

Second, the definition of “The Situation which threatens Japan’s survival” is too vague. In this amendment, “The Situation which threatens Japan’s survival” is defined as “the situation that an armed attack against a foreign country 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 the people’s right to life, liberty and the pursuit of happiness.” But it is not clear that what country is “a foreign country that is in a close relationship with Japan”. Only countries in the military alliance? Or are countries that are in a close economic relationship also included? In addition, what kind of situation is “a clear danger to fundamentally overturn the people’s right to life, liberty and the pursuit of happiness”? It is not clear. These uncertainties are very dangerous because they can lead to an arbitrary use of the self-defense force by the Cabinet.

Third, the Japanese Diet probably will not control the use of forces by the Cabinet. In the Japanese political system, a Parliamentary system is adopted. So the leader of the majority Party becomes the Prime Minister. Further, party discipline is very strict in Japan. As a matter of practice, it is impossible that the Diet controls Cabinet and it is assumed that the Diet recognizes the Cabinet to use the self-defense force without meaningful discussion. So the Diet probably cannot meaningfully control the Cabinet. Rather, it increases the validity of the use of force by the Diet and the Cabinet is to warning together, and there is even a risk that domestic brakes are lost altogether.

As such, this amendment has, at least, three problems: ①problem of unconstitutionality; ②Uncertainty of the requirements for the use of force; ③There will not be a meaningful control on the use of force. This amendment is inappropriate.

2. Commercial Law

The legislative and other related activities concerning commercial laws in Japan in 2015 are as follows:

First, the amendment to the Companies Act which was enacted in 2014 took effect on May 1, 2015.

Second, an amendment to the Act on Limitation of Shipowner Liability was submitted to the ordinary session of the Diet on February 17, 2015, was enacted on April 24, and took effect on June 8. The Act was the implementation of the “Protocol of 1996 to Amend the Convention on Limitation of Liability for Maritime Claims, 1976,” adopted by the International Maritime Organization, to which Japan is a party. The amendment raised the limitation threshold setting the ship-owners maximum liability under the act.

Third, in February 2014, the Ministry of Justice asked the Legislative Council of the Ministry of Justice to amend the commercial code in relation to the transportation and marine commerce, and the Council formed a committee to investigate and discuss the issues. It published a change proposal in March 2015, and set the public comment period.

On January 27, 2016, it adopted the summary of the changes of the commercial code (in relation to the transportation and marine commerce).

3. Labor Law/Social Security Law

The Partial Amendment to the Act for Securing the Proper Operation of Worker Dispatching Undertakings and on Protection of Dispatched Workers

Law No. 73, September 11, 2015 (Effective on September 30, 2015)

Background:

The Worker Dispatching Law (WDL) was enacted in 1985. Since then, WDL has gone through several reforms.

Worker Dispatching is defined as causing worker(s) employed by one person to be engaged in work for another person under the instruction of the latter, while maintaining his/her employment relationship with the former, but excluding cases where the former agrees with the latter that such worker(s) shall be employed by the latter [Art.2 (1)].

Today, worker dispatching is widely operated in practice and the number of dispatched workers has increased. However, there are also some who criticize worker dispatching. For example, a company often