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Legal  
Framework  
of Japan's  
Self-Defense  
with the  
United States



## Introduction

The year 2014 was a dramatic turning point in Japanese security policy with the United States. In April, President Barack Obama officially reaffirmed that the United States would maintain its longstanding commitment to defend Japan under the U.S.-Japan Security Treaty, and that such commitment covers the Senkaku Islands.<sup>1</sup> Three months later, the Japanese government led by Prime Minister Shinzo Abe unprecedentedly adopted a cabinet decision to enable Japan to exercise the right of collective self-defense to “strengthen mutual cooperation with the United States.”<sup>2</sup> In 2015, the revision of the Guidelines for U.S.-Japan Defense Cooperation<sup>3</sup> and the adoption of Japan’s new security legislation, which entered into force on March 29, 2016, enabled a more effective and robust implementation of this decision.

All of these actions represent Japan’s strong determination to seek a more equal alliance with the United States and to bring an end to the past unilateral and imbalanced nature of the alliance, under which Japan had merely granted the United States the right to station its troops in Japan in return for its security commitments. However, Japan’s use of force in self-defense is still restrained to a large extent by complicated constraints at both domestic and international legal levels, which could cause serious gaps of perception and understanding between the two countries. It would be preferable for the U.S. government officials to bear in mind these potential gaps to better plan and implement future U.S.-Japan joint operations.

In light of the foregoing circumstance, this paper aims to offer an overview of applicable constraints on Japan’s self-defense under international law and Japanese law. It also sheds light on the question of when, to what extent, and how Japan has become allowed to use force to defend the United States at a legal level in the face of diversifying security threats and a shifting world order. Although Japan also has various options to protect the United States with forcible measures other than the use of force,<sup>4</sup> this paper confines itself to the issue of Japan’s use of force within the context of international law centered on Article 2(4) of the U.N. Charter.

## **Self-Defense as a Notion of International Law and the Constitutional Approach**

Although the U.N. Charter permits the use of force by its member states when authorized by the Security Council under Chapter VII, the Japanese Constitution limits Japan's use of force to the case of self-defense against armed attack. However, there is no mention of the term "self-defense" in the Constitution, which suggests that the established notion of national self-defense in Japanese law is not independent of that in international law. In the government's view, there is no significant difference in nature between these two distinct bodies of law.<sup>5</sup> The Constitution's approach to national self-defense acts as a domestic constraint on Japan's exercise of "the inherent right of individual or collective self-defense" as provided in Article 51 of the U.N. Charter.<sup>6</sup> Therefore, individual and collective self-defense are defined as follows:

It is generally understood that, under international law, "the right to individual self-defense" is the right of a State to repel armed attack against it by using force. "The right to collective self-defense," on the other hand, is the right of a State to repel armed attack against its closely associated foreign State by using force, notwithstanding it is not being attacked directly.

Thus, it is the government's view that both rights should be sharply distinguished by whether or not the purpose is to respond to the attack directed against itself.<sup>7</sup>

When applied to the context of the defense of the United States, the relevant framework of Japan's individual and collective self-defense can be divided into two categories: one is defense within Japanese territory, and the other is defense outside Japanese territory.

### **The Individual Self-defense Framework: Defending the United States within Japanese Territory**

#### **ATTACK ON U.S. ARMED FORCES STATIONED IN JAPAN**

As of March 31, 2019, there are 78 U.S. military facilities and sites in Japan.<sup>8</sup> The use of those facilities and sites by the United States is based on the 1960 Japan-U.S. Security Treaty and Status of Forces Agreement.<sup>9</sup> Yet, this does not change the fact that they are located within Japanese sovereign territory. As long as they are stationed in Japan, any attack on those areas by a foreign state could be considered as an armed attack on Japanese territory, triggering Japan's right of individual self-defense.<sup>10</sup>

## JOINT DEFENSE MECHANISM UNDER THE 1960 JAPAN-U.S. SECURITY TREATY

U.S. Armed Forces in Japan rely for their protection not only on concepts of Japan's individual self-defense, but also on the concept of U.S. collective self-defense of "the territories under the administration of Japan," in accordance with Article V of the Japan-U.S. Security Treaty. Yet, the question is what requirements need to be met for the exercise of the right of collective self-defense. The two countries' views are split over whether a declaration of an armed attack and request for assistance by an attacked state are necessary preconditions for an assisting state to exercise a right of collective self-defense. The International Court of Justice (ICJ) in the *Nicaragua* case found that "there is no rule in customary international law permitting another state to exercise the right of collective self-defense on the basis of its own assessment of the situation."<sup>11</sup> While Japan has shown a high deference to the ICJ's conclusion and supports its opinion,<sup>12</sup> the United States strongly challenges it.<sup>13</sup>

However, Japan's consistent position has been that the Japan-U.S. Security Treaty only authorizes the United States to use force in collective self-defense when Japan exercises its right of individual self-defense. This is not inconsistent with the customary international law requirements that a victim state first declares an armed attack and requests assistance.<sup>14</sup> Thus, even when protecting U.S. Armed Forces in Japanese territory, Japan must determine the occurrence of an armed attack and issue a request for assistance to the United States through the treaty-based consultation mechanism<sup>15</sup> before the United States may engage in collective self-defense of Japan. Admittedly, there remains the possibility that the United States may alternatively invoke its inherent right of individual self-defense solely to protect its forces in Japan, claiming that it is outside the regulatory scope of the treaty.<sup>16</sup> But the Japanese government would insist on the joint and coordinated determination of armed attack in consultation with one another under Article V of the treaty insofar as they are stationed in Japanese territory. This is why the United States needs to know how Japan interprets the notion of armed attack.

## JAPAN'S UNDERSTANDING OF ARMED ATTACK

### Importance of an Opponent's Intent

Article 51 of the U.N. Charter stipulates an "armed attack" as the precondition for any state to exercise its right of individual or collective self-defense. The Japanese government has consistently defined an "armed attack" in this context as meaning "an organized, planned use of force against a state."<sup>17</sup> As the term "planned" suggests, it views the hostile intent of an opponent as the most crucial element in determining the occurrence of an armed attack, not the criteria of "scale and effects" applied by the ICJ in its *Nicaragua* decision<sup>18</sup> (however, scale and effects may serve as evidence of intent as was implied by its 2003 *Oil Platform* decision—"specific intention of harm" may be found depending on the gravity of the use of force<sup>19</sup>). This view stems from Japan's strict defense-only constitutional policy that it shall not use force for an aggressive

purpose.<sup>20</sup> It is unclear whether hostile intent is required for the determination of an armed attack in a strict legal sense, but the government has always referred to the opponent's subjective intent as the key factor in the determination. Such intent is to be evaluated based on "comprehensive assessment of international situation, demonstrated intent of the state using force, and the means and patterns of attack."<sup>21</sup>

### **Rejection of an Imminent Threat of Armed Attack**

In Japan's view, actual harm is not necessary for armed attack to occur as the concept also includes its initiation phase. For example, there is no need to wait until the attack hits the target when a ballistic missile directed at Japan is being fueled.

However, the initiation of armed attack must be distinguished from an imminent threat of armed attack, a notion of anticipatory self-defense which the Japanese government has consistently rejected. In the government's longstanding interpretation of the U.N. Charter, "the mere likelihood or threat of armed attack does not authorize the exercise of the right to self-defense. In other words, neither preemptive strikes nor preventive acts of war are permissible."<sup>22</sup> Hence, Japan is unlikely to respond with the use of force until it determines that an armed attack has been, in fact, initiated.

### **Armed Attack by Non-State Actors**

The Japanese government recognizes that acts of violence by non-state actors outside Japan could constitute armed attack,<sup>23</sup> while the ICJ currently appears to be cautious about this concept. The issue arises when Japan is confronted with protecting its citizens abroad in rescue operations, as illustrated by the Israeli "Operation Entebbe" in Uganda in 1976 and the U.S. "Operation Eagle Claw" in the Iran hostage crisis in 1980. The government first seemed to hold a negative opinion on whether any act of violence by a non-state actor against Japanese citizens abroad could constitute an armed attack on Japan.<sup>24</sup> However, since the 9/11 attacks, it has maintained that an armed attack on a state may also be conducted by non-state actors, at least "a quasi-state organization." It defines the term as "although not a state *per se*, those who, as an equivalent thereof, may qualify as a party to an international dispute,"<sup>25</sup> citing as examples the Taliban<sup>26</sup> and the remnants of Saddam Hussein's regime aiming at its resurgence.<sup>27</sup> Such cases could partially satisfy statehood requirements—a defined territory; a permanent population; and a government.<sup>28</sup>

**The Collective  
Self-defense Framework:  
Defending the United States  
Outside Japanese Territory**

**INTERNATIONAL LEGAL CONSTRAINTS**

When an armed attack occurs against the United States *outside* Japanese territory, the collective self-defense framework comes into play in Japan's use of force. In contrast to the duty of the United States to defend Japan under the bilateral treaty, currently Japan has no comparable treaty obligation to defend the United States by using force. Yet, it has the inherent right to do so within applicable legal constraints.

As already discussed, the Japanese government supports the ICJ's *Nicaragua* decision, finding that the declaration of an armed attack and request for assistance by an attacked state are necessary preconditions for Japan to engage in collective self-defense. However, even if Japan has met these international legal constraints, domestic legal requirements further constrain its ability to engage in collective self-defense operations, which limits its exercise of international legal rights.

**CONSTITUTIONAL CONSTRAINTS**

**Japan's Approach to Collective Self-Defense:  
An Expanded Version of Individual Self-Defense?**

The Japanese Constitution had formerly been understood as prohibiting under all circumstances the exercise of the international legal right of collective self-defense. The government's view had long been that the war-renouncing clause (Article 9) of the Constitution<sup>29</sup> permitted only the use of "minimum necessary force" in self-defense of Japan for the protection of its nationals' "right to life, liberty, and the pursuit of happiness" (Article 13). Hence, the right of collective self-defense of other states, although granted under Article 51 of the U.N. Charter, would be considered as exceeding this constitutional limitation.<sup>30</sup>

The constitutional ban on collective self-defense was lifted by a Cabinet decision in 2014,<sup>31</sup> which led to a dramatic and groundbreaking shift in Japan's official position. It was made possible not by revising the Constitution, but by reinterpreting the "minimum necessary force" principle under Article 9, leaving the sanctified war renunciation language untouched. However, even the 2014 Cabinet decision has not changed "the basic logic of the interpretation of Article 9 of the Constitution" since its first formulation in 1972, because "[i]n certain situations, the aforementioned "use of force" permitted under the Constitution is, under international law, based on

*the right of collective self-defense.*<sup>32</sup> Due to the retention of the “minimum necessary force” principle, Japan’s collective self-defense of other states must be strictly associated with the defense of Japan and the protection of its citizens’ “right to life, liberty, and the pursuit of happiness.”<sup>33</sup>

In this sense, Japan’s doctrine of collective self-defense does not permit the pure defense of another state. It reflects Japan’s firm belief that defending the United States and other partner states must be closely related to the survival of Japan and its people in a significant changing security environment at both regional and global levels. This idea underlies the following three constitutional requirements for the exercise of collective self-defense.

### **Existential Crisis Situation (Survival-Threatening Situation)**

First, to qualify for collective self-defense, a situation must pose an existential crisis to Japan. Article 2 of the Armed Attack and Existential Crisis Situations Law, modified in 2015, defines the standard as “an armed attack against a foreign state 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 its nationals’ right to life, liberty, and pursuit of happiness.” The foreign state, including one having no diplomatic relations with Japan,<sup>34</sup> is expected to be “a country which shares a common interest in responding to an armed attack from outside as a common danger and expresses the intention to do so jointly with Japan.”<sup>35</sup> This requirement is intended to ensure consistency with the “basic logic of the interpretation of Article 9”—i.e., that Japan’s use of force is constitutional solely when it is exercised for the purpose of protecting its citizens’ right to live in peace.

The Japanese government further explains that an existential crisis could include “a situation in which a clear danger of the occurrence of an armed attack [on Japan] is imminent” or “the tense situation in which an armed attack [on Japan] is anticipated.”<sup>36</sup> Examples include armed attack against U.S. vessels transporting Japanese nationals<sup>37</sup>; armed attack against U.S. warships conducting ballistic missile surveillance in the vicinity of Japan<sup>38</sup>; or armed attack against Guam,<sup>39</sup> where the U.S. military bases critical for Japan’s security in East Asia are located. The legislation also allows for exceptional cases in which an attack is neither imminent nor anticipated but could still constitute an existential crisis.<sup>40</sup> A blockade of the Strait of Hormuz, a critical energy lifeline to Japan, was one cited example.<sup>41</sup>

Furthermore, the Japanese government has expressed its view on cyber armed attacks.<sup>42</sup> It has made clear that not only “a cyberattack carried out as part of an armed attack,”<sup>43</sup> but even a “cyber-only attack”<sup>44</sup> could constitute an armed attack and trigger an existential crisis within the meaning of the doctrine.<sup>45</sup>



Whether an existential crisis exists shall be determined “in an objective and reasonable manner”<sup>46</sup> based on a comprehensive assessment of all information available to the Japanese Cabinet (a decision which will be subject to prior or subsequent approval of the legislature, depending on the circumstances).<sup>47</sup> Such a complicated and multi-layered approach to a situational determination would require institutionalized facilitating procedures between an assisting state and an attacked state. To enable Japan to practically engage in collective self-defense with the United States, the two countries have established a joint defense mechanism called the “Alliance Coordination Mechanism” (ACM)<sup>48</sup> based on the Japan-U.S. Guidelines. As this suggests, Japan’s collective self-defense is tailored and limited to the defense of the United States, Japan’s only ally. It is worth noting that this would not include a request to assist in anticipatory self-defense against an imminent threat of armed attack; as already discussed, Japan has rejected that doctrine as a matter of international law.

#### **Necessity to Ensure Japan’s Survival and Protect its People**

Even if an existential crisis exists, a second condition must be met: there must be no other appropriate means available to repel the armed attack on Japan’s ally, to ensure Japan’s survival, and/or to protect the Japanese people. This condition is less controversial than other requirements and has not been a source of substantive debate. But it should be distinguished from the necessity requirement under international law that non-use of force be insufficient—it does not go so far as to require that force be the only available response to an armed attack. Under Japan’s constitutional constraints, satisfaction of this element of the doctrine must be judged from the viewpoint of whether the use of force is required to ensure Japan’s survival and protect its people.

#### **Minimum Necessary Force and Geographical Limitations**

Third, Japan is constitutionally authorized to use force only to the minimum extent necessary to achieve the foregoing purpose.<sup>49</sup> This condition concerns the “means, forms and degree” of Japan’s self-defense under the Constitution and must be assessed together with the two other constitutional requirements. It is entirely distinct from “the proportionality requirement for the exercise of the right of self-defense under international law that permits a self-defense operation comparable in degree to an ongoing armed attack from an opponent.”<sup>50</sup> Therefore, geographical limitations on overseas deployment of Japan’s Self-Defense Force (SDF) are particularly relevant in determining whether this condition is satisfied.

The government’s position has been that Japan’s use of force in any territory of another state exceeds the minimum-force restriction, even if such



state consents. It has emphasized that this stance will continue to apply to the new policy on collective self-defense.<sup>51</sup>

Nevertheless, the government has suggested two possible exceptions to this limitation. The first one is minesweeping in the Strait of Hormuz. Such an operation could be conducted in the sovereign territory of Oman or Iran,<sup>52</sup> but it would fall within the constitutionally permissible scope of minimum necessary force because it secures safe navigation for vessels.<sup>53</sup> In addition, a surgical missile strike on an enemy base overseas could be lawful if the alternative would be “boots on the ground.” However, the government emphasizes that this latter exception is theoretical, because Japan lacks the capabilities, such as suppression of enemy air defenses and long-range missile systems, to carry out such an attack.<sup>54</sup> Thus, minesweeping by Japan’s SDF in the Strait of Hormuz is “the only exception”<sup>55</sup> in practice.

It should be noted that the third requirement does not limit Japan’s use of force in collective self-defense in areas with no sovereign control, because of its link to the territorial sovereignty of other states. Therefore, the primary operating domains of Japan’s collective self-defense of the United States could be on the high seas and, depending on future circumstances, in cyberspace and in outer space.<sup>56</sup>

## Conclusion

Japan has the inherent right to use force in individual or collective self-defense under international law. While Japan’s individual self-defense covers the U.S. Armed Forces and their military bases stationed in Japanese territory, its exercise of collective self-defense also plays a significant role in the defense of the United States outside its territory. To make these frameworks operational, Japan and the United States have established a close bilateral coordination mechanism to enable both countries to jointly exercise its rights of self-defense in a feasible way. Given the background of lifting the ban on Japan’s ability to exercise collective self-defense, the current framework is uniquely tailored to the joint defense of the United States.

That said, the United States needs to understand that there exists a significant potential gap between the two countries in their legal approaches to the exercise of self-defense. This is most evident in the interpretations of armed attack and the requirements for the exercise of the right of collective self-defense under international law. Furthermore, Japanese constitutional constraints limit and complicate Japan’s engagement in collective self-defense with the United States. A more workable and legally consistent basis for the Japan-U.S. alliance requires constant legal dialogue between Japanese and

U.S. government officials. Such dialogue should aim at narrowing or closing the potential gaps in the relevant legal interpretations applied to various specific circumstances. ■

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**1** The White House, Joint Press Conference with President Obama and Prime Minister Abe of Japan (2014), <https://obamawhitehouse.archives.gov/the-press-office/2014/04/24/joint-press-conference-president-obama-and-prime-minister-abe-japan> (“And let me reiterate that our treaty commitment to Japan’s security is absolute, and Article 5 covers all territories under Japan’s administration, including the Senkaku Islands.”). This reaffirmation was also succeeded to the Trump administration. The White House, Joint Statement from President Donald J. Trump and Prime Minister Shinzo Abe (2017), <https://www.whitehouse.gov/briefings-statements/joint-statement-president-donald-j-trump-prime-minister-shinzo-abe/> (“The two leaders affirmed that Article V of the U.S.-Japan Treaty of Mutual Cooperation and Security covers the Senkaku Islands. They oppose any unilateral action that seeks to undermine Japan’s administration of these islands.”); Ministry of Foreign Affairs of Japan, Prime Minister Abe Receives a Courtesy Call from U.S. Defense Secretary Mattis (2017), [https://www.mofa.go.jp/na/st/page3e\\_000644.html](https://www.mofa.go.jp/na/st/page3e_000644.html) (“Secretary Mattis stated that the Senkaku Islands are in the territories under the administration of Japan, and are within the scope that is covered by Article 5 of the Japan-U.S. Security Treaty. Secretary Mattis also made clear that the U.S. opposes any unilateral action that seeks to undermine Japan’s administration of the Senkaku Islands.”).

**2** Cabinet Secretariat of Japan, Cabinet Decision on Development of Seamless Security Legislation to Ensure Japan’s Survival and Protect its People 2 (2014) [hereinafter Cabinet Decision], [http://www.cas.go.jp/jp/gaiyou/jimu/pdf/anpohosei\\_eng.pdf](http://www.cas.go.jp/jp/gaiyou/jimu/pdf/anpohosei_eng.pdf).

**3** Ministry of Foreign Affairs of Japan, The Guidelines for Japan-U.S. Defense Cooperation (2015), <http://www.mofa.go.jp/files/000078188.pdf>.

**4** See, e.g., Tomohiro Mikanagi & Hirohito Ogi, The Japanese Views on Legal Issues Related to Security, 59 *Japanese Y.B. Int’l L.* 360, 369–71 (2016).

**5** In answering the question of whether the right to self-defense under the Japan’s Constitution is “exactly the same” with that under international law, the government simply observed that they were “the same, at least in nature,” or “at the conceptual level.” Takatsuji Masami Naikaku-hōseikyokuchōkan Tōben (高辻正巳内閣法制局長官答弁) [Answer by Takatsuji Masami, Dir.-Gen. of the Cabinet Legislation Bureau], Dai 61-kai Kokkai Sangiin Yosan iin Kaigi-roku dai 21-gō (第61回国会参議院予算委員会議録第21号) [Proceedings of the 61st Diet House of Councillors Budget Comm. No.21], at 15 (1969), available at <http://kokkai.ndl.go.jp/SENTAKU/sangi-in/061/1380/06103311380021.pdf#page=15>.

**6** Yamada Takio Gaimushō daijin kanbō sanjikan Tōben (山田滝雄外務省大臣官房参事官答弁) [Answer by Yamada Takio, Counselor, Ministry of Foreign Affairs], Dai 186-kai Kokkai Shūgiin Naikaku iin Kaigi-roku dai 19-gō (第186回国会衆議院内閣委員会議録第19号) [Proceedings of the 186th Diet H.R. Cabinet Comm. No. 19], at 37 (2014), available at <http://kokkai.ndl.go.jp/SENTAKU/syugin/186/0002/18605230002019.pdf#page=37>.

**7** Shūgiin giin Itō Eisei-kun Teishutsu Naikaku Hōsei-kyoku no Kengen to Jiei-ken ni tsuite no Kaishaku ni Kansuru Shitsumon ni Taisuru Tōben-sho (衆議院議員伊藤英成君提出内閣法制局の権限と自衛権についての解釈に関する質問に対する答弁書) [Reply to Questions Regarding Interpretation of Authority and Self-Defense Rights by Mr. Eisei Ito, Member, H.R.], Naikaku Shū-shitsu 156 dai 119-gō (内閣衆質156第119号) [Cabinet H.R. Reply 156, No. 119] (2003), available at [http://www.shugiin.go.jp/internet/itdb\\_shitsumon.nsf/html/shitsumon/b156119.htm](http://www.shugiin.go.jp/internet/itdb_shitsumon.nsf/html/shitsumon/b156119.htm).

**8** See Japan Ministry of Def., Zainichibeigun shisetsu kuiki (senyō shisetsu) menseki (在日米軍施設・区域 専用施設 面積) [U.S. Military Facility Area (Designated Facilities) in Japan] (2019), [https://www.mod.go.jp/j/approach/zaiibeigun/us\\_sisetsu/pdf/menseki\\_h310331.pdf](https://www.mod.go.jp/j/approach/zaiibeigun/us_sisetsu/pdf/menseki_h310331.pdf) (last updated Mar. 31, 2019).

**9** Article 2(1)(a) of the Japan-U.S. Status of Forces Agreement reads: “The United States is granted, under Article VI 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 provided for in Article XXV of this Agreement. ‘Facilities and areas’ include existing furnishings, equipment and fixtures necessary to the operation of such facilities and areas.” U.S.-Japan Status of Forces Agreement, Japan-U.S., Jan. 19, 1960, 11 U.S.T. 1652, T.I.A.S. No 4510.

**10** Kishida Fumio Gaimu Daijin Tōben (岸田文雄外務大臣答弁) [Answer by Minister for Foreign Affairs Fumio Kishida], Dai 186-kai Kokkai Shūgiin Anzen Hoshō iinkai gaimu iinkai rengō shinsa Kaigi-roku dai 1-gō (第186回国会衆議院安全保障委員会外務委員会連合審査会議録第1号) [Proceedings of the 186th Diet H.R. Sec. Comm. No. 1], at 22 (2014), available at <http://kokkai.ndl.go.jp/SEN-TAKU/syuguiin/186/0285/18606020285001.pdf#page=22>. In addition to the individual self-defense option, when there is a possibility of large-scale terrorist attacks—not amounting to armed attacks—on U.S. military facilities and sites in Japan and there is a recognized necessity to prevent damage to them, Japan may order the Self-Defense Force (SDF) to conduct “guarding operations” in a manner other than the use of force. See Jietaiho [Self Defense Forces Law], Law No. 165 of 1954 (Japan) [hereinafter SDF Act], art. 84bis.

**11** Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.), Judgment, 1986 I.C.J. Rep. 14, ¶ 195 (June 27) [hereinafter Nicaragua Case], available at <https://www.icj-cij.org/files/case-related/70/070-19860627-JUD-01-00-EN.pdf#page=94>.

**12** Akiba Takeo Gaimushō Kokusai-hō Kyokuchō Tōben (秋葉剛男外務省国際法局長答弁) [Answer by Takeo Akiba, Dir., Int’l Law Bureau, Ministry of Foreign Affairs], Dai 189-kai Kokkai Sangiin wagakuni oyobi Kokusai shakai no Heiwa Anzen Hōsei ni kansuru Tokubetsu iinkai Kaigi-roku dai 15-gō (第189回国会参議院我が国及び国際社会の平和安全法制に関する特別委員会会議録第15号) [Proceedings of the 189th Diet House of Councillors Spec. Comm. Meeting on Peace and Security Laws of Japan and the International Community No. 15], at 22 (2015), available at <http://kokkai.ndl.go.jp/SEN-TAKU/sangiin/189/0192/18909020192015.pdf#page=21>.

**13** Office of Gen. Counsel, U.S. Dep’t of Def., Law of War Manual 49 (2016) (“Collective self-defense of a State must proceed with that State’s consent, although this consent need not necessarily be expressed in the form of an explicit request.”).

**14** In the context of the scenario of a North Korean missile attack on the Japanese territory, see Masahiro Kurosaki, *The ‘Bloody Nose’ Strategy, Self-Defense and International Law: A View from Japan*, Lawfare (Feb. 15, 2018), <https://www.lawfareblog.com/bloody-nose-strategy-self-defense-and-international-law-view-japan>.

**15** Article IV of the Treaty reads: “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 East is threatened.” Treaty of Mutual Cooperation and Security between the United States of America and Japan, Japan-U.S., art. IV, Jan. 19, 1960, 11 U.S.T. 1632, T.I.A.S. No. 4509. The consultation mechanism is centered on the Japan-U.S. Security Consultative Committee (“2+2”). See *Japan-U.S. Security Consultative Committee*, Ministry of Foreign Affairs of Japan, <https://www.mofa.go.jp/region/n-america/us/security/scc/index.html> (last visited Dec. 8, 2019).

**16** See, e.g., Charlie Dunlap, *The “Bloody Nose” Strategy Debate: Why it’s More Complicated than Some Think*, Lawfire (Jan. 24, 2018), <https://sites.duke.edu/lawfire/2018/01/24/the-bloody-nose-strategy-debate-why-its-more-complicated-than-some-think/>.

**17** Shūgiin giin Kaneda Seiichi-kun teishutsu Sensō, Funsō, Buryoku no Kōshi-tō no chigai ni kansuru shitsumon ni taisuru Tōben-sho (衆議院議員金田誠一君提出「戦争」, 「紛争」, 「武力の行使」等の違いに関する質問に対する答弁書) [Reply to Questions Regarding Differences in War, Conflict, Exercise of Force, etc., by Mr. Seiichi Kaneda, Member, H.R.], Naikaku Shū-shitsu 153 dai 27-gō (内閣衆質153第27号) [Cabinet H.R. Reply 153, No. 27] (2002), available at [http://www.shugiin.go.jp/internet/itdb\\_shitsumon.nsf/html/shitsumon/b153027.htm](http://www.shugiin.go.jp/internet/itdb_shitsumon.nsf/html/shitsumon/b153027.htm).

**18** Nicaragua Case, *supra* note 11, ¶ 195.

**19** Case Concerning Oil Platforms (Iran v. U.S.), Judgement, 2003 I.C.J. Rep. 161, ¶ 64 (Nov. 6), available at <https://www.icj-cij.org/files/case-related/90/090-20031106-JUD-01-00-EN.pdf#page=35>.

**20** In contrast, the issue of hostile intent usually comes into play on the force-user side in international legal debates. See, e.g., Tom Ruys, *The Meaning of “Force” and the Boundaries of the Jus ad Bellum: Are “Minimal” Uses of Force Excluded from UN Charter Article 2(4)?*, 108 Am. J. Int’l L. 159, 209 (2014) (“[W]henver a state deliberately uses (potentially) lethal force within its own territory—including its territorial sea and its airspace—against military or police units of another state acting in their official capacity, such action amounts to the interstate use of force in the sense of Article 2(4). . . . By the same token, any incursion that would have warranted deliberate recourse to lethal force (primarily because it demonstrates a manifest hostile intent) arguably constitutes a use of force in the sense of Article 2(4) (irrespective of the actual response of the territorial state). . . . [A]ny deliberate projection of lethal force onto the territory of another state . . . will normally trigger Article 2(4).”).

**21** Inada Tomomi Bōei Daijin Tōben (稲田朋美防衛大臣答弁) [Answer by Minister of Def. Tomomi Inada], Dai 193-kai Sangiin Gaikō Bōei iinkai Kaigi-roku dai 18-gō (第193回参議院外交防衛委員会会議録第18号) [Proceedings of the 193rd House of Councillors Foreign Affairs Def. Comm. No. 18], at 5 (2017), available at <http://kokkai.ndl.go.jp/SENTAKU/sangiin/193/0059/19305160059018.pdf#page=5>; Noroda Yoshinori Bōeichō Chōkan (野呂田芳成防衛庁長官) [Yoshinori Noroda, Sec’y of Def.], Dai 145-kai Kokkai Shūgiin Anzen Hoshō iin Kaigi-roku dai 3-gō (第145回国会衆議院安全保障委員会議録第3号) [Proceedings of the 145th Diet H.R. Sec. Comm. No. 3], at 5 (1999), available at <http://kokkai.ndl.go.jp/SENTAKU/syugin/145/0015/14503030015003.pdf#page=5>.

**22** Yamagami Shingo Gaimu Daijin Kanbō Shingi-kan Tōben (山上信吾外務大臣官房審議官答弁) [Answer by Shingo Yamagami, Deputy Sec’y for Foreign Affairs], Dai 189-kai Kokkai Sangiin Gaikō Bōei iinkai Kaigi-roku dai 4-gō (第189回国会参議院外交防衛委員会会議録第4号) [Proceedings of the 189th Diet House of Councillors Foreign Affairs Def. Comm. No. 4], at 14 (2015), available at <http://kokkai.ndl.go.jp/SENTAKU/sangiin/189/0059/18903260059004.pdf#page=14>; Kishida Fumio Gaimu Daijin Tōben (岸田文雄外務大臣答弁) [Answer by Minister for Foreign Affairs Fumio Kishida], Dai 189-kai Kokkai Shūgiin wagakuni oyobi Kokusai shakai no Heiwa Anzen Hōsei ni kansuru Tokubetsu iinkai Kaigi-roku dai 3-gō (第189回国会衆議院我が国及び国際社会の平和安全法制に関する特別委員会議録第3号) [Proceedings of the 189th Diet H.R. Spec. Comm. Meeting on Peace and Security Laws of Japan and the International Community No. 3], at 13 (2015), available at <http://kokkai.ndl.go.jp/SENTAKU/syugin/189/0298/18905270298003.pdf#page=13>; Saito Akira Bōei fuku Daijin ken Naikaku-fu fuku Daijin Tōben (左藤章防衛副大臣兼内閣府副大臣答弁) [Akira Saito, Deputy Minister of Def. & Vice Cabinet Minister], Dai 189-kai Kokkai Shūgiin Gaimu iin Kaigi-roku dai 12-gō (第189回国会衆議院外務委員会議録第12号) [Proceedings

of the 189th Diet H.R. Comm. on Foreign Affairs No. 12], at 5 (2015), available at <http://kokkai.ndl.go.jp/SENTAKU/syugin/189/0005/18905220005012.pdf#page=5>; Shūgiin giin Nagatsuma Akira-kun teishutsu Shūdantekijieikenkōshi Yōnin-tō kansuru shitsumon ni taisuru Tōben-sho (衆議院議員長妻昭君提出集団の自衛権行使容認等に関する質問に対する答弁書) [Reply to Questions Regarding the Approval of the Right to Exercise Collective Self-Defense, etc., by Mr. Akira Nagatsuma, Member, H.R.], Naikaku Shū-shitsu 189 dai 333-gō (内閣衆質189第333号) [Cabinet H.R. Reply 189, No. 333] (2015), available at [http://www.shugiin.go.jp/internet/itdb\\_shitsumon.nsf/html/shitsumon/b189333.htm](http://www.shugiin.go.jp/internet/itdb_shitsumon.nsf/html/shitsumon/b189333.htm); Togo Kazuhiko Gaimushō Jōyaku Kyokuchō Tōben (東郷和彦外務省条約局長答弁) [Answer by Togo Kazuhiko, Dir.-Gen. of the Treaty Bureau, Minister of Foreign Affairs], Dai 145-kai Kokkai Shūgiin yosan iin Kaigi-roku dai 14-gō (第145回国会衆議院予算委員会議録第14号) [Proceedings of the 145th Diet H.R. Budget Comm. No. 14], at 43 (1999), available at <http://kokkai.ndl.go.jp/SENTAKU/syugin/145/0018/14502160018014.pdf#page=43>.

**23** Kishida Fumio Gaimu Daijin Tōben (岸田文雄外務大臣答弁) [Answer by Foreign Minister Fumio Kishida], Dai 187-kai Kokkai Shūgiin Anzen Hoshō iin Kaigi-roku dai 2-gō (第187回国会衆議院安全保障委員会議録第2号) [Proceedings of the 187th Diet H.R. Sec. Comm. No. 2], at 6 (2014), available at <http://kokkai.ndl.go.jp/SENTAKU/syugin/187/0015/18710140015002.pdf#page=6>.

**24** Even if the act in question is irrelevant to its qualification as an armed attack, the government view is that it does not necessarily foreclose the possibility of exercising the inherent right of self-defense to rescue nationals under general international law as distinct from the U.N. Charter. Date Muneaki Gaimushō Jōyaku Kyokuchō Tōben (伊達宗起外務省条約局長答弁) [Answer by Muneaki Date, Dir.-Gen. of the Treaty Bureau, Minister of Foreign Affairs], Dai 91-kai Kokkai Shūgiin Anzen Hoshō tokubetsu iin Kaigi-roku dai 2-gō (第91回国会衆議院安全保障特別委員

会議録第2号) [Proceedings of the 91st Diet H.R. Sec. Spec. Comm. No. 2], at 33 (1980), available at <http://kokkai.ndl.go.jp/SENTAKU/syugin/091/0770/09104260770002.pdf#page=33>; Komatsu Ichiro Gaimushō Jōyaku-kyoku Hōki Kachō Tōben (小松一郎外務省条約局法規課長答弁) [Answer by Ichiro Komatsu, Dir. Gen., Law Bureau, Ministry of Foreign Affairs], Dai 120-kai Kokkai Shūgiin Anzen Hoshō tokubetsu iin Kaigi-roku dai 5-gō (第120回国会衆議院安全保障特別委員会議録第5号) [Proceedings of the 120th Diet H.R. Sec. Spec. Comm. No. 5], at 21 (1991), available at <http://kokkai.ndl.go.jp/SENTAKU/syugin/120/0770/12003130770005.pdf#page=21>. See also *Summary records of the meetings of the fifty-second session*, [2000] 2 Y.B. Int'l L. Comm'n 218–20, U.N. Doc. A/CN.4/SER.A/2000/Add.1 (Part 1).

**25** Shūgiin giin Ogata Rintarō-kun teishutsu Kuni ni Junzuru Shoshiki ni kansuru shitsumon ni taisuru Tōben-sho (衆議院議員緒方林太郎君提出『国に準ずる組織』に関する質問に対する答弁書) [Reply to Questions Regarding “Organizing According to the Country” by Mr. Rintaro Ogata, Member, H.R.], Naikaku Shū-shitsu 193 dai 148-gō (内閣衆質193第148号) [Cabinet H.R. Reply 193, No. 148] (2017), available at [http://www.shugiin.go.jp/internet/itdb\\_shitsumon.nsf/html/shitsumon/b193148.htm](http://www.shugiin.go.jp/internet/itdb_shitsumon.nsf/html/shitsumon/b193148.htm).

**26** Ishiba Shigeru Bōeichō Chōkan Tōben (石破茂防衛庁長官答弁) [Answer by Shigeru Ishiba, Sec’y of Def.], Dai 156-kai Kokkai Sangiin Buryoku Kōgeki jitai e no Taisho ni kansuru tokubetsu iinkai Kaigi-roku dai 11-gō (第156回国会参議院武力攻撃事態への対処に関する特別委員会会議録第11号) [Proceedings of the 156th Diet House of Councillors Spec. Comm. on Coping with Armed Attack Situations No. 11], at 23 (2003), available at <http://kokkai.ndl.go.jp/SENTAKU/sangiin/156/0074/15606040074011.pdf#page=23>.

**27** Dai 156-kai kokkai shūgiin iraku jindō fukkō shien narabini kokusai terorizumu no bōei oyobi wagakuni no kyōryoku shien kat-sudō-tō ni kansuru tokubetsu iin Kaigi-roku dai 7-gō (第156回国会衆議院イラク人道復興支援並びに国際テロリズムの防衛及び我が国

の協力支援活動等に関する特別委員会議録第7号) [Proceedings of the 156th Diet H.R. Spec. Comm. Meeting on Iraq Humanitarian Reconstruction Support, International Terrorism Defense, Japan's Cooperation Support, etc., No. 7] (2003), available at <http://kokkai.ndl.go.jp/SENTAKU/syugin/156/0132/15607020132007.pdf#page=4>.

**28** Ishiba Shigeru Bōei Daijin Tōben (石破茂防衛大臣答弁) [Answer by Def. Minister Shigeru Ishiba], Dai 169-kai Kokkai Shūgiin Anzen Hoshō iin Kaigi-roku dai 6-gō (第169回国会衆議院安全保障委員会議録第6号) [Proceedings of the 169th Diet H.R. Sec. Comm. No. 6], at 2 (2008), available at <http://kokkai.ndl.go.jp/SENTAKU/syugin/169/0015/16904250015006.pdf#page=2>.

**29** Article 9 of the Constitution reads: “[a] spiring 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 force as means of settling international disputes. . . 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 belligerency of the state will not be recognized.” Nihonkoku Kenpō [Kenpō] [Constitution], ch. II, art. 9 (Japan).

**30** Shūdantekijieiken to Kenpō to no kankei ni kansuru Seifu Shiryō (集団的自衛権と憲法との関係に関する政府資料) [Gov't Materials on the Relationship between Collective Self-Def. Rights & Constitution], Shōwa 47-nen 10 tsuki 14-nichi Sangiin kessan iinkai teishutsu shiryō (昭和47年10月14日参議院決算委員会提出資料) [Materials Submitted to the House of Councillors Fin. Results Comm. on Oct. 14, 1972] (1972), available at <http://www.kantei.go.jp/jp/singi/anzenhoshou2/dai4/siryou.pdf#page=9>; Shūgiin giin Inaba Seiichi-kun teishutsu Kenpō, Kokusai-hō to Shūdantekijieiken ni kansuru shitsumon ni taisuru Tōben-sho (衆議院議員稲葉誠一君提出「憲法、国際法と集団的自衛権」に関する質問に対する答弁書) [Reply to Questions on Constitution, Int'l Law & Collective Self-Def. by Mr. Seiichi Inaba, Member, H.R.], Naikaku Shū-shitsu 94 dai 32-go (内閣衆質94第32号) [Cabinet H.R.

Reply 94, No. 32] (1981), available at [http://www.shugiin.go.jp/internet/itdb\\_shitsumona.nsf/html/shitsumon/b094032.htm](http://www.shugiin.go.jp/internet/itdb_shitsumona.nsf/html/shitsumon/b094032.htm).

**31** Cabinet Decision, supra note 17, at 8.

**32** Id. at 6–7, ¶ 1–2 (emphasis added).

**33** Some might argue that this constitutional approach to collective self-defense is, or should be, better understood as an expanded version of Japan's individual self-defense, and that such an understanding is inconsistent with the ICJ's view that collective self-defense is the defense of the victim state by the assisting state irrespective of their relationship. For this matter, see, e.g., Stanimir A. Alexandrov, *Self-Defense against the Use of Force in International Law* 228 (1996). Yet, it is also true that there have been diverging views among experts as to the nature of collective self-defense, see, e.g., Derek W. Bowett, *Self-Defense in International Law* 200–07 (1958); Derek W. Bowett, *Collective Self-Defense under the Charter of the United Nations*, 32 Brit. Y.B. Int'l L. 130, 132–39 (1955–1956), and that Japan's approach could be in harmony with traditional scholarly views. In fact, in his dissenting opinion in the ICJ's Nicaragua case, Judge Jennings rejected the concept of collective self-defense as “vicarious defence by champions” and observed that “[t]he assisting State surely must, by going to the victim State's assistance, be also, and in addition to other requirements, in some measure defending itself. There should even in ‘collective self-defence’ be some real element of self.” Nicaragua Case, supra note 11, at 545.

**34** Kishida Fumio Gaimu Daijin Tōben (岸田文雄外務大臣答弁) [Answer by Foreign Minister Fumio Kishida], Dai 189-kai Kokkai Shūgiin wagakuni oyobi Kokusai shakai no Heiwa Anzen Hōsei ni kansuru Tokubetsu iinkai Kaigi-roku dai 10-gō (第189回国会衆議院我が国及び国際社会の平和安全法制に関する特別委員会議録第10号) [Proceedings of the 189th Diet H.R. Spec. Comm. Meeting on Peace and Security Laws of Japan and the International Community No. 10], at 29 (2015), available at [42 Strengthening the U.S.-Japan Alliance](http://kokkai.ndl.go.jp/SEN-</a></p></div><div data-bbox=)



TAKU/syugiin/189/0298/18906150298010.pdf#page=29.

**35** Sangiin giin Mizuno Kenichi-kun teishutsu Sonritsu kiki jitai ni kansuru shitsumon ni taisuru Tōben-sho (参議院議員水野賢一君提出存立危機事態に関する質問に対する答弁書) [Reply to Questions Regarding Existential Crisis by Mr. Kenichi Mizuno, Member, House of Councillors], Naikaku San-shitsu 189 dai 202-gō (内閣参質189第202号) [Cabinet House of Councillors Answer 189, No. 202] (2015), available at <http://www.sangiin.go.jp/japanese/joho1/kousei/syuisyo/189/touh/t189202.htm>; Shūgiin giin Okada Katsuya-kun teishutsu Shūdantekijieiken no Kōshi o Yōnin suru Kenpō kaishaku no Henkō-tō ni kansuru shitsumon ni taisuru Tōben-sho (衆議院議員岡田克也君提出集団的自衛権の行使を容認する憲法解釈の変更等に関する質問に対する答弁書) [Reply to Questions Regarding Changes in the Interpretation of the Constitution allowing the Exercise of Collective Self-Defense by Mr. Katsuya Okada, Member, H.R.], Naikaku Shū-shitsu 188 dai 1-gō (内閣衆質188第1号) [Cabinet H.R. Reply 188, No. 1] (2015), available at [http://www.shugiin.go.jp/internet/itdb\\_shitsumon.nsf/html/shitsumon/b188001.htm](http://www.shugiin.go.jp/internet/itdb_shitsumon.nsf/html/shitsumon/b188001.htm).

**36** See Buryoku kōgeki jitai-tō oyobi sonritsu kiki jitai ni okeru wagakuni no heiwa to dokuritsu narabini kuni oyobi kokumin no anzen no kakuho ni kansuru hōritsu [Armed Attack and Existential Crisis Situations Law], Law No. 79 of 2003 (Japan), arts. 2(2)–(3).

**37** Abe Shinzo Naikakusōri Daijin Tōben (安倍晋三内閣総理大臣答弁) [Answer by Prime Minister Shinzo Abe], Dai 189-kai Kokkai Sangiin Kaigi-roku dai 34-gō (第189回国会参議院会議録第34号) [Proceedings of the 189th Diet No. 34], at 6 (2015), available at <http://kokkai.ndl.go.jp/SENTAKU/sangiin/189/0001/18907270001034.pdf#page=6>. In fact, the Japanese government recognizes that even an attack on a merchant vessel could constitute an armed attack on the flag state: “[W]hen a private or government ship or an aircraft of its nationality is attacked on the high seas, as a matter of international law, a State is in principle in a position to

repel the attack as the exercise of the right of individual self-defense.” Answer by Ichiro Komatsu, *supra* note 24, at 21, translated in Mikanagi & Ogi, *supra* note 4, at 369.

**38** Nakatani Gen Bōei Daijin Tōben (中谷元防衛大臣答弁) [Reply by Def. Minister Nakatani], Dai 190-kai Kokkai Sangiin Gaikō Bōei iinkai Kaigi-roku dai 5-gō (第190回国会参議院外交防衛委員会会議録第5号) [Proceedings of the 190th Diet House of Councillors Foreign Affairs Def. Comm. No. 5], at 7 (2016), available at <http://kokkai.ndl.go.jp/SENTAKU/sangiin/190/0059/19003170059005.pdf#page=7>.

**39** Onodera Itsunori Bōei Daijin Tōben (小野寺五典防衛大臣答弁) [Answer by Def. Minister Itsunori Onodera], Dai 193-kai Kokkai Shūgiin Anzen Hoshō iin Kaigi-roku dai 9-gō (第193回国会衆議院安全保障委員会議録第9号) [Proceedings of the 193rd Diet H.R. Sec. Comm. No. 9], at 11 (2017), available at <http://kokkai.ndl.go.jp/SENTAKU/syugiin/193/0015/19308100015009.pdf#page=11>.

**40** Wagakuni oyobi kokusai shakai no heiwa oyobi anzen no kakuho ni shisuru tame no jieitai-hō-tō no ichibu o kaisei suru hōritsu-an oyobi kokusai heiwa kyōdō taisho jitai ni saishite wagakuni ga jishshi suru sho gaikoku no guntai-tō ni taisuru kyōryoku shien katsu dō-tō ni kansuru hōritsu-an ni taisuru futai ketsugi (我が国及び国際社会の平和及び安全の確保に資するための自衛隊法等の一部を改正する法律案及び国際平和共同対処事態に際して我が国が実施する諸外国の軍隊等に対する協力支援活動等に関する法律案に対する附帯決議) [A Bill to Revise Part of the Self-Defense Forces Act, etc., to Contribute to Ensuring Peace and Security of Japan and the International Community, and Cooperation Support Activities for Foreign Troops, etc., Implemented by Japan in the Event of a Joint International Peace Treaty] (2015), available at [http://www.sangiin.go.jp/japanese/gianjoho/ketsugi/189/f429\\_091701.pdf#page=2](http://www.sangiin.go.jp/japanese/gianjoho/ketsugi/189/f429_091701.pdf#page=2).

**41** Answer by Prime Minister Shinzo Abe, *supra* note 37, at 7.

**42** As a member of the Group of Seven (G7), Japan joined the declaration on cyber-security in 2016. Ministry of Foreign Affairs of Japan, G7 Principles and Actions on Cyber 1 (2016), <http://www.mofa.go.jp/mofaj/files/000160279.pdf> (“We affirm that under some circumstances, cyber activities could amount to the use of force or an armed attack within the meaning of the United Nations Charter and customary international law. We also recognize that states may exercise their inherent right of individual or collective self-defense as recognized in Article 51 of the United Nations Charter and in accordance with international law, including international humanitarian law, in response to an armed attack through cyberspace.”).

**43** Sangiin giin Okubo Tsutomu-kun teishutsu Saibā Kōgeki o Buryoku Kōgeki jitai to nin-tei suru tame no yōkenni kansuru shitsumon ni taisuru Tōben-sho (参議院議員大久保勉君提出サイバー攻撃を武力攻撃事態と認定するための要件に関する質問に対する答弁書) [Reply to Questions Regarding Requirements for Certifying a Cyber Attack as an Armed Attack Situation by Mr. Tsutomu Okubo, Member, House of Councillors], Naikaku San-shitsu 189 dai 221-gō (内閣参質189第221号) [Cabinet House of Councillors Answer 189, No. 221] (2015), available at <http://www.sangiin.go.jp/japanese/joho1/kousei/syuisyo/189/touh/t189221.htm>.

**44** Abe Shinzo Naikakusōri Daijin Tōben oyobi Iwaya Takeshi Bōei Daijin Tōben (安倍晋三内閣総理大臣答弁及び岩屋毅防衛大臣答弁) [Answer by Prime Minister Shinzo Abe & Def. Minister Takeshi Iwaya], Dai 198-kai Kokkai Shūgiin Honkaigi-roku dai 24-gō (第198回国会衆議院本会議録第24号) [Proceedings of the 198th Diet H.R. Sess. No. 24], at 13, 15 (2019), available at <http://kokkai.ndl.go.jp/SENTAKU/syugin/198/0001/19805160001024.pdf#page=13>.

**45** Nakatani Moto Bōei Daijin Tōben (中谷元防衛大臣答弁) [Reply by Former Def. Minister Nakatani], Dai 189-kai Kokkai Sangiin wagakuni oyobi Kokusai shakai no Heiwa Anzen Hōsei ni kansuru Tokubetsu iinkai Kaigi-roku dai 9-gō (第189回国会参

議院我が国及び国際社会の平和安全法制に関する特別委員会会議録第9号) [Proceedings of the 189th Diet House of Councillors Spec. Comm. Meeting on Peace and Security Laws of Japan and the International Community No. 9], at 15 (2015), available at <http://kokkai.ndl.go.jp/SENTAKU/sangiin/189/0192/18908110192009.pdf#page=15>.

**46** Answer by Prime Minister Shinzo Abe, supra note 37, at 7.

**47** Armed Attack and Existential Crisis Situations Law, supra note 36, art. 9(4)(6)(7); Resolution Supplement to the Peace and Security Bills, supra note 40, ¶ 2. The resolution requires the government to obtain prior approval of the Diet unless the existential crisis situation/the survival-threatening situation simultaneously amounts to the armed attack on Japan, and in case of emergency. See also Cabinet Decision, supra note 2, at 7–8, ¶ 3.

**48** See Ministry of Def. of Japan, Diplomatic Bluebook 2018, ch. 3-2(2)A, available at <https://www.mofa.go.jp/policy/other/bluebook/2018/html/chapter3/c030102.html>.

**49** Yokohata Yusuke Naikaku-hōsei-yokuchōkan Tōben (横畠裕介内閣法制局長官答弁) [Answer by Yusuke Yokohama, Cabinet Sec’y Gen.], Dai 189-kai Kokkai Shūgiin wagakuni oyobi Kokusai shakai no Heiwa Anzen Hōsei ni kansuru Tokubetsu iinkai dai 4-gō (第189回国会衆議院我が国及び国際社会の平和安全法制に関する特別委員会第4号) [Proceedings of the 189th Diet H.R. Spec. Comm. Meeting on Peace and Security Laws of Japan and the International Community No. 4], at 5 (2015), available at <http://kokkai.ndl.go.jp/SENTAKU/syugin/189/0298/18905280298004.pdf#page=5>.

**50** Id.

**51** Sangiin giin Mizuno Kenichi-kun teishutsu kobetsu-teki jie-i-ken no chiri-teki yōken nado ni kansuru shitsumon ni taisuru Tōben-sho (参議院議員水野賢一君提出個別的自衛権の地理的要件などに関する質問に対する答弁書) [Reply to Questions Regarding Geographical Requirements of the Individual Right to Self-Defense by Mr. Kenichi Mizuno,

Member, House of Councillors], Naikaku San-shitsu 189 dai 201-gō (内閣参質189第201号) [Cabinet House of Councillors Answer 189, No. 201] (2015), available at <http://www.sangiin.go.jp/japanese/joho1/kousei/syuisyo/189/touh/t189201.htm>.

**52** Shūgiin giin Tsujimoto Kiyomi-kun teishutsu Shūdantekijieiken no kōshi to hōfuku kōgeki ni kansuru shitsumon ni taisuru Tōben-sho (衆議院議員辻元清美君提出集団的自衛権の行使と報復攻撃に関する質問に対する答弁書) [Reply to Questions Regarding the Exercise of Collective Self-Defense and Retaliation Attacks by Kiyomi Tsujimoto, Member, H.R.], Naikaku Shū-shitsu 186 dai 271-gō (内閣衆質186第271号) [Cabinet H.R. Reply 186, No. 271] (2014), available at [http://www.shugiin.go.jp/internet/itdb\\_shitsumon.nsf/html/shitsumon/b186271.htm](http://www.shugiin.go.jp/internet/itdb_shitsumon.nsf/html/shitsumon/b186271.htm).

**53** Sangiin giin Haku Shinkun-kun teishutsu gaikoku no ryōiki ni okeru buryoku no kōshi ni kansuru shitsumon ni taisuru Tōben-sho (参議院議員白眞勲君提出外国の領域における武力の行使に関する質問に対する答弁書) [Reply to Questions Regarding Use of Force in Foreign Territories by Mr. Shinkun Haku, Member, House of Councillors], Naikaku San-shitsu 190 dai 105-gō (内閣参質190第105号) [Cabinet House of Councillors Answer 190 No. 105] (2016), available at <http://www.sangiin.go.jp/japanese/joho1/kousei/syuisyo/190/touh/t190105.htm>.

**54** Abe Shinzo Naikakusōri Daijin Tōben (安倍晋三内閣総理大臣答弁) [Answer by Prime Minister Shinzo Abe], Dai 189-kai Kokkai Sangiin wagakuni oyobi Kokusai shakai no Heiwa Anzen Hōsei ni kansuru Tokubetsu iinkai Kaigi-roku dai 11-gō (第189回国会参議院我が国及び国際社会の平和安全法制に関する特別委員会会議録第11号) [Proceedings of the 189th Diet House of Councillors Spec. Comm. Meeting on Peace and Security Laws of Japan and the International Community No. 11], at 9 (2015), available at <http://kokkai.ndl.go.jp/SENTAKU/sangiin/189/0192/18908210192011.pdf#page=9>.

**55** Kishida Fumio Gaimu Daijin Tōben (岸田文雄外務大臣答弁) [Answer by Foreign Minister Fumio Kishida], Dai 189-kai Kokkai Sangiin wagakuni oyobi Kokusai shakai no Heiwa Anzen Hōsei ni kansuru Tokubetsu iinkai Kaigi-roku dai 10-gō (第189回国会参議院我が国及び国際社会の平和安全法制に関する特別委員会会議録第10号) [Proceedings of the 189th Diet House of Councillors Spec. Comm. Meeting on Peace and Security Laws of Japan and the International Community No. 10], at 17 (2015), available at <http://kokkai.ndl.go.jp/SENTAKU/sangiin/189/0192/18908190192010.pdf#page=17>.

**56** See Masahiro Kurosaki, Japan's Evolving Position on the Use of Force in Collective Self-Defense, *Lawfare* (Aug. 23, 2018), <https://www.lawfareblog.com/japans-evolving-position-use-force-collective-self-defense>. It was also reported that the Japanese Defense Minister recognized the applicability of the right of collective self-defense to outer space for the purpose of the defense of foreign partners, such as the United States and the European Union. Uchū demo Shūdantekijieiken Bōei-shō ga Kenkai (宇宙でも集団的自衛権 防衛相が見解) [Collective Self-Defense Right in Space: Views by the Defense Minister], *Nikkei* (Oct. 16, 2019), <https://www.nikkei.com/article/DGXMZO51064430W9A011C1000000>.