

(Provisional Translation)

Three Principles on Transfer of Defense Equipment and Technology

April 1, 2014

Adopted by the National Security Council

Approved by the Cabinet Decision

Amendment : December 22, 2023

The Government 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 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 increasingly proved unsuitable for the current situation. Also, the Government had 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. Under these circumstances, on April 1, 2014, the Government reexamined its past policy on the overseas transfer of defense equipment and technology, and, while giving due consideration to the roles played by the past policy, comprehensively consolidated it to adapt to the new security environment, reflecting the past exemption measures made to date, and set out clear principles as "Three Principles on Transfer of Defense Equipment and Technology". Based on the National Security Strategy (adopted on December 16, 2022) the Government has decided to partially amend the Principles.

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, Japan is facing the most severe and complex security environment since the end of World War II. In addition, the Indo-Pacific region, where Japan is situated, faces a host of security challenges. Japan has the vital importance of striving to realize a free and open international order based on the rule of law and securing regional peace and stability in cooperation with its ally, like-minded countries and others guided by the vision of a Free and Open Indo-Pacific.

Against this backdrop, Japan will prevent the emergence of situations where unilateral change of the status quo can be easily made and redouble efforts to secure a stable, predictable, free and open international order based on the rule of law, while continuing to adhere to the course that it has taken to date as a peace-loving nation, and as a major player in the international community. Japan will join together with its ally, like-minded countries and others to achieve its own security as well as peace and stability in the Indo-Pacific region under the policy of Proactive Contribution to Peace based on the principle of the international cooperation.

In achieving these Japanese security objectives, transfer of defense equipment and technology overseas is a key policy instrument to ensure peace and stability, especially in the Indo-Pacific region, to deter unilateral changes to the status quo by force, to create a desirable security environment for Japan, and to provide assistance to countries that are subject to aggression in violation of international law, use of force, or threat of force. And, 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, like-minded countries and others, thereby contributing to strengthening regional deterrence. Furthermore, appropriate overseas transfer of defense equipment and technology contributes to maintaining and enhancing Japan’s defense production and technological bases which are characterized as defense capabilities themselves, 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 doing so, it is necessary to take into account securing Japan's advantage and indispensability concerning our technologies and others from the perspective of economic security.

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 and carry forward with the transfer of defense equipment and technology in the joint public and private efforts. 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 parts etc., and when the transfer involves delivery of parts 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. The Implementation Guidelines will be amended in a timely manner in response to changes in the security environment and security needs.

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 under the policy of Proactive Contribution to Peace based on the principle of the 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 implement the Arms Trade Treaty and further strengthen the international export control regimes.