

## 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 satellite economies in the service of Japan.

Such a policy unfortunately also encourages the externalization of real environmental costs and liabilities by industrial sectors that are known to create severe environmental impacts to weaker economies. This includes the outsourcing to poorer countries of all forms of waste management. Under Japan's exploitive vision, East and South Asian developing countries are in danger of being used as Japan's repository 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 new Asian waste colonization scheme. To counter these 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 new 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 calls 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 conduct a series of regional and national Asian workshops and programs on waste management to promote regional waste trade schemes and establish dependencies and relationships that will serve their long term interests in exporting its waste

mountains. (See BAN Briefing Paper 9 on the problems of the 3R Initiative)

The second strategy to circumvent the Basel Convention lies hidden in what are known as Japan Economic Partnership Agreements or JEPAs. In April 2008, Japan inked with the 13 member countries of the Association of Southeast Asian Nations (ASEAN) a regional version of the JEPA, called the ASEAN-Japan Comprehensive Economic Partnership Agreement (AJCEP) further consolidating its waste trade hold in the region.

### Divide and Conquer with Bilateral Agreements

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. Instead of pooling the collective political clout of developing nations, nations are reduced to a one-on-one standoff, where Japan enjoys the predatory weight and influence of its economic dominance.

Japan successfully took its first step with Singapore in 2002, followed by Malaysia and Brunei in 2005. The Philippines signed but not ratified an agreement in 2006, while Indonesia and Thailand quickly followed in 2007. Japan is currently negotiating JEPAs with India, Vietnam, and South Korea.

It was the trade liberalization chapters of the JEPAs that immediately spurred public outcry when they were found to actually be in contradiction to international law – *the Basel Convention*.

### 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 "materials" that just happen to be considered hazardous wastes under Basel (e.g. clinical and medical waste) were included in an extensive list of "goods" subject to tariff elimination. Tariff elimination is a tool 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 wastes. Most worrying is the fact that the dynamics of cost-externalization via waste trade will ensure that the vast majority of such future 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 -- JEPAs 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.

3. Limiting Trade Restrictions - Direct Interference -- In certain cases, such as in the Philippines, parties are bound to open the possibility of amending, repealing, or making less restrictive, laws or regulations that hamper the implementation of the JEPAs. The Basel Convention, particularly the Basel Ban Amendment, which all Parties have been urged to ratify at the earliest possible date 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 sudden 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 the inclusion of 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.

To force the immediate ratification of the JPEPA and to quash any civil society opposition, Japan and its allies in benefiting industries have 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.

■ Exchange of Diplomatic Notes was executed by the two governments, which contained Japan's promise not to export toxic wastes in accordance with the Basel Convention. *This is an empty gesture because it is not clear whether the 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 an 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 Notes*

*were simply a re-hash of old promises presented in a new package.*

■ The Philippine ambassador to Japan has publicly stated that Official Development Assistance from Japan, in the form of loans and grants, may be affected if the JPEPA is 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.*

■ JPEPA supporters have launched a well funded media offensive running two-page ads in all major dailies in Manila trumpeting the virtues of the JPEPA.

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! Meanwhile they resort to threats and expensive propaganda to ensure that toxic waste trade liberalization provisions remain.

*NOTE: 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. For the full story, please see BAN Report available at: [http://www.ban.org/Library/JPEPA\\_Report.pdf](http://www.ban.org/Library/JPEPA_Report.pdf)*

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## Recommendations:

1. Reject JEPAs. Developing countries in Asia must refuse the ratification of the JEPAs and AJCEP and 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 are removed.

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 are vulnerable to toxic waste imports. Considering that in Southeast Asia, Brunei, Indonesia, and Malaysia have all ratified the Basel Ban, Thailand, the Philippines, and Vietnam are left wide open for Japanese toxic wastes.

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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The Basel Action Network  
C/O Earth Economics  
122 S. Jackson St., Suite 320  
Seattle, WA. 98104, USA  
Phone: 1.206.652.5555  
Fax: 1.206.652.5750  
E-mail: [inform@ban.org](mailto:inform@ban.org), Website: [www.ban.org](http://www.ban.org)

Basel Action Network  
Asia-Pacific  
26 Matalino St,  
Unit 320 Eagle Court,  
Quezon City, PHILIPPINES  
Telefax: + 63 02 929 1635