



Japan-U.S. Relations: Issues for Congress

Emma Chanlett-Avery, Coordinator
Specialist in Asian Affairs

William H. Cooper
Specialist in International Trade and Finance

Mark E. Manyin
Specialist in Asian Affairs

September 23, 2011

Congressional Research Service

7-5700

www.crs.gov

RL33436

Summary

The post-World War II U.S.-Japan alliance has long been an anchor of the U.S. security role in East Asia. The alliance facilitates the forward deployment of about 36,000 U.S. troops and other U.S. military assets in the Asia-Pacific, thereby undergirding U.S. national security strategy in the region. For Japan, the alliance and the U.S. nuclear umbrella provide maneuvering room in dealing with its neighbors, particularly China and North Korea.

When a devastating earthquake and tsunami hit Japan on March 11, 2011, U.S.-Japan relations were stable but still recovering from a difficult period in 2009-2010. The Democratic Party of Japan's (DPJ's) landslide victory in the August 2009 elections for the Lower House of Japan's legislature marked the end of an era in Japan; it was the first time Japan's Liberal Democratic Party (LDP) was voted out of office. The LDP had ruled Japan virtually uninterrupted since 1955. Since the resignation of the DPJ's first prime minister, Yukio Hatoyama, in June 2010, bilateral relations have been smoother under the leadership of Naoto Kan and newly-elected Prime Minister Yoshihiko Noda. The party appears to have shifted its strategic thinking after a series of provocations from North Korea and indications of growing assertiveness from the Chinese military in disputed waters in 2010. The massive and immediate relief provided by the United States following the March 11 disaster bolstered the relationship further.

Difficult problems remain in the alliance, particularly in implementing a 2006 agreement to relocate the controversial Futenma Marine Air Station to a less densely populated location on Okinawa. The move is to be the first part of a planned realignment of U.S. forces in Asia, designed in part to reduce the footprint of U.S. forces on Okinawa by redeploying 8,000 U.S. Marines and their dependents to new facilities in Guam. After months of indecision and mixed messages from Tokyo, the Hatoyama government agreed to honor the original agreement, much to the dismay of the many Okinawans opposed to the base. Both Kan and Noda voiced intention to honor the agreement, but the task of reconstruction and the political weakness of the Prime Minister's office are likely to preclude swift progress.

Japan is one of the United States' most important economic partners. Outside of North America, it is the United States' second-largest export market and second-largest source of imports. Japanese firms are the United States' second-largest source of foreign direct investment, and Japanese investors are the second-largest foreign holders of U.S. treasuries, helping to finance the U.S. deficit and reduce upward pressure on U.S. interest rates. Bilateral trade friction has decreased in recent years, partly because U.S. concern about the trade deficit with Japan has been replaced by concern about a much larger deficit with China. One exception was U.S. criticism over Japan's decision in 2003 to ban imports of U.S. beef, which have since resumed, but on a limited basis.

However, the economic problems in Japan and the United States associated with the credit crisis and the related economic recession, together with the impact of the March 11 disasters, will likely dominate the bilateral economic agenda for the foreseeable future. Japan has been hit particularly hard by the financial crisis and the subsequent economic downturn. Japan's gross domestic product (GDP) declined 1.2% in 2008 and 5.3% in 2009 but grew 4.0% in 2010. It is expected to increase only 1.0% in 2011 as a result of the March 11 earthquake, tsunami, and nuclear accident. The value of the yen has appreciated and has hit 15-year highs against the U.S. dollar, which could adversely affect Japanese exports to the United States and other countries, contributing to the downturn in Japanese economic growth.

Contents

| | |
|--|----|
| Most Recent Developments | 1 |
| Japan Gets a New Prime Minister | 1 |
| “2+2” Security Consultations Held | 1 |
| Futenma Controversy Remains Unresolved | 1 |
| March 2011 “Triple Disaster” | 2 |
| Japan’s Response | 3 |
| Economic Impact | 3 |
| U.S.-Japan Alliance Performance | 4 |
| Major Diplomatic and Security Issues | 6 |
| North Korea and the Six-Party Talks | 6 |
| Regional and Historical Issues | 7 |
| China | 7 |
| South Korea | 8 |
| Japan’s Counter-Piracy Mission in the Gulf of Aden | 9 |
| Japanese Sanctions on Iran | 9 |
| Afghanistan/Pakistan | 9 |
| International Climate Negotiations | 9 |
| International Child Custody Disputes | 10 |
| Alliance Issues | 10 |
| March 2011 Earthquake and Tsunami: U.S.-Japan Alliance Performance | 11 |
| Military Realignment Agreement and Futenma Relocation Controversy | 12 |
| Background to Realignment Agreement | 13 |
| Burden-Sharing Issues | 14 |
| F-22 Debate | 14 |
| Extended Deterrence | 14 |
| Secret Nuclear Agreement | 15 |
| Article 9 Restrictions | 15 |
| Economic Issues | 16 |
| Overview of the Bilateral Economic Relationship | 17 |
| Bilateral Trade Issues | 18 |
| Japan’s Ban on U.S. Beef | 18 |
| Japan and the Trans-Pacific Partnership Agreement (TPP) | 19 |
| Insurance | 19 |
| The Byrd Amendment | 20 |
| WTO Dispute | 21 |
| The Doha Development Agenda | 21 |
| Japanese Politics | 22 |
| Developments in August and September 2011 | 23 |
| The DPJ Chooses Yoshihiko Noda | 23 |
| The Early Noda Government | 24 |
| Japan’s Nuclear “Village” | 25 |
| Japan’s Demographic Challenge | 26 |
| Selected Legislation | 26 |
| 112 th Congress | 26 |
| 111 th Congress | 26 |

Figures

| | |
|---|----|
| Figure 1. Map of Japan | 2 |
| Figure 2. Affected Areas from March 3, 2011 Disaster | 5 |
| Figure 3. Selected U.S. Military Facilities and Areas Affected by the Quake | 12 |
| Figure 4. Map of Military Facilities in Japan | 16 |
| Figure 5. Party Affiliation in Lower House | 23 |
| Figure 6. Party Affiliation in Japan’s Upper House | 23 |

Tables

| | |
|--|----|
| Table 1. U.S. Trade with Japan, Selected Years | 17 |
|--|----|

Contacts

| | |
|---------------------------------|----|
| Author Contact Information..... | 28 |
|---------------------------------|----|

Most Recent Developments

Japan Gets a New Prime Minister

In August, after months of attacks from all quarters and plummeting approval ratings, Prime Minister Naoto Kan announced his intention to resign as head of the ruling Democratic Party of Japan (DPJ). In an internal party vote, the DPJ selected then-Finance Minister Yoshihiko Noda to become Japan's next premier. Noda has made his top priority managing the recovery and reconstruction from the March 3, 2011 Great East Japan Earthquake. He has quickly moved to try to heal the factionalism and policy disarray that have weakened the DPJ's for much of its two years in power. However, a possibly insurmountable obstacle is that the DPJ controls only one of Japan's two legislative chambers, the Lower House. The Liberal Democratic Party (LDP), teaming with some smaller parties, has used its control of the Upper House to stymie nearly all the DPJ's initiatives, in an attempt to force the DPJ to call early elections. As long as the LDP is ahead or even with the DPJ in public opinion polls, as has been the case for most of 2011, the LDP and its partners have little incentive to cooperate with Noda. Thus, many analysts expect policy paralysis on many fronts for the coming months.

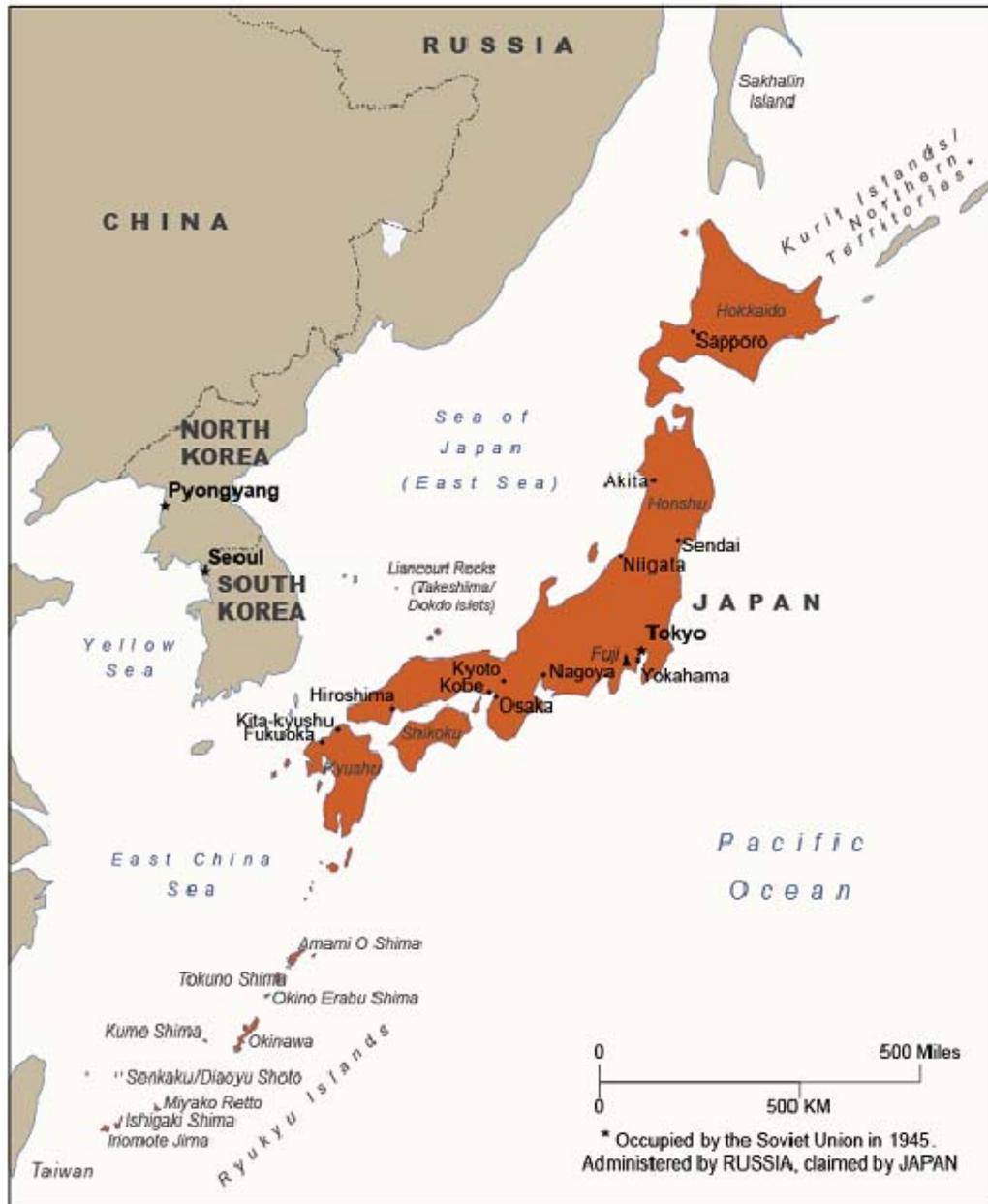
"2+2" Security Consultations Held

In June, Secretary of State Hillary Clinton and Secretary of Defense Robert Gates convened a Security Consultative Committee (SCC, or "2+2" meeting) with their Japanese counterparts. It was the first SCC held in four years and the first since the DPJ government took power in 2009. Despite the uncertainty surrounding the timing of Kan's resignation and the imminent departure of Gates, defense officials described the meeting as important in reaffirming ties, particularly after the success of the joint response by the U.S. and Japanese militaries to the March calamities. A joint statement updated common strategic objectives and outlined ways to modernize the alliance. The document elaborated on cooperative efforts in cyberspace, trilateral initiatives with South Korea, Australia, and India, and ballistic missile defense. A long-sought agreement for Japan to allow for the transfer of jointly-developed missile components to third parties was announced, representing an exception to Japan's ban on arms exports.

Futenma Controversy Remains Unresolved

Despite reiterations of support for the agreement to relocate a Marine air base from Futenma to another part of Okinawa during the 2+2 meetings, progress on the move has stalled. (For more on the controversy, see "Alliance Issues" section below.) The politics surrounding the 2006 agreement appear to be gridlocked, with Okinawan officials indicating little flexibility in their opposition to the relocation. According to Japanese press reports, the Noda government is considering an economic development package for Okinawa to be presented later this fall. Although the package is not explicitly linked to the base issue, many analysts claim that generous grants to localities affected by the U.S. military facilities are intended to persuade local leaders to accept the existing agreements. Japanese press outlets reported that President Obama urged Prime Minister Noda to indicate tangible progress on the deal during their meeting on the sidelines of the United Nations General Assembly in September.

Figure I. Map of Japan



Source: Map Resources. Adapted by CRS.

March 2011 “Triple Disaster”

On March 11, a magnitude 9.0 earthquake jolted a wide swath of Honshu, Japan’s largest island. The quake, with an epicenter located about 230 miles northeast of Tokyo, generated a tsunami that pounded Honshu’s northeastern coast, causing widespread destruction in Miyagi, Iwate, Ibaraki, and Fukushima prefectures. Six months after the disaster, over 15,000 deaths have been confirmed, with over 4,000 missing and likely to be included in the final death toll. It appears that the tsunami, rather than the earthquake, caused nearly all the deaths. Entire towns were washed

away; over 500,000 homes and other buildings, as well as around 3,600 roads were damaged or destroyed. Up to half a million Japanese were displaced; six months later, around 80,000 people remained homeless, housed in temporary shelters.

Damage to several reactors at the Fukushima Dai-ichi nuclear power plant complex led the government to declare a nuclear emergency and evacuate nearly 80,000 residents within a 20 kilometer radius due to dangerous radiation levels. The plant's operator, the Tokyo Electric Power Company (TEPCO), has claimed that it will fully shut down the plant by the end of 2011, but is still struggling to control further radiation release. In late May, TEPCO officials acknowledged that the damage to fuel rods inside multiple reactors was worse than initially thought.

Japan's Response

In many respects, Japan's response to the multifaceted disaster was remarkable. Over 100,000 troops from the Self Defense Forces (SDF), Japan's military, were deployed quickly to the region. After rescuing nearly 20,000 individuals in the first week, the troops turned to a humanitarian relief mission in the displaced communities. Construction of temporary housing began a week after the quake. Commentators marveled at Japanese citizens' calm resilience, the lack of looting, and the orderly response to the worst earthquake in the nation's history. Japan's preparedness—strict building codes, a tsunami warning system that alerted many to seek higher ground, and years of public drills—likely saved tens of thousands of lives.

Despite this response to the initial event, the uncertainty surrounding the nuclear reactor accident and the failure to present longer-term reconstruction plans led many to question the government's handling of the disasters. As reports mounted about heightened levels of radiation in the air, tap water, and produce, criticism regarding the lack of clear guidance from leadership emerged. Concerns about the government's excessive dependence on Tokyo Electric Power Company (TEPCO), the firm that owns and operates the power plant, amplified public skepticism and elevated criticism about coziness between regulators and utilities.

Economic Impact

The earthquake and tsunami initially had a large negative economic impact on Japan but a lesser effect on world markets. Japan lost considerable physical and human capital. Physical damage has been estimated from \$195 billion to as much as \$305 billion, not including the Fukushima disaster. A shortfall of power in Tokyo and northern Japan led to some mandatory restrictions and inspired individual consumers to voluntarily impose conservation measures. Radiation has apparently affected Japan's food chain, leading Tokyo to impose restrictions on the sale of several products from the affected areas. Due to ongoing safety concerns, the majority of Japan's nuclear reactors are currently offline. Nuclear power generated about 30% of Japan's electricity in the past and was anticipated to provide more than half in the upcoming decades. The uncertainty surrounding the nation's energy profile in the years ahead is among the many problems plaguing Japan in the aftermath of the disasters.

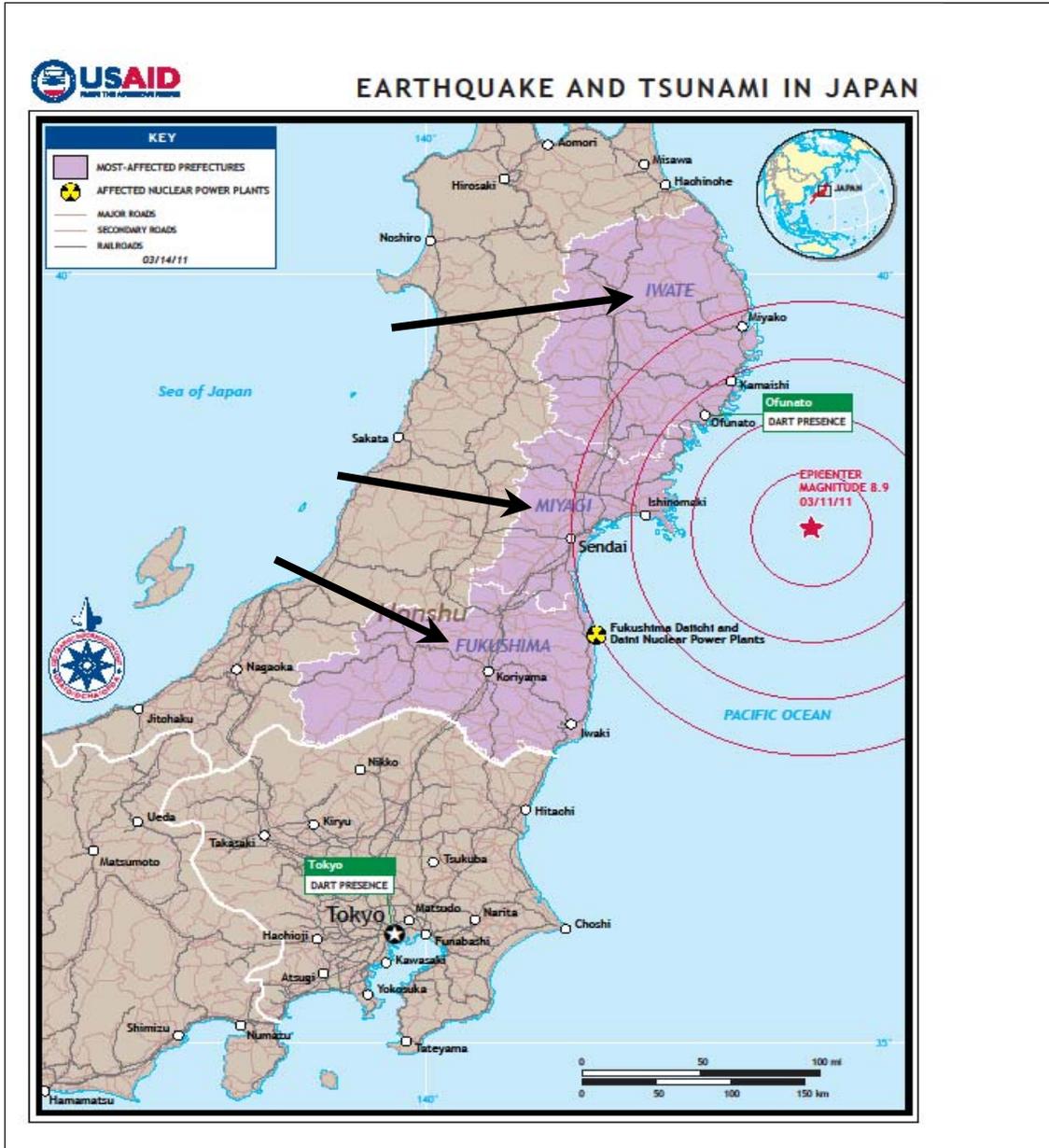
However, global supply chains are recovering more quickly than initially feared, and government spending has driven a slight uptick in growth in Japan. Although the removal of debris in Tohoku remains a mammoth task, all major roads and rail service has been restored to the region.

U.S.-Japan Alliance Performance

The U.S. response was swift and substantial. U.S. humanitarian assistance totals over \$95 million, with over \$88 million of that from the Department of Defense (DOD). The U.S. military dispatched thousands of personnel and hundreds of aircraft and naval vessels, including an aircraft carrier task force, to work alongside SDF forces. The expeditionary capability of the U.S. forces allowed them to provide crucial support from sea as well as logistical coordination from a relief hub at Sendai airport. The existing structure of the SDF and U.S. bases in the region allowed for effective response to the overwhelming and multi-faceted disaster. (See “Alliance Issues” section for further details.)

As the crisis surrounding the damaged reactors at the Fukushima Dai-ichi facility intensified, the United States stepped up efforts to assist the government of Japan. The Nuclear Regulatory Commission, Department of Energy, and Department of Defense all contributed assistance to help Japan deal with the nuclear crisis. Efforts included on-the-ground expertise, decontamination of assets, monitoring of contamination of food and water, aerial detection capability, high-pressure water pumps, fire trucks, and protective gear from radioactivity. The Marines’ Chemical and Biological Incident Response Force (C-BIRF) also provided training to the Japanese SDF forces operating in the area of the stricken reactor.

Figure 2. Affected Areas from March 3, 2011 Disaster



Source: U.S. AID.

Major Diplomatic and Security Issues¹

The March 2011 earthquake took place at a time when U.S.-Japan relations were regaining their footing after a challenging period. When the DPJ came into power under Hatoyama's leadership, relations with Washington got off to a rocky start because of the Futenma issue (see below), but some observers chalked this up to the DPJ's inexperience in governance. Friction in the alliance and stalemate on the Okinawa agreement had been present for several years under previous LDP governments. After a period of rejuvenated defense ties in the first years of the George W. Bush Administration, expectations of a transformed alliance with a more forward-leaning defense posture from Japan diminished. In the final years of the decade, political paralysis and budgetary constraints in Tokyo, Japan's slow-to-little progress in implementing base realignment agreements, Japanese disappointment in Bush's policy on North Korea, and a series of smaller concerns over burden-sharing arrangements led to reduced cooperation and a general sense of unease about the partnership.

Despite the public flap over the relocation of the Futenma airbase between the Obama and Hatoyama Administrations, regional conflicts in 2010 appeared to reset the relationship on more positive footing. Repeated provocations from North Korea and a confrontation with China over a ship collision in disputed waters led to strong statements of mutual support and unity. The alliance seemed to re-focus itself on the changing security contours of the region, with an explicit attention to China's activities. Although major military basing issues remain unresolved, the joint response to the March disasters offered evidence of the underlying strength of the partnership. Repeated public declarations of support from the highest levels of the U.S. government and military, combined with the rapid deployment of resources to aid the victims of the tsunami, presented an alliance apparently unwavering in its fundamental commitment. At the same time, the staggering task of rebuilding for Japan may result in fewer resources to commit to international efforts that are important to the United States.

North Korea and the Six-Party Talks

Washington and Tokyo appear to be strongly united in their approach to North Korea in the stalled Six-Party negotiations process. Although the U.S. and Japanese positions diverged in the later years of the Bush Administration, Pyongyang's string of provocations in 2010 forged a new consensus among the other parties, particularly Japan, South Korea, and the United States. Tokyo voiced strong support for South Korean President Lee Myung-bak's administration after Seoul blamed a North Korean torpedo attack for the sinking of a South Korean Navy ship in March

Japan Country Data

Population: 126.4 million

% of Population over 64: 22% (U.S. = 12.4%)

Area: 377,835 sq km (slightly smaller than California)

Life Expectancy: 82 years

Per Capita GDP: \$34,000 (2010 est.) purchasing power parity

Primary Export Partners: US 17.8%, China 16%, South Korea 7.6%, Hong Kong 5.1% (2008)

Primary Import Partners: China 18.9%, U.S. 10.4%, Saudi Arabia 6.7%, Australia 6.2%, UAE 6.1%, Indonesia 4.3% (2008)

Yen: Dollar Exchange Rate: 87.78 (2010), 94.5 (2009), 103.58 (2008), 117.99 (2007), 116.18 (2006), 110.22 (2005)

Foreign Exchange Reserves: \$1.063 trillion (December 2010 est.)

Source: CIA *World Factbook*, February 2010

¹ This section was written by Emma Chanlett-Avery.

2010, as well as after the artillery attack on Yeonpyeong Island. North Korea's provocations have helped to drive enhanced trilateral defense initiatives between Washington, Tokyo, and Seoul. In response to North Korea's nuclear test on May 25, 2009, Japan helped lead international efforts to draft a tough new U.N. Security Council resolution (1874) that strengthens arms embargos on the regime and calls on member states to inspect North Korean vessels for illicit weapons. Japan has imposed a virtual embargo on all trade with North Korea. North Korea's missile tests have demonstrated that a strike on Japan is well within range, spurring Japan to move forward on missile defense cooperation with the United States.

In addition to Japan's concern about Pyongyang's weapons and delivery systems, the issue of several Japanese citizens abducted by North Korean agents in the 1970s and 1980s remains a top priority for Tokyo in the multinational negotiations. Japan has pledged that it would not provide economic aid to North Korea without resolution of the abductee issue. The abductee issue remains an emotional topic in Japan. In 2008, the Bush Administration's decision to remove North Korea from the list of state sponsors of terrorism in exchange for North Korean concessions on its nuclear program dismayed Japanese officials, who had maintained that North Korea's inclusion on the list should be linked to the abduction issue.

Regional and Historical Issues

Historical issues have long dominated Japan's relationships with its neighbors, and particularly China and South Korea, who remain resentful of Japan's occupation and belligerence during the World War II period and earlier. The DPJ government has indicated a willingness to more emphatically address Japan's history of aggression. Under the DPJ, Japan has built upon improvements that began under recent LDP governments. At the outset of the DPJ's rule, relations improved, with ceremonial visits marked by exceptional warmth. The relationship with China, however, has chilled significantly, particularly with developments in the East China Sea. Tokyo-Seoul relations appeared to be on their most positive footing in years, although long-standing territorial disputes continue to dampen the chances for a major breakthrough between the two U.S. allies.

Prime Minister Noda's stance on historical issues is somewhat less clear than his predecessors' positions. Both Hatoyama and Kan pledged not to visit Yasukuni Shrine (a Shinto shrine that honors Japanese soldiers who died in war, including several convicted Class A war criminals), thereby removing an obstacle that strained Tokyo's relationships with Beijing and Seoul in the early and mid-2000s. Noda has also indicated neither he nor his ministers will pay homage at the shrine. In 2005, however, as an opposition lawmaker, Noda stated that he does not believe that the individuals in question should be considered war criminals due to the legal restoration of their honor through the signing of the 1951 San Francisco Peace Treaty and the passage of several related Diet resolutions. This position drew ire from both South Korea and China after Noda's selection as Prime Minister, and threatens to shade the new government's Northeast Asia foreign policy agenda.

China

Sino-Japanese relations tentatively warmed in the past few years, only to suffer major setbacks as historical mistrust and contemporary rivalries surfaced. A September 2010 incident in a disputed area of the East China Sea re-ignited long-standing sovereignty tensions. The Japanese Coast Guard arrested the crew of a Chinese fishing vessel after the trawler apparently collided with two

Coast Guard ships in the areas surrounding the Senkaku Islands (called the “Diaoyu” Islands by the Chinese). The islands, located between Taiwan and Okinawa and reportedly rich in energy deposits, are administered by Japan but claimed by Tokyo, Beijing, and Taipei. After Japan released the crew but kept the captain of the Chinese ship in custody, Chinese officials reacted vociferously by cancelling exchanges, threatening unspecified “countermeasures,” and, according to some, temporarily halted the export of rare earth minerals that are essential to Japanese automakers’ operations.

While the captain’s release soon thereafter appeared to calm the hostile rhetoric, the episode points to some troubling trends. The historical sensitivity over territorial issues and the potential abundance of natural resources in the disputed waters are a combustible combination. China’s maritime activities have become more assertive in recent years, including several instances of Chinese naval helicopters buzzing Japanese destroyers in the East China Sea. This pattern has played out in other waters bordering on China, including the Yellow Sea and the South China Sea. China’s intense and immediate escalation of rhetoric in what could have been a more routine matter also disturbed many regional observers.

As the dispute played out, the United States reasserted its position that it would not weigh in on territorial disagreements but that the islands are subject to Article 5 of the U.S.-Japan security treaty, which stipulates that the United States is bound to protect “the territories under the Administration of Japan.”

South Korea

Japan’s relations with South Korea have been on a positive trajectory under South Korean President Lee Myung-bak, who took power in 2008. The year 2010 marked the 100th anniversary of Japan’s annexation of the Korean peninsula and subsequent colonial rule. In August 2010, Kan issued a statement that expressed Japan’s “deep remorse” and “heartfelt apology” for its past actions. The statement was welcomed by the government in Seoul, although much of the Korean public remains skeptical about Tokyo’s sincerity. After the March 11 earthquake, South Korea sent rescue personnel, medical supplies, and millions of dollars in donations to assist the victims.

Diplomatically the two nations appear to be drawing closer together. North Korea’s provocative acts have served to drive closer trilateral cooperation among the United States, Japan, and South Korea. In the aftermath of the Yeonpyeong shelling in November 2010, the South Koreans sent military observers to participate in joint U.S.-Japan defense exercises for the first time in history and, later, both sides announced plans to sign an agreement to allow for the exchange of military goods and services during peacetime operations. In the past, U.S. officials’ attempts to foster this coordination were often frustrated because of tension between Seoul and Tokyo.

Despite these positive indicators, the perennial issues of a territorial dispute and Japanese history textbooks continue to periodically ruffle relations. A group of small islands known as Dokdo in Korean and Takeshima in Japanese (and referred to as the Liancourt Rocks by the United States) remain administered by South Korea but claimed by Japan. Mentions of the claims in Japanese defense documents or local prefectures routinely spark official criticism and public outcry in South Korea. Similarly, Seoul voices regular disapproval of some of the history textbooks approved by Japan’s Ministry of Education that South Koreans claim plays down or whitewashed Japan’s colonial atrocities.

Japan's Counter-Piracy Mission in the Gulf of Aden

Japan's military, known as the Self-Defense Force (SDF), has been engaged in counter-piracy activities in the Gulf of Aden since March 2009. Approximately 400 marine and ground personnel are stationed in Djibouti and currently housed in Camp Lemonier, the large U.S. military base located close to Djibouti's airport. In April 2010, the Japanese government announced plans to build its own \$40 million facility in Djibouti, effectively establishing an overseas base for its military. Although this would be Japan's first foreign base since World War II, the move has sparked little controversy among the generally pacifist Japanese public.

Japanese Sanctions on Iran

Tension between the United States and Japan over Japan's trading and investment relationship with Iran has existed for years; the Obama Administration has increased pressure on Tokyo to further curtail its trading ties with Tehran in line with Washington's rising concern about Iran's nuclear program. In September 2010, Japan announced that it would impose additional sanctions on Iran due to its nuclear program. The new restrictions, which exceed the requirements of United Nations Security Council Resolution 1929, generally follow the European Union model, including a broad ban on investments in and restrictions on sales to Iran's energy sector, as well as a freeze on certain assets of Iranian banks. The sanctions do not affect Japan's oil imports from Iran, which account for 10% of its crude imports. Japan is Iran's second-largest trading partner after China, due almost exclusively to Iran's energy exports. In 2009, about 12% of Iran's oil exports were shipped to Japan.²

Afghanistan/Pakistan

Japan's contribution to anti-terrorism and stability operations in Afghanistan has shifted form with the arrival of a new government in Tokyo. As promised during the campaign, the Hatoyama administration terminated Japan's participation in the U.S.-led Operation Enduring Freedom mission. The Japanese Maritime Self Defense Force had been providing fuel and water to other coalition ships in the Indian Ocean since 2001. When in opposition, the DPJ had opposed the deployment on the grounds that the mission fell under the U.S.-led operation and was not authorized by the United Nations. In exchange, Japan pledged up to \$5 billion in civilian aid for Afghanistan's reconstruction. In January 2010, Japan offered \$50 million to start a fund designed to convince militants to give up violence and reintegrate into mainstream society.

Japan reportedly considered sending troops to participate in a Provincial Reconstruction Team (PRT) in Afghanistan, but has shied away from such a commitment. A deployment would likely be controversial for the pacifist-leaning Japanese public.

International Climate Negotiations

Tokyo has sought to highlight Japan's leadership on environmental issues, where Japan has long been recognized as a global leader in energy efficiency and development of clean energy technology, including hybrid cars. Japan is the fourth-largest emitter of greenhouse gases after the

² Economist Intelligence Unit, *Iran Country Report*, August 2010.

United States, the Russian Federation, and China. Under the Kyoto Protocol, which Tokyo ratified in 2002, Japan is obligated to reduce its emissions to 6% below its 1990 levels by 2012, although it is unlikely to meet this goal without purchasing international carbon emission offset credits. Japanese industry shares many of the concerns of U.S. industry about the cost and feasibility of robust emission reductions.

Former Prime Minister Hatoyama pledged to cut Japan's greenhouse emissions to 25% of 1990 levels by 2020, a goal that some experts in Japan have characterized as unrealistic. Japan is considered to be closely aligned with the Obama Administration in international climate negotiations in its position that any legally binding post-2012 climate agreement must be binding in a symmetrical way, with all major economies agreeing to the same elements. Japan is a strong supporter of the 2009 Copenhagen Accord, as well as the 2010 "Cancun Agreements."

International Child Custody Disputes

The issue of overseas Japanese women in failed marriages taking children to Japan without the consent of the foreign husband or ex-husband has become an issue in bilateral relations. Sometimes, these women have acted in contravention of foreign custody settlements and, after arriving in Japan, have prevented the children from meeting their fathers. With cases involving over 269 children, the United States reportedly has the largest number of such disputes with Japan.³ Legally, Japan only recognizes sole parental authority, under which only one parent has parental rights, and there is a deep-rooted notion in Japan that the mother should assume custody. Japanese officials say that, in many cases, the issue is complicated by accusations of abuse or neglect on the part of the foreign spouse, though a senior U.S. State Department official has said that there are "almost no cases" of substantiated claims of violence.⁴

In September 2010, the House of Representatives passed a resolution (H.Res. 1326) calling on Japan to address the problem, provide access to the children to the parents, and join the 1980 Hague Convention on the Civil Aspects of International Child Abduction. The increased publicity has raised awareness of the issue in Japan, particularly among Diet members. In May 2011, the government announced that it intended to accede to the Convention, and plans to submit the necessary bills to the Diet by the end the year.

Alliance Issues⁵

Japan and the United States are military allies under a security treaty concluded in 1951 and revised in 1960. Under the treaty, Japan grants the United States military base rights on its territory in return for a U.S. pledge to protect Japan's security. Although defense officials had hoped that the 50th anniversary of the treaty would compel Tokyo and Washington to work on additional agreements to enhance bilateral defense cooperation, a rocky start under the

³ "U.S. House Demands Japan Act on Parental Abduction," Kyodo News. September 30, 2010.

⁴ U.S. State Department, "Press Availability on International Parental Child Abduction, Kurt M. Campbell, Assistant Secretary, Bureau of East Asian and Pacific Affairs," February 2, 2010.

⁵ For more information on the U.S.-Japan alliance, see CRS Report RL33740, *The U.S.-Japan Alliance*, by Emma Chanlett-Avery.

Democratic Party of Japan (DPJ) government generated concern about the future of the bilateral alliance.

The coordinated response to the disaster by the U.S. and SDF militaries made a strong statement about the strength and the value of the bilateral alliance, and commitment from top U.S. leadership to continue to assist the nation in its recovery may have assuaged fears that the alliance was adrift after a series of public disagreements in the past two years. On the other hand, the crisis response did little to change the fundamental challenges of the thorny base relocation issue in Okinawa. In fact, Japan's focus on reconstruction efforts may mean fewer resources and political capital can be dedicated to move forward with realignment plans.

March 2011 Earthquake and Tsunami: U.S.-Japan Alliance Performance

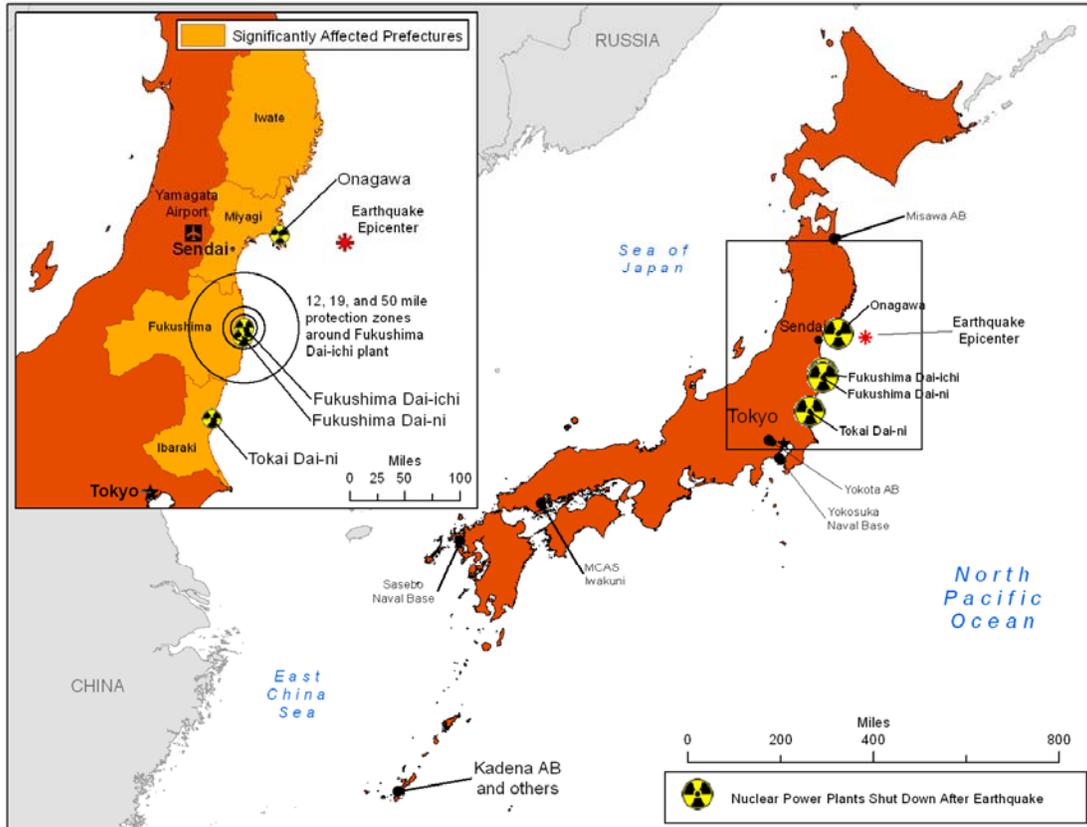
DOD's relief effort was designated "Operation Tomodachi," using the Japanese word for "friend." U.S. airlift capability was particularly valuable in reaching survivors in the devastated areas. U.S. efforts focused heavily on transport of relief supplies, SDF personnel and equipment; surveillance of the affected area to search for stranded victims; and restoration of critical infrastructure, such as damaged airfields, in order to sustain operations. The U.S. airbase Misawa, located in Aomori prefecture in northeastern Japan, was shaken violently by the earthquake but escaped with only minor damage. The facility was used as a forward operating base for both U.S. and SDF forces.

Years of joint training and many interoperable assets facilitated the integrated alliance effort. Operation Tomodachi was the first time that SDF helicopters used U.S. aircraft carriers to respond to a crisis. The USS *Ronald Reagan* carrier provided a platform for air operations as well as a refueling base for Japanese SDF and Coast Guard helicopters. Other U.S. vessels transported SDF troops and equipment to the disaster-stricken areas, such as the USS *Tortuga*, which left the dock at the U.S. Naval Base in Sasebo to pick up 90 SDF vehicles and nearly 300 SDF soldiers from the northern island of Hokkaido to transport them to northern Honshu for relief work. After delivery, it served as a mobile operating base for helicopter missions.

Communication between the allied forces functioned effectively, according to military observers. For the first time, U.S. military units operated under Japanese command in actual operations. Specifically dedicated liaison officers helped to smooth communication; three Marine SDF officers served on board the USS *Reagan*, parallel to three U.S. Navy liaison officers on the JS *Hyuga*, a Japanese vessel. A small group of Japanese soldiers coordinated relief efforts between the civilian Sendai airport authority and the U.S. Marines helping to reopen the devastated runways. Although the U.S. military played a critical role, the Americans were careful to emphasize that the Japanese authorities were in the lead.

One area in which U.S. troops played a key role was the re-opening of airfields in order to allow more supplies to flow to the affected areas. Sendai's airport appeared devastated in the immediate aftermath of the earthquake; a day after the tsunami struck, it was still under eight feet of water. An Okinawa-based U.S. Special Operations Group that specializes in establishing forward supply bases in war-torn areas performed the initial work of removing debris, including over 5,000 cars that had washed onto the runways, allowing other aircraft to land. Some 260 Marines worked side by side with Japanese troops. The airport began receiving relief supplies on March 15, and was re-opened to commercial flights on April 13.

Figure 3. Selected U.S. Military Facilities and Areas Affected by the Quake



Source: Prepared by CRS based on U.S. Department of State, National Geospatial Intelligence Agency, and GeoCommons data.

Military Realignment Agreement and Futenma Relocation Controversy

A 2006 agreement between the U.S. and Japanese governments to relocate the Futenma Marine Air Station from its current location in crowded Ginowan to Camp Schwab, in a less congested part of the island, is the centerpiece of a planned realignment of U.S. forces in Japan.⁶ Under the administration of former Prime Minister Yukio Hatoyama, disagreement about the arrangement

⁶ Per the agreement, the redeployment of some units of the III Marine Expeditionary Force (III MEF), which includes 8,000 U.S. personnel and their dependents, to new facilities in Guam would lead to the return of thousands of acres of land to Japan. Japan agreed to pay around 60% of the \$10.3 billion estimated costs. The transfer is contingent upon finding replacement facilities for the Futenma base. After 13 years of negotiations, U.S. and Japanese officials settled on Camp Schwab because of its location in Nago, a far less congested area of Okinawa. The reduction of Marines on Okinawa seeks to quell the political controversy that has surrounded the presence of U.S. forces in the southernmost part of Japan for years. Public outcry against the bases has continued since the 1995 rape of a Japanese schoolgirl by an American serviceman, and was renewed after a U.S. military helicopter crashed into a crowded university campus in 2004. Though constituting less than 1% of Japan's land mass, Okinawa currently hosts 65% of the almost 40,000 U.S. forces based in Japan.

emerged between Tokyo and Washington, but the Hatoyama government eventually conceded to move forward with the relocation. After Hatoyama resigned in early June 2010, Prime Minister Kan affirmed his intention to honor the agreement. In a key gubernatorial election in November 2010, the incumbent Hirokazu Nakaima was re-elected. Despite supporting the plan earlier, Nakaima opposed the base relocation during the campaign, but he is seen as more conciliatory to Tokyo than other Okinawan politicians.

In early May 2011, three influential U.S. Senators weighed in on the realignment issue, calling the current agreement “unrealistic, unworkable, and unaffordable.” Senators Jim Webb, John McCain, and Carl Levin proposed abandoning the Henoko plan and instead folding the Marine base into the large Kadena Air Base. Critics of this plan have claimed that Kadena has insufficient capacity to handle additional air operations, and that the increased noise and safety issues from helicopters would upset the community surrounding the base. With a leadership transition at the Pentagon reportedly coming soon, some observers have speculated that the realignment agreement could be re-worked, despite the years of negotiations up to this point. The fundamental problem of hosting foreign troops on a crowded urban landscape, and the sense of grievance that the Okinawans in particular have harbored for decades, seems unlikely to fade. Strategically, however, the location of the Okinawan islands, with proximity to both the Korean peninsula and the Taiwan Strait, remains essential in the eyes of many defense planners.

To many analysts, however, the key issue will be whether alliance managers can avoid having the base issue define the relationship and distract from other priorities. The successful response to the earthquake allows both sides to point to a real example of how the alliance saved lives at a critical moment for Japan.

Background to Realignment Agreement

Under the Bush Administration, a series of Security Consultative Committee meetings (SCC, also known as the “2+2” meeting) of the Japanese and U.S. foreign and defense ministers outlined plans to expand the alliance beyond its existing framework. Key features of the arrangement include a reduction in the number of U.S. Marines in Japan, the relocation of a problematic air base in Okinawa, the deployment of an X-Band radar system in Japan as part of a missile defense system, expanded bilateral cooperation in training and intelligence sharing, and Japan’s acceptance of a nuclear-powered aircraft carrier in the Yokosuka Naval Base.

The 2006 agreement between the U.S. and Japanese governments to relocate the Futenma Marine Air Station from its current location in crowded Ginowan to Camp Schwab is the centerpiece of the planned realignment of U.S. forces in Japan. Per the agreement, the redeployment of the III Marine Expeditionary Force (III MEF), which includes 8,000 U.S. personnel and their dependents, to new facilities in Guam⁷ would lead to the return of thousands of acres of land to the Japanese. Japan agreed to pay around 60% of the \$10.3 billion estimated costs. The transfer is contingent upon finding replacement facilities for the Futenma base. After 13 years of negotiations, U.S. and Japanese officials settled on Camp Schwab because of its location in Nago, a far less congested area of Okinawa.

The reduction of Marines on Okinawa seeks to quell the political controversy that has surrounded the presence of U.S. forces in the southernmost part of Japan for years. Public outcry against the

⁷ For more information, see CRS Report RS22570, *Guam: U.S. Defense Deployments*, by Shirley A. Kan.

bases has continued since the 1995 rape of a Japanese schoolgirl by an American serviceman, and was renewed after a U.S. military helicopter crashed into a crowded university campus in 2004. Though constituting less than 1% of Japan's land mass, Okinawa currently hosts 65% of the total U.S. forces in Japan. The current controversy reflects a fundamental tension in the relationship between Okinawa and the central government in Tokyo: while the country reaps the benefit of the U.S. security guarantee, the Okinawans must bear the burden of hosting thousands of foreign troops. Although the host cities are economically dependent on the bases, residents' grievances include noise, petty and occasionally violent crime, and environmental degradation stemming from the U.S. presence.

Burden-Sharing Issues

In December 2010, Japan agreed to continue Host Nation Support (HNS), the funds provided to contribute to the cost of stationing U.S. troops in Japan, at current levels for the next five years, starting in FY2011. The agreement came as a compromise, as the Kan government had been pressured to cut Japan's contribution due to Japan's ailing fiscal health. Japan pays for most of the salaries of about 25,000 Japanese employees at U.S. military installations. The current agreement calls for Japan to pay about 188 billion yen annually (about \$2.2 billion at 82 yen to one USD) through FY2016 to defray the costs of stationing troops in Japan. The new agreement also commits to reducing the number of Japanese nationals working for the U.S. military and affirms that the proportion of utility costs paid by the Japanese government will fall from 76% to 72% over a five-year period.

F-22 Debate

Japan has expressed interest in purchasing F-22A Raptor aircraft from the United States to replace its aging fleet of F-4 fighters. Some Japanese defense officials regard the potential sale of the F-22 as something of a test of the U.S. strategic commitment to the bilateral alliance. Current U.S. legislation restricts exports of the F-22 to foreign countries in a provision known as the "Obey Amendment." The 2010 Department of Defense Appropriations Act (P.L. 111-118) maintains this prohibition, but also contains a provision that allows the Pentagon to begin to design a version of the aircraft for export if foreign sales are eventually allowed. If Congress and the Administration do not approve F-22 sales to Japan, experts believe that Tokyo will likely consider alternative fighter aircraft, including European-built Typhoon fighters.

Extended Deterrence

Another source of strategic anxiety in Tokyo concerns the U.S. extended deterrence, or "nuclear umbrella," for Japan. The Bush Administration's shift in negotiations with Pyongyang triggered fears in Tokyo that Washington might eventually accept a nuclear armed North Korea and thus somehow diminish the U.S. security guarantee for Japan. These anxieties have persisted despite repeated statements by both the Bush and Obama Administrations to reassure Tokyo of the continued U.S. commitment to defend Japan. However, Japan's sense of vulnerability is augmented by the fact that its own ability to deter threats is limited by its largely defensive-oriented military posture. Given Japan's reliance on U.S. extended deterrence, Tokyo is wary of any change in U.S. policy—however subtle—that might alter the nuclear status quo in East Asia.

Secret Nuclear Agreement

Early in the DPJ rule, a former vice foreign minister disclosed a secret agreement signed in the 1960s between Tokyo and Washington that tacitly allowed the United States to transit nuclear weapons through Japan without prior approval. The practice was in clear violation of the terms of the 1960 bilateral security treaty and Japan's three non-nuclear principles (not to possess, produce, or transit nuclear weapons on Japanese territory). Japanese officials who had knowledge of the practice have consistently denied, even in Diet testimony, that it took place. The controversy has raised questions about the integrity of Japan's non-nuclear principles as well as the apparent lack of transparency in the government's decision-making process. An experts panel convened by the DPJ reported in March 2010 confirmed this tacit agreement had existed. In April 2010, Foreign Minister Okada apologized for the past governments' policy and reaffirmed Japan's three non-nuclear principles policy.

Article 9 Restrictions

In general, Japan's U.S.-drafted constitution remains an obstacle to closer U.S.-Japan defense cooperation because of a prevailing constitutional interpretation of Article 9 that forbids engaging in "collective self-defense"; that is, combat cooperation with the United States against a third country. Article 9 outlaws war as a "sovereign right" of Japan and prohibits "the right of belligerency." Whereas in the past Japanese public opinion strongly supported the limitations placed on the Self-Defense Force (SDF), this opposition has softened considerably in recent years. The new ruling coalition in Tokyo remains deeply divided on amending Article 9 of the constitution and is unlikely to take up deliberation of the issue in the near term. Since 1991, Japan has allowed the SDF to participate in non-combat roles in a number of United Nations peacekeeping missions and in the U.S.-led coalition in Iraq.

Figure 4. Map of Military Facilities in Japan



Source: Map Resources. Adapted by CRS.

Economic Issues⁸

Trade and other economic ties with Japan remain highly important to U.S. national interests and, therefore, to the U.S. Congress.⁹ By the most conventional method of measurement, the United States and Japan are the world's largest and third-largest economies (China is number two), accounting for around 40% of the world's gross domestic product (GDP) in 2010. Furthermore, their economies are intertwined by merchandise trade, trade in services, and foreign investments.

⁸ This section was written by William Cooper.

⁹ For a more complete treatment of U.S.-Japan economic ties, see CRS Report RL32649, *U.S.-Japan Economic Relations: Significance, Prospects, and Policy Options*, by William H. Cooper.

Overview of the Bilateral Economic Relationship

Although Japan remains important economically to the United States, its importance has slid as it has been edged out by other trade partners. Japan was the United States' fourth-largest merchandise export market (behind Canada, Mexico, and China) and the fourth-largest source for U.S. merchandise imports (behind China, Canada, and Mexico) at the end of 2010. These numbers probably underestimate the importance of the United States to Japan's trade since a significant portion of Japanese exports to China are used as inputs to China's exports to the United States and, therefore, are dependent on U.S. demand for China's exports.

At one time Japan was the largest source of foreign direct investment in the United States, but by 2006 had fallen to second place, behind the United Kingdom, where it remained at the end of 2010. Japan was the 9th-largest target for U.S. foreign direct investment abroad as of the end of 2010. For many years, the United States was Japan's largest export market but was the second-largest in 2010 (next to China). The United States was second-largest source of imports as of the end of 2010. The global economic downturn has had a significant impact on U.S.-Japan trade. In 2009, U.S. exports declined by 23.1% from 2008 and imports from Japan declined by 31.1% causing the U.S. bilateral deficit with Japan to \$44.8 billion. The pace of U.S. exports to and imports from Japan increased in 2010. (See **Table 1.**)

Table 1. U.S. Trade with Japan, Selected Years
(\$ billions)

| Year | Exports | Imports | Balances |
|------|---------|---------|----------|
| 1995 | 64.3 | 123.5 | -59.1 |
| 2000 | 65.3 | 146.6 | -81.3 |
| 2003 | 52.1 | 118.0 | -66.0 |
| 2004 | 54.4 | 129.6 | -75.2 |
| 2005 | 55.4 | 138.1 | -82.7 |
| 2006 | 59.6 | 148.1 | -88.4 |
| 2007 | 62.7 | 145.5 | -82.8 |
| 2008 | 66.6 | 139.2 | -72.3 |
| 2009 | 51.2 | 95.9 | -44.8 |
| 2010 | 60.5 | 120.3 | -59.8 |

Source: U.S. Commerce Department, Census Bureau. FT900. Exports are total exports valued on a free alongside ship (f.a.s.) basis. Imports are general imports valued on a customs basis.

Despite some outstanding issues, tensions in the U.S.-Japan bilateral economic relationship have been much lower than was the case in the 1970s, 1980s, and early 1990s. A number of factors may be contributing to this trend: Japan's economic problems in the 1990s and in the first few years of this decade changed the general U.S. perception of Japan as an economic "threat" to one of a country with problems; the rise of China as an economic power has caused U.S. policymakers to shift attention from Japan to China as a source of concern; the increased use by both Japan and the United States of the WTO as a forum for resolving trade disputes has depoliticized disputes and helped to reduce friction; and the emphasis in the bilateral relationship has shifted from economic to security matters.

However, the economic problems in Japan and United States associated with the financial crisis and recession and how the two countries deal with those problems have been a major focus of their bilateral economic agenda recently. Japan has been hit particularly hard by the financial crisis and the subsequent economic downturn. Japan's gross domestic product (GDP) declined 1.2% in 2008 and 5.3% in 2009 but grew 4.0% in 2010. The March 11, 2011, earthquake, tsunami, and nuclear accident have added another factor to Japan's economic plight and U.S.-Japan economic relations. Japan's GDP is expected to increase only 1.0% in 2011 as a result of the disaster. In addition, disruptions in supply chains caused by the March 11 events have had adverse effects on production and shipments of Japanese-made products in both Japan and the United States as well as supplies of parts to U.S.-made products.

The value of the yen has hit 15-year highs in terms of the U.S. dollar, which could adversely affect Japanese exports to the United States and other countries, contributing to the downturn in Japanese economic growth. Less than three years ago, the yen was valued at \$1=¥124. As of September 21, 2011, it was \$1=¥76. To stem yen appreciation, the Bank of Japan intervened on September 15, 2010, by selling about 1.8 trillion (about \$22 billion) and buying dollars in major exchange markets. The intervention had a temporary effect when the yen depreciated about 3%, but it has returned to its previous level. Economists argue that currency intervention tends to have temporary and minimal effects on floating currencies, such as the yen. In addition, Japan has been enduring a period of deflation, making the real (price adjusted) exchange rate only much less than the nominal rate.

Bilateral Trade Issues

Japan's Ban on U.S. Beef¹⁰

In December 2003, Japan imposed a ban on imported U.S. beef in response to the discovery of the first U.S. case of bovine spongiform encephalopathy (BSE or "mad cow disease") in Washington State. In the months before the diagnosis in the United States, nearly a dozen Japanese cows infected with BSE had been discovered, creating a scandal over the Agricultural Ministry's handling of the issue (several more Japanese BSE cases have since emerged). Japan had retained the ban despite ongoing negotiations and public pressure from Bush Administration officials, a reported framework agreement (issued jointly by both governments) in October 2004 to end it, and periodic assurances afterward by Japanese officials to their U.S. counterparts that it would be lifted soon.

In December 2005 Japan lifted the ban after many months of bilateral negotiations but re-imposed it in January 2006 after Japanese government inspectors found bone material among the first beef shipments to have arrived from the United States after the ban was lifted. The presence of the bone material violated the procedures U.S. and Japanese officials had agreed upon that allowed the resumption of the U.S. beef shipments in the first place. The then-U.S. Secretary of Agriculture Johanns expressed regret that the prohibited material had entered the shipments.

In July 2006, Japan announced it would resume imports of U.S. beef from cattle 20 months old or younger. While praising the decision, some officials have called on Japan to broaden the

¹⁰ For more information, see CRS Report RS21709, *Mad Cow Disease and U.S. Beef Trade*, by Charles E. Hanrahan and Geoffrey S. Becker, (archived).

procedures to include beef from older cattle. The first shipments arrived in August 2006. Members of Congress have pressed Japan to lift restrictions on imports of U.S. beef further. U.S. officials met with Japanese agricultural officials September 14-15, 2010, for technical discussions on getting Japan to loosen its restrictions even further, but produced with no clear indication of resolution of the issue. On August 4, 2011, a bipartisan group of Senators sent a letter to Secretary of Agriculture Vilsack and to USTR Ron Kirk, urging them to press Japan (and China) to restrictions on imports of U.S. beef.

Japan and the Trans-Pacific Partnership Agreement (TPP)

The Trans-Pacific Partnership (TPP) is an evolving regional free trade agreement FTA. The TPP was originally an FTA among Singapore, New Zealand, Chile, and Brunei. The United States, along with Australia, Peru, and Vietnam, joined the negotiations in the fall of 2008 to accede to the TPP and shape arrangement, and President Obama reaffirmed U.S. participation in November 2009. Three rounds of negotiations were held in 2010, and Malaysia joined as a full partner during the third round. The Obama Administration envisions the TPP to become a high-level, comprehensive FTA covering goods, services, agriculture, investment, intellectual property rights, government procurement, competition, labor, environmental, and disciplines on non-tariff barriers.

The Japanese leadership is contemplating joining the negotiations and has been the subject of Cabinet-level discussions. It was expected that the leadership would decide soon enough to be able to participate in the early rounds of negotiations and help establish the basic provisions of the TPP to which later adherents would have to accede. As of the end of 2010, Japan had not decided whether to join but Japanese officials indicated that they would render a decision by June 2011. However, on May 17, 2011, the Cabinet announced the government was postponing the decision while it deals with the aftereffects of the March 11 disaster. Prime Minister Noda seemed to have postponed the decision indefinitely when he told a session of the Diet on September 13, 2011, that he hoped to make a decision soon but did not specify when. Participation in the TPP would likely require Japan to open its agricultural markets to imports from other TPP members, including the United States and Australia, an issue that has been a roadblock to forming some other FTAs.¹¹ If Japan decides to join the TPP, it would be the first such arrangement involving Japan and the United States together.

Insurance

Market access in Japan for U.S. and other foreign insurance providers has been the subject of bilateral trade agreements and discussion for some time. Current U.S. concerns center around making sure that Japan adheres to its agreements with the United States, especially as Japan's domestic insurance industry and government regulations of the industry are restructured. Specifically, American firms have complained that little public information is available on insurance regulations, how those regulations are developed, and how to get approval for doing business in Japan. They also assert that government regulations favor insurance companies that are tied to business conglomerates—the *keiretsu*—making it difficult for foreign companies to enter the market.

¹¹ *Inside U.S. Trade*, November 12, 2010.

The United States and Japan concluded agreements in 1994 and 1996 on access to the Japanese market for U.S. providers of life and non-life insurance and also on maintaining competitive conditions for foreign providers in the specialty insurance market—cancer insurance, hospitalization, nursing care, and personal accident insurance. U.S. and Japanese officials continue to meet under those two agreements, and U.S. providers have been able to expand their presence in Japan under them, according to the Office of the U.S. Trade Representative (USTR).

However, the United States has raised concerns about the operations of companies under the Japan Postal Service, which offer insurance services that directly compete with U.S. and other privately owned providers. A Japanese government privatization framework released in July 2006 generated statements from the American Chamber of Commerce in Japan and from the American Council of Insurers arguing that the privatization plan would allow Japan Post to compete with foreign insurance providers by offering new products before it has been completely privatized. On October 1, 2007, the Japanese government began the privatization. However, the Democratic Party of Japan (DPJ)-led government has taken steps to scale-back some of the privatization, and on May 31, 2010, the Lower House of the Japanese Diet passed legislation to do so. The United States and the European Union have complained to the Japanese government that the legislation would give Japan Post legal, tax, and regulatory exemptions not given to private companies, giving Japan Post competitive advantage that would also violate Japan's commitments under the WTO's General Agreement on Trade in Services (GATS). The legislation would still require approval by the Upper House before entering into force.¹²

The Byrd Amendment

Japan, together with other major trading partners, challenged U.S. trade laws and actions in the World Trade Organization (WTO). For example, Japan and others challenged the so-called Byrd Amendment (which allows revenues from countervailing duty and antidumping orders to be distributed to those who had been injured). The WTO ruled in Japan's favor. In November 2004, the WTO authorized Japan and the other complainant-countries to impose sanctions against the United States. In September 2005, Japan imposed 15% tariffs on selected imports of U.S. steel products as retaliation, joining the EU and Canada. It is the first time that Japan had imposed punitive tariffs on U.S. products. In the meantime, a repeal of the Byrd Amendment was included in the conference report for S. 1932, the Deficit Reduction Act of 2005, that was signed by the President into law (P.L. 109-171) on February 8, 2006. The measure phases out the program over a period ending October 1, 2007.¹³ Although Japan has praised the repeal of the Byrd Amendment, it criticized the delayed termination of the program and has maintained the sanctions on imports from the United States. Consequently, Japan announced in August 2006 that it would maintain the tariff sanctions until October 1, 2007. On August 30, 2011, Japan notified the WTO that it would extend the sanctions for another year but reduced the amount to less than half of the original amount.

¹² *Inside U.S. Trade*, June 4, 2010.

¹³ For more information on the Byrd Amendment, see CRS Report RL33045, *The Continued Dumping and Subsidy Offset Act ("Byrd Amendment")*, by Jeanne J. Grimmer and Vivian C. Jones.

WTO Dispute

On January 10, 2008, Japan requested permission from the WTO to impose sanctions on U.S. imports valued at around \$250 million in retaliation for the failure of the United States to comply with a January 2007 WTO decision against the U.S. practice of “zeroing” in antidumping duty determinations. On April 24, 2009, a WTO compliance panel agreed with Japan that the United States was not in compliance with the original WTO ruling. On August 18, 2009, the WTO Appellate Body, having heard the U.S. appeal of the compliance panel decision, announced its decision that the United States was not in compliance with the earlier determination, thus upholding the compliance panel decision, opening the way for Japanese sanctions against the United States.¹⁴ The practice of zeroing is one under which the U.S. Department of Commerce treats prices of targeted imports that are above fair market value as zero dumping margin rather than a negative margin. It results in higher overall dumping margins and U.S. trading partners have claimed and the WTO has ruled that the practice violates WTO rules.¹⁵ On May 5, 2010, Japan asked the WTO to proceed with determining if Japan can impose the sanctions. However, the United States and Japan decided to try to resolve the issue informally and requested the WTO arbitration panel to suspend its work until September 8, 2011, at which time the suspension would terminate and the panel would proceed.¹⁶ Japan subsequently announced that it would postpone reactivation of the proceeding until November 7.¹⁷

The Doha Development Agenda

Japan and the United States are major supporters of the Doha Development Agenda (DDA), the latest round of negotiations in the WTO. Yet, the two have taken divergent positions in some critical areas of the agenda. For example, the United States, Australia, and other major agricultural exporting countries have pressed for the reduction or removal of barriers to agricultural imports and subsidies of agricultural production, a position strongly resisted by Japan and the European Union. At the same time, Japan and others have argued that national antidumping laws and actions that member countries have taken should be examined during the DDA, with the possibility of changing them, a position that the United States has opposed.

In July 2006, WTO Director-General Pascal Lamy suspended the negotiations because, among other reasons, the major participants could not agree on the modalities that negotiators would use to determine how much they would liberalize their agricultural markets and reduce agricultural subsidies. Negotiators had been meeting from time to time to try to resuscitate the talks. However, Lamy’s attempt to hold a ministerial meeting in December 2008 failed when the major parties to the negotiators could not resolve their differences over establishing modalities in agricultural and non-agricultural negotiations. Various groups of WTO members have been meeting to try to establish a foundation for completing the negotiations without success to date.

¹⁴ *International Trade Reporter*, July 23, 2009.

¹⁵ *International Trade Reporter*, January 17, 2008.

¹⁶ *International Trade Daily*, December 16, 2010.

¹⁷ *Inside U.S. Trade*, September 16, 2011.

Japanese Politics¹⁸

Since 2007, Japanese politics has been rocked by instability. Six men have been prime minister, including the current occupant of the post, Yoshihiko Noda, who has served since early September 2011. This has made coherent policy formation in Tokyo difficult and has complicated many aspects of U.S.-Japan relations, particularly in security policy. One sign of the disarray is that it was not until July 2011, more than 3 months after the March 11 disaster, that Japan's parliament passed a bill to pay the trillions of yen needed to clean up the massive amount of debris left in the tsunami's wake.

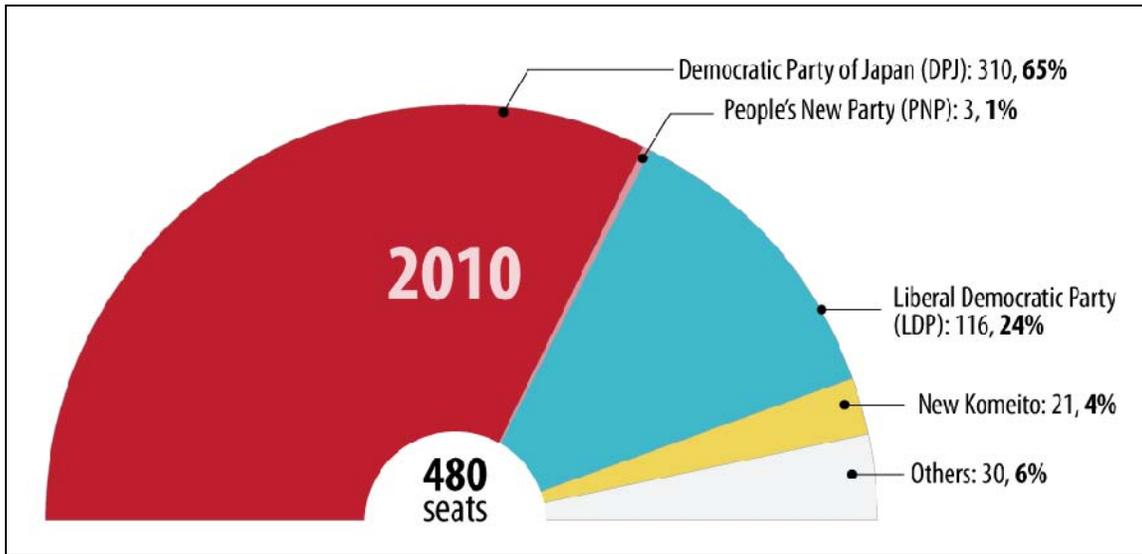
The turmoil at the top of Japan's political structure also has compounded Japan's normal political peculiarities. Compared to most industrialized democracies, the Japanese parliament is structurally weak, as is the office of the prime minister and his cabinet. Though former Prime Minister Junichiro Koizumi (who served from 2001 to 2006) and his immediate predecessors increased politicians' influence relative to Japan's bureaucrats, with important exceptions Japan's policymaking process tends to be compartmentalized and bureaucratized, making it difficult to make trade-offs among competing constituencies on divisive issues. The result is often paralysis or incremental changes at the margins of policy, particularly during periods of weak premierships such as the one Japan has experienced for the past five years.

Indeed, the DPJ was voted into power in 2009 after campaigning to transform the process of Japanese policymaking by, among other steps, increasing the authority of Japan's politicians over its bureaucrats. However, in many cases what appears to have happened is that the first two DPJ Cabinets weakened Japan's traditional bureaucrat-centered method of coordinating the policy-making process without creating a functioning replacement. The third DPJ Prime Minister, Yoshihiko Noda, has not trumpeted the theme of politician-led government and has reinstated many of the governing processes that were used in the era of the Liberal Democratic Party (LDP), which ruled Japan for over 50 years before the DPJ swept into power. Noda also has sought to end the factionalism in the DPJ that has made it difficult for his predecessors to govern effectively.

However, even if he succeeds in these two tasks, it will be difficult for Noda to overcome another obstacle, a divided parliament. Japan's Diet, as its legislature is called, is divided into two chambers, the Lower House and the Upper House. Although the Lower House is the more powerful – among other powers, it chooses the Prime Minister – in reality, it is numerically and politically difficult for it to exert its will over the Upper House. For decades after World War II, the Upper House's effective veto was not an issue because one party, the Liberal Democratic Party (LDP), controlled both chambers. However, in recent years, the Diet's two chambers have been controlled by different parties. From 2007-2009, the LDP was ascendent in the Lower House (and therefore the ruling party), with the DPJ in control of the Upper House. Since the middle of 2010, the reverse has been true. Both times, the party in control of the Upper House has blocked most of the ruling party's bills, in an attempt to force the prime minister to hold early elections. As long as the LDP is ahead or even with the DPJ in public opinion polls, as has been the case for most of 2011, the LDP and its coalition partners have many incentives to use their Upper House majority to block the DPJ's initiatives.

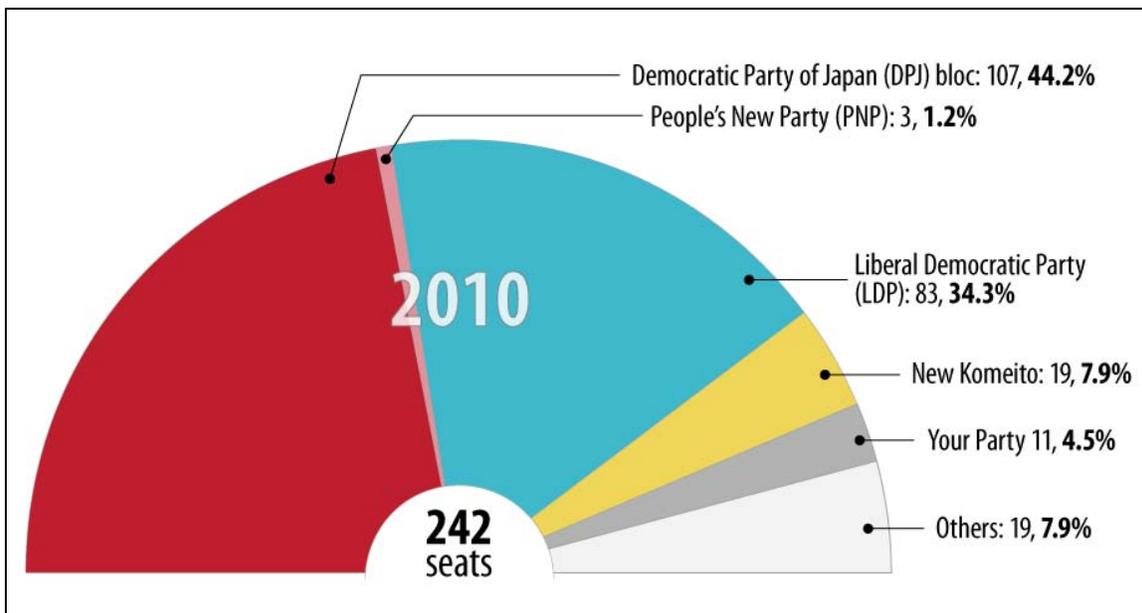
¹⁸ This section was written by Mark Manyin and Emma Chanlett-Avery. For more, see CRS Report R40758, *Japan's Historic 2009 Elections: Implications for U.S. Interests*, by Weston S. Konishi.

Figure 5. Party Affiliation in Lower House



Source: Derived from April 27, 2010, Lower House data.

Figure 6. Party Affiliation in Japan's Upper House



Source: July 27, 2010, *Mainichi Shimbun*.

Developments in August and September 2011

The DPJ Chooses Yoshihiko Noda

In late August, following Prime Minister Naoto Kan's decision to resign, the DPJ held an internal party election among its roughly 400 members of parliament to decide the next party president. Because the DPJ controls the Lower House of Parliament, which selects the prime minister, the

battle was over who would be Japan's next leader. Noda was chosen in the second round of voting, defeating Banri Kaieda, the former METI Minister. Kaieda had won the first round of balloting against four other candidates (Noda had the second-highest number of votes). In the runoff, Noda gained enough support from some of the second-tier candidates to vault to victory. His term as party president will expire in September 2012.

Significantly, all of the DPJ candidates stressed their support of the U.S.-Japan alliance. In contrast, some of the DPJ's past leaders (including Ozawa) had questioned not just aspects of the alliance but also the relationship's utility to Japan's security.

The battle for DPJ president appears to have been less a contest over policy than over factional battles and personality. In the opinion of many analysts, Noda won because he was the least objectionable candidate who had displayed enough competence not to become a major political liability. The DPJ has been riven by internal splits, principally between those who favor and those who oppose former party president Ichiro Ozawa, the scandal-plagued heavyweight whose disapproval ratings regularly top 70%. In the voting, Ozawa backed Kaieda. In the second round of voting, most of the "anti-Ozawa" groups unified to support the relatively little-known Noda. At the same time, Noda presented an image as someone who was both relatively competent – he served as Finance Minister from June 2010 to September 2011 – and could unify the party in part because he had not been involved in efforts to push Ozawa out of the party, unlike some of his opponents. In a speech before the second round of voting, Noda sought to portray his unflashy nature and humble upbringing as an advantage, self-deprecatingly describing himself as a humble "loach," a bottom-feeding freshwater fish, who will operate behind the scenes to advance the nation's politics by building consensus.

The Early Noda Government

After his selection as prime minister, Noda moved quickly to forge unity within the DPJ. He appointed a Cabinet and a DPJ leadership team that gave significant posts to members of each of the DPJ's main groups. One significant change Noda has made is that he has placed the DPJ itself at the center of policymaking. In theory, bills and policy proposals will be developed in various committees in the Party's Policy Research Council, working together with relevant ministries, before they are sent to the Cabinet.¹⁹ This means that U.S. officials and Members of Congress interested in Japanese policy may need to cultivate ties not just to the Members of the Cabinet and the bureaucracy, but also the ruling DPJ.

On policy matters, Noda has made a number of moves and pronouncements. His top priority is managing the recovery and reconstruction from the Great East Japan Earthquake, even though this may mean backing away from some of the campaign pledges the DPJ made in 2009 to increase social welfare programs. Noda has indicated his preference for instituting a temporary tax hike to finance the reconstruction. On the question of nuclear power in the wake of the ongoing leakage of nuclear material from the Fukushima Daiichi plant, Noda says that his government will create by the summer of 2012 a long run energy strategy that will, among other items, outline ideas for "... reducing our dependence on nuclear power generation as much as possible...." In the short run, however, Noda has said that Japan has no choice but to rely upon nuclear power, and that operations at nuclear plants currently shut down for routine maintenance

¹⁹ The Council is chaired by Former Foreign Minister Seiji Maehara, who ran against Noda in the DPJ race in August and then backed him in the run-off vote.

will be restarted “following inspections” and after “a relationship of trust is developed with the local government” where the plants are located.²⁰

In foreign policy matters, Noda has promised to “make every effort” to uphold the U.S.-Japan agreement over the relocation of the U.S. marine base at Futenma, though he has not outlined a plan for how to accomplish this task in the face of Okinawan opposition. Noda also has made vague statements that seem to be in favor of Japan’s joining the Trans-Pacific Partnership free trade agreement talks. However, such a move is highly divisive within the DPJ, to say nothing of around Japan. Before assuming the premiership, Noda was notable for his willingness to single out the strategic challenge posed by China. In the summer of 2011, for instance, he wrote

China’s rapid military buildup and expansion of the range of its military activities, coupled with the lack of transparency of its strategic intentions behind this, are a cause of great concern for not only Japan but the entire region. China’s high-handed foreign posture, backed by its military capabilities and recently put on display in the South China Sea and elsewhere, is stoking fears that China will disrupt the order within the region.²¹

Japan’s Nuclear “Village”

The Fukushima crisis has thrown a spotlight on Japan’s “nuclear village,” consisting of the power industry, nuclear regulators, bureaucrats overseeing the industry, the political establishment, and even the courts. Many in Japan believe that over the decades, a culture of collusion supporting nuclear power has emerged among these groups. In particular, Japan’s nuclear regulator, the Nuclear and Industrial Safety Agency (NISA), is part of the Ministry of Economy, Trade, and Industry (METI), the ministry charged with promoting nuclear power. Officials are often transferred between NISA and METI’s nuclear promotion divisions, leading to accusations that the lines between policing and supporting the nuclear power industry were often blurred. In a May 18 press conference, Prime Minister Kan reportedly called for NISA to be made more independent from METI, and said a forthcoming investigative committee will explore “drastic reform” of Japan’s nuclear oversight system.²²

Another conflict of interest stems from the practice known as *amakudari* (descent from heaven), in which high-level METI officials routinely receive senior posts in one of Japan’s 10 power utilities, with the more senior officials generally securing positions at TEPCO.²³ The DPJ came into power in 2009 promising to limit the use of *amakudari*, but it is not clear that its efforts to fulfill its campaign promises have had many systemic effects, particularly in the power sector. Separately, in a move that was interpreted as a sign his government will act more forcefully against the power industry and its supporters, Kan in mid-May took the unusual step of ordering the Chubu Electric Power Company to suspend operations at the coastal Hamaoka nuclear plant

²⁰ Prime Minister’s Office, “Policy Speech by Prime Minister Yoshihiko Noda to the 178th Session of the Diet,” September 13, 2011, Provisional Translation.

²¹ Yoshihiko Noda, “My Vision for Government,” *Bungei Shunju*, September 11-30, 2011, pp. 94-103, translated from the Japanese by the U.S. Open Source Center, JPP20110811176001.

²² “Kan Suggests Severing NISA From Industry Ministry,” *NHK Online*, from the Open Source Center, JPP20110518134013, May 18, 2011.

²³ Critics say insularity also has a bottom-up dynamic. In a process known as *amaagari* (ascent to heaven), technical experts who often work for or advise NISA are often retired or active engineers from the nuclear industry. Critics charge that this makes the engineers reluctant to criticize their current or former employers. Norimitsu Onishi and Ken Belson, “Culture of Complicity Tied To Stricken Nuclear Plant,” *New York Times*, April 27, 2011.

about 120 miles southwest of Tokyo until greater disaster contingency measures can be taken. According to many scientists, the plant is located directly above an active earthquake zone.

TEPCO has come under severe criticism for not revealing information quickly or completely, and for not offering adequate compensation to those who have been affected by the Fukushima Daiichi crisis. Even before March 11, the company was under a cloud of suspicion for several accidents and scandals, including faking safety reports, over the past two decades.

Japan's Demographic Challenge

Japan's combination of a low birth rate, strict immigration practices, and a rapidly aging population presents policymakers with a significant challenge. Polls suggest that Japanese women are avoiding marriage and child-bearing because of the difficulty of combining career and family in Japan; the birthrate has fallen to 1.25, far below the 2.1 rate necessary to sustain a population size. Japan's current population of 128 million is projected to fall to about 100 million by mid-century. Concerns about a huge shortfall in the labor force have grown, particularly as the elderly demand more care. Japan's National Institute of Population and Social Security Research projects that the working-age population will fall from 85 million in 2005 to 70 million by 2030. Japan's immigration policies have traditionally been strictly limited, but policy adjustments have allowed for a larger foreign labor force. With government encouragement, some private firms offer incentives to employees with children.

Selected Legislation

112th Congress

H.Res. 172 (Honda). Expressing heartfelt condolences and support for assistance to the people of Japan and all those affected in the aftermath of the deadly earthquake and tsunamis of March 11, 2011. Subcommittee hearings held.

S.Res. 101 (Reid). A resolution expressing the sense of the Senate relating to the March 11, 2011, earthquake and tsunami in Japan. Passed/agreed to in Senate on March 14, 2011.

111th Congress

H.R. 44 (Bordallo). Sought recognition of the loyalty and suffering of the residents of Guam who suffered unspeakable harm as a result of the occupation of Guam by Imperial Japanese military forces during World War II, by being subjected to death, rape, severe personal injury, personal injury, forced labor, forced march, or internment, as well as payments for death, personal injury, forced labor, forced march, and internment. Referred to Senate Committee on the Judiciary on March 5, 2009.

H.R. 423 (Mica). Sought to provide compensation for certain World War II veterans who survived the Bataan Death March and were held as prisoners of war by the Japanese. Referred to House Subcommittee on Military Personnel on February 6, 2009.

H.R. 2055 (Thompson) and S. 817 (Cantwell). The Pacific Salmon Stronghold Conservation Act of 2009. Among other items, authorized the sharing of status and trends data, innovative conservation strategies, conservation planning methodologies, and other information with North Pacific countries, including Japan, to promote salmon conservation and habitat. In April 2009, the House bill was referred to House Natural Resources Committee's Subcommittee on Insular Affairs, Oceans and Wildlife, which held a hearing on the bill on June 16, 2009. The Senate bill was referred to the Senate Committee on Commerce, Science, and Transportation in April 2009.

H.R. 2647 (Skelton) and S. 1390 (Levin); P.L. 111-84. The National Defense Authorization Act for FY2010. Signed into law October 28, 2009. On July 21, 2009, the Senate passed (58-40, Record Vote Number: 235) an amendment (S.Amdt. 1469) to S. 1390, the FY2010 National Defense Authorization Act, that eliminated funding for additional F-22 aircraft production. In conference, this provision was deleted, but both chambers agreed not to authorize funding for additional procurement of the F-22 in FY2010. Section 1250 requires the Secretary of Defense to report to Congress on the potential for foreign military sales of the F-22A fighter aircraft. Section 2835 establishes an Interagency Coordination Group of Inspectors General for Guam Realignment, which among other items, is required to submit by February 1 an annual report on Japan's budgetary contribution to the relocation of military personnel on Guam. The conference committee deleted the portion (in Section 2833) of the House version of H.R. 2647 that would have required construction firms that get contracts for projects associated with the expansion of U.S. military facilities on Guam to pay their workers wages consistent with the labor rates in Hawaii.

H.Res. 933 (Dingell). Commended the Government of Japan for its current policy against currency manipulation and encouraged the Government of Japan to continue in this policy. Introduced November 19, 2009; referred to House Ways and Means Committee.

H.Res. 125 (C. Smith). Called on Brazil in accordance with its obligations under the 1980 Hague Convention on the Civil Aspects of International Child Abduction to obtain, as a matter of extreme urgency, the return of Sean Goldman to his father David Goldman in the United States; urging the governments of all countries that are partners with the United States to the Hague Convention to fulfill their obligations to return abducted children to the United States; and recommended that all other nations, including Japan, that have unresolved international child abduction cases join the Hague Convention and establish procedures to promptly and equitably address the tragedy of international child abductions. Passed/agreed to in House on March 11, 2009.

H.Res. 997 (Sutton). Expressed the sense of the House of Representatives regarding unfair and discriminatory practices of the government of Japan in its failure to apply its current and planned extension of the Government's Eco-friendly Vehicle Purchase and scrappage program to imported vehicles made by U.S. automakers. Introduced January 5, 2010; referred to the Committee on Ways and Means, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S.Res. 388 (Stabenow). Expressed the sense of the Senate regarding unfair and discriminatory measures of the Government of Japan in failing to apply the Eco-Friendly Vehicle Purchase Program to vehicles made by United States automakers. Introduced January 20, 2010; referred to the Committee on Finance.

H.Res. 1464 (Ros-Lehtinen). Recognized the 50th anniversary of the conclusion of the United States-Japan Treaty of Mutual Cooperation and Security and expressing appreciation to the Government of Japan and the Japanese people for enhancing peace, prosperity, and security in the Asia-Pacific region. Passed/agreed to in House on June 24, 2010.

S.Res. 564 (Webb). Recognized the 50th anniversary of the ratification of the Treaty of Mutual Security and Cooperation with Japan, and affirmed support for the United States-Japan security alliance and relationship. Resolution agreed to in Senate without amendment and with a preamble by Unanimous Consent on June 29, 2010.

H.Res. 1326 (Moran). Called on the Government of Japan to immediately address the growing problem of abduction to and retention of United States citizen minor children in Japan, to work closely with the Government of the United States to return these children to their custodial parent or to the original jurisdiction for a custody determination in the United States, to provide left-behind parents immediate access to their children, and to adopt without delay the 1980 Hague Convention on the Civil Aspects of International Child Abduction. Passed in the House on September 29, 2010.

Author Contact Information

Emma Chanlett-Avery, Coordinator
Specialist in Asian Affairs
echanlettavery@crs.loc.gov, 7-7748

Mark E. Manyin
Specialist in Asian Affairs
mmanyin@crs.loc.gov, 7-7653

William H. Cooper
Specialist in International Trade and Finance
wcooper@crs.loc.gov, 7-7749