



"Junk JPEPA" is a rallying cry for many social movements fighting the Japan–Philippines Economic Partnership Agreement.

Sealing JPEPA: through stealth and by force

Sandra Nicolas* (October 2007)

It is easy to come up with a straightforward storyline for the Japan–Philippines Economic Partnership Agreement (JPEPA) so far that, at first glance, seems plausible. Such a narrative says that the JPEPA talks have dragged on for six years because of the vigorous opposition, and that even its proponents concede the difficulties and are on the defensive.

The narrative is optimistic but unfortunately inaccurate. It also gets in the way of drawing potentially important lessons from this particular Philippine experience with opposing free trade agreements (FTAs).

Resistance to the JPEPA has certainly been picking up and is a major factor holding up the deal for which negotiations have dragged on for almost as long as those of the Doha Round of talks at the World Trade Organisation (WTO). But the opposition only really started to gain momentum after the latter part of 2006, some four years after the deal started to take shape. Government proponents of JPEPA also recently seem to be losing the debate in parliamentary hearings on the deal. But while opposition arguments have been sharp, it is also sheer luck that the government side has been complacent and surprisingly inept and unprepared in arguing for the deal.

While the JPEPA threatens to overhaul Philippine economic policy-making in a way that the WTO could only try but was eventually forced to backtrack from, it has in general attracted much less public attention than that globally maligned multilateral institution. Outside the occasional news article and sporadic protests in the national capital, the general public would find it hard to tell that the country is poised to enter into one of the most far-reaching economic agreements in its post-colonial history.

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None of this is to belittle the importance and critical role of the vibrant anti-JPEPA opposition. It is indeed to its credit that its analysis is sharp enough that even the belated response has been so effective. Yet there remains much to be done in terms of the JPEPA and other trade agreements that the Filipino people face. Even if the anti-JPEPA struggle to date remains unresolved one way or the other, the experience with it already highlights some of the difficulties in organising against FTAs – and underscores how the preparedness and determination of social movements is in the end the most important.

Demobilising protests

An important part of the reason for the belated reaction has to do with the JPEPA process and then with how the deal impacts on the country. The contents of the agreement were kept secret until after the deal was signed, so anti-JPEPA groups for a long time did not have anything with which to draw up concrete campaign positions. And then, as it turns out, the Philippine economy is so backward and already subordinated to Japan's that, notwithstanding the deal's vast strategic damage, there are relatively few immediately affected sectors.

The idea for the deal surfaced as early as January 2002 as part of Japanese Prime Minister Junichiro Koizumi's proposal for an "Initiative for Japan–ASEAN Comprehensive Economic Partnership". Philippine President Gloria Macapagal-Arroyo, an economist, gave full sup-

port to this, even if its details had yet to be drawn up, and pitched for a working group to study the JPEPA a few months later. A series of consultations, joint committee and working group meetings from the end of 2002 paved the way for the launch of formal talks in December 2003 and their actual start in February the following year. Negotiations lasted until July 2005, followed by a legal review until October 2005.

The JPEPA was finally signed by the countries' respective heads of state in September 2006 during the sidelines of the Asia-Europe Meeting (ASEM) summit in Helsinki. It was quickly ratified by the Japanese Diet the following December, and only needs ratification by the Philippine Senate for it to become effective.

The JPEPA's contents were virtually unknown outside the negotiating parties until the actual signing in 2006. While the broad strokes were revealed early on, the substantial details from which its effects could be assessed were never disclosed. The Philippine government claims a handful of "public consultations" in October 2002, August 2004 and September 2004, as well as attendance at a few hearings of the Special Committee on Globalisation in the House of Representatives (HOR). (The Philippines has a bicameral legislature composed of the Senate and the HOR.) However, the negotiators consistently refused to make drafts of the proposed JPEPA public and maintained that to do so would upset their negotiating position. Periodic press statements of breakthroughs or major points of agreement were made but, again, without providing any real details.

The only real source of political pressure on JPEPA then was coming from a handful of left-leaning groups in parliament that, for instance, were active in the Special Committee on Globalisation. These precious few critical voices against "free market" policies of "globalisation" included the party-list representatives from Bayan Muna, Anakpawis, Gabriela Women's Party and Akbayan. These lawmakers work closely with people's organisations (POs) and non-governmental organisations (NGOs). Formal requests for copies of the draft JPEPA were made to the Department of Trade and Industry (DTI) as early as 2004 and then during the HOR hearings, but were all either ignored or outright denied. Alliance work within parliament was also limited and was not enough to have the Speaker of the House, a close ally of the president, give the requests more complete parliamentary weight.

Frustrated, Akbayan party-list lawmakers and some NGOs went to the Supreme Court in December 2005 to seek a restraining order preventing the government from signing the deal without full disclosure of its provisions to the public. The Solicitor General in turn argued that the Court had no jurisdiction to issue a ruling on the petition. To be sure, the Court's record on numerous occasions is that it decides not just on strictly legal grounds but also on the basis of political realities. The unfortunate political reality in this case, however, was the absence of widespread public protest against the JPEPA (which might also have been used to sway parliamentarians). But all this became moot upon the eventual signing and disclosure of the agreement.

The entire pre-signing period, then, had government pro-JPEPA negotiators easily keeping the upper hand, and the talks were protracted despite the lack of strong opposition and not really because of this. Grassroots communities and mass-based organisations were virtu-

ally invisible on the JPEPA issue. The government's success in keeping the agreement's contents secret very effectively shackled the anti-JPEPA opposition, which was deprived of any concrete issue pegs for campaigning. There was little opposition, and groups like the Fair Trade Alliance (FTA), among a few others, ended up being diverted to defensive and tangential battles on the lack of transparency and access to information. While these are legitimate issues, which justifiably agitate some intellectuals, parliamentarians and NGOs, they are regrettably distant concerns for the country's basic sectors, and weak issues on which to mobilise them.

The deal's signing in September 2006 and the disclosure of the agreement enabled the anti-JPEPA opposition steadily to gain momentum. More definite projections on impacts could be made, affected groups could be identified, and advocacy groups mobilised. Filipino activists participating in the Asia-Europe People's Forum (AEPF) immediately reacted to the signing on the standing issue of the secrecy of negotiations. On the JPEPA's impact, among the first to react in the weeks after the signing were labor groups such as the Kilusang Mayo Uno (KMU), concerned about retrenchment in the automotive and steel sectors, the Kilusang Magbubukid ng Pilipinas (KMP), which feared peasant displacement and land conversion to dumpsites, and the Pambansang Lakas ng Kilusang Mamamalakaya ng Pilipinas (Pamalakaya), which opposed Japanese fishers catching local tuna.

It also helped that there was now a definite venue to focus attention on – the Philippine Senate, which only needed to ratify the JPEPA for the deal finally to take effect. Protest actions mainly at the Philippine Senate and also at the Japanese Embassy have grown from a few dozen to many hundreds, and are likely to continue to grow not just in novelty but in size. The Magkaisa Junk JPEPA Coalition was the first broad JPEPA-specific multi-sectoral formation to coalesce. It launched a series of protests with a particular focus on the toxic and hazardous waste issue. Among the most active in the grouping are the Initiatives for Dialogue & Empowerment through Alternative Legal Services Inc. (IDEALS), Lawyers for the Environment, Green Initiatives, Ecowaste Coalition and the Philippine Nurses Association (PNA). The coalition also linked up with some government officials and parliamentarians.

The multi-sectoral network Bayan also took up the toxic waste issue, but from the beginning also highlighted Japanese plunder of Philippine resources. The think-tank IBON Foundation in turn highlighted the deal's unequal terms and the loss of economic policy sovereignty – where the Philippines liberalises more than Japan and is even prevented from using vital trade and investment policy tools for national development. In parliament, the leftist party-list groups in the HOR again registered their opposition, but the arena of the battle had shifted to the Senate and the streets.

Environmentalists opposed Japan disposing of its toxic wastes in the country; fisherfolk opposed giving Japanese commercial fishers greater access to local fish resources; farmers protested resulting pressures for displacement by big agri-business; manufacturing workers from the auto, iron and steel industries protested likely bankruptcies or lay-offs; nurses and caregivers challenged the deal's claimed gains for them. But all this came in fits and starts, for a combination of reasons.

Fisherfolk burn incense during a rally on 3 October 2007 in Manila to drive away bad spirits working for the ratification of JPEPA. The protest pounded the message home that if JPEPA goes through, Japanese companies will be fishing in Philippine waters for tuna through the entry of big fishing vessels that will deplete the fishing grounds for small Filipino fisher communities.

(Photo: Pat Roque/AP)



Finally having the complete text and details of the deal enabled more substantive analysis of its adverse impacts. This provided a clearer basis for identifying specific affected sectors and other interest groups to mobilise, which resulted in the increasing mass actions – typically pickets, small rallies or photo-opportunities for media. Advocacy groups posted analysis on websites and circulated soft copies through listserves and e-groups. Print and broadcast media outlets were given a steady stream of short media releases on specific points of attention. Research publications, both detailed and in more popular form, were distributed, and public forums were held. An electronic signature campaign with an on-line petition was launched. Lobbying senators was particularly important.

However, there were also factors unrelated to the deal per se that delayed the process. The Philippine electoral cycle was significant and much time and resources on both sides of the JPEPA divide were taken up by the 2007 mid-term elections. The Senate, for instance, took up the JPEPA as part of its ratification process in late 2006, but it was quickly put on the back burner as the election season approached. The issue remained dormant from the start of 2007, through the early campaign period, until during and after the elections in May. The deal returned as a national level issue only upon being sent to the new Senate soon after the opening of Congress in July 2007.

The secrecy with which the JPEPA was negotiated thus went far to pre-empt opposition and undercut protest. Yet still, already more than a year after its complete disclosure, mass-based opposition to the JPEPA is still in the process of fully forming. There is perhaps one particular objective condition underlying this that is useful to highlight: the Philippine economy has already been so emaciated after nearly three decades of “globalisation” that the JPEPA, almost paradoxically, has little left to destroy. The economy has also already been progressively subordinated particularly to Japan’s since the late 1980s.

The most reliable and widest base for opposition to FTAs such as the JPEPA cannot but come from the ranks of countries’ poor and majority populations: farmers, workers, small businesses, low-paid professionals and

the like. Among these, the most important to mobilise are those whose lives and livelihood are directly affected by the implementation of an FTA. The JPEPA, however, comes at a very specific time in the country’s economic history.

Since the start of the “globalisation” era in the 1980s, successive Philippine governments have forced wide-ranging “free market” policies on Filipinos. The country is now among South-east Asia’s most open economies, and it has the lowest tariffs and least restrictions on foreign investment, next only to Singapore. These have gradually eroded the country’s productive sectors, and the cumulative devastation is severe. Manufacturing is a smaller share of the economy than it was in the 1960s, and more foreign-dominated than in its entire history. Agriculture is at historically low levels, agricultural trade deficits have been rising since the mid-1990s, and the country is more dependent than it has ever been on imported food. Joblessness is reaching record levels.

The JPEPA’s liberalisation measures are then going to be imposed on an economic policy regime that has already given up so much because of recent decades of rabid “globalisation”. This also explains why the Philippines liberalises far more with JPEPA than Malaysia, Indonesia or Thailand do with their equivalent deals with Japan – it is coming from an already greatly liberalised base.

In terms of immediate impact, then, the country has scant industries to speak of that will be adversely affected. Barely 9% of the labour force is in manufacturing; this even includes those working in Japanese firms located in the country’s export zones within a region-wide production chain. Also, Japan is unlike its fellow big powers of the United States (US) and the European Union (EU) and does not for now have major subsidised agricultural exports that will threaten domestic farm production. If there is any sector that will face immediate injury it is likely to be the smaller domestic fishers, who could face encroachment and takeover by heavily subsidised big Japanese commercial fishers.

The JPEPA is, moreover, the country’s first full-blown bilateral economic treaty since the American colonial era over half a century ago. Being the first such deal means



The No Deal! Movement of the Philippines in struggle against JPEPA

that the anti-JPEPA opposition does not have the benefit of negative experience of a prior FTA with which to refute the government's proclaimed gains. On the other hand, the pro-JPEPA lobby, which has benefited from the country's "globalisation", trumpets glowing numbers of foreign investment and exports. The most vocal include the country's biggest business groups: the Semi-conductors and Electronics Industries of the Philippines, Inc. (SEIPI), Philippine Chamber of Commerce and Industry (PCCI), and the Philippine Exporters Confederation.

Yet these are by no means insurmountable constraints, especially since the JPEPA does cause both immediate and serious long-term strategic damage. The precedent-setting deal effectively closes the door to Philippine development by preventing it from using economic policy tools of protection and support that virtually all advanced nations, including Japan, needed to use in their early stages of development. The country's ideologically driven social and mass movements have been around long enough that they no longer completely rely on provocation from merely clear and present dangers. The anti-WTO campaigns since the mid-1990s, for instance, were a significant breakthrough in mobilising the basic sectors on what were otherwise seen as abstract and technical trade and investment issues.

Nonetheless that constraint has had an influence. Even after the JPEPA's details were made public, and over a year later, a significant part of the anti-JPEPA opposition still opts to play up the issue of liberalisation of toxic waste imports. The matter is a valid concern and tactically significant: its digestibility makes it a point of entry for senators who might otherwise be unconcerned with a technical bilateral deal, and also for the mass media, which incline towards more easily grasped issues. But for all the delay it causes it is still unlikely to be a deal-killer and is probably a deal-modifier at best. The choice of issue in part also reflects the nature of political forces that had been able to campaign; a more farmer-, worker- or community-based campaign may have given more emphasis to a less narrow concern. While a multi-sectoral coalition was formed that quite effectively raised the media visibility of the JPEPA, its banner issue remains toxic wastes, which is not likely to strike a

public nerve, either among the middle classes or – much less – among the basic sectors.

The recently formed multi-sectoral "No Deal: Movement Against Unequal Free Trade Agreements" approaches the JPEPA issue from a different angle. It aims to broaden the social debate on the deal to include its more far-reaching aspects, such as the locking-in of Philippine underdevelopment, the long-term interest of Filipinos in an economy that gives them sufficient livelihoods, the exploitation of the country's labor and natural resources by Japanese corporations, and Japanese hegemonic ambitions for East Asia. Defeating ratification of the JPEPA is a central objective, but the movement also means to do this in a way which draws in the greatest number of the basic sectors, explains the most important and concrete issues for them, and meaningfully contributes to the general anti-"globalisation" struggle. Or, put another way, that the perspective is of building not just anti-JPEPA advocacy groups but rather social and mass movements opposing "globalisation" and asserting national sovereignty.

Stifling the opposition

The trajectory of the anti-JPEPA opposition has been influenced by a host of things. But since any anti-FTA campaign faces a range of unpredictable and difficult situations, in the end it is the state of the organisational machinery with which to initiate, mobilise and sustain mass-based protest that is most decisive. This is where the potential anti-JPEPA opposition in the Philippines has faced the greatest challenges.

The government's campaign of political repression is the single biggest factor that has slowed development of wider mass-based protest to the JPEPA. That campaign has included attacks on progressive opposition political forces and groups which, as part of their struggles for democracy and development, would have otherwise been at the forefront of the JPEPA issue. The crackdown on the mainstream left opposition – singled out by the government while leaving out most other civil society groups – has been particularly severe. The ranks of organised farmer, worker, human rights, church and

other groups have suffered some 1,500 assassinations, attempted assassinations and enforced disappearances since 2001. The matter is serious enough to have been reported to the United Nations (UN) General Assembly.

The anti-JPEPA campaigning was among the many issues unavoidably affected. Finite research, legal, organising, alliance and mobilisation resources were diverted to more urgent efforts at organisational survival. A political counter-offensive was waged to avoid a purely defensive posture that might prove crippling; campaigns on human rights, against political killings and against a draconian “anti-terrorism” law were prioritised.

Aside from this diversion of resources, there have been disruptions in normal work methods. Organisations began to take numerous small security measures – such as changing offices, more careful communications, varying travel routes, and moving away from accustomed venues – which inevitably disrupted routines. Vilification and black propaganda also scared off some allies, while dispersals and physical harassment made mass actions and gatherings more difficult. Nevertheless the movement tried to continue with its organising and campaign work as the situation allowed.

Political repression continues, but the counter-efforts have dispelled the climate of fear and enabled the affected network to pursue, albeit somewhat belatedly, efforts at building a broad and substantially multi-issue coalition. These include developing alliances with the remaining small manufacturing industry players such as in auto parts, iron and steel, and electronics and electrical goods, whose demise would be hastened with Japanese imports under JPEPA, and also with small and medium tuna fishers, who still do not see access to the Japanese market and at the same time fear the incursion of big Japanese fishers.

A grassroots education campaign has also been started in the National Capital Region (NCR) with the distribution of popular issue primers in Filipino, educational discussions for leaders of community and people’s organisations, and small community forums. The JPEPA issue is consciously handled in a way that links it with previous anti-“globalisation” campaigns, to sustain the continuous challenge to neoliberalism, and focuses on concrete issues of joblessness and working conditions.

There is a weakness, however, in terms of more comprehensive and detailed research material appropriate for parliamentarians, government officials, academics and professionals. These would be useful not just for general alliance-building but particularly in the critical Senate, where the JPEPA is up for ratification. The hearings there have shown that the senators in general lack capacity and interest on technical economic matters, and are strongly reliant on inputs from invited resource persons. This means that the hearings open up the possibility of swaying individual senators or, at the very least, of using the public hearings as a highly visible platform for elaborating positions. The surprising unpreparedness of government negotiators – possibly lulled into complacency by having been able to negotiate the JPEPA in secrecy – underscores such opportunities.

Yet pro-JPEPA interests are regrouping to sway the Senate. After the debacle at the initial Senate hearings, President Arroyo created an inter-agency task force, with members from 16 government agencies, including the departments of foreign affairs, trade and industry, agriculture, energy, environment and natural resources, budget and management, finance and others. The country’s elite big business groups with the closest links to foreign capital also came out with a joint manifesto urging the Senate to ratify the deal. The influence of these should not be underestimated, especially with a number of senators harbouring presidential ambitions in 2010 – since big business is always a rich source of campaign war-chests.

The initial round of Senate hearings appeared to go the way of the anti-JPEPA opposition. Government panels failed to present convincing arguments as to the deal’s benefits. The opposition, on the other hand, gave lucid arguments about its adverse effects on specific matters such as toxic waste imports and belying the supposed gains for nurses and careworkers. A strong case was also made that the JPEPA gives undue privileges to Japanese investors and violates various nationalist economic provisions in the 1987 Philippine Constitution.

Notwithstanding all of this, there is conspicuously still no substantial and clearly anti-JPEPA bloc in the Senate sufficient to block the treaty’s ratification; much less is there an anti-“globalisation” bloc. Senators pressed for comments were careful, and the general tone was that they could still be convinced and that the hearings, even after the presentation of both sides, were inconclusive. Even the potentially decisive question on the JPEPA’s unconstitutionality, by being a mainly legalistic matter, actually skirts the central issue of “free market” policies of “globalisation” being destructive to the economy, the environment and people’s welfare. The danger is that perhaps more has to be done to overcome the inertia of elite interests as well as political and judicial conservatism, and that the JPEPA or its kind will still be pushed through in one form or the other.

The trajectory of the opposition to the JPEPA is a story of struggling on a complex issue under less than ideal political and economic conditions. Philippine social and mass movements have many decades of experience in struggling on the most urgent economic and political issues facing the Filipino people. Directly relevant to the current FTA struggle, these included wide and vigorous resistance since the 1990s to the extremely technical agreements of the WTO. In a way it is these successes that have prompted the recent counter-campaign of suppression against them that has made equally broad opposition to the JPEPA difficult to get off the ground.

The JPEPA is facing some delays but may yet be consummated; the commitment of government economic managers to their “free market” ideology and of big business elites to their profits is hardly rattled by concerns about poverty or underdevelopment. Nevertheless, opposition to the JPEPA is growing, with increasing efforts especially at the grassroots. This is what augurs best for resistance not just to JPEPA but to other similar deals and neoliberal aggression against the people in all its forms.