ACCEPTING OVERSEAS HEALTH-CARE WORKERS THROUGH EPAS: ANALYSIS UNDER THE FRAMEWORK OF TWO-LEVEL GAME THEORY

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ABSTRACT

Under its Economic Partnership Agreements (EPAs) with Indonesia and the Philippines, Japan began accepting nurse and care worker candidates from Indonesia and the Philippines in 2008 and 2009, respectively. However, applicants are required to pass national exams in order to obtain qualification for nursing and even care worker’s job in Japan. As taking the national exams in Japanese is extremely difficult for trainees from overseas, their passing rate remains very low. Many previous studies on this subject have focused on critical arguments that the Japanese government did not consider the internationally balanced mobility of skilled laborers, and that the acceptance scheme for foreign health-care workers was used as a trade-off to conclude the EPAs. By challenging these previous studies, this paper attempts to analyze the acceptance scheme under the framework of Putnam’s two-level game theory, exploring the interaction between Level I (an international negotiation) and Level II (domestic process for ratification). To make the win-win situations of both countries large enough to be overlapped on Level I negotiations, the condition requiring foreign applicants to pass the national exam in Japanese was unavoidable. This paper also explores how Level 1 bargaining has provided an impetus to change the internal system.

Keywords: Japan-Indonesia EPA, Japan-Philippines EPA, foreign nurses, foreign care workers, two-level game theory

Introduction

Under the Japan-Indonesia Economic Partnership Agreements (JIEPA) and the Japan-Philippines Economic Partnership Agreements (JPEPA), Japan began accepting nurse and care worker candidates from Indonesia and the Philippines in 2008 and 2009, respectively. However,
not only the number of candidates who came to Japan fell far short of the limit of 400 nurses and 600 candidates in two years from each country, but, as partly expected, the pass rates of the foreign candidates for nursing examinations, which started from 2009, were very low. Although the number of successful applicants increased from zero in 2009 to 47 in 2012, the pass rate was still low, at 11.3%. Since the pass rate of the total candidates is 90.1%, the examination must not be particularly difficult, revealing rather how difficult it is for foreigners to take the examination in Japanese (Hatanaka & Tanaka, 2012).

Three years behind the first nursing exam for foreign applicants, January 9, 2012 was the first and the last\(^1\) opportunity for the 95 Indonesians and Filipino care-worker applicants, who arrived in 2008 and 2009, to sit for the written certification examination. Following that, there was a further practical test in March, 2012. 35 Indonesians and one Filipinos passed this one-shot exam. Though the pass rate of 37.9 percent exceeded that for foreign nurses (Table 1), it was still far behind that of the total candidates (63.9%). After 3-4 years of training and working in Japan, foreign care-worker candidates, who had already been qualified as care-givers in their home countries but failed the national exam in Japan, had to return to their home countries. It was also reported that at least two out of 35 Indonesians who passed the exam were gone back to their home countries. (Kyodo News, 2012).

<table>
<thead>
<tr>
<th>Year</th>
<th>Examinees {F,I} (persons)</th>
<th>Passed candidates {F,I} (persons)</th>
<th>Pass rate of candidates (%)</th>
<th>Pass rate of the total examinees (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>82 (0,82)</td>
<td>0</td>
<td>0</td>
<td>89.9</td>
</tr>
<tr>
<td>2010</td>
<td>254 (59,195)</td>
<td>3 (1.2)</td>
<td>1.2</td>
<td>89.5</td>
</tr>
<tr>
<td>2011</td>
<td>398 (113,285)</td>
<td>16 (1, 15)</td>
<td>4.0</td>
<td>91.8</td>
</tr>
<tr>
<td>2012</td>
<td>415 (158,257)</td>
<td>47 (13, 34)</td>
<td>11.3</td>
<td>90.1</td>
</tr>
</tbody>
</table>

**Foreign care worker candidates**

<table>
<thead>
<tr>
<th>Year</th>
<th>Examinees {F,I} (persons)</th>
<th>Passed candidates {F,I} (persons)</th>
<th>Pass rate of candidates (%)</th>
<th>Pass rate of the total examinees (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>95 {1,94}</td>
<td>36 {1,35}</td>
<td>37.9</td>
<td>63.9</td>
</tr>
</tbody>
</table>

Notes: F: Filipino candidates; I: Indonesian candidates

Source: Ministry of Internal Affairs and Communications. 2013: 165

\(^1\) Applicants from Indonesia and the Philippines who came to Japan in 2008 and 2009 became eligible for a one-year visa extension following a cabinet decision on March 11, 2011 that recognized “the difficulties faced by applicants in gaining the necessary qualifications”. This applied only to those applicants who scored at least 102 points in the February 2010 examination (standard pass mark: 203 points, maximum: 300 points). As a result of this, 68 applicants were given a second opportunity to take the examination.
Most media reports treated those who failed the exam as “victims of the acceptance systems” set up under the EPAs. Many previous studies on this subject have also focused on the argument that Japan did not give consideration to human mobility in specialized and technical fields in an internationally balanced manner and that the acceptance was nothing more than a tool for conclusion of the EPAs. Has the Japanese government really misled the policy and is it to be blamed for the low pass rate?

**Literature Review**

There have been several discussions and researches on the subjects of accepting nurses and care workers from overseas under the JPEPA and JIEPA. These can be categorized roughly into the following three groups.

The first group of arguments gives central focus to how to position acceptance of health-care workers from overseas as a measure taken in response to Japan’s social problems of low birth rates and an ageing society. These discussions take place frequently in journals in the medical and health fields in particular. For example, Ogawa (2009) and Oishi (2010) point out that care-service businesses in Japan may mistakenly understand health-care workers from overseas to be low-wage laborers rather than specialists. Ogawa attributes one of the causes of problems in acceptance of overseas candidates to the difference between Indonesia/the Philippines and Japan in terms of the definitions of health-care workers. He advocates promoting care-service information exchange in Asia in the future. Asakura, Asakura, Hyodo, and Hirano (2009) based on a field study in the Philippines, report that it is too difficult for people in the Philippines to learn to read and write Chinese characters so that there are not that many people there who desire to work in Japan after all. They point out that the JPEPA and JIEPA schemes, therefore, will not serve as countermeasures against Japan’s ageing society with low birth rates.

The second group of discussions analyzes the international movement of workers as a final stage of global economic integration. Based on analysis of pull and push factors, these arguments assert that labor markets should be opened through aggressive acceptance of workers from overseas in general, not just nurses and care workers. For example, Wailerdsak (2009) conducts a pull-and-push factor analysis of international movement of labor and proposes schemes for the proactive acceptance of workers from overseas for Japan to survive global economic competition.

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2 There are also Kwon (2006), Iguchi (2005), etc. in this second group of discussions.

The third group of arguments attempts to analyze comprehensively the acceptance system from a variety of perspectives, including surveys and interviews. For example, Yamazaki (2006) sorts out the problems in acceptance from several different landscapes. Ohno (2012) employs field studies and interviews in the Philippines and Indonesia along with questionnaire-based surveys of accepting institutions to attempt to ascertain the problems of these countries. Hosono (2011) employs policy process theory to examine in detail the formation of the EPA negotiations in Japan and the Philippines, pointing out that the policies for concluding the EPA was “out of sync” with the movement of medicine and health-care human resources in an internationally-balanced manner (Hosono, 2011, p. 83). Her key argument is that acceptance of health-care workers from the Philippines was used as a trade-off for the other items involved in the EPA negotiations such as steel, motor vehicles, and agricultural produce.

These previous studies have elucidated various aspects of the acceptance scheme, but many of these arguments implicitly or explicitly criticize the Japanese government’s policy regarding the acceptance. Some of them raises the issue of how nurses and care workers from overseas should be positioned amid the aging of society that Japan faces, others concludes with their arguments for the need for an effective international mobility system of health-care workers. Establishing such an effective system was inarguably an ideal proposal from the perspective of balanced migration of global health-care workers, but it needs an inter-governmental policy coordination, which is not an easy process, and was definitely out of the autonomy of the Japanese EPA team on the negotiation tables, who made a rational choice to succeed in agreements, as this paper later explains. By challenging these previous studies, this paper attempts to analyze the acceptance scheme from a different angle under the framework of Putnam’s two-level game theory and clarify why the seemingly irrational stipulation of requiring the foreign candidate to pass the exam in Japanese needed to be included in the agreement.

**Methodology**

This paper analyses the acceptance scheme under the framework of Putnam’s two-level game theory. Putnam explains that politics of international negotiations can be conceived as a two level game. On a domestic level, interest groups put pressure on government to adopt their favored policies. On an international level, negotiators try to maximize ability to satisfy
domestic pressure and minimize adverse consequences of an agreement on the domestic policy. Negotiators have to consider these two levels of stages, Level I as a bargaining stage to find a tentative international agreement, and Level II as a discussion stage in which each interest group deliberates whether or not the agreement can be ratified. The result of the discussion produces “win-set,” which is a cluster of various supporters of an agreement at Level II. If the win-set is not sufficient enough to get the agreement ratified, the agreement on Level I becomes a scrap of paper. Putnam describes the “sweet and sour implications of win-set size” between two nations, X and Y, as Figure 1.

| X_M | { | | } | Y_M |
|-----|---|---|-----|
| Y_1 | Y_2 | X_1 | Y_3 |

**Figure 1 Win-set size**

“X_M and Y_M represent the maximum outcomes for X and Y, respectively, while X_1 and Y_1 represent the minimal outcomes that could be ratified. At this stage any agreement in the range between X_1 and Y_1 could be ratified by both parties. If the win-set of Y were contracted to, say, Y_2 (perhaps by requiring a larger majority for ratification), outcomes between Y_1 and Y_2 would no longer be feasible, and the range of feasible agreements would thus be truncated in Y’s favor. However, if Y, emboldened by this success, were to reduce its win-set still further to Y_3 (perhaps by requiring unanimity for ratification), the negotiators would suddenly find themselves deadlocked, for the win-sets no longer overlap.”

(Putnam, 1988, p. 440-441)

This paper is going to explain that the stipulation of passing the national exam in Japanese was the only choice for Japan to make its win-sets large enough to overlap with those of the counterpart. The author also clarifies that Japan’s domestic policy sometimes needs “reverberation” to result in change (Putnam, 1988, p. 455-456). Level 1 bargaining has provided an impetus to change the internal system.

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3 In general the larger the win-sets, the more likely the agreement will be reached, but at the same time, the more the negotiator can be “pushed around” by the other Level I negotiator as is described below. Conversely a small domestic win-set will be a bargaining advantage. “I’d like to accept your proposal, but I could never get it accepted at home.” (Putnam, 1988: 440)
Agricultural Issues Making Japan’s Win-Sets Small

More than ten years have passed since Japan first concluded its Economic Partnership Agreement (EPA) with Singapore in 2002. Up to that point, Japan’s trade policies had revolved around multilateral negotiations such as the WTO and APEC, and the country did not actively seek to strengthen trade ties with specific countries or regions through free trade agreements (FTAs) or EPAs from the fear of possible creation of economic blocks. In contrast, the 1990s saw a number of FTAs being signed worldwide. The 16 FTAs existing in 1989 rose sharply to 76 by 2000 (JETRO, 2010). As the world entered the twenty-first century, Japan finally became caught in the slipstream, creating active policies for FTAs/EPAs.

Nevertheless, in the past decade, Japan’s EPA negotiations often grind to a halt, mainly because of the small win-sets at Level II; the major bottle necks are agricultural issues. There exist strong opponents of free trade, (and, therefore, of EPAs), in Japan, that are mainly those involved in primary industries with little competitive advantage, such as the farming, fishing, and forestry industries. Their voices are represented by the Ministry of Agriculture, Forestry and Fisheries (MAFF), one of the major and influential actors in EPA negotiations.

Figure 2 indicates the framework of Japanese EPA negotiations. The right side indicates the Level I negotiation team. Chief delegates are represented by Foreign Ministry official in charge of economic affairs and others. This means the Ministry of Foreign Affairs (MOFA) is a coordinator among the agencies concerned as well as the representative of the negotiation team. Chief delegates frequently have meeting with co-chairs from four ministries, i.e., Deputy Director-Generals from the Ministry of Economy, Trade and Industry (METI), MOFA, the Ministry of Finance (MOF) and MAFF. In other words, these four ministries are core ministries of EPA negotiations and have strong influence on the decision-making process toward Level I bargaining.

METI especially plays an important role in EPA negotiations, as EPAs are, needless to say, agreements concerning economy and industries of Japan. METI’s stance is to promote liberalization of trade with the aim for economic prosperity of Japan. The ministry considers requests from Japanese enterprises such as Keidanren (the Federation of Economic Organization) and forwards them to the economic policy makers. Both MOFA and METI promote EPAs, but their positions do not necessarily correspond. For example, in 2001, Japan’s Economy, Trade and Industry Minister Takeo Hiranuma and Taiwan’s Economic Affairs Minister Lin Hsin-i agreed to conduct a feasibility study on the possibility of concluding a bilateral free trade agreement (FTA). However, Chinese Foreign Minister Tang Jiaxuan expressed to Japanese Foreign Minister Junko Kawaguchi that the Japan–Taiwan feasibility study on FTA was not an economic issue
but a political one and that China could not accept it (The Sankei Shinbun, 2002). While METI emphasizes trade liberalization, MOFA’s objective is to facilitate diplomatic relations, and their opinions differ from each other. One more ministry, MOF, is in charge of tariff implementation, rules of origin policy, arrangement of logistics, and is not in a position to represent any interest groups of Level II. Thus, it has no incentive to influence the outcome of international negotiations as reflected on domestic policies.

**Figure 2 Framework of Japanese EPA negotiations (Source: MOFA, 2011a)**

In sharp contrast to these three ministries, MAFF often has a strong veto power as one of the major negotiators at Level II, and also as one of the four co-chairs at Level I negotiations. MAFF represents strong interest groups such as the farmers’ association, proponents for food self-sufficiency and national security, and other protectionist constituents and legislators. So far high tariffs of rice (778%), sugar (379%), and wheat (252%) have been protected under MAFF’s
strong leadership. It is MAFF’s protectionist stance that has produced a small win-set at Level II. As the result, there has been no formal consideration of an EPA with Japan’s important trading partners such as the United States (Dent, 2010, p. 219) that have powerful farming industries. It is indicated that the cover rate of Japan’s FTA/EPA accounts for only 17.6% of the total trade volume. (METI, 2011, p. 246) Facing this dilemma between economic advantage through EPAs and domestic pressure, the government recently set a common ground to “promote economic partnerships at the high level, while raising Japan’s food self-sufficiency rate and reviving domestic agricultural industries and communities.” Japan established the Commission for the Revival of the Food, Farming, Forestry, and Fishing Industries, and, as a result of a number of meetings since November 30, 2010, the target for food self-sufficiency has been set at 45% by 2015 in order to balance the national debate on trade liberalization and food self-sufficiency (MAFF, 2011). Yet, it is predicted that this target is objectively impossible to attain because of the difficulty of increasing planted area from 438 to 478 hectares needed for the targeted self-sufficiency. This all means agricultural issues are formidable obstacles to make Japan’s win-set large enough (Figure 3).

In addition to agricultural issues, there are also other various issues that make the win-sets so small for Japan to succeed in conclusions of EPAs. For instance, prior to discussions with Singapore, Japan had begun research into a potential FTA with Korea, yet progress has never been smooth, right up to the present day. It has been more than 10 years since the then Prime Minister Koizumi and the then President Kim decided to start Japan-Korea FTA joint study group in March, 2002. Yet the Japan-Korea FTA still remains at a standstill. Fukagawa (2006) explains the stalemate with the following piled-up, weary reasons: Problems on the Korean side include political instability and a lack of consistency in policies, contradictory development strategy resulting from a lack of cohesion between Korea’s globalization ambitions and its insufficient domestic system, and the relationship between politics and administration with regard to economic policy. Problems on the Japanese side include the difficulty of reform in agriculture and
the lack of cohesion between government agencies. An additional reason is Korea’s traditional
distrust of Japan, which has grown as progress has stagnated, and the decreasing importance each
country places on the other. (Fukagawa, 2006, p. 119-121) Recent territorial disputes between
Korea and Japan have added new hurdles to gain supports of the public opinion for the conclusion
of Japan-Korea EPA. Presently, trilateral FTA talks between Japan, China and South Korea are
being held, but it is reported that they have produced limited advances. (The Nikkei Shinbun,
2014).

Precisely for this small win-set at Level II that Japan’s international negotiating team often
have to face, they have a strong determination to overcome whatever obstacles it may face and
do what is necessary to succeed in EPA negotiations if there is any hope, namely, if agricultural
and other issues are perceived surmountable. What boded well for Japanese negotiators in EPA
bargaining with ASEAN countries was that there was not strong pressure from these countries to
export competitive agricultural products to Japan.

### Strong Requests from The Philippines and Indonesia

One characteristic of Japan’s EPAs is their comprehensiveness. For example, in comparison
to the FTAs signed by the United States or China, whose main objective is free trade of goods,
Japan’s EPAs include many items such as services and investments, government procurement,
intellectual property, competition policy, improvement of business environment and movement
of natural persons. This is why they are called “Hokatuteki Keizai Renkei Kyotei [comprehensive
economic partnership agreements]. This comprehensiveness has enabled Japan to have a further
advantage in being able to have its demands met through the give-and-take of requests from
and offers to ASEAN (Table 2). Acceptances of health-care candidates from the Philippines and
Indonesia was one of these items that could make the win-sets of both negotiation partners large
enough by trading requests and offers.

### Table 2  Japan and ASEAN negotiation: Major items of interest

<table>
<thead>
<tr>
<th>Japan</th>
<th>ASEAN</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Elimination of tariffs on materials and parts</td>
<td>1. Market access</td>
</tr>
<tr>
<td>2. Rules of investment and intellectual properties</td>
<td>2. Mobility of natural persons</td>
</tr>
<tr>
<td>3. Liberalization of trade in services</td>
<td>3. Increase of investments</td>
</tr>
<tr>
<td>4. Improve the business environment</td>
<td>4. Cooperation and technology transfer</td>
</tr>
</tbody>
</table>

Source: MOFA (2011c)
One of the requests from the Philippines was sending Filipino health-care workers to Japan. Since opportunities for employment in the Philippines are scarce, and the working conditions are not particularly desirable, there are many Filipinos who want to work abroad where wages are higher. The government encourages overseas workers as part of its national policy. The Philippines Overseas Employment Development Board was established by Presidential Decree 442 in 1974, and the Philippines Overseas Employment Administration (POEA) was created in 1982. Even in the midst of a global recession in 2010, money transfers from overseas reached $18.8 billion, becoming a crucial source of revenue that represents 10% of the nominal GDP. (Migration News, 2011) The majority of jobs are in household services, but there are also a large number of nurses required. More than 13,500 Filipino nurses left their country to work in Britain, Saudi Arabia, Ireland, Singapore, etc., in 2001 (Buchan, Parkin, & Sochalski, 2003, p. 31), the year before the JPEPA concept started. The Filipino government empirically understands that sending health-care workers abroad had been a successful policy, and being very interested in Japan as a new destination, had the firm stance in requesting their health-care workers’ emigration to Japan.

Requests from the Philippines regarding the acceptance of Filipino nurses and care workers as well as concession of tariffs in the farming, forestry, and fishing industries were resisted by Japan at first (Watanabe and MOFA Economic Bureau EPA Negotiating Team, 2007, p. 290). On the other hand, Japan requested to abolish tariffs on components for the automobile, iron and steel, and other industrial products, but was opposed by Filipino businesses and organizations that had economic concerns about harming the growth of infant domestic industries. Other problematic items such as exporting hazardous waste added to the complexity of the JPEPA negotiations. While both parties gradually compromised on some of contentious issues, for example, in agricultural issues, the Filipino government insisted to send their health-care workers to Japan.

The negotiation of the JPEPA was followed by that of the JIEPA. Items requested and offered as part of the JIEPA included deregulation and liberalization of both sides in the trading of goods and services. In addition, one of Japan’s main items for negotiation was a framework to ensure a stable supply of energy and mineral resources (natural gas, oil, and coal) (MOFA, 2011c). Indonesia is one of the most important suppliers of energy to Japan. However, the majority of Indonesia’s LNG export contracts with Japan were due to expire in 2010, and hence

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4 JPEPA involved much give-and-take between requests and offers and required a huge amount of time and effort, resulting in a vast agreement of 933 pages (in English).

5 Japan accepted to make a gradual elimination or a concession on tariffs for some tropical fruits.
the Indonesian government was considering prioritizing the supply of natural gas for domestic use, causing some anxiety for Japan.

**Japan’s Level II Negotiation Actors**

A framework of accepting system of foreign nurses and care workers was formulated following intense domestic-level discussions led by young assistant managers of task force members (Watanabe and MOFA Economic Bureau EPA Negotiating Team, 2007, p. 309). The framework was then laid before a Cabinet meeting, as is shown in the left side of Figure 1. In terms of the specific issue of accepting foreign candidates, MOFA acted only as a coordinator. MOF and MAFF were precluded from influencing the negotiating process of this specific issue. Of particular note is METI’s position. As is before-mentioned, one of METI’s responsibilities is to heed the opinions of Keidanren, which expressed the necessity to open up the Japanese labor market (Federation of Economic Organizations, 2004). Therefore, although not a direct stakeholder, METI supported the acceptance plan. As an influential negotiator of EPAs, METI’s preference for the acceptance system is assumed to have assisted in leading to a larger win-set at Level II. The power and preferences of the major actors at Level II affect the outcome of a win-set. (Putnam, 1988, p. 442-448)

Then, what was the position of the major stakeholders of healthcare and labor issues, i.e., MHLW as well as the medical field? It is obvious from the explanation on MHLW website that the ministry doesn’t take a positive stance on the acceptance of foreign health workers and seems to be unwilling to open up the Japanese medical labor industry. At the same time, they have no particular reason to oppose to the scheme and maintain a low profile on this issue without being a strong veto power. There are also two organizations concerned, namely the Japan Medical Association (JMA), a private academic body comprising 165,000 members of the medical profession (as of December 1, 2011), whose influence on decision making on medical policy of MHLW could not be underestimated, and the Japanese Nursing Association (JNA), the largest

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6 “Accepting nurses and care workers from overseas as a part of this agreement is the result of negotiations based on the requests of our partner countries, and it has in no way been sought by Japan as a means to deal with any shortage of labor in the field of nursing and care work. In response to our partner country’s request to send applicants to Japan to pursue a Japanese qualification, and in order for the EPA to run smoothly…... the MHLW has increased its support for applicants at the study facilities and revised the terminology used in the examination.” (MHLW, 2012)

7 The Japan Association of Certified Care Workers is not mentioned here as only 5% of the certified care workers are the members of the Association.
professional nursing organization in Japan, with 630,000 members. In contrast to JMA, JNA is concerned about the deterioration in the working conditions. However, apart from this difference, both organizations have a similar approach, namely, that nurses and care workers should not be shunned because of their nationality. At the same time, both take a firm stance on requesting them taking examinations in Japanese. In other word, under the condition with no strong veto players, a stipulation for the candidates to pass the national exams in Japanese enabled negotiators to gain the support of almost all internal stakeholders, making Japan’s Level II win-set large enough to avoid defection at Level I negotiations.

“The larger the perceived win-set of a negotiator, the more he can be ‘pushed around’ by the other Level I negotiators” (Putnam, 1988, p. 440) The Filipino negotiators’ strong position might stem from the perceived weak stance of Japanese negotiators during Level II (making a large win-set). Because there were virtually no strong veto players in Japan for the acceptance of foreign healthcare candidates, the Philippines exhibited a minor domestic win-set that worked as a bargaining advantage after several negotiations at Level I. Under the persistence of partner’s requests, Japan finally promised to accept 400 nurses and 600 care workers during the first two years under fixed conditions, and both parties reached an agreement over the outline of the EPA in November 2004. It still took one year and ten months before the JPEPA was finally signed on September 9, 2006. It came into effect in December 2008.

Although Indonesia’s request to send health-care workers might not have been as strong as that of the Philippines, the Indonesian government was in an advantageous position during negotiations. This was the case because Japan had a strong, prioritized request for importing energy and mineral resources from Indonesia. In other words, the costs of no-agreement were too high for Japan, and Indonesia’s advantageous position made it difficult for Japan to seek to expand Indonesia’s win-set. As is the case with the JPEPA, Japan had to expand its own win-set for the two countries’ win-sets to overlap. In the end, Japan offered to accept the same number of nurses (400) and care workers (600) for the first two years as set out in the JPEPA. After two years of official negotiations starting from June 2005, the JIEPA was signed in August 2007 and took effect in July 2008.

**External Pressure Affecting Japan’s Domestic Policy**

Japan’s domestic policy sometimes needs “reverberation” to result in change as Putnam noted (Putnam, 1988, p. 455-456). Japan faces a future shortage of domestic health-care workers,
yet the decision whether to accept foreign workers or not has long been delayed. Japan’s fundamental position with regard to the “movement of natural persons” was established by the cabinet approval of the 9th Basic Plan for Employment Policy in August 1999. Specifically, accepting persons in specialist and technological fields was actively encouraged because of their contribution to revitalizing and internationalizing the economy, while greater caution was shown toward accepting unskilled workers in order to protect domestic employment opportunities for the elderly, women, and the young and to limit the potential costs to society. However, there had been no striking endeavors by the Japanese government to facilitate “movement of natural persons” even through EPAs until the JIEPA and JPEPA forced Japan to do so. In the case of the Japan-Singapore EPA (JSEPA), both countries have agreed on four types of residence status: (1) temporary resident, (2) intra-company transferee, (3) investor, and (4) contract worker. Nevertheless, it is indicated that apart from simplifying the documentation involved in the renewal of the residence of Japanese people in Singapore, no great improvements have occurred in immigration control or the residency system (METI, 2007, p. 583). As for the Japanese commitment of implementing the visa waiver of 90 days or less, Japan already grants the same entry and stay to other countries in order to benefit the tourism industry. Further, as for the mutual recognition between Japan’s National Examination for Information Processing Technicians (NEIPT) and the equivalent exam of Singapore, the same mutual recognition is done by 11 countries and regions other than Singapore. Therefore, these facilitations are hardly said to be an effect of the JSEPA. Other EPAs that followed the JSEPA showed similarly little significance or effectiveness in “movement of natural persons”. Another example is Japan-Thailand EPA. Accepting Thai care-givers or spa therapists, which could affect employment in Japan, has not been agreed on after bilateral negotiations. Thus, there is scant evidence of Japan’s proactive stance toward a free “movement of natural persons.” (Table 3)

9 Nevertheless, in view of the need for unskilled workers in Japan, there are cases in which such workers are accepted through training and technical study programs. The reality is somewhat different.
10 More meaningful might be the notes verbales exchanged; Japan has made a commitment to accept doctors and dentists on the condition that they (i) take and pass Japanese national examinations for medical practitioners using the English language, and (ii) treat non-Japanese nationals only. (METI 2007)
11 As of May 2011, Japan has a visa-waiver program with 61 countries and regions, ranging 90 days or less, 3 months or less, and 6 months or less. (MOFA, 2011b)
11 These countries and areas include India, South Korea, China, Philippines, Thailand, Vietnam, Myanmar, Taiwan, Malaysia, Mongolia, and Singapore. (Dokuritu Gyosei Hojin Jyoho Shori Suishin Kikou 2011)
Table 3  Japan’s EPA items related to “Movement of Natural Persons”

<table>
<thead>
<tr>
<th>EPA (Date of Effect)</th>
<th>Items Related to “Movement of Natural Persons”</th>
</tr>
</thead>
<tbody>
<tr>
<td>Japan-Singapore EPA (2002)</td>
<td>The movement of natural persons for business was eased; mutual recognition of professional expertise was made.</td>
</tr>
<tr>
<td>Japan-Mexico EPA (2005)</td>
<td>The process of immigration and temporary residence for business was eased.</td>
</tr>
<tr>
<td>Japan-Malaysia EPA (2006)</td>
<td>The process of immigration and temporary residence for business was eased.</td>
</tr>
<tr>
<td>Japan-Chile EPA (2007)</td>
<td>The process of immigration and temporary residence for business was eased.</td>
</tr>
<tr>
<td>Japan-Philippines EPA (2008)</td>
<td>Immigration of natural persons and temporary residence was allowed according to the conditions of 6 categories: (1) short-term visitors on business, (2) investors, (3) intra-company transferees, (4) independent workers in professional services, (5) nurses or care workers, and (6) natural persons on a contract for temporary residence.</td>
</tr>
<tr>
<td>Japan-Thailand EPA (2007)</td>
<td>Japan agrees to immigration and temporary residence under a fixed set of criteria for Thai chefs and instructors in such fields as traditional Thai dance, music, and cuisine. Continued consultation regarding care-givers and spa therapists is still in progress. Thailand agrees to fulfill the criteria for residence for work purposes and complete the required documentation.</td>
</tr>
<tr>
<td>Japan-Brunei EPA (2008)</td>
<td>(No items related to movement of natural persons)</td>
</tr>
<tr>
<td>Japan-Indonesia EPA (2008)</td>
<td>Immigration of natural persons and temporary residence permitted according to the conditions of 6 categories: (1) short-term visitors on business, (2) investors, (3) specialist contract workers, (4) intra-company transferees, (5) independent workers in professional services, and (6) trainee nurses and care workers</td>
</tr>
<tr>
<td>ASEAN-Japan Comprehensive Economic Partnership (AJCEP) (2008)</td>
<td>(No items related to movement of natural persons)</td>
</tr>
<tr>
<td>Japan-Switzerland EPA (2009)</td>
<td>Switzerland promises to annul the nationality criteria for directors of Japanese local subsidiaries and applies no limit to the number of residency permits for Japanese nationals.</td>
</tr>
</tbody>
</table>
Accepting Overseas Health-Care Workers Through EPAs

<table>
<thead>
<tr>
<th>Country Combination</th>
<th>Agreement Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Japan-Vietnam EPA (2009)</td>
<td>Each country guarantees transparency of documentation required for immigration and temporary residence. Each country agrees to reciprocal commitment to immigration and temporary residence for I.T. professionals and nurses with a recognized qualification from the destination country, under the terms of the existing immigration procedures. The aim is to resolve the issue of accepting nurses and care workers from Vietnam in the future, no later than two years after the effect of the agreement.</td>
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<tr>
<td>Japan-India EPA (2011)</td>
<td>Each country guarantees a smooth process of immigration and temporary residence at the destination country, as well as transparency and a streamlined approach to the documentation required for both, in the case of short-term visitors on business, intra-company transferees, and independent workers in professional services. The aim is to resolve the issue of accepting nurses and care workers from India in the future, no later than two years after the effect of the agreement.</td>
</tr>
<tr>
<td>Japan-Peru EPA (2012)</td>
<td>In addition to granting permission for immigration and temporary residence for short-term visitors on business, intra-company transferees, investors, and specialists from both countries, the agreement guarantees transparency, simplification, and streamlining of the required criteria and documentation. For the first time, Peru issues visas within 20 working days. Japan has created a special exception at immigration for Peruvian chefs on condition that Peru establishes a national qualification exam for Peruvian cuisine.</td>
</tr>
</tbody>
</table>

Source: A summary of the agreements in effect provided by MOFA (2014)

It is easily assumed from this passive attitude of the Japanese government toward free “movement of natural persons” that Japan would not start accepting foreign health-care workers so early without the JIEPA and JPEPA in spite of pressing shortage of domestic professionals. In order to succeed in conclusions of the JIEPA and JPEPA, the Japanese government relaxed regulations to facilitate accepting these foreign candidates. Concerning nurses, under the current Japan Immigration Control and Refugee Recognition Act, the visa status of “medical services”
only recognizes residence for the purpose of research and has a limit of 7 years. Furthermore, there was no visa status corresponding to care workers. In order to seal EPAs with the Philippines and Indonesia, Japan hurried to establish the visa status of “specified activities,” according to which nurse and caregiver candidates could be employed as part of their training for a qualification in Japan. They were given a maximum employment term of three and four years, respectively, and would be able to renew their visa status indefinitely upon gaining qualification. In addition, a framework was created for caregiver candidates to enter training facilities in Japan, which allowed them to receive a nationally recognized qualification upon the completion of their course. (The system was suspended from 2011, though.) In other words, the acceptance would not have occurred so early without the JIEPA and JPEPA. The pressure of the EPAs facilitated opening up Japanese labor market in the medical field.

Intriguing enough, using a conclusion of EPAs as an instrument of opening up the country was written in the White Paper on International Economy and Trade of 2001, when the country launched a new EPA-oriented policy. Japan’s specific reasons for beginning to take a proactive approach on EPAs were summarized in the following five points in the Paper. First, new types of trade items, such as electronic trading, appeared which the WTO did not cover. Hence, a means of negotiation outside the WTO framework became necessary to establish international rules for these new fields. Second, FTAs and EPAs became a necessity as part of the growing momentum of multilateral trade liberalization. This necessity arose as the difficulties at the WTO ministerial meeting held in Seattle in 1999 caused the policy shift away from the WTO and toward FTAs in the US, whose foreign policies tended to influence that of Japan. Third, there was the idea that accumulating knowledge of and experience in the international bargaining process would benefit Japan in future trade negotiations. In other words, although Japan held economic power, it had been unable to take the lead in international negotiations and to play the role of rule-maker. It is noteworthy that the Japanese government reflected on Japan’s inability of international negotiation and made this one of the reasons for the necessity of EPAs. The fourth reason was that while the United States and Europe were at the center of regional integration, it became clear that having no FTAs represented an economic disadvantage for Japan. The Japan-Mexico Economic Partnership Agreement (JMEPA) was hurried through for this precise reason. And, lastly, the intent was to attract foreign capital, human resources, and technology to Japan through EPAs in order to increase competition among domestic businesses and industries, and to encourage system

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12 In contrast to the United States, Canada, and the European Union, which already had an FTA with Mexico, Japanese businesses were at a great disadvantage because of the costly trade friction that resulted from not having an FTA. (Urata 2002, 101-03)
reforms in areas in which the nation lagged. Japan tried to advance policy changes that “would very probably not have been pursued in the absence of the international agreement.” (Putnam, 1988, p. 429-430) Agriculture is one of the areas to be changed, and the movement of natural persons is another. In negotiations of agriculture and fisheries issues, METI, a champion of free trade, has found it difficult to steamroller the opposition of MAFF, a dominant veto player with strong interest groups behind. But METI successfully persuaded the MHLW, whose negotiation position, with almost no strong interest groups behind, was not as strong as MAFF. The JIEPA and JPEPA gave Japan an unexpected opportunity to promote domestic reform of facilitating of “movement of natural persons.”

Conclusion

This paper examined the system for the acceptance of health-care workers from overseas under the framework of the two-level game theory. Japanese negotiators often encounter small win-sets at Level II because of controversial agricultural issues, which have impeded Japan in concluding EPAs with its important trade partners. Fortunately, the lack of strong requests to export competitive agricultural products to Japan has provided Japan with large win-sets at Level II in negotiations with the ASEAN countries. However, the Philippines and Indonesia instead made strong requests to send their health-care workers to Japan. These requests went far beyond those anticipated by Japanese negotiators. To make the acceptance scheme feasible and result in a large win-set, the condition requiring foreign applicants to pass the national exam in Japanese was unavoidable. Only under this stipulation, domestic stakeholders in medical fields were satisfied, producing no veto players. The adverse consequences of Level I negotiations were minimized, even though the shortage of information available to foreign applicants resulted in what the media termed as “victims of the scheme.\(^\text{13}\)"

This paper also explores how Level I bargaining has provided an impetus to change the internal system and initiated the acceptance of foreign healthcare professionals in Japan.

\(^{13}\text{Initially, learning Japanese before arriving in Japan was not included among the acceptance criteria and the candidates had to study the language while working in Japan. Nurse candidates had to face an examination in Japanese three years after starting work in Japan. Failure to pass would force them to return home. Although caregiver candidates were given four-year residences, they had only one opportunity to take the examination, which required three years of on-the-spot training. Furthermore, since nursing qualifications were not mutually recognized, even though most of them had studied nursing for four years at universities in the Philippines, they were relegated to unskilled duties such as cleaning and keeping patients comfortable. (Asato 2011, 110)\)
The Level I negotiations of EPAs had affected the Japanese domestic policy, facilitating the international movement of people in the medical field that could not have been achieved so readily without the JIEPA and JPEPA. Structures by nature can simultaneously become constraints and facilitators (de Haas, 2011, p.22), and the JIEPA and JPEPA have surely worked as opportunity structures for migrations of foreign health care professionals with some constraints in its system. The “Basic Policy on Comprehensive Economic Agreements” cabinet decision of November 9, 2010 stressed the need to take an “integrated approach to EPA negotiations and domestic policy,” and in particular to “implement appropriate domestic reforms in agriculture, movement of natural persons and regulations, from the perspective of ‘opening the country’.” As stated in the “2001 White Paper on Trade,” domestic reform has certainly been progressed to some extent through Japan’s EPAs.
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透過 EPA 開放外籍護士及看護赴日：
以 Two-level-game 理論分析

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摘要

根據日本 - 印尼 EPA，日本自 2008 年起開放來自印尼的護士、看護工作人員赴日工作，而根據日本 - 菲律賓 EPA，則是自 2009 年起開放。申請者仍需通過日本的國家考試，才能取得護士與看護的資格。然而，對於外籍人士而言，以日文通過日本的國家考試仍然是極高的門檻，目前錄取率非常之低。對於此一主題，許多先前研究的主要結論，是批評日本並未真正考慮國際間專業勞工的平衡移動，而由於很明顯的，對外籍人士而言以日文進行考試過於困難，開放申請其實只不過是日方為了順利簽訂 EPA 的一種手段而已。不同於過去的研究，本文嘗試以 Putnam 的 Two-level-game 理論，分析此一方案並釐清相關問題，並探討 Level 1（國際協商）與 Level 2（國內之批准）間的交互作用。為了在 Level 1 產生足夠廣闊之 win-sets，要求申請者通過日文的國家考試亦為無可避免之條件。本文亦探討 Level 1 協商會改變國內政策，EPA 也使得封閉的日本勞動市場注入了一股活水。

關鍵字：日本 - 印尼 EPA、日本 - 菲律賓 EPA、外籍護士、外籍看護、
Two-level-game 理論