

Japan's Defense and Security Policies

What's Old, What's New, What's Ahead

Introduction

In December 2010, Tokyo adopted new defense guidelines, the so-called "*National Defense Program Guidelines*" ("*NDPG*"). The December 2010 defense guidelines outline the country's ten-year defense strategy. Previous defense guidelines were issued in 1976, 1995 and 2004. Tokyo's new defense guidelines set in motion the re-structuring and re-location of Japan's armed forces. This, however, will take place against the background of a decreasing defense budget. Tokyo's annual defense expenditures are estimated to shrink by three-five per cent over the next three to four years.

Tokyo's new defense guidelines are aimed at equipping Japan's "*Self-Defense Forces*" ("*SDF*") ("*Jietai*" in Japanese) with the capabilities and equipment to react to crisis scenarios going beyond the defense of Japanese territory on the Japanese mainland—an euphemism for equipping the country's military, navy and coast guard to deter and counter Chinese intrusions into Japanese-controlled territorial waters in the East China Sea.

However, Tokyo will continue to adopt its so-called "*defense-oriented defense policies*" which demand that the country's armed forces capabilities and equipment are strictly limited to the minimum necessary for self-defense and the defense of Japanese territory¹. Japan has in 1967 imposed the rule onto itself not to spend more than

one per cent of its GDP for defense². Then again, given the country's enormous GDP one per cent of Japan's GDP translates into a defense budget of an impressive \$47 billion annually. Only the US, China and Russia spend more on its armed forces and it has long been argued that the country with the world's fourth largest defense budget can arguably not refer to itself as "*pacifist*".

The guidelines call for the re-location of defense capabilities and troops from the northern toward the southern parts of the country, including to the southern island chains in relative vicinity to Mainland China and Taiwan³. Indeed, the quality and scope of the armed forces' re-location leave no doubt that the guidelines are above all motivated by China's rapidly advancing military modernization, its increasingly regular intrusions into Japanese-controlled territories in the East China Sea.

However, Tokyo's defense guidelines are not all about preparing the armed forces to confront China in the East China Sea and elsewhere. Japan's defense planners foresee the expansion of bilateral security dialogues and exchanges, confidence-building measures and cooperation with China in the area of non-traditional security.

² Since 1967, Tokyo has consistently spent less than one cent of its GDP on its armed forces, with the exception of 1995-1997 when it spent slightly more than one per cent.

³ See also Fouse, David, *Japan's National Defense Program Guidelines: Coping with the 'Gray Zones'*, Asia-Pacific Papers, Asia-Pacific Center for Security Studies, Honolulu, Hawaii, April 2011, accessible at <http://www.apcss.org/wp-content/uploads/2011/05/Fouse-Japan-Final.pdf>.

¹ See Ministry of Defense, "Basis of Defense Policy", accessible at: http://www.mod.go.jp/e/d_act/d_policy/dp02.html.

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While this sounds good on paper, in view of Japanese-Chinese regional geo-strategic rivalry in general and bilateral territorial disputes in the East China Sea in particular, it remains yet to be seen when and how such increased Japanese-Sino cooperation will actually take place.

Japan's new military assertiveness aside, the defense guidelines do not alter the very fundamentals of Japan's defense and security policies: The country's so-called "*Three Non-Nuclear Principles*", i.e. Tokyo's decade-old policy not to introduce, stockpile and manufacture nuclear weapons, remain unrevised. After it was revealed in 2009 that US vessels equipped with nuclear weapons repeatedly called Japanese ports throughout the Cold War (authorized by the so-called "*US-Japan Secret Agreements*" for details see below), parts of the country's defense establishment requested to officially allow US warships to introduce nuclear weapons into Japan in the case in of a regional military crisis-at the time an euphemism for a North Korean missile or worse nuclear attack. Japan's government then led by Prime Minister Naoto Kan, however, categorically excluded the revision of one or more of the non-nuclear principles and Japan's current government led by Yoshihiko Noda too is, at least for now-sticking to that policy.

As regards the export of weapons and weapons technology on the other hand Japan has in the meantime moved on. While Tokyo led by Prime Minister Naoto Kan decided not to lift the ban with the adoption of the new defense guidelines, Japan's new government led by Yoshihiko Noda did just that shortly coming into office.

On December 27, 2011, he authorized the lifting of the country's decade-old ban to export weapons and weapons technology enabling Japanese defense contractors to participate in and contribute to multinational weapons research and development consortia.

Noda's decision in December 2011 to lift Japan's decade-old ban to export weapons and weapons technology (for details see be-

low), however, was arguably above all motivated and driven by economic (as opposed to security policy) motives. The easing of the export ban will enable the country's defense industry to participate in and contribute to multinational weapons research and development consortia. Japan's defense industry and the country's most powerful business association Nippon Keidanren had for years pushed for the lifting of the export ban in order to guarantee that the country's defense industry remains globally competitive.

Japanese-Chinese relations-arguably like US-Chinese relations-are characterized by paradoxes and will remain prone to conflicts and confrontations over disputed territories, World War II history as well as bread and butter issues such as intellectual property rights, labor conditions and wages of Chinese workers working for Japanese multinationals in China. While Japanese-Sino business and trade and investment ties are soaring-China is Japan's biggest trading partner since 2009 and Tokyo and Beijing have recently created the basis for further expanding bilateral trade ties by agreeing to allow direct yen-yuan trading-political relations have in recent years fairly frequently turned (very soar) over open-ended territorial disputes in the East China Sea (for details see below).

While probably disappointing Japan's China hard-liners, Prime Minister Noda's China policies must have surprised Beijing's political leadership as he is not nearly as hawkish or indeed anti-China as Beijing's political leadership, its state-controlled media and scholars feared (and Japanese nationalists hoped).

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1. "Dynamic" Armed Forces

Japan's new defense guidelines replace the country's "*Basic Defense Forces Concept*" ("*kibanteki boeiriyoku koso*")—first published in Japan's 1976 "*National Defense Policy Outline*" ("*NDPO*")—with what is now called "*Dynamic Defense Force*" concept ("*doeki boei ryoko*"). The "*Basic Defense Forces Concept*" ("*BDF*") stipulated that Japan's defense capabilities must in terms of quality and quantity be designed to enable the country's armed forces to deter and counter a small-scale invasion of Japanese territory. While under the static "*BDF*" concept, weaponry and infantry were stationed across the country's four main islands, Tokyo's defense policy doctrine is aimed at allowing the armed forces to use its capabilities according to actual security needs to deter and counter an attack on Japanese territory. In this context, Japan does since December 2010 does no longer exclude to break with the country's decade-long policy to spend more than one per cent of its GDP on defense should the security environment and security situation (e.g. in the case of a North Korean missile attack or a military confrontation with China in the East China Sea) call for such an increase.

The below-described armed forces' restructuring notwithstanding, the December 2010 "*NDPG*" do not alter the fundamentals of the Japan's defense and security policies: Tokyo's defense policies will remain exclusively defense-oriented, i.e. will remain what in the literature and policymaking circles is referred to as "*defensive defense policies*" ("*senshu boei*"). Japan's "*defensive defense policies*" will continue to exclude the acquisition and deployment of power projection capabilities, such as offensive US-made Tomahawk missiles able to hit e.g. North Korean missile and nuclear sites. Hence Japan's armed forces will not be equipped with military equipment enabling the country to attack or invade another country. Continuing to exclude the acquisition of offensive military equipment realistically renders (typically Chinese) concerns and fears that the guidelines laid the basis for Japan to become a potential military threat to others in the region baseless.

The defense guidelines refer to the country's southwestern parts and islands in relative geographic vicinity to the Mainland China, Taiwan and the Taiwan Straits as a "*strategic vacuum*" to be filled by the foreseen re-structuring of the country's armed forces. In the same context, the defense guidelines refer to so-called "*gray-zone disputes*" in Japan's southwestern parts and islands. "*There are a growing number of so-called "gray-zone" disputes—confrontations over territory, sovereignty and economic interests that are not to escalate into wars.*" There is no doubt that the guidelines refer to unresolved territorial disputes with China in the East China Sea in this context.

2. Re-locating and Restructuring Troops and Firepower

Stipulated in Japan's December defense guidelines, Japan's armed forces will be subject to a comprehensive restructuring, formulated in the "*Mid-Term Defense Program ("MTDP") for FY2011- FY2015*", issued together with the defense guidelines on December 17, 2010.⁴ The armed forces' restructuring will affect all three branches of Japan's armed forces: the Ground Self-Defense Forces (GSDF), Air Self-Defense Forces (ASDF) and Maritime Self-Defense Forces (MSDF):

- Ground forces troops, units and equipment will be re-located from northern Japan (Russia crisis scenario) to the south and southwestern parts of Japan (China crisis scenario), including to the East China Sea.
- 1000 ground troops will be deployed to the western island of Yonaguni, Japan's most western island in geographic vicinity to Taiwan.
- Ground troops will be stationed on Miyakojima, an island in the southern part of Okinawa prefecture.
- In order to improve response capabilities for rapid deployment in the case of a regional military contingency, the GSDF will receive additional CH-47 JA transport helicopters.

⁴ Online at http://www.mod.go.jp/e/d_act/d_policy/pdf/mid_termFY2011-15.pdf.

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- A GSDF coastal monitoring force will be deployed in Japan's southwestern islands
- The overall number of Japan's ground forces will be reduced from 155.000 to 154.000 troops
- The number of Japanese tanks will be reduced from 600 to 400. Most Japanese tanks are until today stationed in Hokkaido and will be re-located to the southern parts of the country
- The "MTDP" continue to commit Japan to joint the US-Japanese joint development of a second-generation missile defense interceptor (the S-3AII system)⁵.
- Two additional Aegis-class destroyers equipped with state-of-the art SM-3 missile interceptor systems will be deployed.⁶
- The ASDF's air defense capabilities will be upgraded through the stationing of an additional fighter squadron at Naha Air Base in Okinawa.
- The ASDF's F-4 fighter aircraft will be replaced with a fifth generation fighter. The number of Japanese F-15 fighter jets deployed on Okinawa will be increased from 24 to 36.
- Japan's Coast Guard (JCG)'s overall budget will be increased (again⁷) to buy additional ships, and jets while the navy will receive additional state-of-the-art US-made AEGIS destroyers.
- 21 new patrol ships and seven new reconnaissance jets will be added to the coast guard fleet. Some of those ships will be deployed to the East China Sea.
- Japan's navy will increase the number of its Aegis destroyers from four to six⁸.

Japan's defense planners have for years requested the improvement of the armed

⁵ US defense contractors depend on Tokyo to develop the missile system's nose cone, the second and third stage rocket boosters, and the upper and lower separating segments of the second-stage rocket engine. Washington and Tokyo are currently developing the kinetic warheads, infrared seeker, while US defense companies are developing the missile guidance, boosters, and the systems integration without Japanese assistance. For further details also see Hughes, Christopher W, Beardsley, Richard K., "Japan's Security Policy and Ballistic Missile Defense", London and New York: Routledge/Curzon, 2008.

⁶ See e.g. Liff, Adam P., "Japan's 2010 National Defense Program Guidelines-Reading the Tea Leafs", Asia-Pacific Bulletin No.89, December 22, 2010: East West Center, Honolulu, Hawaii.

⁷ The JCG's budget was increased several times in recent years, amongst others to equip the coast guard with the equipment to deal with North Korean intrusions into Japanese territorial waters

⁸ Aegis destroyers are equipped with antimissile systems aimed at intercepting and destroying North Korean short-range Nodong missiles.

forces' information and policy coordination mechanism. The December 2010 defense guidelines responded to that request by establishing a Japanese-style US National Security Council.

The above-described armed forces' restructuring plans are ambitious and costly, but the funds necessary to implement the re-structuring are scarce. In fact, Japan's defense budget is predicted to shrink by three to five percent in the years ahead, as the government announced when the defense guidelines were adopted in December 2010.

The reduction of the country's defense budget could indeed have an impact on the armed forces' re-structuring plans and the acquisition of defense equipment accompanying the armed forces' restructuring, not least in view of Japan's sovereign debt amounting to roughly 220% of the country's GDP.⁹

3. Japanese-Chinese Disputes in the East China Sea

Whether the defense guidelines and the above-described upgrade of Japan's navy and coast guard capabilities which accompany the guidelines' implementation process can deter Chinese intrusions into Japanese-controlled territorial waters in the East China Sea in 2012 and beyond remains yet to be seen.

In late 2011 (In November) in the meantime there were indications that Tokyo and Beijing could in 2012 resume bilateral negotiations to at least address (as opposed to solve which can be as good as excluded) the dispute related to the boundary lines in the East China Sea. At the time, Tokyo reacted positively to Beijing's Chinese proposal to resume negotiations under the auspices of the U.N. Convention of the Law of the Sea in principle.

⁹ Estimated by the Organization for Economic Development (OECD)

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However, by the time of this writing (February 2012), a start date the resumption of bilateral negotiations has yet to be set and given the sensitivity and the controversies surrounding the issue in both Tokyo and Beijing, it realistically remains unlikely that we will experience anything resembling a breakthrough as regards a mutually agreeable definition of boundary lines in the East China Sea in 2012.

Chinese policymakers will continue to find themselves under pressure-typically from nationalist and ultra-nationalists groupings from within the country's foreign policy elites and from the military itself-to continue showing naval presence in the East China (and South China Sea) in order to demonstrate their commitment to defend Chinese-claimed (but Japanese-controlled) territories in the East China.

Analysts widely agree that a failure to do so would make the leadership very vulnerable to very harsh criticism and accusations of being weak and not committed enough to defend Chinese territorial integrity. China's political leaders have become-albeit not voluntarily but under pressure from the country's very rapidly growing internet community (the so-called "*Netizens*" short for "*Internet Citizens*")-increasingly sensitive to the public's views on the government's foreign and security policies.

Such pressure on China's political leadership could even increase in 2012, the year of a leadership transition and the appointment of a Chinese President and Prime Minister at the 18th Party Congress, to be held in autumn. There is a near-consensus amongst (non-Chinese) China analysts and scholars that China's by then new political leaders could not afford to appear weak on Japan in general and on Japanese-Chinese territorial disputes in particular.

3.1. Fighting over the Same Islands

Consequently, Tokyo and Beijing claiming sovereignty over the same islands chain-the Senkaku (in Japanese)/Diaoyu (in Chinese)

Islands, located in the East China Sea, will continue to remain a top policy item on the Japanese-Chinese agenda in the years ahead.

The Senkaku Islands comprise five uninhabited islands and a number of rocks, aggregating roughly 7 square kilometers in total. The islands are located approximately halfway (roughly 400 km) between the Chinese mainland and Okinawa, and about 170 km northeast of Taiwan. The islands are controlled by Japan but claimed by China (as well as by Taiwan) which refers to Chinese sovereignty over the Japanese-controlled islands chain as "*indisputable*." While it can realistically be excluded that Tokyo will ever renounce the Senkaku Islands as integral part of Japanese territory, Beijing for its part will not give up its territorial claims either. Beijing bases its claims on (Chinese) historical records dating back to the Ming dynasty (1368-1644). Beijing, however, only began to officially state its territorial claim over the islands when in the late 1960s it was reported that the waters around the islands could be rich of petroleum and gas. Japanese-Sino territorial disputes in the East China Sea, however, are not limited to the Senkaku/Diaoyu Islands but involve disputed waters totaling roughly 210.000 square kilometers.

Moreover, Tokyo and Beijing also disagree on the borders of their respective "Exclusive Economic Zones" ("EEZ"). While Japan claims a division on the median line between the two countries' coastlines as the border of its "EEZ", China claims that its "EEZ" extends to the eastern end of China's continental shelf, which in turn goes deeply into the 'EEZ' claimed by Tokyo. Research has indicated that the disputed waters hold significant gas and oil reserves and as the waters are mostly shallow, resource exploitation appears to be relatively easy.

This and a growing assertiveness as regards the country's territorial claims in the East China Sea persuaded China to start test drilling for oil and gas in disputed waters in the mid-1990s, including in areas beyond the median line claimed by Tokyo. In 2004 then, Beijing announced the establishment

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of a special naval fleet to be deployed to the East China Sea to protect its drilling ships and the country's territorial sovereignty. Tokyo responded in kind in April 2005 by allocating rights for gas exploration to Japanese companies in Chinese claimed areas. While the Japanese-Chinese tit-for-tat game centered around the drilling for gas and oil continued over the years, Beijing also intensified its naval activities in and close to the disputed waters from the 2000s onwards. Indeed, since the mid-late 2000s, the Chinese navy sailed with increasing frequency into Japanese-controlled territories in the East China Sea, which led to several encounters with Japan Coast Guard (JCG) patrol ships.

In June 2008 Tokyo and Beijing adopted the so-called "Principle Consensus on the East China Sea Issue" which foresees the joint Japanese-Chinese exploration of natural resources in the East China Sea. However, given that the agreement deals exclusively with the possible joint exploration of natural resources, possible steps towards the resolution of maritime border issues in the East China Sea will continue to remain elusive. Through functional co-operation, Tokyo and Beijing nonetheless demonstrated a joint interest to side-line controversies and disagreements over sovereignty and reduce them to a level that makes military confrontation over the disputed territories unlikely. However, given that Beijing has repeatedly stressed that joint exploration of resources around the disputed islands will only take place on the condition that Tokyo recognizes Beijing's complete sovereignty over them, joint exploration of gas and oil in the East China Sea is very likely to place on paper and paper only in the years ahead. In September 2010, Sino-Japanese relations reached a low point when Japan's coast guard arrested and detained the captain of Chinese trawler who deliberately rammed his trawler into a Japanese coast guard patrol boat near the disputed Senkaku/Diaoyu Islands.

The US has over the course of the year 2011 become increasingly concerned about Chinese naval activities in the East China as well as South China Seas and in mid-2011

confirmed publicly that defending Japanese territory in the East China Sea, i.e. defending the Senkaku Islands, are subject to US-Japan military-cooperation as formulated in the US-Japan Security Treaty. This announcement confirmed that Washington is prepared and indeed obliged to defend Japanese national territory alongside Japanese armed forces in the case of a military confrontation with China over the ownership of the Senkaku Islands.

While territorial disputes in the East China Sea will very unlikely lead to Japanese-Chinese military confrontations in 2012 and beyond, joint exploration of natural resources in disputed waters, not to mention the resolution of issues related to sovereignty over disputed territories and waters in the East China Sea, will most probably not make it onto the Japanese-Chinese 2012 policy agenda any time soon either.

4. Prime Minister Noda-Hawkish on China, up to a Point

Of particular concern to Japan's government led by Prime Minister Yoshihiko Noda are Beijing's plans to build and deploy an aircraft carrier battle-group as what is feared could be part of Beijing's so-called "*anti-access strategy*," i.e. the strategy of blocking East Asian sea lanes of communication aimed above all at reducing Washington's ability to project military naval power in the region in the case of a military contingency. As counterstrategy, Tokyo plans to deploy five additional submarines off its coastal waters while at the same time increasing its overall number of Japanese submarines from 16 to 22¹⁰. The submarines' main task will be to strengthen the defense of Japan's sea lanes of communication, its coastline amounting to 29.800 km and the country's enormous maritime "*Exclusive Economic*

¹⁰ See also Smith, Sheila, "Japan's Dynamic Defense Policy and China", Council on Foreign Relations December 17, 2010, accessible at: <http://www.cfr.org/japan/japans-dynamic-defense-policy-china/p23663>.

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Zone" ("EEZ") amounting to roughly 4.5 million square kilometers.

Noda's defense and security policy assertiveness aside, his China policies will (arguably almost by default) continue to be driven and restrained by the country's corporate interests to expand business, trade and investment ties with Beijing. China has in 2009 become Japan's biggest trading partner and it seems that Noda despite his nationalist instincts will like his recent predecessors seek to avoid political and diplomatic tensions with Beijing. Japan's political and business elites have not forgotten that the rapid expansion of trade and business ties with China in the early 2000s contributed very significantly to Japan overcoming a decade-long recession characterized by deflation and more often than zero economic growth.

Indeed, Noda, as it turned out, is not nearly as hawkish on defense and security in general and defense and security policies towards China in particular as Beijing, its scholars and the media feared when he took office last September¹¹.

Indeed, since taking office he took back a lot of his "hawkishness", so to speak.

Much to the chagrin of Japanese nationalists, ultra-nationalists China-bashers, Noda early during his current tenure as Prime Minister announced that he will not visit the controversial Yasukuni Shrine in Tokyo, last resting place of a number of convicted Japanese A-class criminals of war. Before taking office Noda sent shockwaves over the region in general and Beijing in particular announcing that Japanese wartime leaders convicted by the Allied Tribunal in Tokyo after World War II were not criminals of war under Japanese domestic law at the time. Since then, he came to senses sticking to Tokyo's official position accepting the legality of the Tokyo Trials guilty verdicts.

While until late last year, he was frequently quoted as voicing concerns about China's rising nationalism and naval activities in the East China and South China Sea as risk to Japan and regional stability, he has since then been very cautious about infuriating China in front of the microphone and if he is nationalist suspicious about China, he is surely hiding it very well, at least for now.

"Realpolitik" and the necessity to make sure that the situation in North Korea did not get out of hand after the death of North Korea's Kim-Jong-Il did without its share to tame the previously more often than not hawkish Noda. Noda was the first foreign leader to meet with China's political leaders since Kim's death, emphasizing Japan's strong interest to resume the stalled Six-Party Talks, the multilateral forum aimed at verifiably and sustainably de-nuclearizing North Korea (hosted by Beijing since 2003)¹².

During the December 2011 Japanese-Chinese encounter then, Tokyo and Beijing signed memorandums of understanding on youth exchanges and set up a clean energy and environmental protection investment fund. What's more, Noda and his Chinese counterpart Wen Jiabao agreed to allow and promote direct trading of the yen and yuan without using dollars. While currently roughly 60% of Japanese-Chinese trade transactions are settled in dollars, direct yen-yuan trades could significantly reduce currency risks and trading costs. Furthermore it was agreed in December 2011 that China will allow Japan to buy Chinese government bonds in 2012, something requested by Tokyo for some time.

Former Japanese diplomat and Tokyo's former chief North Korea negotiator Hitoshi Tanaka as it turned out was right: "Probably the new prime minister would like to pursue down-to-earth foreign policies", Tanaka said when Noda took office last September.

¹¹ For an analysis on how Beijing's concerns as regards Noda's China policies see e.g. Economy, Elizabeth C., "Why China Worries about Japanese Prime Minister Noda"; Asia Unbound, Council on Foreign Relations (CFR), August 31, 2011

¹² See McDonald, Scott, "Japan's PM reaches out to China on North Korea"; Associated Press, December 25, 2011

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4.1. Worried All the Same

To be sure, as usual and indeed in knee-jerk fashion Beijing remains wary about any changes on Tokyo's security and defense policy agenda. While China's policymakers are well aware of the fact Tokyo's defense guidelines do not equip Japan's armed forces with offensive military capabilities enabling Tokyo's armed forces to launch a military attack on China, expressing on the record concerns on anything that has to do with a budgetary and material upgrade of Japan's armed forces has arguably become an integral part of the official Chinese foreign and security policy discourse.

What's more-and from a Beijing policy-maker's perspective probably more importantly-official Chinese reactions to movements and changes on Japan's defense policy agenda are usually above all directed at a domestic as opposed to a Japanese or international audience. China's leadership sticks to the strategy of reacting harshly to anything Japanese that could be interpreted as a threat to Chinese national integrity and national security in order to avoid accusations of being "weak" and not determined enough to defend Chinese national integrity and territory (in the East China Sea).

Portraying Japan as military threat "*occupying*" Chinese territories in the East China Sea still goes down particularly well with the Chinese public and is an opportunity for Beijing to display determination to defend China and Chinese territory against "*certain countries*", usually synonyms for Japan and the US).

5. Expanding Contributions to Regional and Global Security

As regards Tokyo's future role in and contributions to regional security, the defense guidelines foresee the expansion of ties and cooperation with South Korea, Australia, India and ASEAN. This approach towards regional security is designed to be compatible and complementary with the US-led "*hub-and-spokes*" system in Asia. It also fits

into the ongoing restructuring of US security policies in East Asia characterized by the intensification of US bilateral and trilateral security ties in the region (such as the 2006 "*US-Japan-Australia Trilateral Strategic Dialogue*" ('TSD')).

Nonetheless and again not surprisingly, Tokyo's on paper plans to expand security with countries other than the US will be observed with suspicion in Beijing. Indeed, Beijing usually tends to consider Japanese initiatives to intensify defense or military-to-military relations with regional powers as part of a US-Japan driven strategy of "*encirclement*" aimed at containing Chinese regional political and military influence.

Japan foresees the expansion of global peacekeeping and peace-monitoring and humanitarian missions as well as the expansion of contributions to operations dealing with non-traditional security threats such as piracy, disaster relief and non-proliferation of weapons of mass destruction. In order to enable the country to make more frequent and substantive contributions to UN peacekeeping missions, Tokyo's defense guidelines also call for the loosening of the many legal restrictions Japanese soldiers are confronted with when participating in UN peacekeeping operations (PKO). These restrictions are stipulated in the Japanese 1992 "*Peacekeeping Law*" and are above all centered around the use of military force Japanese peacekeepers are allowed to use during PKO missions. Japan's "*PKO Law*" stipulates that Japanese soldiers can use military force only for individual self-defense as opposed to collective self-defense in the framework of UN PKOs. Hence, Japanese soldiers are not authorized to defend soldiers from other countries with military force, arguably one precondition for a sustainable and frequent contribution to UN peacekeeping missions (in view of the fact that allowing soldiers to execute the right to collective self-defense can become necessary should UN military forces come under attack during their mission).

Consequently, as long Japan does not officially re-interpret war-renouncing Article 9 of its constitution as to allow Japanese sol-

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diers to execute the right to collective self-defense (something Japan's defense establishment and the military have (unsuccessfully) requested for years), the loosening of legal restrictions of Japan's 1992 PKO Law will remain very unlikely, at least for the foreseeable future.

5.1. Legal Base with Expiry Date

The adoption of a permanent law (as opposed to a law with a "date of expiry", i.e. a specific law that has to be adopted in parliament for each individual mission) authorizing the deployment of Japanese armed forces to international military (non-combat) missions remains unlikely in the years ahead.

Japan's defense establishment and the military have requested such a law for years in order to equip Japanese armed forces with a permanent and sustainable legal framework for missions abroad. Currently, the deployment of Japanese soldiers to missions abroad has to be authorized by what is referred to as "made-to-measure" laws which typically expire after one year and have to be re-adopted (in order to extend the armed forces' mandate for the mission in question) by the Japanese parliament. Following this practice, Tokyo deployed navy vessels to the Japanese refueling mission in the Indian Ocean (2001-2009) in support of the war in Afghanistan, ground forces to a humanitarian and reconstruction mission in Iraq (2004-2006) as well as the navy (since March 2009) to the ongoing anti-piracy mission in the Gulf of Aden off the coast of Somalia.

6. Not Lifting the Weapons Export Ban in December 2010

In 1967, the Japanese government issued the so-called "Three Principles" on arms exports through which weapons sales to communist countries, countries involved in international conflicts and countries subject to United Nations sanctions were banned. In

1976 then Tokyo decided to ban the export of Japanese weapons and weapons technology to all countries and not only to those falling into the category of countries affected by one or more of Tokyo's "Three Principles".

Until mid-December 2010, it was widely considered to be a matter of course amongst Japanese pro-defense policymakers and scholars that the government would lift the export ban to allow Japanese defense contractors to export weapons used in either UN peacekeeping and peace-enforcement missions or missions combating international terrorism¹³. In the framework of such missions, Japanese defense contractors envisioned joint projects with defense companies in South Korea, the US and also Europe. In November 2010, the government published a set of three rules which are in the future to guide the easing of Japan's weapons export ban: 1. Export of weapons is limited to peace-building and humanitarian missions, 2. Joint development projects are to be limited to partners in the US and NATO member states and 3. Standards to prevent the transfer of defense technologies to countries other than US and NATO member states will be established.

Shortly before the adoption of the defense guidelines, however, the government felt obliged to give up (or postpone by one year as it turned out, for details see below) its plan to lift the weapons export ban. The ruling Democratic Party (DPJ) coalition partners'-the People's New Party (PNP) and the Social Democratic Party (SDP)-were categorically opposed to the lifting of the ban and threatened to leave the coalition in case then Prime Minister Kan decided to lift it. While the weapons export ban was not lifted in December 2010, the defense guidelines did not exclude the possibility of revis-

¹³ Then Japanese Defense Minister Kitazawa told then US Secretary of Defense Robert Gates that Japan is about to ease the weapons export ban; see "Kitazawa: Review of Arms Ban May be in the Cards", *The Asahi Shimbun*, October 13, 2010, accessible at: <http://www.asahi.com/english/TKY201010120151.html>.

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iting the decision to leave the ban in place in the future: "*Measures to follow the international trends of defense equipment will be studied*", the December 2010 guidelines read. Tokyo in December 2010 continued to reserve itself the right to revisit its decision not to abolish the self-imposed to export weapons and weapons technology.

As it turned out, the Japanese government led by Prime Yoshihiko Noda did exactly that at in December 2011.

6.1. ... But Lifting the Ban in December 2011

The government's December 2010 decision not to further ease the arms export did predictably not terminate the debate on if and when the ban would be further eased.

Consequently in October 2011, then Japanese Defense Minister Yasuo Ichikawa (who has in January been replaced by Naoko Tanaka, son-in law of former Prime Minister Kakuei Tanaka) the government announced to ease the weapons export ban "*before long*" as Reuters news agency reported back then¹⁴.

In mid-October 2011 then it was again Reuters which reported that Japan is considering to further ease the country's weapons export ban allowing the defense industry to contribute to multinational weapons development consortia¹⁵. Reuters referred in its report to the Yomiuri Shimbun which on October 14 reported that Noda would tell US President Obama at the Asia-Pacific Economic Cooperation (APEC) forum summit in Honolulu in mid-November 2011 that Japan

would lift its ban to export weapons.¹⁶

At the time, Tokyo did not confirm that newspaper report and instead insisted that the government has no immediate plans to ease the ban any further allowing Japanese defense contractors to co-operate with non-US defense companies. Chief Cabinet Secretary Fujimura Osamu back then maintained that he was not aware of a planned easing of the ban as reported by the Yomiuri Shimbun. Instead, he maintained that it is "*Our position is to follow the weapons export ban that has been in place until today*" when speaking to journalists. When meeting Obama in Honolulu in November, Prime Minister Noda did indeed not mention the easing of the country's weapons export ban.

On December 27, 2011 then, the Japanese government officially announced to ease the ban allowing Japanese defense contractors to take part in the joint development and production of weapons with other countries (as opposed to only the US) and to supply military equipment for humanitarian missions.¹⁷

On the same day, the Japanese government announced to establish new guidelines which will guide the relaxation of Japan's weapons export ban. The new guidelines are entitled "*criteria regarding overseas transfers of defense equipment*" and stipulate that Japanese defense contractors are allowed to participate in joint projects to develop and produce military equipment and technology with the US and European countries and that Japanese defense contractors are allowed to export defense-related equipment in support of peace-building or humanitarian missions.¹⁸

¹⁴ "Japan eyes easing of joint arms development", *Reuters*, October 5, 2011, accessible at <http://uk.reuters.com/article/2011/10/04/uk-japan-defence-idUKTRE79332020111004>

¹⁵ See "Japan PM to ease weapons export ban – Yomiuri", *Reuters*, October 14, 2011, accessible at: <http://208.175.66.104/article/2011/10/14/idINIndia-59886720111014>.

¹⁶ See "Noda to brief Obama on arms export/relaxing ban to ban enable joint development", *Yomiuri Shimbun* October 15, 2011, accessible at <http://www.yomiuri.co.jp/dy/national/T111014004781.htm>.

¹⁷ See "Debt-riddled Japan relaxes decades-old arms exports ban", *Reuters* December 27, 2011

¹⁸ See "Govt decides to ease arms export ban / Way clear for joint intl arms development", *Daily Yomiuri Shimbun* December 28, 2011

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While the easing of the weapons export does not automatically mean that Tokyo will immediately sell weapons and weapons technology to other countries than the US, Mitsubishi Heavy Industries is very likely from now on to contribute to the development of Lockheed Martin's F-35 fighter, which the Japanese government earlier in December 2011 chose as the country's future frontline fighter. In the years ahead, Japan's Ministry of Defense plans to acquire 42 F-35 fighters at an estimated cost of more than \$7 billion.

Already back in December 2004, the Japanese government decided to partially ease the country's weapons export ban, officially allowing Mitsubishi Heavy Industries and Kawasaki Heavy Industries to cooperate with US counterparts on the development of the US-Japan missile defense system. However, even before 2004 Mitsubishi Heavy Industries already cooperated on joint military projects with U.S. defense contractors such as Raytheon, the world's largest missile maker, and Lockheed Martin, the biggest U.S. defense contractor. The partial easing of the weapons export ban in 2004 allowed Mitsubishi Heavy Industries to sell components used for the U.S.-Japan missile defense system. Mitsubishi supplied U.S. partner companies with nose cones, motors and other components for sea-based anti-missile systems.

Japan's biggest business association Nippon Keidanren in July 2010 published a report on Japanese defense and security policies in which it complained that Japanese defense contractors are unable to develop long-term business strategies in view of reductions of Japanese defense spending¹⁹. The report urged the government to allow the country's defense industry to participate in international research and developments projects and consortia to secure the industry's international competitiveness and increase the very modest share of Japan's defense

industry of the country's total industrial production (amounting to only one per cent)

7. Not Revising the "Non-Nuclear Principles" (Yet)

Japan's new defense guidelines do not revise one or more of Japan's "Non-Nuclear Principles". The principles are a parliamentary resolution that served as the basis for Japan's nuclear policies since their inception in the late 1960s. The principles state that "Japan shall neither possess nor manufacture nuclear weapons nor shall it permit their introduction into Japanese territory".²⁰ The Japanese parliament adopted the principles in 1971 but they were never embedded into a legally binding framework, i.e. the principles never became legally binding laws. Recommendations and requests from parts of Japan's defense establishment to review or indeed abolish of the three "Non-Nuclear Principles" received some (albeit temporary) support from the Japanese public after North Korea's nuclear tests in 2006 and 2009.

While such support of and interest in nuclear armament has in the past been very short-lived, an inner-Japanese debate on Japan's "nuclear option" or on revising one or more of the country's "Non-Nuclear Principles" could nonetheless be resumed should North Korea continue not to honor its 2007 commitment to dismantle its nuclear program, or worse continue to weaponize plutonium, turning it into weapons-grade plutonium needed for nuclear bombs. While the vast majority of Japan's mainstream policymakers and lawmakers and the public remain strongly opposed to nuclear armament, advocates of nuclear armament in Japan go as far as to argue that Japan's constitution and war-renouncing Article 9 do not prohibit the country from developing and station nuclear weapons for the purpose to defend Japa-

¹⁹ See "Proposal for the New National Defense Program Guidelines", Nippon Keidanren, July 20, 2010, accessible on Keidanren's website at www.keidanren.or.jp.

²⁰ The principles were introduced by Japan's government then led by Prime Minister Eisaku Sato

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nese territory (as an act of individual self-defense in accordance with the interpretation that the second paragraph of Article 9 gives Japan the right to defend Japanese territory with military force).

Claims by parts of the defense establishment that the potential threat posed by North Korea's potential nuclear has "cured" the public's "nuclear allergy" against Japan's nuclear armament since North Korea conducted its first nuclear test in 2006 are simply not credible and are not supported by any opinion polls conducted by Japanese newspapers and magazines over recent years.

7.1. US-Japan "Secret Agreements"

The Japanese debate in 2010 on the possible revision of one of Japan's "Non-Nuclear Principles" did not come without prior warning. The debate on the principles' revision made it onto the government's agenda in December 2009 when it leaked to the Japanese media that there existed so-called U.S.-Japan "Secret Agreements" under which Japan allowed the US military to introduce nuclear weapons into the country throughout the Cold War. After these revelations, the Japanese government then led by Prime Minister Hatoyama Yukio nominated a Foreign Ministry panel to investigate whether Japanese governments had since the late 1960s indeed violated one of Japan's "Non-Nuclear Principles", namely the one prohibiting the introduction of nuclear weapons into Japan. In reality, the existence of the US-Japan "Secret Agreements" was known among Japanese policymakers and the defense establishment for decades.

The Foreign Ministry's panel published its findings in March 2010 and concluded that the government at the time had indeed adopted four secret agreements with the United States in the late 1960s:

1. An agreement to allow U.S. warships to introduce nuclear weapons into Japanese ports.
2. An agreement to permit the U.S. military to use bases in Japan without prior

consultation in the event of a military crisis on the Korean Peninsula.

3. An agreement between the Prime Minister Eisaku Sato und U.S. President Richard Nixon to allow nuclear weapons into Okinawa Prefecture in the case of a regional military crisis
4. An agreement by which Japan agreed to bear the costs of the return of Okinawa to Japan in 1972

The ministry panel also concluded that the minutes of a meeting between Japanese Prime Minister Sato and US President Nixon on the return of Okinawa to Japan in 1969 revealed a U.S.-Japan agreement to allow the introduction of nuclear weapons into Okinawa in the case of a military crisis in the region²¹. Until Okinawa's return to Japan in 1972, the US had stationed both tactical and strategic weapons on the island. During US-Japanese negotiations over the return of Okinawa to Japan, the minutes of a meeting in October 1969 reveal that Washington opposed Tokyo's position of making Okinawa nuclear-free. Then Prime Minister Eisaku Sato, however, argued back then that Japan had essentially no choice but to give in to U.S. pressure: "If they inform us, it's necessary to reintroduce nuclear weapons because of an emergency, then we will have to say yes".

8. Not Touching 'Pacifist' Article 9

The defense guidelines do not request or recommend the revision or re-interpretation of the Japanese constitution's war-renouncing Article 9²² and do not propose to

²¹ See also Johnston, Eric, "Slowly secret US nuke deals come to light", *The Japan Times*, Nov. 20, 2009, accessible at: <http://search.japantimes.co.jp/cgi-bin/nn20091120f3.html>. See also "Japan confirms secret pact on US nuclear transit", *BBC News*, March 9, 2010, accessible at: <http://news.bbc.co.uk/2/hi/8557346.stm>.

²² Article 9 reads: 'Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes. (2) To accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.'

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allow Japan to execute the right to collective self-defense, arguably the basis for effective and 'real world' military co-operation between partners of a bilateral military alliance (here: the US and Japan). Parts of Japan's defense establishment had without a doubt hoped that the defense guidelines would revive the currently quasi-dormant inner-Japanese debate on the revision of war-renouncing Article 9-a debate that would have been accompanied by the revival on the debate on the alleged "necessity" to allow Japanese soldiers to execute the right to collective self-defense (i.e. to execute the right to defend soldiers from other countries in the framework of international and military and peacekeeping operations).

While the Japanese government led by Yoshihiko Noda might be more prepared in principle to allow Japanese soldiers to execute the right to collective self-defense abroad, it remains very unlikely that this will take place any time soon. Like it or not and Japan's defense establishment does not-officially allowing Japan to execute the right to collective self-defense will most probably remain taboo issue in the years ahead.

In order to avoid of being accused of violating Article 9 of the Japanese constitution, Japan's policymakers have in the past referred to the above-mentioned Japan's missions in the Indian Ocean, Iraq and the Gulf of Aden as missions of individual as opposed to collective self-defense. Helping to fight terrorists and pirates in Afghanistan, Iraq and the Gulf of Aden, Tokyo argued (first under Prime Minister Junichiro Koizumi in 2001 during the deployment of Japanese navy vessels to the Indian Ocean), directly contributes to the defense and protection of Japanese national security (under threat from global terrorism).

CONCLUSIONS

Although Prime Minister Noda is more than his predecessor Naoto Kan eager and committed to upgrade Japan's regional and global defense security posture (which also explains his decision to lift Japan's ban to

export weapons and weapons technology), the country's dire fiscal situation could jeopardize the government's ability to dedicate and assign the financial resources necessary for the above-described costly armed forces' re-structuring and re-location.

As elaborated above, the concrete and measurable impact of Japan's December 2010 defense guidelines on the inner-Japanese debate of constitutional revision will continue to remain very limited in 2012 and beyond, not least because Article 9 of the Japanese constitution has in recent years not hindered Japan's armed forces from "doing" what "normal" countries do in terms of defense and military policies.

Indeed, Japan's recent defense and security policies in general and the December 2010 defense guidelines in particular accelerate what is also being referred to as the "hollowing out" of Article 9 and Japanese pacifism by those inside and outside of Japan who are (albeit unnecessarily) concerned about the "militarization" of Japanese foreign and security policies.

Then again it was always very difficult to plausibly explain that there is no contradiction between being an officially pacifist country while spending \$47 billion on its armed forces per year.