

Chapter I

Security and the Right of Self-Defense

8 Hours on September 11

Introduction

The terrorist attacks in the United States on September 11, 2001 clearly showed the existence of a “new threat” to the entire world and that the traditional idea of “deterrence” did not apply. The fact that a private group of terrorists managed to attack the political, economic, and defense centers of the United States at about the same time using multiple hijacked commercial airliners gave an opportunity to completely change the post-Cold War US strategy.

Approximately three hours after the incident, US President George W. Bush said at Barksdale Air Force Base in Louisiana that “the United States will hunt down and punish those responsible for these cowardly acts,” and announced the United States’ intention to take decisive action against the responsible terrorists.¹ Eight hours after President Bush’s remarks, the Government of Japan held a Cabinet Security Council on September 12, at 9:30 a.m. Japan time. After that meeting, Prime Minister Koizumi held a press conference in the prime minister’s office and said, “We, Japan, strongly support the United States and are determined to spare no effort in the necessary assistance and cooperation.”²

How did Japan understand the US intention in light of international law? That understanding has led to the decision of strongly supporting the United States at the initial stage, and later became the

basis of the Act on Special Measures against Terrorism. In this paper, I would like to try to verify how the Japanese government tackled the proposition of exercising the right of self-defense against large-scale terrorist acts by non-state actors and how we organized the issues under international law.³

As the director of the Legal Affairs Division of the Treaty Bureau at the Ministry of Foreign Affairs of Japan at the time of the 9/11 terrorist attacks, the author was directly involved in the evaluation of this situation under international law and the drafting of the bill for special measures against terrorism. However, the views expressed in this paper do not represent the views of the Government of Japan, except for the direct citations such as the official announcements or answers to the written questions at the Diet.

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I. Occurrence of situation and start of examination

1. Initial action of the Government of Japan

At 8:46 a.m. on September 11, 2001, American Airlines Flight 11 crashed into the north tower of the World Trade Center in Manhattan, New York, and 15 minutes later, United Airlines Flight 175 crashed into the south tower of the Trade Center. The towers started to be wrapped in flames. At 9:38, American Airlines Flight 77 flew into the Department of Defense on the outskirts of Washington. Furthermore, at 10:10, United Airlines Flight 93 crashed in the suburbs of Pittsburgh. The north and south towers of the World Trade Center collapsed around 10:30 a.m. US President George W. Bush appeared in front of reporters in Sarasota, Florida, at 9:30 a.m. shortly after the airplanes crashed in New York, and said "Two airplanes have crashed into the World Trade Center in an apparent terrorist attack on our country."⁴ (All are US Eastern Time.)

Immediately after this large-scale terrorist attack, the Ministry of Foreign Affairs of Japan set up a countermeasure headquarters in the ministry at 10:30 p.m. on the 11th (Japan Time) to collect local information, grasp the situation, and respond to the inquiries from outside including the confirmation about the safety of Japanese people through the night. Then, in parallel with this series of activities to protect nationals, the Government of Japan began a study on the expected response of the United States and the possible position of Japan.

2. Expected response of US

The terrorists attacked the World Trade Center and the Pentagon, which symbolize the prosperity and might of the United States, at the same time and the number of casualties was reported to exceed 5,000. In this situation, it was very clear what kind of actions the United States would take next. In other words, to a greater or lesser extent, it was inevitable that the US would take a response centered on military action eventually. The problem was when the United States begins military action, where would it place its legitimacy under the international law?

On what grounds does the United States justify the use of force under the Charter of the United Nations, which generally prohibits the use of force? Various predictions were possible theoretically, such as whether to seek discussions at the UN Security Council or to adopt a Security Council resolution that allows the use of force. During examination at that time, the Government of Japan made near-convincing predictions about the basis of the international law that the United States would rely on. Namely, in such a situation, the United States would never seek a UN Security Council resolution on the use of force, but would use force as an exercise of its own right of self-defense. So why did the Japanese Government have this kind of “confidence”? To clarify this point, we must go back to the August 1998 bombing of Sudan and Afghanistan by the United States.

3. 1998 bombing of Sudan and Afghanistan

In the summer of 1998, Washington was in a storm of domestic politics. The focus of the American people's interest at that time was just on whether or not the issue of the relationship between President Clinton and former White House Intern Monica Lewinsky, which had been discovered in late January of the same year, would develop into the second impeachment of the president in United States history.

Had there been a sexual relationship between the president and the former intern? Was the president "lying" to the people? Did the president's testimony under oath in the Jones case constitute perjury? Did the president incite the former intern to perjure? The president's fight with the independent prosecutor Starr continued. On August 17, President Clinton testified at a federal grand jury and finally admitted that he had an "inappropriate relationship" with the former intern. In a television discourse that night, the president expressed regret for having "misled the people".⁵ Three days later, on August 20, the federal grand jury invited former intern Lewinsky to determine whether the president's act of trying to keep the relationship secret was perjury or contempt of court.⁶ However, this news did not make the front page of *The Washington Post* the next day.

On the 20th, US military cruise missiles bombed a terrorist training camp in Afghanistan and a chemical plant in Sudan. The attack was allegedly in retaliation for the terrorist bombing of the U.S. Embassy in Tanzania and Kenya on the seventh of the same month, and was explained as a blow to the terrorists' network led by Usama Bin Laden, a Saudi-born Islamic terrorist behind both terrorist attacks.⁷ As always when the U.S. military takes action, both Republican and Democratic parliamentary leaders swiftly expressed support for the president's decision. U.S. citizens' support for air strikes at both terrorist facilities reached 70%, and as a result, President Clinton survived the immediate crisis of the sex scandal hearing. Then, in addition to the strange timing of the use of force, the United States made her own assertion about the basis of international law.

4. Invoking the right of self-defense against terrorism

The U.S. Government explained that the attack by the cruise missiles, which President Clinton called “retaliation” (“strike back”), was an “exercise of legitimate self-defense.”

On the 21st, one day after the bombing, the U.S. Department of State held a briefing session for the diplomatic corps on issues under international law, and I participated from the Embassy of Japan. I had thought that the justification for the bombing by the U.S. military would come from “reprisal by force”, so the State Department official’s explanation was even more shocking. “The United States has acted pursuant to the right of self-defense confirmed by Article 51 of the Charter of the United Nations.” “We have convincing evidence that further such attacks were in preparation from these same terrorist facilities. The United States, therefore, had no choice but to use armed force to prevent these attacks from continuing.” “These attacks were carried out only after repeated efforts to convince the Government of Sudan and the Taliban regime to shut these terrorist activities down and to cease their cooperation with the Bin Laden organization”⁸

In a situation where the reality of the terrorist network led by Usama Bin Laden was not yet clear to the Government of Japan, there was no way for us to determine the existence of “convincing evidence that further terrorist attacks were in preparation”. However, the message from the United States was crystal clear that the cruise missile attacks were not “reprisal by force” responding to the terrorist bombing of the U.S. Embassy in Tanzania and Kenya, but the “exercise of the right of self-defense” to prevent the imminent infringement approaching the American people.

On the other hand, there was no full explanation whether the exercise of “self-defense” against acts of terrorism is permitted under today’s international law, whether the requirements of the UN Charter were met, or even if it was a legitimate exercise of self-defense for the United States, whether there existed an obligation for Sudan and Afghanistan to accept air strikes. In the end, the Government of

Japan only expressed “understanding” regarding the use of force by the United States.⁹

5. Challenges for September 11, 2001

The challenges faced by the Government of Japan on the night of September 11, 2001, when the terrorist attacks on the United States occurred, were clear from the above circumstances. The question was whether the Japanese government could legally support the claim of “exercising the right of self-defense,” which the United States would (probably) rely on in initiating military operations. With the images of the collapse of the World Trade Center in New York being repeatedly shown on TV, would Japan be limited to the vague statement of “understanding” again? Tokyo, the earliest morning city in the world, had to answer this question first. Naturally, it is not permissible to wait for the attitudes of European countries. Regarding issues under international law that could not be answered in 1998, such as (1) whether it is permitted or not to exercise the right of self-defense against a private group called a terrorist network, (2) consistency with the UN Charter, and (3) the relationship with the sovereignty of the country where the terrorist organization is located, the Government of Japan had just eight hours to reach a conclusion.

II. Summary of issues and conclusion

1. Whether permitted or not to exercise the right of self-defense

Regarding the *right* of self-defense, the Government of Japan has traditionally taken the position that a country has the right to use the minimum and necessary force under customary international law, in the case where there is no other appropriate means to eliminate the infringement of imminent injustice against the state or the people.¹⁰ These are the so-called “three requirements for exercising the right of self-defense” in Japan.

However, as a question before concretely examining these three requirements, is it permissible to exercise the right of self-defense, which is a concept under international law that mainly governs the relationship between sovereign states, against entities other than states? It will be necessary to answer this question from the theorists who raised this point.¹¹ This point was not a big problem in the examination within the government at that time. One reason for this was that even the conventional interpretation of the government did not take the position that the entity that commits “imminent infringement” must be a sovereign state. In addition, the international community had accumulated examples of exercising the right of self-defense under the UN Charter, for protection of nationals in foreign lands. If one’s own people are left behind in a foreign country where security has largely deteriorated due to the occurrence of riots, it is widely seen that military aircrafts are dispatched to rescue one’s own people under the circumstances where the consent of the country concerned cannot be obtained.¹² In this case, it is not realistic to change the legal structure by distinguishing whether the subject of the infringement of imminent injustice against one’s own people is a state or a group other than a state, and no country is actually making such a distinction either.¹³

Therefore, when examining the legitimacy of the actions that the United States would take, the question was not whether or not the entity that carried out the terrorist attacks had been a “state”, but whether or not the three requirements for exercising the right of self-defense existed.

(1) Presence of “infringement of imminent injustice”

At this stage, that is, at midnight on September 11, 2001 (Japan Time), the background of the terrorist attacks was unknown, and as mentioned above, the Government of Japan was trying to confirm the safety of Japanese people, collect local information, and grasp the situation. However, Usama Bin Laden’s involvement had been suspected from the beginning. He had been allegedly involved in the 1993 World Trade Center Building bombing incident, had announced a “declaration of war against Americans” in 1996, and had

been wanted by the FBI in connection with the 1998 bombing of the US Embassy in Tanzania.¹⁴ If this terrorist attack had been carried out by a terrorist organization centered on Usama Bin Laden with such ability and organizational power, the reality that the same organization was running terrorist camps and conducting daily training to carry out terrorist attacks targeting the United States and American people was considered sufficient to constitute an “infringement of imminent injustice”.

Even in the conventional interpretation of international law by the Government of Japan, “in a series of terrorist attacks”, “in the situation where the same thing continues happening one after another”, where “such a situation has not ended yet” or “during such a situation itself”, it has been acknowledged that exercising the right of self-defense may be justified.¹⁵ The real horror that the terrorist attacks on September 11 showed to the world was enough to justify such exercise of self-defense as “infringement of imminent injustice”.

(2) Whether or not “there is no other appropriate means to eliminate (infringement)”.

Even if the infringement of imminent injustice actually exists, the requirement for exercising the right of self-defense is not satisfied under the circumstances where the infringement can be eliminated by appropriate means other than the use of force. Other such means include diplomatic efforts by the parties concerned, persuasion by the countries concerned, criticism of the international community as a whole, etc., but the most powerful of these measures is the binding decision of the UN Security Council. There is no objection on this point. In fact, since the 1998 bombing of the U.S. Embassy in Tanzania and Kenya, the international community repeatedly worked on the Taliban regime, which had been tolerating the existence of these terrorist organizations centered on Usama Bin Laden. It was in the 1998 UN Security Council Resolution 1214 (1998) that the entire international community for the first time clearly made such an accusation. In this resolution, which focused on peace in Afghanistan, the Security Council expressed that it had been deeply disturbed by the continuing use of Afghan territory, especially areas controlled

by the Taliban, for the sheltering and training of terrorists and the planning of terrorist acts. The Council also demanded that the Taliban stop providing sanctuary and training for international terrorists and their organizations.¹⁶ In the following year, the Security Council issued Resolution 1267 (1999), determining that the Taliban's failure to respond to the demands of Resolution 1214 constitutes a threat to international peace and security, demanded that the Taliban turn over Usama Bin Laden without further delay and decided on economic sanctions until the Taliban fully complied with the obligation under these resolutions.¹⁷ Furthermore, in 2000, the Security Council adopted resolution 1333 (2000), deciding to strengthen sanctions on the Taliban.¹⁸ Resolutions 1267 and 1333 were adopted as binding decisions under Chapter VII of the Charter of the United Nations, but the Taliban authorities neglected both of them.

It is recognized that such circumstances are sufficient to judge that the "appropriate means other than the use of force" to eliminate the "infringement of imminent injustice" had already been exhausted.

(3) *"Exercise of the minimum and necessary force"*

The use of force that is permitted when there is "imminent infringement" and "there is no other appropriate means to eliminate it" must be the "minimum and necessary force" to eliminate such infringement. This is, for the Government of Japan, the third requirement for exercising the right of self-defense. It was, of course, impossible at midnight on September 11, 2001, to see what action the United States would actually take when it embarked on the use of force. However, the United States is Japan's only ally and the two countries reaffirmed their faith in the purposes and principles of the Charter of the United Nations in their bilateral treaty. Therefore, it was not expected that the United States would exercise its forces beyond "the minimum and necessary" level without regard to the restrictions of international law.¹⁹

2. Relationship with Article 51 of the Charter of the United Nations

Based on the above examination, it was recognized that the United States was allowed to exercise its right of self-defense in response to the terrorist attacks. However, if the Government of Japan expressed its support to United States' military action, an examination based upon the customary international law only would not be enough and we needed to sort out the relationship with the provisions of the Charter of the United Nations. The issue raised here was the relationship between the terrorist attacks and Article 51 of the Charter of the United Nations.

Article 51 of the UN Charter states, "if an armed attack occurs against a Member state of the United Nations," and the Government of Japan had taken the position that this "armed attack" meant "a systematic and planned use of force against one country".²⁰ The occurrence of accidental or single-shot terrorism cannot be understood as an "armed attack" provided for in Article 51. Therefore, the focus was on whether or not these terrorist attacks on September 11 could be interpreted as "the systematic and planned use of force against a country".

Through the examination, we concluded that these terrorist attacks were fundamentally different from the cases of terrorism in the past. Because these attacks included (a) attacks on the US mainland, (b) attacks on US government agencies such as the Department of Defense, and (c) had a high degree of organization and planning such as attacking multiple targets of the United States by hijacked aircrafts at the same time. Therefore, these attacks were recognized to correspond to the "armed attack" referred to in Article 51 of the United Nations Charter.

3. Relationship with Afghanistan's Sovereignty

When the possible military action of the United States met the requirements for exercising the right of self-defense under customary international law and was recognized as being compatible with the Charter of the United Nations, the final issue considered was the rela-

tionship with the sovereignty of Afghanistan. Even if it became clear that these terrorist attacks were carried out by a terrorist organization centered on Usama Bin Laden, is there any issue with the sovereignty of Afghanistan if the United States uses force against that country? Or is Afghanistan obliged to accept such armed attacks?

The overall situation of international terrorism was very different from that at the time of the bombing of Sudan and Afghanistan in 1998. The series of UN Security Council resolutions since 1998 (Resolutions 1214, 1267, 1333) have led to widespread recognition of the Taliban's responsibility. However, these series of UN resolutions stipulated economic sanctions for the international community as a whole, and did not allow the use of force. In addition, ignoring the series of binding UN Security Council resolutions does not justify the use of force against that country. Therefore, in considering the relationship with Afghanistan's sovereignty, a separate examination under international law was required.

The conclusion on this last issue was drawn by returning to the essence of the right to self-defense in the Caroline case. In the Caroline case, which formulated the requirements for exercising the right of self-defense, US Secretary of State Daniel Webster showed the condition with which the territorial nation (US) might accept the use of force against activities unrelated to the intentions of the territorial nation (assistance of Canadian rebels) as justified. As in the case of the Webster Letter,²¹ whether or not it is recognized as a legitimate exercise of the right of self-defense should be judged in light of the three requirements for exercising the right of self-defense. As far as these requirements were met, it was judged that there would be no problem under international law regardless of the intention of the territorial nation.

III. On the morning of September 12th

The conclusion obtained through such examination is that "if the United States takes military action in response to the recent terrorist attacks, it is possible for Japan to support it under international law." Reaching this conclusion, however, was only the beginning of veri-

fication. In Europe and the United States morning would come after Prime Minister Koizumi's statement of clear "support for the United States" to the outside world. The examination on the eve might have been completely off the mark, and this might not be a case of invoking the right of self-defense, but a case of seeking consultation at the Security Council. Or the act by terrorist groups might not be regarded as an "armed attack" in Article 51 of the UN Charter at all. The day of September 12 began, with the anxiety that the governments of Western countries and the UN Security Council would make different judgments on those issues.

1. North Atlantic Council Statement

On the same day (September 12), the North Atlantic Treaty Organization (NATO) held the North Atlantic Council in Brussels. The Council discussed the terrorist attacks on the eve, and agreed that if it is determined that this attack was directed from abroad against the United States, it shall be regarded as an action covered by Article 5 of the Washington Treaty, which provides for the exercise of the right of collective self-defense. The statement issued after the Council meeting, referring to Article 5 of the Washington Treaty, clearly stated that this attack falls under the category of "armed attack" against one or more Allies in Europe or North America, which shall be considered as an attack against them all.²²

This decision was the first time that NATO had agreed to exercise the right of collective self-defense since its establishment in 1949. It also had epoch-making significance in international law that Western countries are in agreement that a terrorist attack by private groups can be recognized as an "armed attack" under international law, which meets the requirements for invoking the right of self-defense.

2. UN Security Council Resolution 1368 (2001)

It was the response of the UN Security Council that was awaited after Western countries made the same judgment as Japan on issues under international law. Russia, China and other countries might make

a different judgment from that of NATO Members. If the Security Council issued any statement without mentioning the exercise of the right of self-defense, and if the Security Council took a position of continuing to consider the use of force in the future, it would show the existence of a serious division on the evaluation under international law over the terrorist attack that shook the world.

However, such concerns proved to be unfounded. UN Security Council Resolution 1368 (2001) issued on September 12 referred to Article 51 of the Charter of the United Nations in its preamble. By revisiting the “inherent right of individual or collective self-defense” in accordance with the Charter, it showed the Security Council’s recognition that this terrorist attack falls under the “armed attack” and the requirements for invoking the right of self-defense are satisfied.²³

It was the moment when Japan, the Western countries, and the international community as a whole showed their unanimous evaluation and judgment under international law regarding this hateful act of terrorism.²⁴

3. Enactment of the Act on Special Measures against Terrorism

On September 19, the government announced “Japan’s measures for responding to the terrorist attacks in the United States” and started drafting an act for special measures against terrorism.²⁵ The act would show consistently the above-mentioned understanding of international law.²⁶

Specifically, the title of the act and the description in Article 1 of “attacks by terrorists that occurred in the United States on September 11, 2001” reflected the understanding that this terrorist attack falls under the “armed attack” in Article 51 of the Charter of the United Nations. In addition, the reference to the series of UN Security Council resolutions revealed how “appropriate means other than the use of force” had already been exhausted.

Furthermore, regarding the U.S. armed forces that would take operational action in connection with this terrorist attack, we described it as “the United States and other foreign troops that contribute to the achievement of the purpose of the Charter of the United

Nations by removing the threat posed by the terrorist attack.” In the background of this, there was a judgment under international law that these troops were exercising their right of self-defense in order to eliminate “infringement of imminent injustice”.²⁷

The Parliament of Japan reaffirmed the evaluation and judgement under international law as well and the Act on Special Measures against Terrorism passed both Houses after about 60 hours of deliberation on October 29, 2001.

Epilogue

On October 7, 2001, two days after the Government of Japan submitted the Act on Special Measures against Terrorism to the Diet, the United States and the United Kingdom launched attacks on al-Qaeda bases in Afghanistan. In accordance with the provisions of Article 51 of the Charter of the United Nations, “Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council,” the United States and the United Kingdom reported to the UN Security Council on the same day.²⁸ The President of the Security Council issued a press statement on October 8 and revealed that members of the Security Council had expressed appreciation to the presentation made by the United States and the United Kingdom.²⁹

From midnight on September 11, the conclusions reached by the parties concerned in the Government of Japan in the extremely limited time available turned out to be in agreement with the judgment of the entire international community, and this evaluation under international law became the basis for Japan's participation in international cooperative action. The world situation following the Cold War is changing rapidly, and there will be cases in which any country will be required to make a last-minute judgment as a responsible member of the international community. I would like to conclude this paper with the hope that it will deepen our understanding of the fact that international law plays a vital role in such actual international politics and policymaking.

Appendix

(Material: Unofficial translation)

Article 1 of the Act on Special Measures against Terrorism (Purpose)

Based upon the fact that the terrorist attacks which took place in the United States on September 11, 2001 (hereinafter referred to as the “terrorist attacks”) were regarded as a threat to international peace and security in United Nations Security Council Resolution 1168,

Recalling that the Security Council Resolutions 1267, 1269, 1333 and other Resolutions have condemned the act of international terrorism and requested all States of the United Nations to take appropriate measures to prevent it,

In order that Japan contributes proactively to the efforts of the international community for prevention and eradication of international terrorism,

This Act establishes the following and its purposes are contributing to ensure the peace and security of the international community including Japan.

(1) Japan’s measures, procedures for their implementation, and other necessary matters for making contribution to the activities of the United States and other foreign military forces and other similar organizations (hereinafter referred to as “military forces of foreign countries”) that contribute to the achievement of the objectives of the Charter of the United Nations by striving to eliminate the threat posed by terrorist attacks.

(2) Japan’s humanitarian measures, procedures for their implementation, and other necessary matters, based upon the resolution of the United Nations General Assembly, Security Council or the Economic and Social Council, or requested by an organization established by the United Nations General Assembly, a Specialized Agency of the United Nations, or the International Organization for Migration (hereinafter referred to as the “United Nations, etc.”).

Notes

- 1 The White House, "Remarks by the President Upon Arrival at Barksdale Air Force Base, Presidential News and Speeches" (www.whitehouse.gov).
- 2 Prime Minister's Office, "Prime Minister Junichiro Koizumi announces his statement at the Press Conference Wednesday, September 12, 2001" (www.japan.kantei.go.jp).
- 3 For general information on Japan's response to the terrorist attacks, see Yachi Shotaro, "9/11 Terrorist Attacks and Japan's Response", *International Affairs, Japan Institute of International Affairs*, No. 503, February 2002, pp. 2-20.
- 4 Mainichi Interactive, "Simultaneous terrorist attacks in the United States and documents (from the outbreak to noon on the 12th)" (www.mainichi.co.jp).
- 5 "Clinton Admits Lewinsky Relationship." *The Washington Post*, August 18, 1998.
- 6 "President Acknowledged Effort to Keep Affair Secret." *The Washington Post*, August 21, 1998.
- 7 "U.S. Strikes Terrorist-Linked Sites in Afghanistan, Factory in Sudan." *The Washington Post*, August 21, 1998.
- 8 "Letter dated 20 August 1998 from the permanent representative of the United States of America to the United Nations addressed to the president of the Security Council." UN / S / 1998/780.
- 9 "The Minutes of the 143rd House of Councilors Budget Committee" No. 3 (August 21, 1998), p.12. "The Minutes of the 143rd House of Councilors Budget Committee" No. 4 (August 24, 1998), p. 2. "The Minutes of the 143rd House of Representatives" No. 6, *Government Bulletin* extra edition, August 25, 1998, p. 9.
- 10 "The 34th House of Representatives Japan-US Security Treaty Special Committee Minutes" No. 21 (April 20, 1960), p. 26. "The Minutes of the 55th House of Representatives Budget Committee" No. 8 (March 28, 1967), p. 2.
- 11 Matsuda Takeo, "International terrorism and the right of self-defense: in connection with collective security", *Journal of International Law and Diplomacy*, Vol 101, No. 3, pp.1-20.
- 12 Onuma Yasuaki (ed), *International law to be read in materials*, Vol. 2, Ed. 2. Toshindo, 2002, p. 69.
- 13 Mori Tadashi, "Concept of 'self-defense' in the interwar period: Using the cases of protection of foreign nationals in the process of concluding Kellogg-Brian Treaty as material", *Journal of Social Science*, Vol. 53, No. 4, pp. 69-101.

- 14 US Embassy in Japan, "FBI Most Wanted Terrorists, Network of Terrorism" (www.usembassy.state.gov/tokyo/). Middle East Institute of Japan, "About Osama Bin Laden" (www.meij.or.jp).
- 15 "The 104th House of Representatives Foreign Affairs Committee Minutes" No. 9 (April 23, 1986), pp. 2-3. "The Minutes of the 104th House of Representatives Security Special Committee" No. 5 (May 19, 1986), pp. 16-17.
- 16 "Resolution 1214 (1998), Adopted by the Security Council at its 3952nd meeting on December 8, 1998" UN / S / RES / 1214 (1998).
- 17 "Resolution 1267 (1999), Adopted by the Security Council at its 4051st meeting on October 15, 1999" UN / S / RES / 1267 (1999). "Ministry of Foreign Affairs Notification No. 474", *Government Bulletin* No. 2749, November 12, 1999, pp. 3-4.
- 18 "Resolution 1333 (2000), Adopted by the Security Council at its 4251st meeting on 19 December 2000" UN / S / RES / 1333 (2000). "Ministry of Foreign Affairs Notification No. 79", *Government Bulletin* No. 3069, March 7, 2001, pp. 3-5.
- 19 Preamble to "Mutual Cooperation and Security Treaty between Japan and the United States" (1960 Treaty No. 6).
- 20 "Answer to questions regarding security treaties and defense issues submitted by Member of the House of Representatives Yoshiaki Matsumoto" (April 8, 1969).
- 21 Onuma Yasuaki (ed), *International law to be read in materials*, Vol. 2, Ed. 2. Toshindo, 2002, p. 7.
- 22 "Statement by the North Atlantic Council (September 12, 2001)", NATO Press Release, 124 (2001).
- 23 "Resolution 1368 (2001), Adopted by the Security Council at its 4370th meeting on September 12, 2001, UN/S/RES/1368 (2001), "Ministry of Foreign Affairs Notification, No. 360", *Government Bulletin* extra edition", No. 17, October 12, 2001, p. 1.
- 24 It is true that the Ministry of Foreign Affairs was relieved by the unanimous response of the international community, but the Treaty Affairs Bureau of the Ministry was most reassured by Professor ONUMA Yasuaki's following comment. "The Charter of the United Nations did not assume a terrorist group as the subject of an armed attack, but a deliberate attack that kills more than 5,000 people would fall into the category of 'an armed attack' in the Charter", "Scholars' Views", *Mainichi Shimbun*, September 24, 2001.
- 25 Prime Minister's Office, "About Japan's measures regarding the response to the terrorist attacks in the United States" (www.japan.kantei.go.jp). Prime Minister's Office, "Ministerial Conference on measures against

- Terrorism, Prime Minister's Press Conference" (www.japan.kantei.go.jp).
- 26 For the general picture of the Act, see Mannami Manabu, "About the Act on Special Measures against Terrorism and Activities of Japan based on the Act", *Journal of International Law and Diplomacy*, Vol 101, No. 3, pp. 46-70.
 - 27 The phrase "that contribute to the achievement of the objectives of the Charter of the United Nations" also includes the meaning of guaranteeing the third requirement for exercising the right of self-defense, "exercise of the minimum and necessary force." That is, if the "more" force than necessary to eliminate "infringement of imminent injustice" is used and the situation cannot be understood as a legitimate exercise of the right of self-defense, then such military forces do not "contribute to the achievement of the objectives of the Charter of the United Nations" and is not subject for cooperation under this Act.
 - 28 Letter dated October 7, 2001, from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council, UN/S/2001/946. Letter dated October 7, 2001, from the Charge d'affaires a.i. of the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council, UN/S/2001/947.
 - 29 Press Statement on Terrorist Threats by Security Council President, UN/SC/7167, October 8, 2001.