

Building Toxic Waste Colonies: Japan's Economic Partnership Agreements

Asian "Integration" – Japan's Vision

Saddled with a rapidly aging population, a shrinking and expensive labor force, a very high cost of living, hunger for resources to feed its industrial base, and diminishing space to dispose of wastes, Japan is now eyeing the rest of Asia, with its relatively inexpensive land, and young and cheap labor force, favorable investment climate, and abundant natural resources, as the engine for future Japanese growth. The drive is to create outsourced economies in the service of Japan.

Such a policy unfortunately also involves the outsourcing of harmful industries – the externalization of real environmental costs and liabilities via the export of industrial sectors likely to create harmful environmental impacts to weaker economies lacking in societal safety nets. This includes the outsourcing of hazardous waste management (along with the waste) to poorer countries. In Japan's exploitive vision, East and South Asian countries are to be used as processing zones for its increasing volumes of toxic waste.

Existing legal barriers set up by international agreements, such as the Basel Convention, coupled with national waste trade bans have proved to be a hindrance to Japan's Asian waste colonization plans. To counter these existing barriers Japan has created new venues and launched well resourced strategies, all designed to circumvent the spirit and obligation of the Basel Convention -- to minimize waste trade.

Tools for Waste Colonization

3R Initiative. Japan launched a waste initiative and venue at the G8 summit in 2004. This initiative, with a nice sounding name, is competitive with, and in important ways, contrary to the prime objectives of the Basel Convention. Rather than *minimizing* transboundary movement of hazardous waste, the 3R Initiative called for lifting of trade barriers for waste and for the free movement of recyclable materials, including toxic wastes, within a regional context. By pumping money and largely controlling the agenda of the 3R Initiative, Japan has been able to propagate their regional waste management plans. Through a series of regional and national Asian workshops and programs on waste management they have promoted regional

waste trade cooperation schemes that would support the export of Japan's growing mountains of waste.

Divide and Conquer with Bilateral Agreements

The second strategy to circumvent the Basel Convention lies hidden in what are known as Japan Economic Partnership Agreements or JEPAs. With the seeming collapse of the WTO negotiations in Doha, Japan has found it easier to lure Asian developing countries outside of the safety of the multilateral context into signing bilateral trade agreements. In bilateral accords between unequal economic partners, instead of pooling the collective political clout of developing nations, nations are reduced to a one-on-one standoff, where Japan enjoys what some declare as predatory weight and influence from its economic dominance.

Japan successfully launched its first JEPA with Singapore in 2002. Other Southeast Asian countries quickly followed: Malaysia and Brunei (2005), Indonesia and Thailand (2007), Philippines (2008), and Vietnam (2009). Japan is currently negotiating JEPAs with India, South Korea, and has expanded the JEPAs to Latin America by getting Mexico and Chile to a deal back in 2007. In April 2008, Japan inked the Japan – ASEAN Comprehensive Economic Partnership Agreement (JACEP) with the 13 member countries of the Association of Southeast Asian Nations (ASEAN) which further consolidated its waste trade hold in the region.

Collision Course with Basel Convention

1. Tariff Elimination on Hazardous Wastes -- Pouring over the various JEPAs, BAN and other civil society groups were shocked to find various Basel hazardous wastes (e.g. clinical and medical waste) defined as included in an extensive list of "goods" subject to tariff elimination under JEPAs. Tariff elimination is normally undertaken to *increase* trade in a given product. There can be no reason for it unless there is a future envisaged for increased trade, in this case trade in toxic wastes! And, the dynamics of cost-externalization via waste trade will ensure that the vast majority of such future waste trade will move from Japan to developing countries and not the other way round. Such trade is absolutely contrary to the obligations, decisions and principles of the Basel Convention.

2. Redefining Wastes as Goods – Blurring Distinctions -- As noted above, JEPAs first fail to respect the Basel Convention's definition of wastes as they define "originating goods" to include Basel wastes. The Basel Convention does

not treat wastes (whether for recycling or disposal) as “goods” but rather as “bads” that are subject to trade restrictions for the sake of environment, particularly of developing countries, not trade liberalization.

3. Limiting Trade Restrictions - Direct Interference -- In certain cases, such as in the Philippines, parties are bound to be open to the possibility of amending, repealing, or making less restrictive, laws or regulations that hamper the implementation of JEPAs. The Basel Convention, particularly the Basel Ban Amendment, which all Parties have been urged to ratify, is in real danger of being undermined in the face of this more recent, more specific agreement with Japan.

4. Non-tariff Barriers - Undermining Sovereignty -- Under the JEPAs, countries are *prohibited* from imposing non-tariff barriers. This provision contradicts and makes it difficult for countries to quickly impose a trade ban on toxic wastes which is an expressed right enjoyed by any sovereign state and is acknowledged by the Basel Convention.

Caught in the Act: The Case of the Philippines

Japan's strategy to sneak through waste trade liberalization requirements with its economically weaker neighbors hit a snag in the Philippines, when non-governmental organizations began to shine a spotlight on the text of the Japan-Philippines Economic Partnership Agreement (JPEPA).

It has since been revealed that the Philippine Department of Environment and Natural Resources refused to include toxic wastes in the treaty early in the negotiation, but were later prevailed upon by Japan's insistence that the JPEPA was an all or nothing deal. That is, so important to Japan was the listing of toxic wastes on the “product” tariff elimination section of the agreement that they were willing to jeopardize the passage of the agreement itself in order to retain this section.

To force the immediate ratification of the JPEPA and to quash any civil society opposition, Japan and its allies in benefiting industries poured considerable resources and employed numerous schemes to stem the growing animosity by Philippine society against the JPEPA and in particular its waste trade provisions.

■ In response to the outrage, an Exchange of Diplomatic Notes was executed by the two governments, which contained Japan's promise not to export toxic wastes except in accordance with the Basel Convention. *This is an empty gesture because it is unclear whether such notes are legally binding. More significant is the fact that because neither Japan nor the Philippines has ratified the Basel Ban Amendment and the Philippines does not possess a full import ban on hazardous waste, it is quite feasible to export in accordance with the Basel Convention even while violating its fundamental principles of national self-sufficiency.*

■ The Philippine ambassador to Japan next publicly stated that Official Development Assistance from Japan, in the form of loans and grants, would be affected if the JPEPA was not ratified. *The JPEPA is a bilateral trade and investments agreement, with no clear commitments on development aid to begin with. Linking the JPEPA with aid, which the Philippine government heavily relies on, is a testament on how Japan bullies its so-called “partners” into bowing to its demands.*

It is telling that Japan has refused to simply remove the offensive and controversial text, even while claiming they have no intention of ever using it! Japan resorted to threats and expensive propaganda to ensure that toxic waste trade liberalization provisions remained.

The JEPAs also raise very serious conflict issues with other Multilateral Environmental Agreements, such as the Stockholm Convention, because of the inclusion of banned or controlled substances such as, DDT, in the JEPAs.

Philippine civil society groups have filed a case with the Philippine Supreme Court to hold the JPEPA unconstitutional. The case is still under review.

For the full story on the Philippines JPEPA, please see http://www.ban.org/Library/JPEPA_Report.pdf

Recommendations:

1. Reject toxic waste in JEPAs. Developing countries around the world must refuse the ratification of JEPAs or pursue renegotiations until all listings of toxic wastes and technology and internationally controlled or banned wastes and substances are expunged from tariff reduction and exploitative provisions in the JPEPA.

2. Ratify the Basel Ban and institute domestic toxic waste trade bans. Countries that have ratified the JEPAs and who have not ratified the Basel Ban Amendment, e.g. Philippines, Thailand, Vietnam, etc. are vulnerable to Japanese toxic waste imports. They need to ratify the Basel Ban to institute a first line of defense against JEPAs.

3. Japan must call a halt to its waste colonialism policies and initiatives. They must ratify the Basel Ban Amendment and move towards a zero waste – national self-sufficiency policy for all hazardous waste management.

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