

Three Principles on Transfer of Defense Equipment and Technology

The Government has made it its basic policy to deal with overseas transfer of defense equipment and technology in a careful manner in accordance with Prime Minister Eisaku Sato's remarks at the Diet in 1967 (hereinafter referred to as "the Three Principles on Arms Exports") and the collateral policy guideline by the Miki administration in 1976. These policy guidelines have played a certain role as Japan has been following the path of a peace-loving nation. On the other hand, these policy guidelines including the non-permission of arms exports to communist bloc countries have increasingly proved unsuitable for the current situation. Also, the Government has repeatedly taken exemption measures depending on the individual necessity of each case since arms exports to substantially all areas were not permitted, as a result of not promoting arms exports regardless of the destinations,.

Japan has consistently followed the path of a peace-loving nation since the end of World War II. Japan has adhered to a basic policy of maintaining an exclusively national defense-oriented policy, not becoming a military power that poses a threat to other countries, and observing the Three Non-Nuclear Principles. At the same time, surrounded by an increasingly severe security environment and confronted by complex and grave national security challenges, it has become essential for Japan to make more proactive efforts in line with the principle of international cooperation. Japan cannot secure its own peace and security by itself, and the international community expects Japan to play a more proactive role for peace and stability in the world commensurate with its national capabilities. Against this backdrop, under the evolving security environment, Japan will continue to adhere to the course that it has taken to date as a peace-loving nation, and as a major player in world politics and the world economy, contribute even more proactively in securing peace, stability and prosperity of the international community, while achieving its own security as well as peace and stability in the Asia-Pacific region, as a "Proactive Contributor to Peace" based on the principle of international cooperation.

From the view point of achieving the fundamental principle of national security by implementing concrete policies, the Government, in accordance with the National Security Strategy adopted on December 17, 2013, decided to review the Government's existing policy guidelines on overseas transfer of defense equipment and technology, and set out clear principles which fit the new security environment while giving due consideration to the roles that the existing policy guidelines have played so far and by consolidating the policy guidelines comprehensively with consideration on the past exemption measures.

An appropriate overseas transfer of defense equipment and technology contributes to further active promotion of the maintenance of international peace and security through timely and effective implementation of contribution to peace and international cooperation such as international peace cooperation, international disaster relief, humanitarian assistance, responses to international terrorism and piracy, and capacity building of developing countries (hereinafter referred to as "peace contribution and international cooperation"). Such transfer also contributes to strengthening security and defense cooperation with Japan's ally, the United States as well as other countries. Furthermore, it contributes to maintaining and enhancing Japan's defense production and technological bases, thereby contributing to Japan's enhancement of defense capability, given that international joint development and production projects have become the international mainstream in order to improve the performance of defense equipment and to deal with their rising costs.

On the other hand, since the distribution of defense equipment and technology has significant security, social, economic and humanitarian impact on the international community, the need for each government to control the transfer of defense equipment and technology in a responsible manner while taking various factors into account is recognized.

In light of the above, while maintaining its basic philosophy as a peace-loving nation that conforms to the Charter of the United Nations and the course it has taken as a peace-loving nation, Japan will control the overseas transfer of defense equipment and technology based on the following three principles. The overseas transfer of facilities related to arms production will continue to be treated in the same manner as defense equipment and technology.

1. Clarification of cases where transfers are prohibited

Overseas transfer of defense equipment and technology will not be permitted when:

- 1) the transfer violates obligations under treaties and other international agreements that Japan has concluded,
- 2) the transfer violates obligations under United Nations Security Council resolutions, or
- 3) the defense equipment and technology is destined for a country party to a conflict (a country against which the United Nations Security Council is taking measures to maintain or restore international peace and security in the event of an armed attack).

2. Limitation to cases where transfers may be permitted as well as strict examination and information disclosure

In cases not within 1. above, cases where transfers may be permitted will be limited to the following cases. Those cases will be examined strictly while ensuring transparency. More specifically, overseas transfer of defense equipment and technology may be permitted in such cases as the transfer contributes

to active promotion of peace contribution and international cooperation, or
to Japan's security from the viewpoint of

- implementing international joint development and production projects with countries cooperating with Japan in security area including its ally, the U.S. (hereinafter referred to as "the ally and partners"),
- enhancing security and defense cooperation with the ally and partners, as well as
- supporting the activities of the Self-Defense Forces including the maintenance of its equipment and ensuring the safety of Japanese nationals.

The Government will conduct strict examination on the appropriateness of the destination and end user, and the extent the overseas transfer of such equipment and technology will raise concern for Japan's security. Then the Government will make a comprehensive judgment in light of the existing guidelines of the international export control regime and based on the information available at the time of export examinations.

Significant cases that require especially careful consideration from the viewpoint of Japan's security will be examined at the National Security Council (NSC). As for the cases that were deliberated at the NSC, the Government will disclose their information in accordance with the Act on Access to Information Held by Administrative Organs (Law No. 42 of 1999).

3. Ensuring appropriate control regarding extra-purpose use or transfer to third parties
In cases satisfying 2. above, overseas transfer of defense equipment and technology will be permitted only in cases where appropriate control is ensured. More concretely, the Government will in principle oblige the Government of the recipient country to gain its prior consent regarding extra-purpose use and transfer to third parties. However, appropriate control may be ensured with the confirmation of control system at the destination in such cases as those where the transfer is judged to be appropriate for active promotion of peace contribution and international cooperation, when the transfer involves participation in an international system for sharing components etc., and when the transfer involves delivery of components etc. to a licensor.

Implementation guidelines for the policy described above will be decided by the NSC. The Minister of Economy, Trade and Industry will implement the Foreign Exchange and Foreign Trade Act (Law No.228 of 1949) appropriately in accordance with the decision.

For the purpose of this policy, “defense equipment and technology” refers to “arms and military technologies”; “arms” refers to items listed in Section 1, Annexed List 1 of the Export Trade Control Order (Cabinet Order No. 378 of 1949), and are to be used by military forces and directly employed in combat; and “military technologies” refers to technologies for the design, production or use of arms.

The Government will contribute actively to the peace and stability of the international community as a “Proactive Contributor to Peace” based on the principle of international cooperation. Under such policy, it will play a proactive role in the area of controlling defense equipment and technology as well as sensitive dual-use goods and technologies to achieve the early entry into force of the Arms Trade Treaty and further strengthen the international export control regimes.