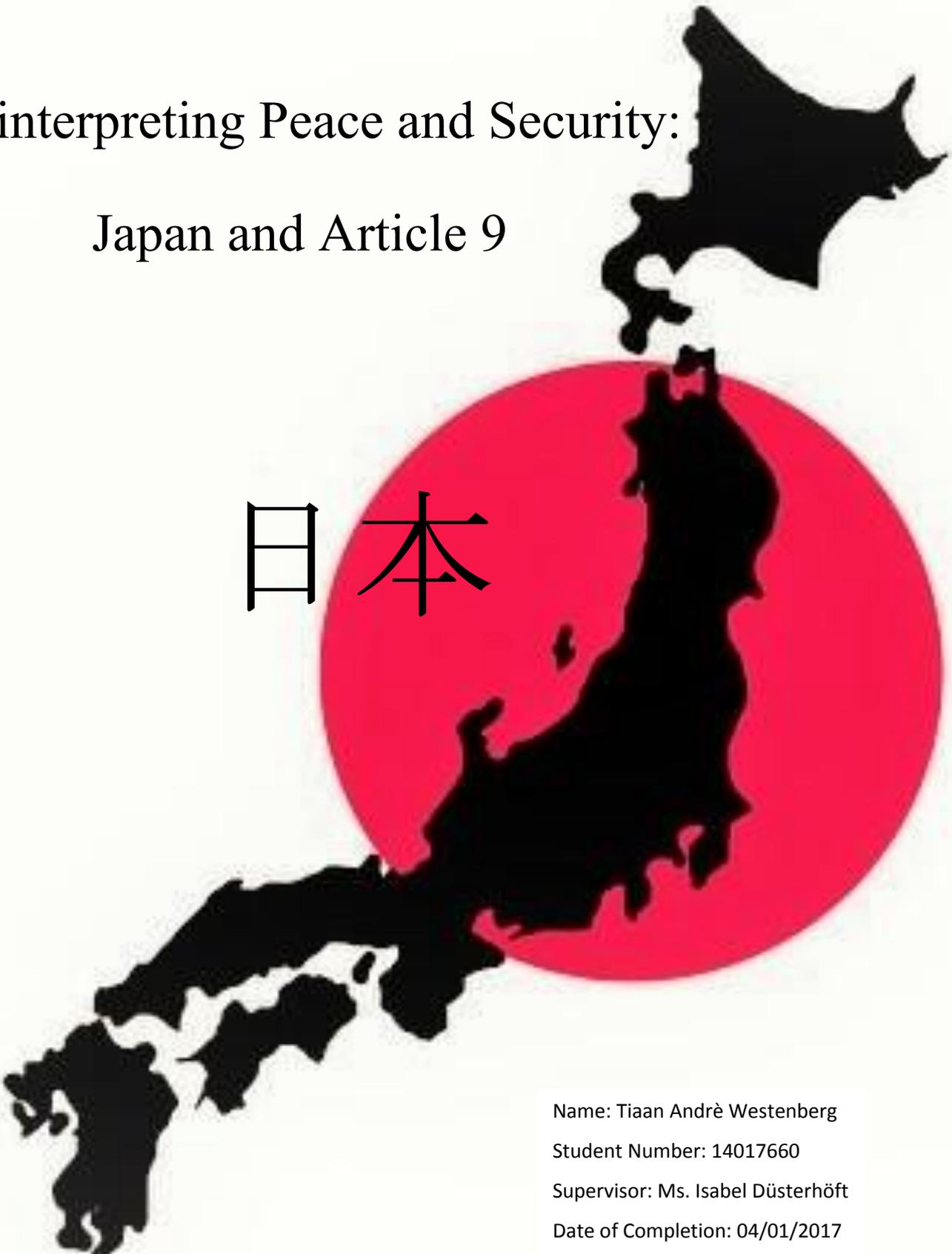


# Re-interpreting Peace and Security:

## Japan and Article 9

日本



Name: Tiaan André Westenber

Student Number: 14017660

Supervisor: Ms. Isabel Düsterhöft

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**THE HAGUE**  
UNIVERSITY OF  
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Management and Organization Faculty

European Studies

Tiaan André Westenberg

“RE-INTERPRETING PEACE AND SECURITY:  
JAPAN AND ARTICLE 9”





*Dedication*

*This thesis is dedicated to:*

*My family: to my immediate family, who has loved and supported me throughout my life and studies; to my 'chosen' family of friends who put up with me while I raved about Japan endlessly; to my extended 'family' in Japan who put up with my political debates in English and broken Japanese. I would not be who I am today and where I am today without you.*

*My mentor and supervisor, Isabel Düsterhöft, without whose support, enthusiasm, feedback and knowledge, I would not have been able to complete this paper.*

*Thank you.*



## Executive Summary

This dissertation focuses on the re-interpretation of Article 9 of the Japanese Constitution, which has forbidden Japan from participating in war since 1946. However, it has now been re-interpreted to allow Japan minimum involvement in international conflicts and peacekeeping operations. It analyses the possible implications that this re-interpretation can have on international peace and security, as well as the national security of Japan.

It does so by combining extensive desk research, of academic and news articles, with expert interviews of professionals in the appropriate fields. Furthermore, reports from the UN, leaflets issued by the Japanese government and lectures on the topic given by Professor Takeuchi of the Osaka School of International Public Policy in Stockholm and Groningen were consulted.

This dissertation records findings such as the fact that the new re-interpretation of Article 9 allows three conditions which, if met, allows Japan to participate in a conflict. Meanwhile, Japan has already been participating in conflicts and PKO, although its roles were mostly as a financial contributor and logistic and transport provider. This dissertation concludes that this will not change as a result of the re-interpretation but can in fact be expanded to include previously banned items or personnel.

As a result of their past experiences with Imperial Japan during WWII, China and South Korea fear Japan's re-militarization. Even with an ongoing territorial dispute with Japan over the Senkaku/Diaoyu Islands and the wariness of Japan's attitude towards Taiwan, this dissertation finds that the re-interpretation is unlikely to lead to conflict with China in the short or medium term. This is, in part, due to the US-Japan Alliance. South Korea also shares an alliance with the US. However, should the US-Japanese alliance weaken, South Korea and Japan could be forced to secure themselves against China and North Korea, by starting bilateral security co-operation.

In conclusion, this dissertation finds that the re-interpretation of Article 9 commendably increases the effectiveness of the peacekeeping operations in which Japan takes part, whilst it presents both positive and negative implications for international conflict that depend on external factors.

This dissertation is limited by the fact that primary sources written in Japanese, Chinese and South Korean had to be discarded. It is further limited by the fact that the topic is still fairly new, as the re-interpretation only came into effect in March 2016; the consequence being that the pool of knowledgeable potential interviewees were limited.

Finally, this dissertation recommends that the economic, political and theoretical aspects of the re-interpretation be taken into account for in-depth studies on the re-interpretation in the future.



**List of Abbreviations**

ASDF	Air Self Defence Force
ASEAN	Association of Southeast Asian Nations
ANPO	Treaty of Mutual Cooperation and Security between the United States and Japan
DPRK	Democratic People's Republic of Korea [North Korea]
GSDF	Ground Self Defence Force
EEZ	Exclusive Economic Zone
MSDF	Maritime Special Defence Forces
NDPG	National Defence Program Guidelines
NDPO	National Defence Program Outline
NPR	National Police Reserve
NSF	National Safety Forces
PKO	Peacekeeping Operations
ROK	Republic of Korea [South Korea]
SCAP	Supreme Commander of the Allied Powers [General McArthur]
SDF	Special Defence Forces
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNTAC	United Nations Transitional Authority in Cambodia
UNMISS	United Nations Mission In South Sudan
UNTEAT	United Nations Transitional Administration in East Timor
US	United States
WWII	World War II



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## 1. Introduction

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***“We, the Japanese people, acting through our duly elected representatives in the National Diet, determined that we shall secure for ourselves and our posterity the fruits of peaceful cooperation with all nations and the blessings of liberty throughout this land, and resolved that never again shall we be visited with the horrors of war through the action of government, do proclaim that sovereign power resides with the people and do firmly establish this Constitution.”***

*Preamble to the Japanese Constitution*

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In the aftermath of WWII, Japan – who had fought on the losing side, along with Germany and Italy – found itself under the occupation of the United States of America. In line with the American desire to see Japan “demilitarise and democratise” (Takeuchi, 2013, p. 142), the Americans in charge of the occupation ordered the drafting of a new Constitution. One of the primary objectives of this new constitution was to remove the “divinity” of the Emperor, as well as ensuring that Japan “would not wage war again” (Takeuchi, 2013, p. 144). The latter objective gave rise to the now famous Article 9.

Known as the ‘Pacifist Article’, it is unique amongst constitutions, in that it renounces Japan’s sovereign right to wage war. Furthermore, it forbids the State from using force, or even the threat thereof, as a diplomatic tool to settle disputes. It goes further by also denying Japan the right for war potential.

The ambiguous nature of the wording of Article 9, as well as the changing global conditions allowed for various administrations to interpret the article to suit their contemporary needs (Takeuchi, 2013). This first re-interpretation occurred in 1953, in response to the American pressure to re-arm during the Korean War (Takeuchi, 2013); the National Police Reserves were re-organised and armed into the Special Defence Forces without labelling them as a military force, to the extent that military equipment, such as tanks, were labelled ‘special vehicles’ (Auer, 1990, p.177). Re-interpretation happened again in 1992, when the then administration re-interpreted Article 9, in order to deploy SDF forces abroad in UN Peacekeeping Operations (PKO) for the first time (George, 1993).

In keeping with the tradition of interpreting Article 9 to reflect the changing global climate, as well as Japan’s role on the international stage, Prime Minister Abe announced yet another re-

interpretation in 2014 (Norihiro, 2014). Considering that both the previous re-interpretations significantly affected the geo-political situation in the region, firstly by strengthening Japanese reliance on US military assistance (Auer, 1990, p.178) and secondly representing a major step towards the re-militarisation of Japan, it stands to reason that the newest interpretation could have similar implications.

While there is abundant literature concerning the first two interpretations and their effects, Prime Minister Abe's 2014 re-interpretation still has not been discussed at length in terms of what possible implications it could have concerning international conflicts or PKO. When considering the increasingly tense situation in South East Asia, between China and its regional neighbours in the South China Sea (Bonnie, 2012), as well as the territorial dispute between China and Japan in the East China Sea (Sridharan, 2016), it could be considered an act of prudence to examine the potential implications re-interpreting Article 9 has on the region and the globe in general.

### 1.1 Research Question and Sub-questions

For the reasons outlined above, the main research question that this dissertation will attempt to answer, reads as follows:

***What possible implications do the recent re-interpretation of Article 9 of the Japanese Constitution have on both international conflict and UN Peacekeeping missions?***

In order to answer the above question, the following sub-questions will be looked at:

- a) *How has Article 9 been re-interpreted and what are the key-points which have changed?*
- b) *How has Japan operated in international conflicts before the latest re-interpretation and how does the re-interpretation change this?*
  - (i) *A look at a case study of Japan's involvement in the Gulf Wars*
  - (ii) *A look at a potential conflict in which Japan could be a major party*
- c) *How has Japan participated in PKO before the latest re-interpretation and how does the re-interpretation change this?*
  - (i) *A look at a case study of Japan's current PKO activities and how these activities could be altered by the re-interpretation.*

(d) What could the possible implications be for international peace and security in general, and Japan in particular?

1.2 Structure

The research presented in this dissertation will be structured in such a way, as to look at the previous two interpretations and then to compare them to the newest one in an effort to determine the changes that have been made. As shown in *Figure 1*, this will form the basis from which to draw conclusions which can then be applied to different case studies.

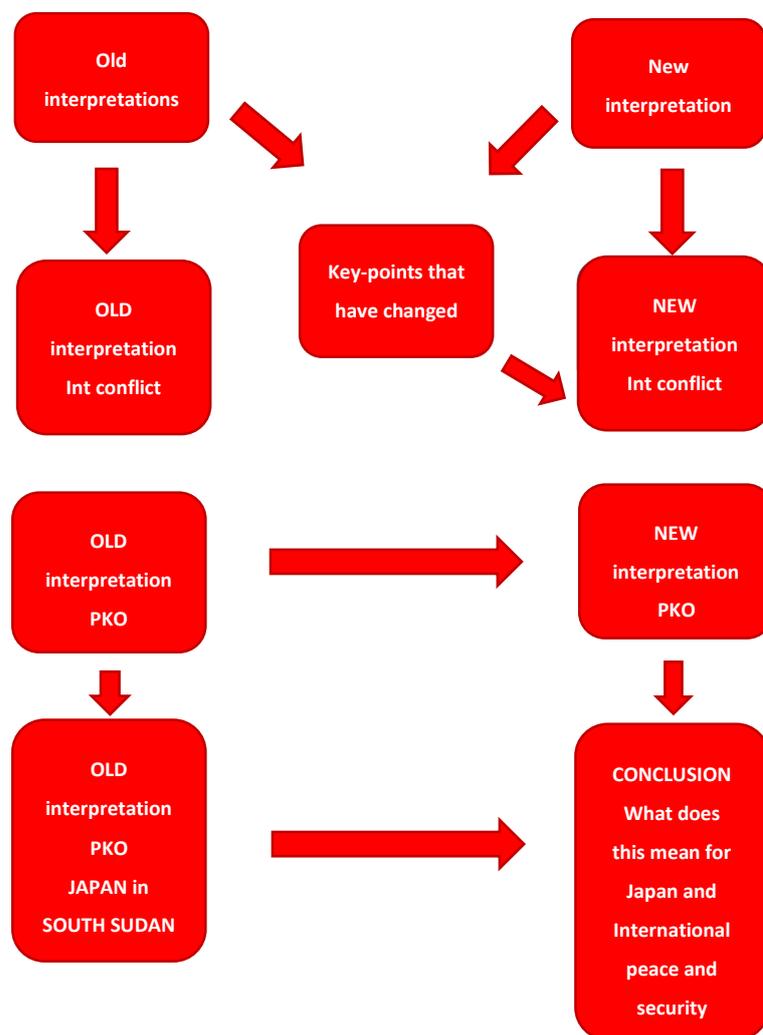


Figure 1. Structure and sub-questions

The two case studies (see 4. Case Studies) will also be examined in order to understand how Article 9 had affected Japan's capacity previously (see Figure 1). One of the case studies will specifically be used to examine Japan's role in an international conflict, focusing on Japan's role in the 2nd Gulf War<sup>1</sup>. The other will inspect Japan's role in the UNMISS operation in South Sudan, where more than 250 SDF personnel are currently deployed. The chapter describing the methodology (see 3. Methodology) will discuss how these two case studies will be examined and analysed.

The two case studies have been chosen as they represent the areas in which most of the changes of Japan's participation could occur following the re-interpretation of Article 9. The 2nd Gulf War represents the most recent international conflict in which Japan has, to some extent, participated in while the PKO in South Sudan is an ongoing PKO in which Japan participates.

When the case studies have been discussed (see 5. Discussion), the changes that have been brought about by the most recent interpretation will be applied to hypothetical case studies (see Figure 1); namely a potential conflict in the East Asian region and a PKO, in which Japan would participate. This would serve to highlight the possible implications that re-interpreting Article 9 could have.

Finally, one of the conclusions of this study is to summarize what effect the possible implications of the various changes discussed and analysed, will have for Japan on the International Stage.

### 1.3 Definitions of Key Terms

In order to conduct the required research and remain within the scope defined by the research questions, a definition of some key terms is required. To this effect, the terms 'International Conflict' and 'Peacekeeping Operations (PKO)' are defined here.

While Cullen (2010) admits that international conflict remains relatively undefined in the large body of law that regulates it, Nicholson (1992) maintains that a conflict can be both violent and non-violent or armed and unarmed. However, for the purposes of this study, the idea applies that an 'International Conflict' means an international armed conflict, as defined by the Geneva Conventions. This means that in the context of this paper, an international armed conflict is "all

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<sup>1</sup> Refers to the Iraq War launched by the US and the 'Coalition of the Willing', in 2003, which was not sanctioned by the UN. In order to draw direct comparisons, it is referred to as the 2<sup>nd</sup> Gulf War in this dissertation.

cases of declared war or of any armed conflict that may arise between two or more high contracting parties” (Geneva Convention, 1949, common art.2).

In terms of ‘Peacekeeping Operations (PKO)’, the definition that will be used throughout this study is that of United Nations sanctioned Peacekeeping Missions, whose purpose is assisting nations that have suffered from armed conflicts to create conditions for lasting peace (United Nations, n.d.).

#### 1.4 Limitations

It should be noted, however, that the re-interpretation has prompted a controversy within the Japanese society, particularly with regard to its constitutional legality. As this debate does not fall entirely within the scope of this research, what is presented within these pages is done with the assumption that the re-interpretation of Article 9 is constitutional insofar as it forms government policy. Furthermore, due to the timely nature of government policy formation and the potential implications of the re-interpretation to future events, any and all conclusions presented within this study are of a speculative nature and should not be taken as fact, but rather as hypothetical situations that might arise as a result of the re-interpretation of Article 9 and when certain conditions outside the scope of Article 9 – or this dissertation – are met.

## 2. Literature Review

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***“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.***

***In order 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.”***

*Article 9 of the Japanese Constitution*

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The purpose of the literature review is to examine all the literature that has already been published concerning the main themes of the research question. As stated in the introduction, few studies have been published regarding the most recent re-interpretation of Article 9 and therefore the literature review will look at previous interpretations as well as various context-related topics and then attempt to bring them together in such a way that will answer the main research question.

Firstly, Article 9 will be examined closely and its relationship to the concept of self-defence will be determined. Furthermore, its relationship to the Special Defence Forces (SDF) and Peacekeeping Operations (PKO) will also be looked at. In the second sub-chapter, self-defence will be broadened to collective self-defence and collective security as provided in the chapter on the UN and how Japan deals with them. Thirdly, Japan’s role and position in international conflict will be looked at, both through its alliance with the US and its geopolitical role and relations in East Asia.

### 2.1 Japan and Article 9

As mentioned briefly in the Introduction, Japan’s constitution originated from the occupation of Japan by the US in 1946. As a direct result of the World War, which had just ended, and the horrendous methods and actions employed during it, the US wanted to permanently neutralise Imperial Japan and thus included these pacifist sentiments in the newly drafted constitution (Piotrowski, 2005, p. 1654).

The Japanese Constitution is often called the ‘Pacifist Constitution’ (Piotrowski, 2005, p.1669) and it is true, as it contains strong elements of pacifism. Article 9, in particular, talks about the rejection of war, even the threat of war, as a right of the sovereign nation in order to settle disputes. It denies the right to maintain any kind of military force and even refuses to recognise

the right of belligerency of the state (Maki, 1990, p. 73). In addition to these pacifist foundations, Maki (1990) points out that Article 9 is buttressed both by Article 66, which stipulates that the executive branch is to remain fully civilian, as well as the 'lack of any provisions' for the responsibilities of ordinary citizens to 'bear arms in defence of the nation' or even to serve in a militia during peacetime (p.74).

Despite this sense of Pacifism, which is supposedly imbued within the Constitution, Auer (1990) maintains that the original wording of the Constitution was modified, in order to allow "some room for interpretation" with regard to "armed forces for defensive purposes" (p.171). This vagueness of the wording of Article 9 has allowed not only for interpretations, which permitted Japan to pursue some form of military development, but also attempts to live up to the pacifist ideals of the Constitution (Auer, 1990, p. 172).

It is therefore not surprising that Japan has, yet again, re-interpreted Article 9 especially because the circumstances on the world stage are continuously changing.

### 2.1.1 Japan and Self-Defence

The original understanding by the Japanese government was that Article 9 also prohibited Japan from defending itself against an aggressive attacker (Piotrowski, 2005, p. 1663). Such a course of action, in light of the Cold War, was undesirable to the Supreme Commander of the Allied Powers (SCAP) General MacArthur – who initiated the idea of the Constitution originally – and who insisted that Article 9 never meant that Japan could not defend itself if the need arose (Auer, 1990, p. 171). As the Korean War broke out and the battle for ideological dominance on the Korean Peninsula intensified, Japan came under intense pressure from the US to re-militarize (Piotrowski, 2005, p. 1664).

As a result of this pressure, the SDF were formed (see 2.1.2). Even so, Satoh (1982) admits that, once accepted, no clear definition of self-defence remained (p.21). This, in turn, severely constricted the SDF and Satoh (1982) maintains that this might have been done purposefully (p.21) as defining 'self-defence' could have led to even narrower restrictions. Such was the controversy of 'self-defence' within the scope of Article 9 that the Japanese Defence Agency (JDA) was only elevated to a ministerial level in 2007, when the Ministry of Defence was created (Samuels, 2007, p. 86).

### 2.1.2 Japan and the SDF

Having interpreted Article 9 to mean that Japan did (and still does) possess the inherent right of self-defence, Japan created the SDF.

Japan's Self Defence Forces (SDF) began life as the National Police Reserve (NPR), when in 1950 the Supreme Commander of the Allied Powers (SCAP) – General McArthur – ordered Japan to create such a reserve in order to deal with “internal disturbances” (Piotrowski, 2005); Japan's alliance with the US (see 2.3.1. Japan and the US) meant that the US would deal with external threats. The NPR would eventually evolve into the National Safety Forces (NSF), which in 1964 became the established SDF, complete with ground, air and sea forces (Piotrowski, 2005, p. 1667). The SDF is therefore split into several branches including the Ground Special Defence Force (GSDF) and the Air Special Defence Force (ASDF) (Hughes, 2009, p. 84), which vaguely hints at a military structure and hierarchy.

Even the capabilities of the SDF, which Hughes (2009) outlines and describes as sophisticated and with modern military equipment including helicopters, air bombers, jet fighters and other heavy machinery (p. 90) are in line with modern militaries around the world. Despite this, Japan maintains that most of its weaponry remains purely defensive in nature (ibid); the use of offensive weapons is considered banned under Article 9.

Furthermore, the “unconstitutionality” of Japan's SDF has routinely been denied re-dress in Japan's national courts that have ruled that the answer is a political one rather than a legal one (Piotrowski, 2005, p. 1668). The final answer to the ‘unconstitutionality’ of the SDF remains in the hands of the Japanese Diet<sup>2</sup>. When considering that the SDF have not been disbanded, and have in fact grown in capabilities and size, it would appear that the political answer has always been in favour.

### 2.1.3 Japan and PKO

Despite not being an official military, it would appear logical that when it comes to Japan's commitments to the UN Peacekeeping Operations (PKO), the SDF, as Japan's primary defence force, would be the force involved.

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<sup>2</sup> Located in Tokyo, Japan, the National Diet is Japan's bicameral legislature which consists of the House of Representatives (lower house) and the House of Councillors (upper house).

The 1<sup>st</sup> Gulf War (see 2.3.1 Japan and the US) was considered a humiliation for the Japanese administration at the time; Japan was perceived globally as having “failed to adequately respond” (Samuels, 2007, p. 91). One remark, made at the time, insisted that while “the rest of the world sent troops, Japan sent sushi” (Dreyer, 2016). As Japan had spent the better part of the second half of the 21<sup>st</sup> Century carefully developing a positive public image of itself around the world (Snyder, 2013, p. 266), the criticism levelled against its pacifism, struck a core in Japan’s leadership.

Ichirō Ozawa, a prominent Japanese politician, proposed a bill into the Japanese Diet in 1991, which would see the second major re-interpretation of Article 9. The issue arose from Ozawa’s belief that participating in a UN force, as envisioned in Chapter 7 of the UN Charter, aligned itself precisely with Article 9 (Kawashima, 2003, p. 35). However, because such a force had yet to be established and seemed unlikely to happen in the near future, the Japanese government maintained that such a constitutional question should be put aside until it became necessary to be asked (Kawashima, 2003, p. 35). Giving credence to Ozawa’s Bill, the opinion of the then Director General of the JDA, stated that Article 9 “should only apply to *unilateral* military action” (George Mulgan, 1995, p. 1105) and not necessarily a UN commanded or sanctioned force.<sup>3</sup>

George (1993) argues that the dispatch of forces overseas does not necessarily constitute a violation of Article 9; it is the “using of force” which is unconstitutional (p. 562), not the presence of SDF personnel. Furthermore, George (1993) maintains that the PKO fall within the same “pressure-response pattern” (p. 563) with which Japan, not only operated *in* but also *on* the international stage, and which is also vaguely allowed, under Article 9. That is to say, self-defence in response to an aggressive (or ‘pressure’) action. Mine (2014), almost ten years later, argues the same point by insisting that Article 9 does not apply to the PKO as they, by definition and requirement, operate during ceasefires; by extension this indicates that there is no “international dispute” with which Article 9 forbids Japan from using force to settle.

Furthermore, being able to undertake positive and constructive acts without increasing its military role, shows that Japan is acting in the category of “international security contribution” rather than “military-defence” (George, 1993, p. 567), which would represent a clear violation of Article 9. These positive actions include aspects such as “election monitoring, humanitarian relief and transport engineering” (George Mulgan, 1995, p. 1102). In essence, this excluded Japanese

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<sup>3</sup> PKO (Peacekeeping Operations) are (usually) an international military force which receives a mandate from the UN and operates within specific conflict zones. It operates under strict neutrality and impartiality.

SDF troops from forming part of the core units of PKO which monitor ceasefires and patrol buffer zones (George Mulgan, 1995, p. 1103). Mine (2014) also states that the SDF is “well equipped, well trained and with superior capabilities” which cannot be utilised; by extension this implies that the SDF underperform during PKO which, in turn, translates into more ineffective PKO.

Ultimately, Ozawa’s Bill became known as the PKO Bill and it re-interpreted Article 9 in such a way that allowed the SDF to be deployed abroad as part of “multinational forces operating under UN command or sanction” (Samuels, 2007, p. 91). This opened the door for the SDF to be able to participate in combat zones and in different roles. However, it contained certain conditions that had to be met, which removed the possibility of the use of force.

These conditions include:

- “1) All parties in the conflict agree to a ceasefire;
- 2) All parties in the conflict agree to Japan’s participation in the PKO;
- 3) PKO forces must maintain strict impartiality;
- 4) Japan can withdraw from the PKO in any breakdown of the above;
- 5) The use of weapons is only allowed in extremely limited cases of self-defence.”

(Kawashima, 2003, p. 36)

In 1992, according to Samuels (2007), with the above mentioned conditions met, Japan sent its first PKO force to Cambodia, but after 40 years of heavy restrictions, they found it difficult to operate (p.92). Unable to take part actively and with many regulations, restrictions and general confusion on how to operate, the SDF in Cambodia were forced to rely on maps and intelligence from the US. They could not even transport their own troops and equipment and had to rely on civilian transport, while the sending of a single jeep equally entangled the entire mission in Japan’s strict Arms Exports Regulations (ibid).

Despite the difficulties faced by the SDF in Cambodia, modest success allowed Japan to deploy minor forces to the PKO in Rwanda (1994) and the Golan Heights (1996), although the latter required further concessions from the Japanese Government. The SDF forces were not required or permitted to transport weapons or troops of third countries (George Mulgan, 1995, p. 1107). In addition, the deployment of SDF troops in Cambodia and subsequently in Africa and the Middle East gave rise to reservations from a number of Asian countries, specifically China and South Korea, (George Mulgan, 1995, p. 1104) weary of Japanese re-militarization (see 2.3.2 for Japan and East Asian relations).

It can therefore be said that being able to “conduct operations on foreign soil” (George, 1993, p. 568) was a radical departure from the previous mandate of the SDF. It signified, according to George (1993), that the SDF had - under the PKO Bill - been given a new mission which goes beyond the defence of Japan only; it now has the mandate to insure international security (p. 569). George Mulgan (1995) further insists that the PKO Bill took Japan to the very limits of what it could do constitutionally under the old interpretations of Article 9 (p. 1104).

#### 2.1.4 Japan and the New Interpretation by Prime Minister Abe

Since the introduction of the Japanese Constitution, Article 9 had been interpreted, firstly to allow the creation and existence of the SDF (in 1952) and secondly, to allow Japan to partake in PKO under UN mandates (in 1992). In mid-July 2014, the third major re-interpretation of Article 9 appeared. Prime Minister Abe’s ruling Cabinet pressed through a new government stance (Norihiro, 2014) on Article 9 which would allow Japan to come to the defence of an ally, for the first time since 1945 (Mie, 2014). This represented a major shift in the restrictions that Article 9 had placed upon the capabilities of the SDF thus far.

While Prime Minister Abe insisted that Japan will continue to only follow a “defence policy” (Mie, 2014), the newest interpretation of Article 9 allowed for three conditions under which Japan can come to the aid of another country:

- “1) The attack on that country poses a clear danger to Japan’s survival or could fundamentally overturn Japanese citizens’ constitutional rights to life, liberty and the pursuit of happiness;
- 2) There is no other way of repelling the attack in order to protect Japan and its citizens;
- 3) The use of force is limited to the minimum necessary.” (Mie, 2014)

This re-interpretation brought about a fundamental change in the rules under which the SDF can operate, both internally and abroad. For the first time since its creation, the SDF can be deployed abroad in order to help an ally; that is to say, a UN mandate would not be required to send troops abroad. Furthermore, the ambiguous nature of the phrase regarding the ‘use of force’ suggests that it no longer applies to self-defence only, which would drastically alter the conditions under which the SDF is allowed to operate.

This therefore suggests that the different interpretations of Article 9 over the years have led Japan from, initially, only allowed to act in self-defence, followed by being allowed to act in

collective self-defence (under UN mandates) to finally, becoming an active partner in collective security arrangements.

## 2.2 Japan and the UN Charter

Considering that the concept of self-defence played an instrumental part in interpreting Article 9 from the very beginning, stretching the concept to encompass the collective form proved to be difficult constitutionally. Both the collective self-defence and the collective security appear, in one form or another, in the UN Charter. Drafted shortly after WWII, the UN and its charter was designed in order to succeed where its predecessor, the League of Nations, had failed; namely to prevent another worldwide catastrophic war.

Collective self-defence is enshrined in Art 51 of the UN Charter and allows UN member-states to take military action in the defence of another member-state in the face of an “armed attack” (United Nations, 1945). Art 52 of the same Charter refers to collective security through “regional arrangements” (United Nations, 1945); in this context collective security infers alliances (such as the one that exists between Japan and the US (see 2.3.1. Japan and the US)). Although the UN Charter confirms the validity of such arrangements, the first two interpretations of Article 9 denied Japan the opportunity to be an active partner in these arrangements.

### 2.2.1 Japan and Collective Self Defence

According to the previous interpretations of Article 9 (see 2.1.1. Japan and Self Defence), Japan was not prohibited to act in self-defence. However, the issue of collective self-defence – i.e. coming to the defence of another state - caused clashes with the Constitution. As the wording of Article 9 specifically states “*International Disputes*” (see 2.1.2. Japan and SDF), Japan had been unable to justify its active participation in collective self-defence. Instead, it limited its role to logistics and transport, as long as the Japanese forces would not supply weapons or transport things within battle zones (Dreyer, 2016, p. 301); thus, severely limiting its array of possible actions but remaining firmly within the parameters of the Constitution. Furthermore, between 1991 and 2003, Japan passed 15 security related laws (Samuels, 2007, p. 86), some of which “stretched the idea of defence” geographically rather than conceptually (Samuels, 2007, p. 107), whilst still adhering to the basic doctrine as interpreted according to Article 9.

### 2.2.2 Japan and Collective Security

Although the UN Charter does not denote a firm system of collective security, Article 9 prohibits Japan from collective security arrangements (George Mulgan, 1995, p. 1104); even though Japan

and the US have the 'Treaty of Mutual co-operation and Security between Japan and the United States' (ANPO), which in addition to acting as an alliance (see 2.3.1. Japan and the US) extends the scope of military recourse to "threats to international peace and security in the Far East" (Samuels, 2007, p. 93). This effectively means that Japan bears, at least, partial responsibility for the security of the region (ibid, p.94). Along this vein, Japan conducted more than 20 joint military exercises with the US – such as Malabar 2007 which included vessels from the US, India and Australia (Garg, 2007) and which, according to Samuels (2007), did not require a constitutional re-interpretation (p.95).

By stretching the definition of defence geographically (see 2.3.2.1. Japan and China), it further means that Japan is effectively involved in collective security both through its junior partnership with the US (see 2.3.1. Japan and the US) as well as being "more active operationally" (Samuels, 2007, p. 107) and much "better prepared legally" in order to act in defence (ibid.)

### 2.3 Japan and International Conflict

As a direct result of Article 9, Japan has not been an active belligerent in international conflict since the end of WWII. It required two interpretations, and 45 years, in order for Japan to have a force capable of military potential and to be able to deploy them in non-combat roles abroad. Having done so, Japan has had limited and passive interactions with international conflict, mostly in its capacity as an ally of the US (see 2.3.1 Japan and the US) or under PKO mandated by the UN.

It is for this reason that Japan's role in international conflicts pertaining to the actions of the US will be examined, including the treaty between the two countries. Furthermore, the bitter memories of Japan's actions in East Asia during WWII have an influence on the opinions and actions of Japan's neighbours on any perceived attempt at re-militarization (Dreyer, 2016). China, in particular, is growing in influence and power and with an unresolved territorial dispute with Japan in the East China Sea as well as its claims in the South China Sea (Bonnie, 2012), it remains the likeliest candidate, outside of Japan, to be affected by the newest interpretation of Article 9.

On the other hand, the Republic of Korea (ROK) – otherwise referred to as South Korea, not only shares a divided "historical legacy" (Glosserman & Snyder, 2015, p. 2) as a result of WWII, but also shares an alliance with the US and a mutual concern for the geopolitical situation in the East Asian region.

### 2.3.1 Japan and the US

The relationship between the United States (US) and Japan progressed from being bitter enemies to becoming staunch allies within a few decades. After dropping the world's first two atomic bombs on urban centres in Japan – bringing WWII to an official close – the US occupied the island nation as peace treaties were negotiated. Under the auspices of SCAP General McArthur, Japan received its new Constitution, including Article 9, in 1947.

By 1950, the US - concerned with the rise of Communism in China and the Korean Peninsula - introduced the idea of the NPR in Japan. Even so, Japan remained fairly neutral during the Korean War, citing the restrictions of Article 9 as justification. In 1952, during the San Francisco Peace Treaty which officially closed the chapter on WWII, Japan and the US signed the *Treaty of Mutual Co-operation and Security between the United States and Japan* (ANPO), which also ended the occupation of Japan (although the US would continue to occupy Okinawa until 1972).

Despite the limitations of Article 9, ANPO stipulated that Japan would “slowly increase its own defence responsibility” (Dreyer, 2016, p. 88), but a clause in the treaty allowed the US to interfere, if requested, against an outside aggressor (ibid). This security reliance meant that Yoshida Shigeru, Prime Minister of Japan at the time, could employ what is dubbed “The Yoshida Doctrine” (Takeuchi, 2013, p. 121). The Yoshida Doctrine<sup>4</sup> operated under the assumption that by relying on the alliance with the US and Japan's own constitutional inability to re-arm, the Japanese government could focus exclusively on the economic development of the country (ibid). Yoshida allowed the US to use strategic military bases on Japanese soil to contain communism in East Asia without Japan being drawn into any Cold War Conflict (Takeuchi, 2013, p. 122).

Katzenstein and Nobuo (2001-2002) argue that the presence of American troops in East Asia, specifically in Japan, prevents a “natural” regional balance of power from being established (p.156); they also suggest however, that in the “short to medium term, East Asian governments” prefer the presence of the US in East Asia (ibid).

The alliance between the US and Japan, tested by the conflicts in Korea and Vietnam, faced a major hurdle during the 1<sup>st</sup> Gulf War in 1992 (van Kemenade, 2006, p. 54). Unable and unwilling to provide direct military assistance to the US-led Operation Desert Storm, Japan offered financial assistance to the tune of US \$13 billion (ibid). Despite this large contribution and Japan's own

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<sup>4</sup> The policy of the 1<sup>st</sup> Prime Minister of Japan, after the US occupation ended, to rely on the US for defence. This allowed Japan to spend little of its own budget on defence, allowing it to recover economically after WWII.

constitutional restraints, Japan's lack of military assistance damaged its reputation, both amongst its Allies and in the US (see 2.1.3. Japan and PKO).

Having pushed through the PKO Bill in the following year, Japan was better prepared legally to assist its American ally in the 2<sup>nd</sup> Gulf War. It sent 1000 troops to Afghanistan, but limited their mandate to non-combat duties only (van Kemenade, 2006, p. 54). Even though it was less than what President George W. Bush had originally wanted, it was considered adequate at the time (Samuels, 2007, p. 98).

In addition, Japan sent 600 troops to Samawah in Southern Iraq in 2004 to assist the US during the US-led invasion of Iraq. Once again the restrictions of Article 9 limited their mandate. Protected by Dutch and British troops, the SDF could not use force and their main duties included civil engineering, the building of hospitals, roads and water treatment facilities, which were far removed from active battle zones (Samuels, 2007, p. 98).

Despite the continued strengthening of the US-Japan Alliance, and Japan's increasingly re-militarization in accordance with Article 9, Samuels (2007) argues that Japan cannot be 'as sure of US commitment' as it was during the Cold War (p.137), especially in relation to China's growing military and political power.

### 2.3.2 Japan and East Asia

By virtue of being located in East Asia geographically, Japan's immediate neighbours not only experienced the worst of Imperial Japan's policies during WWII, but they are also the most likely to react to the re-interpretation of Article 9 today. Of the nations in the neighbourhood of Japan, this dissertation will, firstly, concentrate on China – with whom Japan has a territorial dispute – and then South Korea – with whom Japan shares not only a fraught legacy historically but also an alliance with the US.

#### Japan and China

Sino-Japanese relations date back a thousand years, while China remained a dominant power in the East Asian region until the early 20<sup>th</sup> century (Takeuchi, 2013, p. 15). The defining moment for the relations between the two countries since then, was WWII. The Japanese invasion of China in 1937, the Rape of Nanking (an episode of mass rape and mass murder) (Chang, 1997, p. 4) and Imperial Japan's subsequent actions – such as the taking of "comfort women" into sexual slavery (Takanaka, 1996, p. 79) and the use of prisoners of war as slave labourers (Takanaka, 1996, p. 71)

– formed the foundation of most of the interactions between the two neighbours in the East Asian Pacific region.

It is therefore not surprising that China views any interpretation of Article 9 by Japan as a step towards re-militarization (Dreyer, 2016, p. 288). While the two neighbours now enjoy the “largest bilateral trade volume” (Samuels, 2007, p. 136) in their joint history, China’s primary education has contained strong elements of “anti-japanism” – since 1994 (Samuels, 2007, p. 138). When combined with the “divergent treatment of history” of both countries (Green, 2003, p. 79) it creates obstacles for future relations.

Dating back to 1950, China and Russia signed the Sino-Soviet Treaty of Friendship, Alliance and Military Assistance with the specific aim to “prevent [...] breaches of peace by Japan [...] or any other state which might [...] join Japan” (Dreyer, 2016, p. 285). Meanwhile, China’s stance remains that, since 1945, they have “developed peacefully” while the Japanese have become “increasingly militaristic” (Dreyer, 2016). At the same time, Japan retains suspicions that China is aiming to extend its control across all territories of the Qing Dynasty (Dreyer, 2016, p. 318).

The assertion that Japan has been re-militarizing may not be far from the truth. In 2003, Japan spent a staggering US \$142,84 billion on its SDF and defence, while China’s military spending was incrementally higher at US \$155,95 billion (van Kemenade, 2006, p. 55). At a cursory glance, this would put China above Japan in terms of military power but for the following facts. Firstly, Japan remains the junior partner in the alliance with the US whose military spending of the same year reached US \$404,92 billion (ibid) and secondly, as of 2007, China’s military proper remained incomparable to Japan’s SDF, although continuously and rapidly modernised (Samuels, 2007, p. 140).

Currently, two issues constitute major factors in the Sino-Japanese relations. These issues will be discussed in the following paragraphs and are primarily, the territorial and maritime dispute surrounding the Senkaku/Diaoyu Islands<sup>5</sup> (Dreyer, 2016, p. 167) and secondly, Japan’s growing affinity for Taiwan (Green, 2003, p. 83), which China considers an integral part of its territory but functions *de facto* as a sovereign state.

The Senkaku/Diaoyu islands are situated 440 km South-west of the Japanese island of Okinawa, 330 km East of the Chinese coast and only 170 km from the island of Taiwan (see Figure 2). A

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<sup>5</sup> As this dissertation primarily focuses on Japan, this sequence of naming the islands was decided upon and does not lead to a definitive stance on ownership of the disputed islands.

Japanese possession under a treaty in 1895 (Samuels, 2007, p. 142), Japan uses the United Nations Convention on the Law of the Sea (UNCLOS) to assert its claims (van Kemenade, 2006, p. 69). In February 1992, China passed the Territorial Water Law through which it claims the entire East China Sea Continental Shelf that includes the disputed islands (van Kemenade, 2006, p. 67); in fact, China claimed the sea almost up to the Japanese Island of Okinawa (Samuels, 2007, p. 142).



Figure 2. The East China Sea, the location of the disputed islands and the overlapping claims of Japan and China (BBC, 2014).

As one of the last unexplored high potential natural resource areas, with an estimated 100 billion barrels of oil (van Kemenade, 2006, p. 67), the East China Sea (or at least part of it) is intensely coveted by Japan and China as they are both net energy importers (Samuels, 2007, p. 136). The potential of the oil located in the area would be an immense economic boost to both countries. So much so that, according to van Kemenade (2006), in recent years China and Japan have “gone to the brink of war several times” (p.75), and this includes the presence of multiple armed vessels and military exercises in the region of the islands (ibid). Japan had even cautioned China that if it continues drilling in the East China Sea, they would be forced to take “counter-measures” (ibid).

The islands caused intense friction between the two countries when, in 2012, the Japanese Government purchased three of them (King, 2015b). This led to an “unhealthy spiral of

diplomatic name calling, dangerous brinkmanship in the East China Sea and competition over which country is doing more to undermine Asia's post-war order" (ibid).

Finally, Taiwan and China's relationship has graced the inside of academic journals for the better part of the last 50 years. Within the context of this dissertation however, Japan's friendly attitude towards Taiwan remains a thorn in China's flesh (Green, 2003, p. 83). Furthermore, the ANPO (see 2.3.1. Japan and US), to which China reacted negatively as it considers to be an alliance aimed against it (Dreyer, 2016, p. 88), was later interpreted as including the 'surrounding geographic area' of Japan (Dreyer, 2016, p. 301); the US later also clarified that the treaty 'applied to a provocative set of circumstances' (Dreyer, 2016, p. 239) which could mean that the definition could entail reactions to more than just armed attacks.

### Japan and South Korea

Japan's relations with the Republic of Korea (ROK)<sup>6</sup> – also known as South Korea – stem from a "legacy of WWII" (Swenson-Wright, 2013, p. 105). The conquest and occupation of the Korean Peninsula from 1910 to 1945 (Glosserman & Snyder, 2015, p. 6) plays an important part in this legacy. Furthermore, the shadow of 'comfort women' – that is, civilian women drafted into Japanese military camps to serve as prostitutes in soldiers' brothels (Takanaka, 1996, p. 79)– has long darkened the relations between the two neighbouring countries. It has also contributed towards preventing Japan from attaining an "assertive high profile leadership role" in the East Asian region (ibid). Even so, as one of the largest economies in the world, Japan has achieved "de facto economic leadership" (Snyder, 2013, p. 266).

Despite the animosity which history lends to the relationship between South Korea and Japan, Nakagawa (1983) insisted that a joint defence system for the two countries would become vital in the future (p.832); particularly with regard to dealing with the increase of a nuclear threat of the Democratic People's Republic of Korea (DPRK)<sup>7</sup> (ibid) – also known as North Korea. In addition, considering that the US maintains an alliance with both Japan and South Korea, it has made "efforts to knit these two alliances together" (Glosserman & Snyder, 2015, p. 2) in an effort to materialize a "regionalized framework of security co-operation" (ibid). This however has not yet been realized.

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<sup>6</sup> ROK is the official name of South Korea as a member of the UN but for purposes of simplicity and familiarity, the colloquial version of the ROK – South Korea – will subsequently be used in this dissertation.

<sup>7</sup> DPRK is the official name of North Korea as a member of the UN. For reasons of simplicity and familiarity, the colloquial name of the DPRK – North Korea – will be used in this dissertation.

To complicate matters even more, South Korea itself has seen its fair share of tension with China, from fishing rights to potential territorial disputes and the continued Chinese support for North Korea (Glosserman & Snyder, 2015, p. 81) – a rogue state which represents a threat to both Japan and South Korea.

## 2.4 Summary

To summarize, it can be stated confidently that the intended purpose of Article 9 was, in essence, for the US to declaw Imperial Japan, after Japan's atrocities during WWII. With no military nor any means in which to gain the potential of war, it meant that Japan would not be able to wage war again. This had the resulting effect of calming and re-assuring Japan's neighbours – particularly China and South Korea – who had suffered the most under Japan's rule.

The original interpretation of Article 9 was strict; Yoshida Shigeru denied Japan the right to defend itself against outside aggressors. This stance, however, changed in order to allow for self-defence; thus the SDF were created as a means of defending the Japanese islands in case of an aggressive invasion. The PKO did not fall into this category and therefore the SDF were unable to become involved or be deployed in these operations. This changed after Japan's financial-only contribution to the 1<sup>st</sup> Gulf War - mandated by the UN, was heavily criticised; the embarrassment of this forced Japan to reconsider its role in PKO and the country passed several laws in 1992 to allow the deployment of SDF forces during PKO.

The argument was that under a UN mandate, SDF forces are not operating in self-defence of Japan but this also means that they do not have to be bound by the Japanese constitution entirely. Some scholars – such as Mine (2014) – even argue that the nature of PKO and the requirement that they operate in a ceasefire, means that the constitution, which bans Japan from using force to settle international disputes, does not come into play because if there is a ceasefire, there is no international dispute.

Eventually, the involvement of the SDF in PKO was allowed, but under five strict requirements that necessitated hosting countries from agreeing to Japan's presence specifically and also restricting Japanese troops from active combat roles and areas; as a result, the Japanese PKO troops tended to be a civil engineering corps.

Prime Minister Abe forced a re-interpretation of Article 9 in 2015 – coming into effect in 2016. This new interpretation fundamentally changed the rules under which Japan can act on the

international peace and security stage. For the first time, the definition of self-defence was expanded to include collective self-defence, a concept which is enshrined in the UN Charter, but previously banned by the Japanese Constitution. Another major condition that was altered, is that the use of force was upgraded to the bare minimum needed.

In essence, this changed the collective security arrangements. The UN Charter recognises the legitimacy of regional collective security arrangements, but Japan had only really been in an alliance with the US – and even then the alliance clearly had a senior and a junior partner. The fact that Japan could only defend itself made it an unlikely partner; while it could legally sign collective security arrangements. Thus, Article 9 prevented Japan from acting in the capacity that partners would have expected of it.

The US alliance was born from Japan's defeat in WWII and the US-Soviet Union Cold War. The US had hoped that Japan would prove vital in its containment policies towards Communist China and its war in South Korea, but repeated calls for Japan's re-armament were refused.

Considering that Article 9 ultimately re-assured Japan's immediate neighbours, any re-interpretation of said article would undoubtedly shake the already fragile foundations of Japan's relationships with China and South Korea. WWII had created a climate of mistrust and suspicion that has led to China and Japan clashing over ownership of the Senkaku/Diaoyu islands as well as the prickly issue of Taiwan. South Korea, by contrast, also has an alliance with the US but also bears scars of Japan's colonization in the early 20<sup>th</sup> century. Their fears of China and North Korea, however, clashes with their fear of Japan becoming re-militarized; a better armed Japan means more deterrent against these threats, but could possibly threaten South Korea as well.

As a result, the re-interpretation of Article 9 has consequences that go beyond Japan's borders, consequences which could have implications for international peace and security. While this chapter attempted to show the history, status-quo and different interpretations of Article 9 through Japan's relationship with the US, the East Asian Region and the UN and PKO, it has revealed a clear lack of a comprehensive source, whether academic or otherwise, which, not only pools all the information together, but presents a complete overview of the implications of the re-interpretation.

This gap in the literature is exactly what this dissertation attempts to fill by bringing together the status quo and possible future implications, which, through the re-interpretation of Article 9, could have an effect on international peace and security in East Asia as well as the rest of the

world. The subsequent chapters discuss the methods applied to the research done for this dissertation (see 3. Methodology), the results of this dissertation (see 4. Case Studies) and how the relationships of Japan with its allies and neighbours, and the status quo regarding Japan's participation in PKO, could be impacted through the re-interpretation of Article 9 (see 5. Discussion).

### 3. Methodology

This research applied the qualitative research approach (Creswell, 1994); in other words it relied mostly on qualitative research; this however does not mean that it did not incorporate quantitative data, found through the use of the qualitative research methods.

#### 3.1. Qualitative Methodology

Qualitative research, which according to Creswell (1994) means ‘an approach to explore and understand a social or human problem’, was applied when looking at human decisions and designs. These include the sentiments behind the original Article 9 and the changes that the re-interpretation could have on the decisions and actions of those in leadership, not only in Japan but also among its allies, neighbours and the SDF in cases of international conflict or PKO.

##### 3.1.1. Qualitative Interviews

The preferred method of collecting the qualitative data remained qualitative interviews. Semi-structured interviews were chosen. This meant that there were a number of central questions with several possible sub-questions but with the freedom to allow the interview to move into unexplored or new territory that were deemed relevant or necessary for this dissertation. Furthermore, the questions focused on allowing the interviewee to expand and explain his or her expert opinion. The fact that some of the interviews were conducted in person, should prove sufficient to elicit the expert views and opinions of the interviewees (Creswell, 2014, p. 190).

The advantage of the generally open-ended interviews means that the interviewees were able to provide historical information and context in order to support their rhetoric, although this brings about a disadvantage in that indirect information was filtered through the respondents’ own views or interests (Creswell, 2014, p. 191). While this would normally be perilous to the research, or at the least biased, within the context of this dissertation it serves the purpose of reaching a conclusion. There is no clear indication of what re-interpreting Article 9 would cause, therefore the conclusion is an assumption based on desk-research, expert opinion and an educated guess. Furthermore, the type of interview chosen allowed the researcher to remain in control regarding the line of inquiry and able to steer the discussion towards either a deeper interpretation on interesting objectives or entirely new ones altogether (ibid).

Potential interviewees were chosen for their expertise in the general topic of this dissertation, or within a specific field deemed relevant to complete the research. For this reason, the interview

questions were adapted depending on the area of expertise of the interviewee (see 9. Appendices). Interviewees were contacted by email and given a choice in the method of how the interview would be conducted. Those who reside or work outside of The Netherlands were given a choice between conducting the interview via email or via Skype, whilst those who reside within The Netherlands were offered the choice between Skype or a face-to-face interview.

Interviewees include Professor Takeuchi of the Osaka School of International Public Policy – a former diplomat who has written a book on Japan and International Relations, published by the Osaka University Press as well as given lectures at universities around the world on the re-interpretation of Article 9 and Dr Amy King, a Defence Strategy professor at the Australian National University. A third interview was arranged with a Dutch Diplomat who wishes to remain anonymous; it was also emphasised that his answers reflect his own views and observations and not necessarily those of the Dutch Government.

Finally, conducting interviews were chosen as the primary method in order to collect the data because it offered the clearest path towards collecting the type of data required to complete this dissertation. The main reason why this method was chosen, is due to the fact that, as shown in previous chapters, the re-interpretation of Article 9 has not been in effect for long and the possible implications this dissertation attempts to discover are not apparent from the existing literature. This, however, also led to the fact that very few interviews were able to be secured as potential interviewees felt that they either did not have enough knowledge on this relatively new topic or that not enough time has passed for the topic to mature (see 3.4 Research Limitations).

### 3.1.2 Interview Transcription

McLellan, MacQueen and Niedig (2003) state that there is “no universal transcription format” which will prove adequate for all research and “types of data collection” (p.64). Ultimately, it is argued that the transcription of the interviews comes down to the choices made by the researcher. One of the first choices that have to be made concerns where and how to refer to data from “transcription or notes” (McLellan, MacQueen, & Neidig, 2003, p. 65). In this dissertation, the choice was made to work from the transcriptions themselves, as this would allow the data collected to be as accurate as possible. As the interviews pertain mostly to expert opinions on the chosen topics, paraphrasing through notes could have produced a distorted effect which could have skewed the results, and by extension, the final outcome and conclusion of this research.

The second choice with regard to transcription concerns the issue of “what to keep and what to leave out” (McLellan, MacQueen, & Neidig, 2003, p. 66). An important aspect that had to be considered was that the data collected from the interviews applies to the “informative content” of the interviews, that is to say their “substance” (Oliver, Serovich, & Mason, 2005), rather than the manner of speaking, behaviour or other linguistic attributes useful in social science research. As a result, the researcher chose to make use of the “denaturalized transcription” method of Oliver, Serovich and Mason (2005). This method eliminates certain elements of the interview through the transcription such as “involuntary vocalization” while still attempting to remain a “full and faithful transcription” (ibid).

### 3.1.3. Qualitative Desk Research

Desk research, the second method preferred for this dissertation, focused on collecting secondary data – i.e. data that had been collected from previous studies (California State University, n.d.) – by ‘analysing public documents’ through the process of collecting ‘qualitative documents’ as described by Creswell (1994). Document examples included books published by academic authors or research institutes – such as Clingdael – and academic articles appearing in peer-reviewed journals in related topics – such as *Asia Studies* and *Security and Conflict*. Books were used to establish a historical framework around Article 9 insofar as discerning Japan’s relationship with its neighbours (see 2.3.1 Japan and East Asia) and similar topics. By contrast, academic journals allowed for research that analysed the different interpretations of Article 9 and their effects on Japan, its neighbours and allies as well as the roles that Japan played/plays on the international stage.

### 3.2. Quantitative Research

Quantitative research, which according to Creswell (1994) means ‘variables [that] can be measured’, and in the context of research pertains to any set of numerical data which can either lead to statistics or other useable figures, was not a true option within this research. While statistics or other useable figures are useful for an integral part of the analysis, the preferred method of obtaining them is through qualitative research. As a result, secondary quantitative data such as concrete statistical data from governmental and non-governmental sources, were used to build a case study on the framework established in the previous paragraph, together with the aforementioned qualitative interviews. The Japanese Foreign Ministry and the UN websites were consulted, as well as published works detailing Japan’s involvement in PKO since 1993.

### 3.3. Research Ethics

When conducting research, the ethics of the researchers and the method of data collecting is often an important concept that needs to be considered carefully.

Bearing in mind that the main research question refers to a topic that Japan's neighbours continue to find controversial, it was clear that when dealing with interviewees, either from or within the employment of such neighbouring states, the interviews would need to be framed in such a way that they do not offend or unnecessarily escalate tensions. This was decided before contact was made and was evident in the manner in which the initial contact email was written.

Furthermore, Informed Consent forms were obtained from each interviewee detailing what the research project related to. It also detailed how the interview would work and gave them the choice of remaining anonymous; this was an important choice for similar reasons laid out in the preceding paragraphs. Due to the scope of disagreement and ongoing territorial disputes, interviewees could have felt that their interviews – and by extension, their views – could compromise their career or worse. Interviewees who decided to remain anonymous are not referred to by name in this dissertation and the information collected from all the interviews are stored in a manner that complies to the relevant Dutch and EU privacy laws.

### 3.4. Research Limitations

Limitation to research refer to all the “characteristics [...] that impacted or influenced the interpretation” (California State University, n.d.) of the results gleaned from the research. In the context of this dissertation, several limitations were identified.

Due to constraints in budget and time (California State University, 2016), as well as the large geographical scope which this dissertation covers indirectly – namely East Asia and the US – a severe limitation of the research remained the inability to travel to Japan and its neighbouring states. Furthermore, conducting interviews directly with SDF officials, the Abe Administration and the Chinese Foreign Ministry, for example, were not possible. This represents a limitation because it would have given concrete primary information which could have been combined with the theoretical information gleaned from expert interviews and used to present a more complete and comprehensive conclusion.

Another limitation of research is the language (California State University, 2016); this dissertation relied mostly on English language sources (both original and translated) and as such was unable

to draw upon materials that were only available in Chinese or Japanese. This represents a limitation in the ability to have access to primary sources in their original language which would have provided a valuable addition to the in-depth knowledge that this dissertation aimed to achieve. Furthermore, conducting interviews in the interviewee's second (or third language) could have prevented the interviewee from expressing themselves exactly as they wanted to and give rise to misunderstanding which could have undermined the research project in general.

A third limitation of research was the research question itself; it attempted to answer a question of a situation which in reality has not occurred yet. The conclusion therefor made assumptions of what implications re-interpreting Article 9 could have, but without qualitative empirical research to back it up (California State University, 2016). While this attempt to attribute a theoretical framework onto an imaginary future event is not new in the realm of research, it does represent a limitation in that any conclusion drawn is hypothetical and could therefore be, potentially, incorrect.

### 3.5. Summary

In conclusion, this dissertation mostly relied on qualitative research and not quantitative research, but obtained both qualitative and quantitative data. The two primary methods of data collection were expert interviews and desk research.

The interviews were considered necessary in order to complete gaps in the literature – which are due to the novelty of the re-interpretation of Article 9. Furthermore, because the research question had a certain degree of uncertainty towards the future in that it attempts to make assumptions of possible implications, it would have been very difficult to collect information through other methods; this also serves as one of the limitations of the study. Expert opinions were sought whilst methods such as using a survey or focus groups were discarded as they would not have provided the type of data that could have been used competently.

It was decided that the interview would be transcribed through the “denaturalized transcription” (Oliver, Serovich, & Mason, 2005) method, which eliminated unnecessary vocalizations in favour of the information provided in the interview. This was decided appropriate as it allowed for a better analysis of the actual content given through the interviews rather than the manner in which the content was provided.

Desk research comprised mainly books, academic articles and other 'credible-enough' sources available online.

With regard to ethics, the sensitivity of the topic of the research question was taken into account when the interviews were conducted. In addition, anonymity was offered to interviewees and adhered to in the writing of this dissertation. Furthermore, in compliance with privacy laws, information of the interviews are stored in such a way that they are deemed safe.

Finally, the research had several limitations. The fact that the research was conducted at a considerable distance from the geographic areas that are mainly affected, is one such example. The limited access to knowledgeable individuals within organizations that operate within or around Article 9 of the Japanese constitution such as the Japanese Defence Ministry, the SDF, or the Chinese Foreign Ministry contributed to the limitation of this research. Another limitation pertains to the language of the research – English – which excluded many primary sources in Chinese or Japanese which could have added new insights or further deepening of the research.

## 4. Case Studies

In this section, case studies will be used to examine and record Japan's role in international conflict and peacekeeping missions under the auspices of previous interpretations of Article 9, as has been dissected in the literature review and research results. As such, the function of these case studies act as the result of this dissertation, incorporating any and all research and interviews conducting as stated in the Methodology (see 3. Methodology). At the conclusion of this chapter, the results presented will be discussed in the subsequent chapter (see 5. Discussion).

This chapter will take a critical look at what Japan has been willing and able to do with the restrictions and limitations of its Constitution. Japan's role in the Gulf Wars – one sanctioned by the UN, the other not - as well as operating as an ally of the US will be examined in the first section. Additionally, the same will be done with Japan's relationship with China in light of the dispute concerning the Sengaku/Diayuo islands. Finally, Japan's alliance with the US will also be presented in a pre-and-post re-interpretation manner by studying the South China Sea specifically.

With regard to the PKO, Japan's first ever active participation in a PKO in Cambodia, will be used as a basis to present the research into the capabilities of Japanese forces in PKO before the re-interpretation; some instances, such as the rescue operation, in East Timor in 2004 will also be used. To present the findings regarding the changes that the re-interpretation has brought to Japan's involvement in PKO, the UNMISS in South Sudan will be used.

This chapter will attempt to present the results in a clear, concise and logical order for the purpose of showing the changes that the different interpretations of Article 9 has brought about.

It is interesting, however, to note here that insofar as the re-interpretation has brought about changes in Japan's capabilities and options in International Peace and Security, the Diplomat (2017, personal communication) believes that Prime Minister Abe's end goal is "constitutional reform", meaning that the re-interpretation is simply a step on the journey to reach his goal (see 1.4 Limitations).

### 4.1 Japan and Conflict

The re-interpretation of Article 9 with regard to conflict sees Japan effectively "lifting the ban on collective self-defence" whilst allowing for the "possibility" of launching a war (Gady, 2016). The re-interpretation specifies that Japan can come to the defence of a friendly nation as long as it meets the following requirements: firstly, there is a clear danger or threat to Japan or the

Japanese citizens; secondly, no other course of action can be taken and finally, only the minimum force required is used (Mie, 2014).

Despite the re-interpretation, however, the Diplomat (2017, personal communication) remains convinced that Japan is continuing to present itself as a pacifist nation on the international stage. Nevertheless, this does not mean that Japan does not recognise the threats that it faces in its immediate security environment (ibid).

As a result, the aspects and conditions of the re-interpretation has implications for Japan in international conflicts, including any obligations it has under the collective security arrangements – such as ANPO with the US. Furthermore, it has implications for the security and peace of the East Asian region. Both of these aspects will be presented below.

#### 4.1.1 Japan and the US

The US and Japan have enjoyed a close relationship since the end of WWII. Today, the two countries are tied together on multiple levels that include economics, military and culture (Auslin, n.d.). As a result, one of the fundamental aspects of this relationship, namely the alliance which is recorded in the ANPO, carries the heaviest implications of any re-interpretation of Article 9. This alliance also brings the participation of Japan in the Gulf Wars – and any subsequent hypothetical Gulf War – into the lens of the research question; enough to warrant a look at it separately.

##### Gulf Wars

The Iraq invasion of Kuwait in 1990 set events into motion that resulted in the UN-sanctioned invasion of Iraq (Funk, 1992, p. 366). The US took the lead in organizing the invading forces and set about soliciting both military and financial help from other UN members, including Japan (ibid).

##### Pre-interpretation

Japan's role in the 1<sup>st</sup> Gulf War was largely limited to financial aid; almost US \$13 billion were given to the war effort (van Kemenade, 2006, p. 54). Even so, the US exerted some pressure in getting Japan to play a more substantial role (Funk, 1992, p. 367) although Japan refused. Funk (1992) quotes the former Assistant Secretary of State, Richard H. Solomon, as testifying that “what is needed is not only [Japanese] financial support but personnel and transportation resources” (p. 367). The US State Department is further quoted as issuing a statement that read “[the US] would welcome direct participation by Japanese personnel” (ibid). Japan, feeling that its

hands were tied due to its Constitutional limitations, refused, but Funk (1992) states that it forced the Japanese to seriously “confront the question of sending troops abroad” (p.367). Shortly after the 1<sup>st</sup> Gulf War, Japan passed its PKO Bills enabling it do just that (see 2.1.3 Japan and PKO).

By the time the 2<sup>nd</sup> Gulf War started, Japan had been participating in PKO for ten years. Even so, the new Gulf War was not sanctioned by the UN but Japan was eager to show its support and redeem itself from the criticism of the previous war, 12 years prior (Samuels, 2007, p. 91). Japan sent a total of 5,600 troops to Iraq in a series of rotations spread over 30 months (Simpson, 2014).

The Japanese forces were heavily armed. Simpson (2014) suggests that they were the most heavily armed troops deployed outside of Japan since WWII, but they were unable to use their weapons as any use of weapons meant that they would find themselves in a combat zone (Simpson, 2014). During patrols, the Japanese troops had to rely on the Dutch, British and Australian forces for protection (ibid).

McNeil (2010) studied declassified Japanese Government documents which suggested that up to 67% of the 26,000 soldiers transported by the ASDF during the conflict were US soldiers, often into and out of combat zones. Furthermore, only 6% of the 45,000 people transported by the same branch of the SDF were immediate UN employees (ibid), suggesting that during the 2<sup>nd</sup> Gulf War Japan took a much more active role, despite remaining passive with regard to the use of force. During the four years of conflict from 2004-2008, Japan recorded zero (0) casualties and only two (2) shots were fired – both categorised as “negligent discharge” (ibid).

A debate arose from the above mentioned transportation and logistical routes, especially considering whether transportation of troops and weaponry into and out of active combat zones stipulated participating - or at the least enabling combat - which according to some critics in Japan, is unconstitutional (Simpson, 2014) (see 2.1.3 Japan and PKO). This debate, according to Simpson (ibid), was largely ignored by the Government of Japan, although transport restrictions in PKO do exist for Japanese forces.

In addition, Simpson (2014) puts forward the argument that the Japanese forces in Iraq could have easily been replaced by civilian “contractors” and it would not have made any difference.

And finally, even though Japan participated in mine-sweeping operations in the Gulf several months after the conflict occurred, it is considered a peacetime operation which does not violate Article 9 of the constitution (citation).

### Post-Interpretation

A hypothetical 3<sup>rd</sup> Gulf War – which Takeuchi (2016, personal communication) sees as a “very unlikely” situation – could see Japan act in a similar way concerning the methods and actions which it undertook during both the 1<sup>st</sup> and 2<sup>nd</sup> Gulf Wars; financial aid remains a large part of Japan’s policies towards conflicts (ibid). Furthermore, Takeuchi (2016b) insists that Japan is still unable, according to the constitution, to send troops with the express intent of taking part in combat actively (slide 24; Takeuchi, 2016, personal communication). The most important differences between the two interpretations would be, firstly, the “use of force” (Takeuchi, 2016b, slide 17) (see 5.2. Japan and US Alliance), which under certain circumstances would be permissible, and secondly, Japan’s logistical support which can be expanded to include supplying ammunition and the transportation of troops (Takeuchi, 2016, personal communication).

In addition, Prime Minister Abe explicitly said that in the case of another Gulf War, Japan would participate in mine-sweeping operations (Takeuchi, 2016b, slide 26; Aoki, 2014). This coincides with the defence posture which Japan continually adopts, as mine-sweeping operations themselves are not offensive in nature (Takeuchi, 2016b, slide 29; Truver, 2012, p. 38). However, it would have to meet the new requirements, as set out by the latest interpretation (see 4.1 Japan and Conflict), but this can easily be met in the circumstances. Under the new requirements, the US is definitely considered a friendly nation, while a new Gulf War could be interpreted as presenting a direct threat to Japan and its economy, especially through the use of planting sea-mines along oil-transport routes (see 5. Discussion).

Pollmann (2015), however, mentions that since 2015 the exact nature and scope of minesweeping are still being debated; particularly whether minesweeping constitutes the ‘use of force’ during an active conflict. She also presents the question whether a new Gulf War would actually affect Japan so quickly and rapidly and present a threat to the country (Pollmann, 2015). Ultimately, Takeuchi (2016) ascertains that Japan’s minesweeping capabilities, with a total of 27 vessels, exceed the UK and USA combined (slide 29).

However, as Gady (2015) pointed out, “to think that Japan would fight alongside others in a 1991 Gulf War scenario, even with the blessing of the UN Security Council, let alone in other non-UN sanctioned wars, remains far-fetched at best”. According to Takeuchi (2016, personal communication), whilst such an action could be justified legally and constitutionally, making the decision to undertake direct action can be considered as “political suicide”. Despite the re-

interpretation, Nohiro (2014) reports on a poll that was taken, showed a clear lack of public support for the interpretation; 56% of the respondents disagreed with re-interpreting Article 9.

### US Alliance

Japan's reliance on the US in terms of defence, stems from Japan's first Prime Minister after it surrendered at the end of WWII. Yoshida Shigeru prioritised Japan's economic recovery after the devastating and economically crippling war and established what was to become known as the 'Yoshida Doctrine' (Takeuchi, 2013, p. 121). His focus on the economy, combined with the US alliance, allowed Yoshida to keep Japan's defence budget low which ultimately led to Japan's economic miracle (ibid). Even as the Cold War began, Yoshida refused American overtures to re-arm, focusing on transforming Japan into a trading nation, rather than a military one (ibid). The Yoshida Doctrine would go on to form the corner stone of Japan's defence policy for the rest of the century; the National Defence Program Outline (NDPO) of 1976 placed the emphasis on the US-Japanese alliance as a policy of defence (Hagström & Williamson, 2009, p. 254).

### Pre-interpretation

The aforementioned NDPO was adapted in 1995 when the US-Japanese alliance was placed in a prominent position with the goal of attaining peace and stability in the surrounding regions of Japan, as well as establishing a more stable and secure environment (Hagström, 2008, p. 254). In 2004, the NDPO was re-named and became known as the National Defence Program Guidelines, complete with statements that talked about the aforementioned peace and stability and extending it to "areas surrounding Japan" (ibid), although it was made clear that by definition, these areas were considered situational rather than geographical (ibid).

Despite having this alliance, the constitution of Japan prevents it from acting in the defence of another country (Takeuchi, 2016b, slide 10), including defending the US. According to Takeuchi (2016b), Japan can only act alongside US forces in order to defend Japanese Territory (slide 10). Considering, for example North Korean Missiles, in order for Japan to be able to act it has to be determined that Japan is the target of said missile; if it is determined to be heading towards the US, Japan is constitutionally unable to do anything to prevent it (ibid).

The US-Japanese alliance also concerns itself with the financial aspect. Japan pays almost 75% of all the US costs that pertain to military bases and operations within Japanese territory (Takeuchi, 2016a, slide 4); the cost of military personnel and equipment being the remaining 25% (ibid). Takeuchi (2016a) suggests that the period 2016-2021 will see Japan shouldering the amount of US

\$9.4 billion, but— taking into account land-lease fees and other base related costs – this amount already stands at US \$5.8 billion in 2016 alone (slide 4).

The United States operates a formal Hub and Spoke System (Takeuchi, 2016a, slide 8). Formal alliances exist between the US and Japan and the US and South Korea, whilst smaller allies such as Thailand and the Philippines also co-operate with the US. However, there is little defence co-operation between the US allies themselves (ibid). In this sense, the US functions as ‘the Hub’ of security in East Asia and its various allies, are ‘the Spokes’.

One of the largest functions of the US-Japan alliance is that it dampens the “fears of the ghost of Japan’s pre-war militarism” (Takeuchi, 2016a, slide 11). As noted in Chapter 2 (See 2.1.3 Japan and East Asia), Japan’s actions during WWII often impacted neighbouring countries negatively and in lasting ways (King, 2015a). The US alliance, as well as Article 9, are often seen as both responses to the aforementioned atrocities as well as constraints against its re-occurrence. Even so, King (2015a) states that the US alliance had in fact prevented closer bilateral relations between China and Japan (see 4.1.2 Japan and East Asia).

#### Post-interpretation

One of the largest factors impacting the US alliance with Japan may not even be directly related to Article 9. Takeuchi (2016a) admits that newly elected President Trump will be a “wild card” (slide 3) which might throw a wrench into the workings of the alliance. It re-enforces the sentiment put forward by Vice-President Dick Cheney in 1992, when in front of a US committee he explicitly stated that US forces stationed in Japan were for the defence of the US and not the Japanese islands (Mito, 2008, p. 66).

President-elect Trump’s instance that Japan pays 100% of the military costs (see 4.1.3.1 Pre-re-interpretation) as well as his suggestion that Japan and South Korea “can have nuclear weapons” (Takeuchi, 2016a, slide 4) goes against the relationship that Japan and the US have had over the last half-century. Furthermore, it goes against Japan’s Nuclear Principles which, adopted in 1967, state that Japan does not allow the possession, production or movement of nuclear arms in or through Japanese territory (Hagström & Williamson, 2009, p. 253). According to Takeuchi (2016, personal communication), these principles are “*THE* policy of the Japanese nation” and any attempt to change them would be “political suicide” and detrimental to the relationships between Japan and its neighbours.

With Trump as a 'wild card', it is possible that the US-Japanese Alliance, despite any other changes to Article 9 or its interpretation, could become weaker (Takeuchi, 2016a, slide 4), even though Takeuchi (2016, personal communication) states that one of the primary reasons Article 9 was re-interpreted was to "strengthen the US alliance". This effect is believed to have been achieved, as the Diplomat (2017, personal communication) cites the recent "high-level visits to Hiroshima and Pearl Harbour" as well as the new Defence Guidelines.

Despite this, Prime Minister Abe specifically stated that the re-interpretation does not mean that Japanese vessels would escort American vessels through the South China Sea (Takeuchi, 2016a, slide 37); Gady (2016) also admits that both countries are nowhere near the possibility that Marine Special Defence Forces (MSDF) will protect US warships.

Having mentioned this, Jozuka (2016) reports that Japan's MSDF would join US patrols in the South China Sea, which suggests - although in a limited form - that Japan would indeed be escorting US ships and while not directly defending US warships, Japan would be in a position to come to the defence of a friendly nation.

Overall, Hagström and Williamson (2009) maintain that Japan continues, and will continue for the foreseeable future, to rely on the US as part of its defence policy (p.266); nothing in the changing rhetoric and security legislation has removed this as an option. In April 2015, they jointly released the Revised Japan-US Defence Co-operation Guidelines which called for "stronger military co-operation" between the two countries (Gady, 2016). To this effect, Schriver and Takahasi (2014) ties the US challenging China's stance over the Senkaku/Diaoyu islands as paramount to not only security and stability in the region, but also the ability of the US to challenge China in other geographic regions where China's actions antagonise US allies (p. 7).

Schriver and Takahasi (2014) indicate four points which they believe will strengthen the US-Japanese alliance (p. 3) and although these points were made in 2014, it is only now, with Article 9 being re-interpreted, that they can legally be realised by Japan. These points include:

- "1) Japan spending more on defence.
- 2) Integrated Command and Control
- 3) More robust training and realistic joint exercises
- 4) Joint development, production and acquisition of arms."

(Schriver & Takahasi, 2014, p. 3-5).

Takeuchi (2016, personal communication) believes that the re-interpretation is a positive step forward for Japan's national security in the sense that it puts the Japanese State on a "level playing field" with the US. Although Japan fears "entrapment" in wars through their alliance with the US – and the likelihood of becoming entrapped are increased with the re-interpretation – political factors can still filter into any decision that Japan "as a sovereign nation" makes with regard to its alliance with the US (ibid). While fighting remains unconstitutional, Japan is "more willing to provide logistical support that goes beyond what it was allowed to provide before the re-interpretation" (ibid). Even more so is the opportunity to enter into new collective security arrangements with other nations (Anonymous, 2017, personal communication) which the re-interpretation of Article 9 now allows (see 4.1.2 Japan and East Asia).

#### 4.1.2 Japan and East Asia

Asian countries, particularly those that suffered under Imperial Japan during WWII, often believe that Japan had not yet settled its past. Nevertheless, given Japan's economic power and potential military power they would accept, albeit reluctantly, any change in the status quo in the region (Mito, 2008, p. 67). It would only be China, which has an ongoing territorial dispute with Japan, and South Korea, which shares concerns with Japan about North Korea's nuclear ambitions (see 2.3.2 Japan and East Asia) that would actually react to changes that can be interpreted as Japan undertaking re-militarization. King (2015a) even out rightly states that China, in particular, remains opposed to any attempts at "overturn[ing the] post-war order" which includes Article 9, while she cites "widespread anti-Japanese sentiment" (King, 2015b) in China's public opinion as a relative obstacle to co-operation between the two countries.

#### Japan and China

The previous interpretation of Article 9 - which allowed the deployment of SDF abroad - (see 2.1.3 Japan and PKO) was met with vocal opposition from countries in the East Asian Region with China and South Korea being the loudest (Cheng, 2014). According to the Diplomat (Anonymous, 2017, personal communication), China holds the view that Japan should first "reflect on its actions during WWII" before attempting to become more pro-active in security matters whilst Japan believes that China "exploits WWII for political and diplomatic purposes". Even more so, King (2017, personal communication) believes that China is highly resistant to any change that might bring about transformation of the post-war order in East Asia. Despite this, relations – while cooled – remained unharmed, and in some circumstances even flourished (Hagström, 2008, p. 228).

### Pre-re-interpretation

According to some academics, Sino-Japanese Relations have been in a state of Cold War, what Hagström (2008) refers to as “the ice that won’t melt” (p. 224). China was designated as a “concern” in the National Defence Program Guidelines (NDPG) in 2004 and in a joint statement by the US and Japan in 2005. This statement talked about situational areas surrounding Japan (see 4.1.3.1 Pre-re-interpretation) and could be interpreted as - including Taiwan (Hagström, 2008, p. 225) – which China, not only claims as integral to its territorial sovereignty but also accuses Japan of supporting its independence (Hagström, 2008, p. 233). Yet, while the status quo of China-Taiwan had been stable – and even improving – Haas (2016) reports that the Chinese state media have become more vocal about re-incorporating Taiwan into China through the use of force, if necessary. While this does not necessarily mean that conflict in East Asia is imminent, it does bring into focus the possibility of flashpoints in previously stable disputes.

Despite the high-levels of inter-connectedness which saw almost 5 million people travel between the two countries - nearly 75,000 Chinese students in Japan, 20,000 Japanese students in China and about 324 town-twinning agreements between the two nations in 2005 (Hagström, 2008, p. 228) - Hagström (2008) ascertains that integration, even at this level, has not previously prevented negative impacts on the Sino-Japanese relationship (p. 229). More recent data reported by Clavel (2015) suggests that the number of Chinese students in Japan had in fact increased to nearly 94,000. Hagström (2008), however, suggests that this integration is not new or peculiar to the post-war era (p.229) and Clavel (2015) quotes officials as saying that “the number of Chinese students to Japan will increase” despite the “political tensions between the two nations”.

The most important issue souring relations between China and Japan – apart from the Taiwanese issue – is the dispute about the Senkaku/Diaoyu Islands (Hagström, 2008, p. 230). The issue was caused by the abundance of potential natural resources in the area (see 2.3.2 Japan and East Asia) and Hagström (2012) admits that both sides interpret historical data in order to claim sovereignty over the islands (p. 270). It would be interesting to note here that Schriver and Takahasi (2014) quote former Secretary of State, Hillary Rodham Clinton, as stating in 2013 that “[the US] acknowledges the islands are under Japanese administration” (p. 6), bringing the US-Japanese alliance into the dispute over the Senkaku/Diaoyu Islands.

The “fishing trawler incident” in 2010 analysed by Hagström (2012), produced Japanese rhetoric which left no doubt that Japan considers the islands as “inherent territory of Japan” (p. 272).

Furthermore, Japan does not even entertain the idea that an issue about territorial sovereignty exists that needs to be resolved (Hagström, 2012, p. 272). In their handling of the incident, Japan acted in “accordance with national law” (ibid), further entrenching the belief that the islands are Japanese.

Hagström (2012), however, talks about a power shift - in East Asia in particular, and the World in general – which sees China “rising” and Japan “declining” in both global and regional power (p. 268). This is confirmed, in part, by Takeuchi (2016, personal communication) who believes that China’s determination regarding the islands is driven by their own “ambition” rather than their “suspicion” that Japan is re-militarizing – the Chinese proposal of a G2 between the US and China to divide the Pacific Ocean between their spheres of influence offers some evidence to this regard (Takeuchi, 2016, personal communication).

By contrast, Dr King (2017, personal communication) believes that rather than reviving the Chinese Empire, the Senkaku/Diaoyu Island issue stems from the different readings and understandings of key post-war documents as well as China’s aforementioned dislike at major changes to the post-war order and finally, unhindered access to the East China Sea for the Chinese Navy.

#### Post-re-interpretation

Cheng (2014) admits that the “opportunities for confrontation” had increased steadfastly in recent years, and that China had become “more provocative in confronting Japan in contested territories”. However, she also states that “escalating tensions” is something China realises is not beneficial nor desirable for its own interests (Cheng, 2014), especially as Japan has started to challenge these incursions (Hagström, 2008, p. 232).

The vagueness of some of the wording of the re-interpretation, Cheng (2014) claims, puts China on a nervous edge. In particular, the words that indicate a “clear threat” and “friendly nations” Cheng (2014), establishes that it represents a “blank check” which Japanese conservatives can use in their own national interests. Especially when the dual reality of, on the one hand, Japan cultivating friendlier ties with players in other regions such as India and Australia, and even supplying naval vessels and expertise to Vietnam and the Philippines (Cheng, 2014) – whilst, on the other hand, China is alienating the same nations through its actions in the South China Sea (see 2.3.2. Japan and East Asia).

Furthermore, King (2015c) states that during the 70<sup>th</sup> anniversary of the end of WWII in 2015, China's military parade was designed to avoid any "poisoning [of] the bilateral relationship" (p. 39). In addition, King (2015b) mentions the conclusion of a trilateral summit, also in 2015, between Japan, China and South Korea. Chinese rhetoric following the summit is indicated as being highly positive, and Chinese officials were quoted as believing that the trilateral relations had been "completely restored" (ibid).

King (2014) further suggests that the re-interpretation of Article 9 is forcing China "to confront [the] possibility" of dealing with a normalised and more powerful Japan, but insists that the two East Asian rivals do not as yet have a "mutually acceptable vision" of what the strategic future of Asia will look like (ibid).

To this end, Hagström (2008) quotes former Taiwanese Prime Minister Liu Chao as not ruling out an eventual war over disputed territories – the Senkaku/Diaoyu Islands in particular (p. 231). He admits, however, that the chance that the Taiwan issue itself becomes a flashpoint between the two nations, remains negligible for the time being (p. 233).

Meanwhile, Takeuchi (2016, personal communication) and the Diplomat (Anonymous 2017, personal communication) do not believe that China and Japan would engage in a war in the short to medium term, particularly if the alliance between the US and Japan remains intact (see 4.1.3 Japan and US Alliance). King (2017, personal communication) confirms this belief, as China wants to avoid getting caught in a costly and unnecessary war, especially given that Japan possesses sophisticated air and naval capabilities, which have the potential to "exert significant cost" on China.

#### Japan and South Korea

Article 9 has cast Japan in the role of an "abnormal non-military power" (King, 2014) which East Asia had accepted in lieu of Japan's militarism. As a result, the re-interpretation of said Article 9 represents an attempt to "break free" (King, 2014) of this particular role, which can have possible ramifications across the region. While China can be considered an independent 3<sup>rd</sup> party, whose objections to re-interpreting Article 9 are foreseeable, and therefore manageable, South Korea's close alliance with Japan's ally, the US, complicates matters (Schriver & Takahasi, 2014, p. 6).

### Pre-re-interpretation

Glosserman and Snyder (2015) indicate that studies have shown that, since the 1800s, alliances usually “last just over a decade” (p.1); yet, both the US-Japan and US-South Korea alliances have “survived over 6 decades” (ibid) and are still standing, making them both remarkable and effective in the East Asian regions’ “grey conflicts” (Glosserman & Snyder, 2015, p.3) which stop just short of escalating into full warfare.

Despite the animosity which exists between the two nations, Glosserman and Snyder (2015) imply that aligning itself with the US indirectly means that South Korea is also aligning itself with Japan (p. 73); and a survey reported on by Glosserman and Snyder (2015) indicate an overwhelming 85% of South Korean respondents who believe that the US-South Korea alliance is a necessary thing (p. 90), especially when faced with the threat of North Korea.

Manosevitz (2003) however, argues that the security relations between Japan and South Korea rely more on economic interests than on threats from North Korea (p. 801). He maintains that the enactment of UNCLOS in 1995 brought about “overlapping EEZ’s” (Manosevitz, 2003, p. 802) which Japan and South Korea have agreed to split between themselves. Furthermore, most of the trade in the region uses sea-lanes – as opposed to land-based trade in Europe and North America (Manosevitz, 2003, p. 806), which makes the defining of sea borders essential.

This is not to say that Manosevitz (2003) does not recognise the North Korean threat as he mentions that South Korea realizes that if North Korea manages to gain the capacity to threaten Japan, they also threaten the chances of the US in coming to the defence of South Korea (p. 808).

### Post-re-interpretation

Rowland and Chang (2014) report that South Korea’s response to the re-interpretation of Article 9 adopted a “wait and see” approach. This relatively restrained reaction, they claim, is due to South Korea’s understanding of the “complex nature of Japan’s role in maintaining security on the [Korean] peninsula” (Rowland & Chang, 2014). Furthermore, South Korea, in light of Chinese provocations, would not want to strain any relationship with its security partner in Washington (ibid).

It therefore stands to reason that one of the biggest, although indirect, implications which Article 9 could have on the relationship between South Korea and Japan concerns the US alliance (see 4.1.3 Japan and US Alliance). Both countries are strategic allies of the US and as such represent

two separate spokes on the US Hub and Spoke system (Takeuchi, 2016a, slide 8). Should the re-interpretation of Article 9 – in conjunction with the election of Trump – produce any weaknesses in the Hub and Spoke system, there will be a greater need for deeper and wider bilateral co-operation between Japan and South Korea, something which King (2017, personal communication) suspects will happen. Interestingly, however, King (2017, personal communication) speculates that increased bilateral co-operation between South Korea and Japan could lead to trilateral co-operation with China – but only in the absence of a US-Japan alliance.

Regardless of the continued strength of the US alliances, however, Mun (2014) insists that the Republic of Korea Navy (ROKN) and the MSDF are “destined to co-operate” (p. 1). The reasons for this are the protection of shared sea-lines, as well as the shared EEZ’s between the two nations (ibid). Of course, the shared historical legacies and minor territorial disputes (ibid) impede such actions. Despite this, Mun (2014) maintains that maritime security would be the “most effective” (p. 2) area of security co-operation between the two nations as it can range from both non-military to military (p. 2) and with the re-interpretation of Article 9, both nations can take steps towards this common security future.

Mun (2014) lists three points as to how and why the security co-operation between ROKN and MSDF would work. Firstly, he suggests that greater co-operation in this area could lead to a better “determent against North Korea”; secondly, he claims that it would afford political utility against China with regard to the latter’s expansionists claims and support of the North Korean regime; lastly, by utilising both nations’ ties to the US as an ally and by implementing trilateral co-operation, trust can be created between South Korea and Japan which would work to alleviate suspicions regarding Japan (Mun, 2014, p. 2-3), allowing for a partnership between two major players in the East Asian region which could lead to greater security in the region.

## 4.2 Japan and PKO

Japan’s involvement with the concept of collective security under the auspices of the UN had - for many years - been particularly one-sided. According to Takeuchi (2016b) Japan relied on the collective security of the UN (slide 4), whilst being unable to provide the same to other UN members (slide 8). This changed in 1992 with the adoption of the PKO Bill by the Japanese Diet.

### 4.2.1 Pre re-interpretation

Before the introduction of the PKO Bill, Japan’s main contribution to the UN was similar to the way they responded to the US-led Gulf War (4.1.1 Japan and the US); that is to say, they provided

financial support. In general, Japan had become one of the largest contributors to the UN's budget, peaking at a contribution of more than 20% of said budget in 2000 (Brown & Blanchfield, 2013, p. 13). This has dropped in subsequent years but even in 2014, Japan was still the second largest contributor to the international body's peacekeeping budget, contributing over 10% (Magee, 2014).

In the following section, the results of the research on how Japan operated during PKO under the previous interpretation of Article 9 will be detailed. Two PKO missions were studied; UNTAC (United Nations Transitional Authority in Cambodia) and UNTAET (United Nations Administration in East Timor).

### Japan and UNTAC

Japan's first active PKO took place in Cambodia, under the UNTAC mission (United Nations, n.d.). It was the largest PKO in the UN's history up to that point (Dobson, 2003, p. 95) and it served as both a test of the UN's capabilities, as well as Japan's new PKO law.

Before becoming directly involved in the mission, Japan followed its usual policy and donated aid. Over US \$36 million were granted through bilateral aid deals, whilst a further US \$70.9 million were aided through international organizations and agencies (Dobson, 2003, p. 100). However, once the five principles, which are required by Japan's PKO law to be met before Japan can become active in a PKO were met, Japan dispatched SDF forces overseas for the first time (Dobson, 2003, p. 95).

One of the requirements of the PKO Bill called for the presence of a ceasefire between the warring parties. With the Khmer Rouge still sporadically and violently active at that time, it questioned the legality of the presence of the SDF (Dobson, 2003, p. 100). The contemporary Japanese government denied that the ceasefire had been broken and ultimately deferred the question of the ceasefire to a UN decision, under the auspices that the SDF operated under a UN mandate (Dobson, 2003, p. 101).

By May 1992, Japan had sent over 600 troops, 41 civilians active in the electoral component of the mission and 75 police officers (Dobson, 2003, p. 118). By the end of the mission, Dobson (2003) reports that, all in all, more than 1300 personnel and civilian police were deployed in addition to the 1200 engineering troops (p.118).

Being Japan's first appearance on the PKO stage, and with the spectre of Article 9 hanging over the SDF troops abroad, the legality and practicality of the SDF's mandate in Cambodia meant that they operated under a multitude of restrictions. The use of firearms, in particular, was severely regulated, to the point where Takeuchi (2016b) points out that they "could use firearms only for the protection of themselves" (slide 11).

Japanese troops were confined to non-combat zones (Dobson, 2003, p.130) and prohibited from transporting foreign troops, ammunition or other 'war potential' material (Dobson, 2003, p. 128). According to Dobson, Japan's forces were confined to a logistical role that included mostly medical transport and essential supplies, including nations other than the US (p. 130). Even importing one of their own SDF Jeeps to Cambodia ran afoul of Japanese law (Samuels, 2007, p.92) which served to complicate the safe operation of Japanese personnel in Cambodia.

#### Japan and UNTAET

Much like during UNTAC (see 4.2.1.1 Japan and UNTAC), Japan's role in East Timor consisted mostly of "secondary support" (Dobson, 2003, p. 128). SDF forces were once again prohibited from active combat zones (Dobson, 2003, p. 130) and their use of firearms were curtailed to only being able to defend Japanese soldiers (Takeuchi, 2016b, slide 11).

One particular incident regarding Japanese forces in UNTAET stands out, however. It concerns a dispatch and rescue operation, which was beyond the scope of the SDF's mandate as it was deemed unconstitutional. A Japanese restaurant had become surrounded by an angry mob and had asked the SDF to help (Takeuchi, 2016b, slide 19), which it did.

As mentioned before, the use of firearms – and the subsequent emergency escape – was reserved for Japanese troops only, although it could be extended to others who happened to be near the Japanese troops at the time (Takeuchi, 2016b, slide 11). Concerned that three of its troops were off duty and out of the camp, the SDF launched a 'surveillance mission' to find them which it did near the restaurant in question. Interpreting the fact that Japanese soldiers had to be defended – and by extension, civilians located close to them – the SDF decided it could act legitimately (Takeuchi, 2016b, slide 19).

This was the first time that the SDF managed to protect non-Japanese overseas, but despite the SDF's interpretation at the time, it was still considered unconstitutional (Takeuchi, 2016b, slide 20). The decision to act had to be defended by the Japanese Diet and was labelled as a 'humanitarian emergency action' (ibid).

#### 4.2.2 Post-re-interpretation

With the re-interpretation of Article 9 in 2015 by the administration of Prime Minister Abe, Japan's role in PKO mandated by the UN, changed. According to the Diplomat (Anonymous, 2017, personal communication), Western governments view the re-interpretation positively as a way for Japan to contribute more towards international stability with a specific view on Japanese involvement in PKO. The Japanese government confirmed this through the use of information leaflets which clarified that under the new interpretation and security bills, the "Japanese Corps" would adopt "new ROE (Rules of Engagement)" (Government of Japan, 2015).

The following sub-chapter records the results of the research that shows how the re-interpretation of Article 9 has affected and also could affect Japan's role in its current PKO mission; UNMISS (United Nations Mission In South Sudan).

#### Japan and UNMISS

The re-interpretation of Article 9 became effective in March 2016 (citation). With it, Japan adopted "new ROE" which would "better align with current UN standards" (Government of Japan, 2015). This means that it would be the first time since Japan started participating in PKO, that it would be able to come to the defence of other nations and their troops (Gady, 2015). Even as recent as 2013, Simpson (2014) claims that when actions such as the above were required, Japanese forces were confined to their bases and "might as well not have been there at all".

While Gady (2015) does not believe that Japanese troops will be directly called upon for such action as they remain essentially "engineering troops", Takeuchi (2016b) mentions in his Stockholm lecture that the Abe administration is intent on authorising troops to be able to conduct "dispatch and rescue" missions (Takeuchi, personal communication, 2016).

This was confirmed in November 2016, when Japan approved the rescue missions to start in December 2016 (The Japan Times, 2016). Japan currently has 350 troops in its mission in UNMISS and the rotation in November 2016 would see the arrival of a new set of 350 troops who are trained in the newly approved "dispatch and rescue missions" (Takeuchi, 2016b, slide 23).

It therefore indicates that the restrictions against the use of firearms, which had dogged Japan in previous PKO have loosened somewhat (Takeuchi, 2016b, slide 23). While Takeuchi (2016b) maintains that the use of force against "quasi-state armed groups" remains unconstitutional, as long as the three new conditions of the re-interpretation are met, Japanese troops, not only

defend their own mission and base (Takeuchi, 2016, personal communication) but can also come to the defence of “other countries’ missions” (slide 23) as well as non-Japanese civilians – albeit under certain circumstances (Government of Japan, 2015).

Furthermore, Takeuchi (2016, personal communication) mentions that SDF forces in South Sudan are “not restricted” to non-combat zones anymore but rather allowed to operate in “safer spaces”. This remains vague and unclear and Takeuchi (2016, personal communication) hints that what is considered a “safer space” would very much depend on political decisions.

Overall, Takeuchi (2016, personal communication) believes the re-interpretation is something positive for Japan’s involvement in PKO. By lessening some of the restrictions that the SDF face, they are able to contribute more to PKO and will finally be able to aid people in distress which can translate into less casualties on the ground.

#### 4.3 Summary

In order to summarize the main points in the results as described in the above case studies, several different scenarios need to be looked at. In the following chapter, these results will be discussed and analysed in order to come to a conclusion (see 5. Discussion).

When it comes to *conflicts*, the three main countries with which Japan is entangled in one form or another would directly be affected by the re-interpretation of Article 9. *The US* could see Japan take on a more active role in their shared alliance; the aim of the re-interpretation was, after all, to strengthen the alliance. Trump, however, as US president remains a ‘wild card’ that could derail these efforts. Furthermore, by re-interpreting Article 9 of the constitution, the legality of certain Japanese actions might be guaranteed, but the political reality of realizing those remain unclear.

Furthermore, a hypothetical 3<sup>rd</sup> *Gulf War* could see Japan act similarly as during the 1<sup>st</sup> and 2<sup>nd</sup> Gulf Wars; namely offering financial contributions and logistical support. The re-interpretation, however, alters the scope of the logistical support. Whereas before, Japan could not transport troops or ammunition, the new re-interpretation means Japan will be able to do so.

With regard to *China*, despite high-levels of inter-connectedness, the two nations still have an unstable relationship. The territorial dispute in the East China Sea and the issue of Taiwan have been thorns in the flesh of both nations for a while. The re-interpretation could increase opportunities for confrontations on these issues, although it is acknowledged that China

recognizes that escalating any existing tensions is not in their favour. Eventual war between the two nations, particularly over the Senkaku/Diaoyu islands – and their immense resources – cannot be ruled out; however, the US alliance retains a dampening effect on tension between Japan and China.

*South Korea* on the other hand, while sharing China's painful history with Japan, shares Japan's close alliance with the US. A weakening of the US-Japanese alliance – whether due to re-interpreting Article 9 or Donald Trump or both – would mean that South Korea itself becomes more vulnerable in the East Asian region. With the threats of China and North Korea looming over it, South Korea could be forced to reluctantly accept the implications of the re-interpretation of Article 9. Although, one such implication would be the strengthening of bilateral security cooperation between South Korea and its neighbour, which in turn would allow both countries a larger capability of responding to their own threats.

Moving away from international conflict, and viewing the research question from the perspective of *peace* i.e. Japan's role in *PKO* – it is clear from the case studies that the recent re-interpretation of Article 9 would also have implications. Whereas before the re-interpretation, the SDF forces operated under heavy restrictions that meant they could not even fire their weapons, the newest interpretation – which will affect Japan's role in UNMISS first and foremost – loosens the restrictions of the SDF forces during *PKO*. They could now be allowed to defend, not only themselves, but their mission and camp as well as come to the defence of other missions and the soldiers of other nations. While this does not give Japan's *PKO* forces *carte blanche* in order to do as they please, it does allow Japan to expand their roles, duties and responsibilities which some academics argue could mean more effective *PKO*.

Ultimately, it can be said that that the re-interpretation of Article 9 not only has tangible and intangible implications but also direct and indirect implications. The following chapter aims to discuss and analyse these results in order to sufficiently answer the research question.

## 5. Discussion

In this chapter, the results presented in the previous chapter (see 4. Case Studies) will be analysed in order to draw conclusions with regard to the research question and sub-questions. These constitute *'how article 9 has been re-interpreted, how Japan operated during international conflicts and PKO before and after the re-interpretation, and how the re-interpretation affects Japan's national security as well as international peace and security'*.

The first part of the discussion will concentrate on Japan and Conflict especially in light of Japan's alliance with the US and the geopolitical region of East Asia. The discussion will then continue with Japan's involvement in PKO while focussing on Japan's current mission in South Sudan, UNMISS.

### 5.1 Japan and Conflict

It is generally agreed upon that Japan remains constitutionally bound to avoid conflict. Takeuchi (2016b) specifically states that sending troops abroad for the express purpose of engaging in armed conflict remain unconstitutional (slide 24) – and unthinkable (Gady, 2015). Japan has indicated a willingness to continue sending troops in the capacities which it has done thus far, however, the restrictions that Article 9 have placed on them have now been relaxed by the re-interpretation.

#### 5.1.1 Japan and the Gulf War

One of the primary changes that the re-interpretation brought, concerns the use of force. Whereas before, SDF personnel were restricted in the use of their firearms – and had to rely on foreign troops for protection (Simpson, 2014) – the re-interpretation now allows the 'minimum force necessary' in order to help defend both themselves and friendly nations. This has brought about a vital change in the role of Japan in international conflicts.

By loosening the restrictions of the SDF with regard to their use of weaponry means that not only will they be able to defend themselves better – in other words, not having to rely on 3<sup>rd</sup> country soldiers – but combined with the re-interpretation that Japan can come to the defence of friendly nations, also means that Japan can help to defend others. This, however, would only have small-scale implications in Japan's relations with other countries, and no insignificant ones. It would, therefore, improve Japan's standing amongst the countries it chooses to defend, but adversely, certain other nations would be reminded of Japan's militaristic past (see 4.1.2 Japan and East Asia).

Whilst the above mentioned criterion i.e. 'the use of force' is an important change to the rules under which Japan engages in international conflict, the fact remains that two other requirements have preceded it – namely the requirements necessary for Japan to become involved in a conflict in the first place, which are: a clear threat on Japan and no other course of action available. These requirements can be met easily. Japan's reliance on the US alliance means that any attack against the US can be interpreted as a threat on Japan, in so far as a weakened US means that Japan itself is weakened (see 5.1.2 Japan and US Alliance).

To this extent, Prime Minister Abe has stated that in the hypothetical case of a Gulf War in the future, Japan would indeed participate in mine-sweeping activities. This comes because of the distinctly defensive nature of mine-sweeping – insofar as mine-sweepers are extremely vulnerable to attacks and they have little offensive capabilities (Takeuchi, 2016b, slide 29). This statement is built on the belief that sea mines in the Gulf region would impact Japan's supply of imported oil – and by extension the industry, the economy and the daily life of Japanese citizens that depend on said oil – which would fulfil the first criterion of the new-re-interpretation and would make such an action permissible constitutionally.

Some academics (Pollman, 2015) question whether an oil embargo, brought on by sea mines, would cause a severe threat to Japan in such a short amount of time. Given, however, that in the 1<sup>st</sup> Gulf War, minesweeping missions were conducted during peacetime and did not face critics' claims of unconstitutionality, the fact that the Japanese Government has singled out these types of missions as possibilities, under the new interpretation of Article 9, clearly suggests that they intend to act within the scope of an international conflict, instead of during peacetime. It can therefore be deduced that it is highly likely that the Japanese Government will consider any disruption of oil supplies to its energy-hungry industries as an immediate, direct and clear threat.

Finally, it can be concluded that, in the unlikely event of a conflict in which Japan is able to take part, Japan will continue its current modus operandi of financial and logistical support. Takeuchi (2016, personal communication) made it clear that Japan will, first and foremost, offer money. Its logistical support however might see some expansion. Whereas transporting foreign troops and or ammunition had previously drawn the fire of critics as being unconstitutional, the new re-interpretation might change this.

By transporting troops and ammunition, Japan can claim to be seriously involved in the conflict, defending itself and friendly nations, even though transporting these items carries little risk of

direct offensive action. Meanwhile, Japan will be contributing to combat directly without actually taking part in combat, which means they will use the minimum amount of force necessary which in this case, will be none. Ultimately this indicates that Japan will keep within the confines of both its pacifist constitution as well as the re-interpretation.

### 5.1.2 Japan and the US Alliance

First and foremost, the election of Trump as president of the United States of America does represent a real fear that the US-Japanese alliance could be weakened. This fear, if realised, could see a rise in tensions in the East Asian Region. The Hub and Spoke system essentially balances the region, whilst re-assuring strategic partners against any potential Japanese resurgence of militarism. By removing, or even diminishing the role of the Hub in the system (the US), the Spokes will increasingly be forced to assume their own defence strategies; seeing Japan intensify its own defence capabilities without the stalwart presence of the US might cause a backlash in the form of an arms race which could have a detrimental impact on the already tense region. On the other hand, by removing the Hub, the real possibility of bilateral agreements between the Spokes themselves could arise (see 5.1.2 Japan and East Asia).

Furthermore, it should be mentioned that Trump's call for Japan and South Korea to become nuclear states (Takeuchi, 2016, personal communication) will not be answered. Japan, being the only country to ever have nuclear weapons used against it, has not allowed nuclear weapons to pass through its territorial waters since 1967. It would require a monumental shift in both politics and public opinion in order for a Nuclear Japan to happen; no matter what the future President of the US says.

The consequence of re-interpreting Article 9 will be that the dynamics in the US-Japanese alliance will shift somewhat. Whereas before Japan was considered the junior partner in the security relationship because it could not come to the defence of the US, the re-interpretation now allows Japan to do exactly this. The US can be considered a friendly nation, and therefore, Japan could come to its defence for the first time since the ANPO was signed. Considering how many conflicts the US has been involved in over the years, this has led to a fear of "entrapment" (Takeuchi, 2016, personal communication) which could see Japan stuck in a conflict it does not want to be in.

With this in mind, it is highly likely that the Japanese government has explicitly denied the possibility of Japan undertaking escort missions for the American navy fleets in the South China Sea as a potential direction in which the alliance could extend. This could be down to the

probability for situations in which offensive action would need to be taken. While an escort should defend the convoy, Japanese escorts would not be defending Japanese convoys, which would be permissible under self-defence. While the new interpretation allows Japan to come to the defence of friendly nations – and the US as a senior alliance partner qualifies as friendly – the reason that the Japanese Government may have denied this course of action could be a political and diplomatic development in order to minimize tensions in the East Asian region.

Takeuchi (2016, personal communication) believes it would be detrimental to the election chances of any leader in allowing escort missions to take place, whilst Japan may also be seeking to curtail Chinese suspicions of its re-militarization. With China provoking tensions in the South China Sea (Bonnie, 2014) – not to mention its incursions in the East China Sea – Japan may be seeking to minimize the possibility of an escalation of tensions. Despite having the US tied in a formal security alliance, fears are that the alliance is not as strong as it once was and Takeuchi (2016, personal communication) claims that this is one underlying factor for the re-interpretation of Article 9; the election of Trump as US president has only stoked those fears.

#### 5.1.2 Japan and East Asia

Whilst the US-Japan Alliance is aimed at marginally pacifying East Asian fears of a resurgent military Japan, it should be noted that despite the alliance – or perhaps because of it – the region is fraught with tensions that have the possibility of escalating. Between territorial disputes and differing views on history, Japan, its neighbours and their relations are interwoven with Article 9 and any re-interpretation thereof.

#### Japan and China

China is Japan's largest neighbour; the two countries have one of the world's oldest relationships, spanning thousands of years (Dreyer, 2016). This relationship fluctuates between positive and negative, but the re-interpretation of Article 9, combined with the ongoing territorial dispute over the Senkaku/Diaoyu islands could cause the Sino-Japanese relationship to eventually tip over into armed conflict; although this seems unlikely in the short-to-medium term.

Japan has proven that it not only considers the Senkaku/Diaoyu islands as integral parts of its sovereignty, but that it does not consider the territory to be disputed. China, however, disagrees. The incident in 2010 highlighted this fact and showed Japan's willingness to apply domestic law to the islands and events surrounding it. This included Article 9 and the interpretation that Japan has the right to defend itself – both the previous interpretations and the re-interpretation confirm

this and imply that Japan would consider any attempt to seize control of the islands as falling within this category.

The alliance with the US stalls the possibility of this occurring. However, if the US deems Japan more able to defend itself and take a more active part in the alliance and decides to pull back from the ANPO – President-elect Trump has both threatened and promised similar – the possibility that China becomes more risqué in its intentions and ambitions could factor into the situation. Emboldened by what China could see as a ‘US-less’ opponent, escalations and incursions could increase. This would have the by-product of Japan having to utilise its inherent right to self-defence which it possessed before the re-interpretation. It should therefore be noted that since Japan has de facto control and administration of the islands, any war to determine their ownership will be a defensive war on the side of Japan; a new Sino-Japanese war will not be instigated by Japan as this remains unconstitutional.

Meanwhile, King (2017, personal communication) belies this assumption of war and believes that China might push Japan on certain issues but refrain from engaging in a military conflict. Japan, even without the US alliance to back it up, still possesses weaponry that could inflict severe losses to China which makes an armed conflict between the two countries unlikely. A Diplomat (Anonymous, 2017, personal communication) also believes that China will adopt a ‘wait-and-see approach’ to the re-interpretation of Article 9, in order to see in which direction Japan will move. This cautionary attitude of China might even prevent a conflict in the region.

Whilst some academics (Takeuchi, 2016, personal communication; King, 2017, personal communication) believe that the risk of war is negligible, even if the risk has increased, those close to the situation believe that a third Sino-Japanese war, over the islands, is a question of ‘when’ and not ‘if’ and therefore any re-interpretation of Article 9 which can weaken – even indirectly – the US-Japanese alliance means that the dispute over the Senkaku/Diaoyu islands remains a potential flashpoint in the East Asian Region; particularly when considering the potential resources available to the islands’ owners, which both China and Japan are eager to claim and exploit.

Meanwhile, Japan’s extension of self-defence surrounding its geographic area, as well as situations close to Japan, have been interpreted as including Taiwan. Whilst Japan’s position on Taiwan remains ambiguous, China – who claims the island as part of its territory – has recently refused to rule out taking back the island through military force. This would qualify as a situation

close to Japan and it is possible that Japan would offer some support to Taiwan. Once again, sending the SDF in order to defend Taiwan remains unconstitutional; if Japan, however, would be able to persuade the US to support Taiwan – not an impossible situation – then Japan would be constitutionally allowed to offer its logistical support.

The reality, however, remains that China is unlikely to act in such an aggressive military manner for the time-being, making Taiwan a possible flashpoint in the East Asian region, but not as certain as some claim the Senkaku/Diaoyu islands are.

China's actions, in the South China Sea as well as the East Asia Sea, are alienating other potential anti-Japan allies. Countries such as India and Australia might welcome a 'normalized' Japan, whilst former territories that suffered under Imperial Japan in WWII might welcome a Japan that can stand-up to China i.e. countries such as the Philippines and Vietnam, who are continuously faced with China's provocations in the South China Sea (Bonnie, 2014). In this case, the aforementioned small implications in Japan's foreign relations (see 5.1.1 Japan and the Gulf War) caused by Japan being able to come to the defence of other nations during a conflict, might prove instrumental in siding with Japan during a Sino-Japanese crisis.

This ties in with the power-shift that Hagström (2012) sees in East Asia. Whilst he believed that Japan was declining and China rising in power, the re-interpretation of Article 9 shifts the balance in Japan's favour again. By allowing for positive implications to Japan's relations with the many smaller Asian nations (as well as Western states), in combination with China's aggressive behaviour, Japan would be denying China the sphere of influence over East Asia which they desire.

Finally, economic interests and continued integration of Japanese and Chinese society (Hagström, 2008, p. 228) mean that whilst war remains a likely outcome of the re-interpretation of Article 9 by aggravating existing tensions in East Asia, it remains a negligible outcome in the short-to-medium-term. Both countries realise the difficulties and hardships which war would bring and while China may grumble over what it considers Japan's re-militarization, it remains unlikely to lead to immediate and direct conflict. In the long-term, however, the drive and need for resources may well see Japan and China deciding the ownership of the Senkaku/Diaoyu islands through military means; the fate of Taiwan being decided in the same way in the long-term remains somewhat unlikely.

### Japan and South Korea

Of the two countries who suffered the most under Imperial Japan, South Korea's reaction to the re-interpretation has been muted. This is possibly due to the fact that both South Korea and Japan maintain separate alliances with the US. While this is not an unusual arrangement, it has created a system in which the US is pivotal in maintaining security in the region.

Besides the economic interests in overlapping EEZ's, South Korea seems to understand that Japan plays a complex role in the security of the Korean Peninsula. If, for example, North Korea would hold Japanese cities hostage at missile-point, then it could do the same for the many US military bases on the Japanese islands. This then means that US troops would be unable to come to the defence of South Korea should North Korea decide to invade.

Similarly, should the US decide to withdraw their presence in East Asia due to Japan's increasing ability to defend itself, South Korea will lose its only major security ally in the region, making it vulnerable to both North Korea and China. This is one reason why Mun (2014) states that the MSDF and ROKN are destined to co-operate, regardless of the situation of the US in the region. When combined with the re-interpretation of Article 9, Japan is now in a much better position in which to enter collective security arrangements.

Whereas before the re-interpretation Japan could only act in absolute self-defence, collective self-defence is now possible which means that when it comes to collective security arrangements Japan can now appear to be a more attractive option (Anonymous, 2017, personal communication). Japan might not be willing to commit troops to combat but their financial and logistical contributions could prove alluring. Add to this the fact that the UN Charter specifically legitimizes regional collective security arrangements then there is a solid case for Japan to expand such arrangements.

It should be noted however, that the fear of 'entrapment' that Takeuchi (2016, personal communication) mentions shows that Japan will probably be extremely selective about who they will make such arrangements with. In the short-to-medium-term, South Korea remains the only likely candidate, and even this depends on several external factors including: a weakened US presence in the region, a continued distrust and fear of China and North Korea and overcoming historical legacies.

It therefore stands to reason that should the US, due to Article 9, withdraw its military presence in the East Asian Region, bilateral security relations between Japan and South Korea are more

likely to be established and grow. King (2017, personal communication) even suggests that an increase in bilateral co-operation between South Korea and Japan could see more tri-lateral co-operation between them and China. This, however, would depend on how China views any South Korean-Japanese partnership that was established with the mutual aim of protecting themselves against possible Chinese aggression.

## 5.2 Japan and PKO

The re-interpretation of Article 9 has seen the biggest changes to the role of Japan in PKO in more than 20 years. Since Japanese SDF troops have first been deployed, severe restrictions on the use of firearms and the condition that they could only act in their own self-defence, meant that their contribution to PKO were often in the engineering arena, which in itself is not a negative thing. In fact, according to one expert (Anonymous, 2017, personal communication), Western governments primarily view the re-interpretation as a way in which Japan could contribute more to international stability through its involvement in PKO.

Opening up the actions which Japan can undertake during PKO mean that Japan will be able to take on a more active role in them which can only serve to strengthen PKO such as UNMISS, while possibly making them more effective. Mine (2014) talked about Japanese troops as “might not as well be there” when they are forced to remain in their base for fear of being caught in conflict. The re-interpretation means that the usefulness of Japan’s SDF in UNMISS increases as their permissible actions, duties and reactions increase.

The fact, however, that the Japanese troops stationed in South Sudan were, and will remain engineering troops even during the new rotation but with additional training, shows that Japan’s commitment to its role in PKO remains the same. SDF troops are not deployed for combat purposes, which would be unconstitutional, but the restrictions on them are lessened and their scope broadened. This has already been done with the approval of ‘dispatch and rescue’ missions, although they have not yet been put to the test.

Even so, the lessening and broadening continue to have limitations, restrictions and requirements. There is no *carte blanche* for SDF troops abroad and their actions will almost certainly be scrutinised in Japan. It can be expected that the first ‘dispatch and rescue’ mission in which Japan will be involved in, will be dissected at length by the Diet, where opponents to the re-interpretation remain vocal. However, the SDF will be able to better defend its actions in light of

the re-interpretation legally. A similar incident as in East-Timor is not only more likely to occur, but also legally possible now.

In essence, this ties in with the previous point made regarding the Japanese SDF forces in PKO being considered more effective. Globally, however, Japan would be able to more effectively and actively engage in what it once described as “emergency humanitarian actions” (Takeuchi, 2016b), particularly when it involves Japanese citizens.

Whether this puts Japan in the position where it will be required to act under its loosened mandate is debatable, given the nature of the troops which Japan has stationed in South Sudan, namely an engineering corps of the GSDF. Furthermore, these troops are still prohibited from active combat-zones, although paradoxical, as Japan can defend other nations against armed attacks but they are not allowed to operate where armed attacks occur. This could possibly mean that SDF can only come to the defence of missions which are not classed as being in or near a conflict zone before such an attack occurs, severely limiting the scope of Japan’s capabilities. Takeuchi (2016, personal communication) questions how a safe distance from active combat can be measured as the concept is more abstract than what is being implied.

Yet, all this remains to be seen as Japan’s newly mandated troops are only set to be able to do so from December 2016 and the repercussions of doing so will only be measurable in the future.

Finally, Japan’s PKO missions, in general, remain the same in the sense that they are supported logistically and secondary. This being said, the scope of such actions are also widened and Japan would probably be able to offer more comprehensive logistical support, including transport - which under the re-interpretation includes troops and ammunition - than what it could under the old interpretation.

### 5.3 Summary

In conclusion, the re-interpretation of Article 9 possibly makes Japan a more worthwhile ally. Whether it is during a conflict or during PKO, Japan’s expanded logistical roles, which include transporting troops and ammunition, could prove vital. Furthermore, Japan’s newly found ability to engage in collective self-defence with the minimum amount of force necessary, makes SDF troops able to not only actively secure their own defence but also come to the defence of their allies.

Ironically, this comes at a time when the US-Japanese alliance is being severely tested. Not only by the election of Donald Trump as president, but also by the confrontational attitude and behaviour of the Chinese state.

Meanwhile, the re-interpretation could have implications for Japan's foreign relations, particularly with China and South Korea. On the one hand, the re-interpretation could set in motion events and decisions which will lead to a conflict or two with China, especially regarding the Senkaku/Diaoyu islands and Taiwan.

On the other hand, however, the same re-interpretation could lead to stronger and more integrated regional security arrangements between Japan and South Korea. Considering the economic and security interests that Japan and South Korea already share, a more integrated security policy – which includes increased security co-operation - remains on the table; even more so should the US pull back from the US-Japanese alliance.

Overall, the risk of outright conflict is unlikely and the re-interpretation of Article 9 itself does not directly increase it, but rather gives rise to situations and decisions which could lead to the path of war. The re-interpretation of Article 9, therefore, does not mean that Japan will necessarily have to act within its new capabilities regarding international conflict. It is highly unlikely that Japan will be the subject of an aggressive war in the short-to-medium-term, despite China's actions. Furthermore, both the political decisions and the will of society could circumvent such responsibilities in allied conflicts where possibly, and in the short-to-medium-term it may be wise to do so as Japan tests both its new security legislation and muscles.

Meanwhile, the PKO benefit from the re-interpretation as restrictions on SDF personnel in UNMISS are loosened and Japan can increase its influence and standing within the UN by participating fully according to the re-interpretation.

## 6. Conclusion

Ultimately, this dissertation was proposed and designed to fill the gap in the literature regarding Article 9 and how it would affect international peace and security. The Literature Review (see 2. Literature Review) showed that there had been extensive research into the previous incarnations of Article 9 interpretations, whilst the Case Studies (see 4. Case Studies) showed that the re-interpretation of Article 9 has not yet produced a large volume of research, nor has there been research that combined security and peace. With this in mind, this dissertation presents its conclusions below.

Regarding international conflict and security, the re-interpretation of Article 9 of the Japanese Constitution in and of itself, does not lead to any direct consequences. Instead, it represents a crossroads on the path of international security. Ultimately, it will be the decisions of political leaders and the wills of their societies who see, use and react to the re-interpretation of Article 9, which will lead to possible implications along the way.

However, regarding international peace and PKO, the re-interpretation of Article 9 has already had direct implications, and considering Japan's active involvement in UNMISS, will continue to have implications.

### 6.1. Japan and Conflict

It would be logical to assume that under the newest interpretation of Article 9, any move to attack or any action that leads to conflict within Japan's geographic neighbourhood could result in Japan's involvement. This is particularly the case with regard to South Korea. Despite, not only the level of political tension below the surface, but also the historical animosity which exists between the two nations, Japan would be able to justify assisting South Korea against an armed attack from the increasingly volatile North Korea. Even more so, given the fact of the US-South Korea alliance, US troops stationed in Japan would almost certainly be involved in said conflict.

Furthermore, the vague concept of 'friendly nations' as being recipients of Japan's collective self-defence policy, means that Japan could theoretically intervene or participate in international conflicts around the world, which would probably increase its standing and influence. By being able to come to the defence of 'friendly nations' Japan has opened itself up to new security arrangements and alliances, especially, as an interesting and attractive partner. However, China, in particular, is concerned about Japan's involvement with a number of Asian nations, nations which China considers as rightfully in its sphere of influence. In addition, the 'clear and direct

threat' to Japan is also a term, which is only described vaguely, and can effectively be spun by the Japanese government in any way as to make Japan's involvement in conflicts constitutional. The example of minesweeping in a possible 3<sup>rd</sup> Gulf War proves this point.

Meanwhile, Japan's unclear policy towards Taiwan calls for uncertainty about its possible reactions to China in an attempt to re-claim Taiwan through military means. Taking into consideration however, Taiwan's proximity to both the Senkaku/Diaoyu islands and Japan's undisputed territories of the Okinawa and Ryuku island groups, Japan would, at the very least, remain alert of the situation and ready to respond or provide help; either with or without the US alliance. The Senkaku/Diaoyu islands themselves represent an unstable flashpoint in East Asia. Whilst neither China nor Japan wish to engage in costly military actions, the situation remains tense and could descend into armed conflict should a provocation or incursion go too far.

This dissertation has clearly deduced that the re-interpretation of Article 9 could have knock-on effects within the geopolitical area of the East Asian region. However, the re-interpretation did not occur within a vacuum and there are ample opportunities in which politics and diplomacy can, if not prevent, then negate some of the more negative implications to the region's peace and security. At the same time, events, situations and decisions from both inside and outside the region have the ability to de-rail the delicately balanced status-quo; and some of them might not even apply to Article 9 at all. It must be acknowledged that the election of Donald Trump as US President could possibly do more damage to international peace and security than the re-interpretation of Article 9.

Furthermore, Japan fears both entrapment – through its allies in wars it does not want to participate in – and escalation of already existing tensions. Therefore, the Japanese political leaders may make decisions which will remain closer to the previous interpretation of Article 9 in an effort to both avoid these fears and appease a society which does not uniformly agree with the newest re-interpretation.

Even so, the US-Japan alliance remains, for the time being, intact and under the new interpretation, Japan will indeed become a more equal alliance partner. Japan is likely to continue to rely on this alliance for most of its defence policy, but the chance of further bilateral co-operation between the US allies (ROK, Thailand, Philippines, Vietnam) and Japan can be brought forth by the new interpretation – which would finally make having Japan a worthwhile ally as it

could be a more active partner than allowed by previous interpretations, as well as the continued security situation on the Korean peninsula.

## 6.2. Japan and PKO

It can be tentatively concluded that Japan's role in PKO can benefit from the implications of the re-interpretation of Article 9. While, the broadening of permissible actions by the SDF during PKO, such as UNMISS, will undoubtedly lead to Japanese troops being placed in more dangerous positions than before, overall the results could be positive for the PKO themselves. More troops that are able to be active, regardless of the restrictions or requirements, means that the general effectiveness of the PKO would increase. Furthermore, the willingness of Japanese troops to be put in these situations could improve Japan's image amongst other nations involved in UNMISS or future PKO.

Having said this, as the idea of 're-militarization' is strengthened, Japan's increased involvement in PKO could sour already gaunt relations with China and upset the uneasy balance with South Korea. Although it is possible that neither nation-states will rattle their sabres too loudly, the international discontent at a nation that opposes PKO and ultimately peace, could probably lead to East Asian Nations keeping their reservations quieter than normal.

## 6.3 Summary

In conclusion, it can be said that, in the short-to-medium term, it is possible that the re-interpretation of Article 9 will not have adverse effects on neither Japan's national security nor international peace and security. The most immediate effects have already been shown in Japan's role in PKO with the November 2016 approval of 'dispatch and rescue missions' and it has been noted that by increasing Japan's role in PKO, it can serve to make PKO more effective.

In terms of international conflict, the role of Japan is unlikely to change drastically; given the increased scope within which Japan can either decide to take action or not to take action. However, the possibility and frequency of when Japan would be required to act could increase. Factors outside Japan's control, whether they be political decisions made by foreign nations or the escalation of tensions in the East Asian Region, could serve to force Japan to act in either self-defence - as under the previous interpretation - or collective self-defence - under the new interpretation.

In general, however, the re-interpretation of Article 9 is unlikely to bring about many changes, at least in the short-to-medium term. Japan is set on continuing to act in the same way as it has in the past with financial and logistical contributions during conflict. Although, the deregulation of the use of firearms now means that Japanese troops will be able to take part in active combat, albeit in a defence capacity only.

It can therefore be tentatively concluded that the re-interpretation of Article 9 of the Japanese constitution has mainly positive implications for International Peace. With regard to International Security, however, the re-interpretation has both positive and negative implications, but external factors, outside the Japanese Constitution, will determine which of these take precedence. Regarding the Japanese national security, the increased ability to defend itself, the increased capacity to defend its allies and the negligible risk of immediate conflict in East Asia, indicate that Japan is more secure than before the re-interpretation.

## 7. Recommendation

While this dissertation has made every effort to be as thorough as possible, within the scope of its research question, the fact remains that this study – and many others – would benefit from either extending its research or widening its scope, in addition to refining the methods used and the research done.

### 7.1. Time Aspect

One recommendation requires the passage of more time. One of the implications which the re-interpretation of Article 9 considered was the approval of ‘dispatch and rescue missions’. While this is a serious implication, its repercussions have not yet been felt and this dissertation is forced to speculate on it. Allowing more time to pass and observing the events as they unfold could have benefitted this dissertation in making its final conclusion.

A further advantage, of allowing more time to pass while studying this topic closely, would be the availability of information within academic circles. Considering the time it takes for academic articles to be published and calculating the time it takes to complete a study, a major change in international peace and security, such as the local and global effect of re-interpreting Article 9, would require some extra time before peer-reviewed articles appear in respected journals.

This also applies to interviews; with such a short time between affect and study, those studying within the field of the affect, require time in order to familiarize themselves with the changes and implications. This dissertation had some difficulty in finding more candidates who felt that they have enough knowledge about the effects of the re-interpretation, in order to interview them (see 3 Methodology). Thus, by allowing some more time to pass, potential interviewees would be able to gather more data and as a result be more willing to share and add that information to a study such as this.

Finally, when researching a relatively new topic which takes into account current events, it is entirely possible that aspects, research or even results may change from one day to the next, which means that parts of this dissertation could – and had – to be re-written in order to take new evolvments of the situation into account. By allowing for a substantial time-lapse between the topic and the research, the volatile nature of the research can, to a large extent, be circumvented.

### 7.2. Political aspect

Several sources mention that whilst the re-interpretation of Article 9 has technically made certain aspects of warfare legal for Japanese forces, the likelihood of them being employed remains low due to the lack of the political will to make those decisions. This refers especially to a comment made by Takeuchi (2016, personal communication), who claimed that certain actions would be political suicide. This in turn, means that certain societal pressures opposed to war, exists in the Japanese society. This dissertation, however, does not fully take into account the lack of political will, nor does it look at the opposition to the re-interpretation of Article 9 on a societal level. A future study looking into this aspect, might be able to eliminate several possible implications as unlikely to occur, making for a more detailed study.

### 7.3. Economic aspect

This dissertation does not take into account the economic reasons or incentives, which are substantial, of the re-interpretation of Article 9. Glosserman and Snyder (2015) mention that the 1967 Arms Export Ban was relaxed in 2010 in order to “allow Japan to join joint development and production of military equipment” in particular for peacebuilding missions (p. 126). Considering that Japan is still limited in its capabilities of active participation in war, the idea of relaxing the Arms Export Ban further is, as of yet, a distinct possibility. Especially when considering that major Japanese names such as Mitsubishi are involved in producing equipment for the SDF (citation). It would therefore be considered wise for future studies to include the economic aspects of re-interpreting Article 9.

### 7.4 Theoretical Aspect

As Takeuchi (2013) writes, the world of international relations are dominated by three major theories, these being Liberalism, Realism and Constructivism (citation). Each of these contains theoretical frameworks of how nation-states would respond to certain events. This dissertation, however, does not take into account any individual theory but instead produces a collection of possible implications that, being spread out over all theories, still remain vague and uncertain. A more detailed study, taking into account either a single theory or concentrating on each theory individually, would produce an outcome that might be more applicable and current, as well as more detailed. Perhaps other non-mainstream theories – such as post-colonialism, particularly with regard to the relationship between Japan and South Korea – could also be included in a future study.

Furthermore, this study does not directly take a view on Japan's soft power - cultural, diplomatic and economic - vs hard power - military and force. While it does form a basis from which to look at the re-interpretation of Article 9, it remained outside the scope of this dissertation. It could, however, mould a new study if taken into account.

### 7.5 Summary

In conclusion, the present dissertation – or a future study – could be improved by concentrating on four main aspects. Firstly, the time aspect, which allows for more time to pass between the event being studied and the writing of the dissertation in order for more knowledge to be accumulated on an academic level. Secondly, the political aspect, which looks at the changes that the re-interpretation has brought about and weigh them against the political will of Japan's leaders; this aspect inadvertently also takes into account Japanese society and its will (or opposition) to warfare. Thirdly, the economic aspect to the re-interpretation of Article 9, which this study does not take into account, could also have an influence on the final conclusions drawn. The final recommendation concerns a theoretical aspect which could give either detailed or possible implications to the context of this dissertation.

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## 9. Appendices

### A. Student Ethics Form

#### Student Ethics Form

##### European Studies Student Ethics Form

**Your name:** Tiaan André Westenberg

**Supervisor:** Isabel Düsterhöft

#### Instructions/checklist

Before completing this form you should read the APA Ethics Code (<http://www.apa.org/ethics/code/index.aspx>). If you are planning research with human subjects you should also look at the sample consent form available in the Final Project and Dissertation Guide.

- ✓ Read section 3 that your supervisor will have to sign. Make sure that you cover all these issues in section 1.
- ✓ b. Complete sections 1 and, if you are using human subjects, section 2, of this form, and sign it.
- ✓ c. Ask your project supervisor to read these sections (and the draft consent form if you have one) and sign the form.
- ✓ d. Append this signed form as an appendix to your dissertation.

#### Section 1. Project Outline (to be completed by student)

##### (i) Title of Project:

What possible implications does the recent re-interpretation of Article 9 of the Japanese Constitution in regards to both international conflict and UN Peacekeeping missions?

##### (ii) Aims of project:

Research the changes that the re-interpretation of Article 9 of the Japanese Constitution will have on the role of Japan within the scope of international conflicts (by looking at case studies of previous conflicts and applying the changed interpretation to future potential conflicts) and UN peacekeeping missions (by looking at case studies of previous UN PKO and applying the changed interpretation to current PKO).

##### (iii) Will you involve other people in your project – e.g. via formal or informal interviews, group discussions, questionnaires, internet surveys etc. (Note: if you are using data that has already been collected by another researcher – e.g. recordings or transcripts of conversations given to you by your supervisor, you should answer 'NO' to this question.)

YES

**If no: you should now sign the statement below and return the form to your supervisor. You have completed this form.**

This project is not designed to include research with human subjects. I understand that I do not have ethical clearance to interview people (formally or informally) about the topic of my research, to carry out internet research (e.g. on chat rooms or discussion boards) or in any other way to use people as subjects in my research.

Student's signature \_\_\_\_\_ - date \_\_\_\_\_

If yes: you should complete the rest of this form.

**Section 2 Complete this section only if you answered YES to question (iii) above.**

**(i) What will the participants have to do? (v. brief outline of procedure):**

Participants will be formally interviewed with a semi-structured interview following a logical progression. The interview will then be transcribed with a denaturalized method so that the information they provided can be analysed.

**(ii) What sort of people will the participants be and how will they be recruited?**

Experts in the fields of Japan's Foreign Relations and International Conflicts, Embassy staff members with knowledge of the topics the research covered, professors in the field of Asia Studies.

**(iii) What sort stimuli or materials will your participants be exposed to, tick the appropriate boxes and then state what they are in the space below?**

Questionnaires[ ]; Pictures[ ]; Sounds [x]; Words[x]; Other[ ].

**(iv) Consent:** Informed consent must be obtained for all participants before they take part in your project. Either verbally or by means of an informed consent form you should state what participants will be doing, drawing attention to anything they could conceivably object to subsequently. You should also state how they can withdraw from the study at any time and the measures you are taking to ensure the confidentiality of data. A standard informed consent form is available in the Dissertation Manual.

**(vi) What procedures will you follow in order to guarantee the confidentiality of participants' data?** Personal data (name, addresses etc.) will not be stored in such a way that they can be associated with the participant's data.

Student's signature:  ..... date: 11-Nov-2016

Supervisor's signature (if satisfied with the proposed procedures): ..... date: 20-Dec-16  


## B. Professor Takeuchi Interview

### (i) Informed Consent Form

#### Informed Consent Form

##### Informed Consent Form

1) Research Project Title

What possible implications does the recent re-interpretation of Article 9 of the Japanese Constitution have for Japan in regards to both international conflict and UN Peacekeeping missions?

2) Project Description (1 paragraph)

This dissertation aims to provide new literature on the recent developments surrounding Article 9 of the Japanese constitution by examining its origins, previous interpretations and latest interpretation through already established literature in the scope of international conflict and UN peacekeeping missions and then applying the latest changes to current or future events/ missions; this should result in a dissertation which critically analyses the latest re-interpretation of Art 9 and draws conclusions on whether these changes would improve or disadvantage Japan, international conflicts and PKO.

**If you agree to take part in this study please read the following statement and sign this form.**

**I am 16 years of age or older.**

I can confirm that I have read and understood the description and aims of this research. The researcher has answered all the questions that I had to my satisfaction.

I agree to the audio recording of my interview with the researcher.

I understand that the researcher offers me the following guarantees:

All information will be treated in the strictest confidence. My name will not be used in the study unless I give permission for it.

Recordings will be accessible only by the researcher. Unless otherwise agreed, anonymity will be ensured at all times. Pseudonyms will be used in the transcriptions.

I can ask for the recording to be stopped at any time and anything to be deleted from it.

I consent to take part in the research on the basis of the guarantees outlined above.

Signed: Takeuchi Date: 15 Nov, 2016

**(ii) Interview Transcript**

TW: = Interviewer

TK: = Takeuchi

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00:01 TW: Just so I can have it on the recording as well, do you consent to record?

00:05 TK: OK, yeah sure. I don't consent [laughs]

00:012 TW: To start off, I just want ask if you could state who you are, what your field of expertise is?

00:18 TK: Me? My name is Takeuchi, Takeuchi Toshitaka, I'm a professor at Osaka University. Anything else? Do I have to say anything, that I was Tiaan's professor at Kwansai Gakuin? I'm a professor at Osaka University.

00:36 TW: For the first question, talk about Art 9 and how it's been interpreted over the years. We've had the first one, the first major interpretation was for the creation of the SDF and then there was another one that allowed Japan to dispatch the SDF abroad in peacekeeping missions. How does the latest re-interpretation of Article 9 expand on the previous ones?

01:03 TK: You know, previous ones there is no re-interpretation involved there's just, I don't know how to say, This is a long story, after the end of the world war two, after the constitution was adapted, there quite a bit confusions as to what exactly means. First prime minister, Yoshida... Yoshida Shingeru, do you remember?

01:30 TW: Yeah, the Yoshida doctrine

01:31 TK: He initially interpreted this, I'm talking about Article 9, that Japan cannot have, CAN NOT HAVE, any physical force capabilities. At all, even for self-defence because we could rely on the UN collective security system. That's what the Prime Minister said. No capabilities, self-defence capabilities, at all. But changed it after 4 or 5 years. Near the end of the occupation that recognising this, we also had the Korean War, recognising that we cannot rely on the UN collective security system. Therefore, he himself, the same guy, after 4 or 5 years, changed the interpretation, his own interpretation which became the government interpretation that sure, Japan is a sovereign country, it does have the right of self-defence. This is strictly talking about self-defence, defending yourself. And that's what it is and then, he didn't say this is re-interpretation because there was so much confusions under, because we are under occupation, American occupation, Americans are dictating our, basically speaking, policies, so we didn't have any leeway or freedom, you might say, to interpret the constitution. But after the independence, or near the independence, because there is a thing called 'McArthur Note', did you. Did I say it in my class? I probably didn't say anything about it. McArthur Note said, this is issued by the General McArthur the Supreme Commander of the Allied Powers, and he said that he can recognise that Japan can have self-defence capabilities. Before his policy was no, no, no, none at all, even for self-defence. That's what Prime Minister said oh, we cannot have any physical capabilities. Even for your own defence. Changed it because of the onset of the Cold War and also the Korean War. And that's, once again I am repeating, this is not a re-interpretation as such. That's just initial interpretation because government interpretation as we [unclear] and thereafter the 51, 50 or 51 something like that, now Japan as a sovereign independent state, can have self-defence capabilities. That's somewhat stuck. As for the PKO legislation, that is 1992.

4:22 TW: 92, 93

04:23 TK: Yeah, something like that. I guess you can imagine that has something to do with the Gulf War, the initial Gulf War. I guess I talked about, to some extent, in my class, that there was a shock to the Japanese because we paid so much money, only money.

04:41 TW: I have one quote from that time, from the research that I did that said, what was it, 'the rest of the world sent troops, Japan sent sushi'.

04:50 TK: Sushi?

04:51 TW: Sushi. Because they sent money, they didn't send anything substantial.

04:54 TK: Yes, that's the point. We thought back then, because of the Constitution and Article 9, that we cannot do anything physical or material, except that the only thing that we can do is you know, providing some money. We thought that the Japan, the Japanese back then thought it was a great help for the coalition forces, but realised that we, we being Japanese government or Japanese state, you might say that, Japan is doing nothing. 'Too little, too late' is the term that they used. And we are in great shock. And this gave us stimulus, that we need to have feet on the ground but because of article 9 we can't send any combat forces. Still we cannot. It's unconstitutional. Still, today, it is unconstitutional. Cannot do it anywhere. But if it is under the mandate, under the auspices of the UN then we will be able to provide some support, but this is not for combat purposes, no security purposes. But this is only for, you might say, a corps of engineers repairing roads, building bridges, schools, providing pure waters or something like that. That was became possible. There was quite a few opposition to it, some people fearing that it is that [unclear] harbinger for the Japanese militarism. Once again, but that was about how many years back? 25, 6, 7 years back? Now almost all the people do support PKO missions and especially nowadays we have a mission in Sudan about how many people there? About 300?

06:46 TW: I think I read 600

06:47 TK: No it's down to 350, something like that. You might check it.

06:53 TW: It's called UNMISS

06:55 TK: Yeah, and they expect because of the new legislation, it is expected to give them in a few days, I don't know that is the assumption, one of these days, give them the right of despatch and rescue. Do you remember that I talked about despatch and rescue? That will be given to this PKO mission. And this became possible because of the re-interpretation. Before it was illegal, I mean, it was unconstitutional, because that was considered to be an exercise of collective self-defence, not individual self-defence. But because of the new re-interpretation limited exercise of the collective self-defence is OK now and this is part of it so that the PKL mission, that we sent to South Sudan have been given this new task. One think I just want to make sure, remind you once again, the previous two incidents – I'm talking about Yoshida's change of mind – in terms of what he means by Art 9 and PKL missions what you are talking about after the gulf war – that involved no re-interpretation whatsoever because that is considered to be within whatever your interpretation is, within the confines of individual self-defence and this is now an exercise of collective self-defence in a sense that It's a 'see change' (?) in terms of the posture, the defence posture of the Japanese government and in terms of the English speaking. But I belong to a school of thought that says, that believes, that sure, once again that see change (?) in terms of political posture and in terms of reality but in practise on the ground, I think in the foreseeable 10 years,

there will not be much changes, except the despatch and rescue and if something happens in the Gulf, it's not likely, but let's suppose, hypothetically, that something happens in the Gulf, and all tankers are broken or something like that, then there is a possibility that Japan will send minesweepers. But it is highly unlikely I think, because I don't think that the blockade will happen in the Gulf or something. I don't know it might happen but hypothetically, if it happens there is a possibility that we are going to send minesweepers because the prime minister said it clearly, very clearly and unequivocally that he intends to send minesweepers. But that's a hypothetical situation right? But in terms of the despatch and rescue, it will be given in a few days, I think, maybe in a week or two or something like that. One of these days. Yeah that's it.

10:39: TW: And then just for some general background information: To what extent has Art 9 affected Japan's foreign policy both with regard to soft power and hard power?

10:50: TK: Difficult question. As I said, and I'm repeating myself, in terms of posture, defence posture, in terms of legality it's a very big change in terms of hard power because we can nowadays exercise some physical enforcing overseas, if it means one of the three conditions, the new three conditions, you have to meet the three conditions. But given that those three conditions are met then there is a possibility that the Japanese SDF would be despatched to faraway places. So in that sense, legally in terms of possibility, in terms of hard powers, see change (?), but as I said, it would be politically very costly to do it unless you are willing to risk your power. I mean, I think it would be unlikely for the prime minister Abe to take that kind of risk unless the Japanese public have more, become more comfortable with sending some forces overseas because that's not something that the Japanese militarism back in the 1920s 1930s which is a no-no for us. I mean, I don't know what the foreigners will think, but that's a no-no for us, So if that so kind of image of bad Japan then people will support it. That's a big risk, but the main, my understanding of the new interpretation is, that the main purpose is to strengthen Japan's alliance with the USA because that, you might say as Trump was saying, this is not genuine reciprocal, it is not. We are providing some bases, and giving some host nations support although Trump is saying it is not enough but we are providing 75% of the cost of the US forces, Germany, I think, 25% or something like that. We are paying a lot for that and that's because we cannot send our forces to help the Americans, I mean, even hypothetically, it is unconstitutional. So in that sense, we want to make, do I say, this a more level kind of relationship with the United States so that this is supposedly, that this interpretation is closely to help it. But with Trump as president we don't know. This is a wild card, we just have to wait and see what he's going to do. It seems that he doesn't know much about the foreign policy at all

13:52: I One of his campaign statements was that Japan had to have nuclear weapons.

13:56: TK: Oh yeah. Japan and South Korea

13:59: I And I remembered the three principles

14:02: TK: That's BS – if I might use that term. I can't use it in my classroom, but here I should be OK.

14:13: TW: OK. Then I would like to know more specifically, how the re-interpretation effects Japan's relations in its neighbourhood with, for example, China or South-Korea?

14:23: TK: Of course it did. The Chinese and South-Koreans have different views. They always suspect that the Japanese are resurgents of the militarism. So we have to be very careful, but the point is can't do nothing about it. That's their perceptions and they are always fearful about

Japan and I guess that they have some legitimate concerns because of the [unclear] issues you might say. Yesterday, I was a key-note speaker and the two guys from the South-Korean embassy here in Hague they came to listen to us and they said that the Japanese don't apologise enough, always that's the case. But the US alliance, Japan's alliance with the United States is for defence of course, and for the region's security that includes, not the Chinese, but the South Koreans. But the other side of the coin is that Japan's alliance with the United States is to contain, or dampen the fear that those countries would have about the Japanese resurgence. So the US 's goal, the other side of the coin, the US can be the cap on the Japanese militarism. So there are two faces in terms with our alliance with the United States. Right? So, as long as they criticise, the Chinese, they criticise the alliance with the united states.

So this is, but the other side of the coin should be reassuring for them, because the US is there to, what's the term that I should use, to – not suppress – to put the cap on anyway. Japan's militarism. I don't think it is a well-founded suspicion but there is suspicion of that kind among the Chinese and the South Koreans and this is in a sense, should be I hope, reassuring that we want to stick with the alliance with the united states.

17:02: TW: Would you say that these Chinese suspicions, could they lead to an escalation in intentions for example over the Senkaku territory?

17:10: TK: This, I mean. I don't think the suspicion, the kind of suspicion that they have about our alliance, is the main driving force – no. Their ambition is, in my opinion, the driving force, because they say this is the core interest of the Chinese Empire. The term that they use is the Chinese nation – they dream of the Chinese nation. To me – I talked about it to some extent yesterday. I mean, I may be biased but smacks of the – do you remember the middle kingdom theory that the Chinese is always at the top and the Japanese are barbarians, that smacks of that kind of ideas. And china is the top cup, not underneath, they claim that this is that's theirs not ours because we are barbarians – kind of extreme ideas. It smacks of that kind of ideas that they might have. So I guess that when the Hu Jintao was the president he was more conservative, not as ideology, more restraint.

Once again what I'm saying is that the suspicion is not the driving force – their ambition is the driving force is my guess. My hunch maybe. I can you some anecdote evidence – Xi Jinping in 2013 when he went to the US - in California is a place called ...'sunny place' I forgot the name where he met with president Obama, informally, he said the Pacific Ocean is big enough for 2 major countries to share and the eastern part of it is where the Americans have interest and the western part, I guess, where the Chinese field of interest, that's what he meant Right? The western part of the pacific, which means that Japan and South Korea would be under the superior influence of China. No way. We don't accept it. He probably didn't say that but he proposed that to pres. Obama, let's divide it into two – this is mine and this is yours. That's just an anecdotal evidence. But the kind of evidence, I think, that Xi Jinping has in terms of the Chinese power. Power projection you might say. But once again, it is not the suspicion that is the driving force but the ambition. The only thing that they contain themselves that they have to do it.

20:21: TW: Because if they escalate too much they risk bringing the United States on them as well.

20:27: TK: They are making a lot of adversaries around their country in the east and south east Asian countries. Right?

20:38: TW: There's the thing with the South China sea

20:41: TK: Issues, ja. They are making the Filipinos and Vietnamese against the Americans. Right? Not the Americans against the Chinese.

20:53: TW: Although the Filipino president is....

20:56: TK: Duterte also wild card. He is, I think, a pragmatist, he wanted to get a lot, as much as he could from China and Japan to utilise it to his country's advantage. To get the economic which he succeeded in doing. In a sense he is practical I think but we still don't know what he is also just like Trump so we don't know his policy will be, but I don't think he, he is going to have to stick with the addition and the decision that we with China should value the decision of the ICJ, not the ICJ, of the of the arbitration court.

21:51: TW: The permanent court of attribution.

21:53: TK: Yes. That's here?

21:56: TW: Yeah, it's in The Hague

21:57: TK: In the Hague? Yeah.

22:02: TK: Anything else?

22:04: TW: So, we talked about, for example, that prime minister Abe said that they would specifically send, for example, minesweepers into the Gulf.

22:13: TK: Sure, yeah. But if that happens, right, it's not likely at all. It's unlikely, but supposing it happens, , but he said he would do it.

22:23: TW: So, would Japan, for example, be forced to enter a US lead war?

22:28: TK: No, no, no. He said, because that is not possible. When the combat is going on, even if it is possible now legally speaking, but in practical terms it would be difficult for even him to decide to send the minesweepers. It has to be somewhere away from combat zones, that's what he said. So, you know, there are some fine restrictions why, because he doesn't want to spend too much political capital on those kinda stuff. You want to play it safe because otherwise you'll be voted/booted out. You know you lose your power which of course he doesn't like

23:17: TW: OK, now I have to ask this question because Trump has been saying it about the nuclear missiles. The three principles – they are not likely to change?

23:28: TK: It wouldn't change. That is a principle. That's a firmly established principle. If you want to change it, you're out. You would be voted out, is my prediction. Very strong, still is our nuclear policy – you can't change it. It's too risky, even if you want to change it you won't be able to do it – too risky no. That's my prediction. I don't know what's going to happen though. It's very firmly established – it's not just a policy it's THE policy of the Japanese nation, I think. So even if Trump says go ahead, have nuclear weapons, no we won't do it. NO. Let's say that US withdraw their nuclear umbrella determines/extends, there might be some wavering amongst the populace, but I guess that even if that's the case, which I don't think is likely at all, but let's suppose that will be the case, I still think that – this is based on my hunch, yea, I don't have any evidence right, but my hunch is that we still stick with it but there will be more people who are saying that because that

the US are withdrawing and withdrew the extended nuclear deterrents. There will be more Japanese people who are supporting nuclear weapons or the position of nuclear weapons. But still I think, my hunch is that they will be in the minority. It will be so much political capital that you would have to spend in order to have nuclear weapons and that would be really bad for the relationship with south Korea and china. You know, way too bad. So we have to pay that kind of .....also if Trump is the president and says oh, go ahead and have nuclear weapons, I think that will be detrimental to the relationship with the United States over all. So, I don't think it's an option, practical option, it is an option sure, but in practical terms I don't think so. Not possible.

26:05: TW: We talked about the PKO, We talked about the dispatch and rescue. Does this mean that they won't be restricted to non-combat zones?

26:16: TK: Yeah. Not necessarily restricted but, for instance, Prime Minister Abe said when he is ruling, talking about the possibility to give this right to SDF personnel in south Sudan, he had to be careful that these operations would be conducted in a safer place, whatever you mean by a safer place, that is to say, away from actual combat but in some skirmishes, physical conflicts going on, is what they mean. Away, how many metres?

27:00: TW: I was just going to say like it is not in the actual battle?

27:04: TK: Combat? No that's different. To what extent, that's a political decision to make, with some 'murky' areas there – grey zones. But if it is actually happening, no it doesn't happen. Because the prime minister will sending the defence minister to South Sudan – it's a female defence minister now and she is saying that this will be safe now, there was some conflicts near the camp of the Japanese camp but it's now died down. Not necessarily now. The level of conflicts is lower now, it will be safer to give this mission to the personal there – she was thinking - which means we have to make sure that no physical, actual large scale conflict is going on in the camp, right. So if it's happening – no. Doesn't happen, you cannot use it. It's a different condition.

28:18: TW: Japan has certain conditions to join peace keeping operations, one of them being that the use of forces are restricted to self-defence only. However, the new conditions for Art 9 refers to the use of forces the minimum necessary without specifying if it is for self-defence or not. Could that change the peace keeping operations?

28:43: TK: Yeah. There is a change there because of the new legislation. There used to be – you can use some minimum force only to protect yourself, also in the case of emergencies evacuations – what we call emergency evacuations. Those are the only two missions that in which the person can use minimum necessary fire forces, fire arms. Now it's expanded. Now you know that to maintain and safe guard the mission itself, the facilities that you are in, or something like that, the camp itself you can defend it. So there is an expansion of this core of the areas in which you can use some fire powers. So it is expanded. There is a difference.

29:36: TW: And then just as a side note: Japan has always been flirting with the idea of security council permanent membership, but one of the biggest criticisms was that it didn't actively participate in a peace-keeping operation. Could this strengthen their case?

29:55: TK: I don't think so. I disagree. I don't think that Japan has any chance at all to become a permanent member. No

30:04: TW: From China's opposition?

30:06: TK: Opposition. And I don't think we can get votes – 2/3rds of the members needed. I think it is 129 votes, affirmative votes needed. No, permanent member. The proposal that Japan made is a G4 proposal. I don't know if you remember, I guess, didn't I, maybe I just skipped through it, G4 means permanent members are Germany, India, Brazil and Japan.

30:45: TW: Yeah, I remember Germany...

30:46: TK: Germany, Italy is opposed to it, India, Pakistan is opposed to it, Brazil, Argentina is opposed to it, Japan – South Korea and China opposed to it. No possibility whatsoever, is my opinion, especially as Ban ki Moon the Korean is the, up to the end of this year the UN Secretary General because when he was the minister of foreign affairs and trade of Korea he opposed it actively, why – that's history – it's a different history, it's a fact – he opposed actively – he opposed of the G4 proposal. No possibility. Even if the new Portuguese guy – I don't know his name – becomes the new secretary general of the UN, I don't think that Japan will get permanent membership. No. I am very pessimistic about that, I have a definitive no answer to it.

31:53: TW: With China on the security council, it is very..

31:57: TK: Yeah, veto. Even if China abstains it I don't think the G4 proposal can get a 2/3 majority votes, unless we get the approval, consent of the African new members – who has, how many votes, a big chunk of the votes.

32:19: TW: I think it is about 49 now, they kicked some country out.

32:23: TK: Something like that. It's a big voting bloc, but ..

32:27: TW: And china is investing very heavily in Africa, so

32:29: TK: Yeah that's right. So, I'm very pessimistic about the UN's, how do I say that, reform you might say. As the thing stands now, they may change in the future, I don't know. But I say no possibility, no possibility whatsoever. I didn't use the term, literal possible, I say no possibility

32:59: TW: OK, the last two questions I have: Personally, or in your professional opinion, do you think or believe that original interpretation of Art 9 is a positive or a negative thing in regard to Japan's national security.

33:14: TK: My opinion is very clear – positive

33:17: TW: Can you expand on that, why it's positive?

33:22: TK: It's positive because Japan, we learned the lesson too much from the/our behaviour during WWII and prior to that and therefore Japanese policy became so inward looking and just thinking about you yourself, which every country does to a larger extend than other countries. Japan became number 3 in terms of GDP. We have some obligation, it may not be obligation, what's the term, I forgot. The term for obligation.

34:05: TW: Responsibility?

34: 06: TK: No, no. There is some specific term to describe it. Jesus, I forgot. I don't mean Jesus, I'm Buddhist but I speak English I tend to say that... Something like rich man's obligation?

34:32: TW: I see what you mean with it

34:34: TK: There is a very specific term to describe it. I don't remember. When I was studying this is the term I over used and the professors were using it and that's why I memorized the term but nowadays I don't use it, so anyway. Japan should contribute to whatever you mean by the international peace and security. Japan cannot match contribution physically, I mean militarily which we are hesitant to do but economically we can be of help. I don't mean that we are just providing money as aid but something else. This is a way of doing it, especially in terms of peace keeping missions. This is not an individual effort but under the auspicious of the UN and even those countries that are suspicious of the Japanese intentions – as long as this is under the UN it should be OK. Right. And we should contribute to the – whatever you mean by peace and security, especially in terms of the despatch and rescue. I don't know if you remember I have a very strong opinion that before we could not do it because of the limitations on the exercise of the defence, but this means that – even if you know that some people are getting killed there, you are not, you cannot do, you cannot help them. We say: Oh we are nice guys, go ahead and die is what we have been doing. I have very strong opinion and I'm very ashamed of Japanese policy in terms of this because you know there are people in distress and being killed but you cannot do anything – constitutionally..

36:44: TW: Yeah, your hands are tied...

36:46: TK: Yeah, Now it is possible. So, in essence in a very small scale, very small scale and also we are still hesitant to utilize this newly given right, but still legally speaking, now we can go help. So in a sense that relieves me – that's very positive – a small step. You know, only step by step you try to help when you should but I think we shouldn't be too selfish, we should be able to contribute to help other people instead of just you yourself. Is my opinion. Therefore I am very positive about the new legislation although I guess that I'm coming from the conservative side too, you know not from the left, I'm not a leftist. My main idea about this is let's get on despatch and rescue, Now I'm so glad that Japan can do it. So therefore, I'm not only saying on one point I'm very positive about it and in terms of helping the Americans, I mean we may not trust the Americans but we are more level playing field – more so than before. It's not a real equal playing field but I think is a positive.

38:28: TW: finally, do you think that Japan being able to expand its role in international peace and security that there is an increased or decreased likelihood that Japan will HAVE to act in those new rules, for example through the US or through China's ambitions.

38:53 TK: I don't understand the question.

38: 55 TW: They have effectively, they have given some more powers to the PKO and, for example, the minesweepers. Because they have given these new powers, what are the chances that they will have to be used, that the US will start a war that Japan needs to somehow help in or China sees it as remilitarisation.

39: 21 TK: Good Question. That's a good question. That would give a lot of headache to the Japanese, because we don't. See one way the alliance politics, I said it in my class, entrapment, by the US. That Japan don't want to get into that kind of situation but because of the alliance we may be forced, this is what you are referring to, this is nightmare. I hope that Japan being sovereign nation state, although we have alliance with the United States, that we can decide based on our own thinking. I hope, I'm not sure. That's my hope but there will be a lot of pressure from the American side to hold the Japanese to evades, logistical support we are willing to do it,

more so than before because of the new legislation. But in terms of getting, sending, once again, sending combat forces overseas is illegal, unconstitutional, will not be changed, to the extent whatever you mean by, let's say this in terms of logistical support we are willing to, yes, including, now we can provide ammunitions, to the americans, not necessarily the Americans to the allied forces, its possible now, its legal. To that extent we are willing to do it.

41:14 TW: Yeah I remember not allowed transport weapons or troops.

41:21 TK: no no, it was illegal, it was unconstitutional, but it is ok now. So to that extent, we, because it is legally ok, I guess we would be ok to do that but beyond that it's unconstitutional so we cannot do it. So there is, we can, we want to be of help to the legitimate, I don't know whatever you mean by legitimate, US efforts, we are willing to offer some logistical support. Give them some logistical support but beyond that that's not constitutional. So there is a legal limit, a constitution limit, to what extent we can do, right? So, if giving some ammunitions to the Americans will be considered to be hostile act by the opposing forces, well that's the interpretation. SO this is a fine line, there is a fine line between them, but constitutionally, clear cut, as far as, I don't know, I mean seems clear cut to me. Actual, on the ground situation, maybe more murkier. Somewhat murkier, so I don't know, as far as I read the new legislation that seems to be clear, I am not a soldier, I don't have experiences in those places so I might be naïve, but from my perspective it is clear, there is a clear cut demarcation. Yeah, boundary between them, is my take.

43:16 TW: Ok, that was it.

43:17 TK: Good. Will that be ok, because you spent two and a half hours to come up here

43:22 TW: yeah that's fine. It was a nice long drive.

43:27 TK: Drive? Didn't you take a train?

43:29 TW: No, because the train takes half an hour longer,

43:33 TK: Oh, so you drive? I didn't know. I thought you took a train or something.

43:39 TW: I was going to but then it costs almost the same as driving does

43:44 TK: OK.

C. Dr. Amy King Interview

(i) Informed Consent Form

**Informed Consent Form**

**Informed Consent Form**

1) Research Project Title

What possible implications does the recent re-interpretation of Article 9 of the Japanese Constitution have for Japan in regards to both international conflict and UN Peacekeeping missions?

2) Project Description (1 paragraph)

This dissertation aims to provide new literature on the recent developments surrounding Article 9 of the Japanese constitution by examining its origins, previous interpretations and latest interpretation through already established literature in the scope of international conflict and UN peacekeeping missions and then applying the latest changes to current or future events/ missions; this should result in a dissertation which critically analyses the latest re-interpretation of Art 9 and draws conclusions on whether these changes would improve or disadvantage Japan, international conflicts and PKO.

If you agree to take part in this study please read the following statement and sign this form.

I am 16 years of age or older.

I can confirm that I have read and understood the description and aims of this research. The researcher has answered all the questions that I had to my satisfaction.

I agree to the audio recording of my interview with the researcher.

I understand that the researcher offers me the following guarantees:

All information will be treated in the strictest confidence. My name will not be used in the study unless I give permission for it.

Recordings will be accessible only by the researcher. Unless otherwise agreed, anonymity will be ensured at all times. Pseudonyms will be used in the transcriptions.

I can ask for the recording to be stopped at any time and anything to be deleted from it.

I consent to take part in the research on the basis of the guarantees outlined above.

Signed:  Date: 4/1/16

**(ii) Transcript [Questions and Answers by email]**

1) How would you describe the relations between Japan and China in recent years?

∞ Have there been any incidents or events which made them better/ worsened them?

Please see the following publications where I describe in great detail the relations between Japan and China in recent years, and the important turning points:

- Amy King & Brendan Taylor, 'Northeast Asia's New History Spiral', *Asia & the Pacific Policy Studies*, 2016, Vol. 3, No. 1, pp. 108-116.
- Amy King, 'Where does Japan fit in China's "new type of great power relations"?', *The Asan Forum*, Vol. 2, No. 2, 2014.
- Amy King, 'Alternative Scenarios: History Will Continue to Haunt Japan's Relations with China, Scenario of China's Fault I', *The Asan Forum*, 2015, Sept-Oct, vol. 3, no. 4.
- Amy King, 'Alternative Scenarios: History Will Continue to Haunt Japan's Relations with China, Scenario of China's Fault II', *The Asan Forum*, 2015, Nov-Dec, vol. 3, no. 6.
- Amy King and Shiro Armstrong (eds), *East Asia Forum Quarterly*, 2015, vol. 7, no. 3 (special issue on Japan-China Relations).
- Amy King, 'No shared vision yet on a strategic order in Asia', *East Asia Forum Quarterly*, 2015, vol. 7, no. 3, p. 38-39.

2) How has China's reaction to the new re-interpretation of Article 9 (of the Japanese constitution) differed from its reaction to the 1992 re-interpretation which allowed Japan to deploy SDF forces abroad for the first time? What was similar?

I have not researched China's reaction to the 1992 reinterpretation, so I cannot comment on this in detail. However, the 1992 re-interpretation took place at the height of China's Patriotic Education Campaign which, among other things, re-emphasised to Chinese citizens Japanese historical militarism and fascism and China's defeat of Japan during WWII. I would therefore imagine China's reaction to the 1992 re-interpretation, and the decision to allow SDF forces to deploy abroad for the first time, to have been highly emotive and to have emphasised the importance of remembering history.

3) China insists that the Diaoyu Islands is theirs. Ignoring the resources the area holds, Professor Takeuchi of the Osaka School of International Public Policy believes China's intentions over the islands has more to do with their ambitions of reviving a Chinese 'empire' rather than any suspicions of Japanese 'remilitarization'. Would you agree/ disagree and why?

I disagree with Professor Takeuchi's thesis that China's attitudes towards the Diaoyu islands are linked to its ambition to revive Chinese 'empire'. Rather, I suggest that China's attitude towards the Diaoyu islands, and the East China Sea dispute more generally, is linked to a) conflicting Chinese and Japanese (and Taiwanese) readings of key post-WWII documents such as the Potsdam Proclamation, Cairo Declaration and San Francisco Peace Treaty, b) China's desire for Japan not to change the post-WWII order (by enhancing its military capabilities, which could thwart China's own regional ambitions), and c) a strategic desire for the PLA Navy to operate unchallenged in the East China Sea.

4) Many academics and analysts believe that China has been stepping up provocations over the last 5 years. With the most recent re-interpretation of Article 9, Japan has widened the scope of its military capabilities. Do you, in your professional opinion, believe that by doing so, it heightens the risk of conflict? Or does the US-Japanese alliance remain a deterrent for conflict in the East Asia Region?

As a sovereign country with security concerns and a 70-year history of peaceful international behaviour, Japan has a legitimate right to revise or reinterpret Article 9 of its Constitution so as to widen the scope and activities of its Self Defence Forces. That being said, however, Japan's desire to make a more proactive contribution to regional security via new security legislation, new US-

Japan alliance guidelines, and the re-interpretation of Article 9, are all designed to allow Japan to play a greater role in regional military contingencies, which will likely involve China (e.g. South China Sea dispute, East China Sea dispute, and possibly a conflict over Taiwan). The combination of China's more proactive or assertive regional behaviour, China's stated desire to deter any state that tries to change the post-war international order (which includes Article 9 of Japan's Constitution), and Japan's re-interpretation of Article 9 all heighten the risk of conflict in the region. Japan and China do not share a mutually acceptable vision of Asia's future strategic order, including how to settle key conflicts such as the Diaoyu/Senkaku islands dispute, the Taiwan issue or the South China Sea dispute.

*5) If the US alliance with Japan weakened – we have heard President-elect Trump's claims about 'allies' needing to pay more and so forth – would that embolden China to take on Japan in a conflict over its national interests?*

Japanese leaders certainly fear that such a shift by the US would embolden China. However, Xi Jinping and senior PLA operational leaders have made clear that China avoid getting caught up in a costly and unnecessary military conflict, and Japan (even if not allied to the United States), still possesses sophisticated air and naval capabilities to exert significant cost on China. I believe Chinese officials would be more likely to push Japan on certain issues, but would remain reluctant to engage in military conflict.

*6) In the same vein, would you know if a weakened US alliance would lead to greater bilateral co-operation, especially in the fields of defence (against North Korea) between South Korea and Japan? How would China, who supports the North Korean government, react to this?*

I suspect we are likely to see closer cooperation between South Korea and Japan on this issue, and potentially this could encourage closer cooperation with China (in the absence of a weakened US alliance).

*7) Overall, do you think or believe that the re-interpretation of Article 9 constitutes a positive or negative change in regards to Japan's national security? Does making Japan able to expand its roles in international conflict result an increased or decreased likelihood that Japan will HAVE to act in those roles?*

*See my answer to question 4 above.*

## D. Dutch Diplomat/ Anonymous Interview

### (i) Disclaimer

The following interview represents the views and observations of the interviewee and does not reflect the position or view of the Dutch Government.

### (ii) Consent Form

#### Informed Consent Form

##### Informed Consent Form

1) Research Project Title

What possible implications does the recent re-interpretation of Article 9 of the Japanese Constitution have for Japan in regards to both international conflict and UN Peacekeeping missions?

2) Project Description (1 paragraph)

This dissertation aims to provide new literature on the recent developments surrounding Article 9 of the Japanese constitution by examining its origins, previous interpretations and latest interpretation through already established literature in the scope of international conflict and UN peacekeeping missions and then applying the latest changes to current or future events/ missions; this should result in a dissertation which critically analyses the latest re-interpretation of Art 9 and draws conclusions on whether these changes would improve or disadvantage Japan, international conflicts and PKO.

**If you agree to take part in this study please read the following statement and sign this form.**

**I am 16 years of age or older.**

I can confirm that I have read and understood the description and aims of this research. The researcher has answered all the questions that I had to my satisfaction.

I agree to the audio recording of my interview with the researcher.

I understand that the researcher offers me the following guarantees:

All information will be treated in the strictest confidence. My name will not be used in the study unless I give permission for it.

Recordings will be accessible only by the researcher. Unless otherwise agreed, anonymity will be ensured at all times. Pseudonyms will be used in the transcriptions.

I can ask for the recording to be stopped at any time and anything to be deleted from it.

I consent to take part in the research on the basis of the guarantees outlined above.

Signed: Name Removed at interviewee's Request      Date: 06-01-2017



**(iii) Interview Transcript [Questions and Answers by Email]**

- 1) *Could you please briefly describe who you are and what your role is in the [censored] in Tokyo?*

[Censored to remain Anonymous]. I am responsible for:

- Deepening political cooperation between Dutch and Japanese government (intl. rule of law, cyber security, counterterrorism, disarmament and nonproliferation, UN cooperation).
- Analysing political developments (Japan's external relations, South and East China Seas, NL-Jp bilateral issues, domestic politics).
- Advocacy / public diplomacy to advance diversity, gender equality and LGBT rights agendas in Japan.
- Coordination and background briefs for Royal, ministerial & other official visits.

- 2) *How has the West (or the US/ Netherlands in particular) reacted to the re-interpretation?*

Most western governments are positive about this development. Much of the domestic Japanese controversy has to do with Japan's post-war national identity as a pacifist nation. Western governments mainly see an opportunity for Japan to contribute more to international peace and stability, primarily in the form of peacekeeping operations.

- 3) *Has the re-interpretation placed any expectations on Japan from its Western Allies?*

I wouldn't go as far as to speak of expectations. Generally Tokyo-based diplomats appreciate that this is a slow process, but there certainly is an expectation that Japan may eventually play a more proactive role in security matters.

- 4) *How far is Japan willing to go to fulfil these expectations? What would the Japanese Government refuse to do? For example, Professor Takeuchi mentioned that some actions would now be legal under the new interpretation, but pursuing them would be 'political suicide' for a Prime Minister.*

I cannot speak for the Japanese government, although the Abe administration seems cognizant of the political capital it needs to spend if it were to push for a more proactive role on the international stage. It appears that the Abe administration seeks to balance popular (and much needed) economic reforms on the one hand, while pushing for the more difficult issue of constitutional revision on the other. I agree with Professor Takeuchi that it is unlikely that the Abe administration will make major moves in the short term. It seems to be playing a longer game with constitutional revision as a final goal.

- 5) *It has been argued that the re-interpretation was an attempt to strengthen the US-Japan alliance. DO you believe this was the case or that the alliance had weakened? How will a President Trump affect the alliance?*

Our appreciation is that the alliance has been strengthened. This is evidenced both by the revised US-Japan defense guidelines and the symbolic high level visits to Hiroshima and Pearl Harbor by President Obama and PM Abe. It is too early to tell whether the Trump Presidency will entail a significant change from US policy towards Japan and East Asia.

- 6) *To what extent has Article 9 affected Japan's foreign policy, particularly in relation to soft vs hard power?*

The Japanese government continues to emphasize its soft power as a pacifist nation. That said the current administration recognizes the perilous security environment it faces due to the North Korean nuclear threat. There is also widespread concern about China, mainly due to its activities in the South and East China Seas.

- 7) *How have Japan's neighbours (China, South Korea) reacted to the re-interpretation? How have Japan responded to their reactions?*

In China there is a view that Japan should first reflect on its actions during WWII before it should seek a more proactive security role. A wideheld view in Japan is that China exploits WWII history for its own political and diplomatic purposes.

- 8) *Has the re-interpretation negatively or positively affected Japan's relations with China or South Korea?*

Despite the rhetoric it is hard to say whether there has been a real impact. I think China will wait and see whether the reinterpretation will actually put Japan on a substantially different path.

- 9) *Do Chinese incursions around the Senkaku/ Diaoyu islands now present more opportunity for conflict? What about Japan's attitude towards Taiwan?*

The reinterpretation of Art. 9 seems unrelated to the Senkaku / Diaoyu issue. Japan was already capable of defending itself, whereas the reinterpretation mainly involves collective self defense. However, signaling that the security alliance with the USA is solid and substantial – the Obama administration has several times indicated that the Senkaku / Diaoyu islands are covered by it – may act as a deterrent for China.

- 10) *Some newspapers reported South Korea's reaction to be restrained and implied that there is a understanding of the complex nature of Japan's (and by extension, the US's) role in security on the Korean Peninsula. Furthermore, Project2049 issued a paper in 2014 that stated Japan and South Korea are destined to increase their bi-lateral security co-operation in light of North Korea and overlapping EEZ's (Exclusive Economic Zones). Do you believe this is the case? Do you know if such arrangements are in the cards? With or without the US?*

That seems like a plausible assessment, although I can't meaningfully comment.

- 11) *Overall, do you think or believe that the re-interpretation of Article 9 constitutes a positive or negative change in regards to Japan's national security? Does making Japan able to expand its roles in international conflict result in an increased or decreased likelihood that Japan will HAVE to act in those roles?*

I think it enables Japan to bring more to the table when it seeks to strengthen defense ties with other countries. Japan seems to pursue a strategy of diversifying its security ties with an eye on China's increasing weight in Asia. The increased options for contributing to international security, and the possibility to defend allies under attack – albeit under strict conditions – make Japan an interesting partner for closer collaboration.

## E. Professor Takeuchi Lecture Slides

## (i) Groningen – East Asia Security Environment: Overall Assessment and Japan's New Security Legislation

East Asian Security Environment:  
Overall Assessment and Japan's  
New Security Legislation

Seminar on Regional Security and  
Cooperation in East Asia, perspectives on  
the role of Japan

Keynote Speech: 10:00-11:00, November 14<sup>th</sup> 2016  
Venue: Senate hall, Academy building  
University of Groningen, Groningen, Holland

TAKEUCHI Toshitaka  
Professor, Osaka School of International Public Policy  
Osaka University, Osaka, Japan

Outline

- \* (Pres. Trump is a wild card.)
- \* Four Key Security Challenges
- \* The Hub and Spoke System
- \* China's Perspective and Aspirations: G-2 and the Middle Kingdom Theory
- \* ASEAN and ARF etc.
- \* Japan's New Security Legislation and Its Implication

President Trump

The US as a wild card, not a reliable reassuring ally any longer ???

- \* We have to wait and see how it evolves, how he forms his cabinet, etc.
- \* But, too much uncertainty yet as to his foreign and defense policies at the moment
- \* more of an isolationist and protectionist?
- \* Promised to ditch TPP (Trans-Pacific Strategic Economic Partnership Agreement) that has a strategic alliance aspect.

Japan would face difficult choices

Provided that he really implements what he was saying in the campaign rallies (is it just a "locker room talk" that an old, but inexperienced outsider doesn't mean to implement?), then all the fundamental assumptions of Japan's foreign and defense policies will be undermined, if not in tatters.

- \* **Japan-US alliance as the linchpin, reassurance**
- \* Threatened to withdraw US forces in Japan unless Japan pays more (100%)!!! Then, Japan can make them as mercenaries?????
- \* Almost all the costs but the US personnel and military equipment's are paid by Japan, 75% of all the costs. Japan's host nation support is 1.4 billion in total for 5 years from 2016, that include the utility bills and personnel costs for Japanese employees on the bases. The total amount for the fiscal year 2016 will be \$ 5.8 billion if the land lease fees and other base related costs are counted.
- \* Japan and South Korea can have nuclear weapons, against a long-held nuclear non-proliferation policy

Japan's Possible Hard Choices?

Japan would have to face a daunting choice if Japan-US alliance is not what it has been.

- 1) The end of the Yoshida doctrine? (rely on the US as the defense guarantor)
- 2) Beefing up its SDF may be a likely scenario, depending on what China and North Korea would do.
- 3) Assuming that the Hub and Spoke system is no longer reliable, the spokes would have to much more closely coordinate and collaborate. This would be good for Japan and South Korea's bilateral relationship.
- 4) Provided that the G-2 idea of China is realized, there might be some shift towards China in the region, esp. in the ASEAN but, not much in Japan

Four key security challenges

1. security dilemma: more tensions and defense budget → better inter-state trust
2. competitive rise and fall of (perceived) power → management of this change = US's offshore balancing vs. China
3. buttressing regional regimes like the ARF
4. resolve acute conflicts, conflict resolution ex) Taiwan, North Korea

### Easy to say, hard to achieve

- **Better trust:** the ARF is there to foster it, but it is not effective
- the Hub and Spoke system (assuming that it will be maintained) should be embedded in multilateral regional platforms in which China is a member
- Peaceful change?
  - US role as an off-shore balancer and the Hub
  - more important than before due to China's rise?
  - the ASEAN, esp. ARF (=inclusive) is an indispensable element
- **the Hub and Spoke system is the key for the security of the US allies, not a regional arrangement like the ARF, at present. Does the US under Trump maintain it???**
- **Ideally, the structure should be reversed-no easy task**
- Japan can have a supporting role to realize it.

### The Hub and Spoke System

- **Centered around the US**
- formal alliance with Japan and South Korea (US bases)
- US allies : Thailand and the Philippines
- **→little defense cooperation among US allies such as between Japan and South Korea**
- **Bilateral alliance with the US comes first**, and for the US, too.
  - not a multilateral regional regime like ARF
- Japan's and US policy= support multilateral regimes, but, not as substitutes for bilateral alliances
- Rebalance to the East Asia (60% of the Navy) under Obama

### Why bilateral > multilateral? Dilemma of Alliance Politics

- Too much US enthusiasm for multilateral security institutions ⇒ might be a pretext for US withdrawal: **abandonment fears** (more so under Trump?)
- US forces in East Asia drawn down from 100,000 to 72,000 and it is about 47,000 in Japan
- Due to the "sequestration", the US defense budget will be cut \$492 billion in total from fiscal year 2013 to 2021
- **Key US allies like Japan and South Korea: somewhat ambivalent about multilateralism**

### Why and more

- **for their own national security, bilateral alliance with the US is important and more reassuring**
- but ideally, better to participate in multilateral institutions
- **\* Not an alternative, but simultaneously (embedded)**
- **\* NO real post-war experience in having this kind of multilateral regional institutions**

### Japan's Ambivalence in multilateral security

- **structural and historical reasons**
  - 1) Structural: bilateral alliance is reassuring for Japan's security and for regional stability
    - not much necessity for multilateral arrangements as long as the bilateral alliance is solid enough (This may be in doubt now.)
    - cost=fear of entrapment- not much any more?
  - 2) Historical: **bilateral Japan-US alliance has a role to dampen the fear of the ghost of Japan's pre-war militarism**
    - multilateral security architecture: Japan's leadership role anticipated?
- With Trump: more fear of abandonment??

### Catch 22

- **For China:**
  - U.S. alliance-led regional efforts including multilateral arrangement that excludes China ⇒ to contain China
- **For the US (before Trump):**
  - regional- or China-led arrangement ⇒ to exclude the US
- **\* Not either or (dichotomy)**
- **\* All inclusive (the U.S., its allies like Japan, and China) arrangements necessary**
- **\* But, given vastly different and sometimes zero-sum kind of perspectives in the region, how can it be realized??**
- **\* No good grand and practical ideas yet! : maybe start from economy as well as more active ARF?**

### An isolationist Trump regime????

The US as the Hub: has to support the system itself

- Does Trump abandon this long standing bilateral alliance structure? Nobody knows yet, but, would be difficult to abandon it because they are long standing and mostly treaty based.
- possibly much less commitment from the US  
Then, somebody (Japan?) has to fill in the vacuum  
or  
A totally new regional multilateral arrangement?  
or  
A new order centered around China or G-2

### China's Rise and Regional Order

US policy toward China so far (before Trump)  
make it a **responsible stakeholder** to the current order, which is based on liberal capitalist system and which is centered around the US as the superpower and the Hub in East Asia

- Engage China economically
- Hedge or Contain it security-wise?

**Questions to be Asked?**

- Peaceful co-existence possible?
- A systemic disruption (power transition) coming?

### Two views

#### Power transition (Thucydides Trap)

Serious strategic competition between China and the liberal order is inevitable as China gets more powerful and the US declines

- Peaceful co-existence**  
China can accommodate the US, which is no longer the unipolar.  
**China is now integrated into the liberal international order (WTO).**  
There is good potential for peaceful co-existence between the two.  
China: rise to prominence peacefully without challenging the existing order (economic and the UN?).

### Thucydides Trap?

China as a possible challenger to the US hegemony?

- Not likely, to co-exist as a G-2 possible
- Becomes the hegemon → NOT at all likely

- China: no likely allies ↔ US: many
- Economic interdependence = disincentive to disrupt the current liberal (capitalist) trade system and international order
- Priority on domestic economic development

### Chinese Version of the Hub and Spoke System?

- The "One Belt, One Road" initiative
- Chairman Xi in 2014 denounced US alliances (the Hub and Spoke system) in Asia as a **relic of the Cold War**
- Instead, proposed a "**new Asian security architecture,**" so that Asian security issues should be solved by **Asian nations themselves (China can wield much influence without the US.)**
- Want to create a Chinese-style hub-and-spoke system? the spoke nations=developing countries in Asia
- the Asian Infrastructure Investment Bank (AIIB) is to be the bankroller?

### G-2 proposal

Vice President Xi Jinping in February 2012 proposed "a new type of relationship between major countries in the 21st century."

- G-2 proposal in the Asia-Pacific:**
- in June 2013, President Xi Jinping said that "**The vast Pacific Ocean has enough space for the two large countries of China and the US**"
- Xi's ambition became clear: to place a significant portion of the Pacific under its influence
- This means that **the Western Pacific, where Japan and South Korea are located, comes under China's sphere of influence**
- Chinese Dream: the G-2 is a mere first step to the apex of the Asia-Pacific, if not the world?? Smack of the Middle Kingdom Theory?

### The Middle-Kingdom Theory

China : Beautiful land in the center of the world  
=the middle kingdom

- \* Concentric hierarchic world view with China at the center and at the apex= One-dimensional, all-inclusive
- \* In this world view, hierarchy based on proximity with the center
- \* Sino-centrism: Distinction between China (*Hua*) and barbarians (*Yi*) = Everyone surrounding China are barbarians (*Dongyi* [east], *Xirong* [west], *Nanman* [south], *Beidi* [north]).
- \* Respect and learn from Chinese culture (Emperor's virtue). Need to edify the barbarians

### Center of the center: Chinese Emperor (high virtue)

Provinces, hereditary native officials, etc.

Tributary states Japan  
Korea / Vietnam

Markets in the state of Wu  
Outside regions

Chinese emperor Japanese emperor

Since the Meiji period, the height of Japan and China's positions are reversed  
= Japan becomes the center of Asia (Was it the basis for ideas of Greater East Asia Co-Prosperity Sphere, *haikyo ichibu*—all the world under one roof?)

### Educated Guess

In the near-term (5–10 years)

- : US hegemony (status quo) maintained, **acclimate (integrate) China to the current modus operandi** China=more focused on domestic stability and development?
- 2. In the medium term (10–20 years)  
: possibility of a negotiated change toward a "hierarchical duet (order)" a la G-2?
- 3. In the long-term  
: if not the hierarchical duet or security community, a remote and unlikely possibility of power transition not unthinkable

But, **have time to acclimate China to the liberal economic order**  
*Economic history like Japan's once a mighty feared juggernaut, but a lame economy nowadays. Due to the one-child policy, social security will be a huge problem in China in the future.*

### Ideally

An East Asian security order **inclusive of the major powers**  
not only US and China, but also Japan, Korea and the ASEAN

**the major element: China**

- \* China is within the international liberal (capitalist) economic order and a veto-wielding UNSC Permanent member
- \* So, better to have more trade economically, for which every country can contribute
- \* Politically also, China is used to the dealings within the UN
- \* Militarily in the East Asia, caution is necessary yet

### 5 approaches (not exclusive)

Engaging: for sure, but China is already within the liberal (capitalist) trade order

- \* **Hedging:** still necessary militarily and politically in the East Asia, but much less emphasis, should seek the below
- \* **Integrating:** to build bilateral, regional, and global orders (that is based on the liberal economic order)
- \* **Balancing:** leave no choice, but to be a full fledged, bona fide member of the above orders
- \* **Deterring:** so that China does not become the challenger in the Thucydides trap sense.

### Japan's Strategies (roles) ?

**Integration: utmost importance, but how?**

- \* look for areas that we can find mutual benefits.
- \* Obviously, the easiest is in terms of economics, more liberal trade.
- \* With the TPP (with the US, but without China), Japan could promote **RCEP (Regional Comprehensive Economic Partnership)** in which China, South Korea and India are members, but the US is not a member.
- \* Trump may not care?
- \* In terms of security, **institutionalize** the actual risk management systems that are informally employed on the ground and on sea such as the modus operandi between the Coast Guards of Japan and China.
- \* Defense exchange and joint exercise and so on are also ways to do it.
- \* To safeguard the **SLOCs (sea lanes)** in the Indian Ocean and the South China Sea should be common and mutual interest, but at the moment, it is viewed as a zero-sum game.
- \* Utilize the **ASEAN family** for more communication and coordination

**But, for some years to come**

- \* **Balancing:** The Hub and Spoke system is still there and this is an assurance to Japan and South Korea.
- \* We want to play it safe, i.e., maintain it.
- \* Ideally, it should co-exist or comes under (embedded with) multilateral organizations.
- \* **Deterring:** China is a nuclear weapon state.
- \* No matter what China proclaims, this is at least a significant latent threat.
- \* We have no choice, but to rely on the US extended deterrence as a last resort assurance, just in case.

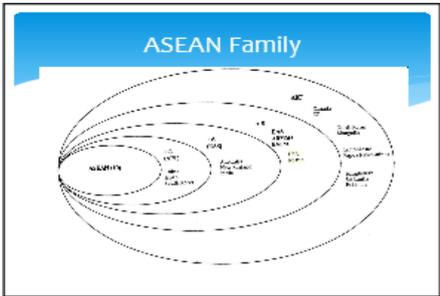
**Regional Cooperative Regimes**

ASEAN (Association of South-East Asian Nations) and its Family Organizations

- ASEAN Regional Forum=ARF
- Asian+3(APT=China, Japan, ROK)
- East Asia Summit (EAS= US, Russia, NZ, Australia, India included)

2. Asia-Pacific Economic Cooperation (APEC)
3. Shanghai Cooperation Organization (SCO) (mainly for Central Asia)

Taiwan (ROC) is not included in any of the above  
=one of the flash points in Asia



**ARF**

focus on security in East Asia

Objectives

1. foster dialogue and consultation
2. confidence-building and preventive diplomacy

ASEAN= the driver of the ARF  
=emphasis on consensus

mainly, **confidence-building measure (CBM)**=dialogue, and not yet on preventive diplomacy, esp. vs. China

NO NATO-like capabilities to respond to specific crises

**important forum for promoting a long-term peace and stability**= to involve China, Japan, Russia and Korea

involved in no direct bilateral manner in the region

**Re-interpretation of Article 9**

- Sept. 2015: **Re-interpretation** on the exercise of the right of collective self-defense accepted by the Diet (parliament)
- **(limited)** Collective self-defense made constitutional **with 3 conditions**

Erstwhile interpretation:  
the **exercise** of the right of collective self-defense prohibited by the constitution, although Japan as a sovereign nation does **have** the right of collective self-defense (due to Article 51 of the UN Charter)

**3 conditions**

- 1) When an armed attack against Japan occurs or **when an armed attack against a foreign country that is in a close relationship with Japan occurs and as a result threatens Japan's survival and poses a clear danger to fundamentally overturn people's right to life, liberty and pursuit of happiness,**
- 2) When there is no other appropriate means available to repel the attack and ensure Japan's survival and protects its people,
- 3) Use of force limited to the minimum extent necessary.

**CF: Old 3 conditions for self-defense**

- 1) imminent danger
- 2) no other means to repel the invasion
- 3) bare minimum level of physical force

- \* 2) is similar
- \* 3) is also similar, but maybe slight difference
- \* 1) is totally different, making collective self-defense possible as long as and to the extent it would satisfy the new 1) condition

**Article 9**

- 1) 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) In order 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.**

**Government(MOFA)'s Explanation**

**1. Backgrounds**

- Fundamental transformation of the security environment surrounding Japan
- No war in the post-cold war era. New order international security, new security system, etc.
- Requirement for maintenance of peace, the promotion of stability, international security, etc.
- No country can secure its own peace only by itself.
- The international community expects Japan to play a more proactive role for peace and stability in the world in a way commensurate with its national capability.
- Need to develop relevant legislation that enables various responses

Provision of  
operational  
support to  
UN peacekeeping  
operations (PKO)  
(2001)

Dispatch of  
Self-Defense  
Forces (SDF)  
to the Gulf  
(2001)

Introduction of  
legislation to  
enable SDF  
operations (JFA  
Act)  
(2001)

Enactment of the  
legislation to  
revise the  
Constitution (91  
Amendment)  
(2007)

The revision  
bill (March 29, 2019)

- The legislation will enable various responses to any situation to secure the lives and peaceful livelihood of the Japanese people, Japan will be able to contribute more proactively to the peace and stability of the international community under the policy of "Proactive Contribution to Peace", based on the principle of international cooperation.
- There is no change in Japan's basic posture and orientation for the past 70 years, including a **peace-keeping nation**.
- The legislation will enhance the determination of the Japan-U.S. Alliance for the peace and stability in the Asia-Pacific region. It will also help to deepen trust and cooperative relations with other partners both within and outside the region.
- Japan will continue to make its best efforts to promote deeper understanding of countries concerned and **peace cooperation**.

**The point of New Legislation**

- \* **seamless security (defense) posture**
- \* This is to ensure an effective response towards "new security threats and various situations" (initially in the National Defense Program Guideline (NDPG) of 2004)
- \* Government: can contribute more proactively to the international peace and stability

**Implications**

**"dispatch and rescue" operations**

The SDF has currently a Camp for a UN PKO mission in South Sudan (an engineering unit of 350 Ground SDF personnel) dispatch and rescue, and defending the mission (UN facilities where UN PKO personnel are stationed) is OK, but only in a relatively safe area near the camp (northern part of South Sudan)

**Mine-sweeping activities in the Persian gulf**

Japan has one of the very best mine sweeping capabilities PM Abe specifically mentioned this possibility in the Diet :

"(I)f mines are laid in the Strait, it will halt oil supply, which will have a significant impact on the daily lives of Japanese citizens. As a result, the country's existence will be threatened", thus satisfying the 1) condition.

**Same as before**

No participation in the collective security measures by the UN that utilize physical forces

- \* No dispatch of the SDF for **combat purposes**
- \* if SDF members use weapons against "an actor equivalent to a state," such as an armed insurgent, it may constitute "an exercise of force against other nations," which is prohibited by the Constitution.
- \* **But, the exercise of physical force in itself may be permitted when it meets the new 3 conditions (for the sake of Japan's survival)**
- \* Little change for the minimum necessary condition for self-defense, but not necessarily "bare" minimum necessary

**Unlikely Scenarios**  
not even contemplated

- \* Escort US ships in the South China Sea  
PM Abe flatly stated that this would not happen
- \* For some time to come, probably not able to develop BMD (ballistic missile defense) capabilities that can shoot down North Korean Missiles against the US, focus on her own BMD.

**Preventing Maritime Crisis**

Emphasis on maritime law enforcement—coast guard—not on naval power.

- \* Agreement on prevention of accidents between war ships as well as war planes
- \* There are between the US and USSR in 1972, between Japan and Russia also, but not with China
- \* the Code for Unplanned Encounters at Sea (CUES) to prevent armed clashes in the disputed waters signed, but no legally binding power due to China's opposition
- \* Around the Senkaku, a de facto modus operandi (tacit) between China's and Japan's Coast Guards on sea and between the headquarters.
- \* PS: Air collision is now a risk, too and some kind of communication channels has to be put into practice urgently.

**FYI: Coast guard**

Japan: clear cut demarcation between It and MSDF

- \* China: reorganized in 2013 into China's Coast Guard, but includes ex-China's Coast Guard that was para-military (armed police)
- \* Ships like 2901 and 3901 equipped with 76 mm gun
- \* Twice as big as Japan's biggest, the Shikishima
- \* Need to involve the ASEAN in **Japan's proposed Organization for Maritime Security in East Asia**

**Much ado about not much in practice??**

- \* **Overall**  
For any major country but Japan, a full-fledged standing army with bona fide collective security rights is taken for granted.  
Article 9 still not amended.
- \* **Caveat**  
There might be more support for a beefed-up defense capabilities given the more advanced nuclearization of North Korea and China's naval activities nearby.  
Pres. Trump is a wild card if he undermines the Japan-US alliance.

(ii) Stockholm – Japan’s Newly Adopted Security Legislation and their Implications

**JAPAN'S NEWLY ADOPTED SECURITY BILLS AND THEIR IMPLICATIONS**

TAKEUCHI TOSHITAKA  
 PROFESSOR, OSAKA UNIVERSITY, OSAKA, JAPAN  
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 AT EUROPEAN INSTITUTE OF JAPANESE STUDIES  
 STOCKHOLM SCHOOL OF ECONOMICS  
 STOCKHOLM, SWEDEN

**OUTLINE**

- CONSTITUTION: THE PREAMBLE AND ARTICLE 9
- BRIEF HISTORY ON CHANGING INTERPRETATIONS
- NEWLY ADOPTED SECURITY BILLS
- THEIR IMPLICATIONS

**RE-INTERPRETATION OF THE ARTICLE 9 (MORE LATER)**

- SEPT. 2015: **RE-INTERPRETATION** ON THE EXERCISE OF THE RIGHT OF COLLECTIVE SELF-DEFENSE ACCEPTED BY THE DIET (PARLIAMENT)
- (LIMITED) COLLECTIVE SELF-DEFENSE MADE CONSTITUTIONAL BEFORE THE **EXERCISE** OF THE RIGHT OF COLLECTIVE SELF-DEFENSE PROHIBITED BY THE CONSTITUTION

**PREAMBLE OF THE CONSTITUTION**

- "WE, THE JAPANESE PEOPLE, . . . . RESOLVED THAT NEVER AGAIN SHALL WE BE VISITED WITH THE HORRORS OF WAR THROUGH THE ACTION OF GOVERNMENT . . . . ."
- WE HAVE DETERMINED TO **PRESERVE OUR SECURITY AND EXISTENCE, TRUSTING IN THE JUSTICE AND FAITH OF THE PEACE-LOVING PEOPLES OF THE WORLD.**
- WE DESIRE TO OCCUPY AN HONORED PLACE IN AN INTERNATIONAL SOCIETY STRIVING FOR THE PRESERVATION OF PEACE

**ARTICLE 9**

- 1) 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) IN ORDER 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.**

**OFFICIAL (GOVERNMENTAL) INTERPRETATION**

- **ARTICLE 9 DOES NOT NEGATE THE FUNDAMENTAL RIGHT OF (INDIVIDUAL) SELF-DEFENSE**
- **THE SDF (SELF-DEFENSE FORCES) IS CONSTITUTIONAL**

**TO BE CONSTITUTIONAL**

- NO WAR POTENTIAL AS A MEANS OF SETTLING INTERNATIONAL DISPUTES
- CAN HAVE "SELF-DEFENSE" POTENTIAL FOR SELF-DEFENSE
- THE BARE MINIMUM NECESSARY FOR THE DEFENSE OF JAPAN IS POSSIBLE
- THUS, THE PREFIX OF "SELF-DEFENSE,"
  - SDF'S EXCLUSIVE PURPOSE IS FOR SELF-DEFENSE
  - NO OFFENSIVE WEAPONS THAT CAN DESTROY AN ADVERSARY'S TERRITORY SUCH AS ICBM, STRATEGIC BOMBERS AND OFFENSIVE AIRCRAFT CARRIERS

**COLLECTIVE SELF-DEFENSE**

- ARTICLE 51 OF THE UN CHARTER
- "NOTHING IN THE PRESENT CHARTER SHALL IMPAIR THE INHERENT RIGHT OF INDIVIDUAL OR COLLECTIVE SELF-DEFENSE IF AN ARMED ATTACK OCCURS AGAINST A MEMBER OF THE UNITED NATIONS, —"
- **FOR EVERY NATION BUT JAPAN, THIS RIGHT IS A MATTER OF COURSE AND IT IS TAKEN FOR GRANTED.**

**ERSTWHILE INTERPRETATION ON COLLECTIVE DEFENSE**

- JAPAN AS A SOVEREIGN STATE (MEMBER STATE OF THE UN) HAS AN INHERENT RIGHT OF COLLECTIVE SELF-DEFENSE, BUT CANNOT "EXERCISE" IT DUE TO ARTICLE 9
- WHY?
  - BEING A SOVEREIGN MEMBER STATE OF THE UN (ARTICLE 51)
  - BUT, ITS EXERCISE EXCEEDS THE BARE MINIMUM NECESSARY LEVEL OF SELF-DEFENSE PERMITTED UNDER ARTICLE 9.

**PROBLEMS WITH THIS ERSTWHILE INTERPRETATION - JAPAN'S ALLIANCE WITH THE US -**

- JAPAN COULD DO NOTHING THAT MIGHT HELP OTHER COUNTRIES' DEFENSE.
  - E.G.: NORTH KOREA'S MISSILE LAUNCH: UNTIL IT IS DETERMINED TO HIT JAPAN, JAPAN CAN DO NOTHING. IF IT IS DETERMINED TO BE AIMING THE US, JAPAN WAS CONSTITUTIONALLY PROHIBITED FROM HITTING IT DOWN (NO ACTUAL CAPABILITY YET)
- COULD COOPERATE WITH THE US IN JAPAN'S OWN DEFENSE WITHIN HER TERRITORY, BUT NOT WHEN THE US FORCES OUTSIDE OF JAPAN AND US TERRITORY ARE UNDER ATTACK.

**PROBLEMS WITH THIS ERSTWHILE INTERPRETATION - PKO MISSIONS -**

- "DISPATCH AND RESCUE" OPERATIONS PROHIBITED
  - THE SDF FORCES IN IRAQ WERE GUARDED BY THE UK AND AUSTRALIAN FORCES, BUT THE SDF WAS CONSTITUTIONALLY FORBIDDEN TO HELP THESE SOLDIERS WHEN THEY WERE UNDER ATTACK BECAUSE IT WOULD BE AN EXERCISE OF COLLECTIVE SELF-DEFENSE OR PROTECTION OF THE MISSION.
  - IF THEY WERE NEAR THE JAPANESE SOLDIERS, IT COULD BE INTERPRETED AS INDIVIDUAL SELF-DEFENSE. THIS IS CONSTITUTIONAL (BUT, ONLY SOLDIERS, NOT THE MISSION).
  - THIS APPLIES TO UN PERSONNEL, CIVILIAN NGO WORKERS, NURSES, ETC., WHO ARE UNDER DURESS OR ATTACK.
- THE SDF PERSONNEL DISPATCHED OVERSEAS WERE (AND ARE) UNDER MUCH STRICTER RESTRICTIONS THAN OTHER COUNTRIES REGARDING THE USE OF FIREARMS (WEAPONS) EVEN WITH THE NEW RE-INTERPRETATION (LESS SO THAN SPORE)
- COULD USE FIREARMS ONLY FOR THE PROTECTION OF THEMSELVES

**THE RIGHT OF SELF-DEFENSE - CHANGING INTERPRETATIONS -**

- CHANGES IN THE EARLY POST-WAR YEARS
  - IN 1946, PAH YOSHIDA: WAE AS AN OUTCOME OF THE EXERCISE OF THE RIGHT OF SELF-DEFENSE AS WELL AS THE RIGHT OF SELF-DEFENSE DENIED... EFFECTIVELY DERIVED FROM THE RIGHT OF SELF-DEFENSE, EVEN ON THE UN'S COLLECTIVE SECURITY COMPACTLY
  - IN 1950, SH. YOSHIDA: JAPAN HAS THE RIGHT OF SELF-DEFENSE THAT HAS NO ARMED CAPABILITIES (NO WAR POTENTIAL)
  - IN DEC. 1956, CHIEF OF DEFENSE AGENCY (IT WAS JUST AN AGENCY IN THE CABINET OFFICE UNTIL UPGRADED TO A MINISTRY IN 2007), OMIURA: THE RIGHT OF SELF-DEFENSE IS NOT ABANDONED AND... THEREFORE PHYSICAL FORCE CAN BE EXERCISED TO DEFEND JAPAN WHEN BEING ATTACKED... INDIVIDUAL SELF-DEFENSE IS OK.

• IN DEC. 1959, **THE SUPREME COURT**

**"JAPAN AS A SOVEREIGN STATE IS NOT DENIED OF THE RIGHT OF SELF-DEFENSE AND THEREFORE NECESSARY MEASURES FOR SELF-DEFENSE TO MAINTAIN THE EXISTENCE AND PEACE AND SECURITY OF THE STATE CAN BE TAKEN. OUR CONSTITUTION'S PACIFISM DID NOT DICTATE NO-DEFENSE, NO-RESISTANCE."** IN A ANTI-US BASE SUNAGAWA (NOW YOKOTA) SUIT .

• THIS DECISION DID NOT DISTINGUISH BETWEEN INDIVIDUAL AND COLLECTIVE SELF-DEFENSE AND, THEREFORE, CAN POSSIBLY BE INTERPRETED THAT THE CONSTITUTION DID NOT DENY THE RIGHT OF COLLECTIVE SELF-DEFENSE.

• IN 1972, **PM TANAKA** CITING ARTICLE 13 AND PREAMBLE, **ARTICLE 9 DOES NOT BAN NECESSARY SELF-DEFENSE MEASURES, BUT HAVE TO BE BARE MINIMUM NECESSARY**

• ARTICLE 9 DOES NOT BAN THE "INHERENT RIGHT OF (INDIVIDUAL) SELF-DEFENSE AND JAPAN CAN HAVE SELF-DEFENSE FORCES THAT ARE KEPT "MINIMUM NECESSARY" FOR SELF-DEFENSE

• PART OF PREAMBLE: WE HAVE DETERMINED TO PRESERVE OUR SECURITY AND EXISTENCE

• ARTICLE 13: ALL OF THE PEOPLE SHALL BE RESPECTED AS INDIVIDUALS. THEIR RIGHT TO LIFE, LIBERTY, AND THE PURSUIT OF HAPPINESS SHALL, TO THE EXTENT THAT IT DOES NOT INTERFERE WITH THE PUBLIC WELFARE, BE THE SUPREME CONSIDERATION IN LEGISLATION AND IN OTHER GOVERNMENTAL AFFAIRS.

• PART OF ARTICLE 21 OF THE UN CHARTER: NOTHING IN THE PRESENT CHARTER SHALL IMPAIR THE INHERENT RIGHT OF INDIVIDUAL OR COLLECTIVE SELF-DEFENSE

**NEW INTERPRETATION**

• NEW INTERPRETATION ACCEPTED BY THE DIET (PARLIAMENT) IN SEPT. 2015, BECAME EFFECTIVE IN MARCH, 2016 (HALF A YEAR LATER)

• **NOW, A LIMITED EXERCISE OF THE RIGHT OF COLLECTIVE SELF-DEFENSE POSSIBLE WITH 3 CONDITIONS**

**3 CONDITIONS**

- 1) WHEN AN ARMED ATTACK AGAINST JAPAN OCCURS OR WHEN AN ARMED ATTACK AGAINST A FOREIGN COUNTRY THAT IS IN A CLOSE RELATIONSHIP WITH JAPAN OCCURS AND AS A RESULT THREATENS JAPAN'S SURVIVAL AND POSES A CLEAR DANGER TO FUNDAMENTALLY OVERTURN PEOPLE'S RIGHT TO LIFE, LIBERTY AND PURSUIT OF HAPPINESS,
- 2) WHEN THERE IS NO OTHER APPROPRIATE MEANS AVAILABLE TO REPEL THE ATTACK AND ENSURE JAPAN'S SURVIVAL AND PROTECTS ITS PEOPLE,
- 3) USE OF FORCE LIMITED TO THE MINIMUM EXTENT NECESSARY.

**CF. OLD 3 CONDITIONS FOR SELF-DEFENSE**

- 1) imminent danger
- 2) no other means to repel the invasion
- 3) bare minimum level of physical force

• 2) is similar

• 3) is also similar, but maybe slight difference

• 1) is totally different, making collective self-defense possible as long as and to the extent it would satisfy the new 1) condition

**GOVERNMENT(MOFA)'S EXPLANATION**

1. **Background**

• The Japanese Government has always been committed to the maintenance of international peace and stability in the world.

• The international community expects Japan to play a more proactive role for peace and stability in the world, in a way commensurate with its national capabilities.

• In line with this expectation, the Japanese Government has been pursuing a series of measures to enhance its capabilities for maintaining international peace and stability.

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**ONE EXAMPLE OF UNPLEASANT PKO FACTS  
-DISPATCH AND RESCUE-**

**EAST TIMOR**

DEC. 4, 2002, A JAPANESE RESTAURANT WAS SURROUNDED BY A MOB AND THE OWNERS ASKED THE SDF PKO MISSION THERE TO HELP RESCUE THEM. BUT BACK THEN, THE USE OF ARMS WAS ONLY POSSIBLE FOR LEGITIMATE SELF-DEFENSE AND EMERGENCY ESCAPE. IT WAS UNCONSTITUTIONAL TO RESCUE THEM, FOR WHICH THE USE OF ARMS WOULD BE NECESSARY. THEY DID IT ANYWAY.

**THE EXCUSES (RATIONALE):**

IT SO HAPPENED THAT 3 SCOLDRES WERE OUT OF THE CAMP ON DAYOFF. THEY SENT A SO-CALLED SURVEILLANCE MISSION TO SEARCH FOR OFF-DUTY SDF PERSONNEL. AND IT SO HAPPENED THAT THE SURVEILLANCE TEAM WAS NEARBY THE SEGEDGED CIVILIANS. THEN, IT WOULD BE WITHIN THE CONFINES OF INDIVIDUAL SELF-DEFENSE. THUS, THEY CAN HELP THESE CIVILIANS (41 IN TOTAL) VACUATE (RESCUE) TO THE CAMP.

**EAST TIMOR'S AFTERMATH**

THE VERY FIRST TIME THAT THE SDF PROTECTED THE JAPANESE (+NON-JAPANESE) OVERSEAS FOR A HUMANITARIAN REASON. BUT, THIS CAN BE CONSIDERED TO BE A "DISPATCH AND RESCUE" MISSION THAT WAS UNCONSTITUTIONAL BACK THEN. QUESTIONS WERE RAISED IN THE DIET AS TO ITS CONSTITUTIONALITY. **THEY HAD TO DEFEND ITS ACTION AS A HUMANITARIAN EMERGENCY MEASURE.**

**OTHER UNPLEASANT? FACTS**

**ALLIANCE COOPERATION WITH THE US**

- NORTH KOREA LAUNCHED A TROOPING IN 1998. US NAVY'S ARGIS SHIP GOT INTO THE SEA OF JAPAN AND WAS SURVEYING WITH THE 8TH FLEET, WHICH MAKES ANTI-AIR DEFENSE WEAKEN.
- RUSSIA SENT MANY RECONNAISSANCE AND INFORMATION GATHERING PLANES TO MONITOR US ACTIVITIES.
- THE US ASKED JAPAN TO SCRAMBLE.
- BUT JAPAN COULD NOT DECIDE AND PROCASTINATED IF THIS MIGHT CONSTITUTE COLLECTIVE SELF-DEFENSE, AND ON WHAT LAW SCRAMBLING CAN BE MADE.
- THE US DECIDED TO SEND AIRPLANES FROM ITS MIYAWA BASE IN NORTHERN JAPAN.

**USE OF WEAPON (ARMS, FIRE-ARMS)**

- SHOULD THE SDF TO TURN DOWN A RESCUE REQUEST MADE BY CIVILIANS-- JAPANESE NATIONALS IN PARTICULAR--BECAUSE IT MIGHT VIOLATE THE CONSTITUTION?
- EVEN IF SDF MEMBERS MAY BE ABLE TO RUSH TO A SCENE TO RESCUE CIVILIANS (RECALLED WITHIN THE INDIVIDUAL SELF-DEFENSE), THEY STILL COULD NOT USE WEAPONS UNLESS THEIR OWN LIVES WERE AT RISK AND IN EMERGENCY EVACUATION, ACCORDING TO THE ERSTWHILE INTERPRETATION.

THEY ARE POSSIBLE NOW DUE TO THE RE-INTERPRETATION  
**"USE OF FORCE"**    **"USE OF ARMS (WEAPONS)"**

**DISPATCH AND RESCUE: IN A NUTSHELL**

UNDER THE OLD PKO LAW OF 1991, THERE WERE TIGHT RESTRICTIONS ON THE SDF'S USE OF WEAPONS (NOW SOMEWHAT LOOSENER)

- USE OF WEAPONS AGAINST A STATE OR QUASI-STATE ARMED GROUPS MIGHT VIOLATE THE CONSTITUTIONAL BAN ON USE OF FORCE" (STILL STANDS)
- RESTRICT THE USE OF WEAPONS ONLY FOR PROTECTING ONE'S OWN LIFE AND EQUIPMENT

↓

IF IT IS UNAVOIDABLE TO ELIMINATE THE DAMAGE OR HINDERANCE AGAINST ONE'S MISSION, USE OF WEAPONS IS PERMITTED (IF MINIMUM NECESSARY). PROTECTION OF OTHER COUNTRIES' MISSIONS ARE ALSO OK WITHIN THE 3 NEW CONDITIONS.

- USE OF WEAPONS CANNOT BE CONSIDERED AS THE USE OF FORCE IN AREAS WHERE AN ANTAGONISTIC STATE OR QUASI-STATE ARMED GROUPS ARE NOT OPERATING.

**CURRENTLY AND STILL INTACT**

- NO PARTICIPATION IN THE COLLECTIVE SECURITY MEASURES BY THE UN THAT UTILIZE PHYSICAL FORCES
- NO DISPATCH OF THE SDF FOR **COMBAT PURPOSES**
- IF SDF MEMBERS USE WEAPONS AGAINST "AN ACTOR EQUIVALENT TO A STATE," SUCH AS AN ARMED INSURGENT, IT MAY CONSTITUTE "AN EXERCISE OF FORCE AGAINST OTHER NATIONS," WHICH IS PROHIBITED BY THE CONSTITUTION.
- BUT, EXERCISE OF PHYSICAL FORCE IN ITSELF MAY BE PERMITTED WHEN IT MEETS THE NEW 3 CONDITIONS
- LITTLE CHANGE FOR THE MINIMUM NECESSARY CONDITION FOR SELF-DEFENSE, BUT NOT NECESSARILY "BARE" MINIMUM NECESSARY

**IMPLICATIONS: PLANNED AND IN SIGHT**

**"DISPATCH AND RESCUE" OPERATIONS**

THE SDF HAS CURRENTLY A CAMP FOR A UN PEO MISSION IN SOUTH SUDAN  
 AN ENGINEERING UNIT OF 350 GROUND SDF PERSONNEL  
**THE GOVERNMENT IS EXPECTED TO ASSIGN THIS NEW "DISPATCH AND RESCUE" MISSION IN NOVEMBER (NEXT ROTATION).**

THE NEXT SDF UNIT STARTED TRAINING IN THIS AUGUST FOR TWO MISSIONS = DISPATCH AND RESCUE, AND OPERATING THE MISSION UN FACILITIES WHERE UN PEO PERSONNEL ARE STATIONED = ONLY IN A RELATIVELY SAFE AREA NEAR THE CAMP (NORTHERN PART OF SOUTH SUDAN)

NOT TO GO A FAR AWAY SITE TO DO THIS MISSION BECAUSE IT IS AN ENGINEERING CORPS  
 WHEN SOUTH SUDAN HAD LARGE SCALE COMBAT BETWEEN FORCES OF PEO, IOB AND ANTI-GOVERNMENT FORCES, THE SDF SUSPENDED ITS PEO  
 BUT, THERE IS CLASSIFIED NOW.

**IMPLICATIONS: MEDIUM TO LONG TERM**

**MINE-SWEEPING ACTIVITIES IN THE PERSIAN GULF**

JAPAN HAS ONE OF THE VERY BEST MINE SWEEPING CAPABILITIES

**PM ARE SPECIFICALLY MENTIONED THIS POSSIBILITY IN THE DIET DELIBERATIONS**

"IF MINES ARE LAID IN THE STRAIT, IT WILL HALT OIL SUPPLY, WHICH WILL HAVE A SIGNIFICANT IMPACT ON THE DAILY LIVES OF JAPANESE CITIZENS. AS A RESULT, THE COUNTRY'S EXISTENCE WILL BE THREATENED", THUS SATISFYING THE 1) CONDITION.

**ANY POSSIBILITY OF BLOCKADE?**

PROBABLY UNLIKELY

BUT, HISTORICAL FACTS = REAL POSSIBILITY

- FROM LATE 2011 TO EARLY 2012, WHEN IRAN SUGGESTED THAT IT COULD SHUT OFF THE GULF BY DEPLOYING MINES IN OPPOSITION TO THE EUROPEAN UNION'S (EU) ECONOMIC SANCTIONS.
- IRAN NEVER CARRIED OUT THE THREAT, WHICH MAY HAVE BEEN SIMPLY A BULF.
- IN SEPTEMBER 1987, DURING THE IRAN-IRAQ WAR, WHEN AN IRANIAN VESSEL PLACED MINES IN THE GULF.  
 THE US SEIZED THE IRANIAN MINING VESSEL AND SUBSEQUENTLY SANK IT.  
 FORTUNATELY IRAN DID NOT RETALIATE.

**JAPAN'S MINE-SWEEPING CAPABILITIES**

**JAPAN CURRENTLY HAS A 27 SHIP STRONG MINE WARFARE FORCE THAT CONSISTS OF A MINE-SWEEPER DIVISION AND A MINE-WARFARE SUPPORT GROUP.**

- JAPAN: 17 MINE SWEEPERS, 2 DRONE CONTROL SHIPS, 4 MINE SWEEPER DRONE SHIPS
- THE US: 11 MINE COUNTERMEASURE SHIPS
- THE UK: 8 MINE SWEEPERS, 7 MINE HUNTERS
- FRANCE: 11 MINE HUNTERS
- GERMANY: 7 MINE SWEEPERS, 9 MINE HUNTERS, 18 MINE SWEEPER DRONE SHIPS
- CHINA: 22 MINE SWEEPERS, 6 MINE SWEEPER DRONE SHIPS, 12 MINE COUNTERMEASURE SHIPS
- RUSSIA: 20 MINE SWEEPERS, 12 MINE HUNTERS
- INDIA: 7 MINE SWEEPERS

**CAUTION**

- MINE-SWEEPING SHIPS ARE HIGHLY VULNERABLE TO ATTACK.
- IN PRACTICE, FOR FEAR OF POSSIBLE CASUALTIES, EVEN PM ARE WILL BE VERY CAUTIOUS TO ORDER MINE-SWEEPING ACTIVITIES IN OR NEAR A **COMBAT ZONE** (HE SAID HE WOULDN'T)
- POSITIVE SIDES TO THIS VULNERABILITY AND ITS DEFENSIVE NATURE
  - FITS WITH SDF'S EXCLUSIVELY FOR A DEFENSE POSTURE
  - WITHIN THE "PRO-ACTIVE CONTRIBUTION TO PEACE"
  - HAS NO OFFENSIVE COMPONENT.
 THUS, LESS DIFFICULT TO GET POPULAR SUPPORT FOR DISPATCH.

**UNLIKELY SCENARIOS**

- NOT EVEN CONTEMPLATED
- ESCORT US SHIPS IN THE SOUTH CHINA SEA  
 PM ARE PLATY STATED THAT THIS WOULD NOT HAPPEN
- PROBABLY UNLIKELY TO DEVELOP BMD (BALLISTIC MISSILE DEFENSE) CAPABILITIES THAT CAN SHOOT DOWN NORTH KOREAN MISSILES AGAINST THE US FOR SOME TIME TO COME  
 CURRENTLY TRYING TO DEVELOP A TWO-TIER BMD SYSTEM TO PROTECT JAPAN ITSELF.  
 THE SMD INTERCEPTORS FROM THE AEGIS SHIPS (NOW 4, EXPECTED TO BE 8 BY 2021) ARE FOR MID-TERM DEFENSE  
 BUT, IF A MISSILE IS AGAINST THE US, MUCH HIGHER ALTITUDE AND MUCH MORE DIFFICULT TO SHOOT DOWN.

MUCH ADO ABOUT NOT MUCH IN PRACTICE??

- OVERALL
  - FOR ANY MAJOR COUNTRY BUT JAPAN, A FULL-FLEDGED STANDING ARMY WITH BONA FIDE COLLECTIVE SECURITY RIGHTS IS TAKEN FOR GRANTED.
  - ARTICLE 9 STILL NOT AMENDED
- CAVEAT
  - THERE MIGHT BE MORE SUPPORT FOR A BEEPED-UP DEFENSE CAPABILITIES GIVEN THE MORE ADVANCED NUCLEARIZATION OF NORTH KOREA AND CHINA'S NAVAL ACTIVITIES NEARBY.

F. Leaflet issued by Japanese Government

### Matrix of the Legislation for Peace and Security

Peace-time	Contingency
<p><b>Reorganization of Japanese national overseas etc. (Existing)</b></p> <ul style="list-style-type: none"> <li>Expansion of Japanese national overseas etc. (Existing)</li> <li>Protection of SDF's weapons/other equipment (Existing)</li> <li>Protection of weapons/other equipment of U.S. and other countries' armed forces (New)</li> <li>Provision of supplies/services to the U.S. Armed forces in peacetime (Expansion)</li> <li>Expanded situations where supplies/services can be provided</li> </ul> <p><b>International Peace Cooperation Activities</b></p> <ul style="list-style-type: none"> <li>U.N. PKO (Expansion)</li> <li>Additional roles by Japanese Corps in operation (e.g. protection of civilian weapons (small arms) to better align with current U.N. standard)</li> <li>Internationally organized peace and security operations (Multinational cooperation outside U.N. PKO framework) (New)</li> </ul>	<p><b>Response to an armed attack against Japan (Existing)</b></p> <ul style="list-style-type: none"> <li>Response to an armed attack against a foreign country residing against Japan's survival (New)</li> <li>"Use of force" permitted under the "Three New Conditions"</li> </ul> <p><b>The Three New Conditions</b></p> <ol style="list-style-type: none"> <li>When Japan occurs or when an armed attack against a foreign country that is in a close relationship with Japan occurs, and Japan's survival and peace is in jeopardy.</li> <li>When there is no other appropriate means available to Japan's survival and protect its fundamental interests.</li> <li>Use of force limited to the minimum necessary for self-defense.</li> </ol>
<p><b>Reorganizing the Agenda Items of the National Security Council (NSC)</b></p> <ul style="list-style-type: none"> <li>Ship inspection operations (Expansion)</li> <li>Ship inspection operations for peace and security of the international community</li> <li>Support activities (including logistics support) to armed forces of foreign countries in situations where the international community is collectively addressing the peace and security (New)</li> </ul>	<p><b>Reorganizing the Agenda Items of the National Security Council (NSC)</b></p> <ul style="list-style-type: none"> <li>Ship inspection operations for peace and security of the international community</li> <li>Support activities (including logistics support) to armed forces of foreign countries in situations where the international community is collectively addressing the peace and security (New)</li> </ul>

\* Cabinet Decisions on accelerating procedures in cases of responding to a situation where an infringement that does not amount to an armed attack occurs in areas surrounding remote islands etc.

### Overview of the Essence of Legislation for Peace and Security

- 1. Law to Ensure Security for Situations that will Have an Important Influence on Japan's Peace and Security**
  - Clarify the purpose of the amendment – to enable the provision of necessary support activities to the U.S. and other countries' armed forces in situations that will have an important influence on Japan's peace and security
  - Enable the provision of support activities to foreign countries' armed forces (not only the U.S.)
  - Expand the scope of support activities
- 2. International Peace Support Law (New)**
  - Enable the provision of necessary support activities to armed forces of foreign countries collectively addressing the situation which threatens the international peace and security
- 3. Law Concerning Cooperation for U.N. PKO and Other Operations**
  - Provide additional roles by Japanese corps and adopt ROE for use of weapons
  - Enable the participation in internationally coordinated peace and security operations (Multinational cooperation outside U.N. PKO framework)
- 4. Ship Inspection Operations Law**
  - Enable ship inspection operations for the purpose of ensuring peace and security of the international community
- 5. Japan Self-Defense Force Law**
  - Enable the rescue of Japanese national overseas etc.
  - Enable protection of weapons/other equipment of U.S. and other countries' armed forces
  - Expand situations where supplies/services can be provided to the U.S. Armed Forces in peacetime
- 6. Legislation regarding Response to Armed Attack Situations**
  - Suppliate procedures for the "use of force" permitted under the "Three New Conditions"
  - Suppliate SDF's mission and mandate for the "use of force" permitted under the "Three New Conditions"

\* Cabinet Decision on accelerating procedures in case of responding to a situation where an infringement that does not amount to an armed attack occurs in areas surrounding remote islands etc.

## Japan's Legislation for Peace and Security

Seamless Responses for Peace and Security of Japan and the International Community

May 2015

Government of Japan

### Background

- Fundamental transformation of the security environment surrounding Japan (e.g. shifts in the global power balance, rapid progress of technological innovation, development and proliferation of weapons of mass destruction, international terrorism, etc.)
- No country can secure its own peace only by itself.
- The international community expects Japan to play a more proactive role for peace and stability in the world, in a way commensurate with its national capability.
- Need to develop domestic legislation that enables seamless responses

\* Cabinet Decision on Development of Seamless Security Legislation to Ensure Japan's Survival and Peace for Its People" (July 2013)

Discussion in the Government and the ruling coalition and the Diet  
Debate in the Diet  
Submission of draft legislation to the Diet and redeliberations (May 2015)

- The legislation will enable seamless responses to any situations to secure the lives and peaceful livelihood of the Japanese people. Japan will be able to contribute more proactively to the peace and stability of the international community under the policy of "Proactive Contribution to Peace" based on the principle of international cooperation.
- There is no change in Japan's basic posture and orientation for the past 70 years, including a peace-loving nation.
- The legislation will enhance the deterrence of the Japan-U.S. Alliance for the peace and stability in the Asia-Pacific region. It will also help to deepen trust and cooperative relations with other partners both within/outside the region.
- Japan will continue to make its best efforts to promote deeper understanding of countries concerned and ensure transparency.

**Further Contribution to the Peace and Stability of the International Community**

**C. Ship Inspection Operations**

• In addition to Japan's peace and security, the SDF will be able to conduct ship inspection operations for the purpose of ensuring peace and stability of the international community.

**D. Provision of Supplies /Services to the U.S. Armed Forces in peacetime**

• The SDF will be able to provide supplies/services to the U.S. Armed Forces in a wide range of situations, including when the U.S. forces operate alongside with SDF for surveillance operations. Provision of armaments will also become possible.

**E. Rescue of Japanese Nationals Abroad etc.**

• The SDF will be allowed to use weapons to rescue Japanese nationals overseas as subject to the consent of the territorial State and other conditions. Under certain conditions, the SDF will also be able to rescue non-Japanese nationals.

**Measures for Self-Defense Permitted Under the Constitution**

The GOJ had previously considered that the "use of force" under the Constitution is permitted only when an "armed attack" against Japan occurs.

Given the fundamental transformation of security environment, there arise situations when an armed attack against a foreign country could threaten Japan's survival, depending on its purpose, scale and manner.

The GOJ has reached a conclusion that the "use of force" will be permitted when the following "Three New Conditions" are met:

- (1) When an armed attack against Japan occurs or when an armed attack against a foreign country that is in a close relationship with Japan occurs and as a result threatens Japan's survival and poses a clear danger to fundamentally overturn people's right to life, liberty and pursuit of happiness,
  - (2) When there is no other appropriate means available to repel the attack and ensure Japan's survival and protect its people,
  - (3) Use of force limited to the minimum extent necessary
- \* As a matter of course, use of force must be carried out while observing international law. In certain situations this is based on the right of collective self-defense under international law.

**Further Contributions to the Peace and Stability of the International Community**

**A. Support Activities**

• The SDF will be able to provide necessary logistics support and search & rescue to armed forces of foreign countries, collectively addressing the situation which threatens the international peace and security, provided that a certain U.N. resolution is adopted  
 <Current> Special measures law → <New> Permanent law

• The SDF will be able to provide necessary logistics support and search & rescue to armed forces of foreign countries engaging in activities for ensuring Japan's peace and security in situations that will have an important influence on Japan's peace and security  
 <Current> U.S. Armed Forces → <New> Armed Forces of Foreign Countries (including U.S.)

**Further Contributions to the Peace and Stability of the International Community**

**B. International Peace Cooperation Activities**

• In addition to U.N. PKOs, Japan will be able to participate in internationally coordinated peace and security operations (Multinational cooperation outside U.N. PKO framework) under certain conditions.

• Additional roles by Japanese Corps in operation to respond to changes in role and responsibility of U.N. PKO, including the protection of civilians.

• Adoption of ROE for use of weapons to better align with current U.N. standard.  
 <Current> Limited to self-defense and protection of its own weapons/other equipment  
 → <New> New ROE for execution of missions