

ANNEX A

THE CONSTITUTION OF JAPAN (THE PREAMBLE)

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 representative 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.

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.

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.

We, the Japanese people, pledge our national honor to accomplish these high ideals and purposes with all our resources.

CHAPTER II. RENUNCIATION OF WAR

Article 9

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 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.

Constitution and Right of Self-Defense

After World War II, Japan has resolved to ensure that the horrors of war will never be repeated and has ever since made tenacious efforts to establish itself as a pacific nation. The establishment of eternal peace is a sincere wish shared by the Japanese people. The Constitution of Japan, upholding pacifism, sets forth in Article 9 the renunciation of war, non-possession of war potential and denial of the right of belligerency of the state. Since Japan is an independent state, it is recognized beyond doubt that the provision in the article does not deny the inherent right of self-defense that Japan is entitled to maintain as a sovereign nation.

Thus the self-defense right of Japan is not denied, and therefore, the Government of Japan interprets the Constitution as being allowed to possess and maintain the minimum level of armed strength for self-defense necessary to ensure that Japan exercises the right. On the basis of such understanding, the government has adopted an exclusively defense-oriented policy as its basic policy of national defense, has maintained the Self-Defense Forces as an armed organization and has taken steps to improve their capabilities and conduct their operations under the Constitution.

The Government's View on Article 9 of the Constitution

A. Self-Defense Capability to Be Possessed and Maintained.

The self-defense capability to be possessed and maintained by Japan under the Constitution is limited to the minimum necessary for self-defense.

The specific limit has a relative aspect of varying with the international situation, the level of military technology and various other conditions. It is defined in the Diet, the representative of the people through deliberations about each fiscal year budget etc. However, whether or not the said armed strength corresponds to "war potential" prohibited under paragraph 2 of Article 9 of the Constitution is an issue regarding the total strength that Japan possesses and maintains. Accordingly, whether or not the SDF are allowed to possess some specific armaments is decided by whether the total strength will or will not exceed the constitutional limit by possessing such armaments.

But in any case in Japan, it is unconstitutional to possess what is referred to as offensive weapons that, from their performance, are to be used exclusively for total destruction of other countries, since it immediately exceeds the minimum level necessary for self-defense. For instance, the SDF is not allowed to possess ICBMs, long-range strategic bombers or offensive aircraft carriers.

B. Requisites for Exercise of Right of Self-Defense.

The use of armed force for the exercise of the right of self-defense under Article 9 of the Constitution is confined to corresponding to the following three requisites:

- (i) there is an imminent and illegitimate act of aggression against Japan;
- (ii) there is no appropriate means to repel this aggression other than the use of the right of self-defense; and
- (iii) the use of armed strength is confined to the minimum level necessary for repelling.

C. Geographical Scope of Exercise of Right of Self-Defense.

The geographical scope of use of the minimum force necessary to defend Japan as the use of self-defense right is not necessarily confined to the Japanese territorial land, sea and airspace. Generally speaking, however, there is no specific definition of how far this geographic area stretches, since it would vary with each individual situation.

It is, however, not permissible constitutionally to dispatch armed troops to foreign territorial land, sea and airspace for the purpose of using military power, as a so-called overseas deployment of troops, since it generally exceeds the minimum level necessary for self-defense.

D. Right of Collective Self-Defense.

Under international law, there is recognition that a state has the right of collective self-defense, that is, the right to use armed strength to stop armed attack on a foreign country with which it has close relations, although the state is not under direct attack. It is beyond doubt that as a sovereign state, Japan has the right of collective self-defense under international law. It is, however, not permissible to use the right, that is, to stop armed attack on another country with armed strength, although Japan is not under direct attack, since it exceeds the limit of use of armed strength as permitted under Article 9 of the Constitution.

E. Right of Belligerency.

Paragraph 2 of Article 9 of the Constitution provides that "the right of belligerency of the state will not be recognized."

As already mentioned, it is, however, recognized as a matter of course that Japan can make use of the minimum force necessary for self-defense. It is a quite different conception from exercising the right of belligerency