

Tentative Translation

Report of the Research Group for Iraq Issues

**Toward the Establishment of a New System :
Enactment of a Permanent Law Covering Operations Contributing to Peace and
Reconstruction Following the Cessation of Hostilities and
Establishment of Japanese Style CIMIC**

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**Research Group for Iraq Issues
Keizai Doyukai (Japan Association of Corporate Executives)**

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I. Introduction

(1) Launch of the Research Group for Iraq Issues and Viewpoint of the Report

On the advice of Keizai Doyukai Chairman Kakutaro Kitashiro, the Research Group for Iraq Issues was formed in February 2004 to provide a forum for monitoring the situation in Iraq and studying issues centering around the role of the Japan Self-Defense Forces (SDF) in providing support for humanitarian reconstruction in Iraq.

From the perspective of Japan, issues related to Iraq can be divided into two broad categories. The first is issues related to the international community, such as the overall state of affairs in the Middle East, the rise of unilateralism on the part of the United States, and the difficulty of forming international consensus. The second is domestic matters, such as the planning of operations contributing to international peace and reconstruction by the SDF and the associated legal and political constraints.

The Research Group has engaged in a multifaceted study in an effort to broaden the scope of our examination of the many issues, such as those mentioned above, relevant to the current situation in Iraq. The topics studied include the legitimacy of the attack on Iraq by a coalition of the willing centered around the armed forces of the United States and Britain, the appropriateness of Japan's support for the attack on Iraq, the significance and legal ramifications of the dispatch of the SDF, the standards governing the use of weapons by the SDF, the form of reconstruction support from Japan ought to take, the effects of the Middle East situation on the world economy, and Arab society as viewed in terms of religion and thought.

In addition, in March of this year we conducted a survey of the entire membership of the Keizai Doyukai (1,392 persons) on the topic of the dispatch of the SDF to Iraq. Many of the responses to the survey indicated support for the SDF deployment, with "important as part of Japan's international contribution," "important to cooperate with allies," and "in Japan's national interest" being among the reasons commonly cited. On the other hand, some responses questioned the justice of the attack on Iraq. Since the survey was conducted after the dispatch of the SDF to Iraq, its results would seem to reflect an emphasis on the post-dispatch reality, rather than the essential issue of whether or not the Iraq war is just and, on that basis, whether or not the SDF should have been sent.

In discussions within the Keizai Doyukai, in the Research Group and elsewhere, the view was expressed that it would be desirable to study the question of the justness of the Iraq war in greater depth before moving on to a debate on the role of the SDF in supporting humanitarian reconstruction in Iraq. However, there will always be arguments for and against the justness of any war, and it is difficult to reach agreement on a common opinion. Nevertheless, it was thought that the recent SDF dispatch could serve as a starting point for operations contributing to international peace and reconstruction by Japan in new fields, and therefore the Research Group has chosen to focus this report on the question of what form international peace cooperation by the SDF should take in future.

(2) Evaluation of the Dispatch of the SDF to Iraq and Associated Issues

Although it cannot be said that the dispatch of the SDF to Iraq is entirely free of problems, it is based on UN Security Council Resolution 1483, which urges the international community as a whole to provide support for the reconstruction of Iraq, and therefore basically legitimate.

Nevertheless, the policies of the United States regarding the postwar governing of Iraq lack a clear vision for the reconstruction of the country, and it is difficult to claim that Japan has provided any useful suggestions in this regard. In addition, though Japan agreed to participate for the first time in a multinational military force, in conjunction with the handover of sovereignty to Iraq, it is extremely regrettable that the decision to dispatch the SDF was made in the absence of sufficient debate in the Diet or assumption of accountability to the people by the Prime Minister, considering the serious constitutional questions raised by issues related to local SDF duties and the chain of command.

Bearing the above in mind, the following two issues can be identified as key problems raised by the dispatch of the SDF to Iraq: (1) The government failed to assume accountability to the people, particularly with regard to the reasons for the dispatch, with the result that the impression has taken hold among the public that it was simply following the lead of the United States. (2) There has not been sufficient debate about the overseas dispatch of the SDF and its relationship to the constitution or the government's interpretation regarding the exercise of the right to collective self-defense, and thus the dispatch took place while legal and political constraints still remained.

In the post-Cold War world civil wars and armed conflicts have been breaking out one after another. The cooperation of the international community is essential in national reconstruction and rebuilding of the social order after the conclusion of such conflicts. As such, we believe that maintaining security and support for humanitarian reconstruction by the SDF, as part of Japan's efforts at international peace cooperation, will play an important role in the years ahead.

With this in mind, the Research Group makes two proposals, based on the issues raised by the recent dispatch of the SDF to Iraq: (1) A permanent law should be put in place to establish regulations covering future operations contributing to international peace and reconstruction by the SDF. (2) A system (Japanese style CIMIC) should be established to facilitate safe and effective support activities within the framework of the above law.

II. Enactment of a Permanent Law Covering Operations Contributing to International Peace and Reconstruction by the SDF

Thus far the SDF has participated in operations contributing to international peace and reconstruction under the provisions of the PKO Cooperation Law, the Law on Special Measures to Combat Terrorism, and the Law Concerning Special Measures on Humanitarian and Reconstruction Assistance in Iraq. Their track record, and the specialized knowledge, skills, and experience gained, make the SDF a valuable asset for Japan's international cooperation activities, one that is sure to play a major role in the years ahead. We urge the enactment of a permanent law, drawing on the issues raised by the SDF dispatch to Iraq under the Law Concerning Special Measures on Humanitarian and Reconstruction Assistance in Iraq, that would provide a legal basis which would permit the SDF to engage in operations

contributing to international peace and reconstruction more rapidly and in a more significant manner.

(1) Three Formats for Multinational Cooperation and Japan's Future Response

Multinational cooperation to maintain international security since the end of the Cold War has taken three forms: volunteer coalitions such as coalition of the willing, multinational forces based on UN resolutions, and UN peacekeeping operations.

At present Japan's participation in UN peacekeeping operations takes place in accordance with the PKO Cooperation Law. However, considering the present status of the country's efforts at international peace cooperation, there is a need for involvement with a wider scope and in a more integrated manner than the PKO Cooperation Law provides for. In addition, several problems can be pointed out regarding the PKO Cooperation Law, such as the fact that Japan's own standards for the use of weapons do not meet international norms and the limitations on Japan's cooperation imposed by the five principles governing participation in peacekeeping operations.

Under the current state of international peace cooperation, as is typified by Afghanistan or Iraq, cases may arise where the peace process after the conclusion of combat operations takes place in locations where the security situation is not considered stable or where the UN is not playing a central role in the reconstruction work and no neutral deterrent force is present.

In situations of this sort the tasks of the multinational forces after the conclusion of combat operations and the participants in UN peacekeeping operations overlap in the areas of maintaining security and providing support for humanitarian reconstruction work. Therefore, it is likely that the relative importance of such tasks will increase in future for multinational forces following the end of hostilities. It is therefore possible that there will be an increasing number of cases in which participation by the SDF in multinational forces needs to be considered.

For this reason there is an urgent need to put into place laws that envision the participation of the SDF in such new areas of international contribution.

(2) Issues Related to Laws Concerning Special Measures such as the Law Concerning Special Measures on Humanitarian and Reconstruction Assistance in Iraq and Significance of a Permanent Law Covering Operations contributing to international peace and reconstruction by the SDF

Problems with Law Concerning Special Measures

- Law Concerning Special Measures are enacted as stopgap measures before a thorough discussion has been conducted to clarify matters such as the standards and objectives of the SDF dispatch, the tasks to be performed, and the relevant constitutional issues. As a result, there is a large gap between what is defined by law and reality. For example, the Law limits the SDF deployment to "non-combat areas," based on the interpretation that the use of force is prohibited under the constitution. In reality, however, security in the area to which the SDF has been dispatched has been maintained by military forces from other countries. In addition, SDF personnel are subject to excessive restrictions. For

example, the standards in place for the use of weapons are unique to Japan and are based on the assumption that they will not be applied locally (in Iraq), and the rescue of SDF personnel in distress is not specified as part of the mission.

- Diet deliberation is necessary every time a SDF dispatch is to be considered, making it impossible to deploy the SDF in a timely manner.

Significance of a Permanent Law

- A permanent law would clarify and codify the standards, objectives, and range of activities applying to any dispatch by Japan of the SDF for the purpose of assisting the international community in securing peace and stability.
- A permanent law would make rapid dispatch of the SDF possible.
- A permanent law would complement the laws presently applicable to SDF operations contributing to international peace and reconstruction (the PKO Cooperation Law, the Law on Special Measures to Combat Terrorism, and the Law Concerning Special Measures on Humanitarian and Reconstruction Assistance in Iraq) by including geographical regions that are not currently covered.

(3)Constitutional Considerations

The four key issues of constitutional revision, the enactment of a basic law on security, modification of the government’s interpretation regarding the exercise of the right to collective self-defense, and the enactment of a permanent law governing SDF deployment should be studied in a comprehensive manner, and in this sense as well the Self-Defense Forces Law needs to be revised

(4)Items Requiring Discussion Preceding Enactment of a Permanent Law

Item	Points for Discussion
Standards for dispatch and withdrawal of the SDF	To what extent are these defined by law? (Dispatch) Cases where humanitarian rebuilding assistance is judged to be necessary, though security may not have been restored completely, with the prerequisite that the dispatch be based on a request from the country to receive assistance following the conclusion of hostilities, etc. (Withdrawal) If the dispatch was based on a UN resolution, after the UN’s goals (e.g., the holding of a general election that represents a milestone in the peace process) have been achieved
UN resolutions	When considering a SDF dispatch, a UN resolution is desirable.
Mission level	Security maintenance (rear-area support and providing of security necessary to carry out mission) and humanitarian reconstruction assistance
Standards for use of weapons	Equipment and use standards matching the above mission level (UN peacekeeping operation standards)
Exercise of right to collective self-defense	Modification of interpretation of the constitution Definition of standards and prerequisites for exercise of the right to collective self-defense

	right to collective self-defense
Division of labor between SDF and civilian organizations	Basically, the SDF will be responsible for maintaining security and civilian organizations for reconstruction assistance.

III. Toward the Establishment of “Japanese Style CIMIC (Civil Military Cooperation) ” as a New System for Maintaining Security and Humanitarian Reconstruction Support

With regard to the enactment of a permanent law regulating SDF operations contributing to international peace and reconstruction, we call for the commencement of discussions aimed at the establishment of a security maintenance and humanitarian reconstruction assistance system that takes into account cooperation between the SDF and civilian organizations.

In the years ahead Japan’s involvement in international efforts for achieving and maintaining peace is likely to become broader in scope and more complex, and there will surely be cases where cooperation between the SDF and civilian organizations will be called for. With this in mind, we present here the basic foundation upon which a system for cooperation between the SDF and civilian organizations while retaining specifically Japanese characteristics (Japanese style CIMIC) could be constructed. Our proposal takes a medium- to long-term perspective and draws on recent examples involving the United States and Europe.

(1)Future Division of Labor Between the SDF and Civilian Organizations

It is quite possible that in future there will be cases where it is desirable for Japan to provide assistance in regions where security has not yet fully restored, though hostilities have ended. It is important that we reassess the roles of the SDF and civilian organizations in Japan’s efforts to maintain security and provide support for humanitarian reconstruction in such situations.

The division of labor should be one in which the SDF maintains security while civilian organizations provide humanitarian reconstruction support, based on a request from the country receiving the assistance. However, in cases where disorder can be anticipated, for example if the security situation deteriorates in the area to which the SDF has been deployed or the country is in the midst of a transition to recovery following a period of occupation, the SDF will probably have to provide humanitarian reconstruction support and undertake transitional activities until full-scale reconstruction and development assistance is possible. During this stage, creating a relationship of trust and cooperation with the local people and enterprises will be indispensable, and the SDF will be assuming the role of the builder of a foundation for continued assistance.

Gradually, as the security situation improves, civilian organizations such as international institutions, NGOs, and NPOs can begin to engage in support activities. It will still be necessary to maintain security at this stage, but it will be possible to concentrate more on support for the people’s livelihoods in an all-round manner.

A general foundation for the recovery of the economy and industry will be put into place through this process of improving security and enhancing the daily lives of the populace. The cooperation of private enterprises is essential to efforts to support rebuilding and development, which are key to the generation of local employment. This will also be the stage where Japan's expertise and strengths can be utilized in providing assistance in areas such as rebuilding the industrial infrastructure and technical support. For example, there are many industrial plants in Iraq that were imported from Japan in the period from the late 1970s through the early 1980s. There is a need for help in refurbishing these facilities and getting them running again, but it will be difficult to provide such assistance unless security can be assured.

In fact a certain degree of danger can be anticipated even when the reconstruction and development work has reached this stage. Therefore, a system is needed under which civilian organizations can provide assistance beneath a security umbrella provided by the SDF.

(2) Features of American and European CIMIC

In recent years there has been increased emphasis in the United States and Europe on frameworks for civil-military cooperation, or CIMIC¹, as a way to achieve a surer peace following armed conflicts. Since CIMIC basically involves the utilization of civilian personnel in the carrying out of military objectives, the civilians operate under the command of the military. However, Scandinavian-style CIMIC emphasizes collaboration between military and civilians, with the aim of utilizing the strengths of each. Therefore, the way CIMIC is implemented varies depending on the country.

Several of the Scandinavian countries, which are neutral and nonaligned, have established combined "Nordic UN stand-by forces." The Finns in particular have emphasized cultivating the trust of the local populace and cooperation in their operations.² (See figure p 9) Germany, which shares a similar historical background with Japan, also has a battalion dedicated specifically to CIMIC.³

¹ With regard to CIMIC, Appendix provides an overview of the concept's implementation by NATO.

² Finland's record of CIMIC operations includes the equipping of a firefighting battalion and supplying of firefighting equipment in Kosovo, in cooperation with Ireland. Finland also provided support for firefighting functions at the international airport in Afghanistan as part of the International Security Assistance Force (ISAF). Personnel for such missions are recruited from among all strata of society and organized into groups, composed of persons with extensive experience and specialized knowledge, to work with the military.

³ One concrete example is operations with KFOR in Kosovo, where the tasks included performing a survey to determine the requirements for reconstruction in the region receiving support, construction of housing and schools in cooperation with NGOs, distribution of emergency food aid, and the establishment of a liaison for listening to complaints from local residents.

(3) Establishment of Japanese style CIMIC as a New Support System

The current SDF deployment to Samawah, Iraq, is intended to provide humanitarian reconstruction support based on the building of trust through interaction and cooperation with the local populace. It can thus be said that the SDF is already engaged in CIMIC-like activities. Therefore, when considering a framework for future security maintenance and humanitarian reconstruction support by Japan, the present SDF deployment provides an excellent opportunity to deepen the discussion leading to the establishment of a highly effective Japanese style CIMIC

Japanese style CIMIC would be a framework for mutually complementary and cooperative activity involving the SDF, other governmental organizations involved in maintaining security, such as the National Police Agency and Japan Coast Guard, Japanese NGOs and NPOs, and specialists, enterprises, etc., from the private sector, while utilizing the strengths of each. Such a framework would make it possible for humanitarian reconstruction support to be provided more safely and effectively, even in areas where security has not yet been fully restored. (See figure p .10)

Specifically, it would be possible to develop support activities involving organizations incorporating specialists from a wide range of fields in the private sector, in addition to the peacekeeping operations undertaken thus far. Such fields would include (1) social support services in areas such as healthcare, food, water, and firefighting, (2) infrastructure such as public transportation, waterworks, electricity, and communications, (3) humanitarian support in areas such as landmine clearance, refugee camps, and relocation of refugees, and (4) the building of social mechanisms in areas such courts, local organizations, customs, finance, and education. Improving the daily lives of the populace in this way once hostilities have ended is absolutely essential in terms of building a strong and lasting peace.

In addition, many previous instances of humanitarian reconstruction support by the SDF were carried out bilaterally, in collaboration with the government receiving assistance. Future operations involving cooperation with international NGOs and NPOs, as well as multinational collaboration, will be able to develop into assistance efforts that are wider in scope and more effective.

Debate on the establishment of Japanese style CIMIC, and the ways in which the government and private sector ought to provide reconstruction support, should be conducted within the framework of a permanent law. However, in Japan the SDF has few points of contact with civilian organizations such as international NGOs and NPOs. First of all, interaction between the SDF, the National Police Agency, and the Japan Coast Guard, on the one hand, and civilian organizations, on the other, needs to be increased on a broad scale. By encouraging communication in this way the foundation for Japanese style CIMIC can be laid.

IV. Conclusion

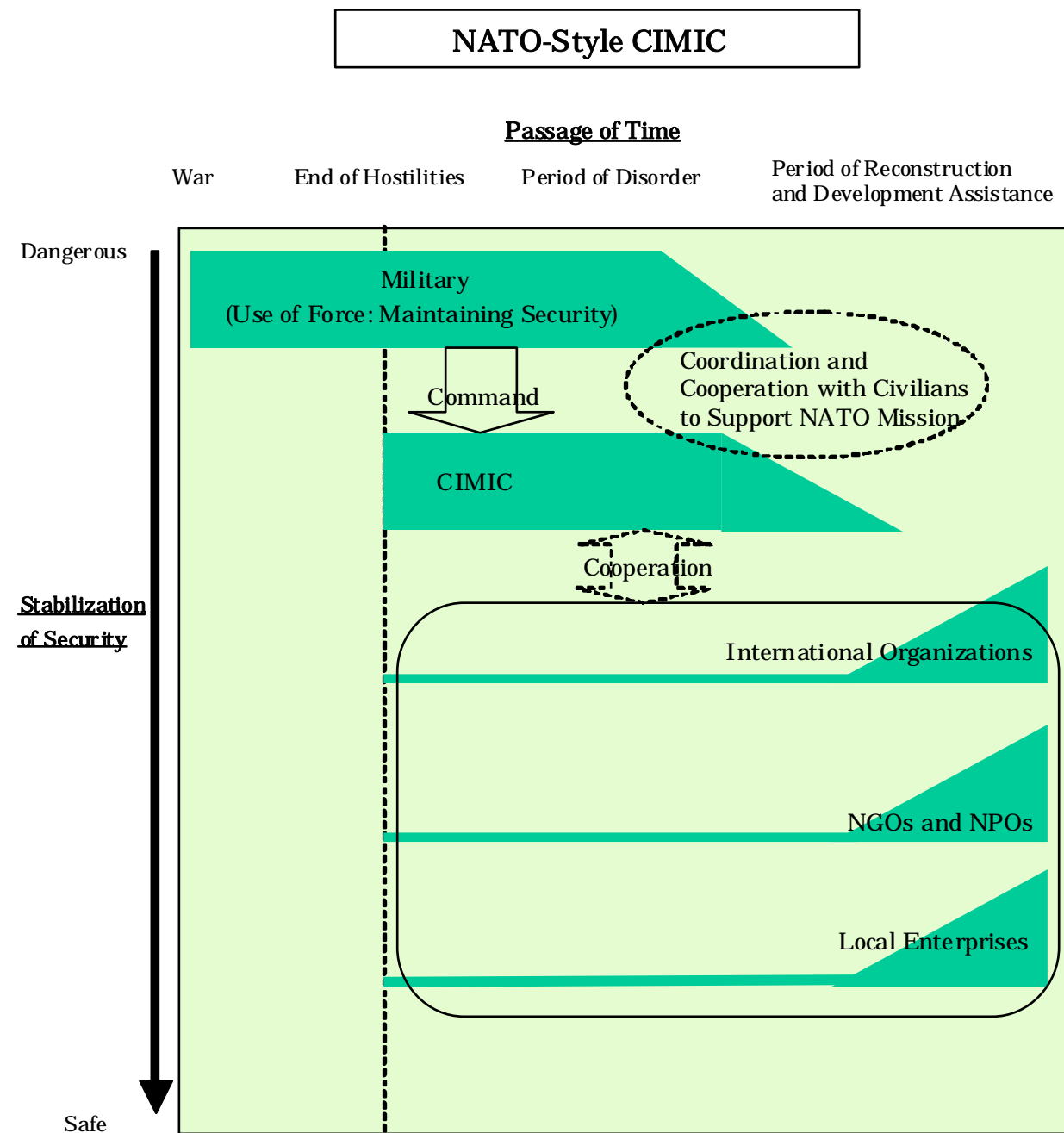
Since the end of the Cold War, as civil wars, conflicts, and terrorist attacks have increased around the world, the threat they pose has grown into one that goes beyond national borders. Against this background, Japan's proactive involvement in international peace efforts is not

only beneficial to the stability of Japan itself, it also contributes to the peace and stability of the international community, which is consistent with the spirit of the Japanese constitution.

Bearing in mind this concept of cooperation for international peace, an effort must be made without delay to resolve the outstanding domestic legal and political issues so that the SDF can make a contribution consistent with international standards, in addition to the activities it is permitted to engage in under the existing PKO Cooperation Law.

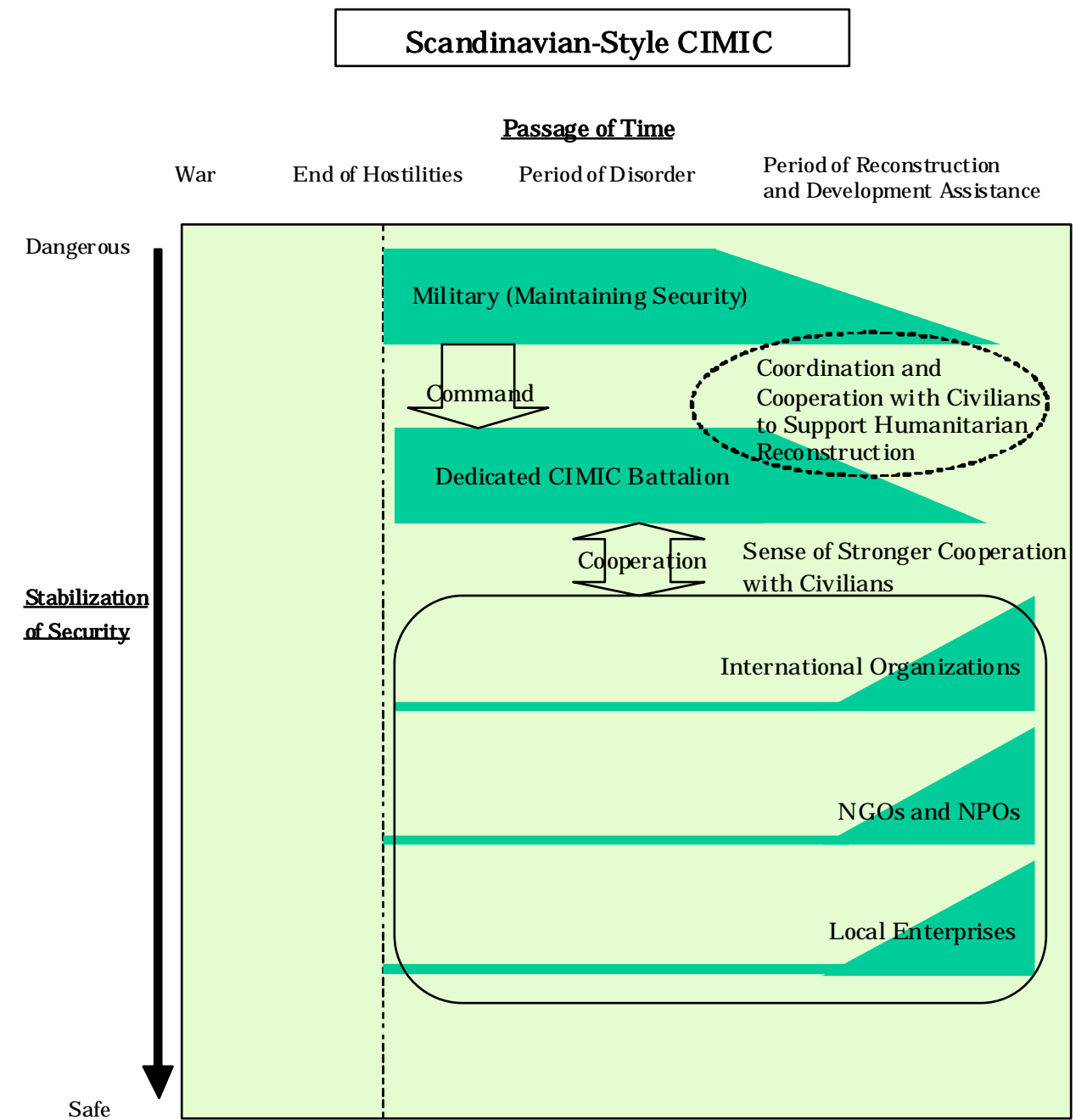
The current SDF deployment in Iraq can be considered a milestone essential to a reassessment of how Japan should carry out future operations contributing to international peace and reconstruction and the constitutional aspects involved. For this reason, following a careful examination of the experiences and problem points of the current deployment, we look forward to an earnest and broad-based discussion leading to the enactment of a permanent law and the establishment of a mechanism for Japanese style CIMIC as a means for making a more significant contribution to international peace.

Stages of Security Maintenance and Support/Relationship Between Support Media and CIMIC



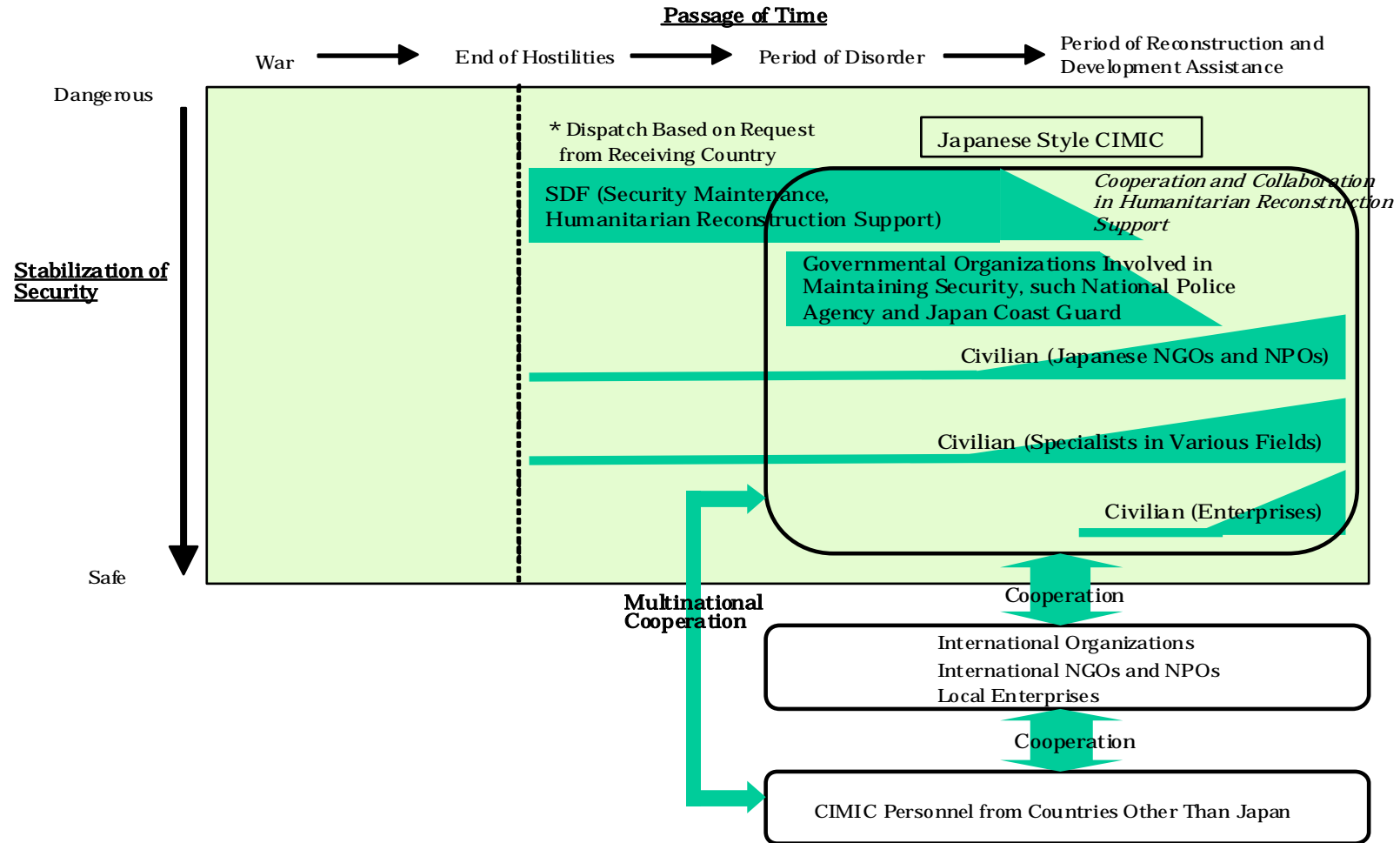
NATO is a military organization, and CIMIC originated in the need for cooperation with civilians to enable national reconstruction to proceed in a smooth manner following the conclusion of military operations.

Stages of Security Maintenance and Support/Relationship Between Support Media and CIMIC



The Scandinavian countries, with their emphasis on peace maintenance activities, have developed CIMIC from the viewpoint of carrying out humanitarian reconstruction in safety and with stress on increased cooperation with the region receiving assistance.

Stages of Security Maintenance and Support and Japanese Style CIMIC



Appendix

Concept and Operations of Civil-Military Cooperation (CIMIC) Involving NATO

The definition, purpose, and evaluation of CIMIC are specified as described below in “NATO Military Policy on Civil-Military Co-operation” (MC 411/1), which was adopted by NATO in July 2001.

• Definition of CIMIC

“The co-ordination and co-operation, in support of the mission, between the NATO Commander and civil actors, including national population and local authorities, as well as international, national and non-governmental organisations and agencies.”

• Long-Term Purpose of CIMIC

“To help create and sustain conditions that will support the achievement of Alliance objectives in operations.”

• Evaluation of CIMIC

The purpose of CIMIC is the execution of the NATO OPLAN (operation plan). This is a conspicuously military view of civil-military cooperation.

• The Purpose of CIMIC (“NATO Civil-Military Co-Operation (CIMIC) Doctrine” (AJP-9), June 2003)

- “Liaise with civil actors at the appropriate level.”
- “Engage in Joint planning, at the strategic as well as the operational level, with appropriate civilian bodies before and during an operation.”
- “Carry out continuous assessments of the local civil environment, including local needs in order to identify the extent of any vacuum and how that vacuum might be filled.”
- “Oversee the conduct of civil-related activities by military forces, including the provision of requisite functional specialists.”
- “Work towards a timely and smooth transition of civil responsibilities to the proper authorities.”
- “Work with other staff branches on all aspects of operations.”
- “Advise the Commander on all of the above.”

• Specific CIMIC Functions in NATO

Monitoring of risks related to the terrain, weather, society (language, religion, culture), economic situation (pre-crisis), government, problems affecting civilian society (such as refugees), etc.

- **CIMIC Activities**

- Providing life-sustaining services during a crisis: healthcare, food, water, firefighting, hygiene, housing
- Providing infrastructure: public transport (railroads, roads, airports), water lines, CIMIC sites, electricity and communications
- Providing humanitarian support: evacuation shelters, humanitarian landmine removal, ensuring freedom of movement for civilians, support for minority groups, assistance for refugee camps, assistance for relocation of refugees
- Rebuilding of organizations and systems, such as governmental functions: courts, local organizations, borders and customs, detention facilities, public registration, law enforcement, banks and the economy

(The above is excerpted from the lecture notes composed by Mr. Tomonori Yoshizaki, Senior Research Fellow, National Institute for Defense Studies (NIDS), for the Research Group for Iraq Issues, based on “NATO Civil-Military Co-Operation (CIMIC) Doctrine”.