

Overview of the Revision of the Three Principles on Transfer of Defense Equipment and Technology and Implementation Guidelines

Based on the National Security Strategy formulated at the end of 2022 and the recommendations to the government by the ruling parties' Working Team, the Three Principles on Transfer of Defense Equipment and Technology and its Implementation Guidelines are amended.

Main Issues	Major Revisions
Three Principles *Three principles themselves are maintained	Amended based on the National Security Strategy (e.g., adding the significance of transfer of defense equipment and technology, updating the recognition of security environment). It is made clear that the Implementation Guidelines will be amended in response to changes in the security environment and security necessity.
International Joint Development and Production	Enables direct provision of parts and services from Japan to third parties to which partner countries of the international joint development and production have transferred finished products.
Provision of Licensed products	Products (including finished products) licensed not only from the U.S. but also other countries cooperating with Japan in security area, can be provided to the license provider country). However, in the case of further provision of defense equipment and technology pertaining to licensed products that falls under the category of arms under the Self-Defense Forces Law to a country other than the license provider country, the provision to a country where a combat is currently deemed to be taking place as part of an armed conflict is excluded unless there are special circumstances considering the need in terms of Japan's security.
Repair and other services	Allows for the provision of repair and other services to countries cooperating with Japan in security area, in addition to the U.S. .
Transfer of parts	Allow for transfer of parts in general to countries cooperating with Japan in security area, clarifying the definition of "parts" (*). *"Parts" means an item that is incorporated as part of a finished product. However, items that can function as equipment by themselves are excluded."
Transfer of finished products related to the cooperation pertaining to the rescue, transport, warning, surveillance and minesweeping	It is clarified that products to be transferred can be equipped with arms under the Self-Defense forces Law necessary for the performance of their essential duties or for self protection.
Assistance to the country that is subject to aggression with equipment (excluding arms)	Enables the transfer of equipment and technology that does not fall under the category of arms under the Self-Defense Forces Law to a country that is subject to aggression in violation of international law, use of force, or threat of force. *Current provision: Overseas transfer of defense equipment and technology included in the equipment and goods transferred by the Minister of Defense to Ukraine facing aggression in violation of international law, in accordance with the provisions of Article 116-3 of the Self-Defense Forces Law.
Strict Examination	The perspective of strict examination was expanded in light of the diversification of types of transfers, such as transfers of arms under the Self-Defense Forces Law and transfers of such arms to third parties etc..
Procedures for Deliberations	Direct transfers of arms under the Self-Defense Forces Law and the transfers of such arms to third parties are basically deliberated and announced by the National Security Council. *All first-time transfers of arms under the Self-Defense Forces Law are deliberated by the National Security Council, and subsequent transfers of similar type of arms are also deliberated by the National Security Council when particularly careful consideration is required.

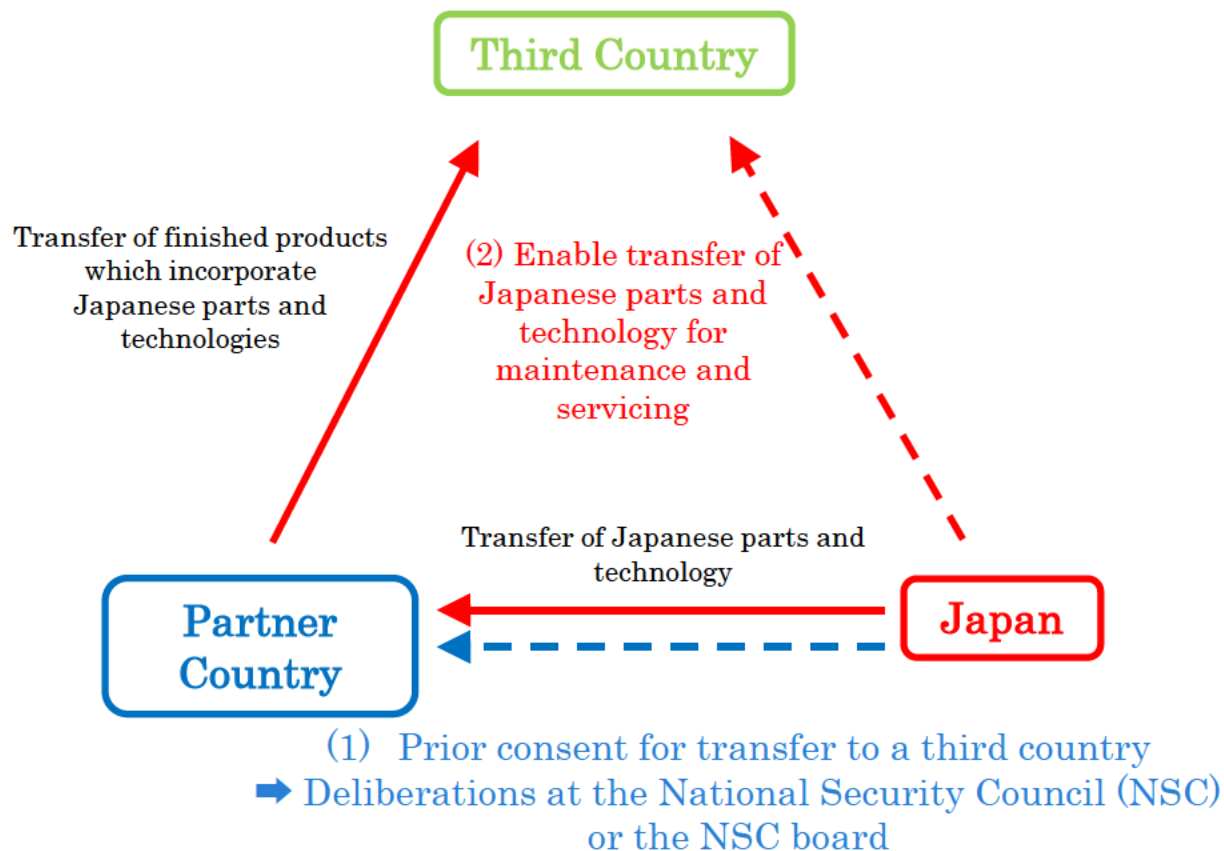


Transfer to third countries other than partner countries in international joint development and production

○ Under the former Implementation Guidelines, transfer related to international joint development and production with partner countries and third country transfers from partner countries were permitted.

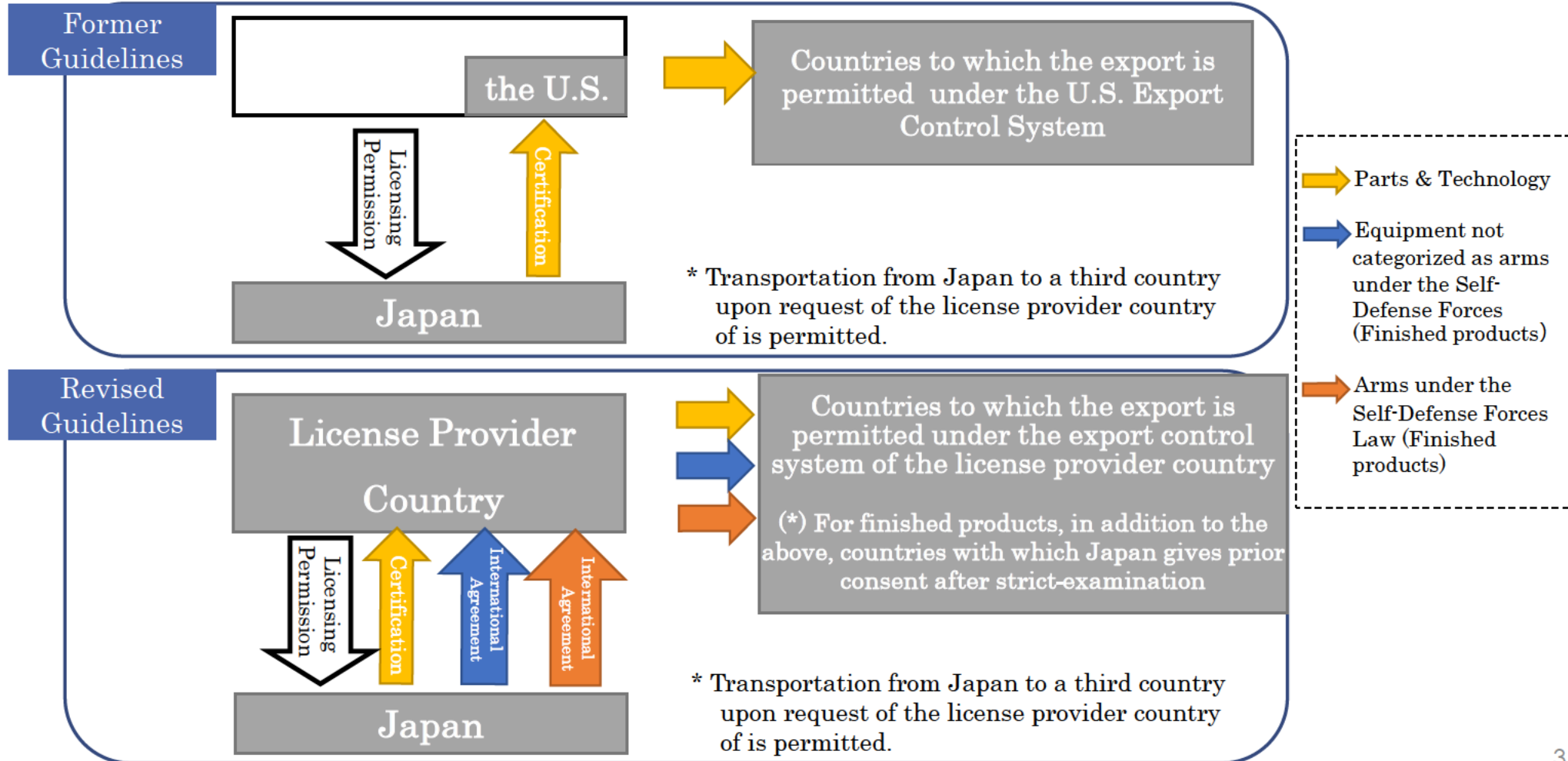
- From the viewpoint of facilitating third-country transfers from partner countries in international joint development and production,
 - (1) Clarified the procedures for prior consent for third-country transfers from partner countries in the Implementation Guidelines.
 - (2) Enabled direct transfer of supplementary goods (parts) and technology from Japan to a third country to which a partner country has transferred finished products.

< Image of third-country transfers from partner countries >



Provision of licensed products

- Under the former Implementation Guidelines, only parts related to products licensed from the U.S. could be transferred.
- **The amended Implementation Guidelines allow for the transfer of licensed products back to the license provider countries including the U.S., and also allow the transfer of finished products in addition to parts.**
- However, in the case of further provision of licensed products that fall under the category of arms under the Self-Defense Forces Law to countries from the license provider country, provision to countries where a combat is currently deemed to be taking place as part of an armed conflict is not allowed, unless there are special circumstances in consideration of Japan's security needs.



Provision of services such as repairs, etc.

- Under the former Implementation Guidelines, the provision of services such as repairs by private companies was limited to the U.S. Forces.
- However, due to the involvement of like-minded countries in the Indo-Pacific region and the facilitation of reciprocal visits through the conclusion of Reciprocal Access Agreement (RAA) with the U.K. and Australia, the need for the provision of repair services has been increasing, and therefore, the provision of services such as repairs to foreign armed forces in addition to the U.S. is newly permitted.

< Involvement in the Indo-Pacific region by like-minded countries, etc. >

(1) Deployment of naval vessels, aircraft, etc. to the Indo-Pacific region

Deployment of a British carrier strike group to the Indo-Pacific region

(August-September 2021)



(2) Opportunities for joint training and exercises in the vicinity of Japan

Japan-Australia Joint Training at Komatsu Base

(August-September, 2023)



Transfer of parts

- Even for parts, transfer was basically not allowed unless they are related to the cooperation pertaining to the rescue, transport, warning, surveillance and minesweeping, or they are for international joint development/production or U.S.-licensed products.
- For countries cooperating with Japan in security area, parts can now be transferred in general.
- Also, the definition of parts under the Three Principles on Transfer of Defense Equipment and Technology is clarified.

< Definition of parts in the proposed amendment >

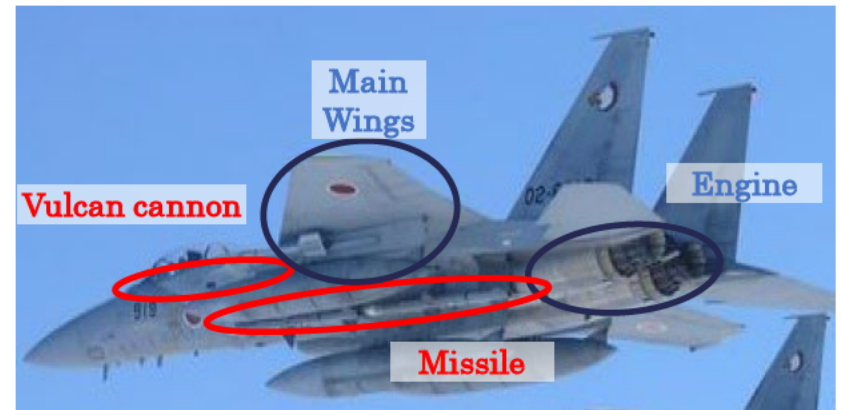
Parts

“means an item that is incorporated as a part of a finished product. However, it excludes the one that can function as equipment by themselves “

Arms under the Self-Defense Forces Law

“means firearms, gunpowder, swords, and other machines, instruments, devices, etc. intended to directly kill or wound people or destroy objects as a means of armed struggle (including, arms such as destroyers, fighter aircraft, tanks, etc., which are inherently equipped with firearms etc. and themselves act directly to kill or wound people or destroy objects as a means of armed struggle, **but excluding parts.**”

< Image of parts and finished products >



- Engine
- Main Wings
- ➔ **Parts**
- Vulcan cannon
- Missile
- ➔ **Finished Product**

Transfer of defense equipment related to cooperation in rescue, transport, warning, surveillance and minesweeping (so-called 5 Categories)

- It was not necessarily clear whether equipment related to cooperation in the 5 categories listed in the Implementation Guidelines (rescue, transport, warning, surveillance and minesweeping) equipped with arms could be transferred or not, given there had been no specific projects.
- The following clarification is made from the viewpoint of facilitating the smooth transfer of defense equipment with high significance for Japan's security in a wide range of fields under the current severe and complex security environment.
 - (1) Arms under the Self-Defense Forces Law that are necessary for the implementation of essential duties related to the five categories may be transferred.
 - (2) Depending on the operational environment, it could be assumed that arms under the Self-Defense Forces Law are mounted for self-protection, and such cases may also be permitted.

< Image of arms under the Self-Defense Forces Law that can be transferred as 5 categories >

(1) Examples of arms necessary to carry out the essential duties

"Awaji" class minesweeper [Minesweeping]

20mm machine gun For mine disposal

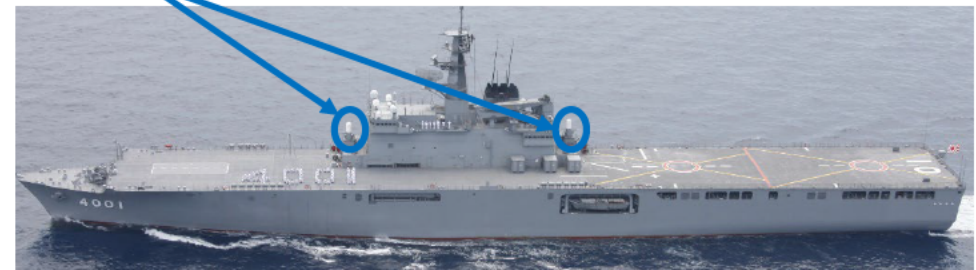


(2) Examples of arms for self-protection

Transport ship "Osumi" [transport].

20mm machine gun (CIWS*)

*Close-in weapon system
A defensive system that destroys approaching missiles-



*This is just an example based on operations in Japan. In case of actual transfer, it is necessary to consider the use and purpose of the defense equipment, including the entire system, with the destination country.

Transfer of equipment that does not fall under the category of arms under the Self-Defense Forces Law to a country that is subject to aggression in violation of international law etc.

- The scope of former provision was limited to transfer to Ukraine based on Article 116-3 of the Self-defense Forces Law.
- Under the amended Implementation Guidelines,
 - Any equipment that does not fall under the category of arms under the Self-Defense Forces Law can generally be transferred.
 - Countries to be supported are generalized based on the National Security Strategy.

	Before Revision	After Revision
target	Ukraine facing aggression in violation of international law	Countries facing aggression in violation of international law, use of force or threat of force
means of delivery	Transfer of equipments based on Article 116-3 of the Self-Defense Forces Law (*) ※● Free or low-cost transfer of unused SDF equipment ● Limited to developing countries ● Transfer of arms including ammunition are not applicable ● Only grant support	Equipment that does not fall under the category of arms under the Self-Defense Forces Law ● Transfer of defense equipment based on Article 116-3 of the Self-Defense Forces Law can also continue to be implemented ● Transfer of new products for a fee, and to countries other than developing countries are possible.

< Defense equipment" that has been provided to Ukraine so far. >



bulletproof vest



protective clothing



protective mask



1/2t truck



high-mobility vehicle



material carrier

Strict Examination

● In light of the diversification of types of transfers, such as transfers of arms under the Self-Defense Forces Law and transfers to third countries, the following are added to the perspectives of strict examination.

- (a) As for the arms under the Self-Defense Forces Law, consider whether or not combat is currently taking place as part of an armed conflict at the destination.
- (b) The applicability of prior consent for third-country transfers is determined, taking into account the significance of the transfer to the security of country seeking prior consent, by considering the two-perspectives same as for direct transfers from Japan.

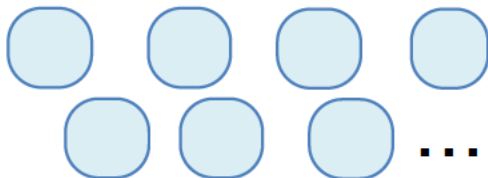
Principle 1: Clarification of cases where transfers are prohibited

- (i) It violates obligations under treaties and other international agreements that Japan has concluded
- (ii) It violates obligations under UNSC resolutions
- (iii) It is destined for a country party to a conflict (a country against which the UNSC is taking measures to maintain or restore international peace and security in the event of an armed attack)

Principle 2: Limitation to cases where transfers may be permitted to the followings

- Transfer which contributes to active promotion of peace contribution and international cooperation
- transfer which contributes to Japan's security
 - Implementing international joint development and production projects with its ally and partners
 - Enhancing security and defense cooperation with its ally and partners
 - Supporting SDF activities including maintenance of its equipment, ensuring the safety of Japanese nationals and etc.

* Limited list of cases that can be approved for transfer in the implementation guidelines.



Principle 2: Strict examination

○ Perspective 1: Appropriateness of destination and end-users

- Appropriateness of destination: Impact on international peace and security and Japan's national security, etc.
 ➔ (a) **Added a factor to be considered for the transfer of arms under the Self-Defense Forces Law.**
- Appropriateness of the end-user: the use of defense equipment and technology, the certainty of appropriate control, etc.

○ Perspective 2: Extent of concern that the transfer may affect Japan's national security

Nature/technical sensitivity/use/quantity/form of the defense equipment to be transferred, etc.

➔ (b) **Added perspective of prior consent for third-country transfers.**

Principle 3: Limitation to cases where appropriate control regarding extra-purpose use and transfer to third party is ensured

Limited to cases with positive significance from the perspective of Japan's national security, etc.

When the Government has not made a decision to permit overseas transfers of similar in the past

When especially careful consideration is required ➔ Information disclosure

The NSC board

the National Security Council

approve a transfer

Procedure for the Deliberations

- Apply stricter deliberation process for transfer of arms under the Self-Defense Forces Law.

