

Japan's Path from Arms Export Ban to Promotion

Written by Rena Sasaki

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RENA SASAKI, NOV 15 2023

The ongoing Russo-Ukraine War exposed an acute national security threat – the vulnerability of the defense industrial base. In that scenario, even the US, the largest military power in the world, struggled with replenishing stockpiles of critical weapons as it armed and assisted Ukraine. Japan, due to its geostrategic location, is neighbored by three nuclear-armed states that signal their intent to change the status quo, namely China, North Korea, and Russia. However, Japan has only recently started to focus on the issue of its defense industrial base and arms transfers as a means to revitalize the domestic defense industry. The Abe Administration in 2013 introduced the concept of “Proactive Contribution to Peace” as the guiding principle of Japan’s first National Security Strategy (Cabinet Secretariat 2013). Under this, Japan declared a determination to play a more proactive role in securing peace, stability, and prosperity in the international community. This changed Japan’s prior approach which was based on the idea of possessing minimum necessary basic defense capability for self-defense. In response to this change in attitude, Japan’s ‘Three Principles on Arms Exports’ were replaced by the ‘Three Principles on Transfer of Defense Equipment and Technology’ in 2014 (Cabinet Secretariat 2014) which enabled domestic defense manufacturers to export defense equipment abroad. In this light of these developments, this article traces the evolution of the defense policies on arms exports and attempts to highlight Japan’s challenges with them.

Japan's Arms Export Policy in Transition

Since the early postwar period, Japan has had a policy of controlling arms export to foreign countries through the Foreign Exchange and Foreign Trade Act and the Export Trade Control Order (Cabinet Secretariat 2014). According to the SIPRI Arms Transfers Database, before the declaration of the Three Principles on Arms Exports, surprisingly, Japan exported arms to Taiwan, Myanmar, Indonesia, Brazil, and other countries, albeit in small quantities. This started when Hideo Itokawa developed the Kappa rocket and exported it to Yugoslavia in 1963 and Indonesia in 1965 (Nikkei 2016). Although intended for peaceful purposes, the product was controversial in Japan because it could be converted into a weapon. Indeed, in Yugoslavia, data on Kappa’s solid propellants were later diverted to missile development. This incident led to Chikayoshi Hanayama asking Prime Minister Sato about arms exports in the Diet, which led to the Three Principles on Arms Exports being answered in the Diet (National Diet Library, 1969). They did not prohibit arms exports per se but specified the prohibited export destinations. The Three Principles on Arms Exports were measures prohibiting arms exports to 1) the Communist bloc, 2) countries subject to arms embargoes imposed by United Nations Security Council resolutions, and 3) parties to an international conflict or countries that may become a party to an international conflict. The three principles are not a legal system but rather what Prime Minister Eisaku Sato stated in his speech on the National Diet.

In 1976, the Japanese government imposed an embargo on exports to all regions, including those outside of the three destinations pointed out by former Prime Minister Eisaku Sato (National Diet Library 1976). The Miki Cabinet submitted the “Unified Government Position on Arms Exports” to the House of Representatives Budget Committee, which Prime Minister Takeo Miki read. Since the Sato cabinet explained the so-called “three principles,” the lawmakers in the National Diet asked questions about the possibility of allowing arms exports to regions other than the three specific types of destinations. Under this Unified Government View, arms exports became forbidden even if the three principles did not specifically prohibit it.

During the Miki administration, arms exports were not allowed to virtually all regions, and the subsequent cabinets

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have made exceptional measures according to individual needs. Since the 1983 "Chief Cabinet Secretary's Statement on Arms Technology Licensing to the United States," the Japanese government started to consider arms technology licensing to the United States as a legitimate exception, and the government permitted arms exports to the U.S. (MOD, 1985). The government also allowed exports of "arms" for the construction of missile defense systems only to the U.S. This exception was somewhat controversial as the exception was logically applicable even if the United States was a "Party to the Conflict," a case arms export is specifically prohibited by the Three Principles. The government also later created other exceptions in the case of counterterrorism and anti-piracy measures. Therefore, during the Cold War era and in the early post-Cold War era, the Japanese government's primary policy concern was not its contribution to international peace and security but to avoid domestic criticism for providing war-enabling capabilities to other countries.

However, with the bitter experience of the Gulf War, where Japan was not given any credit due to its cash-only assistance and the increasing assertiveness of China near Japanese territories, Japanese politics gradually shifted from total avoidance of arms transfers (Kelly and Kubo 2015). In 2011, the Chief Cabinet Secretary issued a statement on the "Standards for Overseas Transfer of Defense Equipment." This discussed measures to respond to major changes surrounding contributions to peace, international cooperation, and international joint development and production (Prime Minister's Office 2011). These standards make exceptions for the transfer of defense equipment and other items overseas, based on the concept of exceptions to the Three Principles on Arms Exports, which have been made separately for items related to peace contributions and international cooperation and items related to international joint development and production of defense equipment and other items that contribute to Japan's national security. It is a prerequisite that strict controls be exercised in the framework to be agreed upon between the government of Japan and the partner country's government, such as ensuring that there will be no use for other purposes or transfer to a third country without Japan's prior consent.

Based on the 2013 National Security Strategy, the Japanese government enacted the Three Principles on Transfer of Defense Equipment and Technology as a replacement of the Three Principles on Arms Exports. The new principles allowed the import and export of arms and stipulated when it is prohibited, as well as a strict screening process. These principles are 1) clarification of cases in which transfer is prohibited, 2) limitations on cases in which transfer may be approved, as well as rigorous screening and information disclosure, and 3) ensuring appropriate management of use for other than the intended purpose and transfer to a third country. There are three reasons for the new principles: complaints about burdensome case-by-case export licensing, a changing environment due to the end of the Cold War, and the inhibition of flexible joint development with like-minded security partners. First, the criteria for making exceptions to defense equipment transfers had not been organized and were to be discussed on a case-by-case basis, making the criteria for judgment ambiguous. In addition, the "communist bloc countries" were changing after the end of the Cold War, and there was a need to review the embargoed areas. Lastly, the government could not respond flexibly to the need for peace contributions, international cooperation, and international joint development. These three principles are operated under the Operational Guidelines for Defense Equipment Transfer (Cabinet Secretariat 2014).

Japan's defense equipment transfer has two pillars: joint development with technologically advanced countries such as the U.S. and Western European countries and arms exports to Southeast Asia. After establishing the Three Principles on Transfer of Defense Equipment and Technology, Japan concluded defense equipment and technology transfer agreements with 11 countries (Acquisition, Technology and Logistics Agency, 2023). The agreements are bilateral in nature to establish a legal framework for handling transferred defense equipment and technology. In the 2010s, agreements were concluded with European countries and Australia, which have technological advantages in the defense sector, and after 2020, Japan signed additional agreements with Southeast Asian countries that are candidates for leading defense equipment transfer destinations. In addition to the Defense Equipment and Technology Transfer Agreement, Japan is also promoting defense cooperation with ASEAN countries.

Policies under the 2022 National Security Strategy

In light of this current situation of defense equipment transfer, the 2022 National Security Strategy includes the promotion of defense equipment transfer as a high-priority policy. The NSS stated, "The Three Principles on Transfer

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of Defense Equipment and Technology, its Implementation Guidelines, and other systems are to be considered for revisions to promote the smooth transfer of defense equipment and technology of high-security significance and international joint development in a broad array of fields” (Cabinet Secretariat 2022, 21). In addition, the National Defense Strategy, a subordinate document of the NSS, states that the government will transfer defense equipment and conduct capacity building to promote stability in ASEAN countries, thereby strengthening regional defense capabilities.

For the latest NSS and the National Defense Strategy as well as the National Defense Buildup Program, three specific measures to promote the transfer of defense equipment can be identified: a review of the current system, strengthening the infrastructure for the development and production of equipment, and Official Security Assistance (OSA). The first is to consider reviewing the three principles of defense equipment transfer, operational guidelines, and other systems. The current operational guidelines implicitly limit exports only to the United States and other countries cooperating in the security field in principle. In addition, the purpose is limited to rescue, transportation, warning, surveillance, and minesweeping (Yomiuri 2023). After the Russo-Ukrainian war, Japan's National Security Council revised the operational guidelines of the Three Principles by adding “Ukraine, which is undergoing aggression in violation of international law” as a special case for a permitted export destination (METI, 2022). This subtle, yet impactful, revision implies that it is likely that the principle of not being able to send arms to parties to the conflict will be relaxed in the future.

Second, to facilitate defense equipment transfer, a fund and providing corporate support was established (MOD 2023). The Kishida Cabinet approved the Law for Strengthening the Defense Production Base in 2023. The law includes five measures to strengthen the infrastructure, such as strengthening the supply network, improving the efficiency of manufacturing processes, enhancing cyber security, and taking over business operations; measures to facilitate equipment transfer; consideration of loans; measures to preserve confidentiality in equipment contracts; and acquisition by the government of manufacturing facilities for equipment, etc. and entrusting the management of such facilities to the defense industry (Nikkei 2023). A fund to boost defense equipment exports is also under consideration to reduce the burden on companies that need to change the performance and specifications of their equipment to meet the requirements of export destinations, or to keep some of their technology secret. The Minister of Defense then approves the plan, and a fund overseen by the Ministry of Defense subsidizes the company. 40 billion yen has been allocated for this purpose in the proposed budget for FY2023.

Third, the Japanese government started the OSA, a framework for granting assistance to the armed forces, which is separate from Official Development Assistance (ODA) and provides equipment and infrastructure development in response to security needs. This OSA also clarifies the purposes for which the equipment will be used. Its purposes are activities that contribute to capacity building to ensure peace, stability, and security based on the rule of law, activities for humanitarian purposes, and international peace cooperation activities. In implementing this OSA the National Security Secretariat, the Ministry of Foreign Affairs and the Ministry of Defense will collaborate.

Challenges

The Japanese government has taken a major step forward since 2014 to promote defense equipment transfers and is accelerating its efforts from 2022 onward. However, Japan's defense equipment exports have not been successful. Japan's only overseas transfer of finished equipment is Mitsubishi Electric Company's (MELCO) warning and control radar, for which a contract was signed with the Philippine Defense Ministry in 2020. Another Japanese defense company actively exporting to other countries is Kawasaki Heavy Industries (Kawasaki), which has experience participating in bids for transport and patrol aircraft. The defense sector accounts for about 5% of total sales for both companies, with most sales coming from the civilian sector. Due to low sales in the defense sector, no major investments have been made until now. In recent years, however, MELCO and Kawasaki have begun to show a commitment to defense equipment and its exports. MELCO's defense sector, included in the Electronic Systems Business Headquarters, was renamed the Defense & Space Systems Business Headquarters in April of 2023. MELCO stated that as a company responsible for national security, it will fulfill its accountability to stakeholders and disclose information appropriately.

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The International Equipment Policy Division of the Equipment Policy Department within the Defense Equipment Agency is enthusiastic about export promotion. Yet, the Project Management Department is not so positive as they do not want their procurement plans to be changed based on whether or not exports are involved. The Japan Self-Defense Forces' Staff Office is also backward-looking in promoting exports because they are averse to information about their equipment becoming known to other countries. They are also indifferent to defense equipment policy and defense equipment transfers. There are differences even among ministries. The Ministry of Foreign Affairs understands the importance of defense equipment policy but is not familiar with the defense equipment and has yet to actively negotiate with military officers of other countries. JICA, which conducts ODA under the Ministry of Foreign Affairs, has experience with used equipment transfers, but does not seem to believe that defense equipment transfers will lead to development assistance for developing countries – and is therefore backward-looking.

Most importantly, the problem is a gap in perception between the Ministry of Defense and the private sector regarding defense equipment transfers. The Ministry of Defense assumes that the private sector would be willing to take an active role in equipment transfers because it would lead to expanded sales channels and increased sales for the private sector. The Defense Buildup Program, a supporting document of the NDS, states that equipment transfer is “effective in ensuring the growth of the defense industry through the expansion of the defense equipment market” (MOD 2022, 40). On the other hand, the private sector is not aggressive in transferring equipment overseas because of the need for further investment. Profit margins in the defense sector are low at 1–2% on average, with the highest at 5%. 95% of Japanese defense-related companies' sales are in the civilian sector, and they are still prioritizing their focus on that area (Sasaki 2023). Furthermore, defense equipment transfers require significant pre-contract investments, including marketing functions such as exhibiting at trade shows and preparing to participate in bids from other countries.

Companies such as Mitsubishi Electric, Kawasaki Heavy Industries, and Mitsubishi Heavy Industries are actively engaged in marketing and sales activities due to the possibility of receiving large contracts, but other companies are keeping their distance from overseas equipment transfers. This characteristic manifests in the production line's high utilization rate and the absence of an export type. Most Japanese companies have optimized their manufacturing lines for the Self-Defense Forces, so when the decision is made to transfer equipment overseas, it is not immediately possible to manufacture the equipment. Many countries distinguish at the design stage between home-use and export-use products. Japanese defense manufacturers, however, do not make equipment for export because they do not know whether they can expect to transfer equipment overseas. Thus, due to their financial constraints, companies do not anticipate exporting at the design and manufacturing stages. The government's newly established fund will be small enough to provide export support for several prime firms, as one might guess from its size of 40 billion yen. The defense industry is seeking a Japanese version of foreign military sales. This would reduce costs and risks for companies and allow them to manufacture by the government's requirements.

For a long time after the export ban, the relationship between the Japanese defense industry and the Ministry of Defense was one-sided, with both parties following instructions from the Ministry of Defense. As a result, they lack the mindset to look for new markets voluntarily. Masato Goto, General of the Japan Self Defense Air Force, who led the radar project in the Philippines, states that trust and meaningful interaction between militaries is a key success factor (MOD 2021, 421). Atsushi Kato of Mitsubishi Electric's Defense Global Sales Department, who provided leadership on the manufacturer's side, noted the importance of interviewing the end-user (the Philippine Air Force) about their needs on numerous occasions and understanding the procurement process in the Philippines. The radar project in the Philippines was successful because MELCO understood the decision-making process in the Philippines, believed it was necessary to approach the military and build a good relationship with the military by involving the JSDF.

In South Korea, the government promotes arms export as a national strategy, and arms sales are supported at all levels, including a sales pitch by the president. Many Korean-made tanks are currently being sold to Poland, which is providing military assistance to Ukraine. On the other hand, Japan is also characterized by its weakness in sales compared to other countries. The realization of such large-scale exports requires aggressive sales promotion by the Japanese political leadership. In October 2023, Mitsubishi Electric Corporation announced that it would jointly develop defense equipment for the Australian military with the Australian government. This is the first time a private

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Japanese company has jointly developed defense equipment with a foreign government without the government's involvement. The private sector will likely continue to pursue joint research and development independently.

Conclusion

Considering the inward-looking defense equipment policy during the Cold War era, Japan has been making steady progress in the area of defense equipment transfer. Due to the rapidly evolving regional security environment, Japan has taken major steps to reinvigorate its defense industrial base by introducing the three principles of defense equipment transfer in 2014 and publishing the three strategic documents (NSS, NDS, DBP) in 2022. In 2014, Japan made a pivot from banning exports to allowing transfers, and in 2022, the government began to promote arms export. Business vitality is crucial for the sustainability of the defense industrial base and given the increasingly uncertain regional security landscape, Japan needs to accelerate the transformation of its defense industry and supporting policies.

The first obstacle that Japan must overcome is the lack of collaboration between the government and businesses on defense equipment transfers. Ideally, the Japanese government should then build up functions that are essential for defense equipment transfer which Japan does not currently possess. This includes the provision of loans and insurance to mitigate the business risks associated with arms transactions, especially in the Southeast Asia, where Japan has good chances to win contracts. Secondly, simply repeating an intent on defense equipment does not change anything. If the government is serious, it needs to conduct a country-by-country study of the procurement process and review technical standards to ensure compatibility with the destination markets. Finally, in the long run, Japan must embrace the responsibility of an arms exporter. What matters most for the nation is the state's survival and protection of the lives of its citizens. Without a sound defense industrial base, Japan's likelihood of overcoming the turbulence in the region will be significantly diminished. Japanese policymakers must face the public head-on and explain this new reality.

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