

The Right to Collective Self-Defense, Arms Export, and ODA – The Three Pillars of Japan's Integration to the US Military –

by

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■ Right to Collective Self-Defense and Security Bills

Deliberation over the security bills that allow exercise of the right to collective self-defense is currently underway in the National Diet of Japan. For over forty years, the Japanese government has interpreted Article 9 of the Constitution, which renounces war and prohibits maintenance of armed forces, as permitting the right to individual self-defense but prohibiting the right to collective self-defense. However, the Abe administration changed this interpretation of the Constitution in a cabinet decision in July 2014, allowing Japan to exercise the right to collective self-defense under certain circumstances. Security bills are being enacted to implement this change in the government's interpretation of the Constitution.

This change will fundamentally shift Japan's security policy, which is the most important goal this year for Prime Minister Abe, who is seeking a “departure from the postwar regime.” During his visit to the US in April 2015, Abe gave a speech at Congress promising to enact the bills “by this summer.” This promise was made before deliberation in the Japanese Diet had even started, and was a promise he had not yet made to the Japanese people.

These security bills, which undermine the Peace Constitution, are criticized by opposition parties and different segments of Japan as “war bills.” All three constitutional scholars who were asked to provide testimony at the Lower House Commission on the Constitution on June 4, 2015, including a professor recommended by the ruling Liberal Democratic Party, agreed that the legislative package is unconstitutional.¹ Following this, the government and the ruling parties have been under heavy criticism from opposition parties. In a bid to enact the security bills during the current Diet session, the ruling coalition decided to extend the current session, which was originally scheduled to end in late June, by three months until late September. This is the longest extension in postwar history. However, there is strong opposition and skepticism among the people of Japan. According to a public opinion poll, approximately 60% of the population is against “enactment of the security bills in the current Diet session” and at least 80% perceives that “sufficient explanation is lacking.”²

■ Transition to Permanent Support of the US Military

In contrast, those in favor for the right to collective self-defense argue that it is granted for all countries other than Japan and that it is therefore unjustifiable not to also extend this right to Japan. Article 9 of the Constitution is unique to Japan, making the legislative interpretation surrounding the right to self-defense more complicated compared to that of other countries. Regardless, one of the biggest problems in relation to approving the right to collective self-defense, beyond the issue of constitutional interpretation of Article 9, is that it leads to a perpetual support of the US military by the Japanese Self-Defense Force (SDF).

The Guidelines on Japan-US Defense Cooperation were revised in April 2015 to explicitly define the “global nature” of the US-Japan alliance³. The SDF supported the US in their mission in Afghanistan and Iraq through the passing of temporary legislation. Once the legislative package is enacted it will be possible to permanently provide logistical support to the US military. Similarly, the definition of “situations in areas surrounding Japan,” in which the SDF is to support the US military, will be redefined as “situations that gravely affect the peace and security of Japan,” without geographical constraints. In regards to Peacekeeping Operations (PKO), it will allow

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1 Tetsuya Watanabe, “Triple shot: Scholars say security legislation 'unconstitutional',” *The Asahi Shimbun*, June 5, 2015 http://ajw.asahi.com/article/behind_news/politics/AJ201506050040

2 Nikkei Newspaper, 28 June 2015

3 http://www.mofa.go.jp/na/st/page4e_000239.html

the SDF to participate in such operations by multinational military forces other than those by the UN. It also leads to a relaxation of the use of weapons on the ground. The expansion of conditions for the use of force – through allowing exercise of the right to collective-self defense – is only one element in the broader context of the system in place that supports the US military.

■ Lifting the Ban on Arms Exports

The lift of the ban on the right to collective self-defense is one of the three arrows (three pillars) of the “proactive pacifism” sought by the Abe administration, together with lifting the ban on arms exports and revising the ODA (Official Development Aid) Charter.

The National Security Strategy released by the government in December 2013 announced Japan's participation in joint development and production of defense equipment and technology as well as the “strategic utilization” of ODA⁴. Japan installed the Three Principles on Arms Exports in 1967 and subsequently adopted a policy to restrain any export of arms to avoid aggravation of international conflicts.⁵ However, transfer of defense equipment and technology to the US became allowed in the 1980s, and subsequently missile defense cooperation with the US in the 2000s became an exception to the policy banning arms exports. The policy banning arms exports has been gradually eased ever since. The transfer of technology and equipment in order to jointly develop military technology with the US is inevitable. In 2011, the then-ruling Democratic Party of Japan decided to again significantly ease restrictions, allowing for international joint-development of weapons.

In March 2014, the Abe administration ultimately lifted the Three Principles on Arms Exports and replaced them with the new “Three Principles of Transfer of Defense Equipment and Technology.”⁶ The basic principle until that point was “banning arms exports” in general. However, the principle has now changed to become “allowing arms exports,” with defined conditions such as “appropriate control” of such exports. Although the new principles prohibit transfer of defense equipment and technology to countries involved in conflict, the original principle of “avoiding aggravation of international conflicts” has been eliminated.

Regarding missile defense, if Japan were to intercept a missile attack against the US, this would be considered as exercising the right to collective self-defense. Given this, the Japanese government has been working towards lifting the ban on exercising the right to collective self-defense in conjunction with the ban on arms exports.

It is the Japanese business sector that has been calling for an end to the ban on arms exports. With a restructuring of the defense industry underway through mergers and acquisitions in Europe and the US, the Japan Business Federation (Keidanren) has claimed that the Japanese defense industry must keep up with international joint-development and production of weapons, instead of limiting its market to Japan.⁷ An extensive arms exposition was held in Japan for the first time in May 2015 in Yokohama. The “sales battle” has already begun to heat up.

■ Support of Foreign Militaries Through ODA

In a February 2015 Cabinet decision, the Abe administration replaced the ODA Charter with the Development Cooperation Charter.⁸ The Charter now permits assistance to foreign militaries for “non-military purposes” such as disaster relief, something that had been previously prohibited. Up until now, Japanese ODA was prohibited from providing any assistance to foreign militaries, even for non-military purposes, in order to avoid any potential military support or aggravation of international conflicts.

What is the significance of this shift towards permitting assistance to foreign militaries? Patrol vessels are, for example, defined as arms. When the Japanese government decided to provide three patrol vessels to the

4 <http://www.cas.go.jp/jp/siryoku/131217anzenhoshou/nss-e.pdf>

5 <http://www.mofa.go.jp/policy/un/disarmament/policy/>

6 http://www.mod.go.jp/e/pressrele/2014/140401_02.pdf

7 “A proposal for Defense Plan Charter” Japan Business Federation (Keidanren) 14 May 2013, <http://www.keidanren.or.jp/en/policy/2013/047.html>

8 Atsushi Hiroshima, “Cabinet OKs charter permitting noncombat assistance to foreign militaries,” *The Asahi Shimbun*, February 10, 2015 http://ajw.asahi.com/article/behind_news/politics/AJ201502100047

Indonesian government as a part of the country's measures against terrorism and piracy in 2006, the Japanese government had to release a statement to explain that the action was an “exception” to the Three Principles on Arms Exports. However, with the combination of the recent lifting of ban on arms exports and ODA reform, there are no longer any barriers to providing such equipment to foreign militaries, as long as it is viewed as being for “non-military” purposes. The Japanese government has already decided to provide the Philippine government with ten patrol vessels, and has a similar plan for the Vietnamese government. Both countries have territorial disputes with China in the South China Sea; this move by Japan is obviously a “strategic” implementation of ODA to keep China in check .

■ Strengthening of Japan-US Interoperability

These moves by the Japanese government are perceived to be strategic beyond the simple concerns of “national interest.” The importance of “allied interoperability” was already mentioned in the August 2012 report “The US-Japan Alliance,” written by so-called US 'Japan Handlers' Richard Armitage and Joseph Nye.⁹ This report recommends minesweeping in the Persian Gulf and joint surveillance in the South China Sea as measures to strengthen the US-Japan allied defense cooperation. These are precisely the primary focuses of the security bills under deliberation in the current session of the Japanese Diet.

The report states that limited defense and military budgets between the two countries necessitate development of “interoperability,” and recommends reinforcing joint military exercises while advancing joint research and development of weapons. When the Guidelines of the Japan-US Defense Cooperation were reviewed and amended in April 2015, in a joint statement by the Japan-US Security Consultative Committee the United States welcomed Japan’s “recent monumental achievements” including: the Japanese Cabinet decision to develop seamless security legislation; the creation of the National Security Council; the Three Principles on Transfer of Defense Equipment and Technology; the Act on the Protection of Specially Designated Secrets; the Fundamental Act on Cyber Security; the new Fundamental Plan on Space Policy; and the Development Cooperation Charter.¹⁰ All of these aim to integrate and implement Japanese force, weapons and technology as part of the greater strategy of the US military.

Prime Minister Abe, who is known as a nationalist, has advocated for policies that tend to be framed within the shift towards right-wing policies in Japan. However, at the core of his security policies lies a policy of integration with and ultimate support of the US military.

9 http://csis.org/files/publication/120810_Armitage_USJapanAlliance_Web.pdf

10 <http://www.mofa.go.jp/files/000078186.pdf>