

# Elements of the Report of the “Advisory Panel on Reconstruction of the Legal Basis for Security”

	Right of Collective Self-Defense	Collective Security Measures of the U.N. Entailing Military Measures	U.N. PKOs/ Protection and Rescue of Japanese Nationals Abroad/ International Security Cooperation	Response to an Infringement that does not Amount to an Armed Attack
Constitutional Interpretation	<ul style="list-style-type: none"> <li>○The provisions of Article 9 of the Constitution should be interpreted as prohibiting the threat or the use of force as means of settling international disputes to which Japan is a party and not prohibiting the use of force for the purpose of self-defense.</li> <li>○Even from the view of the Government to date that “these measures necessary for self-defense should be limited to the minimum extent necessary,” it should be interpreted that the exercise of the right of collective self-defense is also included in “the minimum extent necessary.”</li> <li>○When a foreign country that is in a close relationship with Japan comes under an armed attack and</li> <li>○ If such a situation has the potential to significantly affect the security of Japan ⇒Japan should be able to participate in operations to repel such an attack by <b>using forces to the minimum extent necessary</b>, having obtained an <b>explicit request or consent from the country under attack</b>.</li> </ul>	<ul style="list-style-type: none"> <li>○Participation in collective security measures of the U.N. will not constitute the use of force as means of settling international disputes to which Japan is a party and therefore they should be interpreted as not being subject to constitutional restrictions.</li> </ul>	<ul style="list-style-type: none"> <li>○These activities should be interpreted as <b>not constituting the “use of force” prohibited under Article 9 of the Constitution. The use of weapons in the course of the following activities should be interpreted as not being restricted constitutionally.</b></li> <li>①To come to the aid of geographically distant unit or personnel that are engaged in the same U.N. PKO etc., and to use weapons, if necessary, to defend them, in the event that such a unit or personnel are attacked (“kaketsuke-keigo)</li> <li>② To remove obstructive attempts against its missions</li> </ul>	<ul style="list-style-type: none"> <li>○Even in the case of an infringement which cannot be judged whether it constitutes “an armed attack (an organized and planned use of force),” action to the minimum extent necessary by the SDF to repel such an infringement should be permitted under the Constitution.</li> </ul>
Legislative Policies etc.	<ul style="list-style-type: none"> <li>○The Diet: <b>Legal source is needed. The approval, either prior or ex post facto, of the Diet should be required.</b></li> <li>○The Government: <b>Discussion and approval by the National Security Council under the leadership of the Prime Minister and a Cabinet Decision should be required.</b> (After a comprehensive assessment, a policy decision not to exercise the right of collective self-defense could be made.)</li> <li>○In the case that Japan would pass through the territory of a <b>third country, the consent of that third country should be obtained.</b></li> </ul>	<ul style="list-style-type: none"> <li>○The Diet: <b>Legal source is needed. The approval, either prior or ex post facto, of the Diet should be required.</b></li> <li>○The Government: Proactive contribution should be made. <b>Decisions should be made carefully, based on comprehensive examination on the political significance etc.</b></li> </ul>	<ul style="list-style-type: none"> <li>○Requirements in the Rules of Engagements etc. should be amended in line with U.N. standards.</li> <li>○The so-called Five Principles on Japan’s Participation in U.N. PKOs also need to be examined in view of its revision.</li> </ul>	<ul style="list-style-type: none"> <li>○It is necessary to enhance the legal system within a scope permitted under international law to enable a seamless response.</li> </ul>
<p><b>The Panel strongly expects that the Government will consider this report earnestly and proceed to take necessary legislative measures.</b></p>				