

Negotiated Trade Liberalization in East Asia: Examining Japan's Economic Partnership Agreement (EPA)*

Focusing on the Japan Philippines Economic Partnership Agreement (JPEPA)

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Abstract

The Economic Partnership Agreement (EPA) embodies Japan's economic diplomacy, aiming to advance both substantive and strategic goals. It aspires to open opportunities for Japan to reassert its position in the East Asian region and also in other parts of the world, while at the same time spur needed domestic economic reforms. It also aims to enhance regional activity and bring in productivity enhancement measures to the partner country. The EPA could be an exemplary North-South FTA that could hasten deeper regional integration. This paper looks into the motivations and structure of Japan's Economic Partnership Agreement (EPA) strategy, focusing on its role in regional integration and how it impacts to its partner country, taking into account the Philippine experience through the Japan-Philippines Economic Partnership Agreement (JPEPA). It also draws some lessons on the challenges of engaging a partnership between economically diverse countries.

Key Words: Free Trade Agreement, Economic Partnership Agreement, Bilateralism, Regionalism

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Jenny D. Balboa¹

I. Introduction

With the march of events in the past decade, a paradigm shift took place in mainstream economic thought. The conventional wisdom of multilateralism has been replaced by regionalism. Several factors were responsible for this paradigm shift. In East Asia in particular, the increasing interdependence of economies as a result of expanding trade networks, the lessons from the Asian Financial Crisis, the rise of China as a global economic player, and the increasing influence of ASEAN in the region had changed East Asia's economic architecture and subsequently provided the impetus for East Asian countries to explore cooperation and integration. The slow progress in WTO talks and rising global trend in forming economic blocs provided added justification for East Asia to explore Free Trade Agreements (FTA) as an option, either thru bilateral or plurilateral strategies. As of May 2008, there are twenty eight FTAs in effect and thirty six being negotiated in East Asia. (Table 1)

While ASEAN could be considered as the pioneer of the FTA strategy in East Asia thru the creation of the ASEAN Free Trade Area (AFTA) in the 1990s², it was the participation of Japan and China that further put substance and dynamism to the FTA movement in the region.

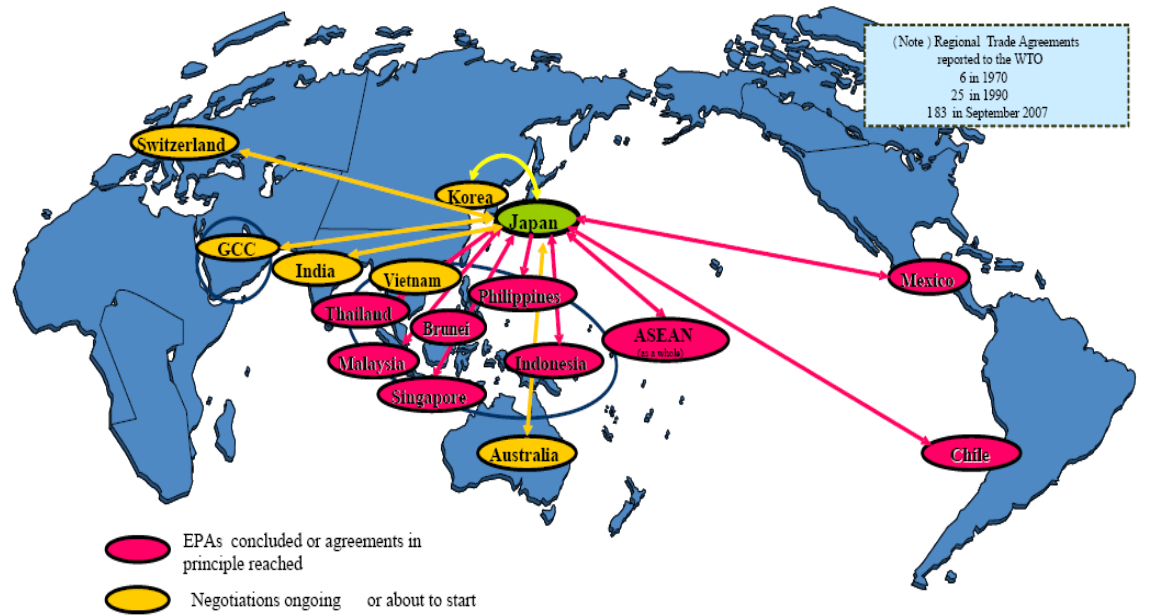
Japan's first FTA was with Singapore. Having virtually zero tariff in all its goods, except for a limited range of alcoholic beverages and no agriculture sector to worry about, Singapore was considered a safe FTA partner.³ The Agreement was signed on January 2002 and put into effect on November of the same year. With the JSEPA successfully signed, Japan proceeded to explore FTA negotiations with other FTA partners including Mexico, Malaysia, Chile, and ASEAN. EPAs under negotiation or scheduled to be launched are with the Gulf Cooperation Council (GCC-Bahrain, Oman, Qatar, Saudi Arabia, UAE, Kuwait), Republic of Korea, Vietnam, India, Australia, and Switzerland. In terms of geographic coverage, Japan has become one of the most dynamic FTA leaders in the world.

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² The ASEAN Free Trade Area (AFTA) was signed in 1992 by Brunei, Indonesia, Malaysia, Philippines, Singapore and Thailand. Vietnam joined in 1995, Laos and Myanmar in 1997 and Cambodia in 1999.

³ There were some issues when Singapore failed to secure zero-tariff market access for its orchids and tropical fish. However, this did not deter both Parties from signing and putting the Agreement into effect.

Figure 1



Source: MOFA, October 2007

The Philippines is one of the countries that signed an EPA with Japan. Having shared strong economic ties with Japan for many decades, the Philippines is a fitting candidate for bilateral economic partnership. For the Philippines, Japan is an important economic partner. It is the second largest trading partner of the Philippines, largest source of Overseas Development Assistance (ODA), major source of Foreign Direct Investment (FDI) and major source of workers' remittances as it hosts about 218,038 Overseas Filipino Workers. For Japan, on the other hand, the Philippines' potential as an economic partner is yet to be fully explored. The Philippines remains an important potential market as well as a potential export base for Japanese companies planning to operate in Southeast Asia.

An economic partnership with Japan stands to benefit a developing economy like the Philippines. JPEPA is an economic milestone for the Philippines, being the first signed negotiated bilateral trade deal for the country. For Japan, this marks a major triumph on its continued goal of sealing economic cooperation with ASEAN thru its Economic Partnership Agreement (EPA) initiative. However, despite efforts poured in for the completion and signing of JPEPA, the Agreement remains unratified a year after it was signed. Groups opposing JPEPA stated that the Agreement violates Philippine laws and hastily pushed the country to a deal that aims to benefit Japan more. These issues will be discussed in further detail.

This paper aims to look at the motivations, structure and outcome of Japan's EPA strategy, focusing on its experience with the Philippines. It also aims to discuss the impact of the Agreement by revisiting the issues surrounding the Japan-Philippines Economic Partnership Agreement (JPEPA). Lastly, it wants to draw policy lessons from the JPEPA experience, specifically on the implications of the JPEPA as a North-South economic cooperation.

The paper is organized as follows: Part I provides a brief introduction to the paper. Part II puts into context the development of economic cooperation and integration in the region which eventually created the groundwork for East Asian countries to join the FTA rush, and subsequently for Japan to pursue an FTA through its Economic Partnership Agreement framework. Part III discusses some theories and paradigm in understanding bilateralism and the development of JPEPA. Part IV discusses the structure of the EPA through the Japan-Philippines Economic Partnership Agreement. This section provides an overview of the framework and salient provisions of the JPEPA and also includes a discussion on its implications as cited by various studies. Finally, Part V provides a brief conclusion and lessons learned from the JPEPA experience.

II. Changing economic architecture of Asia and Japan's Shift in Policy Direction

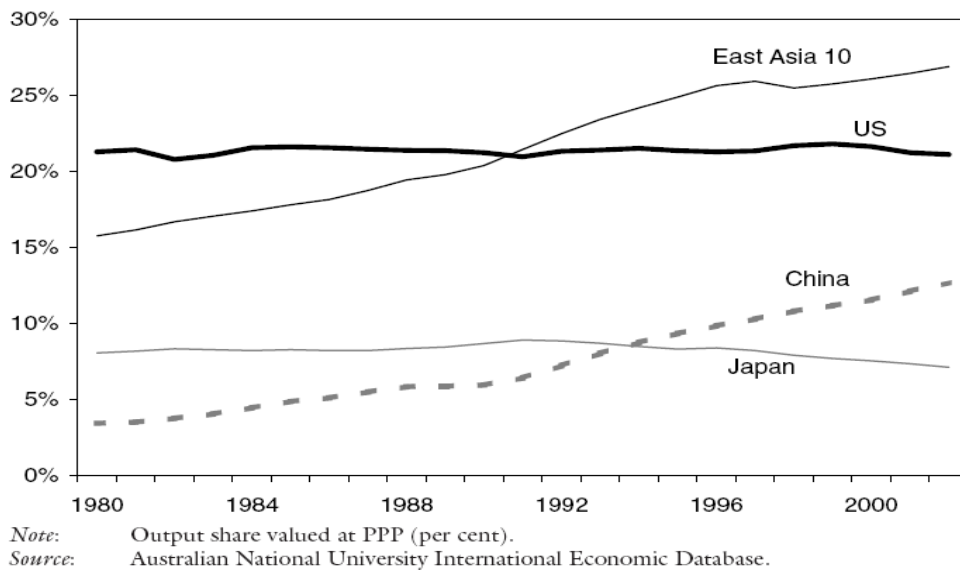
A. East Asian Integration

The growth and deepening integration of the East Asian economy is the result of three huge waves of trade and industrial transformation. The First wave occurred with the rise of Japan and its emergence as a major industrial power. The Second wave was led by the newly industrializing economies (NIEs) of Northeast and Southeast Asia in the late 1970s and 1980s. The third wave was brought by the rise of China. These three major events restructured the economic architecture of East Asia, making it an economic powerhouse that has begun to rival North America and Europe in terms of its contribution to world output and world trade. (Drysdale:2005)

While East Asia still has obstacles to hurdle in terms of human resource development, infrastructure, and governance, it has undoubtedly taken an important role in the global economy. East Asia's share of world output had risen substantially over the past two decades, from 15 percent to 27 percent in 2002, overtaking the United States by 1993, and capturing a large size of world exports, matching that of North America. (Drysdale:2005:5) (Figure 2)

Figure 2

East Asian share in world output



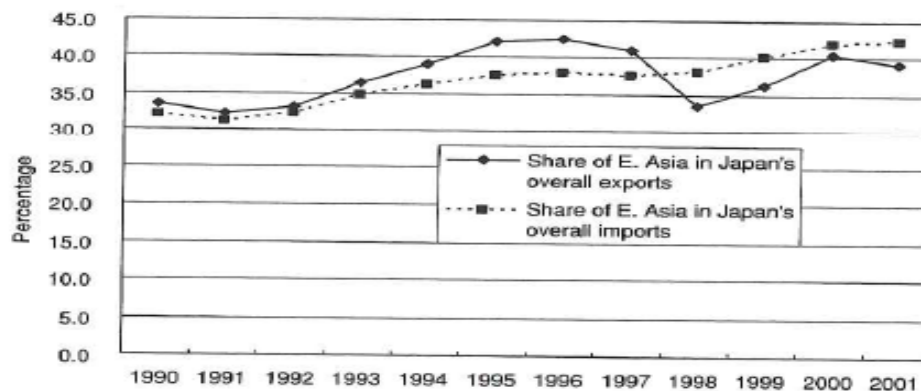
Various factors led to the industrial and trade transformation of East Asia over the last decades. Unilateral liberalization initiatives undertaken by countries in the 1980s and 1990s, as countries embarked on liberalization of trade and FDI policies and deregulation in domestic economic activities transformed the economic landscape of East Asia. This created the opportunity to more dynamically link the economies in the international production chain and also provided an environment conducive for foreign direct investment (FDI) flow.

At the core of this transformation is fragmentation trade, or what is known as international product fragmentation. This is a system that created cross-border dispersion of component production/assembly within vertically integrated production process. This system began in the electronics and textile industries and had now become a common feature of major products in Asia.

China's participation in the international product fragmentation and the regional production network changed the dynamics of intraregional trade and changed the economic landscape of East Asia. To a large extent, this created a positive boost to ASEAN as it tried to keep up with competition from China for FDI.

A corollary trend is that while the rest of East Asia is experiencing dynamic patterns of growth and becomes important in the global production chain, Japan experiences economic slowdown and its importance to the rest of Asia has been declining. The figure below shows the increasing share of East Asia in Japan's overall exports and imports.

Figure 3. **Increasing importance of East Asia for Japan's Trade**



Source: Pempel and Urata: 2006

China shows bigger influence in the region as it poses to capture a substantial portion of FDI inflow and outflow and bolstered intra-industry and intraregional trade growth. ASEAN also moved to expand influence in the region by building a framework for substantive economic cooperation in the region that includes Japan, China and Korea on its high-level political dialogue. On its bid to enhance its role in ASEAN, PM Koizumi proposed to expand the coverage of cooperation to trade and financial issues.

A parallel development was the rush towards bilateral or sub-regional FTA in East Asia. Japan, at one point the strongest ally of multilateralism in Asia, shifted policy direction and became an FTA supporter. Several reasons have been cited for this shift. Urata (2003) stated that the shift to bilateral track are triggered by:

1. The need to revitalize Japan's economy, which is suffering from a long recession. An FTA is seen to play a catalytic role in putting pressure to industries to shape up and compete and also play an important role promoting trade liberalization;
2. The desire to expand business opportunities for Japanese firms as trade barriers are removed from partner countries;
3. The importance of improving economic growth in member countries, which is important for Japan considering the increased dependence on East Asian economies; and
4. The need to create building blocs for the achievement of multilateral agenda and to contribute to the rule making process in WTO.

In the face of the growing Chinese economy, Japan had become more aware of the need to consolidate its alliance with East Asia. To maintain its influence in the

region, Japan has to expand and deepen its relations with East Asian countries. Moreover, considering the deadlock in the WTO negotiations and the proliferation of Free Trade Agreements, the policy shift was deemed necessary to keep Japan from being left out in the various RTA groupings that are being formed. These bilateral agreements provide the opportunity to create structural reforms and build a more competitive and dynamic economy in the region. (Pempel and Urata, 2005)

B. From Multilateral to Bilateral Track: Japan's Policy Transition

Japan's shift from multilateral to bilateral track was first discussed in 1998, with MITI discussing the policy options for Japan in view of the emerging trend towards regionalism and formation of free trade agreements. It was then where the proposal to pursue an FTA with Korea was discussed, the first country which Japan considered engaging in a bilateral agreement. On the same year, a concrete plan of action for the Japan-Korea FTA was finalized, culminating in 1999 when the leaders of both countries jointly announced the Japan-Korea Economic Agenda for further enhancement of economic relations between the two countries. In his speech in Korea, then Japanese Prime Minister Keizo Obuchi expressed his vision of Japan and Korea co-leading the formation of a free trade in Asia that would be similar to that of EU⁴. On the latter part of the year, Mexican President Ernesto Zedillo made a proposal to explore the possibility of establishing the Japan-Mexico Closer Economic Relations.

The 1999 White Paper on International Trade published by MITI embodied the changes in Japan's trade policy as it expressed approval of FTAs/RTAs in recognition of its role as building blocks for the multilateral trading system. The document, however, did not directly articulate that Japan was willing to embark on an FTA on its own and did not even mention the on-going FTA initiative with Korea (Ogita:2002:3). The significance of such publication, however, rested on Japan's official affirmation of FTA and including it as an integral component of its international economic policy.

On December 1999, then Singapore Prime Minister Goh Chok Tong proposed to undertake a joint study to explore the potentials of an FTA with Japan. The study was conducted from March to September 2000 by a tri-sector group comprising of government officials, academic and business leaders from both countries and was co-chaired by senior officials from the two governments. This is considered as the first official action taken by the Japanese government towards engaging in FTA.

⁴ The negotiations on a bilateral EPA with the Republic of Korea was officially launched in 2003 but was suspended until November 2004 as Korea becomes increasingly concerned that an FTA with Japan would harm the domestic industry and increase the trade deficit with Japan. While Korea has big interests on NTM and visa exemption arrangement, it showed weariness from certain sectors particularly on the FTAs impact on agricultural products, petroleum, leather, footwear and fishery products.

In October, both countries announced that formal negotiations for the Japan-Singapore Economic Partnership Agreement (JSEPA) will officially commence (Ogita:2002:3).

The same year marked MITI's publication of the White Paper and MOFA's Blue Book that acknowledged Japan's FTA initiative with Korea, Singapore, Mexico and Chile. The said document reiterated the importance and relevance of the rising trend towards the creation of the RTAs. Remarkably, the White Paper 2000 showed a positive evaluation of the RTAs, as opposed from previous years' publications which stated that RTAs are stumbling blocs to the multilateral trade agenda.

The government's policy shift was likewise supported by the business sector and non-governmental organizations. *Keidanren*, an influential business group, published an appeal that called for the promotion of FTA in Japan⁵.

"Pursuing economic integration in East Asia is vital for Japan to achieve sustainable growth as the nation faces a decline in its population and globalization's growing competitive challenges...Economic Partnership Agreements are an important tool for that, and Japan should pursue East Asian integration built on a network of EPAs".

Hiromasa Yonekura, VC, Nippon Keidanren
President, Sumitomo Chemical Co.

In 2001, the series of negotiations for the JSEPA were conducted. Four formal negotiations were conducted from January to October in Tokyo on that year and were subsequently signed on January 2002, to take effect in the middle of the year. On the same year, Prime Minister Junichiro Koizumi proposed that an EPA similar to that of JSEPA be conducted with other countries in ASEAN.

The signing of the JSEPA was an encouragement to pursue other FTA initiatives that had been previously considered, specifically the FTA with Mexico, the Japan-Korea initiative, and the Japan-Chile FTA. FTA initiatives with many economies such as Australia, Canada, New Zealand, Thailand, Taiwan, Brazil and MERCOSUR were also continuously discussed or proposed.

In 2004, the Council of Related Ministers for the Promotion of Economic Partnership was established and presented the basic principles for the promotion of FTAs. It put emphasis on the need to contribute to the promotion of Japan's external economic relationships and to the acquisition of economic benefits through the promotion of structural reforms as a complementary framework to the multilateral trading system under the WTO. The basic principles also noted the importance of political factors in selecting Japan's FTA partners. (Table 2)

⁵ "Urgent Call for Active Promotion of Free Trade Agreements: Towards a New Dimension in Trade Policy". (Keidanren, 2000)

A trademark characteristic of Japan's EPA is coverage of both WTO and non-WTO issues, including such fields as trade in goods, services, investment, trade facilitation and economic cooperation measures. Japan's EPA has been referred to as *as a "New Age FTA"* as it goes beyond trade and liberalization, and also include efforts towards the smooth transborder flow of people, capital and information along with areas like investment, competition, government procurement, trade facilitation, cooperation in science and technology (S&T), small and medium enterprises (SMEs) and the environment. (Yap, Medalla and Aldaba, 2006). Notably, the cooperation measures in the Agreement are tailored-cut in accordance to the needs of the partner country (Table 3) While Japan has drawn a blueprint for its EPA, attempts to negotiate encompassing and homogeneous Agreements proved to be difficult, if not impossible, as partner countries have varying domestic policies and economic agenda.

To sum up, Economic Partnership Agreement (EPA), has become an important component of Japanese economic policy and embodies the future of Japan's economic and diplomatic relationship with East Asia.

III. Understanding Bilateralism and the development of JPEPA

Solis and Katada (2008)⁶ cited three schools of thought to explain proliferation of FTA. One school of thought is known as Neofunctionalism and focuses on economic interdependence. It argues that pooling of sovereignty is an important strategy to more efficiently manage technical issues created by expanding economic transactions. Subsequently, integration of one sector will have a spillover effect in other sectors and will create the pressure to integrate industries and the economy. The second school of thought is Domestic Lobbying and Rent-seeking and puts emphasis on the role of domestic support to successfully pursue FTAs. In this scenario, a politically viable FTA could only be created if it satisfies three conditions: 1) it benefits consumers and has the support of consumer groups; 2) gains to exporters surpass losses of disadvantaged industries; and 3) sensitive sectors are protected. The third model is called as State Autonomy or Intergovernmentalism and focuses more on the individual motivations and objectives of states in embarking on trade negotiations. This school of thought says that some state agenda or objectives are easily achieved if states pool sovereignty. Small states are persuaded to support the integration package through side payments, whereas large states are brought in through fear of exclusion. Adoption of safeguards becomes necessary to make sure that national interests are not overridden by regional goals. Moreover, integration is seen as an opportunity to gain leverage over domestic interest groups.

In East Asia, formation of FTAs could be further understood if one examines the triggers of the policy change, the drivers of the FTA track and the consequences

⁶ Solis, Mireya and Saori Katada. "Competitive Regionalism: Explaining the Diffusion and Implications of FTAs in the World Economy". Paper presented by the authors in Waseda University. May 20,2008.

of the agreement. Aggarwal (2006) provides an excellent image in capturing the development and implications of Free Trade Agreements by dividing the development of FTA formation into three phases: Phase 1 traces the origin, Phase 2 explains the evolution, and Phase 3 the impact of the Agreement. Aggarwal's model further showed that the FTA is as much a political exercise as it is an economic strategy.

In Phase I of Aggarwal's model, an important political or economic occurrence called a "shock" sets bilateralism in motion. Countries respond to these shocks based on a variety of factors. The shock has varying impact on different countries and may change a country's policy direction. In the case of East Asia, these events acted as stimulus to consider partnerships thru Free Trade Agreements. The shock may come from within the country or region (internal) or outside of it (external). A country's response to the shock is tailored-cut in accordance to its political and economic situation, environment, and status. Response to the shock is shaped by political and economic capabilities, domestic coalitions, administrative capability, interests, and even existing beliefs of the intellectual elite.

Once the preconditions for negotiations are met, negotiations for a partnership is then explored. Negotiation becomes a process of advancing strategic and diplomatic interests. Should countries decide to negotiate for an FTA, it would have to carefully consider what should be covered by the Agreement, such as the type of goods, the capacity to produce, absorb, distribute and regulate these goods and how these will impact the existing social, political and economic systems of a country. The economic and political capacities of the countries to carry out the Agreement are critical issues in the negotiations and will basically shape and influence the bargaining process.

The Agreement reflects not only what the partners want to achieve and accomplish, but also the willingness of the governments to give up a degree of autonomy to their economic partners. The agreement's nature and scope are driven by economic concerns about trade competition and investment and capital flow pattern, and also by the domestic actors and their ability to influence the government.

Phase II of the model explains how Agreements are designed during negotiations and how they evolve to suit the needs and capacities of the countries. Negotiations involve a lot of trade offs, and could potentially displace groups or sectors that will be put at a disadvantage in the process. This could create the pressure to change or modify the Agreement. The demand to change can range from parochial interests, to interests of national, and even international importance. Interest groups that are likely to press for changes are import-competing firms, export-competing firms, labor groups, financial groups, environmental groups, and human rights groups. The relative power of these groups and their relationship with the government could affect the government's decision to

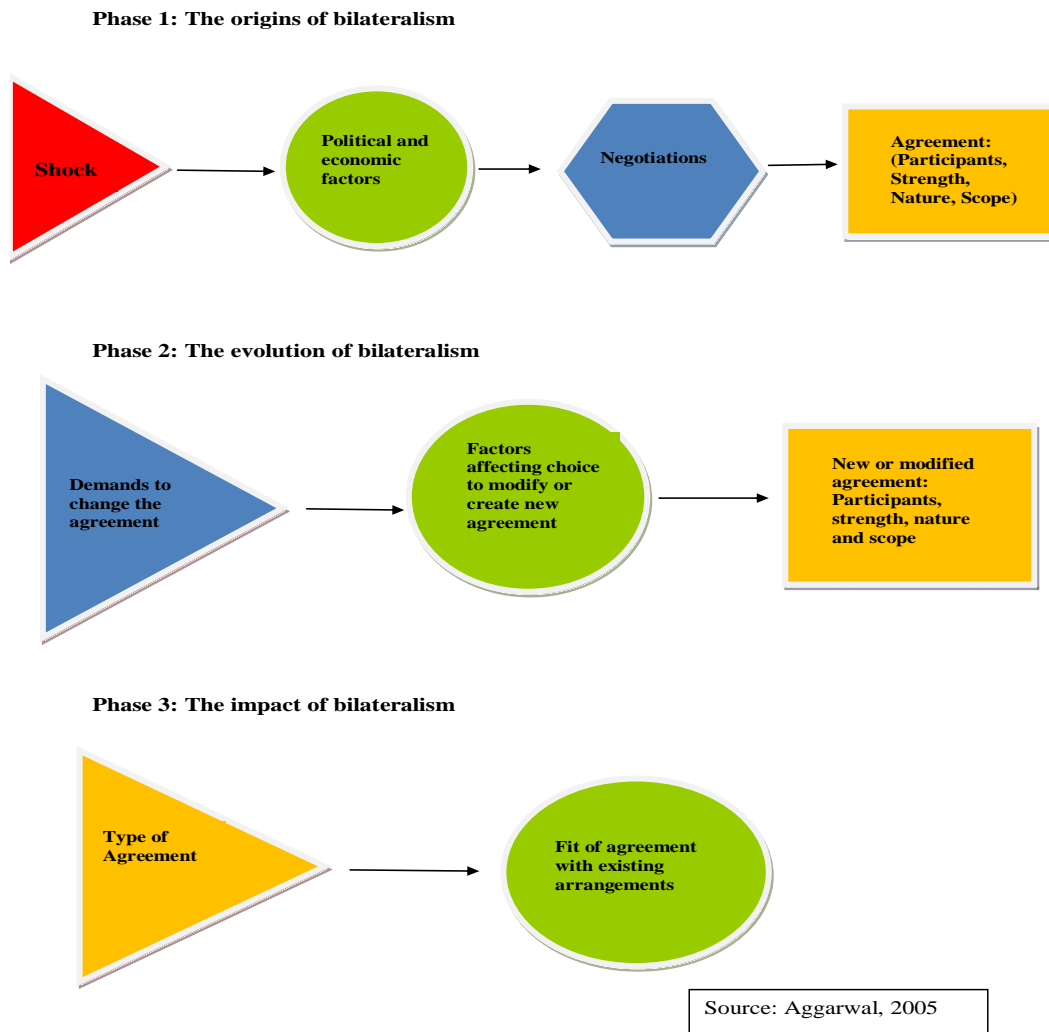
consider amendment of the Agreement. At this juncture, the type of political regime (including its credibility and legitimacy) and its ability to resist pressure will determine its response.

Finally, it is also a possibility that as these bilateral accords develop, there will be emerging pressures to widen or change the nature of the agreement or link this up with other accords.

Phase III of Aggarwal's model addresses the impact of the bilateral agreement and shows that both the process and the outcome of negotiation will have a wide ranging impact on domestic politics and relationship of countries. The impact of the agreement is determined by its nature (e.g. whether it promotes further liberalization or protectionism), degree of institutionalization, and the issue scope.

Aggarwal identified four possibilities by which issues could be connected: nested links, whereby arrangements conform to broader accords (e.g. GATT/WTO); horizontal connections, whereby arrangements reflect a division of labor among institutions; overlapping agreements, which may create conflict among institutions; and agreements that deal with different issues and that are thus independent of each other. The nature of these issue connections could either be tactical (driven by power considerations) or substantive (exhibits some type of intellectual consensus and coherence).

Figure 4. The Three Phases of Bilateralism as Illustrated by Aggarwal



B. The Japan-Philippines Economic Partnership Agreement (JPEPA), in context

How Japan reacted to the shock and how it reshaped its policy in accordance to its existing political and economic conditions, and subsequently position itself to advance its economic agenda is perhaps typical of how a developed country positions itself to be in a defensive in the changing economic order. On the other

hand, how the Philippines, a middle-income developing economy advanced its interest vis-a-vis a giant economy amidst the domestic issues that it has to similarly hurdle (ranging from economic to political issues), shows the tremendous challenge that a developing economy undergoes to advance its development agenda in an increasingly integrated global economic system.

While Japan's EPA puts emphasis on the importance of pursuing a more comprehensive economic agreement that will facilitate the smoother movement of goods, people, capital and information freely, it has similarly advanced its interest by taking advantage of the comprehensive components of FTAs to win concessions from its counterparts. To protect its sensitive sector, Japan employs a carrot and stick approach in negotiations. In exchange for protecting sensitive products on its agriculture sector, the Ministry of Agriculture, Forestry and Fisheries (MAFF) offered technical assistance in Sanitary and phytosanitary (SPS) measures to developing countries.⁷ Some analysts argue that this is the rationale for designing the EPA – as it is easier to skirt liberalization of protected sectors with the concessions granted through cooperation and assistance measures (Solis and Urata:2007). This goes without saying that Japan's foreign economic policy is very much determined by its own domestic political dynamics.

Interest groups are a strong pull in policymaking in both Japan and the Philippines. The Agreement in itself is shaped by influential domestic forces with strong demands for the inclusion of their interests. The demand to change the agreement springs from the clamor of sectors that will be affected or displaced when the Agreement is introduced, and also due to the presence of sensitive issues in the Agreement. Lobby groups from both Japan and the Philippines have been influential in the course and outcome of the negotiations.

As of this report, Japan's Diet has ratified the JPEPA. The Philippine Senate, on the other hand, is yet to make its decision. Several Senate hearing and investigations had been conducted to assess the impact of the JPEPA to the country and clarify the points raised by the anti-JPEPA group, particularly on the

⁷ Urata's article provides a very good discussion on the dynamics of Japan's domestic economic policy. He answers why the agriculture sector, which accounts for only 1.3% of Japan's GDP and 4.6% of employment has such a strong impact in Japan's economic policy. He pointed that the solid interlocking vested interests involving farmers, farmers associations, politicians, bureaucrats and businesses associate with agriculture makes the sector a strong lobby group. Politicians are eager to gain support from the farmers, as well as the sectors associated with agricultural production including suppliers with agricultural machinery and construction sector, which undertakes public works in the agriculture sector. Farmers associations enjoy monopoly rent by dominating economic activities of farmers in areas such as procurement of materials and equipment, sales of output and financing. Naturally, they actively support protection policies by putting pressure on government ministries and by supporting politicians with pro-protection view. For Japan, the agriculture sector is the most sensitive sector in trade liberalization, whether in a bilateral or regional framework under an FTA, or a multilateral framework under the WTO. Japan has the highest percentage ratio of producer support estimate to gross farm receipts at 56%, significantly higher than the 29% of OECD countries in 2005. (Urata: 2007)

alleged environmental hazard posed by JPEPA and constitutionality of certain provisions. The Philippine Senate is yet to come up with a decision, as of this writing.⁸ Under Philippine Senate rules, the treaty requires two-thirds vote or 16 votes by the 23-member Senate. On the other hand, Japan takes a hardline stand on its “no-renegotiation” policy. In an interview with a MOFA official who was involved in the JPEPA negotiation, he stated that whatever the decision of the Philippine Senate on JPEPA may be, renegotiation is not an option for the Japanese government as they can not bring a new Agreement to the Diet for another round of ratification.

Negotiations and outcome of Japan’s EPA showed interest group and non-state actors as powerful agents influencing the form and structure of the Agreement. In the case of JPEPA, interest group politics was, in large part, responsible for drawing the policy direction of the Agreement. In Japan, the Keidanren had been an important force in launching its trade policy, while the agricultural lobby group has defined the policy ceiling for its agriculture liberalization. The Philippines, on the other hand, showed a disconnect between the civil society and the government. Having to deal with various political and legitimacy issues, the incumbent administration had become vulnerable to political pressure and had faced difficulty in advancing critically important economic policies.

In Aggarwal’s model, it states that the “evolution stage” is likely to result to a new or modified agreement. However, the JPEPA creates a possibility wherein the Agreement can be potentially scrapped (given the Philippine Senate’s lack of decisiveness on the issue and the Japanese government’s steadfast “no-renegotiation” stand), putting to waste years of labor of both governments and creating serious political and economic setbacks to both Parties.

A possible non-ratification of the Agreement can pose serious impairment economically and politically to both countries, most especially the Philippines, being at the losing end especially that other countries in Southeast Asia has already concluded an EPA with Japan. Nonetheless, it is also recognized that in the face of protests, ratification of the Agreement can also pose serious set-backs to both countries’ economic agenda. The best possible scenario remains to be for both Parties to further work out ways to address the technical issues within a defined timeframe before proceeding with ratification.

⁸ As of April 2008, there is an endorsement from Sen. Miriam Santiago, Senate Foreign Relations Committee, for the ratification of the JPEPA on the condition that the treaty complies with at least 15 Philippine constitutional provisions. These provisions involve restrictions stated on areas of public health, protection of Filipino enterprises, ownership of public lands and use of natural resources, ownership of alienable public lands, ownership of private lands, reservation of certain areas of investment to Filipinos and should give preference in the national economy and patrimony to Filipinos. It should also comply with regulation of foreign investments, operation of public utilities, preferential use of Filipino labor and materials, practice of professions, ownership of educational institutions, state regulation of transfer of technology, ownership of mass media, and ownership of advertising firms. The conditional concurrence is currently the subject of a heated debate in the Senate and anti-JPEPA and pro-JPEPA advocate.

IV. Focal Points and Issues of the JPEPA

On January 2002, former Japanese Prime Minister Junichiro Koizumi proposed the “Initiative for Japan-ASEAN Comprehensive Economic Partnership”. During the Japan-ASEAN Forum in April of the same year, it was decided that bilateral economic partnerships under such an initiative will be explored. Philippine President Gloria Macapal-Arroyo gave her full support to this and formal negotiations started on December 2003, upon announcement of President Arroyo and Prime Minister Koizumi. The Agreement was officially signed on 09 September 2006 in Helsinki. The JPEPA was ratified by the Japanese Diet on December 2006. For the Philippines, the final step for ratification is the Senate approval. The JPEPA shall enter into force upon ratification of the Agreement from both sides and exchange of notes of ratification of the Agreement.

The JPEPA, like other EPAs engaged by Japan, has three pillars: liberalization, facilitation and cooperation. It is a comprehensive economic partnership that includes not only removal of tariff and non-tariff barriers, or the traditional elements of FTA, but also the liberalization of foreign direct investment (FDI), trade and FDI facilitation, and economic cooperation in a wide ranging area.

A special interest of the Philippines in Japan is trade in services. Japan’s aging population has created a labor market for medical workers that could be met by the Philippines, specifically in the nursing and care giving fields. One Japanese scholar noted that the Philippine nurses and caregivers are known to be the best in the world, and considering Japan’s demographic profile and shortage of nurses, it should work on capturing part of this labor force by opening its market and offering technical assistance to Filipino nurses and caregivers to be able to practice their profession in Japan.⁹

Other than medical workers, Japan is also a favorable market for other Filipino professionals, like seafarers, ICT, engineers, as well as industrial trainees. An economic partnership with Japan can not be overemphasized amidst high unemployment rate in the Philippines and the growing number of Filipino professionals who hope to get a much more financially rewarding job outside of the country.

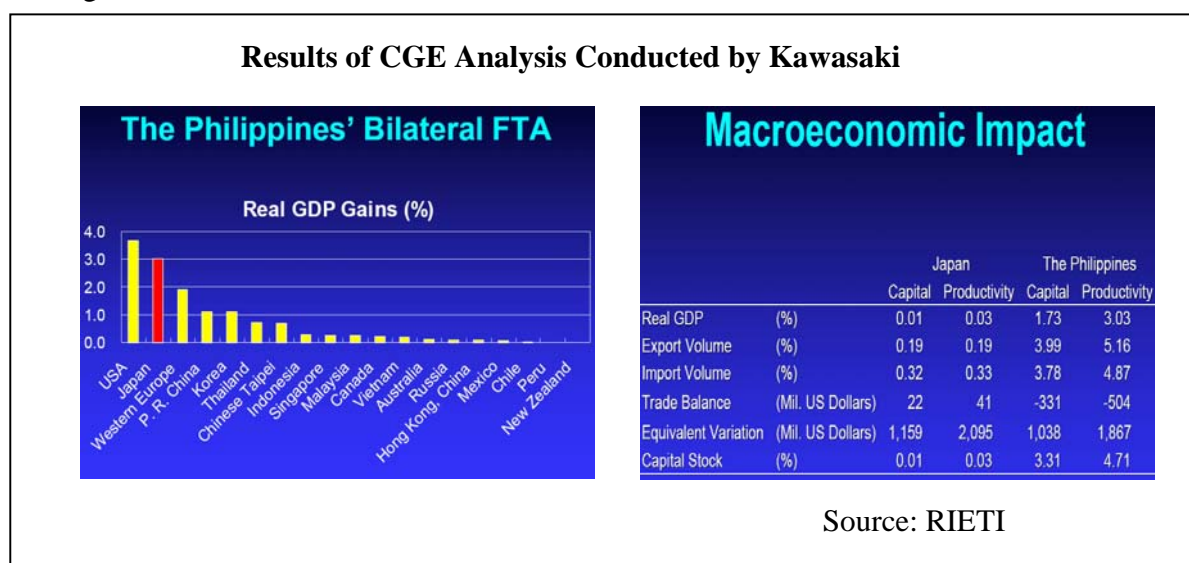
Studies were launched to assess the impact of the bilateral agreement in both Japan and the Philippines. Both Japanese and Filipino studies showed that JPEPA is mutually beneficial for both the Philippine and Japanese economy. In a study

⁹ Top destination countries of Filipino nurses are US, UK, Canada and Saudi Arabia. Japan is relatively an unpopular destination due to strict barriers imposed for foreign workers and difficulty in learning the language.

conducted by the Philippine Institute for Development Studies¹⁰, it showed that JPEPA would result in a small, yet positive impact on GDP (0.09%), and a positive poverty alleviation effect in Metro Manila where most industries are located. The benefits could be much higher (1.7% to 3.03%) if potential foreign investment inflows and productivity gains from JPEPA would materialize. The bilateral agreement with Japan would lead to this larger net positive impact on the economy if the agreement would have the following elements: trade and investment facilitation, capacity building, process improvement and enhanced cooperation in vital areas such as HRD and ICT. On the other hand, Japan's economy is to increase 0.03%, with an expected .19% increase in export and .33% in import volume.¹¹ (Figure 5)

The economies of Japan and the Philippines are characterized by a high degree of intra-industry linkage, especially in the electronics and automotive sectors. Thus based on comparative advantage, it is expected that Japan would gain in capital and technology intensive products, while the Philippines would benefit from labor intensive sectors. (Siazon, 2007)

Figure 5



¹⁰ Cororaton, Cesar. Philippine-Japan Bilateral Agreement: Analysis of Possible Effect on Unemployment, Distribution and Poverty in the Philippines Using CGE Microsimulation Approach. Philippine Institute for Development Studies. January 2004.

¹¹ Kawasaki, Kenichi. Impact of FTAs in Asia. RIETI Discussion Paper Series 03-E-018, Research Institute of Economy, Trade and Industry, September 2003.

A. Coverage of JPEPA

While the conventional free trade agreement covers mainly trade in goods and services, the EPA goes beyond into such areas as bilateral cooperation, investment, government procurement, competition and business environment. It covers fifteen key areas, including improvement of business environment and cooperation, highlighting the EPA's new age characteristics. (Table 4).

Salient Provisions¹²

1. Trade in Goods

Concessions granted by the Philippines

JPEPA covers 5,968 tariff lines of Philippine imports. The Agreement provides that 66% (3,947) of these imported Japanese goods remove tariff immediately (given an "A" classification), while the rest would be subjected to gradual tariff reduction. (Table 5) Some of the goods subjected to gradual tariff reduction are automotive, iron and steel in consistence with the Philippine commitment to the ASEAN Free Trade Area (AFTA) to eliminate tariffs by 2010 for the ASEAN-6.

A total of 91.6% of the goods subject to immediate tariff elimination are industrial goods, while 8.4% are agriculture goods (Table 6). Among the products included for immediate tariff elimination are machinery and equipment, clothing and textiles, organic chemicals and pharmaceutical products, and other miscellaneous manufactured products.

Concessions granted by Japan

JPEPA covers 7,476 tariff lines of Philippine exports. Around 80% (5,994 product lines) of these goods are for immediate tariff elimination. (Table 7). Of the 7,476 tariff lines, 93% of this is composed of industrial goods, while 7% is comprised of agricultural products (Table 8).

Almost 10% of the tariff lines are subjected to gradual tariff reductions. Most of these goods are agricultural products. Only a small percentage of tariff lines (0.5%) offered by Japan are subjected to specific commitments:

- TRQ for pineapples smaller than 900grams under a zero in quota rate, instead of the applied 17% MFN rate
- Creation of TRQ for chicken meat with 8.5% in quota rate, instead of the 11.9% MFN Rate.

¹² Japan-Philippines Economic Partnership Agreement (JPEPA): An Assessment. Senate Economic Planning Office Policy Brief. September 2007

- Tariffs on sausages and similar products will be reduced on the second year from 19.2% to 17% in 5 equal annual installments

Almost 10% of the tariff lines are either excluded from any commitments or subject to renegotiations. Among the products excluded are: agricultural products such as boneless meat of bovine animals, fresh Pacific salmon, frozen red and atlantic salmon, trout, herrings, cod, sardines, mackerel, frozen bluefin tuna fillets, scallops, milk and cream, whey, butter and dairy spreads, wheat and meslin, barley, rice, wheat starch, animal and vegetable oils and pineapples weighing more than 900 grams.

Among the products subjected to renegotiations are: agricultural goods such as meat of bovine, meat of swine, bigeye tunas, bluefin tunas, longfinned tunas, tanner crabs, certain dairy products, maize flour and starch.

2. Trade in Services

Chapter 8 and 9 of the Agreement covers Movement of Natural Persons. The provisions in the Agreement states that both countries will allow the movement of natural persons for short term businesses and visits of 90 days, extendable, intra-corporate transferees, investors, natural persons who engage in Professional services and specialized/skilled workers one or three years extendable, depending on the classification; and nurses one year, extendable and caregivers up to three years, extendable. Nurses and caregivers have to qualify for the requirements of the Philippine and Japanese laws on the practice of their specific professions. (Annex 1)

For Filipino nurses, he/she must:

- a. pass the Philippine licensure exam and must have at least three years work experience
- b. undergo skills and language training for six months in Japan
- c. pass the Japanese Nursing Examination in Nihonggo, with a maximum of three attempts.

For a Filipino care worker, he/she must:

- d. finish a four-year college course and must be a certified caregiver in the Philippines
- e. undergo skills and language training for six months in Japan
- f. pass the Japanese national exam in Nihonggo, for caregivers

A Filipino nurse is given a maximum of 2 years' stay in Japan to comply with the requirements, while a caregiver is given 3 years.

The agreement also provides that there is no quantitative restriction on the number of natural persons to be granted entry and temporary stay, except immigration laws and regulations. A review of the implementation of the movement of natural persons will be undertaken every five years after entry into force of the JPEPA, and whenever agreed.

Other Sectors that will be liberalized under the Agreement are:

- Tourism and Travel related services
- Outsourcing
- Banking and other financial services
- Recreational, cultural and sporting services
- Advertising, management consulting
- Audio visual services
- Environmental services
- Nurses/Caregivers
- Value added services on telecommunications

3. Investments

The investments provision in JPEPA grants both Philippines and Japan national treatment and most-favored-nation status to investors of each Party. National treatment (Article 89) means that each Party (Japan or the Philippines) shall accord to investors of the other Party and to their investments no less favorable treatment that it accords to its own investors and to their investments. MFN treatment (Article 90) means each Party shall accord to investors of the other Party and to their investments treatment no less favorable than that it accords to investors of a Third Party and to their investment. Annex 1 of the Agreement enumerates the exceptions where Japanese investments are limited or prohibited due to mandate of the Philippine constitution or existing domestic laws as listed in the Foreign Investment Negative List (FINL).

JPEPA also includes a provision on the performance requirement (Article 93), which means neither party can impose or enforce as a condition for investment activities requirements such as research and development requirement, technology transfer and hiring and appointment of nationals as executives, managers or board member.

B. Other important provisions

1. Trade Facilitation and Cooperation

JPEPA includes provisions for trade facilitation and cooperation. Among the trade facilitation measures included are simplification and harmonization of customs procedures, reduction of technical barriers to trade through mutually recognized

rules of conformity assessment procedures, and exchange of trade-related electronic information and best practices. It also creates a special sub-committee purposely to address issues on the improvement of business environment.

The chapter on cooperation measures specifies ten (10) key areas for cooperation. (Table 9). Possible forms for cooperation in these areas include training and education, conduct of joint studies to harmonize standards, infrastructure development, and others. These measures are important to ensure smooth transborder movement of goods, people, services and capital and to create an environment conducive for growth and development of business.

2. Dispute avoidance and settlement

JPEPA covers provisions involving dispute avoidance and settlement to set up pro-active mechanisms that could avoid or settle disputes related to JPEPA. It also includes a provision that will provide the venue to refine and strengthen the provisions of the treaty.

C. Implications of the Agreement

If JPEPA is ratified, it will become an integral part of the Japan-Philippines economic relations. While strategic interests are advanced thru this Agreement and Japan remains largely protective of its agriculture and fishery sectors (such as rice, wheat, milk and cream, beef, pork, herrings, sardines, mackerel and other fish) it has given substantial concessions for the Philippines to gain from the Agreement thru either immediate or gradual elimination of tariffs or the implementation of Tariff Rate Quotas (TRQs) where in-quota tariff could decline to zero. Gainers for Philippine agriculture include shrimps, crabs, prawns, bananas, pineapples, mangoes, cane molasses, chicken and tuna where the Philippines has established an advantage as a major exporter. Another gainer from the EPA for the Philippines are auto parts, electronics and garments sectors. Japanese FDI inflows to the parts sector are very important to boost the underdeveloped sectors which are mainly composed of SMEs.¹³

According to estimates of the Philippines' Department of Trade and Industry (DTI), adjustments associated with the implementation of JPEPA is expected to be minimal (at 3-4 Billion Pesos), but this is expected to be more than offset by tax revenue gains from increased economic activity.

In the Agreement, nurses and care workers are also given privileges as the JPEPA goes beyond what is permitted by the Japanese immigration by permitting nurses and caregivers to practice their professions once Japanese qualifications are

¹³ Yap, Josef, Erlinda Medalla and Rafaelita Aldaba. "The JPEPA: Why Ratify?" Philippine Institute for Development Studies (PIDS). Policy Notes 2007-02. October 2007.

acquired and by permitting such candidates to work in their field for a limited time as preparation period for acquiring Japanese qualifications. Prior to the EPA, foreign nurses who acquired Japanese qualifications were permitted a maximum seven-year stay as training but were not officially permitted to work.¹⁴

Acknowledging that language proficiency examination and Japanese licensure exams are tough especially for non-Japanese nationals, Japan included in the EPA a package for language training program which includes stipend and free board and lodging for the first 6 months for qualified applicants while on training. After six months, whether or not they pass the examinations, the candidates will be working on an employment contract under the supervision of a Japanese nurse and will be receiving a salary. In addition to this, under the HRD technical cooperation program of the JPEPA, Japan will fund a Japanese language institute in the Philippines so that training can be undertaken in the country.

Thus, beyond greater market access granted by Japan thru JPEPA as a result of FTA provisions of lowering tariffs, the Philippines stand to gain from cooperation measures that will allow Filipino workers to access Japan's labor market and also benefit from technical assistance to improve the business environment of the country.

Moreover, another important feature of JPEPA is that it allows each country to determine the possibility of amending or repealing laws and regulations relating to the Agreement. Ultimately it allows both countries the flexibility to determine in the future if certain provisions are no longer useful or applicable.

In conclusion, JPEPA is a substantive agreement that embodies the economic agenda of both Japan and the Philippines. It is well-nested to domestic laws and international commitments of both countries and provides the necessary incentives to induce reforms. JPEPA reflects an Agreement where domestic conditions mix up and sometimes even clash alongside regional political and economic dynamics, thereby creating a hybrid FTA and a distinctly unique agreement. In its own way, JPEPA is part of the evolution towards more interdependent policymaking in the region.

D. The Pressure to Change: Issues on JPEPA

Two issues stand out and had been the source of intense debates and lobbying in the Philippines. One issue is that JPEPA hastily pushed the country to commit to the much contested Singapore issues (*investment, competition, government procurement*) and that JPEPA legalizes the importation of toxic and hazardous wastes from Japan.¹⁵

¹⁴ Ibid., p. 7

¹⁵ Lat, Tanya. The Japan-Philippine Economic Partnership Agreement: A Toxic Treaty. IDEAL:2007.

1. On the inclusion of Singapore Issues

The Singapore issues (investment, competition, government procurement and trade facilitation) were first raised during the 1996 WTO negotiations but were subsequently taken off the track during the 2003 Cancun Conference due to protests from developing countries. The G77, a coalition of 130 developing countries in which the Philippines is an active member, opposed inclusion of the said issues because of potential negative implications to developing countries. In the JPEPA, these Singapore issues are included in Chapter 8 (Investments), Chapter 11 (Government Procurement), Competition (Chapter 12), and Trade Facilitation.

Added to this is the concern on how these issues could make an impact on the stand of the Philippines to future bilateral and multilateral free trade talks. Does this imply that the Philippines would have to abandon its previous position in the WTO regarding the Singapore issues? What would be its impact to the bargaining stance of the G77? At the domestic front, does this mean that Japanese nationals can invest in restricted areas such as government procurement? Inclusion of the Singapore issues could have important ramifications on the Philippines' diplomatic policies.

Nonetheless, the need for the Philippines to have a more rational competition policy, transparent investment measures, competitive government procurement and trade facilitation measures can not be overemphasized. Given the need to strengthen the domestic market and the supporting legal structures. A bilateral agreement with Japan is expected to lock in productivity enhancement reforms and create opportunities to develop a more business-friendly environment.

2. Possible entry of toxic and hazardous wastes from Japan

Another issue that has grabbed headlines was the alleged environmental implications of JPEPA. According to anti-JPEPA environment groups, zero-rating of waste products will allow the free-flow entry of toxic and hazardous waste products to the Philippine shore, and is said to provide the incentive to engage in trading of hazardous wastes. Twelve items are specifically granted duty-free status under the Agreement. (Table 10)

The Philippine government responded that there are sufficient existing laws that will prevent the entry of such hazardous waste products in the country, foremost of which are Republic Act 6969 (Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990) which prohibits the entry, transit as well as the keeping or storage and disposal of hazardous and nuclear wastes into the country for whatever purpose and Republic Act 4653 which prohibits the entry of worn clothing and used rags.

Moreover, both countries are signatory to the Basel Convention¹⁶ which requires the parties to make prior notice and consent before governments allow the export and import of hazardous waste.

The Policy Notes issued by the Philippine Institute for Development Studies (PIDS)¹⁷ provided excellent justification why the JPEPA does not pose a threat to environment. It cited that Article 11 of the JPEPA actually provides that both parties have an obligation to control transboundary movement of hazardous waste. It also offered a counter-argument to the environment lobby, stating that JPEPA is actually pro-environment, if anything, for the following reasons:

a. JPEPA has sufficient provisions and safeguards to protect the environment and prevent any illegal trade that may arise with zero-rating of tariffs of waste products. It includes a Joint Statement between the Philippines and Japan that provides clear commitments for both countries to protect the environment. Under Article 102 (Environmental Measures) and Chapter 8 (Investment), the two countries agree not to mutually relax environmental measures to encourage investments by the other Party. Moreover, Article 34, Chapter 8, (Cooperation in the field of energy and environment of the Implementing Agreement pursuant to Article 12 of the JPEPA) binds the two countries to efficient utilization of energy, proper management of environment and sustainable development.

b. Trade in waste is a two-way process and does not make countries dumping grounds. Zero-rating of waste products is especially beneficial for the Philippines since it does not have proper waste treatment facilities. Through the JPEPA, firms can avail of duty-free export of waste products for proper treatment and recycling in Japan. In the past, Japan has allowed importation of waste waste products, in compliance to the Basel Convention, such as copper sludge, printed circuit board, and fluorescent lamps from the Philippines for this purpose.

c. Tariffs have not effectively controlled entry of waste products in the past. Tariffs, per se, can not distinguish between hazardous and non-hazardous products. Across the board zero-rating of waste products, coupled with direct trade control in the form of ban or regulation, is considered to be the more effective measure.

¹⁶ Basel Convention is an international treaty that was designed to reduce the movement of hazardous waste between nations, especially the movement of hazardous waste from developed countries to LDCs. The convention was opened for signature on March 22, 1989 and entered into force on Ma 5, 1992.

¹⁷ Yap, Josef, Erlinda Medalla and Rafaelita Aldaba. The JPEPA: Why Ratify?. Philippine Institute for Development Studies. Policy Notes. October 2007.

The PIDS paper emphasized that it is in the environment area where JPEPA excels as it is where the “new age” principles of free trade, cooperation and capacity building works to protect the environment. The Philippines will be the main beneficiary of this cooperation as it will be recipient to technology transfer programs and capacity-building programs from Japan.

“Japan would not be exporting toxic waste to the Philippines, as defined and prohibited under the laws of the Philippines and Japan, and in accordance with the Basel Convention, and the understanding that provisions related to this topic in the JPEPA do not prevent the adoption or enforcement of such measures under existing and future national laws, rules and regulations of the Philippines and Japan”.

- MOFA Minister Taro Aso

To allay the fears of the environment groups, the Philippine Foreign Affairs Secretary wrote a letter to the Foreign Minister of Japan on 22 May 2007 to clarify the JPEPA environment issue. The letter asked for Japan’s confirmation on the Philippines’ understanding that JPEPA would not be an instrument for the free movement of toxic waste and will not prevent both countries from adopting or enforcing measures to regulate or control the possible entry of hazardous wastes. The Foreign Minister of Japan gave its confirmation to this matter.

V. Conclusion

Given the large asymmetries in economic power (market sizes), the challenge for developing countries in North-South agreements is to ensure that any negotiated outcome is in their interest. For small and poor countries, the primary motivation for engaging in trade agreements is to help achieve economic development. Thus, for some of these developing countries, the priority needs are not merely trade policy-related but revolve around bolstering trade capacity and improving the investment climate.

Trade liberalization could potentially create the danger of displacing least-efficient sectors if they can not adjust to the changes by improving efficiency, reducing production costs and service quality. To address this, the JPEPA incorporates economic and technical cooperation strategy to the Agreement to effectively create the condition for a development-oriented North-South economic partnership agreement. This is done by providing the Philippines with potential for access to training and technology to improve skills, assistance in raising the quality of the goods and services produced to meet the Japanese SPS, TBT and buyer preferences, obtaining freer and more secure access to market for Philippine exports, facilitating movement of persons to gain skills and employment, and improving the infrastructure and support activities to Philippine exporters, particularly for the Small and Medium Enterprises (SMEs). JPEPA specifically identified strategies for HRD and SME development, which are critical for survival of local industries in developing countries such as the Philippines.

Quid pro quo payments are expected, as in any negotiation, where Parties may gain some, but lose some. However, the best scenario in policy-making is not to maximize, but at most, optimize gains and this is what JPEPA hopes to achieve. What is important is that these so-called payments do not lose the government's access to potentially useful instruments to promote development. JPEPA does not jeopardize the policy space of the Philippines to pursue its development agenda, albeit even provides an opportunity to explore options to enhance competitiveness of the country, thereby creating an environment more conducive for economic development. The partnership could therefore create a win-win scenario for both Japan and the Philippines as it will bolster gains for both countries, and at the same time, create necessary building blocks for regional integration.

It is important to note, however, that the benefits of an FTA depend in part on other policies and institutions being supportive. In the long-run, for a North-South FTA such as the JPEPA to be truly of value for development and regional integration in East Asia, it should aim to fulfill four important roles¹⁸:

- enable the poor to compete in a globalized world by increasing their productivity
- ensure the most equitable sharing of benefits of trade so the people and other disadvantaged groups can draw benefits from the partnership
- shield vulnerable groups from the impact of trade liberalization when this threatens their livelihoods
- ensure that liberalization of goods and services effectively contribute to these objectives.

This is particularly important not just for the Philippines, but for other developing country-partner in the EPA. Thus, the governments should strive to make policies supportive of these goals. In this light, the role of a strong, credible and committed leadership can not be overemphasized to ensure that the Agreement serves its purpose of building up domestic capacities, supportive of appropriate development measures and focused on assistance to improve competitiveness. It is also essential for Japan, as the lead partner, to exert stronger efforts to convey its sincerity for cooperation. Further, it would be desirable for both Japan and the Philippines to carry out efforts to achieve the following:

- Come up with stronger and concrete efforts for regulation of areas that are considered a threat to the partnership
- Create a regular venue for dialogue/social network with stakeholders to monitor the progress and impact of the EPA. The Government should work closely with the private sector and NGO. The sub-committees for sectors to be created is important in this regard.

¹⁸ Gibbs, Murray. "Trade Policy". United Nations National Development Strategies (UNDESA). 2007.

Table 1

Major FTAs Involving East Asian Economies as of May 2008

In effect	In negotiation	In negotiation
Bangkok Treaty (1976)	Japan-Korea	Thailand-EFTA
AFTA (1992)	Japan-Philippines**	Thailand-Australia
Singapore-NZ (2001)	Japan-ASEAN	Thailand-US
Japan-Singapore (2002)	Japan-Indonesia*	Hongkong-NZ
Singapore-Australia (2001)	Japan GCC	Taiwan-El Salvador
Singapore-EFTA (2003)	Japan-Brunei*	Taiwan-Guatemala
Singapore-US (2004)	Japan-Vietnam	Taiwan-Nicaragua
Korea-Chile (2004)	Japan-India	Taiwan-Paraguay
China-Hongkong (2004)	Japan-Australia	
China-Macao (2004)	Korea-US*	
Taiwan-Panama (2004)	Korea-Canada	
Singapore-Jordan (2004)	Korea-India	
Japan-Mexico (2005)	Korea-Mexico	
China-ASEAN (2005)	Korea-EU	
Thailand-Australia (2005)	Korea-ASEAN (ex. Thailand**)	
Thailand-NZ (2005)	China-Australia	
Singapore-India (2005)	China-GCC	
Korea-Singapore (2006)	China-SACUFTA	
Japan-Malaysia (2006)	China-Singapore	
Korea-EFTA (2006)	Malaysia-Australia	
Japan-Chile (2007)	Malaysia-NZ	
Japan-Thailand (2007)	Malaysia-US	
Singapore-India (2007)	Singapore-Canada	
Singapore-Panama (2007)	Singapore-Mexico	
China-Chile (2007)	Singapore-Egypt	
China-NZ (2008)	Singapore-Qatar	
China-Pakistan (2008)	Singapore-Peru	
Malaysia-Pakistan (2008)	Thailand-India*	

Source:Urata, 2008

Notes:** indicates that treaty has been signed and waiting for ratification of respective legislative bodies. *indicates that the negotiation reached an agreement

Table 2

Basic Policy for Choosing an FTA Partner

- Whether these will or not expand trade and investment and improve the business environment for Japanese companies operating in the partner country
- Whether or not it is indispensable to eliminate economic disadvantages caused by the absence of an EPA
- Whether or not it will contribute to stable imports of resources and food
- Whether or not it will promote Japan's structural reforms
- Whether it will further promote acceptance of professional or technical workers
- Whether it promotes a beneficial international environment
- Whether the partner country is one whose domestic conditions make the conclusion of an EPA appropriate

Source: MOFA

Table 3

Contents of Japan's Economic Partnership Agreement

Category by WTO	Category by the Author	RTA	JSEPA	JPEPA	JMEPA	JTEPA	Japan Mexico	
			GATT 24 GATS 5	GATT 24 GATS 5	GATT 24 GATS 5	GATT 24 GATS 5	GATT 24 GATS 5	
		Date of enactment	2002 Nov	2006 Nov	2006 Jul	2007 Nov	2005 Apr	
Issues Regularized by WTO	Trade Liberalization	Tariff reduction	x	x	x	x	x	
		Ban on quantitative restrictions	x	x	x		x	
		Rules of origin	x	x	x	x	x	
		Standard for quarantine and sanitation	x	x	x	x		
		Anti-dumping	x	x	x	x		
		Safeguards	x	x	x	x	x	
		Dispute avoidance and settlement	x	x	x	x	x	
		General exception		x	x			
		Expansion of trade in services	x	x	x	x	x	
		Non-WTO Issues	Measures Requiring Adjustment of Domestic Institution	Liberalization and promotion of investment	x	x	x	x
Harmonization of custom procedures	x			x	x	x		
Protection of intellectual property rights	x			x	x	x		
Mutual recognition and conformity assessment	x			x	x	x		
Movement of natural persons	x			x		x	x	
Government procurement	x					x	x	
Competition	x			x	x	x	x	
Enhancement of business environment				x	x	x	x	
Environment								
Labor								
Cooperation Measures	Exchange of information about intellectual property rights							x
	Financial services			x	x		x	
	Information technology			x	x	x	x	
	Science and technology			x	x	x	x	x
	Education and human resource development		x	x	x	x	x	
	Trade and investment promotion		x	x		x	x	
	Small and medium enterprises		x	x	x	x	x	
	Broadcasting		x					
	Tourism		x	x	x	x	x	
	Mekong River Development							
	Transportation			x				
	Environment			x	x	x	x	
	Energy			x		x		
	Agriculture, forestry and fishery				x	x	x	
Road development				x		x		

Adapted from Aoki, 2008

Table 4

Coverage of JPEPA
Trade in Goods - elimination or reduction of tariffs of industrial and agricultural products
Emergency Measures - provides the rules for addressing serious injury or threat thereof caused by increased imports
Rules of Origin - determines originating goods for which preferential treatment will be accorded
Customs Procedures - provides information exchange and cooperation to facilitate trade through simplified and harmonized customs procedures, including maximizing the use of ICT
Paperless trading - to exchange information on best practices and encourage cooperation between private entities
Mutual recognition - to facilitate trade in electrical and other products such that both sides shall accept results of conformity assessment procedures as conducted by other party
Trade in Services - provides standstill obligation of services sector such as outsourcing, air transport, health related and social services, tourism and travel related services, maritime transport services, telecommunications and banking
Investment - includes provisions concerning National Treatment, MFN Treatment and Performance Requirements Prohibition for the liberalization of investment and enhance transparency by specifying all exceptions to these provisions
Movement of Natural Persons assures easier entry of qualified Filipino nurses and certified caregivers through language training, clear guidelines on exercise of profession/occupation
Intellectual Property - to enhance understanding of protecting intellectual property, given Japanese practices. This also includes cooperation and appropriate protection and enforcement elements
Government Procurement - to increase transparency of government procurement laws, regulations and procedures and possible liberalization of government procurement activities taking into account the development, financial and trade needs of both parties
Competition - to promote increased vigilance and increased attention to the protection of fair competition. It also includes measures to promote competition by addressing anti-competitive activities and cooperation in the field of competition
Improvement of the Business Environment - to encourage cooperation to improve the business environment of both countries. A framework of consultations will be set up to ensure more efficient and timely resolution of issues affecting Japanese and Filipino enterprises in both countries.
Cooperation in ten fields within the ODA context
Dispute avoidance and settlement - to provide a mechanism for addressing government disputes in the interpretation of implementation procedures while relying on the primacy of consultations

Source: Primer on the Japan-Philippines Economic Partnership Agreement (JPEPA)

Table 5

Philippines Tariff Schedule in JPEPA			
Legend	Category	Number of Lines	% of Total Lines
A	Immediate tariff elimination	3,947	66.14%
B4	Equal annual tariff reduction starting 2006, final reduction on 2010	97	1.63
B4**	Tariff elimination on the 1st day of the 5th year (2011)	2	0.03
B5	5 years or six annual installments	230	3.85
B5*	5 years , 1 year grace period, 5 equal annual installments	220	3.69
B5**	One single installment at the beginning of the 6th year	14	0.23
B7	7 years or 8 equal annual installments	2	0.03
B10	10 year or 11 equal annual installments	1,077	18.05
B10*	10 years, 1 year grace period, 6 equal annual installments	154	2.58
B10**	10 years, 5 years grace period, 6 equal annual installments	103	1.73
R	Renegotiation	24	0.4
S	Special tariff treatment	92	1.54
X	Excluded from any commitment of preferential treatment or renegotiation	6	0.1
	Total	5,968	100

Source: Philippine Tariff Commission, as cited in the Senate Policy Brief

Table 6

Analysis of "A" Products by Product Sector		
Sector	Share to Total "A" Lines (%)	2005 RP Imports from Japan (in thousand US\$)
Agriculture	8.41	3,121.00
Industrial	91.59	2,271,702.00
Total	100	2,274,823.00

Source: Philippine Tariff Commission

Table 7

Japan's Tariff Schedule in JPEPA			
Legend	Category	Number of Lines	% of Total Lines
A	Immediate tariff elimination	5,994	80.17
B3	3 years or 4 equal annual installments	3	0.04
B5	5 years or 6 equal annual installments	148	1.98
B7	7 years or 8 equal annual installments	140	1.87
B10	10 years or 11 equal annual installments	368	4.92
B15	15 years or 16 equal annual installments	48	0.64
P	Special tariff treatment	26	0.35
Q	Tariff Rate Quota	11	0.15
R	Renegotiation	215	2.88
X	Excluded from any commitment of preferential treatment or renegotiation	522	6.98
	Total	7,476	100

Note: numbers do not add up due to rounding off

Source: Philippine Tariff Commission, as cited in Senate Policy Brief

Table 8

Analysis of "A" Products by Product Sector

Sector	Share to Total "A" Lines (%)	2005 RP Exports from Japan (in thousand US\$)
Agriculture	6.68	144,539.00
Industrial	93.32	575,205.00
Total	100	719,744.00

Source: Philippine Tariff Commission

Table 9

	Fields of Cooperation	Possible areas/Forms of Cooperation
1	Human Resource Development	Education and training Harmonization of competency standards
2	Financial Services	Promotion of regulatory cooperation in financial services Improvement of financial market infrastructure
3	Information and Communications	Human resource development in the ICT sector Development of ICT infrastructure, ICT related services and digital content
4	Energy and environment	Improvement of utilization of energy Protection and management of the environment
5	Science and Technology	Advance science and technology agriculture, forestry, fisheries and management of natural resources Human health and nutrition
6	Trade and Investment Promotion	Trade and investment activities, including those conducted by private enterprises
7	Small and Medium Enterprises (SMEs)	Strengthening of management and competitiveness of SMEs Human resource development
8	Tourism	Promotion and development of tourism Human resource development
9	Transportation	Improvement of the technology of transportation Human resource development
10	Road development	Improvement of the technology of road development Human resource development

Source: Primer on JPEPA

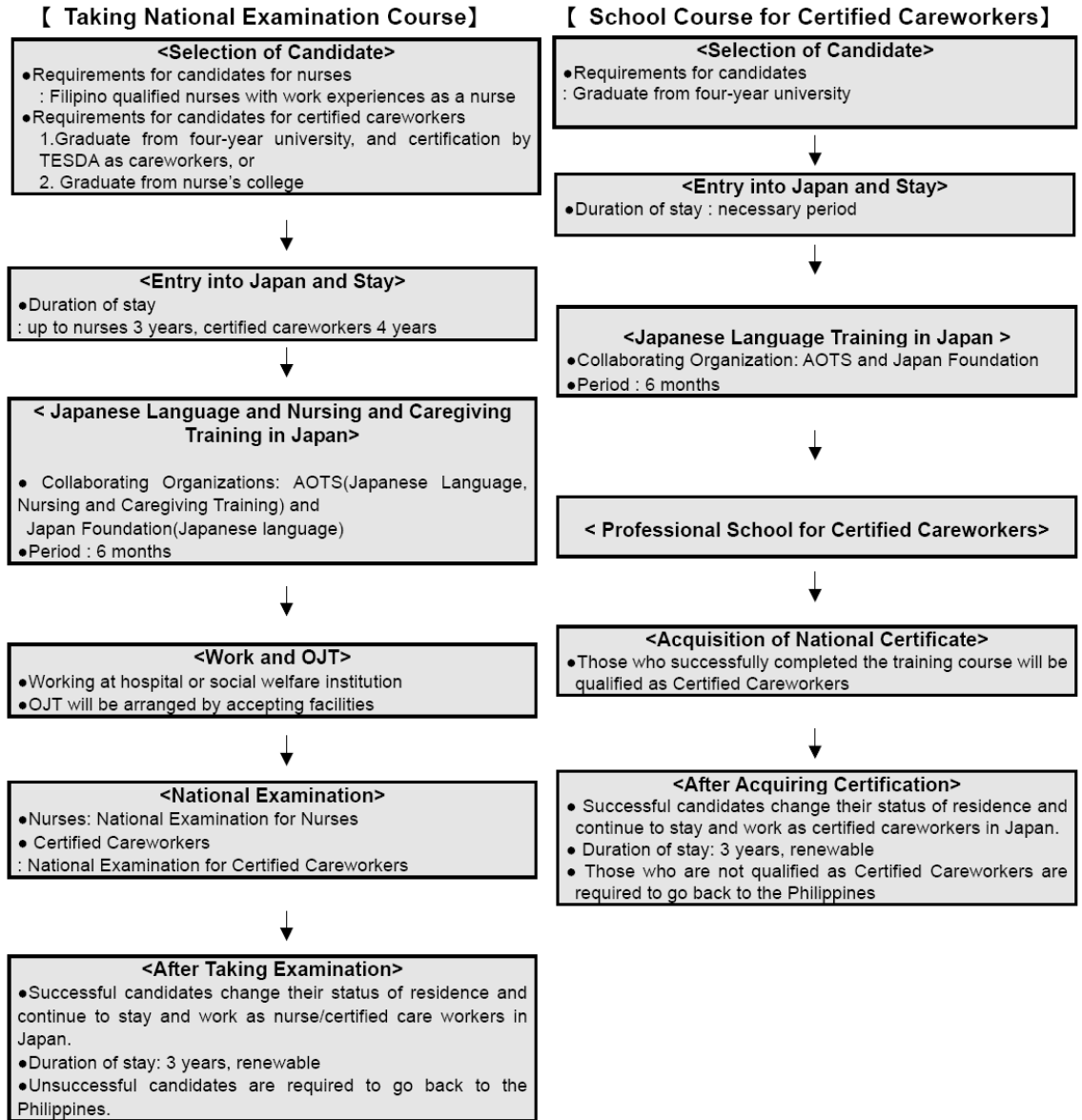
Table 10

Waste Products that are specifically given 0% tariff in JPEPA

- Ash and residues (other than the manufacture of iron or steel), containing arsenic, mercury, thallium or their mixtures, of a kind used for the extraction of arsenic or those metals or for the manufacture of their chemical compounds
- Waste and residues from the incineration of municipal waste
- Waste pharmaceuticals
- Municipal waste
- Sewage sludge
- Clinical waste – adhesive dressings and other articles having adhesive layer, wadding gauze bandages, surgical gloves
- Other clinical waste
- Waste organic solvents – halogenated and other
- Other wastes from other chemical or allied industries – containing organic constituents, other
- Waste of metal pickling liquors, hydraulic fluids, brake fluids and anti-freeze fluids
- Worn clothing and other worn articles
- Used or new rags, crap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables, of textile materials

Annex I

Basic Framework of the hosting scheme of Filipino Nurses and Certified Careworkers



Source: mofa.gov.ph

Annex II

Japan's FTA Strategy

1. Why Free Trade Agreements?

(1) Amid the advance of economic globalization, it is important to maintain and strengthen the free trade system. While the World Trade Organization continues to play an important role in this effort, free trade agreements (FTAs) offer a means of strengthening partnerships in areas not covered by the WTO and achieving liberalization beyond levels attainable under the WTO. Thus, entering into FTAs is a highly useful way of broadening the scope of Japan's economic relationships with other countries.

(2) The European Union and the United States have pursued policies oriented both toward negotiations under the WTO and the creation of large-scale regional trade frameworks. The current round of WTO negotiations could be the last multilateral trade negotiations prior to the creation of these large-scale

2. Specific advantages of promoting free trade agreements

1) Economic advantages

FTAs lead to the expansion of import and export markets, the conversion to more efficient industrial structures, and the improvement of the competitive environment. In addition, FTAs help reduce the likelihood of economic frictions becoming political issues, and help expand and harmonize existing trade-

(2) Political and diplomatic advantages

FTAs increase Japan's bargaining power in WTO negotiations, and the results of FTA negotiations could influence and speed up WTO negotiations. The deepening of economic interdependence gives rise to a sense of political trust among countries that are parties to these agreements, expanding Japan's global

3. Points to bear in mind in promoting free trade agreements

1) Conformity with WTO agreements

Three points must be ascertained. First, the duties and other regulations of commerce should not be higher or more restrictive than the corresponding duties and other regulations of commerce prior to the formation of the FTA. Second, they must eliminate duties and other restrictive regulations of commerce with respect to substantially all the trade. Third, they must ensure completion of RTAs within a 10-year period, at least in principle. The reference to "substantially all the trade" implies that countries must achieve a standard of liberalization that compares favorably to international standards in terms of trade volume (based on the

(2) Impact on domestic industries

Japan cannot secure the advantages of FTAs without enduring some pain arising from the opening of its markets, but this should be regarded as a process that is necessary for raising the level of Japan's industrial structures. Unavoidable issues will emerge concerning various areas of regulatory control, including movement of natural persons, as well as the opening of markets and the implementation of structural reforms in the agricultural sector. With due respect for political sensitivities, unless we take a stance linking FTAs to economic reforms in Japan, we will not succeed in making them a means of improving the international competitiveness of Japan as a whole.

4. The type of free trade agreement Japan is aiming for (what to negotiate)

(1) Comprehensiveness, flexibility, selectivity

At present one option would be to base future agreements on our economic partnership agreement with Singapore, but we should maintain flexibility and explore the possibility of taking a "Singapore-plus" or "Singapore-minus" approach. It may be possible to have specific areas (such as investment and services)

(2) Matters for consideration in realizing the Japan-ASEAN Comprehensive Economic Partnership

In order to ensure that such partnership be comparable to economic integration in other regions, it should offer the greatest possible liberalization in a broad range of areas.

(3) Possibility of utilizing FTAs to assist developing countries

Conclusion of FTAs with developing countries could also serve as a political device for promoting economic development in these countries, including those in Africa

5. Strategic priorities for free trade agreements

(1) Criteria for judgement

These include (a) economic criteria, (b) geographic criteria, (c) political and diplomatic criteria, (d) feasibility criteria, and (e) time-related criteria.

(2) Japan's FTA strategy--specific matters for consideration

Japan's major trading partners are East Asia, North America, and Europe, three regions that account for 80% of Japan's trade. In comparison to FTAs with the countries of North America and Europe, which are all industrialized countries, FTAs with East Asia will produce the greatest additional benefits through further liberalization. As is apparent from the simple average figures for tariff rates (the United States, 3.6%; the European Union, 4.1%; China, 10%; Malaysia, 14.5%; the Republic of Korea, 16.1%; the Philippines, 25.6%; and Indonesia, 37.5%), East Asia, the region where Japanese products account for the highest percentage of trade, has the highest tariffs. Liberalization of trade with East Asia will help facilitate the activities of

When Japan promotes FTAs, we must pay attention to securing political and economic stability within the larger context of the construction of a regional system. Priority should be given to concluding FTAs with countries and regions where, despite close economic relationships, relatively high trade barriers exist that pose obstacles to the expansion of Japan's economy. From this standpoint, East Asia is the region with the most promising counterparts for negotiations, and in light of the feasibility criteria and political and

At the same time, an FTA with Mexico should be concluded expeditiously where Japanese businesses have to pay relatively high tariffs, in comparison to those of NAFTA and the European Union that have already concluded FTAs with Mexico

Source: MOFA, 2002 (<http://www/mofa.go.jp/policy/fta/strategy>)

(a) Economic partnership in East Asia revolving around Japan, the Republic of Korea, and China, plus

To begin with, Japan should pursue FTAs with the Republic of Korea and ASEAN, and, based on these foundations, efforts should be made over the mid to long-term to conclude FTAs with other countries and

Republic of Korea:

In view of Korea's political importance, wide-ranging contacts between respective citizens, deep relationship of economic interdependence, and joint proposals by business leaders in both countries for a comprehensive economic partnership agreement or FTA, negotiations should begin as soon as possible after the new administration of the Republic of Korea takes office next February. Discussions should be started on a

ASEAN:

While our aim is to ultimately strengthen an economic partnership with ASEAN as a whole, we should, to begin with, rapidly make efforts in creating bilateral economic partnerships individually, based on the framework of the Japan-Singapore economic partnership agreement, with major ASEAN member states (including Thailand, the Philippines, Malaysia and Indonesia) that have expressed a positive interest in concluding a bilateral FTA with Japan. Taking into account the progress of bilateral agreements, we should

China:

While the possibilities for an FTA could be considered from the standpoint of ultimately working out economic partnership in East Asia centering on Japan, China, and the Republic of Korea, plus ASEAN, for the present we should continue to closely monitor China's fulfillment of WTO obligations, trends in China's economy, the status of overall relations between Japan and China, and progress in the new round of WTO

Hong Kong:

In the context of the ongoing process of expanding the relationship of economic interdependence between Japan and China, the possibility of concluding an FTA with Hong Kong should not be excluded.

Taiwan:

Taiwan is a separate customs territory under the WTO Agreement, and while the possibility of concluding an FTA with a WTO member is theoretically and technically a potential subject for consideration, Taiwan's tariff rates are already low, so tariff reductions achieved through an FTA would not produce major benefits for both sides. It would be more appropriate to consider strengthening economic relations in specific relevant

Australia and New Zealand:

While the handling of agricultural products is a sensitive issue in relation to these two countries, Japan shares many common values and interests with them. Australia, in particular, is a major supplier of natural resources to Japan. One useful approach would be to proceed in two stages as jointly proposed by business circles of both countries, i.e. pursuing economic partnership in areas of mutual interest over the short term

Mexico:

As stated above, we need to launch negotiations as soon as possible.

(b) Preliminary considerations regarding other countries and regions

Chile:

In light of Chile's tariff structure, its volume of trade with Japan, and its major exports to Japan, the conclusion of an economic partnership agreement or FTA with Chile could be considered a mid to long-term

Mercosur:

This customs union is a driving force for economic integration in Latin America, and we must pay attention to its movement toward a Free Trade Area of the Americas and negotiations on concluding an FTA with the

Russia:

Any comprehensive move to strengthen economic relations, such as through an FTA, would be considered after the strengthening of relations through realization of individual projects.

South Asia:

We should continue to explore the best approach to partnership while watching to see how India is integrated into the international economy.

Africa:

While it is theoretically possible to employ FTAs as a means of assisting developing countries, we must also consider whether or not there would be any advantages for Japanese businesses.

North America and the European Union:

The conclusion of an FTA with either would be a very difficult task in light of issues such as the handling of agricultural, forestry, and marine products. An FTA between Japan and the United States would bring about a major trade conversion effect. For the present it will be beneficial to strengthen the bilateral relationship through formulating frameworks in specific areas (such as mutual recognition) and promoting dialogues in

Source: MOFA, 2002 (<http://www.mofa.go.jp/policy/fta/strategy>)

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