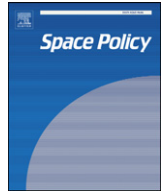


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# Japan, Ballistic Missile Defence and remilitarisation

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## ABSTRACT

Japan's future trajectory in security policy and the extent of deviation from the post-war course of a constrained military stance have been the source of constant academic and policy debate. Japanese policy-makers have maintained that national security policy has shown no fundamental deviation, and that this can be benchmarked against a range of constant anti-militaristic principles. The advent of BMD, however, poses significant questions over whether Japan is continuing to follow a similar security trajectory. This article examines how BMD has challenged four key anti-militaristic principles—the non-exercise of collective self-defence, the non-military use of space, the ban on the export of weapons technology, and strict civilian control of the military—and uses this assessment to judge how BMD is driving remilitarisation. It concludes that BMD's impact is highly significant in transgressing these anti-militaristic principles and is thus indicating a more remilitarised security path for Japan developing now and in the future.

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## 1. Introduction: Ballistic Missile Defence and debates on Japanese remilitarisation

Japan's extent of change and trajectory in its security policy, and specifically the degree of its remilitarisation, has been a source of major contention throughout the post-war era. Japanese policy-makers—wrestling with the particularly difficult defence problematique of seeking to safeguard national security against a perceived range of increasingly complex regional and international security challenges, whilst at the same time strongly constrained in this effort by the need to manage associated external risks and internal counter-pressures—have tended towards emphasising a low-profile national security posture and denial of the language of remilitarisation. Externally, policy-makers have remained wary of the need not to push forward too boldly the build-up of Japan Self-Defence Force (JSDF) capabilities in order to avoid a counter-reaction from East Asian states fearful of Japanese remilitarisation. In addition, Japan's leaders have eschewed a more proactive defence posture so as to hedge against the risk of the US–Japan alliance and being seen as too forthcoming militarily and becoming embroiled in US military strategy in the Asia-Pacific. Meanwhile, internally, Japan's policy-makers have been especially conscious of the need to avoid stimulating domestic political suspicions of remilitarisation, and how domestic opposition to changes in defence policy may be compounded by any

intensification of frictions with East Asian neighbours and rising US expectations for Japan to expand bilateral military cooperation.<sup>1</sup>

Japan's policy-makers have thus propagated a discourse to stress above all continuities in defence policy. This has generally been centred around arguments that Japan has shown no essential deviation from the foundations of its post-war national security policy which emphasise it will never again become a 'great military power' and instead maintain an 'exclusively defence-oriented' security posture.<sup>2</sup> More specifically, Japanese policy-makers have cited strict continuing adherence to the prohibitions on the use of force derived from Article 9, or so-called 'peace clause' of the Constitution, and a range of other anti-militaristic principles developed from the spirit of Article 9, as evidence of essential continuities and constraints in national defence policy and the management of the US–Japan alliance. However, ranged against this discourse of continuity is a counter-discourse, involving Japanese and external academics' and policy-makers' analysis. These point to the empirically observable and very considerable changes in the Japan Self-Defence Forces' (JSDF) doctrines and capabilities, combined with developments in US–Japan alliance cooperation,

<sup>1</sup> Richard J. Samuels, "Japan's Goldilocks Strategy", *Washington Quarterly*, 2006, 29 (4): 111–127.

<sup>2</sup> The Japanese government's formulation of this pattern of continuity is encapsulated in its statements of the basic principles of security policy in successive Japan Ministry of Defence White Papers. For example, see *Bōeishō, Bōeishō Hakusho 2012 (Defence of Japan)*, Tokyo, Zaimushō Insatsukyoku, 2012, pp. 107–108.

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and argue that these thus indicate the growth of significant discontinuities and remilitarisation in national security policy.<sup>3</sup>

Japan's official government commitment since the early and mid-2000s to go beyond previous technical research and to introduce and procure Ballistic Missile Defence (BMD) programmes has added further momentum to the controversy over the future course of remilitarisation. The Japanese government, as is the case in the entire gamut of national security policy, remains insistent that BMD is fully in line with the past precepts of defence-oriented planning and marks no deviation towards a more remilitarised policy. BMD is held to raise no particular concerns for domestic political or external neighbours in terms of undermining constitutional prohibitions and anti-militaristic principles or opening the way towards tighter US–Japan alliance cooperation beyond the existing scope of the US–Japan security treaty. But once again ranged against this view of BMD as reinforcing the essential *status quo* in Japanese defence policy are questions about the potential discontinuities, pointed to by the straight empirical facts that BMD has involved a massive redirection of Japanese defence budget resources and a decade long effort in US–Japan alliance restructuring to accommodate the new systems.

The objective of this article, given these controversies over Japan's remilitarisation in general and BMD's potential position within this process, is to begin to make headway in presenting an in-depth analysis of the arguments on either side for continuities and discontinuities and how this may inform the larger debate on remilitarisation. The vast scale of the BMD project and the relatively short format of this article do not provide for the scope to analyse the entirety of implications of BMD for Japan's national security policy. However, in order to gain a firmer analysis of the degree to which BMD is contributing to potential transformation in Japan's security policy, this article interrogates change within those very factors which are usually cited by Japanese policy-makers as marking continuities in defence policy. Specifically, the analysis focuses on the means by which BMD is acting upon the continuing solidity of interpretations of Article 9 as prohibiting the exercise of collective-self defence, and the three key anti-militaristic principles of the non-military use of space, ban on the export of arms technology, and strict civilian control of the military. If the continuing integrity of these anti-militaristic prohibitions and principles under the conditions of the introduction of BMD is tested and found to be strong or wanting, then clearly this will serve as a key set of indicators for the degree of remilitarisation triggered by this new weapons system. In turn, by investigating the degree of continuity or erosion of these prohibitions and principles, which are presented by Japanese policy-makers as the essential underpinnings for the entire national security policy, this article positions itself to comment more widely beyond BMD on the overall trajectory of Japan's potential remilitarisation.

## 2. BMD and Japan's prohibition of the exercise of collective self-defence

The Japanese Cabinet's decision in 2003 to commit to the acquisition of BMD programmes—consisting of the completed deployment by 2010 of the Air Self-Defence Force's (ASDF) *Patriot Advanced Capability-3* (PAC-3) system, and the upgrading and

testing from 2007 onwards of the Maritime Self-Defence Force's (MSDF) *Aegis* destroyer Standard Missile-3 (SM-3) BLK-IIA system—has posed major challenges for the ban on the exercise of collective self-defence as perhaps the key component of Japan's constrained militarised posture in the post-war era.

Japan's government since 1954 has maintained an interpretation of Article 9 as prohibiting the exercise of the right of collective self-defence. This interpretation is based on an assertion that even though Japan as a sovereign nation possesses the right of collective self-defence under Article 7 of the UN Charter, it cannot exercise that right because it would exceed the other interpretations of Article 9 which limit the use of force for Japan's own individual self-defence. Japanese policy-makers have held doggedly to this position during and since the Cold War, often fearful that if the right of collective self-defence were to be exercised it might open the way for the JSDF to be deployed in support of US alliance expeditionary warfare in East Asia and beyond, and thus entrapment in US military strategy.

Japan's refusal to countenance the exercise of collective self-defence was a source of frustration for US–Japan alliance cooperation during the Cold War. Nevertheless, Japan's position remained tenable given that the US and Japan established a division of military labour, with the US primarily concentrating on power projection from its bases in Japan, and the JSDF focussed on providing for the defence of its own territory and US personnel and bases. Japan could thus argue that any defensive provisions in and around its own immediate territory, even if extended to the defence of US assets, complied with the right of individual self-defence. Moreover, Japan's position was reinforced by the fact that it steadfastly refused to develop the type of JSDF capabilities that could be used for collective self-defence activities. The JSDF did develop increasingly complementary capabilities with those of the US in the latter stages of the Cold War, including large numbers of air interceptors and destroyers for patrolling the surrounding air and sea space, in order to boost its shielding functions for US forces operating out of Japan. But the JSDF did not develop the type of mobile power projection capabilities which could be readily slotted in alongside US expeditionary forces and avoided any integration of command and control systems for fear of entrapment.

In the post-Cold War period, though, Japan's holding to the non-exercise of the right of collective self-defence has become progressively more difficult. The US, mindful since the mid-1990s of the potential outbreak of regional contingencies involving North Korea and Taiwan, and then following 9/11 and the 'war on terror', has increased its expectations that Japan as an alliance partner should provide military assistance outside its own immediate territory on a regional and global scale. Japan has responded through the revision of the US–Japan Defence Guidelines and passing of a regional contingencies law between 1997 and 1999 to improve alliance cooperation in Northeast Asia. Moreover, Japan between 2001 and 2010 despatched the MSDF to provide refuelling for US and other coalition ships in the Indian Ocean involved in the Afghan campaign, and between 2004 and 2009 despatched Ground Self-Defence Force (GSDF) and ASDF units to Iraq for reconstruction and logistical support operations. But whilst all of these JSDF activities and planning have triggered possible questions of the exercise of collective self-defence, Japanese policy-makers have managed to adhere to formal constitutional prohibitions. Japan has emphasised that JSDF overseas operations are non-combat in nature and enabled by special laws which place strict limits on providing direct military support to the US or any other coalition members. In addition, the JSDF capabilities deployed have been highly limited, with a general emphasis on the weapons and rules of engagement necessary to protect JSDF assets alone, to the point that in certain cases these constraints have encumbered the ability to contribute effectively to the mission itself.

<sup>3</sup> For examples, see: Glenn D. Hook, *Demilitarization and Remilitarization in Contemporary Japan*. London: Routledge, 1996; Anthony DiFilippo, *The Challenges of the US–Japan Military Arrangement: Competing Security Transitions in a Changing International Environment*. Armonk, New York: M. E. Sharpe, 2002; Christopher W. Hughes, *Japan's Reemergence as a "Normal" Military Power*, Oxford: Oxford University Press, 2004.

Japan's hedging behaviour, despite its ingenuity in avoiding issues of collective self-defence in these deployments, now faces a sterner interrogation with the deployment of BMD systems. The Japanese government in announcing its decision to introduce BMD in 2003 asserted that the systems:

will be operated on Japan's independent judgement, and will not be used for the purpose of defending third countries. Therefore, it does not raise any problems with regard to the issue of the right of collective self-defence. The BMD system requires interception of missiles by Japan's own independent judgement based on the information on the target acquired by Japan's own sensors.<sup>4</sup>

Japan's denial that BMD infringes on the non-exercise of collective self-defence is an apparent recognition that as a new weapons system it poses particularly difficult problems for previous hedging artifices. Firstly, although Japanese policy-makers assert that BMD will be operated in line with national independent judgement, it is clear that Japan under the system has to integrate JSDF capabilities with those of the US far more deeply than ever before raising doubts about the autonomy of the system. Japan, in order for the BMD system to operate to its maximum effectiveness, has to deepen information-sharing with the US due to its lack of essential of early-warning sensor capabilities, and especially space-based sensors. MSDF *Aegis* destroyers in many cases will need to exchange real-time information on missile launches with the several US Navy (USN) BMD-capable cruisers deployed in and around Japan; and much of that real-time information is passed down from US space-based infrared sensors via an increasingly integrated US–Japan air defence system. Japan and the US agreed the plan in 2006 and then completed the construction in 2012 of the co-location of an ASDF and US Air Force (USAF) Bilateral and Joint Operations Coordination Center, essentially a joint air defence control headquarters, at USAF Yokota near Tokyo. In addition, the US has deployed an X-Band radar at the ASDF's Kashiri base in Aomori Prefecture since 2006, and reached agreement with Japan in 2012 for the deployment of a second X-Band radar, thereby further integrating Japan within the architecture of US missile defence.

Secondly, added to this degree of integration of Japanese and US BMD information sharing and command and control, the MSDF *Aegis* system itself offers new possibilities for US–Japan mutually defensive operations. Japan's *Aegis* system is highly interoperable with that of the US, sharing as it does essentially the same capabilities in terms of sensor technology, data-linking, and, as explained later, the co-developed SM-3 BLK-IIA missile. Moreover, all of this technology and its capacity for integration have been increasingly demonstrated through US assistance for the testing of Japan's BMD interceptor missiles since 2007. In addition, the MSDF *Aegis* sea-based system is, of course, inherently mobile and deployable alongside USN assets whether in and around Japan itself or further afield, so raising the possibility of US requests for Japanese BMD support in a variety of contingencies outside the traditional scope of the bilateral security treaty.

Hence, the introduction of BMD is threatening to overturn many of the past limits on the potentialities for US–Japan military cooperation, and driving forward an ever-deepening structural interdependence in bilateral security relations. In turn, the outcome of this intermeshing of military capabilities is that the US is increasingly looking for bilateral BMD cooperation to function not just for Japan's defence but also for that of the US as well, thus raising more

prominently than ever before demands for Japan to exercise the right of collective self-defence through the mechanism of BMD.

During the George W. Bush administration, US policy-makers began to call openly for Japan to mobilise its BMD capabilities not just for the defence of US forces around Japan but also for the defence of the US homeland. US Ambassador Thomas Schieffer in October 2006, Deputy Under Secretary of Defense for Asia–Pacific Affairs Richard Lawless in December 2006, and Secretary of Defense Robert Gates in May 2007, made it progressively clearer that Washington expected Japan to use its BMD assets to help intercept missiles targeted for the US.<sup>5</sup> Officials under the Barack Obama administration have more recently backed off open demands for Japan to utilise BMD for the defence of the US in line with their more subtle stance on pushing alliance cooperation, but nevertheless the expectation remains that Japan in now possessing the potential capability to defend the US should not desist from using it.

Japanese policy-makers have reacted in the past with various measures to attempt to deflect US pressure to in essence breach the ban on the exercise of collective self-defence. Japan maintains that any US–Japan information exchanges for the purposes of BMD will not conflict with existing prohibitions on collective self-defence as they can be classified as routine information-gathering that is not directed specifically for the exercise of the use of force in support of an ally.<sup>6</sup> Japan has denied US calls for the system to operate for defence of the American homeland by arguing that its current BMD capabilities are simply technologically insufficient to intercept missiles targeted at the US because they lack the range and speed to intercept missiles on a trajectory to strike the US. Director General of the Japan Defence Agency (the forerunner of the Japan Ministry of Defence [JMOD], Kyūma Fumio), in response to Schieffer's October 2006 remarks, emphasised in a press conference that the issue of collective self-defence could not arise because Japan's BMD was 'physically incapable' (*butsuri-teki ni muri*) of pursuing missiles targeted at third countries.<sup>7</sup> Kyūma then repeated this line in response to Robert Gates's critique of Japan's stance in bilateral talks in May 2007.<sup>8</sup> Other arguments Japanese policy-makers have utilised in order to hold off US pressure on collective self-defence include hinting in 2006 that Japan could intercept missiles targeted at the US on the justification that in passing over Japanese airspace and territory these missiles could jettison rocket material and thus pose a risk to its national security, so mandating a BMD intercept predicated on the right of individual self-defence.<sup>9</sup>

Nonetheless, Japan's policy-makers are increasingly aware that the US is unlikely to be satisfied with these types of diversionsary

<sup>5</sup> "Schieffer's Call for Missile Defense Help Raises Constitution Issue". *Japan Times Online* (28 October 2006). <<http://search.japantimes.co.jp/print/nn20061028a7.html>>; "Collective Defense Ban Crazy: Lawless". *Japan Times Online* (7 December 2006) <<http://search.japantimes.co.jp/print/nn.20061207a3.html>>; "U.S. Calls on Japan to Shield it From Missiles". *Japan Times Online* (17 May 2007). <<http://search.japantimes.co.jp/print/nn20070517a2.html>>.

<sup>6</sup> Morimoto Satoshi and Takahashi Sugio, "BMD to Nihon no Boei Seisaku" (BMD and Japan's Defence Policy), in Morimoto Satoshi, editor, *Misairu Bōei: Atarashii Kokusai Anzen Hoshō no Kōzō (Missile Defence: The Structure of the New International Security)*, Tokyo: Nihon Kokusai Mondai Kenkyūjo, 2002, pp. 308–309.

<sup>7</sup> "Kyūma Chōkan Kaiken Gaiyō" (Outline of Director General Kyūma's Press Conference), 21 November 2006", Ministry of Defense of Japan, <<http://www.mod.go.jp/j/kisha/2006/11/21.pdf>>, pp. 1–3; "Takoku e Mukau Missairu Yōgeki 'Jissai ni wa Muri' Kyūma Chōkan (Director General Kyūma States that Interception of a Missile Headed for Another Country is Physically Impossible)". *Asahi Shimbun* (21 November 2006) <<http://www.asahi.com/politics/update/1121/002.html>>.

<sup>8</sup> "U.S. Calls on Japan to Shield it From Missiles". *Japan Times Online* (17 May 2007) <<http://search.japantimes.co.jp/print/nn20070517a2.html>>.

<sup>9</sup> "Shūdan-teki Jieiken Shōmen kara Giron o: Bei Hyōteki no Missairu Yōgeki Kenkyū (To Debate Collective Self-Defence Head On: Research into Interception of Missiles Targeted at US)". *Yomiuri Shimbun* (24 November 2006), p. 11.

<sup>4</sup> "Statement of the Chief Cabinet Secretary of Japan on the Cabinet Decision 'On the Introduction of Ballistic Missile Defense System and Other Measures'", in Ministry of Defense of Japan, *Defense of Japan 2007*, Tokyo: Intergroup, 2007, p. 500.

tactics on BMD. Influential US policy-makers past and present, Democrat and Republican, continue to call with varying degrees of explicitness for Japan to lift its ban on collective self-defence.<sup>10</sup> Japan's most influential strategic thinkers from the academic, business and policy worlds have also begun to talk of the need to make exceptions to the ban for the purposes of BMD. The Tokyo Foundation centrist policy institute called in a 2008 report for the lifting on the ban; this recommendation was repeated by the Prime Minister's Council on Security and Defense Capabilities report produced in August 2009 to prepare for a scheduled revision of the National Defence Programme Guidelines (NDPG) (the document which sets out Japan's fundamental defence doctrine) later that year; and then by Sasakawa Peace Foundation Project on 'Japan's Strategic Horizon and Japan–US Relations' in October 2011.<sup>11</sup>

The dawning recognition of the need to respond to BMD and the case for exercise of collective self-defence has filtered through into actual attempts by Japanese policy-makers to fundamentally breach the ban. Prime Minister Abe Shinzō of the Liberal Democratic Party (LDP) sought to loosen the restrictions by establishing in 2007 within the Prime Minister's Office a panel charged with researching the means of bringing Japan's legal measures into line with a range of new security scenarios facing the JSDF. Named after its chair, Yanai Shunji, the Yanai panel produced its final report on June 24, 2008, having studied four major scenarios. In regard to BMD as the second scenario, the panel considered Japan's legal ability to respond, irrespective of extant technological capabilities, utilising its BMD assets to intercept a missile targeted at the US. The panel concluded that in this scenario Japan had no other option but to seek to exercise the right of collective self-defence as any attempts to justify an interception of a missile targeted at the US as an act of individual self-defence based on Articles of 82–2 and 93–3 of the JSDF Law relating to BMD and drawing on the right to police the safety of the seas would again founder on a lack of operational clarity. The report pointed out that if Japan were to take no action then this would undermine the purpose of BMD in promoting US–Japan alliance cooperation, the US deterrence posture around Japan, and the foundations of the alliance. The report stressed that Japan must exercise the right of collective self-defence for operations involving its BMD assets deployed on its own territory and in international waters in order to defend the United States; although it also quietly noted that this did not oblige Japan to exercise the same right to defend the United States against missile attacks in the territorial waters of other states, thus maintaining a degree of limitation on the extent of US–Japan BMD operational commitments outside Japan itself.<sup>12</sup>

<sup>10</sup> Richard L. Armitage and Joseph S. Nye, *The US–Japan Alliance: Getting Asia Right Through 2020*, Washington D.C.: Center for Strategic and International Studies, 2007 <[http://csis.org/files/media/isis/pubs/070216\\_asia2020.pdf](http://csis.org/files/media/isis/pubs/070216_asia2020.pdf)>, p. 22; Richard L. Armitage and Joseph S. Nye, *The US–Japan Alliance: Anchoring Stability in Asia*, Washington D.C.: Center for Strategic and International Studies, 2012 <[http://csis.org/files/publication/120810\\_Armitage\\_USJapanAlliance\\_Web.pdf](http://csis.org/files/publication/120810_Armitage_USJapanAlliance_Web.pdf)>, p. 15.

<sup>11</sup> Tokyo Zaidan Seisaku Kenkyūbu, *Atarashii Nihon no Anzen Hoshō Senryaku: Tasō Kyōchō-teki Anzen Hoshō Senryaku (Japan's New Security Strategy)* (Tokyo, October 2008) <<http://www.tkfd.or.jp/admin/file/pdf/lib/6.pdf>>, pp. 12–13; *Anzen Hoshō to Boeiryoku ni kansuru Kondankai, Anzen Hoshō to Boeiryoku ni kansuru Kondankai Hōkokusho (The Council on Security and Defense Capabilities Report)*, Tokyo, August 2009 <[http://www.kantei.go.jp/jp/singi/ampoboue2/090928houkoku\\_j.pdf](http://www.kantei.go.jp/jp/singi/ampoboue2/090928houkoku_j.pdf)>, pp. 48–49; *Japan as a Rule-Promoting Power: Recommendations for Japan's National Security Strategy in an Age of Power Shifts, Globalization and Resource Constraints*, Tokyo, Sasakawa Peace Foundation, 2011 <[http://www.horizonproject.jp/wp-content/uploads/2011/10/report\\_e.pdf](http://www.horizonproject.jp/wp-content/uploads/2011/10/report_e.pdf)>, pp. 25.

<sup>12</sup> *Anzen Hoshō no Hō-teki Kiban no Saikōchiku ni Kansuru Kondankai, Anzen Hoshō no Hō-teki Kiban no Saikōchiku ni Kansuru Kondankai Hōkokusho (Council for Rebuilding the Legal Foundation for National Defence Report)*, 24 June 2008, <<http://www.kantei.go.jp/jp/singi/anzenhosyou/houkokusho.pdf>>, pp. 9–10.

Abe's displacement from power in 2007 and the general disruption in Japanese politics thereafter, with the transition from LDP to Democratic Party of Japan (DPJ) government in 2009, meant that Japanese policy-makers have been more reluctant to tackle the issue of collective self-defence out of anxiety for heightening domestic political opposition. All the same, Japanese policy-makers have continued to harbour hopes for the reinterpretation of Article 9 to permit the exercise of right. Prime Minister Noda Yoshihiko of the DPJ was a known proponent of the exercise of the right.<sup>13</sup> Most recently, Noda was displaced from power by Abe, who stormed back into government with the LDP at the end of 2012. Abe already looks sure to press again for breaches on the ban on collective self-defence, and may turn to using the conclusions of the Yanai report to facilitate his stance.

Hence, despite the claims of policy-makers that the introduction of such a large scale project as BMD is totally in line with and marks no deviation from the fundamental principles of Japan's security policy, the evidence suggests that it is in fact exerting strong pressure on the crucial anti-militaristic prohibition of the non-exercise of collective self-defence. It is certainly not yet the case that Japan has breached this prohibition and its ingenuity in holding the line through various artifices has already been noted. Nevertheless, the military, technological and strategic logic of BMD's introduction indicates that Japan may eventually find it unavoidable to breach the prohibition, so marking a major development in a trajectory of a more remilitarised security stance.

### 3. Japan and the militarisation of space

The next major tenet of Japan's self-proclaimed continuity in national security policy that has been challenged, and in *de facto* terms overturned, by BMD is the anti-militaristic prohibition which relates to preserving the use of space for exclusively peaceful purposes. The National Diet in 1969 passed a resolution limiting Japanese activities to peaceful purposes (*heiwa no mokuteki ni kagiri*). Japanese policymakers in the mid-1980s began to ease restrictions on the 1969 resolution, with acceptance of the use of satellites for military-communication purposes.<sup>14</sup> However, momentum was gained to breach the principle following North Korea's test launch of a *Taepo-dong-1* missile in 1998. The government, driven by the need to improve autonomous intelligence capabilities introduced 'multi-purpose satellites' (*tamoku-teki eisei*) or 'intelligence-gathering satellites' (*jōhō shūshū eisei*) (IGSS). Japan uses this terminology to conceal the military nature of these satellites, which are under the control of the Cabinet Satellite Intelligence Centre (CSICE) within the Cabinet Intelligence Research Office (CRIO), again to help disguise the military nature of these procurements. Japan has launched optical and synthetic-aperture radar satellites that have proved useful in monitoring North Korea's missile bases and test preparations. However, Japan remains dependant on the US for crucial infrared satellite surveillance to detect missile launches, and the early warning necessary to operate any BMD system. This is because Japan's *Aegis* radar and FPS-5 ground-based radars are more suited to tracking missiles only once already launched, and, even then, as demonstrated in the North Korean rocket launches of 2009 and 2012, Japan on its own has much difficulty in determining the final trajectory of ballistic missiles.

<sup>13</sup> Noda Yoshihiko, *Minshu no Teki: Seiken Kōtai ni Daigi ari (Enemy of Democracy: The Great Significance of the Change of Administration)*, Tokyo: Shincho Shinsho, 2009, pp. 133–136.

<sup>14</sup> Aoki Setsuko, *Nihon no Uchū Senryaku (Japan's Space Strategy)*, Tokyo: Keio Gijuku Daigaku Shuppan, 2006, pp. 177–80.



Indeed, Japan's deployment of BMD has been a crucial factor in pushes to breach entirely this anti-militaristic principle. Successive governments have incrementally shifted from the original 1969 interpretation of 'peaceful' (*heiwa no mokuteki*) as meaning 'non-military' (*higunji*) to emphasising instead the 'defensive' military use of space. In 2008, Japan introduced a new Basic Law for Space Activities, Article 2 of which states that Japan will conduct activities in space in accordance with the principles of the Constitution, thereby permitting the use of space for 'defensive' purposes.<sup>15</sup> The Basic Law mandated the establishment of a Strategic Headquarters for the Development of Outer Space (SHDOS) within the cabinet, under the direction of the prime minister. In turn, the Ministry of Defense established its own Committee on the Promotion of Outer Space in September 2008. The SHDOS produced a draft report in November 2008 arguing that Japan might need to introduce infrared early warning satellites for detecting ballistic missiles in their launch phase.<sup>16</sup> The Ministry of Defense Committee on the Promotion of Outer Space produced its first report on 15 January 2009. This argued that Japan should promote the use of communications, global positioning and weather satellites; investigate means to protect its satellites from attack; improve its IGS capabilities; and investigate the acquisition of infrared early-warning satellites to improve the effectiveness of BMD.<sup>17</sup> The LDP Policy Research Council (PRC)'s National Defense Division produced its own report in August 2008, which called for Japan to augment its early-warning systems for BMD by 2015.<sup>18</sup> In June 2012 a revision was passed to the Japan Aerospace Exploration Agency Law (JAXA) that removed provisions previously limiting its activities to peaceful objectives, and so opened the way for participation in military space programmes.<sup>19</sup> Hence, despite the attempts of Japanese makers to utilise terminology that avoids drawing attention to the shift from 'peaceful' to 'defensive' and accusations of remilitarisation, it is readily apparent that BMD has strongly contributed to the breaching of this anti-militaristic principle.

#### 4. BMD and the ban on the export of weapons technology

The Japanese government's ban on the export of military technology—comprising the 1969 restriction on arms exports to communist states, countries under UN sanctions and involved in international disputes, and then followed by the 1976 total prohibition on the export of weapons-related technology—has served as another prominent example of claimed continuity and restraint in military policy. Thus, any deviation from this central anti-militaristic principle functions as a barometer of changes towards remilitarisation.

Japanese policy-makers, in conjunction with domestic and international defence production associations and firms, have pushed

consistently for amendments to the arms export ban since the early 2000s. This push for change has been driven by both political economy and larger strategic reasons. The JMOD, Ministry of Economy and Trade (METI), and defence producers have grown concerned at the increasing erosion of the Japanese defence industrial base since the end of the Cold War. Japanese defence budgets have remained largely static at around ¥5 trillion since the mid-1990s, and the proportion of spend within the budget for equipment procurement has shrunk from around 25 per cent in early 1990s to around 17 per cent by 2011.<sup>20</sup> In the meantime, the cost of weapons systems has continued to rise as military technologies become ever more sophisticated, so placing greater pressure on procurement budgets. For Japan there is no easy way out of these cost and technological pressures, given that the arms export ban means that the defence industry has only one customer in the shape of the JSDF, and that it cannot readily access international economies of scale through sharing technologies, joint production and export markets. The result has been that Japan's defence production base has contracted, with a number of small and medium enterprises exiting the defence market, and even larger conglomerates scaling back their engagement. Japanese analysts talk of a 'Galapagos effect' whereby Japan will be left isolated from international trends in military technology and co-development, and eventually lose any autonomous defence production base which will then impact on national strategic autonomy.<sup>21</sup>

Japan's government has attempted to pump-prime various domestic defence production projects through the development of new ASDF C-1 transport and MSDF P-1 patrol aircraft. Moreover, the development of intelligence satellites and BMD itself is hoped to stimulate domestic defence production. But in addition to these programmes, it has become increasingly clear that the most effective means to sustain Japanese defence industry is to clear the way for enhanced international cooperation, especially on sharing the technology and financial cost of co-developing larger weapons platforms. Japan has inevitably looked to the US as its ally for defence production cooperation, but also begun in recent years to look to European partners, such as the UK, for possibly collaborative ventures.

In order to affect these international partnerships, Japan has thus been obliged to begin to breach the ban on weapons exports, and thus far BMD has been the prime driver for eroding this anti-militaristic principle. A number of initial exemptions were made to the export ban in the 1980s and 1990s to facilitate US–Japan research into the Strategic Defence Initiative and the co-development of the F-X/F-2 fighter. However, the first major breaches of the ban have come with the adoption of BMD and US–Japan plans for the joint development and eventual joint production of the SM-3 BLK-IIA interceptor missile. Japan's role in developing four key components of the missile necessarily involves a higher degree of cooperation and exchange of military technology with US industrial partners and hence makes the maintenance of the arms export ban unfeasible. The Chief Cabinet Secretary in announcing Japan's revised NDCG programme in December 2004 accepted that in the case of BMD the principle could not be applied, and justified this because, 'such systems and related activities will contribute to the effective operation of the Japan–US Security

<sup>15</sup> Suzuki Kazuto, "Space: Japan's New Security Agenda", *RIPS Policy Perspectives*, 5 October 2007 <[http://www.rips.or.jp/English/publications/rips\\_pp\\_5.html](http://www.rips.or.jp/English/publications/rips_pp_5.html)>.

<sup>16</sup> "Govt May Propose Missile Defense Satellite", *Yomiuri Shimbun* (5 November 2008), <<http://www.yomiuri.co.jp/dy/national/20081105TDY020307.htm>>.

<sup>17</sup> Boeishō Uchū Kaihatsu Riyō linkai, *Uchū Kaihatsu Riyō ni Kansuru Kihon Hoshin ni Tsuite (Concerning the Basic Aims for the Development of the Utilisation of Space)*, 15 January 2009 <http://www.mod.go.jp/j/info/uchuukaihatsu/pdf/kihonhoshin.pdf>, pp. 4, 6.

<sup>18</sup> "Uchū no Bōei Riyō Kaikin, Gijutsu Kenkyū no Keikakushitsu Shinsetsu e, Bōeishō (Removing the Ban on the Use of Space for Defence, The Ministry of Defence to Establish a New Planning Centre for Technological Research)" *Yomiuri Shimbun* (28 August 2008) <<http://www.yomiuri.co.jp/politics/news/20080828-OYT1T00100.htm>>.

<sup>19</sup> Paul Kallender-Umezū, "Japan Passes Law Permitting Military Space Development", *Defense News*, 22 June 2012, <http://www.defensenews.com/article/20120622/DEFREG03/306220001/Japan-Passes-Law-Permitting-Military-Space-Development>.

<sup>20</sup> Christopher W. Hughes, "China's Military Modernization: US Allies and Partners in Northeast Asia", in Ashley J. Tellis and Travis Tanner, editors, *China's Military Challenge: Strategic Asia 2012–2013*, Seattle: Washington, National Bureau of Asian Research, 2012, pp. 215–217.

<sup>21</sup> Kiyotani Nobukazu, "Gasshō Renkō, Kyōdō ga Sekai no Nagare (Finding an Equilibrium: The Global Trend is for Jointness)", *Tōyō Keizai* (21 January 2012), pp. 52–55.

Arrangements and are conducive to the security of Japan'; a position again reiterated in December 2005.<sup>22</sup>

Japanese policy-makers in originally stressing their interest in BMD asserted that the system would not serve for collective self-defence with the US and especially not for the benefit of third countries, so making possible this kind of 2004 exemption to the export ban.<sup>23</sup> However, by June 2006, in attempting in the case of BMD to substitute for the arms export ban to maintain controls on the export of technology, the US and Japan forged an agreement through an exchange of letters which 'prohibited the use of the technology for other purposes and the transfer to third countries without Japan's agreement in advance'.<sup>24</sup> Hence, Japan had now begun to accept the possibility that the arms export ban could be breached not merely for US–Japan cooperation but also for the benefit of third countries. Japan and the US then concluded an agreement in January 2011, which made more specific the procedures for the transfer to third countries of US–Japan developed technology:

Transfer of the SM-3 Block IIA to third parties to be requested by the Government of the United States may be allowed, in accordance with the Exchange of Notes of June 23, 2006, concerning transfer of arms and military technologies to the United States of America, in cases where the transfer supports the national security of Japan and/or contributes to international peace and stability, and when the third party has sufficient policies to prevent the further transfer of the SM-3 Block IIA<sup>25</sup>

Consequently, BMD has not only breached the arms export ban for US–Japan defence cooperation but is now forging possible cooperation with third parties, most likely European states looking to deploy their own *Aegis* BMD systems. In turn, the arms export ban breaches spearheaded by BMD have added momentum to further breaches for wider international defence collaboration. The Chief Cabinet Secretary in December 2011, in announcing the revised NDPG, produced a new set of guidelines on exemptions, allowing for Japan to export military technology in cases of contributing to international peace cooperation and for the co-development of weapons systems. In effect, Japan has discarded the arms export ban, and will now need to search for a tighter export licence system, with the bulk of the abandonment of this anti-militaristic principle initiated by BMD.

## 5. BMD and civilian control

The fourth key anti-militaristic principle promoted by the Japanese government as a symbol of continuity in defence policy, but now challenged increasingly by BMD, is that of civilian control over the military. Japanese policy-makers, and particular the JMOD and the Ministry of Foreign Affairs have always practised strict civilian oversight of the operations of the JSDF given the pre-war history of the military gaining control over domestic politics. In most of the

post-war period this has meant the exclusion of JSDF officers from much planning of strategy and doctrine, decisions on the possible use of force always coming via the prime minister and top political leadership, and often thus the very slow mobilisation of the JSDF to respond to potential contingencies.

The technology and architecture of Japan's BMD systems, however, now indicate the potential for civilian control mechanisms to be turned on their head, so fundamentally challenging the principle. The short time frame involved for a BMD system to respond to a missile launch, typically involving a few minutes, means that there will be little practical time for Japan's ministers and bureaucrats to debate decisions on interceptor launches. Instead, Japan's government will have to provide JSDF commanders in the field with clear rules of engagement to deal with a range of pre-planned scenarios that would commit Japan to a conflict. Japan's preparation for these rules of engagement has already involved softening of the principle of civilian control over the military with February 2005 legislation to amend the Defence Agency Establishment Law, the agency which was the predecessor of the JMOD. This legislation enabled the Director General of the JDA (and now the Minister of Defence) to mobilise the JSDF to launch interceptors only with the approval of the Prime Minister (rather than in consultation with the Cabinet's National Security Council as mandated under the previous law). In other situations, where there is no time to consult even with the Prime Minister, the Director General/Minister of Defence is entitled to mobilise JSDF interceptor launches in accordance with pre-planned scenarios.<sup>26</sup> This thus gives a more free-ranging role to commanders in the field, and greater potential for them to offer support to the US in a contingency.

Japan's intent to exercise civilian control over its military, and the general professionalism of the JSDF, should be taken seriously and BMD is not precipitating any rewind to post-war civil–military relations. Nevertheless, BMD is certainly eroding previous practices of civilian control, and the Japanese military, along with other changes in civilian control, is assuming a more proactive stance in shaping security policy.<sup>27</sup> The MSDF operation of a BMD capability might prove increasingly challenging given that it is mobile and operates somewhat distant from immediate civilian oversight. For instance, as one example of the freer operation of the MSDF which could precipitate consequences unforeseen by civilian masters, it was discovered in October 2012 that a destroyer commander had conducted drills close to the Takeshima/Tokdo islands in the Sea of Japan, even though this might have been inflammatory at the height of Japan and South Korea tensions over the sovereignty of the islands.<sup>28</sup>

## 6. Conclusion: BMD revealed as a driver of remilitarising trends

Japan's policy-makers have predicated the introduction of BMD on perpetuating fundamental continuities in national defence policy, and thus in line with a post-war trajectory of resisting any move towards remilitarisation. The argument of policy-makers has run that BMD has not significantly encroached on or reversed the four key anti-militaristic principles of the non-exercise of the right of collective self-defence; the peaceful use of space; the arms

<sup>22</sup> "Statement by the Chief Cabinet Secretary, 10 December 2004", *Defense of Japan*, Tokyo: Erklaren Inc, 2009, p. 416; "Statement by the Chief Cabinet Secretary, 'Japan–US Cooperative Development of Advanced SM-3 Missile for Ballistic Missile Defense'", *Defense of Japan*, Tokyo: Erklaren Inc, 2009, pp. 436–437.

<sup>23</sup> Christopher W. Hughes, "Sino-Japanese Relations and Ballistic Missile Defence (BMD)". In Marie Soderberg, editor, *Chinese-Japanese Relations in the Twenty First Century: Complementarity and Conflict*, London: Routledge, 2002, p. 86.

<sup>24</sup> Japan Ministry of Defense, *Boei Hakusho 2012 (Defence White Paper)*, Tokyo: Zaimusho Insatsukyoku, 2012, p. 189.

<sup>25</sup> Ministry of Foreign Affairs Japan, "Joint Statement of the Security Consultative Committee. Toward a Deeper and Broader US–Japan Alliance: Building on Fifty Years of Partnership, 21 June 2011", <[http://www.mofa.go.jp/region/n-america/us/security/pdfs/joint1106\\_01.pdf](http://www.mofa.go.jp/region/n-america/us/security/pdfs/joint1106_01.pdf)>, pp. 8–9.

<sup>26</sup> Boeichō, "Boeichō Secchiho nado o Ichibu o Kaisei suru Hōritsuan Kankei Shiryo (Documentation Related to the Bill for the Partial Revision of the Japan Defence Agency Law)", Tokyo, Boeichō, 2005, pp. 11–13.

<sup>27</sup> Christopher W. Hughes, *Japan's Remilitarisation*, London: Routledge, 2009, pp. 52–65.

<sup>28</sup> "MSDF Destroyer's Commander Authorized Military Drill near Disputed Takeshima Islands at Own Discretion", *Japan Times Online* (7 October 2012) <<http://www.japantimes.co.jp/text/nn20121007a3.html>>.

export ban; and civilian control. However, the above investigation reveals that in all cases BMD has actually driven forward significant challenges to, if not yet total revolutions in, these anti-militaristic principles. Japan's BMD systems have pushed national defence policy towards various scenarios where it will be progressively harder to hold the line on collective self-defence in support of the US, and is creating a series of new constitutional interpretations in waiting which may only require top level political decisions and the military necessity to choose to finally enact in order to further free up Japanese exercises of military power. BMD has contributed to, in effect, overturning the principle of the useful peace of space by converting this into one of the 'defensive' use of space. Japan's ban on the export of weapons technology has moved from a fairly watertight ban since the 1970s to now a potentially looser export licence system, with BMD leading the initial charges for these changes. Finally, BMD has been a key driver in the redesign of Japan's civilian control structures.

None of this is to say that Japan has wholly broken out of its past predilections towards caution and a low-profile in its military posture. Nevertheless, it certainly cannot be said that, in the often 'double-speak' fashion of Japanese political leaders and bureaucrats, BMD has reinforced continuities in defence policy. For sure, BMD is largely a 'defensive' system and thus in line with the overall purport of Japanese security. But its overall effect in itself has to be open the way for a more assertive Japanese defensive stance and to

promote deeper US–Japan integration. Just as importantly, the precedents for the erosion of anti-militaristic principles set by BMD clearly have implications for Japan's stance in other components of its broader defence posture. The potential breach of collective self-defence established by BMD if applied as a precedent to other areas of military operations outside Japan's immediate territory would enable full participation in expeditionary warfare. Likewise, the militarisation of space might eventually lead to support for a range of US and Japanese cooperation in countering attempts of other countries to interfere with their space assets. Japan's breaching of the arms export ban could create conditions for deeper military linkages with other countries beyond the US; and the challenges to civilian control could free up the JSDF for a more active role away from civilian oversight in operations apart from those involving BMD. It is no wonder that Japanese policy-makers are keen to manage talk of remilitarisation in the case of BMD because it is such a large potential driver of this process.

Consequently, returning to the debate on Japan's overall security trajectory, the case of BMD is instructive to interrogate the discourse of Japanese policy-makers and analysts who would like to claim continuity and that remilitarisation has not occurred. The very fact that the anti-militaristic principles set up by Japanese policy-makers themselves as the indicators of continuity are now being strongly eroded by projects such as BMD cannot but emphasise that substantive remilitarisation is occurring.