

JPEPA as a Step in Japan's Greater Plan to Liberalize Hazardous Waste Trade in Asia

10 January 2007

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Report by the Basel Action Network (BAN)

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I. Introduction

On September 9, 2006, President Gloria Macapagal-Arroyo of the Philippines, and Prime Minister Junichiro Koizumi of Japan signed the Japan-Philippines Economic Partnership Agreement (JPEPA). It has since been revealed that this bilateral free trade agreement (FTA) includes within it a list of wastes, including hazardous wastes, for which tariffs are to be eliminated. Tariff elimination under JPEPA was designed to, and will have the effect of, facilitating trade.

Many of the wastes targeted for tariff elimination are wastes that are internationally designated wastes whose trade is meant to be strictly controlled under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (see Appendix). Both Japan and the Philippines are Parties to the Basel Convention. The Convention obligates Parties to minimize the transboundary movement of hazardous waste and requires Parties to become self-sufficient in wastes covered under the Convention. Further the Basel Convention provides for the sovereign right of Parties to prohibit the importation of any waste. However, it is important to note that the Basel Convention by itself does not yet strictly ban the trade in wastes between developed and developing countries. The Basel Ban Amendment, once ratified by the requisite number of countries so that it enters into force will accomplish that.

In 1995 the Third Conference of the Parties to the Basel Convention, with the Philippines and Japan both in attendance, passed by consensus, Decision III/1 to adopt an amendment to the Convention to totally prohibit all exports of hazardous wastes for any reason from countries that are members of the OECD/EU or Liechtenstein (Annex VII) to all other countries. Japan is an Annex VII country, and the Philippines is not. This Ban Amendment has long



The signing of the JPEPA free trade agreement in September of 2006. The free waste trade provisions of this agreement are in alignment with a deliberate strategy articulated by a Japanese government institute.

been sought and pressed for by developing countries. While neither Japan nor the Philippines has yet ratified the Basel Ban Amendment, it is known that the Philippines possesses a partial import ban on hazardous wastes.¹ It is well known that Japan, along with a handful of other developed countries such as the United States and Canada, has no intention of ratifying the Basel Ban Amendment and in fact actively is at work to undermine its aims. As we shall see, the JPEPA effort is one part of this strategy.

¹ As reported on the Basel Convention website: "As a general policy and consistent with the provisions of the Basel Convention and the Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990 otherwise known as Republic Act 6969, no importation of hazardous wastes, as defined in Chapter VII, Sections 24 and 25 of DAO 29 (Implementing Rules and Regulations of RA 6969) shall be allowed by the country. However, importation of materials containing hazardous substances as defined under RA 6969, its implementing rules and regulations and subsequent directives for the control of importation of wastes, for recovery, recycling and reprocessing, may be allowed only upon obtaining prior written approval from the Secretary. DAO 94-28 does list the exceptions (hazardous waste imports for recycling) allowed on an interim basis. That list does not correspond in any way with the proposed tariff reductions. That list can be found at: <http://www.emb.gov.ph/laws/toxic%20substances%20and%20hazardous%20wastes/dao94-28.pdf>

Since the signing of the JPEPA, government officials in the Philippines and in Japan have repeated claims that the inclusion of waste streams in the tariff elimination program was merely a technicality and would not trump the Basel Convention or the national laws of the Philippines.

“There are sufficient safeguards against hazardous wastes,” Philippines Trade Secretary Favila said “One of the items included [in JPEPA] is what we call hazardous toxic wastes. That’s part of all-in trade and it does not mean that we allow them to ship waste to us. It [provision on waste] does not mean anything,”²

Likewise the Japanese embassy has released a statement claiming that:

“the Government of Japan has an established legal framework based on the Basel Convention and has been enforcing strict export/import control, which does not allow any export of toxic and hazardous wastes to another country, including the Philippines, unless the government of such a country approves such export.”

The latter statement is important for what it does not say. It does not say that Japan will refrain from export of hazardous wastes to the Philippines or to any other developing country in accordance with the terms of the Basel Ban Amendment and the general obligations of the Basel Convention. Rather it notes that a country must approve such import. With the JPEPA in place, legally Japan will be well placed to *insist* that the Philippines “*must approve*” such export.

In this report we will demonstrate that the inclusion of tariff reductions for hazardous wastes is not simply a technicality, nor an insignificant byproduct of the poker game of trade negotiations. It is a legally significant move and is in fact part of a deliberate strategy now in play by Japan in a global chess game. The game plan is to overturn the Basel Convention’s obligations to minimize transboundary movements of hazardous waste and strictly control its trade, to replace this norm with one that finds waste but another commodity to be freely traded.

II. Japan’s Global Campaign against the Basel Convention and for a Free Trade in Wastes

Since the passage of the Basel Ban Amendment, Japan, along with other countries in the diplomatic grouping known as the JUSCANZ (which includes Japan, United States, South Korea, Canada, Australia and New Zealand) refuses to ratify the Basel Ban Amendment. Indeed of late, Japan has shown the greatest antipathy of any country towards the Basel Convention obligations regarding minimizing the transboundary movement of hazardous wastes and especially towards the Basel Ban Amendment.

Japan is currently the most active nation working on various fronts to circumvent, weaken, or undermine the Basel Convention’s obligation to minimize waste trade. As shall be revealed below, the JPEPA waste trade provisions are not, simply a relic of negotiation technicalities. Rather they are part and parcel of a cohesive strategy to work towards an Asian Regional Waste Trading Program. Indeed, Japan is investing a great deal of effort on several fronts in diminishing the scope of the Basel Convention and in promoting trade in wastes under the guise or pretext of enhancing “environmentally sound management” of hazardous wastes, and waste “recycling”.

The cloaking of intentions around green and positive terms like “environmentally sound”, “recycling”, “capacity building” or “3rs” is not a new strategy by countries wishing to export their wastes rather than take responsibility for them at home. Ever since international waste trade was first revealed and denounced globally in the late 1980s, countries and waste traders have utilized “green” terminology and alleged benefits for recipient countries to justify waste exports.

What is new is the level of sophistication and investment being brought by Japan toward promoting this same type of argumentation. They have not only sought, but have actually *created* new venues and treaties in which to find traction for these arguments that have been dismissed or discredited at the Basel Convention in the past.

Japan has taken the ploy used by waste traders in the past to lure people into accepting wastes through the promise of financial gains on a grander scale. As a country, Japan itself is hawking the wastes of its industry to poorer nations in exchange for the promise of economic prosperity through bilateral trade.

² http://www.manilastandardtoday.com/?page=politics6_oct26_2006

Japan is also furiously pandering its “economic agreements” with other Asian nations, such as Brunei, China, India, Indonesia, Thailand, and Vietnam hoping to turn these nations its waste colonies as well.

It is believed strongly that Japan is more intent on this campaign than the rest of the JUSCANZ group because, as an island nation, they seriously lack inexpensive land yet available for depositing their significant volumes of waste and they have failed so far to make serious reductions in their per-capita domestic waste generation.

A. The Role of JPEPA in the Japanese Campaign Revealed

The Japanese government’s strategy for promoting waste trade is very blatantly articulated in a policy document entitled “Networking International Recycling Zones in Asia” produced by the Institute for Global Environmental Strategies (IGES), an institute created and funded by the Japanese Government.³ The role of JPEPA and its context in the strategy is revealed in the following quotations from this document that can be called a “Japanese Blueprint” for waste trade facilitation (underlining added for emphasis):

- † ***“Our proposed policy promotes a sound environmental and economic cross-border market for recyclables.”***
- † ***“Participating countries must establish International Recycling Zones comprising a designated port and designated industrial areas. The designated port will facilitate international trade of recyclables, providing the transaction is between certified companies.”***
- † ***“International agreement is required to effectively implement this policy. Detailed regulations regarding customs clearance, and appropriate treatment and disposal of recyclables must be agreed upon and ratified by participating countries. Once this has occurred, a network of international recycling zones will be established.”***

³ <http://www.iges.or.jp/en/pub/pdf/policybrief/001.pdf>

Is JPEPA an instrument of this proposed “international agreement,” to effectively implement the policy?

- † ***“One of the advantages of the proposed policy is that it can be implemented as a pilot project with some countries and regions. This will be the initial step for the future agreement and implementation of the proposed policy.”***
- † ***“Barriers such as higher tariff rates and non-tariff barriers for recyclables have restricted the international flow of materials and stunted opportunities for technological developments realizing the process of converting waste into recyclables. The proposed policy counteracts these barriers for certified companies operating in designated zones.”***

Clearly the elimination of tariff trade barriers in JPEPA is part of a well planned, coherent strategy. Next the policy document speaks of eliminating non-tariff trade barriers (e.g. the Basel Convention’s trade controls and prohibitions).

- † ***“Import and export of hazardous waste is currently controlled by the Basel Convention (1989). The existing import/export procedure requires approval from all countries, including transition countries, for trade to proceed. This cumbersome procedure has become a barrier to international trade of recyclables. Through the proposed policy, approval procedures introduced in designated international recyclable zones are streamlined, thereby minimizing administrative delays.”***

Here the policy document clearly articulates the Japanese government’s fundamental antipathy to the goals and principles of the Basel Convention and the Basel Ban Amendment. The Basel Convention does not accept that “recycling” alone can be a legitimate rationale for throwing out the obligations of the Convention and the Basel Ban. The ban very pointedly and intentionally includes all hazardous waste exports for all reasons as the Parties recognized that recycling operations could cause as much real harm as final disposal and can be just as easily used as pretext for exploitation of weaker economies while disproportionately burdening them with risk and harm. Finally, the policy document emphasizes a dual strategy for implementing the

plan. The first leg of the strategy involves use of bilateral free-trade agreements such as the JPEPA.

† *“Since 1999/2000, the Asia-Pacific region has experienced a rapid expansion of regional and bilateral Free Trade Agreements (FTAs). It is expected based on the current movement of bilateral and regional trade agreements that an East Asian Community will be established in the not-so-distant future. The inclusion of the expansion of the cross-border market of recyclables in the regional liberalisation of trade and investment is foreseeable.”*

Actually, while the free trade agreements may have been foreseeable, what was not foreseeable (certainly not by the Philippine populace) nor in any way inevitable, nor ordained by the WTO, is the inclusion of the expansion of the cross-border market for recyclables – a euphemism for the liberalization of hazardous waste as if it were a simple commodity. It was not foreseen that Japan would undertake the political goal of turning back the clock to a time when waste was allowed to flow down the pathways of least economic resistance.

Viewed in the context of the policy, the inclusion of trade liberalization in the JPEPA appears to be quite deliberate and part of a longer and larger strategy to throw open borders to hazardous and other waste trade allowing it to flow from developed to developing countries in contradiction to current global legal and ethical norms.

† *“Measures to promote the trade of recyclables and remanufactured goods could be incorporated into specific FTAs, subject to the effectiveness of such measures initially experimented with a small number of designated ports.”*

Well the “could be” of this policy document has now been replaced with the reality of the current JPEPA.

B. Japan's 3R Initiative

In addition to utilizing free trade agreements, the second leg of the Japanese attack on the Basel Convention outlined in the IGES policy document involves the Japanese initiative (with some help from the US Commerce Department) that was launched under the auspices of the G8. Following a tactic known as “forum shopping” on a global scale, Japan, not being happy with the obligations and principles embodied in the Basel Convention (the world's only

waste treaty), decided to create its own global waste initiative for promoting its version of waste globalization. Under the Orwellian use of a slogan invented by the environmental movement -- “reduce, re-use, recycle,” Japan created the “3R Initiative.”



Japanese Prime Minister Koizumi speaking at the opening of the First Ministerial meeting in Tokyo of the 3R Initiative held in April of 2005. The 3R Initiative is cited as the second leg of a two-part strategy to liberalize trade in wastes including hazardous wastes. The first leg is removing tariffs for waste in bilateral and multilateral free trade agreements.

This name sounds good of course but the question of why Japan did not bring this initiative to the

Basel Convention is quickly answered once the stated goals are understood. One of the primary goals of the 3R Initiative is to:

“Reduce barriers to the international flow of goods and materials for recycling and remanufacturing, recycled and remanufactured products, along with cleaner, more efficient technologies, consistent with existing environmental and trade obligations and frameworks”.

“Goods and materials for recycling” are by international legal definition “wastes” and the most obvious example of a trade barrier existing for waste is in fact the Basel Convention, the Basel Ban Amendment, and the national import bans the Basel Convention allows. When confronted with this glaring contradiction by NGOs and by Basel Parties, Japan

has softened its rhetoric somewhat on this matter, but it is clear that the intention remains to provide regional "solutions" to waste issues wherein Japan can rely on its Asian neighbors to take the mountains of Japanese waste arising from that island nation. They are hoping to make this palatable by masking it as "recycling", "3Rs", free-trade", "capacity building", and "environmentally sound management." Even in a recent Asian regional 3Rs meeting held in Tokyo in March of 2006, the Japanese chairman's summary recommendations stated:

"Establishing a regional market for recyclables, including hazardous wastes, with transparency and traceability; fostering 3R-related collaboration between exporting and importing countries, including in free trade agreements (FTAs); and Developing 3R policies capitalizing on comparative advantages among countries/communities (e.g., technological capacity, labor availability, access to markets)."⁴

The "comparative advantage" of using the Philippines to process the waste of Japan is that the Philippines can do it far more cheaply with far cheaper labor and property values. What is not mentioned is the comparative disadvantage of long-term effects of cost externalities. In other words, Japan can wash their hands of the long-term liability, risks, occupational health, and sacrifice of land involved in hazardous wastes disposal/recycling including the disposal of residues and effects of emissions from recycling operations. Certainly these deals are, when all cost externalities are calculated, a clear economic *advantage* for Japan and a net *disadvantage* for the Philippines. BAN has called the 3Rs Initiative of Japan a "Mask for Toxic Trade".⁵

C. Japan Working to Undermine Basel Convention Competency over Toxic Ships

Another very serious attack on the Basel Convention now being perpetuated by Japan and a handful of other countries is an effort to facilitate waste exports to developing countries of obsolete ships laden with hazardous wastes such as asbestos, PCBs, residual fuels and leaded paints. Japan has played a lead role in undermining the Basel Convention's competence in dealing with hazardous wastes in the

⁴ <http://www.iges.or.jp/en/Itp/pdf/activity05/summary.pdf>

⁵ To learn more about the 3R program launched by Japan and the problems with it see http://www.ban.org/Library/briefingp9_april2006.pdf



Indian shipbreakers praying opposite the IMO building in London. The vigil was for those workers that have died from explosions, accidents, cancer and asbestosis on the Indian shipbreaking beaches. Labor, human rights and environmental groups are all calling for a rigorous IMO treaty but unfortunately Japan is one of the key countries that have argued for a treaty that will not minimize the transboundary movement of hazardous waste ships. Copyright © Basel Action Network 2006.

form of obsolete vessels, in order to continue to allow them to be exported and scrapped in the infamous South Asian shipbreaking beaches of India, Bangladesh and Pakistan. There, workers are severely contaminated and exposed to toxic substances and suffer the slow deaths of cancer and asbestosis or the violent death from explosions as cutting torches ignite residual fuels and oils. The dumping of ships that have become hazardous waste on developing countries and some of the world's poorest laborers is precisely the kind of environmental injustice that the Basel Convention and the Basel Ban Amendment sought to prevent, but Japan has been intent on preventing the Basel Convention from applying to obsolete toxic ships.

Japan has led the charge, with Norway, India, Greece and the United States on behalf of the powerful global shipping industry in arguing strenuously that the Basel Convention does not, and should not apply to ships at end-of-life. Japan took a lead role in past Basel Convention meetings in blocking any efforts the Basel parties were willing to take toward tightening up the Basel regime with respect to dealing with ships. Instead, again using a tactic of forum shopping, Japan helped beat a path away from the existent Basel Convention to the far more industry dominated International Maritime Organization (IMO) and urged that body to conclude an alternate treaty on shipbreaking which will not prevent the export of ships containing hazardous substances to developing countries.⁶

⁶ To learn more about this venue shopping to the IMO and away from Basel visit http://www.ban.org/Library/briefingp5_april2006.pdf

The draft IMO Convention that Japan has taken a leadership role in creating and negotiating so far intentionally reverses the burden of responsibility imposed by Basel on the waste producers and places all responsibility on the countries receiving the waste ships.⁷ That treaty is now being concluded and at the most recent meeting of the IMO in London this October, Japan together with Norway and Germany and the United States took the lead in ensuring that treaty remains minimalist – a “green washing” that will do very little to prevent the disproportionate dumping of the world’s toxic ships on developing countries as the Basel Convention would aim to do.⁸

On 12 September 2006, Japan’s Ministry of Infrastructure, Land and Transport (MLIT) and supported by the Ocean Policy Research Foundation – yet another Japanese government created and funded quasi governmental think tank, hosted a Tokyo seminar on shipbreaking entitled “Establishing the Global Frame Work in Ship Recycling”. The seminar failed to invite any stakeholders with an alternate viewpoint -- for example Basel Convention representatives, NGOs, or European Commission officials that have expressed grave doubts about the IMO approach. All of the speakers from industry and from the invited governments were of the position that the Basel Convention *cannot* apply to ships and once the IMO Convention is finished there can only be one treaty covering the issue. Further all of the speakers argued for the continuance of export of hazardous waste ships to developing countries.⁹

It is believed that Japan’s biggest concern with respect to their significant effort to prevent the Basel Convention from dealing with ships, involves maintaining the status quo for its powerful shipping industry – the very profitable outcome of reaping yen for steel while not having to pay for the cost externalities when a ship reaches its end-of-life. But the Japanese push is also entirely consistent with a view that liberalization of trade in waste, made palatable by the export of improved technologies, is the means to solve in the long-term Japan’s and other developed countries waste crisis. In other

⁷ For a full critique of this draft convention see: http://www.ban.org/Library/IMO_Draft_Convention_CritiqueFINAL.pdf

⁸ Read the NGO Platform on Shipbreaking’s press release following the meeting: http://www.ban.org/ban_news/2006/061013_ship_sc_rapping_immoral.html

⁹ https://www.maritimejapan.com/JSC/maritimejapan.nsf/v_welcome1_e/8E03989BC45813A9802571EE005701B8

words, give the developing countries, our wastes and sell them our technologies and call it “3R”, “environmentally sound management”, “international recycling zones”, and “capacity building”. The net result, the big picture that the Basel Convention has all along aimed to avoid, might well be a world where developing countries become the global cast assigned to conveniently manage the effluent of the affluent – what could be called waste colonialism.

D. JSEPA, JMEPA, JTEPA, JVEPA and other Japanese Waste Colonization Agreements

Prior to 2006, Japan has steadily been creating its Asian waste colonies. JPEPA is in fact not the first, but already the third such agreement that Japan has entered into in Asia. On October 31, 2002 Japan and Singapore exchanged diplomatic notes ushering in the entry into force of the Japan-Singapore Economic Partnership Agreement (JSEPA).¹⁰ Last December 31, 2005 Malaysia and Japan signed the Japan-Malaysia Economic Partnership Agreement (JMEPA) in Kuala Lumpur¹¹.

All three agreements call for the elimination of tariffs over an extensive list of so called “goods”, that invariably includes wastes and toxic wastes. In addition, these FTAs also undermine among others, the fundamental Basel definition on wastes, as well as preventing the exercise of a party’s sovereignty in protecting its environment and public health. Some of the specific conflicts with are:

- a) *Redefining “wastes” as “goods”*. The Basel Convention defines wastes as “substances or objects which are *disposed of* or are *intended to be disposed of* or are *required to be disposed of by provisions of national law*.”¹² JPEPA, JMEPA, and JSEPA, on the other hand provide a list of “originating goods” which deserve preferential tariff treatment that lists “goods”, such as:

“... (i) articles collected in the Party which can no longer perform their original purpose in the Party nor are capable of being restored or repaired and which are fit only for disposal or for the recovery of parts or raw materials;

¹⁰ See at: <http://www.mofa.go.jp/region/asia-paci/singapore/jsepa.html>.

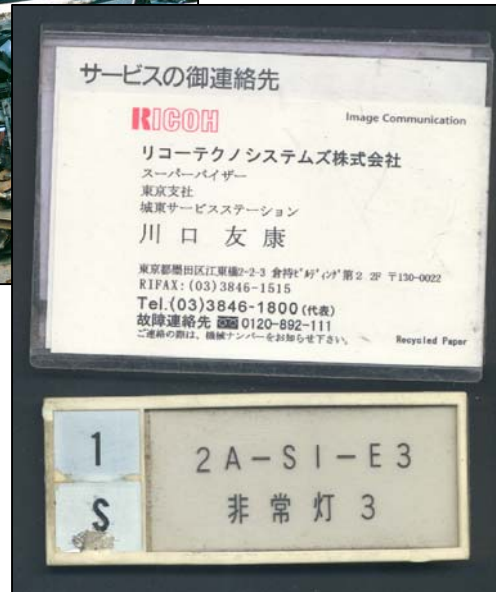
¹¹ See at: <http://www.mofa.go.jp/region/asia-paci/malaysia/epa/index.html>.

¹² Art. 2(1), Basel Convention.



Chinese boy from Hunan province. His father makes \$1.50 US each day processing hazardous e-waste from USA, Japan, and Canada. In Guiyu. Copyright © Basel Action Network. 2001.

Tags found on computer scrap in Guiyu, China by BAN in December 2001. To this day, Guiyu in Guangdong province continues to receive hazardous electronic wastes primarily from Japan, USA and Canada. Copyright © Basel Action Network. 2001.



*(i) scrap and waste derived from manufacturing or processing operations or from consumption in the Party and fit only for disposal or for the recovery of raw materials:...*¹³ (Emphasis supplied)

Although the three agreements do not specifically define “goods”, their definition of “originating goods” provides sufficient legal interpretation of what Japan considers “goods”. By re-defining “wastes” as “goods”, Japan is re-writing international law through JPEPA, giving it ample cover to hide under the veneer of legitimacy created by these bilaterals and to considerably widen the scope of its trade in “waste-goods”.

b) *Prohibiting “non-tariff” measures.* All three agreements prohibit a party from introducing or maintaining any “non-tariff measures” on the importation of any good of the other Country or on the exportation or sale for export of any good destined for the other Country.¹⁴ This provision effectively limits a country’s ability to immediately

impose non-tariff measures such as erecting an outright ban on importation, establishing stringent criteria for imports, imposing quota on amount of imports, etc. of toxic waste under its national law and through the Basel Convention.

c) *Repeal and amendment of laws in conflict with JPEPA.* JPEPA explicitly obligates the Philippines and Japan to “*examine the possibility of amending or repealing laws and regulations that pertain to or affect the implementation and operation of this Agreement [JPEPA]...*”¹⁵ Under this obligation, national laws implementing the Basel Convention or other MEAs will be targeted of repeal or amendment, specially if these implementing national law or regulation becomes an impediment to JPEPA.

The threat of Japanese FTAs in Asia is increasing. Japan is presently proposing or negotiating economic partnership agreements with Brunei, India, Indonesia, Thailand, Vietnam, South Korea, and China. The proposed treaty texts for these agreements is kept secret and fiercely guarded. If JSEPA, JMEPA, and JPEPA are good indicators of content, then it is most likely that the succeeding EPAs will also bear similar provisions that undermine both national laws of the

¹³ Art. 28, JPEPA, JSEPA and JMEPA.

¹⁴ Art. 22, JMEPA; Art. 21, JPEPA; Art. 17, JSEPA.

¹⁵ Art. 4, Review of Laws and Regulations, JPEPA.



Japanese scrap computers photographed by BAN in Lagos, Nigeria, Africa in October 2005. Significant quantities of hazardous electronic waste from Japan are exported all over the world without testing to assure whether material is waste or not. In Lagos, 75% of this material is simply dumped and burned in informal wayside dumps. Copyright © Basel Action Network. 2005.



countries involved and their Basel Convention obligations.

3. Exports of Japanese Hazardous Waste Already Flowing

Despite claims by the Japanese government that they do not currently export hazardous wastes to developing countries, in fact Japan is bursting at the seams with waste and is a country unable to prevent exports of hazardous wastes from leaving their shores for destinations in developing countries. Already BAN and Greenpeace have documented massive volumes of Japanese wastes, some hazardous, flowing illegally into the Chinese port of Taizhou¹⁶ south of Shanghai and likewise landing in the infamous electronic waste processing areas of Guiyu in Guangdong Province.¹⁷ While the most extensive documentation by BAN of these exports took place in our field trips in 2001 and 2004, we have no reason to believe that these exports do not continue to this day.

Most recently in October 2005 BAN visited Lagos, Nigeria in Africa to witness the global waste trade of electronic scrap and found Japanese automobile and electronic scrap exported for alleged re-use. However 75% of the imports were unusable and were

simply dumped in the many informal dumpsites in swamps and waysides and routinely set ablaze.¹⁸

In 1999 the Japanese company Yugengaisha Nisso of Tochigi exported 124 seagoing containers of medical waste on the Philippines in the guise of it being household garbage. At that time one Philippine newspaper opined *'We came out in favour of globalisation, but we never imagined that it would include the globalisation of garbage and large-scale exportation of possibly infectious and toxic trash.'*¹⁹ In 1994, a Japanese shipbuilding company, Tsuneishi Heavy Industries Inc., developed an industrial zone, West Cebu Industrial Park (WCIP), in the West Cebu Island in the Philippines. A local developer was contracted by Tsuneishi to operate a shipbreaking dock there. It was believed that Tsuneishi invested in the WCIP because of the relatively loose regulations applied on the island, and the cheaper labor available. There the ships were, for several years prior to local opposition, dismantled in the sea with no effective measures to prevent pollution.²⁰

Next the Japanese shipping industry sought to facilitate export of ships to India. South of the infamous shipbreaking beaches of Alang in the port of Pipavav is a modern shipbreaking facility

¹⁶ http://www.ban.org/Library/Taizhou_E-waste_Research_Report.pdf

¹⁷ See report "Exporting Harm: The High-Tech Trashing of Asia" at: <http://www.ban.org/E-waste/technotrashfinalcomp.pdf>

¹⁸ See report "Digital Dump: Exporting Re-use and Abuse to Africa at:

<http://www.ban.org/Library/TheDigitalDump.pdf>

¹⁹ http://www.ban.org/ban_news/philippines.html

²⁰ <http://www.jca.apc.org/joshrc/english/14-2.html>

constructed with Japanese financial support, but not without Japanese self interest. There is a wealth of steel buried beneath the toxic paints of modern ocean going vessels but in Japan itself, shipbreaking has become too expensive due to the high costs of labor, strict environmental regulations and diminishing landfills to bury residues and asbestos. To date however the Japanese funded facility has not scrapped one vessel but remains symbolic of Japan's interest in promoting waste trade while glossing it with advanced technological support to developing countries. Despite being a technological improvement over the yards in Alang where Japanese owned ships still end up, it is still an affront to environmental justice principles that call for national self-sufficiency and the prevention of disproportionate burdens of wastes being delivered to weaker economies.²¹

IV. What the Basel Convention Calls For

In contrast to the vision of Japan and the United States which seeks to allow a free trade in wastes of all kinds, the global community, in response to an outbreak of epidemic waste trade in the late 1980s,



took an alternate approach in the creation of the Basel Convention. The Basel Convention was designed to protect developing countries from being subjected to waste exportation driven down a path of

least economic resistance by the increasing cost of waste management in developed countries.

It was the developing countries led by the African group that demanded an international instrument to deal with transboundary movements of wastes, and the United Nations Environment Program responded. In fact in 1988 the Philippines responded unilaterally by passing a bill unanimously in Congress introduced by Senators Edgardo Angara and Mamintal Tamano in Congress banning the import, storage, or transport of nuclear or toxic wastes in or through the Philippines. At the time, Congressmen in the Philippines called the international waste trade a "diabolical practice."²²

Developing countries sought a full ban on the export of hazardous wastes for any reason from developed to developing countries. However, due to weakening influences of countries like the United States and the lowest-common denominator nature of international consensus negotiations, the treaty that was finally signed in 1989 was seen by most developing countries as a disappointment. Greenpeace and the African group denounced it as being an instrument that legalized what should be a criminal activity. While the original Convention fell far short of its promise as it failed to ban the export of hazardous waste to any part of the world except Antarctica, it nevertheless set within it a framework containing very important principles. These principles are found in the following general obligations:

1. Transboundary movements of hazardous and other wastes should be minimized.
2. Generation of hazardous and other wastes should be minimized.
3. All states should develop their own capacity to manage their own hazardous wastes within their own borders.

The Basel Convention also emphasizes the particular vulnerability of developing countries and has thus made clear distinctions between the economies of developing countries and developed countries and their differentiated responsibilities. It can be said that implicit in this differentiation was the concept later articulated as "environmental justice" and its fundamental principle of not allowing any peoples for any reason to be subject to disproportionate environmental burden or harm (e.g. due to their economic status).

²¹ http://www.greenpeaceweb.org/shipbreak/travelreport_pipavav.asp

²² The International Trade in Wastes: A Greenpeace Inventory, 1990.

While the rest of the Convention largely laid out the mechanics of a notification and consent regime by which wastes could still be traded with state-to-state communication and permission, the goals, principles and message of the Convention is clear -- waste is not just a commodity but rather is seen as a "bad" more than a "good" -- something to be minimized at source and whose export must be controlled in particular when destined for weaker economies.

Very soon after the Basel Convention entered into force in 1992, the Parties, particularly those of developing countries, began pressing for a full prohibition on exports from developed to

developing countries. At the first, second and third Conferences of the Parties (COPs), ban decisions were passed as I/22, II/12 and III/11 respectively.

These remain vitally important because countries that are Parties are meant to implement the decisions of the Parties. Sadly, both the Philippines and Japan have failed in this regard and in part this is what has led to the point where the JPEPA trade provisions can be utilized and can in fact become dangerously meaningful. The import of the Basel instruments and decisions can be seen on the table on the following page.



One of many bulkloading coaster vessels that shuttles back and forth between Japan and Taizhou, China carrying metal scrap including computers, transformers, and other hazardous wastes which should be controlled by the Basel Convention. Copyright © Basel Action Network. 2004.



Japanese computer and transformer found in metals scrap exported in massive quantities from Japan to Taizhou. Copyright © Basel Action Network. 2004.

Basel Convention Instruments and Decisions

Basel Instruments or Decisions	Key Elements	Being Implemented by the Philippines or Japan?
Basel Convention (1989) A legally binding instrument with 168 Parties.	<ol style="list-style-type: none"> 1. Transboundary movements of hazardous and other wastes should be minimized. 2. Generation of hazardous and other wastes should be minimized. 3. All states should develop their own capacity to manage their own hazardous wastes within their own borders. 4. Recognized the distinction necessary between developed and developing countries. 	Philippines: Yes Japan: Working to undermine these principles and is allowing illegal exports to flow.
Decision I/22 (1992)	<ol style="list-style-type: none"> 1. Requests industrialized countries to prohibit transboundary movements of hazardous wastes and other wastes for disposal to developing countries 2. Requests developing countries to prohibit the import of hazardous wastes from industrialized countries; 	Philippines: No. The Philippines is still allowing importation of hazardous wastes as laid out in DOA 94-28. Japan: No. Japan has not prohibited transboundary movements of waste even for disposal to developing countries.
Decision II/12 (1994)	<ol style="list-style-type: none"> 1. Prohibited immediately exports of hazardous wastes for disposal from OECD to non-OECD countries. 2. Prohibited as of 1 January 1998 all exports of hazardous wastes from OECD to non-OECD countries for recycling. 	Philippines: No. While the onus of this decision rests with exporting states, the Philippines is complicit by still allowing imports in violation of this ban. Japan: No.
Decision III/1 (The Basel Ban Amendment) (1995) (Will become a legally binding part of the Convention when in force. Currently with 62 ratifications)	<ol style="list-style-type: none"> 1. Decision to actually amend the Convention for legally binding effect. 2. Bans all exports of hazardous wastes from Annex VII countries consisting of the OECD/EU and Liechtenstein to all other countries for any reason. 	Philippines: No. Have not ratified. Japan: No. Have not ratified.

As can be seen by the table above, Japan and the Philippines are not completely in step with the desires of the global community to better control and at times prohibit the most egregious forms of economically motivated waste exports. Of most significance is the issue of ratification and implementation of the Basel Ban Amendment.

While already 63 countries have ratified the Amendment including China, Malaysia, Indonesia, Brunei Darussalam, and Sri Lanka in the Asian region, the Amendment has yet to be ratified by the Philippines. Meanwhile Japan is known to be opposed to the Amendment. Nevertheless it is very important that both countries be pressed to ratify it as they have been urged to do by the Basel Parties. The drivers for the international trade in wastes including the high costs of disposal in developed countries, economic desperation in developing countries, growing levels of hazardous waste, growing global disparities in wealth are all more acute today than every before. The recent tragedy in the Ivory Coast which received a boatload of hazardous petrochemical waste from Europe in August 2006

resulting in the deaths of 10 persons and the collapse of the Ivory Coast government, the massive waste tourism of post-consumer wastes such as electronic wastes and obsolete ocean going vessels are current examples that demonstrate the need for greater controls in global hazardous waste trade, and not less.

V. Are JPEPA's Waste Tariff Reductions Meaningless?

"One of the items included [in JPEPA] is what we call hazardous toxic wastes [sic]. That's part of all-in trade and it does not mean that we allow them to ship waste to us. It [provision on waste] does not mean anything."

-- Philippine Trade Secretary Peter Favila²³

²³ http://www.manilastandardtoday.com/?page=politics6_oct26_2006

The Philippine government representatives that negotiated the JPEPA have made repeated claims in the press that the inclusion of wastes in the tariff reduction program are not relevant, but a mere technicality, and cannot trump national law or the Basel Convention. These statements unfortunately are untrue.

Treaties, once ratified and accepted, become the equivalent of national law. While the Basel Convention itself is national law in Japan and the Philippines, it must be understood that the 1989 Basel Convention does not forbid the export of hazardous waste, it merely discourages it. It was the 1995 Basel Ban Amendment which the Philippines has yet to ratify and which Japan has no intention of ratifying that *forbids* the global developed to developing waste dumping game. Further, it must be noted that the Philippine national law does not strictly forbid hazardous waste importation for recycling, but merely licenses it. Moreover it must be noted that nowhere is it assured that the Basel Convention even with the Basel Ban Amendment (once it enters into force) has *more* weight than the JPEPA and can override the bilateral treaty even if it did. As discussed previously, national implementing the Basel Convention and its Amendment may be amended or repealed under JPEPA.

Where conflicts in the law may exist, it is imperative to first work hard to prevent such conflicts prior signing a new treaty such as the JPEPA. Clearly this was *not* done and one must ask why? A built-in conflict begs a court challenge. And in fact if the issue were to come to the courts, it is likely that the courts will favor the most recent and more specific agreements as having precedence over the older, more general agreements. In this case the JPEPA is the most recent agreement which includes very specific waste streams that have been identified for trade facilitation which certainly is a conflict with any notion of trade restriction or prohibition.

The reasons given for inclusion of the waste trade liberalization section in the JPEPA were first stated as being merely a bargaining ploy.

*"If we didn't do it, we would be forced to offer another product. It's a negotiation strategy."*²⁴

"Like in a game of poker, a good player lays out the weakest cards first to hide the aces," Favila

²⁴ http://www.manilastandardtoday.com/?page=politics6_oct26_2006

*said. "Our ace cards are the products we want to protect."*²⁵

-- Philippine Trade Secretary Peter Favila

However, when such assertions were questioned, it was revealed that in fact there was internal opposition on the part of Philippine environmental officials but they were unable to get the offensive conflicting language removed because Japan insisted that it remain.

Philippine Environment Undersecretary Demetrio L. Ignacio told the Philippine Daily Inquirer that his agency had been telling trade officials that it was "no use" negotiating on the wastes because of domestic and international laws banning negotiations on those goods. But he was informed that "the terms of reference have already been drawn up by Japan" and that the Philippines can still implement its laws.²⁶

"The JPEPA, we were told, was an all-or-nothing proposition, that if we don't agree in one or two products of the 11,300 there will be no agreement."

-- Philippine Environment Undersecretary Ignacio

Others have insinuated that the World Trade Organization (WTO) requires 100 percent trade elimination in bilateral agreements. However according to a specialist international trade lawyer Jeremy I. Gatdula interviewed by the Philippine press, this is also false.

"To say that in a free trade agreement (FTA), all tariffs for products need to be covered and lowered is also not correct," Gatdula said.

What the World Trade Organization rules actually say is that parties have to include "substantially all trade" in an FTA and not "all trade," Gatdula explained.

Further there remains significant ambiguity as to whether wastes can be considered as strict commodities when the multilateral Basel Convention seeks to erect trade barriers around them. The ambiguities and conflicts inherent in the two treaties, Basel and WTO have not as yet been resolved. Many believe that they will be resolved in favor of

²⁵ From the Philippine Daily Inquirer as reported at: http://www.bilaterals.org/article.php3?id_article=6314

²⁶ From the Philippine Daily Inquirer as reported at: http://www.bilaterals.org/article.php3?id_article=6315

allowing an exception from WTO rules for Multilateral Environmental Agreement (MEA) related trade provisions.

In fact then it appears that there is no compelling reason as to why these wastes must be included in the agreement when they were either meaningless or in conflict with the Basel Convention obligations, the Basel Ban Amendment and the national importation bans under Philippine law.

Worse, the assertions that JPEPA could not influence or undermine the Basel Convention obligations, eventual Basel Ban implementation, or national law are simply untrue. In fact the provisions can have devastating consequences in the future for the sustainability of the Philippines and other developing countries.

Gatdula, summed up the government's claims in the Philippine Daily Inquirer and called the government's logic "simply wrong and beside the point." He said JPEPA was in fact a treaty, and treaties under Philippine jurisdiction are treated as part of Philippine law and as the equal of legislative enactments. "If and when JPEPA takes effect, the treaty would have the effect of overriding previous legislation in conflict with it," said Gatdula.²⁷

Why Were the Waste Liberalization Provisions Included?

It has now been revealed that the waste liberalization provisions were maintained at the insistence of the Japanese negotiators. They were accepted as a quid pro quo for labor agreements for Philippine health care workers to work in Japan as part of an all-or-nothing deal. Thus it is clear that these waste trade provisions were very significant for the Japanese side and it would very much appear that Japan is willing to exercise its very significant economic clout to arm-twist its neighbors into setting precedents which are likely to overturn future efforts at waste importation controls and prohibitions.

"One of the most critical items in the JPEPA for us was the trade in services allowing our overseas workers, our health professionals in Japan, and that was very important to the Philippines, so the issue to us was: Do we stick to our position and not have an agreement with

Japan that will be beneficial to our health workers and other workers and producers? Or go along with the DTI [Philippine Trade and Industry Department negotiating with Japan]."

-- Philippine Environment Undersecretary Ignacio

Consistent with the policy document entitled "*Networking International Recycling Zones in Asia*" produced by the Institute for Global Environmental Strategies (IGES) examined in section 2 above, which can be seen as the Japanese policy blueprint for waste trade liberalization in Asia, Japan has utilized the FTA with the Philippines to pull out another brick in the Basel bulwark against a free trade in hazardous waste.

JPEPA Appears to Beg a WTO/Basel Confrontation

Not only is this a very real concern for the Philippines were they to attempt to prohibit waste importation in future by implementing the Basel Ban Amendment, the global implications could be devastating to global environmental justice principles as it could very well pave the road for a tilted confrontation between WTO and the Basel Convention. Indeed the JPEPA's inclusion of trade liberalization may well point to a desire on the part of at least some of the negotiators to create a situation where a WTO challenge of the Basel Convention will become likely and winnable. Because it will be perceived as the weight of two treaties JPEPA and WTO against one – the Basel Convention, it may well be concluded in favor of the WTO's normal perspective, that in fact wastes *are* commodities and the Basel Convention has no business in impeding their trade, with the effect that the complete undermining and overturning of the Basel Convention would become possible.

It has long been known that the Basel Convention, as well as other Multilateral Environmental Agreements (MEAs) that possess trade provisions, are partly in contradiction to each other's obligations.²⁸ To date however, most nations do not wish to see MEAs undermined by the trade liberalization requirements of the WTO. However it is known that strong factions in the governments of such countries as the United States and Japan are of the opinion that waste is a primarily a commodity and trade restrictions in waste are ill founded. Reducing the Basel Convention to

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http://newsinfo.inq7.net/breakingnews/nation/view_article.php?article_id=28698

²⁸ See BAN Report: When Trade is Toxic: The WTO Threat to Public and Planetary Health, 1999 at http://www.ban.org/Library/when_trade.pdf

simply a 3R type initiative promoting “environmentally sound management” while allowing wastes to be freely traded, rather than an environmental justice treaty would suit the JUZCANZ group and Japan perfectly. JPEPA could be a major step in turning the Basel principle of environmental justice on its head.

JPEPA vs. Multilateral Environmental Agreements (MEAs)

JPEPA and its ilk also appear to beg for a possible confrontation with other MEAs, such as the Stockholm Convention on Persistent Organic Pollutants and the Montreal Protocol on Substances That Deplete the Ozone Layer. The list of “goods” in which JPEPA and other FTAs are trying to facilitate trade in includes banned substances under the two treaties, such as, DDT (dichloro-diphenyl-trichloroethane) a persistent organic pollutant, and chlorofluorocarbons (CFCs), an internationally recognized ozone depleting substance whose consumption and production are to be ratcheted down.

A confrontation is also inevitable with the Convention on International Trade in Endangered Species of Wild Fauna and Flora, as JPEPA favors the trade in ivory, ivory waste, whale bone, tortoise shells, and others as these “goods” are to receive favorable tariff treatment.

Japan and the Philippines are parties to the abovementioned agreements.

As with the Basel Convention, JPEPA and the other FTAs will certainly undermine the rigorous controls other MEAs have sought to establish over some of these globally acknowledged controlled substances or materials, all in the name of free trade.

5. Conclusion

The governments of the Philippines and Japan have been less than truthful about the significance of the inclusion of waste trade liberalization provisions in the JPEPA. Both have tried to pass off these provisions as meaningless relics of negotiation technicalities. This report makes the following primary conclusions:

1. The waste trade liberalization provisions of the JPEPA are far from being meaningless, they can alter the national and global legal landscape and abilities to implement the Basel Convention and its decisions; and

2. There is considerable evidence that the inclusion of these trade provisions in the JPEPA are in fact a deliberate and pre-planned step in Japan's very serious and well resourced political strategy particularly for the Asian region.

The inclusion of the free waste trade provisions of the JPEPA have serious national and global implications as they provocatively challenge Philippine possibilities of waste trade restrictions as well as the global community view of minimizing and at times prohibiting waste trade as established in the Basel Convention and its decisions. While both countries have ratified the minimalist 1989 Basel Convention, they have failed as yet to cement in place the prohibitions embodied in Basel Convention consensus decisions taken in 1992, 1994 and 1995.

The waste trade liberalization provisions can well trump national law now and in future when the Philippines ratifies the Basel Ban or chooses to prohibit the wastes subjected to the JPEPA's tariff elimination. Further, the JPEPA provisions, flying in the face of the overarching global policy of national self-sufficiency in waste management found in the Basel Convention appear designed to create a confrontation between these global norms, and the multilateral free trade agreement -- the WTO.

These outcomes could be very dangerous for all who believe that waste is not a strict commodity subject to the economic pressures of the global marketplace. However worthwhile tariff elimination may be for many *products*, it is well known that controls and prohibitions for some materials subject to trade make strong ethical, environmental and even economic sense (e.g. invasive species, endangered species, dangerous chemicals, drugs, arms etc.). Hazardous waste trade is one such material that the global community has sought to control and in those instances where the export equates to gross cost externalizations to weaker economies -- outright prohibit. The very laws already established to rein-in free trade in waste are under attack in these tariff reductions. Steps must be taken immediately to prevent ratification of the JPEPA until all of the listed wastes are removed from the agreement.

6. Recommendations

- 1) Both the Philippine and Japanese Senate and Diet must refuse to ratify the agreement until all listings of internationally controlled wastes, are expunged from tariff reduction

provisions.

- 2) Japan and the Philippines must both ratify the Basel Convention's Ban Amendment at the earliest possible date to send a strong message of intent to uphold the principles of the Basel Convention on environmental justice and national waste management self-sufficiency, and end the waste colonialism plans of certain countries once and for all. The Philippines, as part of proper implementation of the Basel Ban Amendment and Basel decisions I/22, II/12 and III/1, must revoke DOA 94-28 which establishes exceptions to a full Philippine import ban.
- 3) A full impartial multi-stakeholder inquiry in both Japan and the Philippines must be made to determine how the waste trade liberalization provisions were included in the

JPEPA, who promoted them, who insisted on them and the motivation for this.

- 4) Japan must completely remove from the 3R initiative all references to eliminating or reducing trade barriers for wastes and cease efforts in removing trade barriers to wastes that are subject to international controls under the Basel Convention and in national law.
- 5) Japan and the Philippines must embark on a serious program to prevent hazardous and other wastes at source via toxics use reductions, elimination of excessive packaging and planned obsolescence. Rather than seeking hiding places for wastes, all governments should be taking real strides towards eliminating hazardous wastes at source.

END



Port of Manila, Philippines. Customs building surrounded by containers. Will these soon hold Japanese and American hazardous wastes? The final text of the JPEPA may hold the answer.

Appendix 1

Table of Wastes Targeted for Tariff Reductions by JPEPA, JSEPA, JMEPA and the potential Conflicts of such Reductions with the Basel Convention

Waste Description for Tariffs Reduced to Zero in JPEPA	JSEPA	JMEPA	Conflicts with the Basel Convention
Ash and residues (other than from the manufacture of iron or steel), containing arsenic, mercury, thallium or their mixtures, of and used for the extraction of arsenic or those metals or for the manufacture of their chemical compounds - containing mainly lead: leaded gasoline sludges and leaded anti-knock compound sludges*	same	same	<p>(1) This is a Basel listed hazardous waste (e.g. A1030) in Annex VIII. As such is subject to all obligations of the Basel Convention and thus is to be prevented from transboundary movement through national self-sufficiency in waste management.</p> <p>(2) This waste should also be banned from importation by virtue of Decision I/22, and II/12 of the Basel Convention.</p> <p>(3) Export of this waste from Japan is in violation of the Basel Ban Amendment (Decision III/1) of Basel which Japan and all Parties have been urged to ratify but to date Japan refuses to do so.</p>
Ash and residues from the incineration of municipal waste	same	same	This is a waste listed in Annex II of the Basel Convention (Y47) and as such is subject to almost all obligations of the Basel Convention and thus is to be prevented from transboundary movement through national self-sufficiency in waste management.
Waste Oils; waste oils containing Polychlorinated Biphenyls (PCBs), Polychlorinated Terphenyls (PCTs) or Polybrominated Biphenyls (PBBs)**	same	same	<p>(1) This is a Basel listed hazardous waste (A3180) in Annex VIII, if the concentration levels of PCB, PCTs, or PBBs or any other polybrominated analogues of the above compounds have a concentration level of 50 mg/kg or more. If so, these are subject to all obligations of the Basel Convention and thus are to be prevented from transboundary movement through national self-sufficiency in waste management.</p> <p>(2) Possible violation of the Stockholm Convention Article 3 of the Stockholm Convention severely restricts export and import of Persistent Organic Pollutants (POPs) such as PCBs.</p>
Wastes of metal pickling liquors, hydraulic fluids, brake fluids and anti-freeze fluids	same	same	<p>(1) This is a Basel listed hazardous waste (e.g. A1060, A4060) in Annex VIII. As such is subject to all obligations of the Basel Convention and thus is to be prevented from transboundary movement through national self-sufficiency in waste management.</p> <p>(2) This waste should also be banned from importation by virtue of Decision I/22, and II/12 of the Basel Convention.</p> <p>(3) Export of this waste from Japan is in violation of the Basel Ban Amendment (Decision III/1) of Basel which Japan and all Parties have been urged to ratify but to date Japan refuses to do so.</p>
Lead, Cadmium, Antimony, Beryllium	same	same	(1) This is a Basel listed hazardous waste (e.g. A1020) in Annex VIII, except in massive form <i>see implications</i>

Waste and Scrap			<i>above</i>
Lead-acid scrap storage batteries, drained or undrained	same	same	This is a Basel listed hazardous waste (e.g. A1160) in Annex VIII, <i>see implications above</i> .
Waste Batteries	same	same	If waste contains lead, cadmium, mercury subject to control under Basel as (A1170), <i>see implications above</i> .
Waste pharmaceuticals	same	same	(1) This is a Basel listed hazardous waste (e.g. A4010) in Annex VIII <i>see implications above</i> .
Residual products of the chemical or allied industries, not elsewhere specified or included; municipal waste; sewage sludge; other wastes specified in Note 6 to this Chapter	same	same	(1) This category is far too general to precisely note the listing in the Basel Convention. However, it is more than likely that such materials will be considered hazardous wastes under the Basel Convention and its decisions (<i>see implications above</i>).
Municipal waste	same	same	This is a waste listed in Annex II of the Basel Convention (Y46) and as such is subject to almost all obligations of the Basel Convention and thus is to be prevented from transboundary movement through national self-sufficiency in waste management.
Sewage sludge	same	same	(1) This category is far too general to precisely note the listing in the Basel Convention. If the Sludge is collected from households it would be considered as (Y46) and considered as "other" wastes. If industrial sludge it appears in annex I as (Y18). As such depending on the constituents it may be considered hazardous waste under the Basel Convention (<i>see implications above</i>).
Clinical waste - adhesive dressings and other articles having adhesive layer; wadding gauze bandages, surgical gloves	same	same	This is a Basel listed hazardous waste (e.g. A4020) in Annex VIII <i>see implications above</i> .
Other clinical waste	same	same	<i>See clinical waste above</i> .
Waste organic solvents - halogenated, and other wastes specified in Note 6 to this Chapter	same	same	(1) This is a Basel listed hazardous waste (e.g. A3140 and A3150) in Annex VIII, <i>see implications above</i> .
Other wastes from other chemical or allied industries - containing organic constituents, other wastes specified in Note 6 to this Chapter	same	same	(1) This category is far too general to precisely note the listing in the Basel Convention. However it is more than likely that such materials will be considered hazardous wastes under the Basel Convention and its decisions (<i>see implications above</i>).

* Tariffs for these wastes are slated to be reduced to zero in 5 years after entry into force of JPEPA.

** Tariffs for these wastes are slated to be reduced to zero in 5 years after entry into force of JPEPA.

Appendix 2

Table of Some of the Globally Controlled Substances/Materials Targetted for Tariff Reductions by JPEPA, JSEPA, JMEPA and the potential Conflicts with Multilateral Environmental Agreements (MEAs)

Controlled Substance/Material	JPEPA	JSEPA	JMEPA	Conflict with other MEAs
Hexachlorobenzene	Covered	Covered	Covered	<i>Stockholm Convention on POPs:</i> Prohibits and/or take legal and administrative measures necessary to eliminate production and use, as well as import and export of the chemical, subject to few exceptions.
DDT	Covered	Covered	Covered	<i>Stockholm Convention on POPs:</i> Prohibits and/or take legal and administrative measures necessary to restrict production and use, subject to few exceptions.
Carbon Tetrachloride	Covered	Covered	Covered	<i>Montreal Protocol:</i> Stop consumption or production after January 1, 1996
Methyl Bromide	Covered	Covered	Covered	<i>Montreal Protocol:</i> Reduce consumption or production of methyl bromide to 75% of 1991 levels beginning in 1999.
CFC 11, CFC 12, and CFC 114	Covered	Covered	Covered	<i>Montreal Protocol:</i> Stop consumption or production after January 1, 1996
Halon 1211, Halon 1301, and Halon 2402	Covered	Covered	Covered	<i>Montreal Protocol:</i> Stop consumption or production after January 1, 1994
CFC 13, CFC 111, CFC 112, CFC 211, CFC 213, CFC 214, CFC 215, CFC 216, and CFC 217	Covered	Covered	Covered	<i>Montreal Protocol:</i> Stop consumption or production after January 1, 1996
Ivory, ivory powder, and waste	Covered	Covered	Covered	<i>Convention on International Trade in Endangered Wild Species of Flora and Fauna (CITES):</i> Elephants are Appendix I species - species threatened with extinction. Trade in specimens of these species is restricted and permitted only in exceptional circumstances.
Whale bone	Covered	Covered	Covered	<i>CITES:</i> A variety of Whales are considered Appendix I species - species threatened with extinction. Trade in specimens of these species is restricted and permitted only in exceptional circumstances.
Tortoise shell	Covered	Covered	Covered	<i>CITES:</i>

				Tortoise are Appendix I species – species threatened with extinction. Trade in specimens of these species is restricted and permitted only in exceptional circumstances.
Claws, beaks	Covered	Covered	Covered	<i>CITES:</i> The classification provided for in JPEPA, JSEPA and JMEPA is overly broad that there is a possibility that it can involve bird species threatened with extinction under CITES.
Spent (irradiated) fuel elements (cartridges) of nuclear reactors	Covered	Covered	Covered	<i>Nuclear Non-Proliferation Treaty (NPT):</i> Possibility that the heading includes nuclear wastes, it must therefore comply with strict regulations under NPT.