



December 2017

Axel Berkofsky

The EU-Japan Strategic Partnership Agreement (SPA) – Responding to the Crisis of the Liberal World Order

The EU and Japan are about to adopt two (potentially) ground-breaking agreements: an EU-Japan free trade agreement and the EU-Japan Strategic Partnership Agreement (SPA). The SPA, policymakers in both Brussels and Tokyo cheer, will be the ‘big bang’ of bilateral relations upgrading political and security ties from too passive to very active.

Introduction

In general elections held on October 22, Japan’s government led by the Liberal-Democratic Party (LDP) under Prime Minister Shinzo Abe was able to defend its two-third majority in the Lower House. The elections proved another landslide victory for the governing coalition, and the prime minister’s constitutionally controversial decision to call snap elections paid off after a recent recovery in his approval

Axel Berkofsky is Professor at the University of Pavia, Italy, and Senior Associate Research Fellow at the Milan-based Istituto per gli Studi di Politica Internazionale (ISPI).

ratings. The LDP and its coalition partner, the Komei Party, won 313 out of 465 seats in the Lower House, holding on to the two-thirds majority the coalition had secured back in December 2014. The LDP alone won 284 seats, down from the 291 seats it held before. The party that wanted to challenge Abe’s ruling coalition, the Kibō no Tō (Party of Hope) recently founded by former LDP defense minister and now Tokyo Governor Yuriko Koike, won only 50 seats. The even more recently founded Constitutional Democratic Party (CDP) won 55 seats. Abe, however, might not sit as firmly in the saddle as the election results suggest. Earlier this year, he was accused of using his influence to help a like-minded nationalist friend secure approval to open a private university. He is also accused of having donated money to an ultra-natio-

nalist school in Osaka that was built on government land sold to a close friend at a large discount.

For its part, the European Union (EU) is clearly in need of a foreign policy success story. Currently burdened by the UK's chaotic departure, a wave of populism, inwardness, xenophobia and European political parties seeking to challenge existing standards and norms, Brussels needs evidence that it is still to be counted on as peaceful promoter of global liberal values.

This is where an EU-Japan agreement could potentially make a difference. The two partners are aiming high as regards cooperation in international politics and security. The instrument through which such increased and institutionalized cooperation is envisioned is the so-called EU-Japan Strategic Partnership Agreement (SPA), which has been agreed "in principle" and which both sides hope to finalize by the end of the year. The parties to the agreement have a not unimpressive track record of adopting joint policies on a regional and global scale (e.g. joint conflict mediation and peace-building initiatives in Africa and Asia; for details see Table 1). However, there is a near-consensus among analysts that EU-Japan non-military security cooperation has yet to reach its full potential. The SPA thus aims to reduce the gap between the EU-Japan security alliance as announced in joint statements and the one actually taking place on the ground.

Now or never – maybe

The SPA is not necessarily a precondition for Brussels and Tokyo to cooperate in on-the-ground regional and global security, as their previous non-military activities show. Yet the adoption of the SPA would send a message that Europe and Japan are willing to uphold the universally established norms and values that are increasingly being challenged around the globe. In other words, if ever there was a time for the EU and Japan to step up to the table of international relations, it is now. The SPA, moreover, could be the vehicle for doing just that.

The EU, like Japan, has not made any details of the SPA available, beyond generally outlining the areas it will cover. Indeed, the information to be had on European External Action Service (EEAS) websites about

the contents of the agreement is very scarce indeed. While the EU Commission's Directorate-General for Trade (DG Trade) decided to make the draft agreement publicly available in mid-2017, the EEAS did not follow suit. The decision not to render information public somehow gives the impression that EU policymakers think they are operating in an area where transparency and accountability are optional as opposed to compulsory. Or, possibly, the EU Commission, which is in charge of the EU-Japan Economic Partnership Agreement (EPA)/Free Trade Agreement (FTA), took the step to counter accusations of non-transparency while the EEAS did not.

Against the background of the crisis of the liberal world order, the adoption of the SPA in 2017 would indeed be very welcome as it would signal that Brussels and Tokyo are joining forces to uphold and strengthen established standards of international politics and security. While the US under President Donald Trump has turned to isolationist foreign and trade policies, China is – in defiance of liberal norms and international law – promoting its own models of economic and political governance on regional and global levels.

Four years of negotiations

The second half of 2017 saw an acceleration of SPA negotiations and it is probably accurate to conclude that the unpredictable US presidency of Donald Trump prompted both sides to finally agree – after missing several self-imposed deadlines – to adopt the agreement by the end of 2017. Indeed, Abe's EU policy advisors must have counseled him not only to invest in the alliance with the US, despite Trump's erratic behavior, but also to contribute to regional and global stability by cooperating in turbulent times with a fellow soft power, the EU.

The plan to upgrade cooperation between the EU and Japan – whom Brussels refers to as "natural allies" – was launched in 2010. During the 20th EU-Japan Summit held that year, the EU and Japan agreed to adopt two legally-binding agreements: one to institutionalize and expand bilateral cooperation in international politics and security, and a second to increase bilateral trade and investment ties through free trade. This led to the so-called Framework Agreement (FA), which was later divided into

Table 1: EU-Japan Relations – Chronology and Key Initiatives

1959	Accreditation of Japan's first representative to the European Communities (EC)
1974	Establishment of the delegation of the European Communities in Japan
1987	Japanese MITI and the European Commission establish the EU-Japan Centre for Industrial Cooperation
1991	First EU-Japan bilateral summit in The Hague; adoption of The Hague Declaration
1994	Creation of EU Gateway to Japan program to enhance trade and investment between Europe and Japan
2001	EU and Japan adopt the EU-Japan action plan Shaping our Common Future (expired in 2011)
2002	EU-Japan Mutual Recognition Agreement
2003 2005, 2007	Cooperation on the Conference on Facilitating the Entry into Force of the Comprehensive Nuclear Test Ban Treaty (CTBT)
2003	EU-Japan Agreement on Cooperation on Anticompetitive Activities
2003	Biannual meetings of the EU-Japan Troika Working Group on Human Rights
2004	Co-chairs of the Ministerial Conference on Peace Consolidation and Economic Development of the West Balkans (Tokyo)
2004	Joint adoption of a protocol on disarmament and non-proliferation promoting the acceleration of the UN action plan on small arms and light weapons
2005	Launch of EU-Japan Strategic Dialogue on East Asian Security
2005	EU-Japan Year of People-to-People Exchanges
2006	EU-Japan Agreement for Cooperation in the Peaceful Uses of Nuclear Energy
2008	EU-Japan Agreement on Cooperation and Mutual Administrative Assistance
2008	EU-Japan Meeting on Human Security in the Western Balkans
2009	EU-Japan Agreement on Science and Technology Cooperation
2009	EU-Japan Agreement on Mutual Legal assistance in Criminal Matters
2009 and 2010	EU-Japan joint capacity-building seminars held in Tajikistan
2010	Creation of high-level group to identify options for the comprehensive strengthening EU-Japan trade and political relations
2011	Start of EU-Japan cooperation in disaster prevention
2012	EU-Japan "scoping exercises" for EU-Japan EPA/FTA and SPA concluded
2013	Launch of negotiations for SPA and FTA
July 2017	EU-Japan agree to adopt FTA and SPA by end of 2017

Source: Author

| BertelsmannStiftung

the Strategic Partnership Agreement (SPA) and the EU-Japan Economic Partnership Agreement (EPA)/ Free Trade Agreement (FTA). Brussels and Tokyo decided that the two agreements would be adopted together and simultaneously. The European Commission was obliged to seek authorization from the Union's member states to negotiate the agreements based on the outcome of so-called "scoping exercises." The actual negotiations for the SPA began in 2013, and after the 11th round the EU and Japan were able to agree on 31 out of 54 articles in March 2016. The outstanding articles – referred to by the EU at the time as "politically sensitive" – were agreed upon in July 2017, a success announced at the 24th EU-Japan Summit held the same month. Yet negotiations for the SPA continue, since the agreements require what Brussels refers to as "final legal fine tuning."

The SPA is envisioned to be "binding" in the sense that there will be a well-defined list of issues and areas the EU and Japan will address in the years ahead. However, the extent to which Brussels and Tokyo believe the SPA actually obliges them to implement the kind of cooperation formulated in the agreement is unclear, at least to the outside observer. The SPA's 54 articles cover cooperation in over 30 areas and will upgrade EU-Japan political and security cooperation, moving from sectoral agreements to one comprehensive binding agreement. The economic and trade benefits resulting from the EPA/FTA are also impressive. For example, the free trade agreement is expected to boost EU exports to Japan by 34 percent and Japanese exports to the EU by 29 percent in coming years and will save Japan and the EU €1 billion in custom duties per year.

Figure 2: EU Trade with Japan in Goods and Services



Source: European Commission, Directorate-General for Trade; http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_111836.pdf | BertelsmannStiftung

What kind of agreement?

It is yet not known whether the SPA will be an EU-only or a mixed agreement. The European Commission is obviously aiming for an EU-only agreement, which would give the Commission exclusive competence, while a number of EU member states want a mixed agreement, which would have to be ratified by all EU member states. If the latter type is chosen, the inner-European adoption process could be slowed down significantly in 2018 and beyond.

The SPA is not entirely free of controversy. Tokyo, for example, was opposed to the introduction of the EU's so-called "essential elements clause," which the Union uses in agreements with other countries to stipulate respect for human rights. The clause requires the EU to conduct what is referred to as "principled foreign policy" as formulated in Article 21 of the Treaty of the Functioning of the European Union (TFEU). The EU is obliged to include the clause even in agreements with like-minded democratic countries, something the European Commission and the EEAS

have long complained about. In this case, the likelihood of Japan violating human rights, thus leading to the interruption of negotiations with Brussels, was always non-existent. From a Japanese perspective, the clause understandably conveys the message that Brussels is “supervising” the quality of Japanese foreign policy.

Also (some) hard security?

While non-military security cooperation will remain the core of EU-Japan collaboration as formulated in the SPA, hard/military cooperation is also envisioned as a contribution to regional and global security, not least as military cooperation for security purposes has already taken place in the recent past. For example, Tokyo and Brussels have been working together to fight maritime piracy off the coast of Somalia and in the Gulf of Aden since 2009. Japanese Maritime Self-Defense Force (MSDF) destroyers began their participation in March 2009, and two P-3C maritime patrol aircraft were added three months later. The MSDF unit has been sharing information with other countries. It has also been conducting operations in the field, including as part of Operation Atalanta, a campaign initiated by the EU Naval Force to combat Somali-based piracy. Working together, European and Japanese naval forces arrested a number of pirates in 2014, and their joint naval exercises have included activities such as tactical maneuvering, helicopter take-offs and landings, and boarding.

Under Prime Minister Shinzo Abe, Japan is arguably more interested in expanding Japanese military capabilities and security ties with the US than in “soft power” security cooperation with the EU. Moreover, the country must have its doubts about the EU’s ability to help defend Japanese security interests in East Asia. While Tokyo has intensified bilateral defense relations with countries such as the UK and France in recent years, the EU is undoubtedly of secondary importance to Tokyo as a policy actor able to influence hard security issues in Asia. That is, unless Brussels is prepared to follow-up on verbal opposition to Beijing building civilian and military facilities on islands in the South China Sea, islands also claimed by other countries, with concrete action, such as European naval patrols in the area, as suggested then by French Defense Minister Jean-Yves Le Drian in 2016. And while there would be nothing wrong – legally or operationally – with Europe coordinating patrols in

the South China Sea with Japan and/or the US, it is unlikely that European navies will be active in those waters any time soon. For now, Tokyo and Brussels are limiting themselves to expressing (albeit in an increasingly outspoken manner) concerns about Chinese territorial expansionism in the area.

Envisioned as a way of strengthening links in the development-security nexus, the SPA is also meant to create synergies between the EU’s “comprehensive approach” to regional and global security and Japan’s “human security” concept in the Middle East and Asia. It is also expected to cover what Brussels refers to as “post-industrial security dossiers,” i.e. counter-terrorism, maritime security, natural disaster prevention, cyber-defense, arms control and non-proliferation of weapons of mass destruction.

Japanese contributions to CSDP missions

Japanese contributions to EU Common Security and Defense Policy (CSDP) missions date back to the 1990s and the Balkan Wars. Since then, Japan has contributed more than \$2 billion to the reconstruction of the Western Balkans as part of what Tokyo referred to as “peace-building policies.” This included the deployment of an elections observation mission to Kosovo (2004), the provision of Overseas Development Assistance (ODA) payments to the Trust Fund for Human Security on the Balkans and the deployment of peacekeepers to Kosovo and Bosnia-Herzegovina. In terms of recent contributions, Tokyo decided in 2014 to provide grant aid through the UN Development Program to the EU’s CSDP mission in Niger, spending roughly €1.5 million for wireless communication devices and wireless-equipped vehicles that can carry out patrols in the African country. In March 2015, Japan started contributing to the civilian EU CSDP mission in Mali, begun in April 2014, assisting Mali’s security sector, with Tokyo providing roughly €3.7 million to rehabilitate the country’s national police academy. Brussels and Tokyo are also collaborating on other defense and security-related activities in Niger, Mali and the Democratic Republic of Congo that are designed to combat terrorism, assist peacekeeping efforts and promote judicial cooperation. Currently, Brussels and Tokyo are negotiating a Framework Partnership Agreement (FPA), designed to facilitate deployment of Japanese armed forces to CSDP mis-

sions. Once adopted, the FPA will institutionalize Japanese contributions to European CSDP missions such as those in Niger and Mali. Until the FPA is signed, the EU and Japan will, legally speaking, not be conducting joint missions, but what Brussels refers to as “parallel coordinated actions.”

Doing business with the UK and France

In January 2014, France and Japan held their first “2 plus 2” meeting, bringing together their foreign affairs and defense ministers. During their second 2 plus 2 gathering in 2015, the ministers discussed the so-called Plan of Action for Africa, which included the possibility of joint French-Japanese border security actions in Niger, Mali and Burkina Faso, as well as other joint peacekeeping policies and missions in Africa. In July 2014, the two countries signed a memorandum of understanding to intensify their cooperation in the area of defense, including the joint development of unmanned underwater vehicles.

In April 2012, Tokyo and London signed their first joint weapons development agreement. It was followed by two more agreements in July 2013: the Defence Equipment Cooperation Framework, designed to facilitate joint development of military equipment, and the Information Security Agreement, which promotes cooperation in the area of intelligence. This has resulted in joint development of chemical and biological-warfare suits and cooperation in the area of missile technology, among others. In May 2014, the UK and Japan started negotiating a bilateral Acquisition and Cross-Servicing Agreement, which foresees the provision of logistical and technical support to the countries’ armed forces. They then held their first 2 plus 2 meeting in January 2015. The closer cooperation, however, is about money as much as security. The expansion of defense ties with the UK and France is helping Tokyo give what Japan’s defense industry has been wanting for decades: a slice of the global weapons procurement market, made possible by Tokyo lifting its ban in 2014 on exporting weapons and weapons technology.

The (Chinese) elephant in the room

If the EU is serious about increasing its involvement in Asian security and if Japan is really Brussels’

“natural ally” in Asia, then EU-Japan security cooperation must address China’s increasingly assertive policies in disputed East and Southeast Asian waters. The EU is trying to influence Chinese security and defense policy behavior through a bilateral EU-Chinese dialogue on East Asian security, albeit to no avail. In 2010, the EU and China established the annual EU-China High-level Strategic Dialogue, which policymakers in Brussels (falsely) hoped would encourage Beijing to become more transparent about its territorial policies, defense expenditures and military procurement policies. However, Beijing has repeatedly and very assertively made it clear that it is not interested in any kind of “interference” by the EU in Chinese security and defense policies. While Tokyo officially endorses the EU’s (ineffective) attempts to subdue Beijing’s territorial ambitions, it is fully aware that Chinese economic “retaliation” tactics will severely limit the willingness exhibited by Brussels and EU Member States to team up with Japan against China and its aggressive territorial policies in the East and South China Seas. In the past Japan expected – but did not really receive – strong EU support for its condemning Chinese intrusions into territorial waters claimed by Japan in the East China Sea, including those near the Senkaku Islands, which Japan has controlled de facto since its victory over China in the first Sino-Japanese War in 1894/1895.

Conclusion

If we are to believe what Brussels and Tokyo promised in July, the SPA will be finalized by the end of 2017. Although the agreement will, above all, institutionalize the non-military security cooperation being carried out by the EU and Japan, the two partners are nonetheless advised to consider increasing tangible, shared contributions to Asian security, including joint patrols in the South China Sea. Yet even without headline-making cooperative military efforts, the SPA has the potential – even if it is probably limited – to help uphold and enforce international rules and norms, currently challenged by the crisis weakening the liberal world order. For that to happen, however, the EU and Japan will have to stop talking and start spending, thereby realizing the SPA’s benefits for regional and global peace and stability.

Latest editions:

Asia Policy Brief | June 2017

President Moon Jae-in – The
Right Choice for South Korea

Hannes B. Mosler

Asia Policy Brief | February 2017

Can Modi make
the elephant dance?

Murali Nair

Asia Policy Brief | August 2016

The End of Panda Politics

Bernhard Bartsch

Responsible according to German press law

Bertelsmann Stiftung
Carl-Bertelsmann-Straße 256
33311 Gütersloh
www.bertelsmann-stiftung.de

Stephan Vopel
stephan.vopel@bertelsmann-stiftung.de

Dr. Peter Walkenhorst
peter.walkenhorst@bertelsmann-stiftung.de

If you have any questions or if you wish to
subscribe to the “Asia Policy Brief” please
write to asien@bertelsmann-stiftung.de.

All “Asia Policy Brief” editions can be
downloaded from www.bertelsmann-stiftung.de/asien.

ISSN 2364-8562