1.1. AAS (Imminent), p. 111.

³²¹⁶ 4.10.1.2. AAS (Occurrence), p. 111.

³²¹⁷ The source English translation uses the acronym "USAF" for "US Armed Forces." This guide uses the modified "USF" for clarity.

³²¹⁸ 4.11. Definition of "Armed Attack", p. 114.

³²¹⁹ Making necessary changes to account for differing situations, but the basic point remains the same.

³²²⁰ 4.11. Definition of "Armed Attack", p. 114.

emergency entry" in that paragraph is deemed to be replaced with "vehicle used by the SDF or [USF]"; the phrases "SDF vehicle allowed emergency entry (meaning a vehicle allowed emergency entry that is used by the Self-Defense Forces and that is in operation to execute emergency disaster control measures; the same applies hereinafter in this paragraph)" and "SDF vehicle allowed emergency entry" in that paragraph are deemed to be replaced with "vehicle used by the Self-Defense Forces"; and the word "immediately" in ¶(6) of that Article is deemed to be replaced with "without delay".

(Applicable Penal Provisions: Article 118-3 [of the Road Traffic Act: fining or imprisoning drivers who fail to comply with public safety prohibitions or restrictions] applies to ¶(1) of this Article.)

i.J.2. Article 118-3 – Regulation of Traffic When Self-Defense Forces (SDF) Are Mobilized; Related Considerations

Allows for the imprisonment or fining of drivers failing to comply with public safety prohibitions or restrictions.

(1) *The driver of a vehicle who fails to comply with the prohibition or restriction of a public safety commission as under Article 114-5 (Regulation of Traffic When Self-Defense Forces Are Mobilized; Related Considerations), ¶(1) is subject to imprisonment for not more than three months or a fine of not more than 300,000 yen.*

i.K. COAST GUARD ACT (LAW NO. 28 OF 1948, AS AMENDED)

Unless otherwise noted, all block quotations³²²¹ found within § i.K are from the Nippon Foundation's CANPAN Translation.⁴³⁰

<https://fields.canpan.info/report/download?id=10846>

This translation reflects all amendments up to and including Act No. 71, enacted 5 September 2012.

Amendments made after 2012 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

Segregation requirement? Mil vs. neutral?

i.K.1. Article 2 – Japan Coast Guard Mission

(1) *The Japan Coast Guard has the mission of securing the safety and security of the sea by performing the administrative affairs relating to enforcement at sea of the laws and regulations, sea rescues, the prevention of marine pollution, the maintenance of order in the navigation of vessels at sea, the prevention and suppression of crimes at sea, investigation and arrests of criminals at sea, regulation on the traffic of vessels at sea, hydrography and navigational aids, and other administrative affairs relating to securing safety at sea as well as administrative affairs incidental to the aforementioned.*

(2) *The administrative affairs relating conventionally to the Secretariat of the Ministry of Transport, the Secretariat of the Commissioner of the Maritime Bureau of the Ministry of Transport, the Shipping Commissioner, the ship stations and mariners stations, the investigators of the Marine Accident Tribunal, the Lighthouse Bureau, the Hydrographic Department, and other administrative affairs coming under the jurisdiction of other government agencies, which come under the administrative affairs set forth under the preceding paragraph, shall be transferred to the jurisdiction of the Japan Coast Guard*

i.K.2. Article 4 – Structure, Equipment, and Functions of Coast Guard Vessels

Article 4 outlines the limits of JCG vessel capabilities to avoid violating Article 25³²²² (Prohibition Against Paramilitarization of the JCG). These limitations create "force mismatch" in scenarios where JCG, with only

³²²¹ 1.3.2. Block Quotations, p. 2.

³²²² i.K.8. Article 25 – Prohibition Against Paramilitarization of the Coast Guard, p. 367.

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the capability to warn or disable ships (and not destroy them) must contend with ships that possess ship destruction capabilities (e.g., CCG). In such cases, MSO operations³²²³ may be required.

(1) The vessels and aircraft of the Japan Coast Guard shall be vessels and aircraft with the structure, equipment, and functions appropriate to maintain the navigational aids, carry out the hydrographic survey and oceanographic observation, maintain security at sea, give assistance to mariners in distress, or to protect human lives and property in marine accidents.

(2) Numbers and other signs enabling clear differentiation from other vessels shall be attached to the vessels of the Japan Coast Guard, and they shall hoist the national flag and the flag of the Japan Coast Guard.

(3) Numbers and other signs enabling clear differentiation from other vessels shall be attached to the aircraft of the Japan Coast Guard.

i.K.3. Article 5 – Functions of the Coast Guard

Authorizes specific functional areas of operations to fulfill the requirements of the JCG missions set out by Article 2 of the Coast Guard act.

(1) The Japan Coast Guard shall take charge of the following administrative affairs in order to achieve the mission set forth under ¶(1) of Article 2 [JCG Missions].

(i) Matters relating to the enforcement of laws and regulations at sea.

(ii) Matters relating to relief assistance to save human lives, cargo, and vessels in marine accidents and in natural disasters and other cases necessitating relief.

(iii) Matters relating to relief of vessels in distress and the system of processing wreckage and sinking goods.

(iv) Matters relating to the investigation of marine accidents (except for those performed by the Japan Transport Safety Board and the Japan Marine Accident Tribunal).

(v) Matters relating to the removal of obstacles to vessel traffic.

(vi) Matters relating to supervision of people, other than officers of the Japan Coast Guard, who carry out relief to save human lives, cargo, and vessels in marine accidents and remove obstacles to marine traffic.

(vii) Matters relating to supervision necessary for security at sea for passengers or people engaged in the maritime transport of cargo.

(viii) Matters relating to navigation and signals for vessel traffic.

(ix) Matters relating to port regulations.

(x) Matters relating to securing the safety of vessel traffic in waters where vessel traffic is congested.

(xi) Matters relating to preventing marine pollution, etc. (referring to the marine pollution, etc. provided for in item (xv), ¶(2) of Article 3 of the Act on the Prevention of Marine Pollution and Maritime Disasters (Act No. 136 of 1970)) and marine disasters.

(xii) Matters relating to the maintenance of order in the navigation of vessels at sea.

(xiii) Matters relating to patrolling and guarding in coastal waters.

(xiv) Matters relating to the suppression of riots and disturbances at sea.

(xv) Matters relating to the prevention and suppression of crimes at sea.

(xvi) Matters relating to the investigation and arrest of criminals at sea.

³²²³ 3.2.3.2. Maritime Security Operation (MSO),
p. 63.

(xvii) Matters relating to detention work.

(xviii) Matters relating to international assistance in investigations.

(xix) Matters relating to cooperation, mutual assistance, and contact with the National Police Agency and the prefectural police (hereinafter referred to as “police administrative agencies”), customs, quarantine stations, and other relevant administrative agencies.

(xx) Matters relating to international disaster relief activities pursuant to the Act on Dispatchment of the Japan Disaster Relief Team (Act No. 93 of 1987).

(xxi) Matters relating to the hydrographic survey and oceanographic observation. (xxii) Matters relating to the preparation and supply of hydrographic publications and aeronautical information publications.

(xxiii) Matters relating to the notification of matters necessary for the safety of vessel traffic.

(xxiv) Matters relating to the construction, maintenance, operation, and supplies of lighthouses and other navigational aids.

(xxv) Matters relating to the observation of weather and its reports based on equipment attached to lighthouses and other navigational aids.

(xxvi) Matters relating to the supervision of people other than the Japan Coast Guard who perform the construction, maintenance, or operation of lighthouses or other navigational aids.

(xxvii) Matters relating to international cooperation pertaining to the administrative affairs under its jurisdiction.

(xxviii) Matters of holding training relating to the administrative affairs under its jurisdiction at the educational training facilities specified in a Cabinet Order.

(xxix) Matters relating to the construction, maintenance, and operation of vessels and aircraft to be used to carry out the administrative affairs under its jurisdiction.

(xxx) Matters relating to the construction, maintenance, and operation of communications facilities to be used to carry out the administrative affairs under its jurisdiction.

(xxxi) In addition to those matters given in each of the preceding items, the administrative affairs provided for in ¶(1) of Article 2³²²⁴ [JCG Missions].

i.K.4. Article 16 – Request of Cooperation for Citizen and Ship

(1) The Coast Guard Officers may seek cooperation from people and vessels in the vicinity, where necessary, to perform the duties given in item (ii) of Article 5 [*relief assistance to save human lives, cargo, and vessels in marine accidents and in natural disasters and other cases necessitating relief*] or when arresting a criminal or in emergency events.

i.K.5. Article 17 – Query, Order to Submit Documents, Order to Stop Ship, and Ship Visit

Article 17 grants JCG the authority to board and visit a ship. For a ship to be subject to boarding and inspection, it must be subject to Japanese jurisdiction (i.e., operating within TTS³²²⁵ and, in certain cases, within the CZ³²²⁶). Ships not subject to Japanese jurisdiction may be boarded by the JCG only under SIO³²²⁷ authorities.

If such boarding is resisted, JCG may board the ship using coercive force.

(1) The Coast Guard Officers may, when it is necessary for the performance of their duties, order the master of a vessel or a person who is directing a vessel on behalf of the master to submit documents that should be

³²²⁴ i.K.1. Article 2 – Japan Coast Guard Mission, p. 363.

³²²⁵ A.4.4. Territorial Sea (TTS), p. 196.

³²²⁶ A.4.6. Contiguous Zone (CZ), p. 197.

³²²⁷ 3.2.3.9. Ship Inspection Operations (SIO), p. 69.

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furnished in the ship in accordance with laws and regulations, or stop the vessel and conduct an onboard inspection in order to check the identity of the vessel, the port of registry, the name of the master, the immediate departure port or place of departure, the destination port or place of destination, the nature of its cargo or the presence or absence of cargo, and other matters deemed to be important in relation to the vessel, cargo, or voyage, or may ask questions necessary to perform their duties to crewmembers and passengers, the owner, lessee or charterer of the vessel, or other persons deemed to know of matters recognized to be important to secure safety and security at sea.

(2) The Coast Guard Officers shall wear uniforms and carry a certificate of identification with them when making the on-site inspection or asking questions as provided for in the preceding paragraph.

(3) The uniform of the Coast Guard Officers shall be provided for by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

i.K.6. Article 18 – Measures of Displacement, Expulsion, Takedown, and Stopping a Vessel

When JCG determines that a crime is about to be committed at sea or good order at sea (see §§ 3.2.3.2.2 Limitations of Maritime Security Operations [p. 64] and E.5.1 Innocent Passage [p. 249]) is likely to be disturbed, the JCG is authorized to take the measures of Article 18.

(1) In addition to those matters specified in other laws and regulations, the Coast Guard Officers make take the following measures in cases where it is deemed that a crime is definitely to take place at sea or in cases where there is a dangerous situation such as a natural disaster, marine accident, destruction of a structure, or an explosion of hazardous materials, and where there is the risk of damage extending to the lives or bodies of people or serious damage to property, and moreover, is a case requiring urgency.

(i) To start or stop the navigation of a vessel or to halt the departure of a vessel.

(ii) To change the route of a vessel, or to have a vessel moved to a specified place.

(iii) To have a crew member, passenger, or some other person onboard the vessel (hereinafter referred to as “crew member, etc.”) disembark, or to restrict or prohibit their disembarkation.

(iv) To have cargo unloaded, or to restrict or prohibit its unloading.

(v) To restrict or prohibit traffic among other vessels or between a vessel and shore.

(vi) In addition to the measures set forth in the preceding items, to restrain an act that is likely to cause danger to the lives or bodies of people or to seriously damage property at sea.

(2) The Coast Guard Officers may take the measures given in item (i) or item (ii) of the preceding paragraph [to control movement of a vessel] in cases where the Coast Guard Officers deem that it is clear that a crime is to be committed at sea or in cases where they otherwise deem that it is likely that the public order [good order] at sea will be seriously disturbed, and there are no other appropriate means, based on a reasonable judgment from the appearance of the vessel, mode of navigation, abnormal behavior of the crew members, etc., or from other surrounding circumstances.

i.K.7. Article 20 – Use of Weapons

(1) The provisions of Article 7³²²⁸ of the Police Duties Execution Act (Act No.136 of 1948) [Use of Weapons³²²⁹] shall apply mutatis mutandis³²³⁰ to the use of the weapons by the Coast Guard Officers and assistant Coast Guard Officers.

(2) In addition to cases of using a weapon in accordance with the provisions of Article 7 of the Police Duties Execution Act [Use of Weapons] in cases applied mutatis mutandis pursuant to the preceding paragraph, the Coast Guard Officers or assistant Coast Guard Officers may use a weapon within the extent judged

³²²⁸ i.I.5. Article 7 – Use of Weapons, p. 361.

³²²⁹ 3.3.1. Use of Weapons, p. 74.

³²³⁰ Making necessary changes to account for differing situations, but the basic point remains the same.

reasonably necessary corresponding to the situation if there are reasonable grounds to believe that there are no other means to stop the vessel in cases where an order is given repeatedly to a crew member, etc. to stop a vessel pursuant to the provisions of ¶(1) of Article 17 [ordering a ship to stop for inspection] and the crewmember, etc. does not comply, and further, resists the performance of the duties of the Coast Guard Officers or assistant Coast Guard Officers, or attempts to flee, and if the Commandant of the Japan Coast Guard deems that it is a situation which comes under all of the following items based on a reasonable judgment from the appearance of the said vessel, mode of navigation, abnormal behavior of the crew members, etc., or from other surrounding circumstances or related information.

(i) The said vessel is considered to be a foreign vessel (except Warships³²³¹ and vessels owned or operated by governments which are used only for non-commercial purposes) [exclusively applies to foreign surveillance vessels], and moreover, it is deemed that it is currently conducting navigation which is not an Innocent Passage³²³² in the Internal Waters³²³³ or Territorial Sea³²³⁴ of Japan as provided for in the provisions of Article 19 of the United Nations the Law of the Sea [UNCLOS] (except when there is a legitimate reason for the navigation).

(ii) It is deemed that if said navigation is left alone, it is likely to be repeated in the future.

(iii) It is deemed that it is not possible to dispel the suspicion that said navigation is being carried out for preparations necessary to commit a violent and dangerous crime which is punishable by the death penalty, a life sentence, or imprisonment with or without work for three years or more (hereinafter referred to as “serious violent crime”) in the territories of Japan.

(iv) It is deemed that it is not possible to prevent the future occurrence of a serious violent crime unless proper measures are taken based on information obtained through suspending said navigation and conducting an onboard inspection

i.K.8. Article 25 – Prohibition Against Paramilitarization of the Coast Guard

Description Ref Article 4³²³⁵

(1) None of the provisions of this Act shall be interpreted as permitting the organization or training of the Japan Coast Guard or its officers as armed forces or as permitting them to engage in the functions of armed forces.

i.L. SHIP INSPECTION ACT (ACT NO. 145 OF 2000, AMENDED)

The full title of this law is:

- Act on Ship Inspection Operations Implemented in Situations that Will Have an Important Influence on Japan and Other Situations

Unless otherwise noted, all block quotations³²³⁶ found within this section are from the GoJ’s official (Japanese language) Japanese Law e-Library.³²³⁷ The Japanese has been machine translated.³²³⁸

The source text was published on 30 May 2015 and reflects all amendments up to and including Act No. 76 of 2015.

Amendments made after 2015 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.L.1. Article 2 – Definitions

(1) In this law, “ship inspection activities” are defined as “vessel inspection activities” for the purpose of ensuring strict implementation of regulatory measures related to trade and other economic activities in

³²³¹ E.2.2.1.1. Warships, p. 241.

³²³² E.5.1.3. Non-Innocent Passage (Violations of Innocent Passage), p. 250.

³²³³ A.4.2. Internal Waters, p. 196.

³²³⁴ A.4.4. Territorial Sea (TTS), p. 196.

³²³⁵ i.K.2. Article 4 – Structure, Equipment, and Functions of Coast Guard Vessels, p. 363.

³²³⁶ 1.3.2. Block Quotations, p. 2.

³²³⁷ Appendix R. References, p. 293.

³²³⁸ 1.5.2.2. Machine Translations, p. 7.

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which Japan participates in situations of significant impact or joint international peace response situations. the cargo and destination of the ship (excludes warships and vessels owned or operated by governments that are used solely for non-commercial purposes (hereinafter referred to as "warships, etc.)) on the basis of a resolution of the United Nations Security Council requesting that the necessary measures be taken to ensure its implementation, or with the consent of the Flag State (a state that has the right to fly its flag as provided for in Article 91 of the United Nations Convention on the Law of the Sea); Activities to inspect, confirm, and request changes to the ship's route, destination port, or destination as necessary, which are carried out by Japan.

i.L.2. Article 3 – Implementation of Ship Inspection Activities

(1) Vessel inspection activities in Important Influence Situations shall be carried out by units of the Self-Defense Forces (meaning units, etc. prescribed in Article 8 of the SDF Act (Law No. 165 of 1954, as amended); the same shall apply hereinafter). In this case, a unit of the Self-Defense Forces, etc. that conducts ship inspection activities in an Important Influence Situation may carry out Logistics Support Activities³²³⁹ (refers to the Logistics Support Activities prescribed in item 2 of the same paragraph. same as below) for units of the United States Armed Forces, etc. (refers to the United States military, etc. as provided in Article 3, ¶(1), Item 1 of the IIS Act (Act No. 60 of 1999, as amended)) that conduct activities equivalent to said activities. The provision of goods belonging to the Self-Defense Forces and the provision of services by the Self-Defense Forces shall be listed in Appended Table 2 of the IIS Act (Act No. 60 of 1999, as amended).

(2) Ship inspection activities in joint international peace response situations shall be carried out by units of the Self-Defense Forces, etc. In this case, units of the Self-Defense Forces, etc. that carry out ship inspection activities in a joint international peace response situation may carry out cooperative support activities for units of the militaries, etc. (armed forces of foreign countries stipulated in Article 3, ¶(1), Item 1 of the International Peace Cooperation Support Activities Act (Act No. ## of YYYY)) of other countries that carry out activities equivalent to the activities in question. The provision of goods belonging to the Self-Defense Forces and the provision of services by the Self-Defense Forces as described in (refers to the cooperative support activities prescribed in item 2 of the same paragraph; same as below. etc.) above shall be listed in Schedule 2 of the International Peace Cooperation Support Activities Act.

i.L.3. Article 4 – Matters Stipulated in the Basic Plan

(1) When carrying out ship inspection activities in Important Influence Situations [IIS³²⁴⁰], the following matters shall be stipulated in the Basic Plan [BP³²⁴¹] prescribed in Article 4, ¶(1) of the IIS Act (Act No. 60 of 1999, as amended).

(i) Basic matters related to the relevant ship inspection activities

(ii) The size and composition of the Self-Defense Forces units, etc. that conduct the ship inspection activities, and if the ship inspection activities or the Logistics Support Activities³²⁴² associated with the implementation described in the second sentence of ¶(1) of the preceding article are carried out in foreign territory, these activities will be carried out in foreign territory. Equipment and dispatch period of Self-Defense Force units, etc. to be carried out in the area.

(iii) Matters regarding the scope of the area where the ship inspection activities will be carried out and the designation of the area.

(iv) Scope of goods subject to regulatory measures prescribed in Article 2

(v) Important matters related to the implementation of the Logistics Support Activities set forth in the latter part of ¶(1) of the preceding article in conjunction with the implementation of the ship inspection activities (including matters regarding the scope of the area where the Logistics Support Activities will be carried out and the designation of the area)

³²³⁹ 4.5.1.1. Logistics Support Activities, p. 98.

³²⁴⁰ 4.6. Important Influence Situation (IIS), p. 98.

³²⁴¹ 4.4. Basic Plan (BP), p. 97.

³²⁴² 4.5.1.1. Logistics Support Activities, p. 98.

- (vi) Other important matters related to the implementation of the relevant ship inspection activities
- (2) When conducting ship inspection activities in joint international peace response situations, the following matters shall be stipulated in the Basic Plan [BP] prescribed in Article 4, ¶(1) of the International Peace Cooperation Support Operations Act.
- (i) Basic matters related to the relevant ship inspection activities
- (ii) The size and composition of the Self-Defense Forces units, etc. that conduct the ship inspection activities, and if the ship inspection activities or the cooperation support activities associated with the implementation described in the second sentence of ¶(2) of the preceding article are carried out in foreign territory, these activities will be carried out in foreign territory. Equipment and dispatch period of Self-Defense Force units, etc. to be carried out in the area.
- (iii) Matters regarding the scope of the area where the ship inspection activities will be carried out and the designation of the area.
- (iv) Scope of goods subject to regulatory measures prescribed in Article 2
- (v) Important matters related to the implementation of the cooperation support activities set forth in the latter part of ¶(2) of the preceding article in conjunction with the implementation of the ship inspection activities (including matters regarding the scope of the area in which the cooperation support activities will be carried out and the designation of the area)
- (vi) Other important matters related to the implementation of the relevant ship inspection activities
- (3) Logistics Support Activities referred to in the second sentence of ¶(1) of the preceding article in conjunction with the implementation of ship inspection activities or ship inspection activities in a situation of significant impact, or cooperation support activities referred to in the second sentence of ¶(2) of the same article in conjunction with the implementation of ship inspection activities in a joint international peace response situation. In the case of implementation in the territory of a foreign country, if there is an organization prescribed in Article 2, ¶(4) of the or Article 2, ¶(4) of the International Peace Cooperation Support Activities Act, The scope of the implementation area shall be determined in consultation with the relevant organization.

i.L.4. Article 5 – Mode of Implementation of Ship Inspection Activities, etc.

- (1) The Minister of Defense shall establish implementation guidelines for ship inspection activities in accordance with the Basic Plan [BP³²⁴³] set forth in ¶(1) or (2) of the preceding article (simply referred to as the "Basic Plan" [BP] in ¶[5]), and shall obtain the approval of the Prime Minister, the Self-Defense Forces units, etc. shall be ordered to implement the same.
- (2) The Minister of Defense shall take into account the specific details of the ship inspection activities that need to be carried out in the implementation guidelines set forth in the preceding paragraph, and shall ensure that the relevant ship inspection activities are carried out smoothly and safely by the Self-Defense Forces, etc. (hereinafter referred to as the "implementation area" in this article) shall be designated. In this case, the implementation area must be clearly distinguished from the area where such activities will be conducted so that the ship inspection activities are not mixed with activities equivalent to ship inspection activities conducted by foreign countries.
- (3) The manner of implementation of ship inspection activities shall be listed in the attached table.
- (4) The Minister of Defense may conduct ship inspections in foreign territory in cases where it is deemed difficult for Self-Defense Forces units, etc. to carry out ship inspection activities smoothly and safely in all or part of the implementation area, or in situations of significant impact. Consent pursuant to Article 2, ¶(4) of the Act on Security of Significant Impact Situations for activities or Article 2, ¶(4) of the International Peace Cooperation Support Activities Act regarding ship inspection activities conducted in foreign territory in joint

³²⁴³ 4.4. Basic Plan (BP), p. 97.

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international peace response situations. If it is determined that the facility no longer exists, the designation must be changed or the activities being carried out there must be ordered to be suspended.

(5) In addition to what is provided for in the preceding paragraph, if all or part of the implementation area does not meet the requirements set forth in this Act or the Basic Plan [BP], the Minister of Defense shall promptly change the designation or must order the suspension of the activities being carried out there.

(6) The provisions of ¶(1) shall apply *mutatis mutandis*³²⁴⁴ to any changes to the implementation guidelines set forth in the same paragraph (excluding changes that reduce the implementation area pursuant to the provisions of the preceding two paragraphs).

(7) The provisions of Article 6³²⁴⁵ of the IIS Act (Act No. 60 of 1999, as amended) apply to the Logistics Support Activities set forth in the second half of Article 3, ¶(1) accompanying the implementation of ship inspection activities in Situations with Significant Impact, and the provisions of Article 7 of the International Peace Cooperation Support Operations Act apply to international This shall apply *mutatis mutandis* to the cooperation and support activities set forth in the latter part of Article 3, ¶(2), associated with the implementation of ship inspection activities in joint peace response situations.

³²⁴⁴ Making necessary changes to account for differing situations, but the basic point remains the same.

³²⁴⁵ i.E.6. Article 6 - Implementation of Provision of Goods and Services as Logistics Support Activities by the SDF, p. 348.

i.L.4.A. Attached Table

i.L.4.B. Number	i.L.4.C. Classification	i.L.4.D. Mode of Implementation
i.L.4.E. 1	i.L.4.F. Navigation status monitoring	i.L.4.G. To monitor the navigation status of ships.
i.L.4.H. 2	i.L.4.I. Manifestation of one's existence	i.L.4.J. To indicate one's presence to navigating vessels by calling out, using signal rounds, flares, or other appropriate means (excluding the use of live ammunition) as necessary.
i.L.4.K. 3	i.L.4.L. Inquiry about ship name etc.	i.L.4.M. Using radio or other means of communication, inquire about a ship's name, port of registration, captain's name, previous port or place of departure, port or destination, cargo, and other necessary information.
i.L.4.N. 4	i.L.4.O. Inspection and confirmation on board	i.L.4.P. Request the captain of a vessel (excluding warships, etc.; the same shall apply hereinafter) or a person who commands the vessel on behalf of the captain (hereinafter referred to as the "captain, etc.") to stop the vessel, and with the consent of the captain, etc., stop the vessel. board the vessel concerned and inspect and confirm the documents and cargo.
i.L.4.Q. 5	i.L.4.R. Request for change of route etc.	i.L.4.S. If it cannot be confirmed that a ship is not loaded with goods subject to the regulatory measures prescribed in Article 2, request the captain of the ship to change the route, port of destination, or destination.
i.L.4.T. 6	i.L.4.U. Persuading the captain etc.	i.L.4.V. Persuading the captain, etc. of a ship who does not respond to the request under ¶(4) or the request for change under ¶(5) to do so.
i.L.4.W. 7	i.L.4.X. Approaching, tracking, etc.	i.L.4.Y. To approach, follow, follow, and stand by in front of the vessel to the extent necessary for persuasion under ¶(6).

i.L.5. Article 6 – Use of Weapons

(1) Ship inspection activities in situations where ship inspection activities are ordered pursuant to the provisions of ¶(1) of the preceding article, or in situations where significant impact occurs pursuant to the provisions of ¶(2) of Article 6 of the Act on Safety Ensuring the Safety of Significant Impact Situations as applied mutatis mutandis³²⁴⁶ pursuant to ¶(7) of the same article. is ordered to provide Self-Defense Forces services as a logistics support operation under the latter part of Article 3, ¶(1), or the provisions of Article 7, ¶(2) of the International Peace Cooperation Support Operations Act as applied mutatis mutandis pursuant to ¶(7) of the preceding Article. Self-Defense Force personnel, such as units of the Self-Defense Forces, who are ordered to provide Self-Defense Force services as a cooperative support activity under the latter part of Article 3, ¶(2), in conjunction with the implementation of ship inspection activities in joint international peace response situations, shall and the lives of other Self-Defense Forces personnel (referring to the personnel prescribed in Article 2, ¶(5) of the Self-Defense Forces Act; the same shall apply in ¶[5]) who are present at the scene, or of persons who come under their control while performing their duties. or if there are reasonable grounds to believe that it is unavoidably necessary for personal protection, the Self-Defense Forces may use weapons (such as weapons for the ship inspection activities in foreign territory or When carrying out logistics support activities or related cooperation support activities, this applies only to

³²⁴⁶ Making necessary changes to account for differing situations, but the basic point remains the same.

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equipment that falls under the basic plan pursuant to the provisions of Article 4, ¶(1), Item 2 or ¶(2), Item 2. The same can be used in Article 1.

(2) The use of weapons pursuant to the provisions of the preceding paragraph shall be based on the orders of superiors if they are present at the scene. However, this shall not apply when there is an imminent threat of harm or danger to life or body and there is no time to obtain the order.

(3) In the case referred to in ¶(1), the superior officer at the scene shall prevent the uncontrolled use of a weapon from causing danger to life or body or causing chaos, and shall refrain from using the weapon. shall issue the necessary orders from the standpoint of ensuring that the above is carried out properly within the scope of the purpose in accordance with the provisions of the same paragraph and the following paragraph.

(4) When using weapons pursuant to the provisions of ¶(1), except in cases falling under Articles 36³²⁴⁷ [Self-Defense] or 37³²⁴⁸ [Necessity] of the Penal Code (Law No. 45 of 1907, as amended), SDF personnel must not cause harm to persons.

(5) The provisions of Article 96, ¶(3) of the Self-Defense Forces Act apply mutatis mutandis pursuant to ¶(7) of the same Article when ship inspection activities (limited to those outside the territory of Japan) are ordered pursuant to the provisions of ¶(1) of the preceding Article. In accordance with the provisions of Article 6, ¶(2) of the IIS Act (Act No. 60 of 1999, as amended), the Self-Defense Forces provide services as logistics support activities under the second half of Article 3, ¶(1) in conjunction with the implementation of ship inspection activities in IIS (outside the territory of Japan), or pursuant to the provisions of Article 7, ¶(2) of the International Peace Cooperation Support Activities Act as applied mutatis mutandis pursuant to ¶(7) of the preceding Article. Regarding Self-Defense Force personnel such as Self-Defense Force units ordered to provide Self-Defense Forces services (limited to those outside the territory of Japan) as part of cooperation and support activities under the second sentence of Article 2, It does not apply to crimes committed.

i.L.6. Article 7 – Delegation to Cabinet Order

(1) In addition to any special provisions in this Act, procedures for implementing this Act and other necessary matters regarding the enforcement of this Act shall be specified by Cabinet Order.

i.M. MARITIME TRANSPORTATION RESTRICTION LAW (LAW NO. 116 OF 2004, AS AMENDED)

The full title of this law is:

- Law Concerning the Restrictions of Maritime Transportation of Foreign Military Supplies, and Others in Armed Attack Situations, etc., and Survival-Threatening Situations

This act provides for procedures for stopped ship inspection and measures conducted by the JMSDF³²⁴⁹ to restrict maritime transportation of weapons, ammunition and military personnel, etc. (supplies to foreign armed forces, etc.) to armed forces, etc., of foreign countries involving in Armed Attack³²⁵⁰ against Japan in AAS³²⁵¹ or during STS.³²⁵² Procedures and measures are restricted to Japanese TTS,³²⁵³ the High Sea,³²⁵⁴ and the TTS of a foreign nation when that foreign nation's consent is granted.

Unless otherwise noted, all block quotations³²⁵⁵ found within § i.M are from the GoJ's government-provided unofficial (provisional) Japanese Law Translation.³²⁵⁶

This translation was published on 10 September 2021 and reflects all amendments up to and including Act No. 118 of 2006.

³²⁴⁷ i.H.1. Article 36 – Self-Defense, p. 360.

³²⁴⁸ i.H.2. Article 37 – Necessity, p. 360.

³²⁴⁹ 7.5.4.1.3. Maritime Self-Defense Force (JMSDF), p. 161.

³²⁵⁰ 4.11. Definition of "Armed Attack", p. 114.

³²⁵¹ 4.10. Armed Attack Situation (AAS), p. 110.

³²⁵² 4.9. Survival-Threatening Situation (STS), p. 104.

³²⁵³ A.4.4. Territorial Sea (TTS), p. 196.

³²⁵⁴ A.4.10.1. GoJ Definition of High Sea(s), p. 199.

³²⁵⁵ 1.3.2. Block Quotations, p. 2.

³²⁵⁶ Appendix R. References, p. 293.

Amendments made after 2021 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.M.1. Article 2 – Definitions of Foreign Military Supplies

Sets forth relevant definitions, to include categories of prohibited Contraband³²⁵⁷ under MIO³²⁵⁸ operations.

(1) In this Act, the meanings of the terms listed in the following items are as prescribed respectively in those items:

(i) "**Foreign Military Forces**³²⁵⁹" mean armed forces of a foreign state and other similar organizations engaged in **armed attack situations** (meaning the **Armed Attacks**³²⁶⁰ prescribed in Article 2, item (i) of the Act on Ensuring the Peace and Independence of Japan and the Security of the State and People in Armed Attack Situations; the same applies in Article 16 [**Stopped Ship Inspection; MIO**]);

(ii) "foreign military supply" means the objects listed in any of sub-items (a) through (h) (limited to those specified by Cabinet Order) whose destination is the area where the Foreign Military Forces are located and the objects listed in any of the sub-items (i) through (l) (limited to those specified by Cabinet Order) whose destination is the area within Japan's territory where the Foreign Military Forces are located or an area in the **High Seas**³²⁶¹ surrounding Japan;

(a) nuclear, chemical, biological or toxic weapons (including missiles used for transporting these weapons and other means), or anti-personnel land mines;

(b) firearms;

(c) ammunition or military explosives (excluding those listed in (a));

(d) military weapons (excluding those listed in (a) through (c));

(e) Military Aircraft,³²⁶² rockets, ships or vehicles (excluding those listed in (a));

(f) military communication equipment or electronics;

(g) components or accessories of those things listed in (a) through (f);

(h) military gunpowder (excluding explosives) or fuel;

(i) armor plates, military helmets, body armors and other military equipment (excluding those listed in (a) through (g));

(j) devices for the repair or maintenance of aircraft, rockets, ships or vehicles, or their components or accessories;

(k) fuel (excluding those listed in (h)), lubricants or operating oil for aircraft, rockets, ships or automobiles;

(l) food (limited to that directed at Foreign Military Forces).

(iii) "**Foreign Military Supplies**" [**Contraband**³²⁶³] means foreign military supply or members of the foreign military forces;

(iv) "ship" means a ship other than Warships³²⁶⁴ (meaning a Warship and a ship owned or operated by government of various countries that is used only for non-commercial purposes; the same applies hereinafter) [*i.e., "ship" is limited to merchant ships*];

³²⁵⁷ 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

³²⁵⁸ 3.2.2.8. Maritime Interdiction Operations (MIO), p. 60.

³²⁵⁹ 4.11.3. Applicable Foreign Military Forces, p. 116.

³²⁶⁰ 4.11. Definition of "Armed Attack", p. 114.

³²⁶¹ A.4.10.1. GoJ Definition of High Sea(s), p. 199.

³²⁶² E.2.2.3.1. Military Aircraft, p. 243.

³²⁶³ 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

³²⁶⁴ E.2.2.1.1. Warships, p. 241.

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(v) "master of ship" means a master of ship or a person who commands a ship on behalf of the master of ship;

(vi) "commanding officer" means the head of a self-defense ship or other unit of the Maritime Self-Defense Force who is ordered to take measures pursuant to the provisions of Chapter IV [**Stopped Ship Inspection and Taking Ship Measures: Article 16 – 38**] in accordance with the provisions of Article 4, ¶(1) [**restriction of maritime transportation of Contraband; MIO**];

(vii) "stopped ship inspection" means stopping a ship and making an on-site inspection or asking members of the crew or passengers (hereinafter referred to as "members of crew, etc.") necessary questions in order to confirm whether they are transporting Foreign Military Supplies [**Contraband**];

(viii) "taking ship measure" means ordering the master of ship of the ship for which stopped ship inspection has been carried out to take the ship to a certain port in Japan (limited to those specified by Cabinet Order; the same applies in Article 28, ¶(1) [**seizure of a ship**]) and performing the necessary supervision to ensure the performance of such order.

i.M.2. Article 4 – Measures by the Maritime Self-Defense Force

(1) The Minister of Defense, if all or part of the Maritime Self-Defense Force is given the defense operation order pursuant to the provisions of Article 76,³²⁶⁵ ¶(1) [**STS**,³²⁶⁶ **AAS (Imminent)**,³²⁶⁷ or **AAS (Occurrence)**³²⁶⁸] of the Self-Defense Forces Act and the Minister finds it necessary to restrict the maritime transportation of Foreign Military Supplies [**Contraband**³²⁶⁹] in Japan's Territorial Sea³²⁷⁰ or the High Seas³²⁷¹ surrounding Japan, may order units of the Maritime Self-Defense Force that were called out pursuant to the provisions of that paragraph to take the measures pursuant to the provisions of Chapter IV [**Stopped Ship Inspection and Taking Ship Measures: Article 16 – 38**] by obtaining the approval of the Prime Minister.

(2) The Minister of Defense, when giving an order pursuant to the provisions of the preceding paragraph, must give public notice and determine the area to implement stopped ship inspection (hereinafter referred to as the "implementation area").

i.M.3. Article 6 – Restriction of Transportation of Foreign Military Supplies

(1) In the cases where the cargo referred pursuant to the provisions of Article 27, ¶(3) [**seized Contraband**³²⁷²] or the cargo of the ship involved in the case referred pursuant to the provisions of Article 34 [**referral to tribunal**] (hereinafter collectively referred to as "cargo" in this Article and Article 52, ¶¶(1) through (3) [**trial concerning qualifying Contraband as listed in Article 2, ¶(1), No 2., (a) through (l)**]) is the foreign military supply that falls under Article 2, item (ii), (a) [**nuclear, chemical, biological or toxic weapons (including missiles used for transporting these weapons and other means), or anti-personnel land mines**], the Foreign Military Supply Tribunal must dispose of the cargo in accordance with the procedures prescribed in Chapter V [**Trial Proceedings; Articles 39 – 60**].

(2) In the cases where the cargo is the foreign military supply that falls under one of Article 2, item (ii), sub-items (b) through (h) [**firearms, ammunition or explosives, weapons, aircraft, rockets, ships, or vehicles, communications or electronics equipment, military explosives or fuel, or any components thereof**], the Foreign Military Supply Tribunal must suspend transportation of such cargo in accordance with the procedures prescribed in Chapter V [**Trial Proceedings; Articles 39 – 60**].

(3) In the cases where the cargo is the foreign military supply that falls under one of Article 2, item (ii), sub-items (i) through (l) [**armor plates, helmets, body armor, etc., maintenance or repair parts for aircraft, rockets, ships, or vehicles, fuel/POL, food directed at Foreign Military Forces**³²⁷³], the Foreign Military Supply

³²⁶⁵ i.C.14. Article 76 – Defense Operation (STS, AAS [Imminent], AAS [Occurrence]), p. 310.

³²⁶⁶ 4.9. Survival-Threatening Situation (STS), p. 104.

³²⁶⁷ 4.10.1.1. AAS (Imminent), p. 111.

³²⁶⁸ 4.10.1.2. AAS (Occurrence), p. 111.

³²⁶⁹ 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

³²⁷⁰ A.4.4. Territorial Sea (TTS), p. 196.

³²⁷¹ A.4.10.1. GoJ Definition of High Sea(s), p. 199.

³²⁷² 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

³²⁷³ 4.11.3. Applicable Foreign Military Forces, p. 116.

Tribunal, when it finds it necessary, may suspend transportation of such cargo in accordance with the procedures prescribed in Chapter V [Trial Proceedings; Articles 39 – 60].

(4) In the cases where the ship involved in the case that has been referred pursuant to the provisions of Article 34 [referral to tribunal] transports Foreign Military Supplies [Contraband] and falls under any of the following sub-items, the Foreign Military Supply Tribunal, if it finds it necessary for preventing the ship from conducting maritime transportation of Foreign Military Supplies [Contraband] repeatedly, may suspend the navigation of the ship in accordance with the procedures prescribed in Chapter V [Trial Proceedings; Articles 39 – 60]:

(i) cases where the charterer of the ship is a foreign military force;

(ii) beyond what is set forth in the preceding item, cases where the master of ship of the ship is under the command of a foreign military force;

(iii) cases where a considerable number of passengers of the ship are members of Foreign Military Forces;

(iv) cases where Cabinet Order provides the case as equivalent to those listed in the preceding three items.

i.M.4. Article 16 – Stopped Ship Inspection

(1) In a situation where an Armed Attack³²⁷⁴ occurs [i.e., AAS (Occurrence)], if there are sufficient grounds to suspect that a ship navigating the implementation area is transporting Foreign Military Supplies [Contraband³²⁷⁵], the commanding officer may carry out stopped ship inspection [MIO³²⁷⁶] of the ship in the implementation area pursuant to the provision of this Section; provided, however, that this does not apply to the cases where the ship is escorted by Warships.³²⁷⁷

i.M.5. Article 17 – Order to Stop

(1) When the commanding officer seeks to carry out stopped ship inspection [MIO³²⁷⁸], the officer is to order the ship to stop using radio communication or other means of communication in advance.

(2) In the cases where the commanding officer has ordered a ship to stop pursuant to the provisions of the preceding paragraph, if the ship does not comply with the order, the commanding officer is to repeatedly order the ship to stop by approaching, tracking or accompanying the ship, or keeping on standby ahead of the route of the ship.

(3) In the cases set forth in the preceding two paragraphs, the commanding officer, in addition to hoisting the ensign of self-defense, make their presence known by calling, using pyrotechnic signal or illuminating projectile or other appropriate means, as necessary

i.M.6. Article 18 – Implementation of On-Board Inspection

(1) When a ship that is ordered to stop pursuant to the provisions of ¶(1) [radio communication to stop] or (2) [approaching, accompanying, or keeping on standby] of the preceding Article [Article 17] comes to a stop, the commanding officer is to have an Ensign or higher-ranked Maritime Self-Defense Force personnel go on board the ship and carry out inspection pursuant to the provisions of Articles 20 through 22 (hereinafter referred to as "on-board inspection").

i.M.7. Article 20 – Inspection of the Ship's Documents

(1) The on-board inspector may require the master of ship to present the following documents (hereinafter referred to as "ship's document"):

(i) certificate of a vessel's nationality or other document certifying the nationality of the vessel;

³²⁷⁴ 4.11. Definition of "Armed Attack", p. 114.

³²⁷⁵ 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

³²⁷⁶ 3.2.2.8. Maritime Interdiction Operations (MIO), p. 60.

³²⁷⁷ E.2.2.1.1. Warships, p. 241.

³²⁷⁸ 3.2.2.8. Maritime Interdiction Operations (MIO), p. 60.

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- (ii) list of crew members, etc.;
- (iii) logbook or other documents on navigation record;
- (iv) bill of lading or other documents pertaining to the cargo.

i.M.8. Article 21 – Questions to the Crew Members, etc.

- (1) The on-board inspector, when they find it necessary, may ask questions to the crew members, etc.

i.M.9. Article 22 – Inspection of the Cargo

- (1) Even in the cases where the inspection has been carried out pursuant to the provisions of the preceding two Articles, the on-board inspector, when they still suspect that the ship is transporting Foreign Military Supplies [*Contraband*³²⁷⁹], may inspect the cargo in attendance of the master of ship.

i.M.10. Article 24 – Presentation of Identification Card

Prohibits inspections under MIO³²⁸⁰ for being used for law enforcement purposes.

- (1) The on-board inspector, when carrying out on-board inspection, must carry their identification card and present the identification card upon request by the master of ship and other persons concerned.
- (2) The authorities provided for in Article 20 through the preceding Article [*inspection under MIO*] may not be construed as being approved for the purposes of criminal investigation.

i.M.11. Article 25 – Report to the Commanding Officer

- (1) The on-board inspector, when carrying out on-board inspection, must immediately report the result of the on-board inspection to the commanding officer.

i.M.12. Article 26 – Termination of Stopped Ship Inspection

- (1) The commanding officer, when they receive the report set forth in the preceding Article, must promptly terminate the stopped ship inspection except for the cases where they demand delivery of the cargo pursuant to the provisions of ¶(1) of the following Article [*delivery of Contraband*³²⁸¹] or give an order pursuant to the provisions of Article 28, ¶(1) [*diversion of ship to Japanese port*].

i.M.13. Article 27 – Delivery of Foreign Military Supplies

- (1) In the cases where the cargo of the ship for which the report under Article 25 [*report on inspection results*] has been received by the commanding officer is found to be Foreign Military Supplies [*Contraband*³²⁸²] and the cargo can be loaded on the self-defense ship, the commanding officer, if they find that the cargo does not fall under any of the items of Article 6, ¶(4) [*suspension of navigation of ships found to be carrying Contraband*³²⁸³ *military equipment*], may demand delivery of the cargo from the master of ship of that ship.
- (2) The commanding officer, when they have received the delivery set forth in the preceding paragraph, must make a written statement and deliver it to the master of ship of that ship.
- (3) The commanding officer, when they have received the delivery set forth in ¶(1), must promptly refer the case to the Foreign Military Supply Tribunal along with documents and the cargo.

³²⁷⁹ 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

³²⁸⁰ 3.2.2.8. Maritime Interdiction Operations (MIO), p. 60.

³²⁸¹ 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

³²⁸² 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

³²⁸³ 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

i.M.14. Article 28 – Order to Take the Ship

(1) In the cases that fall under any of the following items, the commanding officer who has received the report set forth in Article 25 [report on inspection results] may order the master of ship of the ship for which the report is made to take the ship to a port in Japan:

(i) when the master of ship does not comply with the request for delivery [transfer of Contraband³²⁸⁴ to JMSDF³²⁸⁵ control] of Foreign Military Supplies [Contraband] as provided for by ¶(1) of the preceding Article;

(ii) when it is found that the ship is transporting Foreign Military Supplies [Contraband] (except for the cases where delivery of Foreign Military Supplies [Contraband] may be requested pursuant to the provisions of ¶(1) of the preceding Article); or

(iii) when the ship is still suspected of transporting Foreign Military Supplies [Contraband] judging from, in addition to the report, the external appearance of the ship, mode of navigation, abnormal behavior of the crew members, etc. or other surrounding facts, etc. (except for the cases that fall under the preceding two items).

(2) When the commanding officer seeks to give an order pursuant to the provisions of the preceding paragraph, the officer must give the master of ship an opportunity to submit a document stating an explanation in advance.

i.M.15. Article 29 – Surveillance Measures

Provides for the sealing of Contraband³²⁸⁶ during a diversion of a ship to Japanese port.

(1) The commanding officer, when they have given an order pursuant to the provisions of ¶(1) of the preceding Article [diversion of ship to a Japanese port], may have the on-board inspectors put a seal or establish apparatus necessary for the surveillance of the removal of the document of the ship and Foreign Military Supplies [Contraband] among the cargo of the ship (including those suspected to be Foreign Military Supplies [Contraband]).

i.M.16. Article 30 – Dispatch of the Taking Ship Supervisor

(1) The commanding officer, when they have given an order pursuant to the provisions of Article 28, ¶(1) [diversion of ship to Japanese port], may have an Ensign or higher-ranked Maritime Self-Defense Force personnel go on board the ship for which the order has been given (hereinafter referred to as "taking ship") in order to have the personnel provide necessary supervision to secure performance of the order.

i.M.17. Article 32 – Authority of the Taking Ship Supervisor

(1) The taking ship inspector, when they find that it is necessary for securing the performance of the order under the provisions of Article 28, ¶(1) [diversion of ship to Japanese port] or maintaining safety of navigation or order inside the ship, may direct the master of ship of the taking ship to take necessary measures.

(2) If the master of ship does not follow the direction under the provisions of the preceding paragraph, the taking ship supervisor, when it is unavoidable, may take measures pertaining to the direction themselves.

(3) The commanding officer may have the taking ship supervisor take measures provided for under Article 29 [Surveillance Measures; sealing suspected cargo].

i.M.18. Article 37 – Use of Weapons

(1) The provisions of Article 7³²⁸⁷ of The Police Duties Execution Act (Law No. 136 of 1948, as amended) [Use of Weapons³²⁸⁸] apply mutatis mutandis³²⁸⁹ to implementation of duties by Maritime Self-Defense Force

³²⁸⁴ 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

³²⁸⁵ 7.5.4.1.3. Maritime Self-Defense Force (JMSDF), p. 161.

³²⁸⁶ 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.

³²⁸⁷ i.1.5. Article 7 – Use of Weapons, p. 361.

³²⁸⁸ 3.3.1. Use of Weapons, p. 74.

³²⁸⁹ Making necessary changes to account for differing situations, but the basic point remains the same.

personnel of the unit that is ordered to take the measures provided for in this Chapter [*Stopped Ship Inspection and Taking Ship Measures*].

(2) In addition to the cases where weapons are used pursuant to the provisions of Article 7 of the Police Duties Execution Act (Law No. 136 of 1948, as amended) [*Use of Weapons*] as applied mutatis mutandis to the preceding paragraph, if the crew members, etc. of the subject ship do not obey the repeated orders to stop given by the commanding officer under the provisions of Article 17, ¶(2) [*refusal to comply with orders to stop*], and persistently resists the execution of duty or tries to escape, and when there are sufficient grounds to believe that there are no other means to stop the ship, the Maritime Self-Defense Force personnel prescribed in the preceding paragraph may use their weapons within the limits judged to be reasonably necessary in accordance with the circumstances, following the orders of the commanding officer.

i.M.19. Article 38 – Treatment of the Person Subject to Detention

(1) If there is any person subject to detention (meaning the person subject to detention prescribed in Article 3, item (iv)³²⁹⁰ of the Act on the Treatment of Prisoners of War and Other Detainees in Armed Attack Situations (Act No. 117 of 2004)) on board the ship subject to stopped ship inspection or the taking ship, the person is to be treated pursuant to the provisions of that Act [*Act on the Treatment of Prisoners of War and Other Detainees in Armed Attack Situations*].

i.N. COUNTER-PIRACY ACT (LAW NO. 55 OF 2009, AS AMENDED)

The full title of this law is:

- Act on Penalization of Acts of Piracy and Measures against Acts of Piracy

Unless otherwise noted, all block quotations³²⁹¹ found within this section are from the Nippon Foundation's CANPAN Translation.⁴³¹

This translation reflects all amendments up to and including Act No. 71, enacted 5 September 2012.

Amendments made after 2012 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.N.1. Article 2 – Definitions

(1) The “acts of piracy” in this Act shall mean the acts given in the following items which are carried out by a person who mans or has embarked on a vessel (except for Warships³²⁹² or vessels owned or operated by a government) for a private purpose on the High Seas³²⁹³ (including the Exclusive Economic Zone³²⁹⁴ provided for in the United Nations Convention on the Law of the Sea) or the Territorial Sea³²⁹⁵ or Internal Waters³²⁹⁶ of Japan.

(i) An act to seize some other vessel while underway or an act to freely control its operation by trapping a person so as to be in a state in which the person is unable to resist through the use of violence or intimidation or some other method.

(ii) An act to seize property onboard some other vessel while underway or to obtain an illegal profit in terms of property, or to have another person obtain such illegal profit by trapping the person so as to be in a state in which the person is unable to resist through the use of violence or intimidation or some other method.

(iii) An act to abduct a person who is onboard another vessel while underway for the purpose of taking the person hostage in order to have a third party deliver property or to carry out an act for which there is no obligation or not to exercise a right.

³²⁹⁰ i.P.1. Article 3 – Definitions, p. 383.

³²⁹¹ 1.3.2. Block Quotations, p. 2.

³²⁹² E.2.2.1.1. Warships, p. 241.

³²⁹³ A.4.10.1. GoJ Definition of High Sea(s), p.

199.

³²⁹⁴ A.4.7. Exclusive Economic Zone (EEZ), p. 198.

³²⁹⁵ A.4.4. Territorial Sea (TTS), p. 196.

³²⁹⁶ A.4.2. Internal Waters, p. 196.

(iv) An act demanding a third party to deliver property or to carry out an act for which there is no obligation or not to exercise a right having taken hostage a person who was abducted or who was on board another vessel while underway whose operations are being freely controlled or a person who was abducted onboard some other vessel while underway.

(v) An act of invading some other vessel while underway or of damaging it for the purpose of committing an act of piracy pertaining to any one of the preceding items.

(vi) An act of navigating a vessel and of coming significantly close to or of following some other vessel while underway or of interfering with its progress for the purpose of committing an act of piracy pertaining to any of the items from item (i) to item (iv) inclusive.

(vii) An act of navigating a vessel having prepared a weapon for the purpose of committing an act of piracy pertaining to any of the items from item (i) to item (iv) inclusive.

i.N.2. Article 3 – Crimes Relating to Acts of Piracy

(1) A person who has committed an act of piracy pertaining to any of the items from item (i) to item (iv) inclusive of the preceding Article shall be punished by imprisonment with work for life or for a definite term of not less than five years.

(2) Any attempt to commit a crime (except for those pertaining to the act of piracy pertaining to item (iv) of the preceding Article [acts] set forth under the preceding paragraph shall be punished.

(3) A person who has committed an act of piracy pertaining to item (v) or item (vi) of the preceding Article [seizing a vessel or navigating unsafely so as to enable piracy acts] shall be punished by imprisonment with work for a definite term of not more than five years.

(4) A person who has committed an act of piracy pertaining to item (vii) of the preceding Article shall be punished by imprisonment with work for a definite term of not more than three years; provided, however, that the sentence shall be mitigated or remitted for a person who surrendered before commencing to commit the crime set forth under ¶(1) or the preceding paragraph [qualifying acts of piracy].

i.N.3. Article 6- Use of Weapons to Stop Piracy

Permits the Use of Weapons³²⁹⁷ to stop piracy acts.

(1) The Coast Guard Officers or assistant Coast Guard Officers may use a weapon to the extent judged to be reasonably necessary in light of the circumstances if there are sufficient grounds to believe that there are no other means to stop the vessel when suppressing an act of piracy (limited to those pertaining to item (vi) of Article 2) which comes under a crime set forth under ¶(3) of Article 3 that is in the process of being committed, in cases where the person committing the act of piracy does not comply with other measures for suppression and continues to commit such act of piracy while navigating the vessel, in addition to cases where the Coast Guard Officers or assistant Coast Guard Officers use a weapon in accordance with the provisions of Article 7³²⁹⁸ of the Police Duties Execution Act (Law No. 136 of 1948, as amended) [Use of Weapons³²⁹⁹] as applied mutatis mutandis³³⁰⁰ to the provision of ¶(1) of Article 20³³⁰¹ of the Coast Guard Act (Law No. 28 of 1948, as amended) [Use of Weapons].

i.O. ACT ON COOPERATION WITH UNITED NATIONS PEACEKEEPING OPERATIONS AND OTHER OPERATIONS (ACT NO. 79 OF 1992, AS AMENDED)

Unless otherwise noted, all block quotations³³⁰² found within § i.O are from the GoJ's government-provided unofficial (provisional) Japanese Law Translation.³³⁰³

³²⁹⁷ 3.3.1. Use of Weapons, p. 74.

³²⁹⁸ i.I.5. Article 7 – Use of Weapons, p. 361.

³²⁹⁹ 3.3.1. Use of Weapons, p. 74.

³³⁰⁰ Making necessary changes to account for differing situations, but the basic point remains the same.

³³⁰¹ i.K.7. Article 20 – Use of Weapons, p. 366.

³³⁰² 1.3.2. Block Quotations, p. 2.

³³⁰³ Appendix R. References, p. 293.

Annex i. Selected Annotated Japanese Laws

This translation was published on 8 December 2015 and reflects all amendments up to and including Act No. 76 of 2015.

Amendments made after 2015 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.O.1. Article 3 – Definitions

(1) In this Act, the meanings of the terms listed in the following items shall be as prescribed respectively in those items.

(i) "United Nations Peacekeeping Operations" means the operations that are conducted under the control of the United Nations, based on resolutions of the United Nations General Assembly or the United Nations Security Council, to respond to conflicts and maintain international peace and security, by means such as ensuring the observance of agreements to prevent the recurrence of armed conflict between conflicting parties (hereinafter referred to as the "Parties to Armed Conflict"), protection of local populations under imminent threat of violence associated with disruption caused by conflicts and assisting in the establishment and reestablishment of governance systems by democratic means after the cessation of such conflict, and that are implemented by two or more participating countries at the request of the Secretary-General of the United Nations (hereinafter referred to as the "Secretary-General") and by the United Nations, and which are listed as follows.:

(a) operations that are conducted without partiality to any of the Parties to Armed Conflict, in cases where agreements to cease armed conflict and maintain the cessation have been reached among the Parties to Armed Conflict, and where consent for conducting such operations has been obtained from the countries to which the area where those operations are to be conducted belongs (or from the authority that administers the relevant area of that country in accordance with resolutions of the United Nations General Assembly or the United Nations Security Council, if such authority exists. The same applies hereinafter) as well as from the Parties to Armed Conflict;

(b) operations that are conducted when armed conflicts have ceased and the Parties to Armed Conflict have ceased to exist in the area where the operations are to be conducted, and in cases where consent for conducting of such operations has been obtained from the countries to which the area where those operations are to be conducted belongs;

(c) the operations that are conducted without partiality to any specific positions, aimed primarily at preventing the occurrence of armed conflicts, in cases where an armed conflict has not yet arisen but the possibility of such a conflict is developing, and where consent for conducting such operations has been obtained from the countries to which the area where those operations are to be conducted belongs.

(ii) "Internationally Coordinated Operations for Peace and Security" means the operations other than those implemented as United Nations Peacekeeping Operations, listed as follows, based on resolutions of the United Nations General Assembly, the United Nations Security Council or the United Nations Economic and Social Council, at the request of the international organizations listed in Appended Table 1, or at the request of the countries to which the area where those operations are to be conducted belongs (this is limited to cases that are supported by any of the principle organs of the United Nations as prescribed in Article 7, ¶(1) of the United Nations Charter), to respond to conflict situations and maintain international peace and security, by means such as ensuring the observance of agreements to prevent the recurrence of armed conflict among the Parties to Armed Conflict, protection of local populations under imminent threat of violence associated with disruptions caused by conflicts and assisting in the establishment and reestablishment governance systems by democratic means after the cessation of such conflicts, provided that such operations are implemented under the coordination of two or more participating countries which are listed as follows:

(a) operations that are conducted without partiality to any of the Parties to Armed Conflict, in cases where agreement to cease armed conflict and maintain the cessation has been reached among the Parties to Armed Conflict and where consent for conducting such operations has been obtained from the countries to

which the area where those operations are to be conducted belongs, as well as from the Parties to Armed Conflict;

(b) operations that are conducted when the armed conflicts have ceased and the Parties to Armed Conflict have ceased to exist in the area where the operations are to be conducted and in cases where consent for conducting such operations has been obtained from the countries to which the area where those operations are to be conducted belongs;

(c) operations that are conducted without partiality to any specific positions, aimed primarily at preventing the occurrence of armed conflicts, in cases where an armed conflict has not yet arisen but the possibility of such a conflict is developing, and where consent for conducting such operations has been obtained from the countries to which the area where those operations are to be conducted belongs.

(iii) "International Humanitarian Relief Operations" means the operations other than those implemented as United Nations Peacekeeping Operations or Internationally Coordinated Operations for Peace and Security, conducted with humanitarian intentions, and based on resolutions of the United Nations General Assembly, the United Nations Security Council or the United Nations Economic and Social Council, or conducted at the request of the international organizations listed in Appended Table 2, for the purpose of rescuing inhabitants and other persons who are suffering or likely to suffer (hereinafter referred to as "Affected People") due to a conflict that could potentially compromise on the verge of endangering international peace and security (hereinafter simplified as "Conflicts") or restoring damage caused by conflicts, implemented by the United Nations, other international organizations, Member States of the United Nations or other countries (referred to in items (iv) and (vi) below as the "United Nations, etc."), in cases where consent for conducting such operations has been obtained from the countries to which the area where those operations are to be conducted belongs and, should such countries be the Parties to Armed Conflict, agreement to cease armed conflict and maintain the cessation has been reached among the Parties to Armed Conflict;

(iv) "International Election Observation Operations" means the operations other than those implemented as United Nations Peacekeeping Operations or Internationally Coordinated Operations for Peace and Security, conducted based on resolutions of the United Nations General Assembly or the United Nations Security Council, or at the request of the international organizations listed in Appended Table 3, to ensure the fair execution of elections or voting by democratic means in areas disrupted by conflicts, with the intention of establishing governance systems and held in the process of eliminating such disruption, implemented by the United Nations, etc. where consent for conducting such operations has been obtained from the countries to which the area where those operations are to be conducted belongs and, should such countries be the Parties to Armed Conflict, agreement to cease armed conflict and maintain the cessation has been reached among the Parties to Armed Conflict;

(v) "International Peace Cooperation Assignments" means the following tasks implemented for United Nations Peacekeeping Operations, the following tasks implemented for Internationally Coordinated Operations for Peace and Security, the tasks provided for below in (m) to (s), (u) and (v) implemented for International Humanitarian Relief Operations, and the tasks provided for below in (h) and (u) implemented for International Election Observation Operations, wherein the incidental tasks are included respectively, provided that those tasks are conducted Overseas:

(a) monitoring the observance of cessation of armed conflict or the implementation of relocation, withdrawal or demobilization of armed forces agreed upon among the Parties to Armed Conflict;

(b) stationing in and patrolling of buffer zones and other areas demarcated to prevent the occurrence of armed conflict;

(c) inspection or identification of weapons, their parts and ammunition brought in or carried out by vehicle, by other means of transportation, or by pedestrians;

(d) collection, storage or disposal [destruction] of abandoned weapons, their parts and ammunition;

(e) assistance with the designation of ceasefire lines or other similar boundaries by the Parties to Armed Conflict;

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(f) assistance with the exchange of prisoners of war among the Parties to Armed Conflict;

(g) monitoring, stationing, patrolling, inspections at checkpoints and escorts for the security of specified areas, and for the prevention and suppression of injury or harm against the lives, person and property of local populations, Affected People and other populations requiring protection;

(h) observations or managements of the fair executions of elections for representative assemblies, referendums or any other similar elections or voting events;

(i) provision of advices or guidance and supervisions related to police administrative matters;

(j) provisions of advices or guidance and supervisions related to correctional administrative works;

(k) in addition to what is provided for in (h) and (i) above, provisions of advices or guidance related to legislative, administrative (except for those related to organization as specified in (l) below), and judicial matters;

(l) tasks as specified below for the purpose of establishing or re-establishing organizations of the Government relating to national defense or other organizations in charge of works equivalent to tasks specified in (a) to (g) or (m) to (t) in this item:

(1.) Provision of advices or guidance related to works equivalent to tasks specified in (a) to (f) or (m) to (t) in this item;

(2.) Provision of education or training for the purpose of providing the basic knowledge and skills required to conduct works as prescribed in ([sub-item] 1.) [immediately] above.

(m) medical services (including sanitation measures);

(n) search or rescue of Affected People or assistance in their repatriation;

(o) distribution of food, clothing, medical supplies and other daily necessities to Affected People;

(p) installation of facilities or equipment to accommodate Affected People;

(q) measures for the repairs or maintenance of facilities or equipment damaged by Conflicts, which are necessary in the daily lives of Affected people;

(r) measures for the restoration of natural environments subjected to pollution and other damages caused by Conflicts;

(s) transportation, storage (or stockpiling), communication, construction, installation, inspection or repair of machines and apparatus or replenishment (except for provisions of weapons) in addition to what is listed in (a) to (o) above;

(t) planning, drafting coordination, or collection and updating of information in headquarters offices or coordination offices conducting United Nations Peacekeeping Operations or Internationally Coordinated Operations for Peace and Security, for implementation of tasks listed in (a) to (s);

(u) other tasks similar to those listed in (a) to (t) above, as specified by Cabinet Orders;

(v) protection of the lives and bodies of individuals engaging in United Nations Peacekeeping Operations, Internationally Coordinated Operations for Peace and Security or International Humanitarian Relief Operations or providing support for those operations (hereinafter referred to as "Individuals Engaged in Operations" in this (v) and Article 26, ¶ [2]), in response to urgent requests when unexpected danger to the lives and bodies of such Individuals Engaged in Operations occurs or is imminent, while implementing tasks listed in (l) to (s) or (u) as tasks similar to these as specified by Cabinet Orders;

(vi) "Contributions in Kind" means the transfer, either free of charge or at a cost below market value, of goods that are required for the United Nations, etc. to conduct the following operations:

(a) United Nations Peacekeeping Operations;

(b) Internationally Coordinated Operations for Peace and Security;

(c) International Humanitarian Relief Operations (including operations prescribed in item (iii) above without the resolution, request, and/or agreement prescribed in the same item, if they are implemented by international organizations listed in appended Table 4; the same applies to Article 30, ¶¶(1) and (3));

(d) International Election Observation Operations

(viii) "Receiving Countries" means foreign countries, not inclusive of the **High Seas**,³³⁰⁴ where International Peace Cooperation Assignments are implemented;

(ix) "Relevant Administrative Organs" means the following organs as specified by Cabinet Orders:

(a) the Cabinet Office or organs prescribed in Article 49, ¶¶(1) and (2) of the Act for Establishment of the Cabinet Office (Act No. 89 of 1999) or in Article 3, ¶(2) of the National Government Organization Act (Act No. 120 of 1948);

(b) special organs set forth in Articles 40 and 56 of the Act for Establishment of the Cabinet Office or in Article 8-3 of the National Government Organization Act.

i.P. POW LAW (LAW NO. 117 OF 2004, AS AMENDED)

The full title of this law is:

- Act on the Treatment of Prisoners of War and Other Detainees in Armed Attack Situations

Provides for matters necessary for the holding, detention, and other treatment of POWs and other detainees in STS³³⁰⁵ and AAS³³⁰⁶ and to ensure the adequate enforcement of international humanitarian law regarding the treatment of POWs and detainees.

Unless otherwise noted, all block quotations³³⁰⁷ found within § i.P are from the GoJ's government-provided unofficial (provisional) Japanese Law Translation.³³⁰⁸

This translation was published on 31 August 2021 and reflects all amendments up to and including Act No. 5 of 2008.

Amendments made after 2021 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.P.1. Article 3 – Definitions

(1) In this Act, the meanings of the terms set forth in the following items are as prescribed respectively in those items:

(i) "Armed Attack"³³⁰⁹ means Armed Attack **as prescribed in item (i) of Article 2³³¹⁰ of the Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended);**

(ii) "Armed Attack Situations" means Armed Attack Situations **as prescribed in item (ii) of Article 2 of the Act on Response to Armed Attack Situations;**

(iii) "enemy's armed forces, etc." means armed forces of foreign state and other similar organizations engaging in Armed Attacks in Armed Attack Situations;

(iv) "person subject to detention" means a foreign national who falls under any of the following items (a) through (k):

(a) member of enemy's armed forces, etc. (except for those set forth in (e), (g), (i) and (j));

³³⁰⁴ A.4.10.1. GoJ Definition of High Sea(s), p. 199.

³³⁰⁵ 4.9. Survival-Threatening Situation (STS), p. 104.

³³⁰⁶ 4.10. Armed Attack Situation (AAS), p. 110.

³³⁰⁷ 1.3.2. Block Quotations, p. 2.

³³⁰⁸ Appendix R. References, p. 293.

³³⁰⁹ 4.11. Definition of "Armed Attack", p. 114.

³³¹⁰ i.D.3. Article 2 – Definitions, p. 338.

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(b) person who accompanies the enemy's armed forces, etc. (except for the members of the enemy's armed forces, etc.) and has received an authorization to accompany from the relevant enemy's armed forces, etc. (except for those set forth in (f) and (h));

(c) member of a crew (limited to those who have foreign nationality engaging in Armed Attack) of vessels (except for Warships,³³¹¹ and ships owned or operated by governments of other states which are used only for non-commercial purposes (hereinafter referred to as "Warships, etc.")), which are escorted by Warships, etc. of enemy's armed forces, etc., or of ships which transport Foreign Military Supplies [Contraband³³¹²], etc. (referred to as "Foreign Military Supplies, etc." in the following (d)) as prescribed in item (iii) of Article 2³³¹³ of the Maritime Transportation Restriction Law (Law No. 116 of 2004, as amended);

(d) member of a crew (limited to operating crew as prescribed in Article 32 (a) of the Convention on International Civil Aviation who has foreign nationality engaging in Armed Attack) of Civil Aircraft³³¹⁴ prescribed in Article 3 of the Convention, which are escorted by enemy's Military Aircraft³³¹⁵ (meaning aircraft of the enemy's armed forces, etc. and are used for military purposes) or of aircraft that transport Foreign Military Supplies, etc. [Contraband];

(e) medical personnel exclusively engaged in the search for, or the collection, transport or treatment of the wounded or sick, or in the prevention of diseases, or staff exclusively engaged in the administration of medical units and medical facilities of the enemy's armed forces, etc. as prescribed in Article 24 of the Geneva Convention for the Amelioration of Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949 (hereinafter referred to as the "First Convention") [wearing "Red Cross," etc. emblems in accordance with the Geneva Conventions];

(f) staff of foreign National Red Cross Societies and those of other foreign Voluntary Aid Societies, as prescribed in ¶(1) of Article 26 of the First Convention [under the direction of a Commander-in-Chief issuing lawful orders in accordance with the Geneva Conventions], and duly recognized and authorized by their governments engaged in Armed Attack, who perform the same duties as the personnel or staff set forth in (e);

(g) chaplain prescribed in Article 24 of the First Convention [wearing "Red Cross," etc. emblems in accordance with the Geneva Conventions], attached to the enemy's armed forces, etc.;

(h) staff of foreign National Red Cross Societies and those of other foreign Voluntary Aid Societies, as prescribed in ¶(1) of Article 26 of the First Convention [under the direction of a Commander-in-Chief issuing lawful orders in accordance with the Geneva Conventions], and duly recognized and authorized by their governments engaged in Armed Attack, who perform the same duties as the persons set forth in (g);

(i) member of enemy's armed forces, etc. who fails to meet the obligation prescribed in Article 44, ¶(3) of the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) (hereinafter referred to as the "First Additional Protocol") [failing to wear uniforms or insignia distinguishing one's self as a lawful armed combatant] thereby forfeiting the right to be treated as a prisoner of war;

(j) member of enemy's armed forces, etc. who may be treated as a spy pursuant to the provisions of Article 46 of the First Additional Protocol [Spies];

(k) mercenary³³¹⁶ as prescribed in Article 47, ¶(2) of the First Additional Protocol [Mercenaries];

(v) "prisoner of war" means a person to be detained who receives certification of detainee status or administrative determination declaring that the person falls under any of the foreign nationals set forth in the (a) through (d) of the preceding item pursuant to the procedures prescribed in Section 3 of Chapter II [Certification of Detainee Status] or Section 2 of Chapter IV [Procedures for Request for Administrative Review of the Certification of Detainee Status];

³³¹¹ E.2.2.1.1. Warships, p. 241.³³¹² 3.2.2.8.1. Contraband (Foreign Military Supplies), p. 61.³³¹³ i.M.1. Article 2 – Definitions of Foreign Military Supplies, p. 373.³³¹⁴ E.2.2.4. Civil Aircraft, p. 243.³³¹⁵ E.2.2.3.1. Military Aircraft, p. 243.³³¹⁶ First Additional Protocol Definition

(vi) "medical personnel" means a person to be detained who receives certification of detainee status or administrative determination declaring that the person falls under any of the foreign nationals set forth in (e) or (f) of item (iv) pursuant to the procedures prescribed in Section 3 of Chapter II [*Certification of Detainee Status*] or Section 2 of Chapter IV [*Procedures for Request for Administrative Review of the Certification of Detainee Status*];

(vii) "chaplain" means a person to be detained who receives certification of detainee status or administrative determination declaring that the person falls under any of the foreign nationals set forth in (g) or (h) of item (iv) pursuant to the procedures prescribed in Section 3 of Chapter II [*Certification of Detainee Status*] or Section 2 of Chapter IV [*Procedures for Request for Administrative Review of the Certification of Detainee Status*];

(viii) "violation of obligations of distinction" means a person to be detained who receives certification of detainee status or administrative determination declaring that the person falls under any of the foreign nationals set forth in (i) of item (iv) pursuant to the procedures prescribed in Section 3 of Chapter II [*Certification of Detainee Status*] or Section 2 of Chapter IV [*Procedures for Request for Administrative Review of the Certification of Detainee Status*];

(ix) "spy" means a person to be detained who receives certification of detainee status or administrative determination declaring that the person falls under any of the foreign nationals set forth in (j) of item (iv) pursuant to the procedures prescribed in Section 3 of Chapter II [*Certification of Detainee Status*] or Section 2 of Chapter IV [*Procedures for Request for Administrative Review of the Certification of Detainee Status*];

(x) "mercenary" means a person to be detained who receives certification of detainee status or administrative determination declaring that the person falls under any of the foreign nationals set forth in (k) of item (iv) pursuant to the procedures prescribed in Section 3 of Chapter II [*Certification of Detainee Status*] or Section 2 of Chapter IV [*Procedures for Request for Administrative Review of the Certification of Detainee Status*];

(xi) a "request for administrative review of the certification of detainee status" means a request for administrative review of a certification of detainee status pursuant to the provisions of the ¶(1) of Article 14 [*Requests for Administrative Review of the Certification of Detainee Status*], ¶(4) of Article 17 [*Release; provisions for request for administrative review*] and ¶(1) of Article 106 [*Request for Administrative Review of the Certification of Detainee Status by Interned Persons*];

(xii) a "request for administrative review of disciplinary action" means a request for administrative review of disciplinary action pursuant to the provisions of Article 125 [*Request for Administrative Review of Disciplinary Actions*];

(xiii) "prisoner-of-war camp" means a prisoner-of-war camp prescribed in ¶(3) of Article 24³³¹⁷ of the Self-Defense Forces Act (Act No. 165 of 1954) [*Authority for JSDF to Establish POW Camps*];

(xiv) a "superintendent of prisoner-of-war camp" means a superintendent prescribed in ¶(2) of Article 29-2³³¹⁸ of the Self-Defense Forces Act [*establishing that POW camps shall have a JSDF Commandant in the grade of O-1 or above*];

(xv) "prisoners' representative" means a person who is designated by a superintendent of prisoner-of-war camp as those who perform the duties prescribed in *Article 80 of the Third Convention*;

(xvi) "protecting power" means protecting power as prescribed in Article 2 (c) of the First Additional Protocol [*a neutral or other state not a party to the conflict mutually agreed upon by parties to the conflict*];

(xvii) a "substitute for the protecting power" means a substitute as prescribed in Article 2 (d) of the First Additional Protocol [*a non-state entity acting in capacity as a "protecting power"*];

³³¹⁷ i.C.6. Article 24 – Organs of the JSDF, p. 306.

³³¹⁸ i.C.7. Article 29-2 –, p. 306.

(xviii) a "representative of the protecting power" means those who carries out the missions as a protecting power or a substitute for the protecting power, pursuant to the provisions of the Third Convention or the First Additional Protocol, in the territory of Japan and is duly approved by the Government of Japan.

i.Q. ACT ON THE USE OF SPECIFIED PUBLIC FACILITIES (ACT NO. 114 OF 2004, AS AMENDED)

The full title of this law is:

- Act on the Use of Specified Public Facilities, etc., in Armed Attack Situations, etc.

During AAAS³³¹⁹ or AAS,³³²⁰ provides for coordination of civil protection measures with local (e.g., prefectural) governments and coordination for the use of specific public facilities (e.g., APODs and SPODs) managed by the local governments for use by the JSDF and US Forces and other foreign militaries responding with Japan to AAAS or AAS or other Civil Protection, etc.³³²¹ activities.

This act does not apply in STS.³³²²

Unless otherwise noted, all block quotations³³²³ found within this section are from the GoJ's official (Japanese language) Japanese Law e-Library.³³²⁴ The Japanese has been machine translated.³³²⁵

The source text was published on 17 June 2020 and reflects all amendments up to and including Act No. 68 of 2020.

Amendments made after 2020 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.Q.1. Overview

This law provides for the GoJ to grant US forces access to or use of the following areas (within specified limitations):

- Ports (Article 6, p. 388)
- Airfields (Article 7, p. 389)
- Roads (Article 12, p. 390)
- Sea areas (Article 13, p. 391)
- Airspace (Article 15, p. 392)
- Electromagnetic spectrum (Article 17, p. 392)

i.Q.2. Article 2 – Definitions

Make consistent with i.G.1 Article 2 – Definitions:

(1) In this law, "armed attack situations, etc.",³³²⁶ "Armed Attack",³³²⁷ "Armed Attack Situation",³³²⁸ "Designated Administrative Agency", "Designated Local Administrative Agency", "Designated Public Institution", "Basic Response Plan",³³²⁹ "Task Force Headquarters" and "Task Force Chief"³³³⁰ are defined in Article 1³³³¹ [armed attack situations, etc.], Article 2,³³³² ¶(2)(i)-(vii) [(i) Armed Attack; (ii) AAS, (v) Designated Administrative Agency, (vi) Designated Local Administrative Agency, (vii) Designated Publish Institution] (excluding items (iii) [AAAS] and (iv) [STS]), Article 9,³³³³ ¶(1) [BRP], and Article 10,³³³⁴ ¶(1) [what?], and

³³¹⁹ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

³³²⁰ 4.10. Armed Attack Situation (AAS), p. 110.

³³²¹ 3.2.5. Civil Protection, etc., p. 70.

³³²² 4.9. Survival-Threatening Situation (STS), p. 104.

³³²³ 1.3.2. Block Quotations, p. 2.

³³²⁴ Appendix R. References, p. 293.

³³²⁵ 1.5.2.2. Machine Translations, p. 7.

³³²⁶ 4.7. "Armed Attack Situations, etc.", p. 101.

³³²⁷ 4.11. Definition of "Armed Attack", p. 114.

³³²⁸ 4.10. Armed Attack Situation (AAS), p. 110.

³³²⁹ 4.3. Basic Response Plan (BRP), p. 95.

³³³⁰ i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister, p. 337.

³³³¹ i.D.2. Article 1 – Purpose, p. 338.

³³³² i.D.3. Article 2 – Definitions, p. 338.

³³³³ i.D.4. Article 9 – Basic Response Plan, p. 340.

³³³⁴ i.D.5. Article 10 – Establishment of the Task Force, p. 342.

Article 11,³³³⁵ ¶(1) [Task Force Chief] of the Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended), respectively.

Is vi below vi or vii?

(1) In this law, the meanings of "armed attack situations, etc.",³³³⁶ "Armed Attack",³³³⁷ "Designated Administrative Agencies", "Designated Public Institution", "Basic Response Plan",³³³⁸ and "Task Force Chief"³³³⁹ are defined by Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended)³³⁴⁰ Article 1³³⁴¹ [armed attack situations, etc.], Article 2,³³⁴² ¶(2)(i) [Armed Attack], (v) [Designated Administrative Agency], and (vi) [defining Designated Public Institution], Article 9,³³⁴³ ¶(1) [BRP], and Article 11,³³⁴⁴ ¶(1) [Task Force Chief].

(2) In this law, "Response Measures, etc." refer to the measures listed in Article 2, ¶¶(1)(viii)(a) and (1)(viii)(b) of the Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended) as well as measures taken in cooperation with the United States military, in the event of an Armed Attack and during the period from the establishment of the Basic Response Plan until its termination, in accordance with the Treaty of Mutual Cooperation and Security between Japan and the United States, to eliminate Armed Attacks and Foreign Military Forces³³⁴⁵ (armed attack situations, etc.) (Foreign Military Forces is defined in Article 2,³³⁴⁶ Item 7 of the US Military Action Support Act (Law No. 113 of 2004, as amended),³³⁴⁷ and actions necessary to eliminate Armed Attacks in cooperation with the Self-Defense Forces and measures for the protection of the people (Measures for the Protection of the People is defined in Article 2,³³⁴⁸ ¶(3) of the Civil Protection Act (Act No. 112 of 2004, as amended).³³⁴⁹ The same shall apply in Article 18, ¶(1), Item 1).

(3) In this law, "Specified Public Facilities, etc." refers to port facilities, airfield facilities, roads, sea areas, airspace, and radio waves.

(4) In this law, "Port Facilities" refer to the port facilities specified in each item of Article 2,³³⁵⁰ ¶(5) of the Port Act (Act No. 218 of 1950, as amended)³³⁵¹ excluding those that are ordinary property under Article 3,³³⁵² ¶(3) [State property other than Administrative Property] of the National Government Asset Act (Act No. 73 of 1948, as amended) or Article 238 [Scope and Classification of Public Property],³³⁵³ ¶(4) of the Local Autonomy Act (Act No. 67 of 1948, as amended).

(5) In this law, "Airfield Facilities" refer to Airports listed in each item of Article 4,³³⁵⁴ ¶(1) of the Airport Act (Act No. 80 of 1965, as amended)³³⁵⁵ and Locally Managed Airports prescribed in Article 5,³³⁵⁶ ¶(1) of the same Act, facilities and airfields designated by Cabinet Order for public use other than [in addition to] said Airports and Locally Managed Airports (including airfields established by the Self-Defense Forces that have landing strips and other facilities designated for public use pursuant to the provisions of Article 56-4 [Designation of Facilities for Public Use],³³⁵⁷ ¶(1) of the Civil Aeronautics Act (Act No. 231 of 1950, as amended)).

(6) The term "road" as used in this Act refers to roads as defined in Article 2, ¶(1) of the Road Act (Act No. 180 of 1952), general motorways as defined in Article 2, ¶(8) of the Road Transportation Act (Act No. 183 of 1951), and other roads used for general traffic.

³³³⁵ i.D.6. Article 11 – Organization of the Task Force, p. 343.

³³³⁶ 4.7. "Armed Attack Situations, etc.", p. 101.

³³³⁷ 4.11. Definition of "Armed Attack", p. 114.

³³³⁸ 4.3. Basic Response Plan (BRP), p. 95.

³³³⁹ i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister, p. 337.

³³⁴⁰ i.D. Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended), p. 337.

³³⁴¹ i.D.2. Article 1 – Purpose, p. 338.

³³⁴² i.D.3. Article 2 – Definitions, p. 338.

³³⁴³ i.D.4. Article 9 – Basic Response Plan, p. 340.

³³⁴⁴ i.D.6. Article 11 – Organization of the Task Force, p. 343.

³³⁴⁵ 4.11.3. Applicable Foreign Military Forces, p. 116.

³³⁴⁶ i.F.2. Article 2 –, p. 352.

³³⁴⁷ i.F. US Military Action Support Act (Law No. 113 of 2004, as amended), p. 351.

³³⁴⁸ i.G.1. Article 2 –, p. 357.

³³⁴⁹ i.G. Civil Protection Act (Act No. 112 of 2004, as amended), p. 356.

³³⁵⁰ i.S.1. Article 2 – Definitions, p. 395.

³³⁵¹ i.S.1. Article 2 – Definitions, p. 395.

³³⁵² i.V.1. Article 3 – Classification and Types of National Property, p. 401.

³³⁵³ i.W.1. Article 238 – Scope and Classification of Public Property, p. 401.

³³⁵⁴ i.T.1. Article 4 – Establishment and management of airports that serve as bases for international air transport networks or domestic air transport networks, p. 397.

³³⁵⁵ i.T. Airport Act (Act No. 80 of 1965, as amended), p. 396.

³³⁵⁶ i.T.2. Article 5 - Establishment and management of airports that play an important role in forming international or domestic air transportation networks, p. 397.

³³⁵⁷ i.U.2. Article 56-4 - Designation of Facilities for Public Use, p. 400.

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(7) The term "radio waves" as used in this Act means the radio waves set forth in Article 2,³³⁵⁸ Item 1 of the Radio Act (Act No. 131 of 1950, as amended).³³⁵⁹

i.Q.2.A. Inapplicability to STS

Within this act the term "Response Measures, etc." refers to measures "listed in Article 2,³³⁶⁰ ¶(1)(viii)(a) and (1)(viii)(b) of the Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended)."³³⁶¹

The Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended) specifies:

- Article 2 ¶(1)(viii)(a) specifies measures to be implemented to end armed attack situations, etc.³³⁶² (including AAAS,³³⁶³ AAS (Imminent),³³⁶⁴ AAS (Occurrence)³³⁶⁵)
- Article 2 ¶(1)(viii)(b) specifies measures to protect lives, bodies, and property of the people from or to minimize the impact of Armed Attacks³³⁶⁶

This definition does not extend the term "Response Measures, etc." beyond armed attack situations, etc. (i.e., it does not apply to STS.³³⁶⁷)

i.Q.3. Article 3 – Responsibilities of the Task Force Chief

(1) In view of the fact that ensuring the smooth and effective use of Specified Public Facilities, etc. is essential for the accurate and prompt implementation of countermeasures, etc., the Task Force Chief³³⁶⁸ shall take comprehensive measures regarding the use of specified public facilities, etc.; when making adjustments, they shall be carried out appropriately while gaining the understanding and cooperation of the people.

i.Q.4. Article 4 – Responsibilities of Port Administrators, etc.

(1) In view of the fact that ensuring the smooth and effective use of Port and Airfield Facilities is essential for the accurate and prompt implementation of countermeasures, etc., Port and Airfield Facility managers shall: shall manage and operate Port and Airfield Facilities based on the guidelines regarding their use and in close cooperation with the Task Force Chief.³³⁶⁹

i.Q.5. Article 5 – Responsibilities of Designated Administrative Agencies, etc.

(1) In addition to what is prescribed in the preceding article [Article 4³³⁷⁰], Designated Administrative Agencies, local governments, and Designated Public Institution, and Designated Local Public Institutions (Designated Local Public Institutions is defined in Article 2³³⁷¹, ¶(2) of the Civil Protection Act (Act No. 112 of 2004, as amended)³³⁷²), in view of the fact that ensuring the smooth and effective use of Specified Public Facilities, etc. is essential for the accurate and prompt implementation of countermeasures, etc., when implementing countermeasures, etc., the Task Force Chief³³⁷³ shall use or allow to be used such facilities, taking into account the guidelines regarding their use that are established for each Specified Public Facility, etc.

i.Q.6. Article 6 – Guidelines for the Use of Port Facilities, etc.

(1) In order to ensure accurate and prompt implementation of countermeasures in the event of an armed attack, etc., the Task Force Chief³³⁷⁴ may establish guidelines regarding the use of Port Facilities based on the Basic Response Plan (hereinafter referred to as "Port Facility Usage Guidelines" in this article and the next article).

³³⁵⁸ i.R.1. Article 2 – Definitions, p. 394.

³³⁵⁹ i.R. Radio Act (Act No. 131 of 1950, as amended), p. 394.

³³⁶⁰ i.D.3. Article 2 – Definitions, p. 338.

³³⁶¹ i.D. Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended), p. 337.

³³⁶² 4.7. "Armed Attack Situations, etc.", p. 101.

³³⁶³ 4.8. Anticipated Armed Attack Situation (AAAS), p. 102.

³³⁶⁴ 4.10.1.1. AAS (Imminent), p. 111.

³³⁶⁵ 4.10.1.2. AAS (Occurrence), p. 111.

³³⁶⁶ 4.11. Definition of "Armed Attack", p. 114.

³³⁶⁷ 4.9. Survival-Threatening Situation (STS), p. 104.

³³⁶⁸ i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister, p. 337.

³³⁶⁹ i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister, p. 337.

³³⁷⁰ i.Q.4. Article 4 – Responsibilities of Port Administrators, etc., p. 388.

³³⁷¹ i.G. Civil Protection Act (Act No. 112 of 2004, as amended), p. 356.

³³⁷² i.G. Civil Protection Act (Act No. 112 of 2004, as amended), p. 356.

³³⁷³ i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister, p. 337.

³³⁷⁴ i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister, p. 337.

- (2) The Port Facility Usage Guidelines for Port Facilities in specified areas shall include: the outline of countermeasures, etc. that are necessary to ensure preferential use by specific persons, their period, and other basic matters deemed necessary for the accurate and prompt implementation of countermeasures, etc.
- (3) When establishing Port Facility Usage Guidelines, the Task Force Chief must hear the opinions of the heads of relevant local governments, other executive bodies, and Designated Public Institutions.
- (4) The Task Force Chief may request the heads of relevant local governments, other executive agencies, and Designated Public Institutions to provide necessary information when he/she deems it necessary to establish Port Facility Usage Guidelines.
- (5) When the Task Force Chief has established Port Facility Usage Guidelines, he will notify the heads of related Designated Administrative Agencies, heads of local governments, other executive agencies, and Designated Public Institutions; the contents shall be made public, except for matters that may harm national security if made public.
- (6) The Task Force Chief shall review the Port Facility Usage Guidelines in a timely manner according to the progress of the situation.
- (7) The provisions of ¶¶(3) to (5) shall apply mutatis mutandis³³⁷⁵ to cases where the Port Facility Usage Guidelines are changed or abolished.

i.Q.7. Article 7 – Request for Use of Port Facilities

- (1) When the Task Force Chief³³⁷⁶ deems it particularly necessary to secure preferential use of a specific Port Facility in order to accurately and promptly implement countermeasures, etc., the Task Force Chief shall, based on the Port Facility Usage Guidelines, request of a port administrator to allow a specific person to preferentially use all or part of the particular Port Facility, specifying the name of the specific Port Facility, the content and period of countermeasures necessary to ensure preferential use by specific persons, and other specific matters.
- (2) A port administrator who receives a request under the preceding paragraph may submit an opinion to the Task Force Chief regarding the request under the same paragraph.

i.Q.8. Article 8 – Changes in Permissions for Port Facilities, etc.

- (1) When a port administrator allows the use of specific Port Facility under its management based on the request set forth in ¶(1) of the preceding article, permission and other dispositions related to the use of the specific Port Facility may be changed or canceled if deemed necessary.
- (2) If the port administrator changes or cancels the permission or other disposition related to the use of the specific Port Facility pursuant to the provisions of the preceding paragraph, and if the port administrator deems that it is necessary to move the vessel currently at berth, the captain of the vessel or any other person responsible for the operation of the vessel (in ¶[4] of the following article, referred to as "the captain of the vessel, etc.") may be ordered to move the vessel.

i.Q.9. Article 9 – Measures by the Prime Minister Regarding the use of Port Facilities, etc.

- (1) The Prime Minister shall, in the event that the required use of specific Port Facilities is not secured based on the request in Article 7 ¶(1), when it is deemed particularly necessary to protect the lives, bodies, or property of the people or to eliminate armed attacks, upon the request of the Task Force Chief,³³⁷⁷ may instruct the port administrator of the specific Port Facility to ensure the required use of the facility.

³³⁷⁵ Making necessary changes to account for differing situations, but the basic point remains the same.

³³⁷⁶ i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister, p. 337.

³³⁷⁷ i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister, p. 337.

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(2) The provisions of the preceding article shall apply mutatis mutandis³³⁷⁸ to cases where a port administrator allows use of specific Port Facilities under its management in accordance with the instructions set forth in the preceding paragraph.

(3) In the event that the required use of specific Port Facilities is not secured even after giving the instructions set forth in ¶(1), or when it is deemed particularly necessary to protect the lives, bodies, or property of the people or to eliminate armed attacks and when it is deemed to be urgent in light of the situation, the Prime Minister may, at the request of the Task Force Chief, after notifying the port administrator, direct the Minister of Land, Infrastructure, Transport and Tourism to issue permission or other dispositions related to the use of the specific Port Facilities, or change or cancel permissions or other dispositions related to the use of the specific Port Facilities.

(4) In cases where the Prime Minister has ordered permission or other disposition regarding the use of the specific Port Facility, or change or cancellation of permission or other disposition, pursuant to the provisions of the preceding paragraph, if the Minister of Land, Infrastructure, Transport and Tourism is deemed to need to move a vessel currently at berth, the Minister of Land, Infrastructure, Transport and Tourism may direct the captain of the vessel, etc. to order the vessel to be moved.

i.Q.10. Article 10 – Guidelines for the Use of Airfield Facilities

(1) In order to ensure accurate and prompt implementation of countermeasures in the event of an armed attack, etc., the Task Force Chief³³⁷⁹ may establish guidelines regarding the use of Airfield Facilities (hereinafter referred to as "Airfield Facility Usage Guidelines" in this article and the following article) based on the Basic Response Plan.

(2) The provisions of Article 6, ¶¶(2) to (7) shall apply mutatis mutandis³³⁸⁰ to the usage guidelines for Airfield Facility. In this case, the phrase "Port Facilities in specified areas" in ¶(2) of the same Article shall be deemed to be replaced with "Airfield Facilities in specified areas."

i.Q.11. Article 11 – Applicable Mutatis Mutandis

Article 11 makes Articles 7 through 9 equally applicable to Airfield Facilities.

(1) The provisions of Articles 7 through 9 shall apply mutatis mutandis³³⁸¹ to securing the use of specific Airfield Facilities. In this case, the words and phrases listed in the middle column of the following table among the provisions listed in the upper column of the same table shall be replaced with the words and phrases listed in the lower column of the same table, respectively.

[Table omitted]

i.Q.12. Article 12 – Road Usage Guidance

(1) In order to ensure accurate and prompt implementation of countermeasures in the event of an armed attack, etc., the Head of the Countermeasures Headquarters may establish guidelines regarding the use of roads (hereinafter referred to as "road usage guidelines" in this article) based on the Basic Response Plan.

(2) The provisions of Article 6, ¶¶(2) to (7) shall apply mutatis mutandis³³⁸² to road usage guidelines. In this case, the phrase "Port Facilities in specified areas" in ¶(2) of the same Article shall be deemed to be replaced with "Roads in specified areas."

³³⁷⁸ Making necessary changes to account for differing situations, but the basic point remains the same.

³³⁷⁹ i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister, p. 337.

³³⁸⁰ Making necessary changes to account for differing situations, but the basic point remains the same.

³³⁸¹ Making necessary changes to account for differing situations, but the basic point remains the same.

³³⁸² Making necessary changes to account for differing situations, but the basic point remains the same.

i.Q.13. Article 13 – Guidelines for the Use of Sea Areas

(1) In order to ensure the accurate and prompt implementation of countermeasures in the event of an armed attack, etc., the Head of the Countermeasures Headquarters may establish guidelines regarding the use of sea areas (hereinafter referred to as "Guidelines for the Use of Sea Areas" in this article, the following article, and Article 21) based on the Basic Response Plan.

(2) The provisions of Article 6, ¶

2) to (7) shall apply mutatis mutandis³³⁸³ to road usage guidelines. In this case, the phrase "Port Facilities in specified areas" in ¶(2) of the same Article shall be deemed to be replaced with "specified sea areas."

i.Q.14. Article 14 – Ship Navigation Restrictions, etc.

(1) In order to ensure the safety of vessel navigation based on the Guidelines for the Use of Sea Areas, the Commissioner of the Japan Coast Guard shall, by public notice, specify the range or period for specific Sea Areas, and determine the number of ships or vessels that can navigate in said specific Sea Areas. However, if there is an urgent need to restrict the vessels or time that can navigate in a particular Sea Area, and there is no time to specify the Sea Area by public notice, other appropriate methods may be used.

(2) The Commissioner of the Japan Coast Guard shall promptly provide the ship's crew with information regarding the contents of the Guidelines for the Use of Sea Areas and the dispositions referred to in the preceding paragraph.

i.Q.15. Article 15 – Guidelines for the Use of Airspace

(1) The Task Force Chief³³⁸⁴ may establish guidelines regarding the use of airspace (hereinafter referred to as "Airspace Usage Guidelines" in this article and the next article) based on the Basic Response Plan in order to ensure the accurate and prompt implementation of countermeasures in the event of an armed attack.

(2) The provisions of Article 6, ¶¶(2) to (7) shall apply mutatis mutandis³³⁸⁵ to airspace usage guidelines. In this case, the phrase "Port Facilities in a specific area" in ¶(2) of the same Article shall be deemed to be replaced with "specific Airspace."

i.Q.16. Article 16 – Aircraft Flight Restrictions, etc.

(1) The Minister of Land, Infrastructure, Transport and Tourism must appropriately implement measures pursuant to the provisions of Articles 80 [No-Fly Zone],³³⁸⁶ 96 [Air Traffic Control Instruction], and 99 [Provision of Information] of the Civil Aeronautics Act (Act No. 231 of 1950, as amended) must be appropriately implemented in order to ensure the safety of aircraft navigation.

i.Q.17. Article 17 – Guidance for the Use of Radio Waves

(1) The Task Force Chief³³⁸⁷ may establish guidelines regarding the use of radio waves (hereinafter referred to as "Radio Wave Usage Guidelines" in this article and the next article) based on the Basic Response Plan [BRP³³⁸⁸] in order to ensure the accurate and prompt implementation of countermeasures in the event of an armed attack.

(2) The provisions of Article 6, ¶¶(2) to (7) shall apply mutatis mutandis³³⁸⁹ to airspace usage guidelines. In this case, the phrase "Port Facilities in a specific area" in ¶(2) of the same Article shall be deemed to be replaced with "specific Radio Waves."

i.Q.18. Article 18 – Adjustments for Radio Wave Usage

(1) When the Minister of Internal Affairs and Communications deems it particularly necessary to give priority to a specific radio communication listed in item (i) carried out by a radio station (referring to the radio station specified in Article 2, Item 5 of the Radio Act (Act No. 131 of 1950, as amended)³³⁹⁰; the same shall apply hereinafter in this article) over the radio communication listed in the same item or item (ii) carried out by another radio station, based on the Radio Wave Usage Guidelines, the radio station conducting the specific radio communication shall be subject to changes to the conditions of the license granted pursuant to the provisions of Article 104-2, ¶(1) [Conditions of Provisional Licenses] of the Radio Act (Act No. 131 of 1950, as amended) for radio stations that carry out the specified radio communications based on the Radio Wave

³³⁸³ Making necessary changes to account for differing situations, but the basic point remains the same.

³³⁸⁴ i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister, p. 337.

³³⁸⁵ Making necessary changes to account for differing situations, but the basic point remains the same.

³³⁸⁶ i.U.3. Article 80 – No Fly Zone, p. 400.

³³⁸⁷ i.D.1. Note on the Positions of "Task Force Chief" vs. Prime Minister, p. 337.

³³⁸⁸ 4.3. Basic Response Plan (BRP), p. 95.

³³⁸⁹ Making necessary changes to account for differing situations, but the basic point remains the same.

³³⁹⁰ i.R. Radio Act (Act No. 131 of 1950, as amended), p. 394.

Usage Guidelines; the Minister of Internal Affairs and Communications may make changes pursuant to the provisions of Article 112,³³⁹¹ ¶(3) [providing for JSDF use of radio waves in a manner prescribed by the Minister of Internal Affairs and Communications] of the SDF Act (Law No. 165 of 1954, as amended), and take other necessary measures regarding the operation of the radio station concerned.

(i) Radio communications necessary to implement the measures listed in Article 2, ¶¶(1)(viii)(a)(1) and (1)(viii)(a)(2) of the Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended) or measures for the protection of the public.

(ii) Radio communications listed in each item of Article 102-2 [Designation of Radio Propagation Obstruction Prevention Areas], ¶(1) of the Radio Act (Act No. 131 of 1950, as amended) (excluding radio communications listed in the preceding item)

(2) In the event that the Minister of Internal Affairs and Communications takes the necessary measures regarding a radio station that conducts specific radio communications pursuant to the provisions of the preceding paragraph, the person who conducted the specified radio communication using the radio station must report this to the Minister of Internal Affairs and Communications without delay in order to help the Minister maintain order in radio communications and ensure proper operation of the radio station.

(3) In the event that the Minister of Internal Affairs and Communications takes the necessary measures regarding a radio station that conducts specific radio communications pursuant to the provisions of ¶(1)(i) shall be able to conduct such specific wireless communications in a manner that does not cause interference that would impede the operation of other radio stations conducting radio communications listed in the items of the same paragraph.

(4) The provisions of Article 56 [Prevention of Radio Interference] of the Radio Act (Act No. 131 of 1950, as amended) shall not apply to radio stations that perform radio communications listed in ¶(1)(i).

i.Q.19. Article 19 – Compensation for Loss

(1) When dispositions pursuant to the provisions of Article 8, ¶(1) (including cases where it applies mutatis mutandis³³⁹² pursuant to Article 9, ¶(2) and Article 11 [including cases where it applies mutatis mutandis pursuant to Article 11]) and Article 9, ¶(3) (including cases where it applies mutatis mutandis pursuant to Article 11) are taken, the State must compensate for the losses that would normally arise as a result of the respective dispositions.

(2) In addition to what is provided for in the preceding paragraph, necessary matters regarding compensation for loss shall be specified by Cabinet Order.

i.Q.20. Article 20 – Penalties

(1) A person who commits an act that constitutes a violation of the disposition of the Commissioner of the Japan Coast Guard pursuant to the provisions of Article 14, ¶(1) shall be punished by imprisonment with work for not more than three months or a fine of not more than 300,000 yen.

i.Q.21. Article 21 – Use of Specified Public Facilities, etc. in Emergency Response Situations

(1) In order to respond accurately and promptly in emergency response situations (referring to the emergency response situation set forth in Article 22, ¶(1) of the Armed Attack Situations, etc. Response Act (Act No. 79 of 2003, as amended)) and to ensure the smooth and effective use of specified public facilities, etc., the government shall comply with Article 6 [Guidelines for the Use of Port Facilities], Article 7³³⁹³ [Requests for the Use of Port Facilities] (including cases where it applies mutatis mutandis³³⁹⁴ pursuant to Article 11 [Applicable Mutatis Mutandis for Airfield Facilities]), Article 10 [Guidelines for the Use of Airfield Facilities],

³³⁹¹ i.C.66. Article 112 – Exemption of Application of the Radio Act, p. 336.

³³⁹² Making necessary changes to account for differing situations, but the basic point remains the same.

³³⁹³

³³⁹⁴ Making necessary changes to account for differing situations, but the basic point remains the same.

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Article 12 [*Road Usage Guidance*], Article 13 [*Guidelines for the Use of Sea Areas*], ¶(2) of Article 14 [*Ship Restrictions by JCG*] (limited to the part related to the content of *Guidances for the Use of Sea Areas*), and Articles 15 to 17 [*Guidelines for the Use of Airspace, Aircraft Flight Restrictions, and Guidance for the Use of Radio Waves*], guidelines for the use of specified Public Facilities, etc. shall be formulated and other necessary measures shall be appropriately taken.

i.Q.22. Article 22 – Delegation to Cabinet Order

(1) In addition to what is provided for in this Act, matters necessary for the implementation of this Act shall be specified by Cabinet Order.

i.R. RADIO ACT (ACT NO. 131 OF 1950, AS AMENDED)

Unless otherwise noted, all block quotations³³⁹⁵ found within this section are from the GoJ's government-provided unofficial (provisional) Japanese Law Translation.³³⁹⁶

This translation was published on 23 December 2023 and reflects all amendments up to and including Act No. 40 of 2023.

Amendments made after 2023 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.R.1. Article 2 – Definitions

(1) This Act and the orders pursuant to this Act are to be interpreted in accordance with the following definitions:

(i) "radio waves" means electronic or magnetic waves of frequencies not exceeding 3,000,000 MHz.

(ii) "radiotelegraphy" means communication equipment devoted to transmitting or receiving codes utilizing radio waves.

(iii) "radiotelephony" means communication equipment devoted to transmitting or receiving voices and other sounds utilizing radio waves.

(iv) "radio equipment" means radiotelegraphy, radiotelephony, or any other electric equipment used for the transmission or reception of radio waves.

(v) "radio station" means a unit of radio equipment using a person to operate the radio equipment. However, this does not include those used solely for receiving purposes.

(vi) "radio operator" means a person who operates radio equipment or supervises that operation, and holds a license granted by the Minister of Internal Affairs and Communications.

i.S. PORT ACT (ACT NO. 218 OF 1950, AS AMENDED)

The full title of this law is:

- Port and Harbor Act

Unless otherwise noted, all block quotations³³⁹⁷ found within this section are from the GoJ's government-provided unofficial (provisional) Japanese Law Translation.³³⁹⁸

This translation was published on 19 May 2020 and reflects all amendments up to and including Act No. 89 of 2018.

³³⁹⁵ 1.3.2. Block Quotations, p. 2.

³³⁹⁶ Appendix R. References, p. 293.

³³⁹⁷ 1.3.2. Block Quotations, p. 2.

³³⁹⁸ Appendix R. References, p. 293.

Amendments made after 2021 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.S.1. Article 2 – Definitions

(1) *In this Act, the term a "port management body" means a port authority incorporated pursuant to the provisions of Section 1 of Chapter II or a local government under the provisions of Article 33.*

(2) *In this Act, the term a "strategic international hub port" means a port serving as the hub of an international ocean freight transportation network for long-distance international ocean freight shipping, having advanced functions to connect the international ocean freight transportation network and the domestic ocean freight transportation network, which is specified by Cabinet Order as a port and harbor that requires intensive efforts to strengthen its international competitiveness; the term a "international hub port" means a port other than strategic international hub ports, which is specified by Cabinet Order as a port serving as the hub of the international ocean freight transportation network; the term a "major port" means a port other than strategic international hub ports or international hub ports which is specified by Cabinet Order as a port serving as the hub of a maritime transportation network or as a port having a great bearing on the national interests; and the term a "regional port" means a port other than strategic international hub ports, international hub ports, or major ports.*

(3) *In this Act, the term "port limits" means the waters for which the consent or notification under the provisions of Article 4, ¶(4) or ¶(8) (including as applied mutatis mutandis³³⁹⁹ pursuant to the provisions of Article 9, paragraph (2) and Article 33, ¶(2)) has been obtained or filed.*

(4) *In this Act, the term "waterfront district" means a district designated as a water front district pursuant to the provisions of Chapter II of the City Planning Act (Act No. 100 of 1968) or a district designated by the port management body pursuant to the provisions of Article 38.*

(5) *In this Act, the term "port and harbor facilities " means a facility set forth in item (i) through item (xi) which is located within port limits or a waterfront district, or a facility set forth in item (xii) through item (xiv) which is required for the use or management of a port and harbor:*

(i) harbor facilities: waterways, anchorage, and berthage for small boats;

(ii) protective facilities for harbor: breakwaters, sediment control groins, seawalls, training jetties, sluices, locks, revetments, dikes, groins, and parapets

(iii) mooring facilities: quay walls, mooring buoys, mooring piles, landing piers, floating piers, shallow draft wharves, and dry docking yards;

(iv) port transportation facilities: roads, parking lots, bridges, railways, tramways, canals, and heliports;

(v) navigation assistance facilities: navigation aids and signaling, lighting, and port communication facilities for the entry and clearance of vessels;

(vi) cargo handling facilities: stationary cargo handling machinery, rail-mounted cargo handling equipment, cargo handling areas, and transit sheds;

(vii) passenger facilities: stationary passenger boarding facilities, baggage check-in and pick-up areas, lounges, and temporary living quarters;

(viii) storage facilities: warehouses, open storage yards, timber yards and timber ponds, coal storage yards, dangerous goods storage facilities, and oil storage facilities;

(viii-2) facilities designed to provide services to ships: water supply facilities, bunkering facilities and coal supply facilities (except facilities set forth in item (xiii)), ship repair facilities, and ship storage facilities;

³³⁹⁹ Making necessary changes to account for differing situations, but the basic point remains the same.

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(viii-3) port information providing facilities: facilities designed for public relations, facilities for visitors, and other facilities designed to provide information on the use of a port and harbor;

(ix) port pollution control facilities: water conveyance facilities for purifying contaminated water, buffer zones for pollution control, and other facilities designed for pollution control of a port and harbor;

(ix-2) waste treatment facilities: dikes used for waste dumping, waste receiving facilities, waste incinerators, waste crushers, waste oil treatment facilities, and other facilities designed for waste treatment (except facilities set forth in item (xiii));

(ix-3) facilities designed for the improvement of a port and harbor environment: beaches, green areas, open spaces, plants, resting areas, and other facilities designed to improve the port and harbor environment;

(x) welfare facilities for port workers: break rooms and temporary living quarters, infirmaries, and other facilities for ships' crews and harbor workers;

(x-2) port management facilities: port management offices, warehouses to store materials used in port management, and other facilities designed for port management (except facilities set forth in item (xiv));

(xi) sites of port facilities: the premises of the facilities referred to in the preceding items;

(xii) movable facilities: movable cargo handling machinery and movable passenger boarding facility;

(xiii) movable facilities designed for port services: tugboats for assisting vessel berthing and unberthing; vessels and vehicles for supplying water, fuel, and coal to ships; and vessels and vehicles used for transporting waste to be treated;

(xiv) movable facilities for port management: water surface cleaning vessels, ferry boats, and other movable facilities used for port management.

(6) Facilities set forth in item (i) through item (xi) of the preceding paragraph, even if those are not located within the port limits or waterfront district, are deemed to be port and harbor facilities if approved by the Minister of Land, Infrastructure, Transport and Tourism at the request of the port management body.

(7) In this Act, the term "port and harbor construction works" means construction, improvements, maintenance, or restoration of port and harbor facilities, or works other than those undertaken to remove sludge accumulation or other substances that cause pollution in the port and harbor, to purify contaminated seawater, to remove floating debris, or other works to maintain the port and harbor.

(8) In this Act, the term a "waterway to be developed and preserved" means a waterway that requires construction works to develop or maintain it so as to secure the navigation of vessels in the waters other than port limits or a river area of the river prescribed in Article 3, ¶(1) of the River Act (Act No. 167 of 1964) (hereinafter referred to as a "river area"), which includes the facilities required for maintaining the structures of waterways, for safe navigation of vessels and for vessel evacuation; and the relevant areas are prescribed by Cabinet Order.

(9) In this Act, the term a "port of refuge" means a port provided for by Cabinet Order, which is designed mainly for small craft to anchor during a storm, and is not used for loading and unloading cargo or for passenger boarding and disembarkation under normal circumstances.

(10) In this Act, the term a "wharf" means port and harbor facilities as a whole, other than quay walls, other mooring facilities, ancillary cargo handling facilities thereof, and other mooring facilities prescribed by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

i.T. AIRPORT ACT (ACT NO. 80 OF 1965, AS AMENDED)

Unless otherwise noted, all block quotations³⁴⁰⁰ found within this section are from the GoJ's official (Japanese language) Japanese Law e-Library.³⁴⁰¹ The Japanese has been machine translated.³⁴⁰²

³⁴⁰⁰ 1.3.2. Block Quotations, p. 2.

³⁴⁰¹ Appendix R. References, p. 293.

³⁴⁰² 1.5.2.2. Machine Translations, p. 7.

The source text was published on 10 June 2020 and reflects all amendments up to and including Act No. 62 of 2020.

Amendments made after 2020 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.T.1. Article 4 – Establishment and management of airports that serve as bases for international air transport networks or domestic air transport networks

(1) *The following airports shall be established and managed by the Minister of Land, Infrastructure, Transport and Tourism:*

(i) *Narita International Airport*

(ii) *Tokyo International Airport [i.e., Haneda]*

(iii) *Chubu Centrair International Airport*

(iv) *Kansai International Airport*

(v) *Osaka International Airport*

(vi) *In addition to those listed in the preceding items, airports specified by Cabinet Order as bases for international air transport networks or domestic air transport networks.*

(2) *The locations of the airports listed in items (i) to (v) of the preceding paragraph shall be determined by a Cabinet Order, and the name and location of the airport shall be specified in the Cabinet Order set forth in item (vi) of the same paragraph.*

(3) *Notwithstanding the provisions of ¶(1), Narita International Airport will be established and managed by Narita International Airport Corporation, and Kansai International Airport and Osaka International Airport will be established and managed by New Kansai International Airport Corporation.*

(4) *Notwithstanding the provisions of ¶(1), when Chubu Centrair International Airport is designated pursuant to the provisions of Article 4, ¶(1) of the Law Concerning the Establishment and Management of Chubu Centrair International Airport (Law No. 36 of 1998), it shall be established and managed by the person designated.*

i.T.2. Article 5 - Establishment and management of airports that play an important role in forming international or domestic air transportation networks

(1) *Airports other than those listed in the items of ¶(1) of the preceding article [Article 4³⁴⁰³], which are designated by Cabinet Order as those that play an important role in forming the international air transport network or the domestic air transport network, (hereinafter referred to as "Locally Managed Airports") shall be established and managed by local governments determined through consultation among the relevant local governments specified by Cabinet Order. [i.e., other than the "big 5" airports identified in Article 4 (and any additional airports specially designated by Cabinet Order) are considered "locally managed airports" and are managed by local governments (in consultation with national government agencies as specified by the Cabinet Order)]*

(2) *The name and location of the airport shall be made clear in the Cabinet Order specifying the airport referred to in the preceding paragraph.*

(3) *Consultations pursuant to the provisions of ¶(1) must be approved by the assembly of the local government concerned.*

³⁴⁰³ i.T.1. Article 4 – Establishment and management of airports that serve as bases

for international air transport networks or domestic air transport networks, p. 397.

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(4) When the Minister of Land, Infrastructure, Transport and Tourism deems it necessary, the Minister of Land, Infrastructure, Transport and Tourism may mediate upon the application of the relevant local government regarding the consultation pursuant to the provisions of ¶(1).

i.U. CIVIL AERONAUTICS ACT (ACT NO. 231 OF 1950, AS AMENDED)

Unless otherwise noted, all block quotations³⁴⁰⁴ found within this section are from the GoJ's government-provided unofficial (provisional) Japanese Law Translation.³⁴⁰⁵

This translation was published on 30 July 2021 and reflects all amendments up to and including Act No. 118 of 2006.

Amendments made after 2021 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.U.1. Article 2 – Definition

(1) The term "aircraft" as used in this Act means any aeroplane, rotorcraft, glider and airship which can be used for air navigation with a person on board and any other apparatus used for air navigation as may be specified by Cabinet Order.

(2) The term "air navigation service" as used in this Act means any operation onboard an aircraft (including operation of radio equipment on board), and confirmation work as specified in Article 19 [*Maintenance or Alteration of Aircraft*], ¶(2), to be performed on repaired or remodeled aircraft.

(3) The term "airman" as used in this Act means any person who has obtained competence certification for an airman under Article 22 [*Airmen Competence Certification*].

(4) The term "air navigation facility" as used in this Act means any facility to aid the navigation of aircraft by means of radio wave, lights, colors or signs as may be specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(5) The term "landing strip" as used in this Act means a rectangular area of an aerodrome which is provided for the takeoff (including that area on water; hereinafter the same) or landing (including that area on water; hereinafter the same) of aircraft in a definite direction.

(6) The term "approach area" as used in this Act means a plain surface defined by two connected points parallel to the shorter side of the landing strip 375 meters (600 meters in the case of a landing strip used for the landing, performed by using an instrument landing apparatus, or performed in accordance with a landing guidance by using precision approach radar, while in the case of a landing strip used for the heliport, the length in which the distance between the shorter side and the straight line multiplied by tangent 15 plus half the length of the shorter side) distant from a point on a straight line crossing at a point 3,000 meters (not more than 2,000 meters as may be specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism in the case of a landing strip of the heliport) distant from that side and forming a rectangle, with the extension to the center-line of the landing strip bisecting this rectangle.

(7) The term "approach surface" as used in this Act means an area abutting on the shorter side of a landing strip and sloping upwards at a gradient of more than 1/50th from the horizontal plane, as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism, the projection of which corresponds to the approach area.

(8) The term "horizontal surface" as used in this Act means that section of the horizontal plane including a point 45 meters vertically above the aerodrome reference point, which is surrounded by a circle drawn with that point at its center and with a radius of a length of not more than 4,000 meters as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

³⁴⁰⁴ 1.3.2. Block Quotations, p. 2.

³⁴⁰⁵ Appendix R. References, p. 293.

(9) The term "transitional surface" as used in this Act means an area including the slopes of the approach surfaces and the longer sides of the landing strip at a gradient of 1/7th, (in the case of a heliport, at a gradient of not more than 1/4th as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism) from the horizontal plane to the intersection with the vertical surface, including the center-line of the strip and including the areas as defined above. It is enclosed by the lines, including the intersection with the plane including the slopes of the approach surfaces and the plane including the longer sides of the strip abutting those slopes, the intersection with those planes and the areas including the horizontal plane, the slopes of the approach surfaces, and the longer sides of the strip.

(10) The term "aeronautical lights" as used in this Act means any light used by an air navigation facility to aid the navigation of aircraft, as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(11) The term "air traffic control area" as used in this Act means any airspace, 200 meters or more above the land or water, and designated for the safety of air traffic in the public notice by the Minister of Land, Infrastructure, Transport and Tourism.

(12) The term "air traffic control zone" as used in this Act means any airspace above any aerodrome and its vicinity where frequent takeoff and landing of aircrafts are performed, as designated for the safety of air traffic in the public notice by the Minister of Land, Infrastructure, Transport and Tourism in that aerodrome and the air space above it.

(13) The term "air traffic information zone" as used in this Act means any airspace above any aerodrome and its vicinity designated in the public notice by the Minister of Land, Infrastructure, Transport and Tourism other than aerodromes prescribed in the previous paragraph, as designated for the safety of air traffic in the public notice by the Minister of Land, Infrastructure, Transport and Tourism in that aerodrome and the air space above it.

(14) The term "instrument meteorological condition" as used in this Act means bad weather conditions with a range of vision, specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism, taking the visibility and cloud conditions into consideration.

(15) The term "instrument flight" as used in this Act means a flight which is performed relying solely on flight instruments to measure the attitude, altitude, position, and course of the aircraft.

(16) The term "instrument flight rules" as used in this Act means a method of flight as listed below:

(i) a method of flight in which any takeoff and climb or descent and landing at any aerodrome as specified by the Minister of Land, Infrastructure, Transport and Tourism under ¶(12) is performed in any air traffic control zone or air traffic control area in compliance with the routes specified by the Minister, or instructed by the Minister pursuant to the provisions of Article 96 [Air Traffic Instructions], ¶(1), while always following the instructions on other methods of flight given by the Minister pursuant to the provisions of the same paragraph.

(ii) a method of flight in which any takeoff and climb or descent and landing at any aerodrome as specified by the Minister of Land, Infrastructure, Transport and Tourism under ¶(13) is performed in the air traffic information zone (excluding the area designated as an air traffic control area) in compliance with the routes specified by the Minister of Land, Infrastructure, Transport and Tourism, while always listening to information given by the Minister pursuant to the provisions of Article 96-2 [Communication to Obtain Air Traffic Information], ¶(1).

(iii) a method of flight in which any flight in the air traffic control area other than those prescribed under item (i) is always performed in compliance with the instructions given by the Minister of Land, Infrastructure, Transport and Tourism relating to routes and other methods of flight under the provisions of Article 96 [Air Traffic Instructions], ¶(1).

(17) The term "air transport services" as used in this Act means any business using aircraft to transport passengers or cargo for remuneration upon demand.

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(18) The term "international air transport services" as used in this Act means any air transport services operating between one point within Japan and another within a foreign country, or between one point and another in foreign countries.

(19) The term "domestic scheduled air transport services" as used in this Act means any air transport services operating between one point and another in the country on a scheduled date and time along a specified route.

(20) The term "aerial work" as used in this Act means any business using aircraft other than for the transport of passengers or cargo for remuneration upon demand.

i.U.2. Article 56-4 - Designation of Facilities for Public Use

(1) The Minister of Land, Infrastructure, Transport and Tourism may, when the Minister deems it necessary in enhancing the public interest, designate landing strips and any other facilities in an aerodrome established by the Self-Defense Forces as facilities for public use.

(2) The designation set forth in the preceding paragraph is conducted by giving public notice of the name and location of the facilities concerned and the outline of the installations and other matters specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(3) The Minister of Land, Infrastructure, Transport and Tourism must, when there have been any modifications to the particulars of which the public notice under the preceding paragraph was given, pertaining to the facilities designated under ¶(1), notify any particulars pertaining to those modifications without delay.

(4) The Minister of Land, Infrastructure, Transport and Tourism must give public notice of any revocation of the designation under ¶(1) without delay.

(5) The Minister of Land, Infrastructure, Transport and Tourism must, when the Minister intends to establish that designation under ¶(1), or to revoke the designation set forth in the preceding paragraph [¶(4)], consult with the Minister of Defense.

(6) The Minister of Defense must open the facilities for public use, when the facilities are designated under ¶(1); provided, however, that this does not apply when there are unavoidable reasons.

(7) The Minister of Defense must not condone any unfair and discriminatory treatment of any users concerning use conditions of the facilities pertaining to the designation under ¶(1).

i.U.3. Article 80 – No Fly Zone

(1) No aircraft must be flown over such area as is likely to endanger the safe navigation of other aircraft specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism; provided, however, that the same does not apply when permitted by the Minister of Land, Infrastructure, Transport and Tourism.

i.V. NATIONAL GOVERNMENT ASSET ACT (ACT NO. 73 OF 1948, AS AMENDED)

Unless otherwise noted, all block quotations³⁴⁰⁶ found within this section are from the GoJ's official (Japanese language) Japanese Law e-Library.³⁴⁰⁷ The Japanese has been machine translated.³⁴⁰⁸

The source text was published on 18 May 2022 and reflects all amendments up to and including Act No. 37 of 2021.

Amendments made after 2021 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.V.1. Article 3 – Classification and Types of National Property

- (1) National property shall be classified into administrative property and ordinary property.
- (2) Administrative property refers to the following types of property:
- (i) Public property: Used in the country for national affairs, business, or the residence of its employees (referring to the employees specified in Article 2, item 2 of the National Public Officers' Housing Act (Act No. 117 of 1944)); or what is decided to be provided.
 - (ii) Public property: Property that is directly used or determined to be used by the national government.
 - (iii) Property for the Imperial Household: Items that are provided or determined to be provided for the use of the Imperial Family in the country.
 - (iv) Property for forest management: Property that is used or determined to be used for forest management by the government.
- (3) Ordinary property refers to all state-owned property other than administrative property.

i.W. LOCAL AUTONOMY ACT (ACT NO. 67 OF 1948, AS AMENDED)

Unless otherwise noted, all block quotations³⁴⁰⁹ found within this section are from the GoJ's official (Japanese language) Japanese Law e-Library.³⁴¹⁰ The Japanese has been machine translated.³⁴¹¹

The source text was published on 1 April 2024 and reflects all amendments up to and including Act No. 84 of 2024.

Amendments made after 2024 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.W.1. Article 238 – Scope and Classification of Public Property

- (1) In this law, "public property" refers to the following properties (excluding those belonging to funds) belonging to ordinary local governments:
- (i) Real estate.
 - (ii) Ships, buoys, floating piers, floating docks, and aircraft.
 - (iii) Accessories to the real estate and movables listed in the preceding two items.
 - (iv) Surface rights, easements, mining rights, and other similar rights.
 - (v) Patent rights, copyrights, trademark rights, utility model rights, and other similar rights.
 - (vi) Stocks, corporate bonds (including rights that should be indicated on bonds issued by corporations established under special laws, excluding short-term corporate bonds, etc.), local bonds, national bonds, and other similar rights.
 - (vii) Rights based on investment.
 - (viii) Beneficiary rights in property trusts.
- (2) "Short-term corporate bonds, etc." in item (vi) of the preceding paragraph refers to the following:
- (i) Short-term corporate bonds prescribed in Article 66, Item 1 of the Act on Book-Entry Transfer of Corporate Bonds and Shares (Act No. 75 of 2001)

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(ii) Short-term investment corporation bonds prescribed in Article 139-12, ¶(1) of the Act on Investment Trusts and Investment Corporations (Act No. 198 of 1951)

(iii) Short-term bonds prescribed in Article 54-4, ¶(1) of the Shinkin Bank Act (Act No. 238 of 1951)

(vi) Short-term corporate bonds prescribed in Article 61-10, ¶(1) of the Insurance Business Act (Act No. 105 of 1995)

(v) Specified short-term corporate bonds as prescribed in Article 2, ¶(8) of the Act on the Securitization of Assets (Act No. 105 of 1998)

(vi) Short-term agricultural and forestry bonds prescribed in Article 62-2, ¶(1) of the Norinchukin Bank Act (Act No. 93 of 2001)

(3) Public property shall be classified into administrative property and ordinary property.

(4) Administrative property generally refers to property that a local government uses or has decided to provide for public use, and general property refers to any public property other than administrative property.

i.X. TTS LAW (ACT NO. 30 OF 1977, AS AMENDED)

The full title of this law is:

- Act on the Territorial Sea and the Contiguous Zone

Unless otherwise noted, all block quotations³⁴¹² found within this section are from the GoJ's official English language translation, contained in the DoS's "Limits in the Seas No. 120: Straight Baseline and Territorial Sea Claims: Japan."⁴³²

This translation was published on 30 April 1998 and reflects all amendments up to and including Act No. 73 of 1996.

Amendments made after 1996 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.X.1. Article 1 – Extent of Territorial Sea

(1) *The Territorial Sea of Japan comprises the areas of the sea extending from the baseline to the line 12 nautical miles seaward thereof. Provided that, where any part of that line lies beyond the median line as measured from the baseline, the median line (or the line which may be agreed upon between Japan and a foreign country as a substitute for the median line) shall be substituted for that part of the line.*

(2) *"The median line" referred to in the preceding paragraph shall be the line every point of which is equidistant from the nearest point on the baseline and the nearest point on the baseline from which the breadth of the territorial sea pertaining to the foreign coast which is opposite to the coast of Japan is measured.*

i.X.1.A. Supplemental Provisions 2 and 3 - Extent of the Territorial Sea Pertaining to the Designated Areas

This Supplemental Provision, combined with the referenced Cabinet Order (Cabinet Order No. 206 of 1993⁴³³), narrows GoJ's claimed TTS from 12 NM to 3 NM around the five designated straits.

GoJ does not include Tokara Strait³⁴¹³ as a designated Strait Used for International Navigation and therefore subject to Transit Passage³⁴¹⁴ navigation rights for foreign vessels. The US, PRC, and other States hold that the Tokara Strait should be subject to Transit Passage navigation.

³⁴¹² 1.3.2. Block Quotations, p. 2.

³⁴¹³ A.3.2.1. Tokara Strait, p. 195.

³⁴¹⁴ E.5.1.1. Transit Passage (through Straits Used for International Navigation), p. 249.

(2) For the time being, the provisions of article 1 shall not apply to the Soya Kaikyo [*Soya Strait*,³⁴¹⁵ also known as the *La Perouse*], the Tsugaru Kaikyo [*Tsugaru Strait*³⁴¹⁶], the Tushima Kaikyo Higasi Suido [*Tsushima Strait-Eastern Channel*³⁴¹⁷], the Tushima Kaikyo Nisi Suido [*Tsushima Strait-Western Channel*³⁴¹⁸], and the Ōsumi Kaikyo [*Ōsumi Strait*³⁴¹⁹] (including areas of the sea which are adjacent to these waters and which are recognized as forming respectively integral parts thereof from the point of view of the course normally used for navigation by vessels [*i.e., Straits used for International Navigation*]); hereinafter referred to as "the designated areas". The Territorial Sea pertaining to the designated areas shall be respectively the areas of the sea extending from the baseline to the line 3 nautical miles seaward thereof and to the line drawn connecting with the said line.

(3) The limits of the designated areas and the lines referred to in the preceding paragraph shall be prescribed by Cabinet Order [*Cabinet Order No. 206 of 1993*].

i.X.2. Article 2 – Baseline

(1) The baseline shall be the low-water line, the straight baseline, and the straight line drawn across the mouth of or within a bay, or across the mouth of a river. Provided that, with respect to the Seto Naikai, which is internal waters, the baseline shall be the lines prescribed by Cabinet Order as the boundaries with other areas of the sea adjacent thereto.

(2) Straight baselines referred to in the preceding paragraph shall be prescribed by Cabinet Order, in accordance with article 7 of the United Nations Convention on the Law of the Sea (hereinafter referred to as "the U.N. Convention on the Law of the Sea").

(3) In addition to the provision of the preceding paragraph, the criteria to be used in employing, as baseline, the lines provided for in ¶(1) and any other matters necessary for the drawing of baselines shall be prescribed by Cabinet Order.

i.X.3. Article 3 - Application of the Laws and Regulations of Japan Pertaining to Hot Pursuit from within the Internal Waters or the Territorial Sea

(1) The laws and regulations of Japan (including penal provisions. The same shall apply in article 5) shall apply with respect to the execution of official duties by public officials of Japan in relation to hot pursuit from within the internal waters or the territorial sea of Japan undertaken in accordance with article 111 of the U.N. Convention on the Law of the Sea and the conduct obstructing such execution.

i.X.4. Article 4 – Contiguous Zone

(1) There is hereby established the contiguous zone, as a zone in which Japan takes necessary measures to prevent or punish infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory in accordance with Article 33, ¶(1) of the U.N. Convention on the Law of the Sea.

(2) The contiguous zone referred to in the preceding paragraph (hereinafter referred to as "the contiguous zone" for brevity) comprises the areas of the sea extending from the baseline to the line 24 nautical miles seaward thereof (excluding therefrom the territorial sea). Provided that where any part of that line lies beyond the median line ("the median line" here is defined in Article 1, ¶(2). The same shall apply hereinafter) as measured from the baseline, the median line (or the line which may be agreed upon between Japan and a foreign country as a substitute for the median line) shall be substituted for that part of the line.

(3) In a part of the areas of the sea in which the mutual application with a foreign country beyond the median line of the measures prescribed in Article 33, ¶(1) of the U.N. Convention on the Law of the Sea is deemed appropriate, the contiguous zone may extend from the baseline to the line 24 nautical miles seaward thereof (excluding therefrom the territorial sea of a foreign country), as prescribed by Cabinet Order, notwithstanding the provision of the preceding paragraph.

³⁴¹⁵ A.3.1.1. Soya Strait (La Perouse), p. 195.

³⁴¹⁶ A.3.1.2. Tsugaru Strait, p. 195.

³⁴¹⁷ A.3.1.3.1. Tsushima Strait-Eastern Channel, p. 195.

³⁴¹⁸ A.3.1.3.2. Tsushima Strait-Western Channel, p. 195.

³⁴¹⁹ A.3.1.4. Ōsumi Strait, p. 195.

i.X.5. Article 5 - Application of Japanese Laws and Regulations to the Contiguous Zone

(1) The laws and regulations of Japan shall apply with respect to the execution of official duties by public officials of Japan in the contiguous zone in relation to measures prescribed in ¶(1) of the preceding article (including the execution of official duties in relation to hot pursuit from within the contiguous zone pertaining to the said execution of official duties undertaken in accordance with article 111 of the U.N. Convention on the Law of the Sea) and the conduct obstructing such execution.

i.Y. EEZ AND CS LAW (ACT NO. 74 OF 1996)

The full title of this law is:

- Act on Exclusive Economic Zone and Continental Shelf

Unless otherwise noted, all block quotations³⁴²⁰ found within this section are from the GoJ's official (Japanese language) Japanese Law e-Library.³⁴²¹ The Japanese has been machine translated.³⁴²²

The source text was published on 1 August 2015 and has not been amended.

Amendments made after 2015 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.Y.1. Article 1 – Exclusive Economic Zone

(1) Japan will establish an exclusive economic zone as the waters within which it exercises the sovereign rights and other rights of coastal states stipulated in Part V of the United Nations Convention on the Law of the Sea (hereinafter referred to as the "UNCLOS").

(2) The exclusive economic zone referred to in the preceding paragraph (hereinafter simply referred to as the "exclusive economic zone") shall consist of the sea area (excluding the territorial sea) from Japan's baseline (meaning the baseline prescribed in Article 2, ¶(1) of the Act on the Territorial Sea and Contiguous Zone (Act No. 30 of 1977); the same applies hereinafter) to a line every point of which is 200 nautical miles from the nearest point on Japan's baseline (and, in the case where this line extends beyond the median line (meaning a line every point of which is equidistant to the nearest point on Japan's baseline and to the nearest point on the baseline from which the breadth of the foreign country's territorial sea is measured relative to the coast of that foreign country facing Japan; the same applies hereinafter), the median line (or, in the case where there is a line in lieu of the median line agreed upon between Japan and a foreign country, that line shall be used)) as well as the seabed and subsoil thereof.

i.Y.2. Article 2 – Continental Shelf

(1) The continental shelf over which Japan exercises its sovereign and other rights as a coastal state pursuant to the United Nations Convention on the Law of the Sea (hereinafter referred to simply as the "continental shelf") includes the seabed and subsoil of the following waters:

(i) The waters (excluding the territorial sea) extending from Japan's baseline to a line every point of which is 200 nautical miles from the nearest point on Japan's baseline (if that line extends beyond the median line as measured from Japan's baseline, the median line (or, if there is a line agreed upon between Japan and a foreign country in lieu of the median line, that line and a line to be drawn adjacent to it by Cabinet Order) shall be used for that part).

(ii) The waters bordering the outer side of the waters mentioned in the preceding paragraph (limited to the part of the limits of which is a line every point of which is 200 nautical miles from the nearest point on Japan's baseline), as specified by Cabinet Order in accordance with Article 76 of the United Nations Convention on the Law of the Sea.

i.Y.3. Article 3 – Application of Japanese Laws and Regulations

(1) The laws and regulations of Japan (including penal provisions; the same applies below) shall apply to the following matters:

(i) Exploration, development, conservation and management of natural resources in the exclusive economic zone or on the continental shelf, installation, construction, operation and use of artificial islands, facilities and structures, protection and conservation of the marine environment, and marine scientific research

(ii) Activities of exploration and development carried out for economic purposes in the exclusive economic zone (excluding those listed in the preceding item)

(iii) Drilling on the continental shelf (excluding those listed in item 1)

(iv) The performance of duties by Japanese public officials in the exclusive economic zone or in waters related to the continental shelf in relation to the matters listed in the preceding three items (including the performance of duties related to pursuit under Article 111 of the United Nations Convention on the Law of the Sea conducted from these waters in relation to the performance of said duties), and acts that impede such performance.

(2) In addition to what is provided for in the preceding paragraph, the artificial islands, facilities and structures referred to in item 1 of the same paragraph shall be deemed to be located within Japan, and the laws and regulations of Japan shall apply to them.

(3) With regard to the application of Japan's laws and regulations pursuant to the provisions of the preceding two paragraphs, necessary matters for the streamlining or adjustment of the application of those laws and regulations may be prescribed by government ordinance to the extent that is deemed reasonably necessary, taking into account the fact that the waters to which those laws and regulations apply are outside the territory of Japan and other special circumstances of those waters.

i.Y.4. Article 4 – Effect of Treaties

(1) If a treaty provides otherwise regarding the matters prescribed in this Act, the treaty shall prevail.

i.Z. ATOMIC ENERGY BASIC ACT (ACT NO. 186 OF 1955, AS AMENDED)

Unless otherwise noted, all block quotations³⁴²³ found within this section are from the GoJ's government-provided unofficial (provisional) Japanese Law Translation.³⁴²⁴

This translation was published on 30 June 2021 and reflects all amendments up to and including Act No. 155 of 2004.

Amendments made after 2021 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.Z.1. Article 2 – Basic Policy

(1) The research, development and utilization of nuclear energy is limited to peaceful purposes, is to aim at ensuring safety, and is performed independently under democratic administration, and the results obtained is made public so as to actively contribute to international cooperation.

i.AA. ACT ON NAVIGATION OF FOREIGN SHIPS THROUGH THE TTS (ACT NO. 64 OF 2008)

The full title of this law is:

- Act on Navigation of Foreign Ships through the Territorial Sea and Internal Waters

³⁴²³ 1.3.2. Block Quotations, p. 2.

³⁴²⁴ Appendix R. References, p. 293.

Annex i. Selected Annotated Japanese Laws

Unless otherwise noted, all block quotations³⁴²⁵ found within this section are from Jun TSURUTA's English language translation.⁴³⁴

This translation was published in August of 2021.

Amendments made after 2021 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.AA.1. Article 1 – Purpose

(1) Given that Japan is surrounded by the oceans and it is therefore important to ensure the safety and security of the oceans in the context of ensuring national security, the purpose of this Act is to maintain order for navigation of foreign ships through Japan's territorial sea, etc. and deter their suspicious activities and thereby ensure the safety and security in Japan's territorial sea, etc., by providing for methods for navigation of foreign ships in Japan's territorial sea and internal waters, measures for regulation of the navigation of foreign ships, and other necessary matters.

i.AA.2. Article 2 – Definitions

(1) In this Act, the meanings of the terms set forth in the following items shall be as prescribed respectively in those items.

(i) The term "territorial sea, etc." means Japan's territorial sea and internal waters.

(ii) The term "newly specified internal waters" means such water areas that are newly specified as Japan's internal waters based on the straight baselines set forth in Article 2, ¶(1) of the TTS Law (Act No. 30 of 1977, as amended).

(iii) The term "foreign ship" means a ship other than Japanese-registered ships as defined in Article 1 of the Ship Act (Act No. 46 of 1899) which excludes warships and any ships owned or operated by any national government solely for non-commercial purposes.

(iv) The term "Captain, etc." means the captain of a ship or other individual commanding a ship on behalf of the captain.

(v) The term "waterways and basins" means such waterways and basins located in the ports in Japan as specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism (hereinafter abbreviated as the "MLIT") as basins for anchorage or other facilities or places used for ships to stay or to be anchored.

(vi) The term "mooring facilities" means such mooring facilities located in the ports in Japan that are specified by an Ordinance of the MLIT as quay walls or other facilities or places used to moor ships.

(vii) The term "waterways and basins, etc." means waterways and basins or mooring facilities.

i.AA.3. Article 3 – Methods for Navigation of Foreign Ships through Territorial Seas, etc.

(1) Navigation of foreign ships through the territorial seas, etc. shall be continuous and expeditious with the purpose of passage (limited to the one pertaining to the newly specified internal waters, if navigating through Japan's inland waters) or traffic to or from the waterways and basins, etc.

i.AA.4. Article 4

(1) The Captains of foreign ships shall not have the foreign ships navigate in the territorial sea, etc. in a way involving any of the following acts (hereinafter referred to as "anchorage, etc."), provided, however, that this shall not apply in the case where such anchorage is intended to avert bad weather, marine accidents or any other dangers, rescue human lives or other ships or aircrafts, or ensure compliance with the provisions of the

³⁴²⁵ 1.3.2. Block Quotations, p. 2.

Act on Preventing Collision at Sea (Act No.62 of 1977) or any other applicable act or ordinance, or where such anchorage, etc. involves any other unavoidable reason specified by an Ordinance of the MLIT.

(i) staying anywhere other than the waterways and basins

(ii) anchoring anywhere other than the waterways and basins

(iii) mooring anywhere other than the mooring facilities

(iv) hovering (meaning navigation on such a route or at a such speed that is not found necessary for navigation of ships in general in light of meteorological characteristics, sea circumstances, marine traffic conditions, existence or nonexistence of obstacles ahead of the route of the foreign ship in question, or other surrounding circumstances)

(2) In addition to what is provided for in the preceding paragraph, the Captains of foreign ships shall not have the foreign ships conduct navigation for any purpose other than arrival at or departure from any waterways and basins, etc. (hereinafter referred to as “transit passage”) in Japan’s internal waters (excluding newly specified internal waters; the same shall apply hereinafter); provided, however, that this shall not apply in the case set forth in the proviso of the preceding paragraph.

i.AA.5. Article 5 – Duty of Notification of Foreign Ships

(1) When a foreign ship needs anchorage, etc. in the territorial sea, etc. or transit passage through the internal waters, the Captain, etc. of the foreign ship shall notify the nearest office of the JCG, in advance, of the name of the foreign ship, its port of registry, the reason for the intended anchorage, etc. or transit passage and other matters specified by an Ordinance of the MLIT (collectively referred to as “reportable matters” in the following paragraph) pursuant to the provisions of the Ordinance of the MLIT; provided, however, that this shall not apply in the cases specified by the Ordinance of the MLIT where the reasons for the intended anchorage, etc. or transit passage is determined obvious.

(2) In the case referred to in the preceding paragraph, if the Captain, etc. of a foreign ship is unable to give advance notification due to the necessity of averting any imminent danger, the Captain, etc. shall notify the nearest office of the JCG of the reportable matters immediately after averting such danger.

(3) The notification that is supposed to be given by the Captain, etc. of a foreign ship pursuant to the provisions of the preceding two paragraphs may be given by the owner of the foreign ship or an agent for the Captain, etc. or the owner.

(4) When it is found necessary to do so, the head of the office of the JCG receiving the notification pursuant to the provision of ¶¶(1) or (2) above (including what has been given pursuant to the provision of the preceding paragraph; the same shall apply in ¶(1) of the following Article) shall provide advice or guidance to the Captain, etc. of the foreign ship pertaining to the notification.

i.AA.6. Article 6 – Boarding Inspection of Foreign Ships

(1) In the case where a certain ship is actually navigating in a way involving anchorage, etc. in the territorial sea or transit passage through the internal waters and it appears to be a foreign ship, for which anchorage, etc. or transit passage no advance notification has been given pursuant to the provision of ¶¶(1) or (2) of the preceding Article or the advance notification given is suspected to contain false information, if the Captain, etc. of the ship is suspected to be in violation of the provisions of Article 4 based on the reasonable judgment from surrounding circumstances and it is found necessary to ascertain the reason for the navigation involving such anchorage, etc. or transit passage in order to achieve the purpose of this Act, the Commandant of the Japan Coast Guard may direct coast guard officers to enter the ship in question, inspect documents and other items, or ask questions to crew members and other relevant persons on board.

(2) When conducting on-board inspection pursuant to the provision of the preceding paragraph, coast guard officers shall wear their respective uniforms or carry with them a proper identification card indicating their official status and present it when requested by the person(s) concerned.

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(3) The authority of on-board inspection pursuant to the provision of ¶(1) shall not be interpreted as having been permitted for criminal investigation.

i.AA.7. Article 7 – Recommendation to Foreign Ships

(1) In the case where a certain ship is actually navigating in a way involving anchorage, etc. in the territorial seas, etc. and appears to be a foreign ship, if it is found obvious, based on the coast guard officer's reasonable judgment from the external appearance of the ship, its mode of navigation, abnormal behavior of the crew members or others on board, or other surrounding circumstances, that the Captain, etc. of the foreign ship is in violation of the provision of Article 4, ¶(1), the coast guard officer may recommend the Captain, etc. to have the foreign ship navigate in a way not involving anchorage, etc.

i.AA.8. Article 8 – Deportation Order to Foreign Ships

(1) If it is found, as a result of the on-board inspection pursuant to the provision of Article 6, ¶(1), that the Captain, etc. of the foreign ship is in violation of the provisions of Article 4, the Commandant of the JCG may order the Captain, etc. to have the foreign ship depart from the territorial seas, etc.

(2) In the case where the Captain, etc. in question does not accord to the expulsion recommendation received under the preceding Article, if it is found necessary for maintenance of order for navigation of foreign ships through the territorial sea, etc., the Commandant of the JCG may order the Captain, etc. to have the foreign ship depart from the territorial sea, etc.

i.AA.9. Article 9 – Delegation of Authority

(1) Matters falling under the authority of the Commandant of the JCG pursuant to the provisions of this Act may be delegated to the Commanders of the Regional Coast Guard Headquarters pursuant to the provisions of an Ordinance of MLIT.

i.AA.10. Article 10 – Exclusion from Application of the Administrative Procedures Act

(1) The provisions of Chapter III of the Administrative Procedure Act (Act No. 88 of 1993) shall not apply to orders pursuant to the provisions of Article 8 hereof.

i.AA.11. Article 11 – Sincere Implementation of International Commitments

(1) This Act shall be enforced with due consideration not to preclude sincere implementation of the treaties or other international commitments concluded by Japan.

i.AA.12. Article 12 – Penal Provisions (1)

(1) A Captain, etc. who has violated an order issued pursuant to the provisions of Article 8 shall be punished by imprisonment with work of one year or less or fined JPY 500,000 or less.

i.AA.13. Article 13 – Penal Provisions (2)

(1) A person who has refused, obstructed, or avoided an entry or inspection pursuant to the provision of Article 6, ¶(1) or who has failed to answer or given a false answer to any question pursuant to the same Article shall be punished by imprisonment with work of six months or less or fined JPY 300,000 or less

i.BB. SUBVERSIVE ACTIVITIES PREVENTION ACT (ACT NO. 240 OF 1952, AS AMENDED)

The full title may also be translated as:

- Prevention of Destructive Action Law

Unless otherwise noted, all block quotations³⁴²⁶ found within this section are from the GoJ's government-provided unofficial (provisional) Japanese Law Translation.³⁴²⁷

This translation was published on 16 March 2022 and reflects all amendments up to and including Act No. 91 of 1995.

Amendments made after 2022 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.BB.1. Article 1 – Purpose of this Act

(1) The purpose of this Act is to prescribe necessary control measures on an organization which has conducted a terroristic subversive activity as an organizational activity, and to supplement penalties for terroristic subversive activities, thereby contributing to ensuring public security.

i.BB.2. Article 2 – Interpretation and Application of this Act

(1) Since this Act has a grave bearing upon the fundamental human rights of the citizens, it must be applied only to the minimum extent necessary to ensure public security, and its interpretation must not be expanded under any circumstances.

i.BB.3. Article 3 – Criteria for Controlling Organizations

(1) Controls and investigations for controls under this Act must be conducted only to the minimum extent necessary to achieve the purpose prescribed in Article 1, and must not, under any circumstances, be conducted beyond the prescribed authority, to unreasonably restrict freedom of thought, freedom of religion, freedom of assembly and association, freedom of expression, academic freedom, the right of workers to organize and act collectively, or any other freedom or right of the citizens which is guaranteed by the Constitution of Japan.

(2) Controls and investigations for controls under this Act must not, under any circumstances, be abused to restrict or interfere with any legitimate activities conducted by labor unions or other organizations.

i.BB.4. Article 4 – Definitions

(1) The term "terroristic subversive activity" as used in this Act means any of the following acts:

(i)

(a) committing an act prescribed in Article 77 (Insurrection), Article 78 (Preparations; Plots), Article 79 (Accessoryship to Insurrection), Article 81 (Instigation of Foreign Aggression), Article 82 (Assistance to the Enemy), Article 87 (Attempts) or Article 88 (Preparations; Plots) of the Penal Code (Law No. 45 of 1907, as amended);

(b) inducing an act prescribed in (a) of this item;

(c) inciting an act prescribed in Article 77, 81 or 82 of the Penal Code (Law No. 45 of 1907, as amended) with the intent to cause someone to commit the act;

(d) printing, distributing any document or picture asserting the propriety or necessity of the commitment of an act prescribed in Article 77, 81 or 82 of the Penal Code (Law No. 45 of 1907, as amended) or posting it in public places, with the intent to cause someone to commit the act ; or

(e) communicating any assertion of the propriety or necessity to commit an act prescribed in Article 77, 81 or 82 of the Penal Code (Law No. 45 of 1907, as amended) via wireless communications or cable broadcasting, with the intent to cause someone to commit the act .

³⁴²⁶ 1.3.2. Block Quotations, p. 2.

³⁴²⁷ Appendix R. References, p. 293.

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(ii) with the intent to promote, support or oppose any political doctrine or policy, performing any of the following acts:

(a) an act prescribed in Article 106 of the Penal Code (Law No. 45 of 1907, as amended) (Disturbance);

(b) an act prescribed in Article 108 (Arson of Inhabited Buildings) or Article 109, ¶(1) (Arson of Uninhabited Buildings) of the Penal Code (Law No. 45 of 1907, as amended);

(c) an act prescribed in the first sentence of Article 117, ¶(1) of the Penal Code (Law No. 45 of 1907, as amended) (Detonation of Explosives);

(d) an act prescribed in Article 125 of the Penal Code (Law No. 45 of 1907, as amended) (Traffic Hazards);

(e) an act prescribed in Article 126, ¶¶(1) or (2) of the Penal Code (Law No. 45 of 1907, as amended) (Overturning Trains);

(f) an act prescribed in Article 199 of the Penal Code (Law No. 45 of 1907, as amended) (Homicide);

(g) an act prescribed in Article 236, ¶(1) of the Penal Code (Law No. 45 of 1907, as amended) (Robbery);

(h) an act prescribed in Article 1 of the Penal Provisions for Explosives Control (Cabinet Ordinance No. 32 of 1884) (Use of Explosives);

(i) an act prescribed in Article 95 of the Penal Code (Law No. 45 of 1907, as amended) (Obstructing or Compelling Performance of a Public Duty) and committed collectively by carrying any weapon or poisonous or deleterious substance, against any person engaged in prosecutorial or police duties, or assisting such official, or any person who guards or escorts a person detained or confined in accordance with laws and regulations, or any person engaged in an investigation pursuant to the provisions of this Act; or

(j) preparing for, plotting or inducing any of the acts prescribed in (a) through (i) of this item, or inciting any of the acts prescribed in (a) through (i) of this item with the intent to cause someone to commit the act.

(2) The term "incitement" as used in this Act means stimulating a person, with the intent to cause someone to commit a specific act, by means of any document, picture, speech or action, to make the decision to commit the act or to strengthen such decision that has already been made.

(3) The term "organization" as used in this Act means a continuous association of persons, or a federation of such associations, organized to achieve any particular common purpose. Any branch, chapter or subsidiary body of an organization may be subject to control under this Act if it meets this requirement.

i.CC. LAND USE REGULATION LAW (ACT NO. 81 OF 2021)

The full title of this law is:

- Act on the Review and Regulation of the Use of Real Estate Surrounding Important Facilities and on Remote Territorial Islands

Unless otherwise noted, all block quotations³⁴²⁸ found within this section are from the GoJ's government-provided unofficial (provisional) Japanese Law Translation.³⁴²⁹

This translation was published on 29 June 2021 and has not been amended.

Amendments made after 2021 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.CC.1. Article 1 – Purpose

(1) *The purpose of this Act is to prevent real estate in areas surrounding important facilities and on remote territorial islands from being used for acts that impede the functions of those facilities and islands, to formulate a basic policy, designate monitored areas and special monitored areas, review the use of real estate in monitored areas, establish regulations for the use of the real estate, and measures for giving notification of contracts relating to real estate in special monitored areas, in order to support the lives of the public and contribute to protecting the territorial waters and national security of Japan.*

i.CC.2. Article 2 – Definitions

(1) *The term "real estate" as used in this Act means land or buildings.*

(2) *The term "important facilities" as used in this Act means the following facilities:*

(i) *facilities of the Japan Self Defense Forces, and Facilities and Areas³⁴³⁰ under Article 2, ¶(1) of the Agreement under Article VI of the Treaty of Mutual Cooperation and Security between Japan and the United States of America, Regarding Facilities and Areas and the Status of United States Armed Forces in Japan (referred to as "defense facilities" in ¶(4), item (i));*

(ii) *facilities of the Japan Coast Guard;*

(iii) *facilities used to support the lives of the public, which could cause serious damage to the lives, physical well-being, or property of the public if acts that impede their functions were carried out, as designated by Cabinet Order (referred to as "facilities supporting the public" in ¶(4), item (iii) and in Article 14, ¶(2), item (i)).*

(3) *The term "remote territorial islands" as used in this Act means:*

(i) *islands which have a baseline used for determining the boundary limits of the sea areas under Article 1, ¶(1) of the Act on Territorial Waters and Contiguous Water Area (Act No.30 of 1977) (meaning the baseline as prescribed in Article 2, ¶(1) of the same Act, and including the base points between which the straight baseline as prescribed in that paragraph is drawn);*

(ii) *beyond what is provided for in the preceding item, the islands within populated remote territorial island areas prescribed in Article 2, ¶(1) of the Act on Special Measures for the Conservation of Populated Remote Territorial Island Areas and Local Communities of Specified Populated Remote Territorial Island Areas (Act No.33 of 2016) (referred to as "islands within remote populated territorial island areas" in ¶(5)(ii)).*

(4) *The term "functions of facilities" as used in this Act means:*

(i) *the functions of defense facilities for national defense;*

(ii) *the functions of the facilities of the Japan Coast Guard for protecting territorial waters, the exclusive economic zone under Article 1, ¶(1) of the EEZ and CS Law (Act No. 74 of 1996), and the Continental Shelf under Article 2 of that Act (referred to as "Territorial Waters" in item (ii) of the following paragraph);*

(iii) *the functions of facilities supporting the public which are fundamental to their lives.*

(5) *The term "functions of remote islands" as used in this Act means:*

(i) *the functions of remote islands listed in ¶(3)(i) which are used for determining the sea areas under Article 1, ¶(1) of the TTS Law (Act No. 30 of 1977, as amended), or under Article 1, ¶(2) or Article 2, item (i) of the EEZ and CS Law (Act No. 74 of 1996);*

(ii) *the functions of islands within remote populated territorial island areas which are used for activities serving to preserve the territorial waters.*

³⁴³⁰ 2.1.4.1.1. Definition of "Facilities and Areas",
p. 31.

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(6) When enacting, amending or repealing the Cabinet Order set forth in ¶(2)(iii), the Prime Minister must hear the opinions of the Council on the Use of Real Estate in advance.

i.CC.3. Article 3 – Items for Consideration in the Implementation of the Measures Provided for in this Act

(1) The Prime Minister must ensure that measures taken under this Act are limited to the bare minimum necessary to prevent use of real estate in monitored areas that impedes the functions of important facilities and remote territorial islands, while giving due consideration to the protection of personal information.

i.CC.4. Article 4 – Basic Policy

(1) The Government must formulate a basic policy (hereafter in this Article referred to as the "Basic Policy") to prevent the use of real estate that impedes the functions of important facilities and remote territorial islands.

(2) The Basic Policy is to establish the following:

(i) basic direction on preventing use of real estate that impedes the functions of important facilities and remote territorial islands;

(ii) basic matters concerning designation of monitored areas and special monitored areas (including economic and social matters to be taken into consideration);

(iii) basic matters on reviewing the use of real estate in monitored areas;

(iv) basic matters on recommendations and orders to users of real estate (meaning owners or those with titles other than ownership who use or make profit from real estate; the same applies hereinafter) in monitored areas (including those on details of acts that impede the functions of important facilities and remote territorial islands in relation to those recommendations and orders);

(v) beyond what is provided for in the preceding items, necessary matters to prevent the use of real estate that impedes the functions of important facilities and remote territorial islands.

(3) The Prime Minister must formulate a draft of the Basic Policy and seek Cabinet approval of the Policy.

(4) If the Cabinet approval as prescribed in the preceding paragraph is given, the Prime Minister must make the Basic Policy public without delay.

(5) The provisions of preceding two paragraphs apply *mutatis mutandis*³⁴³¹ to any changes to the Basic Policy.

i.CC.5. Article 5 – Designation of Monitored Areas

(1) The Prime Minister may designate as monitored areas those within a range of approximately 1,000 meters from important facilities or within remote territorial islands, if it is particularly necessary to prevent the use of real estate in those monitored areas that impedes the functions of the important facilities and remote territorial islands.

(2) When designating monitored areas, the Prime Minister must consult with the heads of relevant administrative organs and hear the opinion of the Council on the Use of Real Estate in advance.

(3) When designating monitored areas, the Prime Minister must make this fact and the relevant areas public in the Official Gazette.

(4) The designation of monitored areas comes into effect through publication under the preceding paragraph.

³⁴³¹ Making necessary changes to account for differing situations, but the basic point remains the same.

(5) After publicizing pursuant to the provisions of ¶(3), the Prime Minister must promptly notify the heads of the relevant local government of the designated areas and other particulars provided for by Cabinet Office Order.

(6) The provisions of ¶(2) to the preceding paragraph apply *mutatis mutandis*³⁴³² to deletion and changes to the designation of monitored areas. In cases in which this applies to the deletion of monitored areas, the phrase "this fact and the relevant areas" in ¶(3) and the phrase "the designated areas and other particulars provided for by Cabinet Office Order" in the preceding paragraph are deemed to be replaced with "that fact".

i.CC.6. Article 6 – Review of the Use of Real Estate

(1) The Prime Minister is to conduct a review of the use of real estate in monitored areas (referred to as a "review of the use of real estate" in ¶(1) of the following Article and in Article 8).

i.CC.7. Article 7 – Provision of Information on Users of Real Estate

(1) When necessary for reviews of the use of real estate, the Prime Minister may ask the heads of relevant administrative organs and local governments, and other executive agencies of relevant local governments to provide information on the names, addresses, and other matters provided for by Cabinet Order of users and related parties of the relevant real estate in monitored areas subject to those reviews.

(2) The heads of relevant administrative organs and local governments, and other executive agencies of relevant local governments are to provide the information prescribed in the preceding paragraph if required pursuant to the provisions of that paragraph.

i.CC.8. Article 8 – Collection of Reports and Documentation

(1) The Prime Minister may request users or related parties of real estate in monitored areas to provide reports or written materials on its use if the Prime Minister finds it necessary for reviews of the use of real estate, even after requesting the information under ¶(1) of the preceding Article.

i.CC.9. Article 9 – Recommendations and Orders to Users of Real Estate in Monitored Areas

(1) If the Prime Minister finds that a user of real estate in a monitored area uses it in a way which impedes the functions of important facilities or remote territorial islands or that there is a clear risk that the user will do so, they may recommend, after consulting with the Council on the Use of Real Estate, that the user takes necessary measures to prevent the real estate being used in a way that interferes with their functions.

(2) If a person who received a recommendation under the preceding paragraph does not take the recommended action without any justifiable ground for not doing so, the Prime Minister may order that person to take that action.

i.CC.10. Article 10 – Compensation for Losses

(1) If a person who received a recommendation under ¶(1) of the preceding Article or order under ¶(2) of that Article (hereinafter referred to as a "recommendation" in this paragraph and ¶(1) of the following Article) suffers a loss or inflicts a loss on others as a result of taking measures under that recommendation, the Prime Minister compensates the persons who suffered a loss for the amount of loss that would normally occur; provided, however, that, if any other law exists (including orders based on laws and ordinances) that stipulates that permission from or a disposition by an administrative agency should be obtained to conduct an act under that recommendation (excluding those that stipulate that losses should be compensated to persons who suffered a loss due to the inability to obtain that permission or other disposition), this does not

³⁴³² Making necessary changes to account for differing situations, but the basic point remains the same.

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apply to measures under that recommendation in cases in which the application for the permission or other disposition is rejected or falls under a case in which it should be rejected.

(2) The Prime Minister and any person who suffered a loss must hold a consultation with each other on the compensation under the preceding paragraph.

(3) If the consultation under the preceding paragraph is unsuccessful, the Prime Minister or the person who suffered the loss may apply to the Expropriation Committee for a determination under Article 94, ¶(2) of the Land Expropriation Act (Act No. 219 of 1951) pursuant to the provisions of Cabinet Order.

i.CC.11. Article 11 – Purchase of Real Estate Rights

(1) The Prime Minister is to purchase real estate in monitored areas if the owner offers the purchase of its real estate right (meaning the right of ownership of land or buildings (including superficies or leasehold rights of land for the purpose of owning that building); the same applies hereinafter in this Article), due to the fact that measures under the abovementioned recommendation will cause significant hindrance to the use of that real estate, unless it is to be purchased under ¶(3) or there are special circumstances preventing this.

(2) If the Prime Minister has received an offer set forth in the preceding paragraph and a national administrative agency wishes to purchase those rights, the Prime Minister may determine the head of that agency as the counterparty to purchase those rights.

(3) In a case under the preceding paragraph, the head of the agency designated as the counterparty for the purchase of the rights is to purchase those rights.

(4) The price of the purchase under ¶(1) or the preceding paragraph is to be the market price.

i.CC.12. Article 12 – Designation of Special Monitored Areas

(1) The Prime Minister may designate monitored areas as special monitored areas if important facilities in those areas are specified important facilities (facilities whose functions are of particular importance or are vulnerable, and cannot be easily substituted; the same applies in ¶(1) of the following Article) or if remote territorial islands in those areas are specified remote territorial islands (islands whose functions are of particular importance or are vulnerable, and cannot be easily substituted; the same applies in ¶(1) of the following Article).

(2) When designating special monitored areas, the Prime Minister must consult with the heads of relevant administrative organs and hear the opinion of the Council on the Use of Real Estate in advance.

(3) When designating special monitored areas, the Prime Minister must make this fact and the designated areas public in the Official Gazette.

(4) Designation of special monitored areas becomes effective through the publication under the preceding paragraph.

(5) After publicizing pursuant to ¶(3), the Prime Minister must promptly notify the heads of the relevant local governments of the designated monitored areas and other particulars provided for by Cabinet Office Order.

(6) If there is any change to the coverage of monitored areas based on which special monitored areas have been designated, the designation of those special monitored areas is deemed to have changed to cover the monitored areas after the change. In this case, the Prime Minister must make this public in the Official Gazette.

(7) The provisions of ¶¶(2) through (5) apply mutatis mutandis³⁴³³ to the deletion of special monitored areas. In this case, the phrase "this fact and the designated areas" in ¶(3), and the phrase "the designated

³⁴³³ Making necessary changes to account for differing situations, but the basic point remains the same.

monitored areas and other particulars provided for by Cabinet Office Ordinance" in ¶(5) are deemed to be replaced with "that fact".

(8) If monitored areas were also designated as special monitored areas, and the designation of those monitored areas has been discontinued, the designation of those special monitored areas is deemed to be discontinued. In this case, the provisions of the second sentence of ¶(6) apply mutatis mutandis.

i.CC.13. Article 13 – Notification of Changes to Real Estate Ownership Rights in Special Monitored Areas

(1) Before concluding a contract of the transfer or establishment of an ownership right on the real estate in special monitored areas (excluding real estate having an area which is smaller than prescribed by Cabinet Order as not less than 200 square meters; the same applies in this paragraph and ¶(3) (or in cases of buildings, those having a floor area which is smaller than that; the same applies in item (ii))) or any other right for the purpose of owning that real estate (hereinafter referred to as a "real estate ownership right"), the parties must notify the Prime Minister in advance of the following particulars pursuant to the provisions of Cabinet Office Order (the contract mentioned above includes plans to form the contract, and excludes contracts in which the national government, a local government, or another person as provided for by Cabinet Order is a party to whom the real estate ownership right is transferred or under whose title it is established, and also excludes contracts as provided for by Cabinet Order as having little risk of leading to use of the relevant real estate that impedes the functions of important facilities and remote territorial islands after the real estate ownership right has been transferred or established; hereafter in this Article and in Article 26, ¶(1) referred to as a "real estate transaction contract"):

(i) the names and addresses of the parties, and in the case of corporations, the names of their representatives;

(ii) the location and area subject to the real estate transaction contract;

(iii) type and details of the real estate ownership right pertaining to the real estate transaction contract;

(iv) the purpose of use of the real estate after the transfer or establishment of the real estate ownership right due to the real estate transaction contract;

(v) beyond what is set forth in the preceding items, the particulars defined by Cabinet Office Order.

(2) The provisions of the preceding paragraph do not apply to real estate transaction contracts concluded through conciliation under the Civil Conciliation Act (Act No. 222 of 1951) or due to other causes provided for by Cabinet Order.

(3) If a real estate transaction contract is concluded on the real estate in special monitored areas due to the causes under the preceding paragraph, the parties to that real estate transaction contract must file a notification providing the information listed in each item of ¶(1) to the Prime Minister within two weeks from the date of the contract pursuant to the provisions of Cabinet Office Order.

(4) Upon receiving notification under ¶(1) or the preceding paragraph, the Prime Minister is to conduct a review of the matters listed in each item of ¶(1).

(5) The provisions of Articles 7 and 8 apply mutatis mutandis³⁴³⁴ to the review under the preceding paragraph.

i.CC.14. Article 14 – Establishment of the Council on the Use of Real Estate

(1) The Council on the Use of Real Estate (hereinafter referred to as "the Council") is to be established in the Cabinet Office.

³⁴³⁴ Making necessary changes to account for differing situations, but the basic point remains the same.

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(2) The Council is responsible for the following administrative affairs:

- (i) with regard to facilities supporting the public, handling the matters prescribed in Article 2, ¶(6);
- (ii) with regard to the designation of monitored areas, handling the matters prescribed in Article 5, ¶(2) (including as applied mutatis mutandis³⁴³⁵ pursuant to ¶(6) of that Article);
- (iii) with regard to recommendations to users of real estate in monitored areas, handling the matters prescribed in Article 9, ¶(1);
- (iv) with regard to the designation of special monitored areas, handling the matters provided for in Article 12, ¶(2) (including as applied mutatis mutandis to ¶(7) of that Article);
- (v) beyond what is provided for in each of the preceding items, when necessary, giving opinions to the Prime Minister after deliberating on important matters for the prevention of use of real estate that impedes the functions of important facilities and remote territorial islands.

i.CC.15. Article 15 – Organization

- (1) The Council is to consist of ten members or less.
- (2) Expert advisors may be assigned to the Council if it is necessary for research on specialized matters.

i.CC.16. Article 16 – Appointment of Council Members

- (1) Members of the Council are appointed by the Prime Minister from among those who have outstanding insight into law, international affairs, domestic and foreign social and economic circumstances, and trends in the management and use of real estate.
- (2) Expert advisors are appointed by the Prime Minister from among those who have outstanding insight into the specialized matters referred to in ¶(2) of the preceding Article.

i.CC.17. Article 17 – Term of Appointment of Council Members

- (1) The term of office for council members is two years; provided, however, that the term of office for replacement committee members is for the remaining term of the replaced member.
- (2) Council members may be re-appointed.
- (3) Expert advisors are to be dismissed upon conclusion of the relevant research on specialized matters referred to in Article 15, ¶(2) which they have been assigned to conduct.
- (4) Council members and expert advisors are employed on a part-time basis.

i.CC.18. Article 18 – Chairperson

- (1) The Council appoints a chairperson, who is elected by council members.
- (2) The chairperson is in charge of the affairs of the Council and represents the Council.
- (3) If the chairperson is unable to perform their duties, a pre-nominated council member performs chairperson's duties in their place.

i.CC.19. Article 19 – Purpose

- (1) If the Council finds it necessary to do so in order to conduct administrative affairs under its jurisdiction, it may request the heads of relevant administrative organs to provide relevant written materials, opinions, and explanations, and cooperate in other necessary ways.

³⁴³⁵ Making necessary changes to account for differing situations, but the basic point remains the same.

i.CC.20. Article 20 – Delegation to Cabinet Order

(1) Beyond what is provided for in this Act, necessary matters involving the Council are provided for by Cabinet Order.

i.CC.21. Article 21 – Requests for Implementation of Measures Based on the Provisions of Other Laws

(1) If finding it necessary for the prevention of the use of real estate in monitored areas that impedes their functions of important facilities and remote territorial islands, the Prime Minister may provide the heads of relevant administrative organs with information that helps prevent impairing the functions of those facilities and islands.

(2) If there are measures provided for in the provisions of other laws that can be implemented to prevent the use of real estate in monitored areas that impedes the functions of important facilities and remote territorial islands, and the Prime Minister finds it necessary to implement those measures promptly for that purpose, they may request the minister with jurisdiction over the relevant administrative affairs for their implementation promptly.

(3) If the Prime Minister makes a request for the prompt implementation of the measures pursuant to the preceding paragraph, they may request the minister in charge to report on the status of the implementation.

i.CC.22. Article 22 – Cooperation with Relevant Administrative Organs

(1) If the Prime Minister finds it necessary for the accomplishment of the purpose of this Act, they may request the heads of relevant administrative organs and local governments, and other executive agencies of relevant local governments to provide relevant written materials and opinions, and cooperate in other ways.

i.CC.23. Article 23 – Purchase of Real Estate by the Government

(1) If the Government finds it necessary to appropriately manage real estate in monitored areas in order to prevent use of that real estate that impedes the functions of important facilities and remote territorial islands, the Government is to endeavor to purchase the real estate ownership right, superficies or other rights for the purpose of use and revenue, or take other necessary measures.

i.CC.24. Article 24 – Delegation to Cabinet Office Order

(1) Beyond what is provided for in this Act, necessary matters for the implementation of this Act are established by Cabinet Office Order.

i.CC.25. Article 25 – Penal Provisions (1)

(1) A person who violates an order under Article 9, ¶(2) is subject to imprisonment for not more than two years or a fine not exceeding 2,000,000 yen, or both.

i.CC.26. Article 26 – Penal Provisions (2)

(1) A person who falls under any of the following items is subject to imprisonment for not more than six months or a fine not exceeding 1,000,000 yen:

(i) a person who has concluded a real estate transaction contract without filing a notification, in violation of the provisions of Article 13, ¶(3);

(ii) a person who has failed to file a notification, in violation of the provisions of Article 13, ¶(3);

(iii) a person who has filed a false notification in place of the notification under Article 13, ¶¶(1) or (3).

i.CC.27. Article 27 – Penal Provisions (3)

(1) A person who has failed to provide a report or written materials under Article 8 (including as applied *mutatis mutandis*³⁴³⁶ to Article 13, ¶(5); the same hereafter in this Article) or has submitted a false report or material in place of that under Article 8, is subject to a fine not exceeding 300,000 yen.

i.CC.28. Article 28 – Penal Provisions (4)

(1) If a representative of a corporation, or an agent, employee or other worker of a corporation or individual, commits a violation under any of the three preceding Articles, the violator is subject to punishment, and the relevant corporation and individual is also subject to the fine prescribed in each of those Articles.

i.DD. CABINET ACT (ACT NO. 5 OF 1947, AS AMENDED)

Unless otherwise noted, all block quotations³⁴³⁷ found within this section are from the GoJ's official (Japanese language) Japanese Law e-Library.³⁴³⁸ The Japanese has been machine translated.³⁴³⁹

The source text was published on 1 April 2024 and reflects all amendments up to and including Act No. 14 of 2023.

Amendments made after 2023 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.DD.1. Article 1

(1) The Cabinet shall, in accordance with the principle of popular sovereignty, exercise the powers provided for in Article 73 of the Constitution of Japan and other powers provided for in the Constitution of Japan.

(2) In the exercise of executive power, the Cabinet shall be collectively responsible to the Diet, whose members represent all the people.

i.DD.2. Article 3

(1) Each minister, as the competent minister, shall share in the management of administrative affairs as provided for by a separate law.

(2) The provisions of the preceding paragraph shall not preclude the existence of ministers who do not share in the management of administrative affairs.

i.DD.3. Article 11

(1) Without delegation by law, Cabinet Orders may not contain provisions which impose obligations or restrict rights.

i.EE. MOD ESTABLISHMENT ACT (ACT NO. 165 OF 1954)

The full title may also be translated as:

- Act for Establishment of the Ministry of Defense

Unless otherwise noted, all block quotations³⁴⁴⁰ found within this section are from the GoJ's government-provided unofficial (provisional) Japanese Law Translation.³⁴⁴¹

This translation was published on 16 March 2022 and reflects all amendments up to and including Act No. 91 of 1995.

³⁴³⁶ Making necessary changes to account for differing situations, but the basic point remains the same.

³⁴³⁷ 1.3.2. Block Quotations, p. 2.

³⁴³⁸ Appendix R. References, p. 293.

³⁴³⁹ 1.5.2.2. Machine Translations, p. 7.

³⁴⁴⁰ 1.3.2. Block Quotations, p. 2.

³⁴⁴¹ Appendix R. References, p. 293.

Amendments made after 2022 may add, combine, move, or otherwise change the content and numbers of the Articles as they appear below.

i.EE.1. Article 4 – Duties of Jurisdiction

Article 4 authorizes the MOD to conduct the enumerated activities.

(1) The Ministry of Defense shall be responsible for the following duties.

(i) Matters relating to defense and security.

(ii) Matters relating to the actions of the Self-Defense Forces (meaning the Self-Defense Forces as defined in Article 2, ¶(1) of the SDF Act (Law No. 165 of 1954, as amended); the same applies below).

(iii) Matters relating to the organization, manpower, composition, equipment and deployment of the Ground Self-Defense Force, the Maritime Self-Defense Force and the Air Self-Defense Force.

(iv) Matters relating to the collection and organization of information necessary for the duties listed in the previous three items.

(v) Matters relating to personnel affairs.

(vi) Matters relating to the replacement of personnel.

(vii) Matters relating to ceremonies and uniform regulations.

(viii) Matters relating to early retirement benefits pursuant to the Act on Remuneration, etc. of Ministry of Defense Personnel (Law No. 266 of 1952).

(ix) Matters relating to education and training necessary for the performance of the duties of the Ministry of Defense.

(x) Matters relating to the health and hygiene of personnel.

(xi) Matters relating to the budget and settlement of expenses and income, as well as accounts and audits of accounts.

(xii) Matters relating to the acquisition and management of facilities related to the duties of the Ministry of Defense.

(xiii) Matters relating to the procurement, supply and management of equipment, vessels, aircraft, food and other supplies (hereinafter referred to as "equipment, etc.") related to the affairs under its jurisdiction, as well as the procurement of services.

(xiv) Matters relating to research and development of equipment, etc.

(xv) Matters relating to the implementation of technical surveys and studies, designs, prototypes and tests based on commission related to the research and development referred to in the previous item.

(xvi) Matters relating to restrictions and prohibitions on fishing vessel operations pursuant to the provisions of Article 105,³⁴⁴² ¶(1) of the SDF Act (Law No. 165 of 1954, as amended), and compensation for losses associated therewith.

(xvii) Disseminating and publicizing knowledge related to defense.

(xviii) Conducting surveys and research necessary for the execution of the affairs under its jurisdiction.

(xix) Matters relating to the determination, acquisition and provision of facilities and areas to be made available for use by foreign armed forces in Japan (hereinafter referred to as "Parliamentary Forces")

³⁴⁴² i.C.65. Article 105 – Restriction or Prohibitions on Fishing Vessels Operating for Training, p. 336.

Annex i. Selected Annotated Japanese Laws

pursuant to treaties, as well as changes to the conditions of use and return of facilities and areas provided to the Parliamentary Forces.

(xx) Matters relating to the clarification of the location boundaries of each parcel of land related to the U.S. military bases, etc., as provided for in Article 2, ¶(3) of the Special Measures Law Concerning Clarification of the Location Boundaries of Each Plot in Areas of Unknown Boundaries Within Okinawa Prefecture (Law No. 40 of 1977), and measures related thereto.

(xxi) Matters relating to measures pursuant to Articles 3 to 9 of the Law Concerning the Improvement of Living Environments Surrounding Defense Facilities (Law No. 101 of 1974).

(xxii) Matters relating to the procurement of goods and services (excluding construction and labor) for the U.S. military bases, and the management, return, and disposal of goods returned by the U.S. military bases.

(xxiii) Matters relating to the provision of yen funds for the implementation of the **Mutual Defense Assistance Agreement**, and the procurement, provision, and management of real estate, equipment, supplies, and services (excluding labor).

(xxiv) Matters relating to the settlement of disputes arising from contracts for the procurement of goods and services by or for the U.S. Government officials who perform in Japan the responsibilities of the U.S. Government stipulated in the **U.S. Stationery** and Mutual Defense Assistance Agreement (referred to as the "**U.S. Stationery, etc.**" in the next paragraph).

(xxv) Matters relating to the hiring, employment, dismissal, labor management, salary, and welfare of persons who work for the **U.S. Stationery, etc.** and various organizations (referring to the various organizations stipulated in Article 15, ¶(1)(a) of the Agreement under Article 6 of the Treaty of Mutual Cooperation and Security between Japan and the United States of America, Regarding Facilities and Areas and the Status of United States Armed Forces in Japan (hereinafter referred to as the "**U.S. Stationery Agreement**" in this paragraph)).

(xxvi) Matters relating to the accounting of the special procurement fund (referring to the special procurement fund stipulated in Article 1 of the Special Procurement Fund Establishment Order (Cabinet Order No. 205 of 1951)).

(xxvii) Matters concerning the restriction and prohibition of fishing boat operations as well as compensation for losses associated therewith under the provisions of Article 1 of the Law Concerning Restrictions on Fishing Boat Operations Associated with the Use of Water Surfaces by the United States Armed Forces in Japan Based on the Treaty of Mutual Cooperation and Security between Japan and the United States of America (Law No. 243 of 1952).

(xxviii) Matters concerning compensation for losses as prescribed by Article 13, ¶(1) of the Law Concerning the Improvement of Living Environments Surrounding Defense Facilities and Article 1, ¶(1) of the Law Concerning Compensation for Special Losses Caused by the Actions of the United States Armed Forces, etc. Stationed in Japan (Law No. 246 of 1953).

(xxix) Matters concerning compensation for losses as prescribed by Article 14,³⁴⁴³ ¶(1) of the US Military Action Support Act (Law No. 113 of 2004, as amended).

(xxx) Matters concerning the processing of claims under the provisions of Article 18 of the United States Armed Forces Agreement and **Article 18 of the Agreement Concerning the Status of United Nations Forces in Japan [UN SOFA]**.

(xxxi) Matters relating to mediation and other necessary assistance in claims for compensation for damages not covered by other provisions of Article 18, ¶(5)(g) of the United States Armed Forces Agreement.

(xxxii) Matters relating to the processing of claims pursuant to Article 12 or Article 13 of the Act on the Implementation of the Agreement between Japan and Australia Concerning Facilitating Mutual Access and

³⁴⁴³ i.F.1. Article 14 – Compensation for Loss, p. 355.

Cooperation between the Self-Defense Forces of Japan and the Australian Defence Forces (Act No. 26 of 2023) and assistance in claims for compensation for special maritime damages pursuant to Chapter 5 of the same Act, and matters relating to the processing of claims pursuant to Article 12 or Article 13 of the Act on the Implementation of the Agreement between Japan and the United Kingdom of Great Britain and Northern Ireland Concerning Facilitating Mutual Access and Cooperation between the Self-Defense Forces of Japan and the Armed Forces of the United Kingdom of Great Britain and Northern Ireland (Act No. 27 of 2023) and assistance in claims for compensation for special maritime damages pursuant to Chapter 5 of the same Act.

(xxxiii) Matters relating to international cooperation related to the affairs under its jurisdiction.

(xxxiv) To conduct education and training and research at the National Defense Academy of Japan, the National Defense Medical College, and other educational and training facilities as specified by Cabinet Order.

(xxxv) In addition to the matters listed in the preceding items, affairs assigned to the Ministry of Defense pursuant to law (including orders based on law).

(2) In addition to the matters specified in the preceding paragraph, in order to accomplish the mission of Article 3, ¶(3), the Ministry of Defense shall be responsible for the planning, drafting, and overall coordination of specific important Cabinet policies related to the mission of Article 3, ¶¶(1) and (2), necessary to unify the policies of each administrative department based on the basic guidelines decided by the Cabinet regarding said important policies.

Annex ii. CABINET DECISIONS

ii.A. 2014 CABINET DECISION ON DEVELOPMENT OF SEAMLESS SECURITY LEGISLATION TO ENSURE JAPAN'S SURVIVAL AND PROTECT ITS PEOPLE

ii.A.1. Overview

The 2014 Cabinet Decision (“Cabinet Decision on Development of Seamless Security Legislation to Ensure Japan’s Survival and Protect its People”) is the product of then-PM ABE’s efforts to modernize GoJ’s defense laws and reinterpret Article 9³⁴⁴⁴ of the Constitution.

In 2007, during his first tenure as PM, ABE established an Advisory Panel on Reconstruction of the Legal Basis for Security” and directed the panel to consider the adequacy of GoJ’s defense laws in four hypothetical cases:

- An attack on US military vessels operating with the JSDF
- The launch of BMs at the US with trajectories flying over Japan
- The employment of arms in PKO³⁴⁴⁵
- Logistical support operations to international peace and security efforts

In 2013, the Panel was reconstituted during ABE’s second tenure as PM and added consideration of a fifth hypothetical case:

- Grey zone activities

The 2014 Cabinet Decision outlined the political position of the Cabinet in seeking amendments of GoJ’s defense laws which were ultimately passed in 2015. While the Cabinet Decision³⁴⁴⁶ is not legally binding, it’s text is important for understanding the basic premise of the defense reforms passed in 2015 as well as the specific rationale for certain nuances in the law and its interpretation.

For a in-depth exploration of this reform effort, see “Line of Advantage: Japan’s Grand Strategy in the Era of ABE Shinzō” by Michael J. Green.³⁴⁴⁷

ii.A.1.A. Section References

Sources may refer to portions of the Cabinet Decision³⁴⁴⁸ by the following convention:

Preamble Text

1. This is “¶ 1” or simply “1.”

(1) This is “¶ 1.(1).” or simply “1.(1).”

A. This is “¶ 1.(1).A” or simply “1.(1).A.”

(a) This is “¶ 1.(1).A.(a).” or simply “1.(1).A.(a).”

ii.A.2. 2014 Cabinet Decision Full Text

Official provisional English translation:

CCR this

Cabinet Decision³⁴⁴⁹ on Development of Seamless Security Legislation to Ensure Japan’s Survival and Protect its People

³⁴⁴⁴ 2.1.2.1. Article 9 (War Renunciation), p. 13.

³⁴⁴⁶ C.2.1.4.2. Cabinet Order, p. 226.

³⁴⁴⁸ C.2.1.4.2. Cabinet Order, p. 226.

³⁴⁴⁵ 3.2.6. Peacekeeping Operations (PKO), p. 73.

³⁴⁴⁷ Appendix R. References, p. 293.

³⁴⁴⁹ C.2.1.4.2. Cabinet Order, p. 226.

July 1, 2014

Since the end of World War II, Japan has consistently followed the path of a peace-loving nation under the Constitution of Japan. While adhering to a basic policy of maintaining an exclusively national defense-oriented policy,³⁴⁵⁰ not becoming a military power that poses a threat to other countries, and observing the Three Non-Nuclear Principles [3NP³⁴⁵¹], Japan has flourished as an economic power through continuous efforts of its people and built a stable and affluent livelihood. Japan, as a peace-loving nation, has also been cooperating with the international community and international organizations including the United Nations (U.N.), and has proactively contributed to their activities, adhering to the Charter of the United Nations. The course that Japan has taken as a peace-loving nation has garnered significant praise and respect from the international community, and Japan must continue these steps to further fortify such a position.

During the 67 years since the Constitution of Japan came into effect, the security environment surrounding Japan has fundamentally transformed and is continuing to evolve, and Japan is confronted by complex and significant national security challenges. There exist no prospects of the realization of the so-called formal “U.N. forces”, an ideal proclaimed in the Charter of the United Nations. Moreover, even when considering only the quarter-century since the end of the Cold War, the shift in the global power balance, rapid progress of technological innovation, development and proliferation of weapons of mass destruction and ballistic missiles, and threats such as international terrorism have given rise to issues and tensions in the Asia-Pacific region, and there exists a situation in which any threats, irrespective of where they originate in the world, could have a direct influence on the security of Japan. Furthermore, in recent years, risks that can impede the utilization of and free access to the sea, outer space and cyberspace have been spreading and become more serious. No country can secure its own peace only by itself, and the international community also expects Japan to play a more proactive role for peace and stability in the world, in a way commensurate with its national capability.

Maintaining the peace and security of Japan and ensuring its survival as well as securing its people’s lives are the primary responsibility of the Government. In order to adapt to the changes in the security environment surrounding Japan and to fulfill its responsibility, the Government, first and foremost, has to create a stable and predictable international environment and prevent the emergence of threats by advancing vibrant diplomacy with sufficient institutional capabilities, and has to pursue peaceful settlement of disputes by acting in accordance with International Law³⁴⁵² and giving emphasis to the rule of law.

Moreover, it is important to appropriately develop, maintain and operate Japan’s own defense capability, strengthen mutual cooperation with the United States, which is Japan’s ally, and deepen trust and cooperative relations with other partners both within and outside the region. In particular, it is essential to avoid armed conflicts before they materialize and prevent threats from reaching Japan by further elevating the effectiveness of the Japan-United States security arrangements and enhancing the deterrence of the Japan-United States Alliance for the security of Japan and peace and stability in the Asia-Pacific region. On that basis, in order to resolutely secure the lives and peaceful livelihood of its people under any situation and contribute even more proactively to the peace and stability of the international community under the policy of “Proactive Contribution to Peace” based on the principle of international cooperation, it is necessary to develop domestic legislation that enables seamless responses.

In accordance with the basic orientation presented by Prime Minister ABE at the May 15 press conference which took place after the report of “the Advisory Panel on Reconstruction of the Legal Basis for Security” was submitted on the same day, discussions have been repeatedly held in the ruling parties and examination has also been conducted by the Government. Based on the result of the discussions of the ruling coalition, the Government will promptly develop domestic legislation necessary for securing the lives and peaceful livelihood of its people, in accordance with the following basic policies:

1. Response to an Infringement that Does Not Amount to an Armed Attack

(1) Considering the increasingly severe security environment surrounding Japan, situations that are neither pure peacetime nor contingencies are liable to occur, posing risks which could develop into more serious situations. In such situations of infringement that does not amount to an armed attack, it is an even

³⁴⁵⁰ 2.1.2.1.1. Exclusively Defense-Orientated Policy (EDOP), p. 13.

³⁴⁵¹ 2.3.3.1. Three Non-Nuclear Principles (3NP), p. 42.

³⁴⁵² 2.1.2.4.1. International Law, p. 23.

more important task to prepare and ensure seamless and sufficient responses to any unlawful acts through closer cooperation between relevant agencies, including police organizations, and the Self-Defense Forces (SDF), premised on the basic allocation of their roles.

(2) Specifically, in order to respond to various unlawful acts, under the basic policy that relevant agencies including the police and Japan Coast Guard are to respond in close cooperation in accordance with their respective duties and authorities, the Government will further strengthen necessary measures in all areas, which include enhancing the respective agency's response capabilities, strengthening collaboration among agencies including information sharing, examining and developing concrete response guidelines, accelerating procedures to issue orders, and improving exercises and training.

(3) As for accelerating procedures, in cases of responding to a situation where an infringement from the outside that does not amount to an armed attack occurs in areas surrounding remote islands, etc., and police forces are not present nearby or police agencies cannot respond immediately (including situations in which police agencies cannot respond because of the weapons possessed by the armed groups, etc.), the Government will thoroughly examine the application of related provisions to order public security operations or maritime security operations in advance and establish a common understanding among relevant agencies. At the same time, in order to avoid the spread of damages caused by unlawful acts while internal administrative procedures are taken, the Government will also make concrete considerations on measures for issuing orders swiftly and accelerating procedures in light of circumstances.

(4) Moreover, for ensuring Japan's security, it is important for the SDF and the United States armed forces to respond seamlessly in close cooperation to a situation where an attack occurs against the units of the United States armed forces currently engaged in activities which contribute to the defense of Japan and such situation escalates into an armed attack depending on its circumstances. Assuming a situation where an infringement that does not amount to an armed attack occurs in the course of various peacetime activities carried out in coordination between the SDF and the United States armed forces and referring to the concept of "use of weapons" for the purpose of protecting its own weapons and other equipment under Article 95³⁴⁵³ of the SDF Law, the Government will develop legislation that enables the SDF to carry out very passive and limited "use of weapons" to the minimum extent necessary to protect weapons and other equipment of the units of the United States armed forces, if they are, in cooperation with the SDF, currently engaged in activities which contribute to the defense of Japan (including joint exercises), in line with the provisions of Article 95 of the SDF Law, premised on request or consent by the United States.

2. Further Contributions to the Peace and Stability of the International Community

(1) So-called Logistics Support and "Ittaika with the Use of Force"

A. So-called logistics support is an activity that does not in itself constitute a "use of force". For instance, when international peace and security are threatened and the international community is united in responding to the situation in accordance with a U.N. Security Council resolution, there exist situations in which it is necessary for Japan to conduct such support activities to armed forces of other countries carrying out legitimate "use of force" based on the resolution. As for Japan's support activities, however, legal frameworks limiting the area of such activities to "rear area" or so-called "non-combat area",³⁴⁵⁴ etc. have been established in past legislations to ensure that the issue of "Ittaika with the use of force" (forming an "integral part" of the use of force) does not arise, in relation to Article 9 of the Constitution. This is intended to avoid Japan from being legally evaluated as carrying out by itself the "use of force" which is not permitted under the Constitution because its support activities would form an "integral part" of the use of force ("Ittaika with the use of force") by other countries.

B. The SDF, even under such legal frameworks, has steadily accumulated its records of various support activities, and the expectations to and trust in Japan have been growing. Amid a major change in the security environment, from the perspective of "Proactive Contribution to Peace" based on the principle of international cooperation, it is necessary to enable the SDF to play sufficient roles in wide-ranging support

³⁴⁵³ i.C.56. Article 95 – Use of Weapons for Protection of Weapons, etc., p. 329.

³⁴⁵⁴ 2.1.2.2.1. Scene of Combat, p. 21.

activities for peace and stability of the international community. It is also vital from the viewpoint of ensuring Japan's peace and security to enable the carrying out of such activities more than before without hindrance.

C. The Government, while premising on the theory of so-called "Ittaika with the use of force" itself, based on the accumulation of discussions related to the "Ittaika with the use of force" and considering factors such as the SDF's actual experiences to date and the reality of U.N. collective security measures, no longer takes the current framework uniformly limiting SDF's activities to such areas as "rear area" or so-called "non-combat area" where the issue of "Ittaika with the use of force" does not arise. Instead, the Government takes the recognition that Japan's support activities such as supply and transportation conducted at a place which is not "the scene where combat activities are actually being conducted" by a foreign country are not regarded as "Ittaika with the use of force" by that country. From the viewpoint of the following positions which is based on that recognition, the Government will proceed with developing legislation which enables necessary support activities to armed forces of foreign countries engaging in activities for ensuring Japan's security or for peace and stability of the international community:

(a) Do not conduct support activities in "the scene where combat activities are actually being conducted" by armed forces of a foreign country to which Japan provides support.

(b) Immediately pause or cease support activities if the place where Japan is conducting support activities becomes "the scene where combat operations are actually being conducted" due to changes of the situation.

(2) Use of Weapons Associated with International Peace Cooperation Activities

A. To date, Japan has developed necessary legislation and has conducted international peace cooperation activities for over 20 years. In conducting such activities, Japan has limited the right of SDF personnel to use weapons when engaging in international peace cooperation activities to so-called self-preservation type and protection of its own weapons and other equipment since use of weapons associated with so-called "kaketsuke-keigo"³⁴⁵⁵ (coming to the aid of geographically distant unit or personnel under attack) or "use of weapons for the purpose of execution of missions"³⁴⁵⁶ could constitute the "use of force" prohibited by Article 9 of the Constitution, if such use of weapons are directed against "a state or a quasi-state organization."³⁴⁵⁷

B. From the perspective of a "Proactive Contribution to Peace" based on the principle of international cooperation, Japan needs to enhance its efforts to promote the peace and stability of the international community. To that end, it is important to be able to participate in international peace cooperation activities including peace keeping operations (PKOs³⁴⁵⁸) sufficiently and proactively. Moreover, given that many Japanese nationals are actively working overseas and face risks of being involved in emergency situations such as terrorism, it is necessary to enable the rescuing of Japanese nationals abroad by use of weapons subject to the consent of acceptance from the territorial State which, under International Law, has the obligation to extend protection to foreigners who are within its territories.

C. Based on the above, the Government will proceed with developing legislation based on the following positions in order to enable the SDF's use of weapons associated with so-called "kaketsuke-keigo" and the "use of weapons for the purpose of execution of missions" in international peace cooperation activities that do not invoke "use of force" including U.N. peacekeeping operations as well as police-like activities that do not invoke "use of force" including the rescuing of Japanese nationals with a consent from the territorial State, through ensuring that "a state or a quasi-state organization" does not appear as the adversary:

(a) As for U.N. peacekeeping operations, etc., since "consent by the State to which the areas in which activities are conducted belong" and "consent by the parties to the conflict to activities conducted" are necessary under the framework of the Five Principles for PKOs, "a quasi-state organization" other than parties to the conflict who have given consent of acceptance is, in principle, not expected to appear as the adversary. For more than 20 years, this has been demonstrated by Japan's experience of U.N. peacekeeping

³⁴⁵⁵ 3.3.1.3.2. Type 2b: Kaketsuka-keigo (Coming-to-Aid Duty), p. 78.

³⁴⁵⁶ 3.3.1.3. Type 2: "Execution of Mission Type" Use of Weapons ("Minor Self-Defense"), p. 77.

³⁴⁵⁷ 3.3.3.3.1. State or Quasi-State Organization, p. 81.

³⁴⁵⁸ 3.2.6. Peacekeeping Operations (PKO), p. 73.

operations, etc. When the use of weapons for the execution of missions is expected to exceed self-preservation and protection of its own weapons and other equipment including when the SDF is tasked with the maintenance of order such as the protection of population, which is deemed as an important mission in recent U.N. peacekeeping operations, it is necessary that consent from the parties to the conflict is stably maintained, especially because of the nature of the activities.

(b) When the SDF units conduct police-like activities that do not involve “use of force” including the rescuing of Japanese nationals in a foreign country based on the consent of the territorial State’s Government, it is natural that the activities be conducted in the area within which the consent of the territorial State’s Government is valid, i.e. the area within which its authority is maintained. This means that no “quasi-state organization” exists in that area.

(c) The Cabinet will make a decision on whether the consent of acceptance is stably maintained or the area within which the consent of the territorial State’s Government is valid, etc. based on deliberations etc. at the National Security Council.

(d) Use of weapons in these activities is subject to the inherent constraint of the strict principle of proportionality which is similar to the principle of police proportionality.

3. Measures for Self-Defense Permitted under Article 9 of the Constitution

(1) In order to adapt to the changes in the security environment surrounding Japan and secure the lives and peaceful livelihood of its people under any situations, the Government has examined what constitutional interpretation would be appropriate, as sufficient responses would not necessarily be possible if the constitutional interpretation to date were maintained. In this regard, logical consistency and legal stability are required for the Government’s constitutional interpretation. Accordingly, it is necessary to draw a logical conclusion for securing the lives and peaceful livelihood of its people within the limit of the basic logic of the interpretation of Article 9 of the Constitution as expressed by the Government to date.

(2) The language of Article 9 of the Constitution appears to prohibit “use of force” in international relations in all forms. However, when considered in light of “the right (of the people) to live in peace” as recognized in the Preamble³⁴⁵⁹ of the Constitution and the purpose of Article 13 of the Constitution which stipulates, “their (all the people’s) right to life, liberty, and the pursuit of happiness” shall be the supreme consideration in governmental affairs, Article 9 of the Constitution 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. Such measures for self-defense are permitted only when they are inevitable for dealing with imminent unlawful situations 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. Hence, “use of force” to the minimum extent necessary to that end is permitted. This is the basis, or so-called the basic logic, of the view consistently expressed by the Government to date with regard to “use of force” exceptionally permitted under Article 9 of the Constitution, and clearly shown in the document “Relationship between the Right of Collective Self-Defense and the Constitution” submitted by the Government to the Committee on Audit of the House of Councillors on October 14, 1972.

This basic logic must be maintained under Article 9 of the Constitution.

(3) To date, the Government has considered that “use of force” under this basic logic is permitted only when an “armed attack” against Japan occurs. However, in light of the situation in which the security environment surrounding Japan has been fundamentally transformed and continuously evolving by shifts in the global power balance, the rapid progress of technological innovation, and threats such as weapons of mass destruction, etc. as mentioned at the outset, in the future, even an armed attack occurring against a foreign country could actually threaten Japan’s survival, depending on its purpose, scale and manner, etc.

Japan, as a matter of course, will make the utmost diplomatic efforts, should a dispute occur, for its peaceful settlement and take all necessary responses in accordance with the existing domestic laws and regulations developed based upon the constitutional interpretation to date. It is still required, however, to make all necessary preparations in order to ensure Japan’s survival and protect its people.

Under such recognition and as a result of careful examination in light of the current security

³⁴⁵⁹ i.B.1. Preamble, p. 300.

environment, 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.

(4) As a matter of course, Japan's "use of force" must be carried out while observing International Law. At the same time, a legal basis in International Law and constitutional interpretation need to be understood separately. In certain situations, the aforementioned "use of force" permitted under the Constitution is, under International Law, based on the right of collective self-defense. Although this "use of force" includes those which are triggered by an armed attack occurring against a foreign country, they are permitted under the Constitution only when they are taken as measures for self-defense which are inevitable for ensuring Japan's survival and protecting its people, in other words for defending Japan.

(5) Moreover, even when "use of force" is permitted under the Constitution, since they are carried out to secure the lives and peaceful livelihood of the people, it is natural to require an assurance of democratic control. The Government will stipulate in the draft legislation that prior Approval³⁴⁶⁰ of the Diet is in principle required upon issuing orders of operations to the SDF for carrying out "Use of Force" permitted under the Constitution when an armed attack occurs not against Japan but against a foreign country, in the same manner as the procedures related to defense operations stipulated in the current laws and regulations.

4. The Way Forward for Developing Domestic Legislation

When these activities are to be conducted by the SDF, the Cabinet shall make a decision in accordance with deliberations, etc. at the National Security Council. Including such procedures, domestic legislation which serves as the legal basis is necessary in order to enable the SDF to actually conduct such activities. Based on the basic policies described above, the Government will herewith commence the tasks of drafting legislation that enables seamless responses to any situations in order to secure the lives and peaceful livelihood of its people. The Government will give adequate consideration, and as soon as it completes its preparation, it will submit the draft legislation to the Diet for its deliberations.

ii.B. CABINET DECISION ON MEASURES AGAINST FOREIGN WARSHIPS NAVIGATING IN JAPAN'S TERRITORIAL WATERS AND INTERNAL WATERS IN A MANNER THAT DOES NOT FALL UNDER THE CATEGORY OF INNOCENT PASSAGE UNDER INTERNATIONAL LAW

Cabinet Decision of May 14, 2015

When foreign warships navigate in Japan's territorial waters or internal waters in a manner that does not fall under the category of innocent passage under international law, the Government will take the following measures to protect Japan's sovereignty and ensure the safety of its citizens, in order to ensure that relevant agencies cooperate more closely and to ensure a seamless and sufficient response to any unlawful acts.

Regarding foreign warships, foreign submarines operating submerged in Japan's territorial waters and inland waters will be dealt with in accordance with the "Measures for dealing with foreign submarines operating submerged in Japan's territorial waters and inland waters" (Cabinet decision of December 24, 1996).

Notes

1. Accurately understanding the situation

In the event that there is a possibility that a foreign warship will navigate in Japan's territorial waters or inland waters in a manner that does not fall under the category of innocent passage under international law, the Japan Coast Guard or the Ministry of Defense, upon becoming aware of the situation, will promptly

³⁴⁶⁰ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

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report and communicate the situation to the Prime Minister, the Chief Cabinet Secretary, the Deputy Chief Cabinet Secretary, the Deputy Cabinet Secretary for Crisis Management, and the Director-General of the National Security Secretariat (hereinafter referred to as the "Prime Minister, etc.") through the Cabinet Intelligence and Research Office, and will also promptly notify the Cabinet Secretariat, the Ministry of Foreign Affairs, and other relevant ministries and agencies of the situation, and will cooperate with each other to further understand the situation.

In addition to the above reporting routes, this does not preclude the Japan Coast Guard or the Ministry of Defense from reporting to the Prime Minister, etc. through their respective routes.

2. Response to Situations

In the case of foreign warships navigating in Japan's territorial waters or internal waters that do not fall under the category of innocent passage under international law, the government will immediately take measures such as requesting the withdrawal of such vessels outside Japan's territorial waters in accordance with international law, and from the perspective of ensuring a seamless and sufficient response to any unlawful acts, such measures will be basically carried out by Self-Defense Force units by issuing an order for maritime security operations pursuant to Article 82 of the Self-Defense Forces Law. In this regard, the Ministry of Defense, the Ministry of Foreign Affairs, and the Japan Coast Guard will share information, coordinate, and cooperate closely and promptly with each other.

3. Expedited Cabinet Procedures, etc.

(1) In cases where there is a special need for the protection of human life or property at sea or the maintenance of public order in dealing with a foreign warship that is determined to be navigating in the territorial waters or inland waters of Japan in a manner that does not fall under the category of innocent passage under international law, and where it is necessary to hold a Cabinet meeting for the Prime Minister's approval to issue a command for security operations at sea as provided for in Article 82 of the Self-Defense Forces Law, and where a particularly urgent decision is required and it is difficult to hold an emergency Cabinet meeting promptly with the attendance of all the Ministers of State, the Prime Minister shall preside over a Cabinet decision by telephone, etc., with the consent of each Minister of State. In such cases, any Minister of State who was not able to be contacted shall be contacted promptly after the fact.

(2) When the National Security Council is to hold deliberations, etc., at the time of issuing the order under (1) above, such deliberations may be held by telephone, etc.

4. Close cooperation before an incident occurs

In addition to the above, the Cabinet Secretariat and relevant ministries and agencies will work closely together even before an incident occurs to share awareness of how to respond to foreign warships that navigate in Japan's territorial waters and inland waters in a manner that does not fall under the category of innocent passage under international law, and will work to improve response capabilities through training, etc., in order to prepare for a rapid response in the event of an incident.⁴³⁵

ii.C. CABINET DECISION ON THE GOVERNMENT'S RESPONSE TO CASES OF ARMED GROUPS ILLEGALLY LANDING ON REMOTE ISLANDS, ETC.

Cabinet Decision of May 14, 2015

In the event that an armed group or a group that is highly likely to be armed illegally lands on a remote island or its surrounding waters (hereinafter referred to as "remote islands, etc.") or an incident of landing (hereinafter referred to as "incident of illegal landing, etc. by an armed group on a remote island, etc."), the Government will, from the perspective of protecting Japan's sovereignty and ensuring the safety of its citizens, implement the following measures to ensure that relevant agencies cooperate more closely and to ensure a seamless and sufficient response to any illegal acts.

We will take appropriate measures.

Notes

Annex ii. Cabinet Decisions*1. Accurate understanding of the situation*

In the event of an illegal landing by an armed group on a remote island, etc., the relevant ministries and agencies listed in Appendix 1 (hereinafter referred to as "Relevant Ministries and Agencies") that become aware of such a situation will promptly report to the Prime Minister, the Chief Cabinet Secretary, the Deputy Chief Cabinet Secretary, the Deputy Cabinet Secretary for Crisis Management, and the Director-General of the National Security Secretariat (hereinafter referred to as "the Prime Minister, etc.") through the Cabinet Intelligence and Research Office, and will cooperate with each other to further understand the situation.

In addition to the above reporting routes, the relevant ministries and agencies may also report to the Prime Minister, etc. This does not prevent advertisements from being made through different channels.

2. Establishment of a Task Force

In the event of an incident involving illegal landing on a remote island by an armed group, etc., and it is necessary for the government to take comprehensive and powerful measures, the government will promptly establish a task force within the Cabinet, at the discretion of the Prime Minister, with the Prime Minister as the head of the headquarters and the Chief Cabinet Secretary or other members of the headquarters who are Ministers of State, as designated by the head of the headquarters, as Deputy Head of the Headquarters, if necessary. The members of the task force will be as set out in Attachment 2, and its operation will be similar to that of the task force established under "Government's Initial Response Measures in the Event of a Major Terrorist Attack, etc." (Cabinet decision of April 10, 1998).

3. Responses during tense situations

In the event that a tense situation develops and the issuance of a maritime security operation (maritime security operations as provided for in Article 82 of the Self-Defense Forces Act; the same applies below) order or a public security deployment order (public security deployment as provided for in Article 78 of the Self-Defense Forces Act; the same applies below) order is predicted, the Cabinet Secretariat, the Ministry of Foreign Affairs, the Japan Coast Guard, the National Police Agency, and the Ministry of Defense will cooperate to the greatest extent possible under the Response Headquarters to consider in advance response policies related to the issuance of a maritime security operation order or a public security deployment order, confirm the division of roles and cooperation between the Self-Defense Forces, the Japan Coast Guard, the police, etc., confirm consistency with international law, share necessary information, etc., and will be prepared to take rapid and powerful measures when a maritime security operation order or a public security deployment order is issued.

*4. Expedited Cabinet Procedures, etc.**(1) Maritime Security Operations*

In cases where it is deemed that the Japan Coast Guard alone cannot handle the situation and it is necessary to hold a Cabinet meeting to obtain the Prime Minister's approval for the issuance of a maritime security operation order, and where an especially urgent decision is required and it is difficult to hold an extraordinary Cabinet meeting promptly with the attendance of all the Ministers of State, the Prime Minister will preside over a Cabinet decision with the consent of each Minister of State by telephone, etc. In such cases, Ministers of State who could not be contacted will be contacted promptly after the fact.

(2) Public Security Operations, etc.

In cases where it is difficult for police agencies to respond quickly and the situation is tense and the issuance of a public security response order is predicted, the Prime Minister must approve the Minister of Defense's public security standby order and the intelligence gathering order for armed Self-Defense Force units, or the Prime Minister must issue a public security response order in the event of a situation in which it is deemed that public order cannot be maintained by ordinary police forces, and in cases where a Cabinet meeting needs to be held to make an urgent decision and it is difficult to hold an emergency Cabinet meeting attended by all the Ministers of State, the Prime Minister must preside over a Cabinet decision by obtaining the consent of each Minister of State by telephone, etc. In such cases, the Ministers of State who could not be contacted must be contacted promptly after the fact.

Annex ii. Cabinet Decisions

(3) When issuing the orders under (1) or (2) above, the National Security Council shall hold deliberations, etc. If so, this may be done by telephone, etc.

5. Close cooperation before an incident occurs

In addition to the above, the Cabinet Secretariat and relevant ministries and agencies will work closely together even before an incident occurs to collect and exchange information on cases that may develop into incidents such as illegal landings by armed groups on remote islands, share awareness of how to respond to such incidents, and work to improve response capabilities through training, etc. 5. Close cooperation before an incident occurs In the event that an incident occurs, a system will be established to enable a rapid response.⁴³⁶

ii.D. CABINET DECISION ON MEASURES TO BE TAKEN WHEN SELF-DEFENSE FORCE VESSELS OR OTHER VESSELS RECOGNIZE A FOREIGN VESSEL COMMITTING AN INFRINGEMENT AGAINST A JAPANESE CIVILIAN VESSEL ON THE HIGH SEAS

Cabinet Decision of May 14, 2015

In the event that the Government becomes aware of a foreign vessel engaging in illegal acts of violence, detention, or plunder (hereinafter simply referred to as "infringement") against a Japanese civilian vessel (a civilian vessel registered in Japan) on the high seas, which do not constitute acts of piracy or other armed attacks against Japan from the outside, during the Self-Defense Forces' surveillance and surveillance activities or other activities, the Government will, from the perspective of dealing with this, protecting Japan's sovereignty, and ensuring the safety of its citizens, request that relevant agencies cooperate more closely and take decisive action against any illegal acts.

In order to ensure an adequate response without any problems, we will take the following measures.

Notes

1. Accurate understanding of the situation

When the Ministry of Defense becomes aware of a foreign vessel that is or may be committing an infringement, it will report the situation to the Prime Minister, the Chief Cabinet Secretary, the Deputy Chief Cabinet Secretary, the Deputy Chief Cabinet Secretary, the Deputy Cabinet Secretary for Crisis Management, and the Director General of the National Security Council (hereinafter referred to as the "Cabinet Intelligence and Research Office") through the Cabinet Intelligence and Research Office. The government will promptly report the situation to the "Prime Minister or Other Officials" (hereinafter referred to as the "Minister of State"), as well as promptly notify the Cabinet Secretariat, the Ministry of Foreign Affairs, the Japan Coast Guard, and other relevant ministries and agencies, and cooperate with each other to further understand the situation.

In addition to the above reporting routes, the Ministry of Defense will report to the Prime Minister, etc. This does not prevent things from being done on each route.

2. Dealing with the situation

In addressing such violations, the Cabinet Secretariat, the Ministry of Foreign Affairs, the Japan Coast Guard, the Ministry of Defense and other relevant ministries and agencies will share information, coordinate and cooperate closely and promptly with each other.

3. Expedited Cabinet Procedures, etc.

(1) When it is deemed that the Japan Coast Guard alone cannot respond to the ongoing infringement and it is necessary to hold a Cabinet meeting to obtain the Prime Minister's approval for the following items (a) or (b), an especially urgent decision is required and it is difficult to promptly hold an extraordinary Cabinet meeting with the attendance of all the Ministers of State.

Annex ii. Cabinet Decisions

The Prime Minister presides over a Cabinet decision, and with the consent of each Minister of State via telephone, etc., makes a Cabinet decision. In this case, any Minister of State who cannot be contacted will be contacted promptly after the fact.

A. Issuance of an order for anti-piracy operations stipulated in Article 7, ¶(1) of the Law on the Punishment of Acts of Piracy and Countermeasures against Acts of Piracy (only in cases stipulated in the proviso of ¶(2) of the same Article).

B. Issuance of orders for maritime security operations as provided for in Article 82 of the Self-Defense Forces Law.

(2) Deliberations at the National Security Council when issuing the orders set forth in (1) (A) or (B) above. When making such request, this may be done by telephone, etc.

4. Close cooperation before an incident occurs

In addition to the above, the Cabinet Secretariat and relevant ministries and agencies will cooperate closely even before an incident occurs to share an understanding of how to respond to such infringements, and will work to improve their response capabilities through training, etc., in order to prepare a system that will enable them to respond swiftly in the event an incident occurs.

ii.E. CABINET DECISION ON MEASURES FOR DEALING WITH FOREIGN SUBMARINES OPERATING SUBMERGED IN JAPAN'S TERRITORIAL WATERS AND INLAND WATERS

Cabinet Decision of December 24, 1996

1. Upon discovering a foreign submarine navigating submerged in Japan's territorial waters or inland waters, the Defense Agency shall promptly notify the Ministry of Foreign Affairs and the Japan Coast Guard of the discovery, and the Defense Agency, the Ministry of Foreign Affairs and the Japan Coast Guard shall closely coordinate and cooperate with each other in dealing with the foreign submarine.

2. In accordance with the provisions of Article 82 of the Self-Defense Forces Law, when the Director-General of the Defense Agency requests the Prime Minister to give approval to order Self-Defense Force units to request a foreign submarine navigating submerged in Japan's territorial waters or inland waters to navigate on the surface of the sea and hoist its flag, and to request the foreign submarine to leave Japan's territorial waters if it does not comply with this request, the Prime Minister shall, in accordance with the provisions of Article 82 of the Self-Defense Forces Law, notify the Ministry of Foreign Affairs and the Japan Coast Guard of the discovery of the foreign submarine.

Annex iii. YARA MEMORANDUM

iii.A. SUMMARY

The collection of letters below represent a situation where:

1. In 1971 (prior to Okinawa's reversion), Chief Executive of the Government of the Ryukyu Islands YARA requested confirmation from the GoJ that Shimoji-jima Airfield would not be used for non-civilian (i.e., military) purposes.
 - 1a. The GoJ confirmed this YARA's understanding of the airport's use and management.
2. In 1979 (after Okinawa's reversion and Shimoji-jima's change in status to a public airport), Okinawa Prefectural Governor NISHIME requested confirmation from GoJ that the 1971 YARA memo policy (civilian use only) still applied to Shimoji-jima Airport
 - 2a. The GoJ confirmed only that management of the airport would "be primarily determined by Okinawa Prefecture"
3. GoJ later stated that Shimoji-jima Airport could be used by Military Aircraft³⁴⁶¹ "while taking into account the unique circumstances of the area such as wishes of local residents" with the Okinawa Prefectural Governor insisting that the YARA memo still applied and should be respected

Some US planners hold the following interpretation of these letters:

1. Prior to the Okinawa reversion and while Shimoji-jima was a training (not public) airfield, there were few issues with YARA's proposed policy and a questionable basis for GoJ to exert jurisdiction over Okinawa's government (as it had not yet transferred back to Japanese sovereignty from US governorship)
 - 1a. Thus there were few reasons why GoJ should not acquiesce to YARA's request and GoJ may even have felt it had no legal grounds for rejecting YARA's policy.
2. After Okinawa's reversion and Shimoji-jima's change in status to a public airport, OPG sought to clarify the continued applicability of the YARA memo
 - 2a. GoJ sought to avoid the legal confrontation with OPG that would result from attempting to clearly resolve the question and instead offered an equivocal response that merely restated Japanese law regarding airfield management in a manner that would appear to confirm the special status OPG sought for Shimoji-jima Airport without actually doing so
3. This mutually ambiguous position continues, with Shimoji-jima having seen limited use over the years by Military Aircraft in training but with a largely stable standoff between GoJ and OPG on the use of the airfield that neither party is eager to formally resolve (either out of concern for an unfavorable outcome or a perceived unfavorable political cost/benefit analysis)

This interpretation is consistent with the "see no evil, hear no evil" approach GoJ took to the transit of US nuclear weapons through Japanese territory.³⁴⁶²

iii.B. ORIGINAL MEMORANDUM AND RESPONSE (TRANSLATIONS)

iii.B.1. Original Memo

(13 August 1971) (No. 702)

To: Mr. NIWA Kyoshiro, Minister of Transportation

From: Mr. YARA Chobyu, Chief Executive of the Government of the Ryukyu Islands

Subject: Accelerating the Construction of Shimoji-jima Aviation Training Airfield

³⁴⁶¹ E.2.2.3.1. Military Aircraft, p. 243.

³⁴⁶² B.2.1.3. Nuclear Weapon "Introduction" vs. "Transit", p. 211.

While you have been giving special consideration on the construction project of Shimoji-jima Aviation Training Airfield, this is to request for confirmation on following two points which are required in order to proceed with the construction.

1. Shimoji-jima Aviation Training Airfield will be owned and managed by the Government of the Ryukyu Islands (Okinawa Prefecture after reversion of Okinawa). Therefore, the purpose of use of the training airport will be determined by the Government of the Ryukyu Islands (Okinawa Prefecture after the reversion)
2. Ministry of Transportation does not have intention to use this training airfield for other purpose than civil aviation and training of Civil Aircraft,³⁴⁶³ and does not have a legal basis to order the Government of the Ryukyu Islands (Okinawa Prefecture after the reversion), the managing authority, to permit the use of the airfield for purpose other than civil aviation and training of Civil Aircraft.⁴³⁷

iii.B.2. Cabinet Response

(17 August 1971) (No.2956) (No.390)

To: Mr. YARA Chobyō, Chief Executive of the Government of the Ryukyu Islands
 From: Mr. YAMANAKA Sadanori, Director General for General Affairs, Prime Minister's Secretariat
 Mr. NIWA Kyoshiro, Minister of Transportation

Subject: The view of Japanese Government on inquiry from the Government of the Ryukyu Islands regarding management and operation of Shimoji-jima Training Airfield

This is to provide the answer as following to the received inquiry No. 702, dated 13 August 1971;

Japanese Government confirms that there is no objection to the two items requested by the Chief Executive of the Government of the Ryukyu Islands.

iii.C. NISHIME CONFIRMATION LETTER (TRANSLATIONS)

iii.C.1. Okinawa Governor Confirmation to Minister of Transportation

(24 April 1979) (No.61)

To: Mr. MORIYAMA Kinji, Minister of Transportation
 From: Mr. NISHIME Junji, Governor of Okinawa Prefecture

Subject: Management of Shimoji-jima Airport (Inquiry)

Your special consideration on the construction of Shimoji-jima Training Airfield is greatly appreciated. As Okinawa Prefecture previously requested to change the purpose of this airport to public airport (category 3), the prefecture would like to manage the airport by the policy in below. Confirmation from the Minister is requested.

(Omit)

2. Shimoji-jima airport is going to be managed by the policy that, the airport will be only used by Civil Aircraft³⁴⁶⁴ except for unavoidable cases such as rescue or urgent evacuation.

iii.C.2. Minister of Transportation Response

(22 June 1979) (No.137)

To: Mr. NISHIME Junji, Governor of Okinawa Prefecture
 From: Mr. MORIYAMA Kinji, Minister of Transportation

Subject: Management of Shimoji-jima Airport (Answer)

This is to provide the answer as following to your inquiry No. 61.

³⁴⁶³ E.2.2.4. Civil Aircraft, p. 243.

³⁴⁶⁴ E.2.2.4. Civil Aircraft, p. 243.

Annex iii. YARA Memorandum

(Omit)

2. [The GOJ] sees that the management policy of Shimoji-jima Airport is to be primarily determined by Okinawa Prefecture, the management authority of the installation.

iii.D. OKINAWA PREFECTURAL GOVERNMENT'S POSITION ON THE YARA MEMORANDUM (TRANSLATION)

iii.D.1. From the 7th General Questioning in 2022, Okinawa Prefectural Assembly

Interpellator:³⁴⁶⁵ HIGA Mizuki (Japan Communist Party, Okinawa Assembly Group)

Date: Tuesday 13th December, 2022

Mr. HIGA: "Defense Minister HAMADA stated in the Diet regarding Shimoji-jima airport that 'Use of the (Shimoji-jima) airport by SDF aircraft has to be considered while taking into account the unique circumstances of the area such as wishes of local residents.' I believe this statement indicates future possibility of military use (of the airport). We should make them strictly abide by 'YARA Memorandum' which confirmed that no military use of Shimoji-jima airport is allowed. "

(OPG) Director, Civil Engineering and Construction Department: "In what so-called 'YARA Memorandum' and 'NISHIME Confirmation Letter,' the use of Shimoji-jima airport is confirmed as 'the airport will be only used by Civil Aircraft'³⁴⁶⁶ except for unavoidable cases such as rescue or urgent evacuation.' OPG believes these documents should be respected, and therefore is making effort to encourage more civil entities to use this airport."

³⁴⁶⁵ "Interpellate" in Parliamentary systems of government refers to the formal questioning of a government minister

regarding policy matters. Interpellation is akin to Congressional hearings in the US.

³⁴⁶⁶ E.2.2.4. Civil Aircraft, p. 243.

Annex iv. US-JAPAN SAR AGREEMENT (AS AMENDED)

iv.A. TEXT AS AMENDED

The following reflects the original text⁴³⁸ of the US-Japan SAR Agreement (1986, amended 1998)³⁴⁶⁷ with the 1998 amendments.⁴³⁹

AGREEMENT BETWEEN THE GOVERNMENT
OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF JAPAN
ON MARITIME SEARCH AND RESCUE [SAR³⁴⁶⁸]

The Government of the United States of America (hereinafter referred to as "the U.S.A.") and the Government of Japan,

Under the International Convention on Maritime Search and Rescue, 1979 (hereinafter referred to as "the Convention"),

Recognizing the great importance of cooperation in maritime search and rescue and of the provision of expeditious and effective search and rescue services,

Have agreed as follows:

Article 1

1. The Parties delimit, in accordance with the relevant provisions of the Convention, their respective search and rescue regions in the North Pacific as follows :

The search and rescue regions of the Parties are limited on the eastern and southern sides for Japan and the western and northern sides for the U.S.A. by the line connecting the coordinates 52°30'N, 165°E; 17°N, 165°E; 17°N, 130°E.

2. The establishment of search and rescue regions is intended only to effect an understanding concerning the regions within which each Party accepts primary responsibility for coordinating maritime search and rescue operations.

Article 2

Either Party, on receiving information of any person in distress at sea within its search and rescue region as provided in ¶(1) of Article 1, shall take urgent measures to provide the most appropriate assistance available regardless of the nationality or status of such a person or the circumstances in which that person is found.

Article 3

1. The Parties, in conducting their search and rescue operations including the urgent measures referred to in Article 2, shall cooperate with each other when necessary and coordinate their search and rescue operations for that purpose.

2. In order to facilitate the coordination referred to in ¶(1), the Parties shall endeavor to ensure the use of common search and rescue procedures and to provide the necessary means of communication.

³⁴⁶⁷ 3.2.2.6.3.1. US-Japan SAR Agreement (1986, amended 1998), p. 58.

³⁴⁶⁸ 3.2.2.6. Search and Rescue (SAR), p. 58.

Article 4

1. *The Parties shall report to each other on maritime search and rescue cases of common interest when necessary or appropriate.*
2. *The Parties shall endeavor to exchange information, in addition to that related to specific search and rescue cases, that may serve to improve the effectiveness of maritime search and rescue operations.*

Article 5

The Parties, to promote mutual cooperation in the field of maritime search and rescue, will pay due consideration to various collaborative efforts including :

- (a) Mutual visits between search and rescue program managers and Rescue Coordination Center personnel,*
- (b) Conduct of joint exercises of search and rescue operations, and of training in search and rescue services,*
- (c) Mutual use of ship reporting systems for search and rescue,*
- (d) Development of search and rescue procedures, techniques, equipment, and facilities, and*
- (e) Provision of services in support of search and rescue operations such as use of fueling or medical facilities.*

Article 6

1. *Nothing in this Agreement shall affect in any way the rights and duties based on other International Agreements³⁴⁶⁹ pertaining to either Party.*
2. *The Parties will implement this Agreement in accordance with International Law³⁴⁷⁰ and their respective laws and regulations.*

Article 7

1. *This Agreement shall enter into force on the date of signature.*
2. *This Agreement shall remain in force for a period of three years, and shall continue in force thereafter subject to termination on the date of expiration of six months after written notice by either Party to the other of its intention to terminate this Agreement, or on the date of the entering into force of a superseding agreement.*
3. *Termination as referred to in ¶(2) shall not affect the maritime search and rescue operations which have been undertaken hereunder and are not yet completed at the time of termination as referred to in ¶(2) unless otherwise agreed to by the Parties.*
4. *This Agreement may be amended by written agreement between the Parties. IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.*

Signed at Tokyo on the twelfth day of the month of December, 1986 in duplicate in the English language,

[Signatures/Seals]

iv.B. ORIGINAL TEXT

¶1 of Article 1 originally read:

³⁴⁶⁹ 1.6.1.1. International Agreements (Legal Status), p. 8.

³⁴⁷⁰ 2.1.2.4.1. International Law, p. 23.

1. *The Parties delimit, in accordance with the relevant provisions of the Convention, their respective search and rescue regions in the North Pacific as follows :*

The search and rescue region of the U.S.A. is limited on the western and northern sides by the line connecting the coordinates 52°30'N, 165°E; 21°N, 165°E; 21°N, 130°E; and 17°N, 130°E.

The search and rescue region of Japan is limited on the eastern and southern sides by the line connecting the coordinates 52°3'N, 165° E; 17°N, 165° E; and 17°N, 130°E.

Article 2 originally includes a paragraph between ¶¶(1) and (3) that read (the deleted paragraph was originally numbered ¶(2) and the amended ¶(2) was originally numbered ¶(3)):

2. *For any search and rescue operation involving the rescue units of both Parties in the area where the search and rescue regions of both Parties overlap, the Parties shall decide in each case which Party will have primary responsibility for coordinating the search and rescue operations through consultation.*

Annex v. JAPAN'S LEGAL ANALYSIS OF RUSSIA'S 2022 INVASION OF UKRAINE: IMPLICATIONS FOR US PLANNERS

v.A. OVERVIEW

In early 2024, GSO's Legal Office began providing a summary presentation of the findings from an internal lessons learned report on Russia's 2022 invasion of Ukraine.

The following implications and analysis are offered by the compiler of this guide based solely on the contents of the briefing slides and the information contained in this guide and do not represent a legal or intelligence analysis.

v.B. ANALYSIS & IMPLICATIONS

Caveats

There are obvious differences between the 2022 Russian invasion of Ukraine and any potential Taiwan contingency. These differences make it difficult to draw direct conclusions about GSO's legal analysis of the Russia-Ukraine war and the decisions of GoJ in a Taiwan contingency.

Additionally, while the legal analysis of a military staff office is valuable and reflects significant insight into the potential thinking of senior defense leaders, there are often critical differences in the analysis and positions of uniformed military leaders (or even civilian defense leaders in a MoD) and the political analysis and decisions of a nation's political leadership (in the executive and legislative branches) or the views of a nation's public.

It also tends to be within any uniformed service's bureaucratic interests to inflate threats and create an imminent sense of crisis when a more measured approach might be warranted. This is generally true of any nation's armed forces and is not a critique of disingenuousness but a recognition that any bureaucratic entity tasked with defense will tend to have a more severe appreciation of a threat whether warranted or not. Thus, for example, GSO's analysis that AAS (Imminent) might precede AAAS should be evaluated with the awareness that the MoD will tend to benefit from assertions that the current Security Situation framework is inadequate.

That said, as of early 2024, the Russia-Ukraine war is by far the most seminal moment for modern Japanese defense thinking and its impact on Japan's view of its security situation, at all levels and by all stakeholders, cannot easily be overstated. It is therefore prudent to pay close attention to how Japan views the conflict, even if some observers may find some comparisons "false" or mistaken.

v.B.1. Indications and Warnings

v.B.1.A. I&W Analysis

GSO acknowledged the challenge of correctly interpreting I&W from exercises. Additionally, the pretense of innocent explanations (e.g., an annual exercise series like Zapad, even if conspicuously larger than normal) may challenge GoJ in the information environment and create vulnerabilities to belligerent misinformation claiming that GoJ (or the US) was at fault for escalation.

Even if I&W are "correctly" identified by a nation's leadership, the ability to make a convincing domestic and international case will be challenged by misinformation and competing narratives.

GSO also highlighted the implementations of Russian laws or other legal mechanisms as key I&W.

v.B.1.B. I&W Implications

Japan may draw conclusions from Ukraine's "late" response that while a delayed mobilization or increase in defensive posture may be militarily or operationally disadvantageous, it bestows strategic advantages, especially in the information environment.

The long-term implications of legitimacy, especially as it relates to support from like-minded nations (and the domestic political "cover" offered by such multilateral support) may create an appeal to disadvantage Japan's military posture in the opening days, weeks, or months of a conflict in the belief that it is an "investment" in long-term advantage. Such a tradeoff may seem more appealing if a protracted conflict seems more likely. Additionally, Japan's emphasis on continued deterrence³⁴⁷¹ may further enhance the appeal of a "second mover legitimacy" approach.

Additionally, the need to make a domestic and international political case for the interpretation of "exercises" that cover preparations for hostilities highlights the necessity for multiple independent claims (e.g., claims by not just the US but other, potentially more disinterested parties, such as European nations, and ensuring those claims appear somewhat independent from the US and Japan).

The recognition of Russian laws mobilizing reservists, providing security guarantees to the Donetsk and Luhansk "Republics," and similar "lawfare" measures attempting to create a legal pretense for Russian invasion and annexation highlights not just anticipation of these techniques (e.g., PRC implementing an ATPA³⁴⁷² or MTPA³⁴⁷³) but the possibility they may be interpreted by GoJ as concrete I&W for conflict.

By the same token, GoJ may be wary of any "last minute" legalizing measures taken by those seeking to defend Taiwan in a crisis as weakening a strategic narrative focused on highlighting the illegality of the PRC attempting to change the status quo by force. Furthermore, GoJ's self-perception as adhering more closely to International Law³⁴⁷⁴ than even its close allies and partners (e.g., the briefing questions the legal basis for the 1999 NATO intervention in Yugoslavia) may motivate it to maintain an appearance of legal, political, and/or military independence from other co-belligerents seeking to defend Taiwan.

v.B.2. Political Calculus for Security Situations.

AAAS vs. AAS (Imminent) Timing & Sequencing under Enemy Deception

v.B.2.A. Analysis

GSO's viewed Russia's massing of ~120,000 troops at the Ukrainian border in March-April 2021 (11-10 months before conflict) and the increase of these troop numbers to ~190,000 in October 2021 (4 months before conflict) as constituting criteria for Stipulating AAS (Imminent).

GSO viewed President Putin's activation of military reservists on 18 February 2022 as constituting criteria for Stipulating AAAS.

GSO highlights this 'inversion' of intended Security Situation sequence as an indication that the current framework is based on assumptions that might be invalidated and that the ability of the JSDF to conduct "quick operational preparations" might need to be enhanced.

This analysis also underscores the term commonly translated as "objective" as in "objectively judged" or "objectively confirmed," suggesting that tangible, material indicators might play even more of a prominent role in Stipulation³⁴⁷⁵ that one might suspect.

v.B.2.B. Implications

US planners often think of AAAS as occurring days or possibly weeks before AAS.

³⁴⁷¹ 2.1.2.3. Requirement for Continued Deterrence Efforts, p. 22; 10.2.2. GoJ Requirements to Continue Deterrence, p. 178.

³⁴⁷² 4.11.7.6.1. Air Trade Protection Act (ATPA), p. 121.

³⁴⁷³ 4.11.7.6.2. Maritime Trade Protection Act (MTPA), p. 122.

³⁴⁷⁴ 2.1.2.4.1. International Law, p. 23.

³⁴⁷⁵ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

Annex v. Japan's Legal Analysis of Russia's 2022 Invasion of Ukraine: Implications for US Planners

GSO's analysis of Security Situation application to the Russia-Ukraine war timeline highlights two possibilities that are not entirely mutually exclusive:

1. GSO is taking the examples of Security Situations provided to the Diet in 2015³⁴⁷⁶ too literally
2. The 2015 examples may reflect genuine criteria for Stipulation³⁴⁷⁷ in the minds of some leaders

It is difficult to believe that GoJ would adhere so closely to the 2015 Security Situation examples as to potentially Recognize a Security Situation as severe as AAAS almost 12 months before the commencement of hostilities. However, in the common (if ill-defined) terms of "strategic/operational/tactical warning," GSO's 'inversion' implies that the 'proper' sequence in the Russia-Ukraine scenario would have been to Recognize AAS (Imminent) around February 18, 2022, linking the situation loosely with 'tactical warning.' If this implication holds, an extended implication may be that AAAS is appropriate for 'operational warning' (4 months) and IIS is appropriate for 'strategic warning' (11-10 months).

An alternative interpretation of this 'inversion' is that GSO is implying the fundamental concept of a slow progression of discernable strategic, operational, and tactical warning is invalid. This alternative interpretation is suggested by the presentation of "lessons" and the (translated) language. But Japanese legal and cultural approaches to defense, defense policy, and defense law, suggest a somewhat formulaic approach (similar to US self-critiques of a false peace-war-time dichotomy).

Even if some individuals believe the basic premise of discernable strategic, operational, and tactical warning is invalid, it is reasonable to believe that others might use such a linear progression (reflected in the 2015 Security Situation examples) to retard political debate on Stipulation.

Finally, such potentially extended timelines for AAAS (or as GSO analyzes, AAS [Imminent]) Recognitions (11-10 months) has possible implications for the approach the PM may take to implementing a BRP under emergency authorities and seeing an *ex post* Approval from the Diet. Even if conflict is imminent in actuality, the perception that conflict may be discernable as much as a year out might create a stronger preference for *ex ante* Approval than otherwise exists.

v.B.3. Weapons Use and Access, Basing, and Overflight (ABO)

v.B.3.A. Weapons Use Analysis

GSO highlights the use of weapon types banned by International Law,³⁴⁷⁸ agreements, or conventions (e.g., cluster munitions) or employment methods that are banned by similar agreements (e.g., use of fuel vapor bombs in indiscriminate attacks).

GSO similarly highlights attacks on protected objects such as civilian populations, hospitals, and cultural sites.

v.B.3.B. ABO Implications

Early in phases of crisis or conflict, GoJ may feel compelled to apply ABO limitations to weapons types or methods of weapons employment that it considers illegal or even questionable. This may not only limit the ABO of US forces operating from or through Japan but place Alliance management constraints on US forces *not* operating from Japan that are conducting operations GoJ is unwilling to consent to. This may require US operations to be clearly segregated along these lines such that GoJ, the Japanese people, the PRC, and the international community can distinguish between those US operations GoJ assets to (and supports from its territory) and those US operations GoJ does not assent to.

By the same token, GoJ's position may practically influence US target lists, either placing similar segregation requirements on operations attacking targets the GoJ finds objectionable or even GoJ caveats on targets that may be attacked from US forces operating from or through Japan.

³⁴⁷⁶ 4.6.4. IIS Scenarios, p. 101; 4.8.4. AAAS Scenarios, p. 104; 4.9.4. STS Scenarios, p. 107; 4.10.1.1. AAS (Imminent), p. 111; 4.10.1.2. AAS (Occurrence), p. 111.

³⁴⁷⁷ 4.1.2. Terminology: Stipulation (vs. Declaration), Approval/Rejection, and Recognition (vs. Acknowledgement), p. 89.

³⁴⁷⁸ 2.1.2.4.1. International Law, p. 23.

Ultimately, US operations from and through Japan must be cognizant of GoJ's own perception of its legitimacy in any conflict, but US operations conducting without Japan's support or asset may face functional (if more mild) constraints in demonstrating (to a multitude of audiences) the distinction between US operations conducting with Japan's support and those conducted independent of it.

As the severity of any conflict increases, history suggests these constraints will be moderated or erode. However, US planners may be prudent in assuming changes may lag operational needs and US planners at all levels must clearly communicate both the operational requirements and potential costs of lifting constraints that hinder campaign success.

v.B.4. Evacuation

v.B.4.A. Evacuation Analysis

GSO's briefing recognizes the role of international humanitarian organizations facilitating civilian evacuation as well as the need for the establishment of humanitarian corridors to enable this evacuation.

v.B.4.B. Evacuation Implications

US planners should assume GoJ seeking a role for international humanitarian organizations in Japanese civil populations affected by any conflict or threat of conflict, especially in areas such as the SSI or Okinawa that are likely to be PRC targets. These organizations (and GoJ's prioritization of civil protection) are likely to compete for limited resources, such as lift or APOD/SPOD use. At the same time, US planners may find that "dual use" military operations (that both support these civil protection and evacuation operations while also increasing force posture to defend Japan's sovereignty) will not only find greater favor and prioritization with GoJ and the affected Japanese population, but reinforce the US's role in helping to defend Japan while supporting strategic narratives about legitimacy that will be important to both GOJ and USG.

Annex vi. To Do

vi.A. CHECKLIST

- Format
 - Map captions
 - Side border label apostrophe spaces
 - Japanese CAPITALIZE last names (esp bibliography)
 - Standardize “note on sources” etc. for laws
 - Confirm law amendments, etc.
 - JJOC law changes?
 - Reorder Laws
 - Reorder Appendices/Annexes
 - Delete unused law articles (archive first)
 - Dispatch -> Operation
- Content
 - Fix all ERROR cross-references
 - Review all highlights
 - Reformat Chapter 3
 - Check footnote formatting (copy/paste into body)
 - Complete all footnotes/end-notes
 - Annotate Laws:
 - Last completed: i.C.54
 - Cross-walk all laws and associated authorities with each other (matrix and annotated laws)
- Proofing
 - Ctrl-F
 - Superscript space
 - Double space
 - Double period
 - Acronyms
 - Add across to Index
 - Definitions
 - Index Entries
 - Grammarly
 - Spellcheck
 - Repaginate
 - Remove draft warning

vi.B. PARKING LOT

CI/KR is variously defined. The USG definition includes 17 sectors: Chemical; Commercial Facilities; Communications; Critical Manufacturing; Dams; Defense Industrial Base; Election Systems; Emergency Services; Energy; Financial Services; Food and Agriculture; Government Facilities; Healthcare and Public Health; Information Technology; Nuclear Reactors, Materials, and Waste; Transportation Systems; Water and Wastewater Systems.

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