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The Draft Charter for an East Asian Community

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CREP 2007 International Symposium "Future East Asian Regionalism: Proposal for an East Asian Charter"
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Editorial Notes

Personal Names

All personal names are given in the customary order in the native language of the person unless otherwise requested. Hence in Japanese names, the family name is given first, e.g. Toyotomi Hideyoshi, and in Western names the family name is given second, e.g. George Bush.

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This issue of Social Science Japan spotlights the Comparative Regionalism Project (CREP) at the Institute of Social Science (*Shaken*). CREP sees researchers from *Shaken* and elsewhere work together to study regionalism in three different regions (Europe, America and Asia). We feature five articles from CREP in this edition.

Professor Nakamura Tamio's article explains the aims of CREP and the significance of the "Draft Charter of the East Asian Community" the CREP researchers presented in July of 2007. This Draft Charter is one of their major achievements. An international symposium on the Draft Charter attracted a large audience from academe, government and the media. In addition, Professor Sato Yoshiaki details the importance of this effort to draft a Charter for East Asia. And Professor Suami Takao, who was in charge of drafting the section of "Community Policies," describes his and his fellow researchers' conceptualizations of it. Their vision of the East Asian Community focuses on dialogue among the member states and is not limited to economic concerns.

Professor Usui Yoichiro emphasizes the contribution of the Draft Charter as "the incubator for regional community-building." He explains this in terms of identity, governance and norms in East Asia.

The last article from CREP is by Professor Marukawa Tomoo, who tells us an interesting (and prescient) story about Japan-China relations. China is now Japan's biggest trading partner, and in some categories of foodstuffs Japan is heavily dependent on China. This article was written before imported Chinese dumplings laced with pesticide made dozens of Japanese consumers quite ill and provoked a tsunami of media coverage.

As international exchanges deepen, the potential for such problems increases. The Chinese dumpling incident offers a good, readily understood example of the importance of achieving an enhanced framework for the East Asian Community.

For more detailed information on CREP, please see:
<http://project.iss.u-tokyo.ac.jp/crep/e-index.htm>

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A Proposed Charter for an East Asian Community

Illustrative comparisons with the European experience

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The Comparative Regionalism Project and Its Aims

We have heard repeated calls in Japan in recent years for the establishment of a formal East Asian Community. As a student of European Union (EU) law, I have an interest in the potential lessons for East Asia in the European experience. The opportunity to act on my growing interest in that subject arose when the Institute of Social Science launched the Comparative Regionalism Project in 2005.

Several basic questions demand attention in any serious discussion of an East Asian Community. In the Comparative Regionalism Project, I addressed the following three questions, and I conducted comparative research on Europe, the Americas, and East Asia to examine those questions.

One, whether such a grouping is really necessary and, if so, why it is necessary

Two, whether the European experience is pertinent to East Asia in regard to creating a regional community and, if so, which aspects of that experience are pertinent

Three, whether East Asia lacks a suitable framework for international cooperation and, if so, whether improvements in existing mechanisms wouldn't suffice to achieve the purposes of the proposed East Asian Community

I have employed a broad definition of regionalism: any instance of multiple nations in the same region acting as a single unit in planning economic or political activity. Classic examples of economic regionalism are the EU, the North American Free Trade Agreement (NAFTA), Latin America's Mercosur, the Association of Southeast Asian Nations (ASEAN), and the ASEAN Free Trade Area. Complementing the large economic groupings in Asia are the bilateral free trade agreements that China, the Republic of Korea, and Japan have concluded with nations in the region. The participants in the bilateral agreements regard those agreements as steps toward regional economic integration, so I have treated even the bilateral arrangements as forms of regionalism.

East Asian Regionalism: Features and Issues

Comparisons with Europe illuminate distinctive features of regionalism in East Asia. Here is a summary of five notable features that become apparent through comparative study.

One: Regional identity

The first feature that comes to light is the absence of a unifying geographical identity comparable to "Europe" or, for that matter, "the Americas." People in European nations have thought of themselves as "Europeans" for more than a millennium, and a large portion of the inhabitants of the Americas have shared a similar awareness for at least three centuries. Excepting the Greater East

Asia Co-Prosperty Sphere of the 1940s, "East Asia" has gained currency as a regional economic or political appellation only recently. "Southeast Asia" and "Asia-Pacific" predate "East Asia" as regional references.

What has invested "East Asia" with regionalistic meaning in the present decade has been the discussion of economic integration among China, the Republic of Korea, Japan, and the 10 members of ASEAN. Those 13 nations have even convened an East Asian Summit in which India, Australia, and New Zealand also took part. So the definition of "East Asia" hinges more on economic and political purposes than on precise geography.

Two: Ad hoc arrangements

Another East Asian feature is the ad hoc nature of the region's multinational arrangements. Economically, those arrangements include the Asia-Pacific Economic Cooperation (APEC) forum, the ASEAN Free Trade Area, and the web of bilateral free trade agreements that nations have concluded in recent years. Nations in the region have also joined hands in addressing issues of national security, as through the ASEAN Regional Forum, though the six-party talks among China, Japan, Russia, the United States, and the two Koreas remain the chief format for addressing the most pressing security issue in the region: North Korea's nuclear capability. The 10 members of ASEAN, along with China, Japan, and the Republic of Korea, constitute the most consistent presence in the various ad hoc arrangements.

European nations began working systematically in the 1950s on initiatives for addressing political, economic, and human rights concerns. Taking part in most of those initiatives were the members of what became the European Economic Community and later the EU. Nations dealt with common economic interests through those frameworks. The defense and security alliances of the North Atlantic Treaty Organization (NATO) and the Western European Union (WEU) were prominent groupings during the Cold War, from the 1950s to the 1980s. And the Council of Europe and the European Court of Human Rights, established and operated under the European Convention on Human Rights, have asserted compelling influ-

ence in their eponymous field.

The Europeans thus developed overlapping machinery to promote and safeguard life and liberty. When the Cold War ended in the 1990s, they reviewed and revamped their purpose-specific arrangements with an eye to achieving more-comprehensive cooperation. Thus did the European Community assume mutual security functions, including participation in peacekeeping operations, on becoming the EU.

Preserving national and individual integrity has been a consistent theme in Europe's diverse regional initiatives. No such consistency is apparent in the disparate multinational arrangements that Asian nations have devised. But developing reciprocal applicability among those arrangements could conceivably strengthen the basis for regional integration.

Three: Globalization

A third East Asian feature illuminated by regional comparisons is a similarity with other regions: globalization. In the 20th century and into the present century, globalization exercised a profound and growing effect on economic and political life in East Asia, as in Europe and in the Americas. We should note that pre-globalization East Asia harbored numerous issues that would require multinational cooperation to address effectively. We should note, too, that maintaining peace with neighbors has remained a policy priority for every nation in the region.

Globalization entails risks that demand multinational cooperation to manage. For example, free trade presents the need for regional and even global standards for food hygiene and for product safety. The unhappy experience with mad cow disease in Europe and with avian flu in Southeast Asia has underlined that need. Resource depletion is another risk aggravated by globalization. Cooperation among nations is indispensable in promoting sustainable resource development and in minimizing the adverse social impact of development projects.

Europe's experience is highly instructive in regard to recognizing and acting on needs for

multinational cooperation. In the 1950s, France and Germany reached a postwar political and military accommodation, and they and other European nations translated the lessons of history into a multinational legal regime for safeguarding human rights. Economic cooperation included conceiving a common market in which goods, workers, services, and capital could move freely among the member states. That concept became reality in the 1990s and was subsequently cemented by the European states' adoption of a common currency. And the EU members have broadened their cooperation to include cross-border police work and joint efforts in diplomacy and in defense and security.

East Asia presents needs similar to those that the Europeans have addressed through multinational cooperation. Nations in East Asia, however, have failed to resolve several issues that have lingered since the end of World War II, and they therefore lack the kind of foundation for cooperation that the Europeans enjoyed in the 1950s. For example, the continued partition of the Korean Peninsula and uncertainty about Pyongyang's nuclear intentions have been highly divisive. Economic cooperation between the Koreas is getting under way, however, and that bodes well for international relations in the region overall. Any kind of cooperation among East Asian neighbors addressing specified issues is welcomed. And promoting that cooperation is all the more important in view of the need for dealing with the stubborn issues of peace and security.

Four: The role of law

Another East Asian characteristic pertains to the role of law. The EU and its forebears and the European Convention on Human Rights have recognized rights incumbent to individuals and have provided protection through the courts for those rights. Amid economic malaise in the 1970s, several European states maintained protectionist measures for shielding domestic industries from international competition. The European Community (EC) Court ruled that those measures were in violation of the EC Treaty. It interpreted the treaty's provisions as guaranteeing the rights of individual citizens to move their merchandise freely within the common market. Recognizing

and asserting individual rights thus dealt a decisive blow to trade protectionism in the European states, and market integration has proceeded steadily despite economic fluctuations and changing political winds.

The European experience demonstrates the potential for enshrining a shared vision in law and for using the legal system constructively to fulfill the vision of a multinational community. People in East Asian nations, however, tend to regard the law primarily as a tool for imposing restrictions, managing behavior, and regulating freedom. The concept of the law as a proactive force for promoting rights has yet to take hold widely in the region.

Meanwhile, several of the East Asian nations gained their independence after World War II, and national sovereignty is a prevailing concern for their people and governments. In forging multilateral agreements, the nations of the region have favored loose arrangements that are vague and legally nonbinding. ASEAN and APEC are prime examples of such agreements. Bilateral agreements, on the other hand, have tended to be of clearly defined scope and authority, as in bilateral free trade agreements. All of the multilateral and bilateral agreements in East Asia reflect the narrow and negative perception of the law that prevails in the region.

Five: Diversity

Yet another defining characteristic of East Asia is the diversity in political and economic systems. Regional integration in Europe has benefited from great commonality in values and legal principles among the nations and peoples there. The acts of unspeakable inhumanity that occurred in World War II occasioned a shared determination among postwar Europeans to maintain peace and to safeguard human rights. Democracy was the norm in political systems in Western Europe—and now throughout Europe—and free market principles characterized the nations' economic systems. The nations of Western Europe articulated their shared political and economic principles in national constitutions and in international treaties.

In contrast with the Western Europeans, a lot of people of East Asian nations criticized the very notion of human rights as a foreign concept imposed by the Western powers. Proponents of "Asian-style human rights" became increasingly vocal, especially in Southeast Asian nations, in the 1980s. Serious doubts remain as to what sorts of values and legal principles East Asians might be able to share broadly. The nations of the region have yet to encode any such commonality in any multinational regional agreements. And that carries a lamentable social cost. East Asians should learn from the Europeans and develop social models based on principles that people can share throughout the region. Mutual acknowledgment of universal principles will be an effective avenue for promoting reconciliation and peaceful coexistence in East Asia.

A Summary of the Draft Charter for an East Asian Community

Three other academics and I have drafted a proposal for a charter for an East Asian Community based on the foregoing considerations. My collaborators are Suami Takao, of Waseda University; Sato Yoshiaki, of Hiroshima City University; and Usui Yoichiro, of Niigata University of International and Information Studies. We presented our proposal publicly for the first time at an international symposium in July 2007. Here, I offer a summary of that proposal.

Our definition for "East Asia" is political. We define the region as comprising whichever nations cast their lots together in creating the proposed East Asian Community. The 10 nations of ASEAN and the three nations of China, the Republic of Korea, and Japan are the focus of our proposal. Those nations include the primary participants in the important international arrangements in the region. And we hope that those 13 nations would all subscribe to the proposed East Asian Community.

Promoting reconciliation and the resolution of lingering postwar issues and establishing a foundation for peaceful coexistence among the nations and peoples of East Asia are a core emphasis in our draft charter (article 2, paragraphs 7 to 9). Gradualism, too, is essential to our proposal. The

East Asian Community that we propose is not an alternative to existing international arrangements but, rather, a mechanism for integrating those arrangements. Periodic gatherings of representatives of the ASEAN members and of China, the Republic of Korea, and Japan could coordinate efforts to create a community by integrating existing international arrangements.

We have included in our draft charter all of the issues handled by existing international arrangements in East Asia. Addressing those issues through periodic gatherings of the prospective community participants would foster mutual trust and build momentum toward establishing a true community. Our draft charter identifies values and principles for the participating nations to honor (articles 4 and 5). In selecting those values and principles, we have referred to the constitutions of the 13 nations cited above, to international agreements ratified by those nations, and to the proposed draft for an ASEAN charter.

Our draft charter includes provisions for dealing with serious violations of the basic principles of the charter by community members (article 36). Community members would examine alleged violations and the causes of those violations and would deliver rebukes to the offending members. They would also act, as necessary, to help end the violations and to resolve related grievances. Concrete provisions for dealing with serious offenses underline the role of the community as a vehicle for achieving shared ideals.

The community charter that we propose would have little binding force in regard to matters other than basic community principles and organizations. It would be basically a framework for regular meetings planned and conducted to foster trust and not primarily a mechanism for enforcing rules.

A council of ministers, comprising cabinet-level representatives of the member nations, would propose multiyear common action plans (articles 6, 30, and 32). An East Asian Council, comprising the heads of the member states, would adopt or reject the proposed action plans on a consensus basis (articles 23 and 32). The member nations would incorporate the provisions of the common

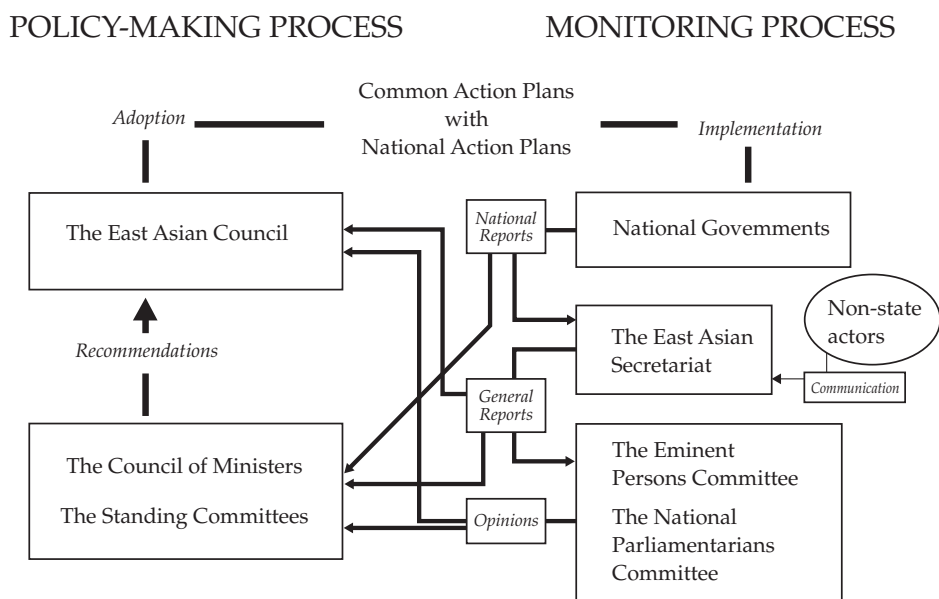
action plans in national action plans on a voluntary basis (article 33). They would implement their national plans through diverse methods adapted to their individual circumstances, including coordination with ongoing private-sector activity.

An East Asian Secretariat would gather information about the member nations' progress in implementing their national action plans (article 26) and would provide comprehensive "general reports" to the community's council of ministers. Early each year, the council of ministers would review the common action plan with reference to the general report for the previous year and would propose revisions to the plans as appropriate. The East Asian Council would decide on the proposed revisions, and the member nations would reflect any revisions to the common plan in their national plans. That cycle of consideration, adoption, review, and revision would define the evolution of community policy and action.

National governments would be free to enlist private-sector participation in formulating their national action plans. The private-sector interests would participate as registered organizations and would be able to submit notices to the community secretariat about progress in implementing the national plans (article 29).

Drafting common action plans for the members to incorporate voluntarily in national plans resembles the APEC approach. APEC, however, lacks a mechanism for monitoring nations' faithfulness in incorporating the common plans in national policy, and it has therefore failed to ensure compliance with its common plans. The secretariat of our proposed East Asian Community would fulfill that monitoring function.

Our draft charter is available for viewing in full in English and in Japanese on the Institute of Social Science's website at project.iss.u-tokyo.ac.jp/crep/e-index.htm.



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“Unity in Diversity” and Legalization of East Asia

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The ASEAN Charter was signed on November 20, 2007. The Charter cites the importance of respecting “unity in diversity” (preamble and article 2, paragraph 2 (l)) and calls for promoting a “common ASEAN identity and a sense of belonging among its peoples” (article 35). It declares further that “the ASEAN motto shall be ‘One Vision, One Identity, One Community.’”

“Unity in diversity” has been declared in the constitutions of each of the member States of ASEAN as a principle that guides their policies. The Philippine Constitution of 1987, for example, requires the government to “foster the preservation, enrichment, and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression” (article 14, section 14).

East Asian nations are hardly alone, of course, in enunciating “unity in diversity” as their motto. For instance, the Treaty Establishing a Constitution for Europe, signed in 2004 but rejected by

national referendums in France and the Netherlands in 2005, declares that “[t]he motto of the [European] Union shall be: ‘United in diversity’” (article I-8). This article seems to be intended to codify the practice of the EU.

Notwithstanding the commonality in phrasing between the ASEAN Charter and the Constitutional Treaty for Europe, interpretations of the principle of “unity in diversity” differ fundamentally between them. This paper suggests that neither the “Asian way” nor the EC way is suitable for achieving the principle in East Asia. Rather, it argues that the gradual legalization of East Asia is the only feasible way to attain the purpose.

I. The Asian Way of Achieving “Unity in Diversity”

The East Asian reference to “unity in diversity” is often in the context of so-called Asian way. Decision making in East Asia frequently takes place in a familial manner without relying on rule-based procedures. Patriarchal leaders commonly decide important issues through informal discussion and by consensus. Due to lack of adequate channels for participation, peoples in the region are generally alienated from the decision making. As a rule, leaders are not accountable to their people.

Those who profit by such a mode of decision making might well assume that it is only natural for diversity to be achieved in a society with family ties and, as a result, they would insist that there is no need for constructing legalistic safeguards for securing diversity against these decisions. In short, proponents of the Asian way regard a less-legalized society as the better one.

ASEAN documents frequently characterize East Asian society in terms of a “caring society” (e.g., ASEAN Vision 2020 announced in 1997). The implication of the emphasis on “care” is that reinforcing familial values should be a chief goal for regional integration in the region. ASEAN has

avoided defining articulated rules and establishing enforcement mechanisms for securing commitments of member States.

The question is how “diversity” is construed from the point of view of exponents when they use diversity. Typically, they do not espouse diversity of individuals in opposition to patriarchal decisions, but do recognize diversity in the spirit of protecting domestic groups aligned with the dominant majority.

If diversity does not stand for individuals, it means no more than the recognition of the *status quo*. East Asian governments have used the principle of diversity as an excuse, therefore, to overlook oppression by their neighbors’ authorities upon peoples who protest against them. We witnessed the cynical abuse of this principle during the recent suppression of demonstrations in Myanmar.

On the other hand, in the case where diversity means that of individuals, the rule of law that aims to protect the fundamental rights of minorities against majorities should attract considerable attention. In other words, it is considered that “diversity in unity” matters just as much as “unity in diversity.”

Inseparable from nations’ commitments to the rule of law in international dealings is their domestic attachment to the rule of law. Nations that pay little heed to the rule of law internally are unlikely to honor the principle externally. Legal notions shaped by domestic experience inevitably shape national perspectives on the legal aspects of international arrangements.

In some East Asian states, the rule of law is anything but instinctive, and establishing the rule of law in each State would require a conscious effort. Several nations in the region lack even the constitutional distinction, a distinction fundamental to the rule of law, between citizens’ rights vested by legislation and human rights that restrict governmental authority including the legislature.

The “Constitution” of Brunei is a case in point. It has no provision for protecting human rights. Although it is true that it provides for an elected

legislative council, election has taken place only once, in 1962. A 1970 decree by the sultan converted the council to an appointed body and limited its role to a consultative one. The sultan has announced plans for new elections but has not specified a date for them.

II. The European Way of Achieving “Unity in Diversity”

The article on the motto of “united in diversity” in the Constitutional Treaty for Europe has disappeared from the Treaty of Lisbon, which was signed on December 13, 2007 and will take effect in 2009 if ratified by all the EU member States. There is no explanation for the deletion of the article in a treaty intended to be a vessel that salvages some of the reforms in the rejected Treaty.

While dropping the article on the motto, the Lisbon Treaty stipulates that the EU “shall respect its rich cultural and linguistic diversity” (article 2) and that unanimity is to be required in negotiating and concluding any agreements “in the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union’s cultural and linguistic diversity” (article 188c, paragraph 4).

The important thing is that the Lisbon Treaty emphasizes the protection of diversity, while mentioning little on unity. It is arguable that, while Europeans share a common history and ideals, East Asia is just an artificial concept defined by Europeans, implying that East Asian peoples have little common historical traditions and share few ideals. Even if this is true, there should be no excuse not to secure the diversity of individuals, especially when the persons in question belong to “discrete and insular minorities” that are unlikely ever to become majorities.

Europeans, in contrast with East Asian peoples, assume that preserving diversity will hinge on legal guarantees and on mechanisms for making good on those guarantees. This assumption arises from the experience of European history. Europeans have learned painfully that unity imposed by those in power unchecked by the rule of law is incompatible with diversity. They consider such unity as repugnant, whether imposed by dictator-

ships in a totalitarian society, or by majorities in a “democratic” society.

From the beginning, the EU has been a highly legalistic construct. The preamble to the Treaty of Rome, signed in 1957, announced the establishment of the EEC, the forerunner of the EC, by six States with a shared “ideal.” The Treaty contains 248 articles and 160 pages of annexes, protocols, and conventions. Clearly, the founders intended the EEC to function and grow in accordance with detailed rules and guidelines.

In the preamble to the Treaty on European Union of 1992, the signatories elaborated upon the shared “ideal” and confirm “their attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law.” While the principles cited are highly abstract, the EU has established such precise meanings through numerous policy decisions.

The member States of the EU share the experience of promoting the rule of law domestically. To them, establishing the EU based on the rule of law was an implicit assumption, rather than a goal. In expanding, the EU has required applicant States to adjust their legal systems to the EU’s cumulative legislation (*acquis communautaire*) including the requirements for the rule of law.

Judicial review attained new and unprecedented authority in Europe in the latter half of the 20th century. The Europeans adopted the U.S. system that empowered the judicial branch of her government to regulate not only the executive branch but also the legislative branch. In the U.S., for democratic rule to be worthy of the name, it is firmly believed that provisions for preventing social tyranny by majorities are indispensable.

The implications of “unity in diversity” for domestic and international legal frameworks have thus diverged spectacularly between Europe and East Asia. In a word, Europeans have regarded the creation and reinforcement of these frameworks as vital steps toward preserving diversity while achieving unity. East Asians have voiced the mantra of “unity in diversity” in opposing the rule of law, both domestically and regionally.

III. Gradual Legalization of East Asia: Comparison of the ASEAN Charter with the Draft Charter of the East Asian Community

The ASEAN Charter contains some articles that secure the diversity of individuals. Article 14 stipulates that ASEAN shall establish a human rights body. Article 27, paragraph 2 provides that any member State affected by non-compliance with the findings, recommendations or decisions resulting from an ASEAN dispute settlement mechanism may refer to the ASEAN Summit for a decision.

The terms of reference of the human rights body, however, is open for future decision and nobody knows when that decision will be made. As for the decision by the ASEAN summit under article 27, paragraph 2, it is yet to be decided whether the decision is mandatory or discretionary and whether the decision will be made by consensus with the State in question or without that State.

The Draft Charter of the East Asian Community, which was drafted by four independent scholars, including the present author, and announced at an international symposium held at the University of Tokyo on July 21, 2007, intends to legalize East Asia. The Draft Charter is based on a slow-and steady policy and offers modest but feasible means to enhance the rule of law in East Asia.

The Draft Charter expresses principles and codes of conduct that governments and peoples of member States must follow. It provides several modes and measures of action for the Community and its member States, such as the Common Action Plan. Once a Common Action Plan has been decided on by consensus, member States will endeavor to carry out the Plan under the monitoring mechanism of peer review.

Meanwhile, the Draft Charter has refrained from incorporating European style provisions for hard-and-fast rules and judicial mechanisms for enforcing those rules. Instead of highly legalized mechanisms, it establishes the Community as the negotiating forum with two consultative bodies, that is to say, the Eminent Persons Committee and the National Parliamentarians Committee. It also offers a mechanism for registration of the NGOs

that would cooperate with the Community. The Community would function less as a legal arbiter than as a vehicle for sharing information among participants.

The Draft Charter provides for establishing a secretariat. The responsibilities of the secretariat would primarily consist of gathering, processing, distributing, and storing information. The secretariat would have the authority to express opinions as an independent voice for the Community interests. The Draft Charter recognizes that positioning the East Asian Community as a platform for broad-ranging and enforceable legal frameworks will be, of necessity, a long-term undertaking.

"I detest what you say, but I will defend to the death your right to say it." Anyone who appreciates freedom of thought and freedom of expression should regard Voltaire's famous words as more than a statement of European thought and, rather, as an expression of a universal code of conduct. "Unity in diversity" shall be interpreted in conformity with Voltaire's cannon. The Draft

Charter honors this principle and may pave the way for establishing the rule of law in East Asia.

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Community Policies in the Draft Charter of the East Asian Community

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I. Introduction

I started studying the European Community Law in 1988. Since then, the idea of an East Asian Community has always been on my mind. I have been thinking of how East Asian people can make use of the European experience on regional integration to solve the many lasting disputes and problems in the region. However, for a long time I could not find an adequate opportunity to develop my very primitive idea on regional integration for this region. It is well-known that the process of European integration began with the purpose of keeping peace and stability in Europe. European countries succeeded in overcoming the historical confrontation between France and Germany through the development of the EC/EU, and by totally eliminating the option of military action, as far as its member states are concerned. In contrast, East Asian countries have thus far failed to solve many regional disputes. On the contrary, East Asia is now facing serious security problems, stemming mainly from the North Korean nuclear weapons development program. Even

if we alleviate this problem, however, the situation in East Asia will still be far from stable and peaceful. Therefore, now is a critical time to discuss how we can and should promote the process of regional integration in this region. This is why I participated in the Comparative Regionalism Project organized by the Institute of Social Science at the University of Tokyo. Under the project, my colleagues and I spent the past two years examining the possibility of regional integration in East Asia from different perspectives. Based on our assessment, we produced the Draft Charter of the East Asian Community (EAC). Among the members of this project, I was in charge of drafting the section on "Community Policies," referring to the expected activities of the EAC. I am honored to have the opportunity to give some comments on those activities here.

II. Regional Cooperation and Institutionalization

Under the Draft Charter, the East Asian Community will conduct its activities in order to achieve its objectives (Articles 2 and 3). When we start drafting provisions on the Community's activities, the first issue to be determined is what policy areas should be subsumed under the Community. First, it appears that some believe that the EAC should be founded as an economic community, dealing with economic, financial and trade matters only. According to this idea, non-economic matters will be excluded from Community matters. This idea may have some advantages for Community-building. Since every country has a strong interest in economic development, East Asian countries may easily reach a consensus regarding the Economic Community, and therefore they may have fewer problems managing such a Community after its establishment. However, the Draft Charter did not follow this idea, because a Community with such a narrowly limited policy area would not be able to fully react to many of the threats which require a response through regional cooperation.

Even now, a variety of regional arrangements exist with differing composition on bilateral or multilateral bases to promote regional cooperation in East Asia. Besides the fact that there are many inconsistencies between or among them, it is notable that these arrangements are not necessarily proceeding within any institutionalized system on the basis of international law, except for free trade agreements. This means that the existing arrangements are generally weak and fragile. In the case of a major conflict on any issue between or among participating countries in any particular arrangement, it is possible for any country to refuse to attend a meeting with other countries or to seek a solution through negotiation. As long as no participating country is obliged to enter discussions with any other participating country, nothing will compel both countries to continue negotiations and settle matters from a legal point of view. In addition, nothing can prevent any party from leaving an arrangement. Regional cooperation based upon such an arrangement is likely to face many deadlocks, and in the worst case, may ultimately collapse. Although such deadlocks may be avoided through political or economic consideration by the countries involved, the risk of deadlock or collapse must also be addressed from a legal point of view.

In order to avoid deadlocks arising due to a refusal to negotiate, it is necessary to create a system in which countries involved in a problem will be forced to meet with each other and discuss solutions to the problem together. This is because both attending such meetings and discussing problems are regarded as the starting points for peaceful solutions. Therefore, the importance of the Charter exists in the fact that the Charter legally compels all Member States to get together regularly and to sit at the same table in order to discuss issues presented before them. If we grasp this basic objective of the Community, we will not be able to endorse the idea of a strictly economic community. With the desire to prevent regional confrontations, the coverage of Community policies should be extended as broadly as possible, so that any regional confrontations can be covered by the Community framework. Accordingly, we have tried to include all on-going regional arrangements in the Community policies.

III. Community Policy Areas

Fourteen policy areas are enumerated within the Charter. Provisions in 'Part Two' of the Charter (Articles 6-21) cover a wide range of policy areas, from political and economic cooperation to cultural and social cooperation. Thus, the Charter intends to devise an institutionalized mechanism which systematizes various on-going activities carried out by either national governments or private parties with newly initiated Community activities. A rough image of how regional cooperation will be handled in 14 policy areas is summarized hereafter.

1. Regional Security (Articles 7-11)

Peace and stability in this region is of paramount importance for every person as well as every Member State, and constitutes the basis of regional economic development. Thus the East Asian Community must be an international organization for the realization of regional peace and stability. This is why an article on cooperation for regional security is placed at the beginning of Community policies (Article 7). Regional peace and stability can be prejudiced by various affairs. In addition to political confrontation between East Asian countries, other types of threats to peace and stability in the region include international crimes such as terrorism, various epidemics, and major natural disasters like earthquakes and tsunamis. The Charter responds to those threats.

2. Market-Building (Article 12)

Although I do not endorse the idea of a strictly Economic Community, in any case, economic cooperation must be a central pillar of Community policies. Certainly, the Member States expect to gain economic prosperity from their participation in the Community. Therefore, the creation of strong economic ties among East Asian countries, through the removal of all kinds of trade barriers, will be a precondition for the future success of economic development in the Community. Moreover, the Protocol on the Economic Partnership Framework Agreement complements this article (Article 12).

A number of bilateral or multilateral free trade agreements (FTAs) have been concluded within this region. As a result, a network of those agreements covers most of the territory of East Asia, and actually constitutes the legal basis of the Community. It seems, however, that the FTA network will not be sufficient for economic cooperation of the Community in the near future. According to the Charter, the Community will need a more integrated economic relationship among its Member States than currently exists in the FTA network. It is not possible for East Asian countries to reach an agreement on the establishment of a customs union at the moment, however, because it is unlikely that those countries will agree to limit their sovereignty for the establishment of such a union. Accordingly, after its foundation, the Community shall make efforts to transform those FTAs into a single multilateral FTA, like the EFTA (European Free Trade Association), covering the entire territory of the Community. In conclusion, the Community market should be considered as something between a network of bilateral FTAs and a customs union.

3. Monetary and Financial Cooperation (Article 13)

Economic integration will necessarily be accompanied by corresponding monetary and financial cooperation, because economic development in the Community must be supported by stable monetary and financial policies. Since a financial and monetary crisis in one country could easily cause a similar crisis in another country, such a crisis in one country is a common concern for all countries in this region, and must be responded to on a regional basis. Based on the achievements of the "Chiang Mai Initiative," the Community intends to strengthen monetary and financial regional cooperation within the Community framework.

4. Other Regional Cooperation

Some other provisions in the Charter aim at building up a common infrastructure for sustainable development in the Community. Energy (Article 14), a trans-East Asian network (Article 15), statistics (Article 16), environmental cooperation (Article 17), research, science and education

(Article 18), and legal matters (Article 20) all constitute indispensable parts of the infrastructure.

Among those areas, environmental protection is of particular importance for the Community as a whole. Climate change has already had a serious impact on people's lives in the region. Expressing concern about the adverse impact of climate change on socio-economic development, health, and the environment, the Third East Asian Summit recently made a declaration on climate change. In addition to climate change, East Asian countries are facing other regional or local environmental problems, such as forest fires, degradation of the coastal or marine environment, protection of water resources, the development of environment-friendly technology, and protection of the urban environment. Regional cooperation for environmental protection is inevitable for the sustainable development of the region. Taking account of the diversity of its Member States, therefore, the Community will try to bring current cooperation programs into a single framework, and to ensure consistency among them for the purpose of maintaining a high level of environmental protection (Article 17, para. 1).

Although it does not attract much attention, legal cooperation is also important from a legal point of view. The Community is based upon the principle of the rule of law as well as respect for human rights (Article 5, para. 2). The Community shall also respect the principle of international law (Id.) and the Charter is expected to be adopted in the form of an international treaty. The EAC will be quite different from the EC in terms of its legal nature, but nevertheless, the EAC has to be a kind of legal community. On the other hand, the rule of law in any international society maintains a certain relevance or interaction with the rule of law in the domestic societies of constituent countries. Cooperation in legal matters such as law-making, legal education, and practical training for lawyers is addressed as the improvement of the domestic legal situation in each Member State (Article 20). In the long run, however, such cooperation will contribute to preparing the further development of legal aspects of the EAC, as well as to strengthening the rule of law among Member States. In this sense, I can expect that the EAC will be equipped with an Asian Court of Justice in the

future.

V. Concluding Remarks

If regional cooperation in all Community policy areas proceeds successfully, every Member State will benefit a great deal from the Community, and the living standards of peoples in this region will be considerably improved. Then, those peoples may come to identify as members of the same Community. In this sense, the establishment of the East Asian Community will act as a step towards regional integration.

Since the Charter does not concentrate on a few specific areas, it apparently will not rely upon the theory of neo-functionalism which is characterized by the spill-over effect, but in reality, the

spill-over effect may be produced by the process of Community development. All cooperation in the Community must be based on the consensus of the Member States. As a result, the speed of progress depends on the policy area. In cases where a policy area involves a sensitive issue for some Member States, it will not be easy to reach a consensus about how to advance regional cooperation. It is likely that cooperation will often reach a deadlock in such areas. However, the experience of success in areas without sensitive issues may offer all Member States the necessary momentum to push ahead with regional cooperation in difficult areas. In any case, the success of Community policies will contribute to the development of the Community itself in terms of both quantity and quality.

The Draft Charter for an Evolving East Asian Community: Finding a Politics-Law Interface

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I. Introduction

The Draft Charter declares the establishment of an East Asian Community. While its adoption and entering into force would be a drafter team's dream, this would only be possible after some hard political negotiations, or 'grand bargains'. Such a 'political big bang', however, would not be the end of the story. Even if the dream comes true, a long and winding story would start soon after that: the story of institutional evolution. Indeed, the Draft Charter never assumes institution-building as an once-and-for-all historical event. Rather, its aim is to establish an institutional framework to serve as an 'incubator' for an ever-evolving East Asian Community. To this end, the Draft Charter designs the institutional architecture of an East Asian Community in a progressive way, with the lowest possible sovereignty cost, which presumably would make political consensus much easier than a more ambitious proposal to establish an EU-type hard legal regime. In this short essay, I would like to shed light upon three

conceptual aspects of the soft legal regime that the Draft Charter assumes as the incubator for regional community-building. These three aspects are concerned with identity, governance and norms.

II. An East Asian Identity

Any regionalist project entails an identity claim. And as with any identity claim, a regional identification differentiates between inside and outside. If an international region conducts institution-building without identity-building, such regional institutionalisation may not work as a regionalist project; it would more likely be part of an open multilateral project. Hence, regionalism would seem to be an exclusive identity-building project. There is no need to understand this closedness as being absolute, however. International region-building is not the same as historical nation-state building, so regional identity can be constructed in a more open way. In general, discourses of constructing regional identity are twofold. One makes a story of particular geographical/cultural ties in a shared history. The other draws on the cause of the regional realisation of universal values, such as global good governance. The former discourse rhetorically constructs particular geographical/cultural ties as being inherent, or a pre-existing property; but the latter discourse presumes that regional identity as a unit pursuing universal values can be acquired through the evolutionary process of a regional community. While both identity discourses are required in any region-building project, the cultural/geographical rhetoric can also be framed within a universal value discourse that advocates regionalism complementary to global good governance. I think that the Draft Charter combines these two identity discourses in this manner.

The Draft Charter assumes the ASEAN Plus Three countries to be the initial members of the East Asian Community, evoking 'the historical, geographical and cultural ties that the peoples of

the region have shared' (Preamble, para. 3). However, this does not mean to insist any closed geographical/cultural bond among those 13 countries. Indeed, the Draft Charter never submits the precise territorial definition of 'East Asia'. It just suggests that 'Any East Asian state which accepts all the provisions of this Charter without reservation may apply to become a member of the Community' (Article 39). This 'East Asia' shall be a politically constructed, open-ended concept. I think that the Draft Charter attempts to construct 'East Asia' from two viewpoints: 1) regional reconciliation; and 2) global good governance.

1) The region-building project envisioned by the Draft Charter encompasses justice and reconciliation projects. Many neighbouring countries around the world have repeated blood-shedding wars, many cases of which have involved a hegemonic power carrying out an invasion. Japanese history in modern East Asia is a typical example of this sort. Besides this bloody history, there have emerged many conflicts, and thereby many killing fields, throughout the region. One of the fundamental objectives set up by the Draft Charter is to foster 'an everlasting reconciliation' (Preamble, para. 6). 'East Asia' needs to be conceptualised as a region that maintains the mission of accomplishing these reconciliation processes. The regional identity of East Asia can be found in this collective effort of justice and reconciliation projects.

2) Along with the justice and reconciliation projects, the Draft Charter aims to support East Asian contributions to global good governance. Article 5 requires Member States to foster 'peaceful and open regional cooperation in harmony with globally shared fundamental values and universal principles' (para. 1). In addition, Article 4 reconfirms the idea of international *jus cogens* and lists its catalogue (paras. 5-8). No specific East Asian value is premised here. Rather, it is advocated that East Asia should be a region that pursues global good governance as a unit. The Draft Charter assumes this self-understanding as one of the important elements of an East Asian identity.

The selection of the original Member States of the East Asian Community needs to be understood precisely from this point of view. As suggested

above, the Draft Charter never assumes the identity discourse of geographical/cultural closedness. Here, attention needs to be paid to the position of ASEAN Plus Three countries as part of a multi-tiered/faceted regionalist trend in East Asia. All of these 13 countries belong to all of the international fora in East Asia (APEC, ASEM, ARF, PMC, ACD, and EAS); therefore, ASEAN Plus Three can be considered the core of East Asian regionalism. Indeed, there would be no effective common action plan without a consensus between China, Japan, Korea and ASEAN. These countries have already organised 48 meetings in 17 policy areas, on the basis of the 2002 Report of the East Asian Study Group which originated in Kim Dea-jung's initiative. This is one advantage over the 16 countries of the East Asian Summit (EAS), or ASEAN Plus Three Plus Three. The membership policy of the Draft Charter is thus based on the necessity of a gradually emerging regional governance. At the current stage, ASEAN Plus Three has much more potential to create a comprehensive and coherent governance system including non-economic action areas beyond mere free trade areas. Other Plus Three countries, such as New Zealand, Australia and India, will be able to access, at first, individual action plans as part of the regional governance system arranged by the East Asian Community.

III. East Asian Governance

With regard to this orientation towards institution-building for governance, the Draft Charter is not particular at all. Any regionalism is a political project to establish its own regional governance system. During the Cold War era, the EEC and ASEAN were certainly sorts of political coalitions countervailing against the communist regimes. However, even those regionalist projects entailed, or at least sought, the making of common public policies among member countries. This way to establish a regional governance system has made progress under the era of globalisation. The Draft Charter attempts to further promote this trend. It endeavours to construct East Asian governance that complements global good governance, as suggested above. This means to transform the political state of affairs of this region from a zero-sum game to a win-win situation. Above all, China-Japan relations are quite important. While

no policy area is exempt, the two big powers' collaboration would be especially effective in preparing capacity-building projects for the so-called CLMV countries (Cambodia, Laos, Myanmar and Vietnam). This is undoubtedly a key issue for the stability of an East Asian Community.

An East Asian governance system is proposed to be constructed progressively, through the developmental process of Community and National Action Plans prescribed by Articles 32 and 33 of the Draft Charter. These action plans are required to be made in 14 policy areas. Articles 7-20 of the Draft Charter provide action plans for areas such as regional security; international crime; pandemics and natural disasters; food crises; development gaps; market building; financial and monetary issues; energy; transportation/information infrastructures; statistics; environment; science and education; people's movement; and legal cooperation. In carrying out these plans, Member States are obliged to be in conformity with the abovementioned basic values and principles (Articles 2 and 4-6). The 14 policy areas are selected alongside agendas *already* on the table, especially in the ASEAN Plus Three process. In this regard, the Draft Charter attempts to construct an East Asian policy *acquis*, encompassing the total substance of all shared norms and promised measures.

In this way, the membership policy of the Draft Charter, suggesting the 13 countries of ASEAN Plus Three as a first wave, follows a functional logic, not a geographical/cultural discourse. The Draft Charter intends to contextualise this functional logic with the aforementioned universal values of global good governance.

IV. An East Asian Normative Order

One point that needs to be considered is how to ensure the effective implementation of the Community and National Action Plans. While there have already been many individual meetings in a number of East Asian fora, these fora tend to be little more than politicians' cheap talk, despite their steady agenda-setting activities. Besides, while making an action plan in itself can be interpreted as a legal obligation under the Draft Char-

ter, Member States are never obliged to adopt legal instruments for their own plans. While Article 30 provides the Community with an option to use 'framework agreements' or 'international conventions' for its own action plans, the use of these legal instruments cannot be assumed to be the normal practice in Community business. Each Member State is likely to have a final say with regard to the precision of policy goals, as well as the legal nature of policy measures. In addition, no judicial review procedure is prepared under the Draft Charter. Even if Member States fail to adopt a policy measure that they promised to in their National Action Plans, it is presumably quite difficult to recognise this failure as a legal infringement. Notwithstanding this institutional fragility, the current Charter has certainly been drafted as a document that is expected to be ratified by Member States in order to establish a legal regime in East Asia, in which basic principles are declared and policy-making procedures are set up. In any event, an EU-like legal regime cannot be expected, at least in the early stages of an evolving East Asian Community. How is it possible, then, that the policy *acquis* can gain resilience under this kind of a soft legal regime of the Draft Charter?

For this question, I think, it is important to consider the roles of law in political terms. It is generally assumed that there are two ways of understanding the roles of law (See Trubek et al. 2005). On the one hand, law is simply a tool for regulating actors' behaviour, and actors navigate legal rules as they pursue their own fixed preferences. Therefore, some form of sanction must be prepared for the stable implementation of legal rules. In contrast, law is also a tool for transforming actors' behaviour, by influencing their self-understanding, or identity. In this view, law is a catalyst for norm diffusion through mutual learning. In considering these two viewpoints, it can be said that the Draft Charter first assumes the role of law as a transformative tool in terms of norm diffusion, and then tries to exalt the evolutionary nature of legalisation in the respective 14 policy areas.

Here, I would like to draw attention to the policy review system that the Draft Charter envisions in Articles 23, 24, 32 and 33. This review system can

be expected to enable normative evolution. It requires each Member State to submit their own National Action Plans and their policy reports to the Council of Ministers, which will discuss them and specify the best practices (Article 24). In this review cycle, individual action plans shall be scrutinised not only by governmental actors (the East Asian Summit and Council of Ministers), but also parliamentarians (the National Parliamentarians Committee) as well as societal actors (registered NGOs) (respectively Articles 28 and 29). In this way, the policy review system of the Draft Charter establishes regular, routinized policy communication, and this system is expected to foster an East Asian normative order. But, how is this possible?

Through the process of issue-oriented policy communication, I think, a trans-border and 'multi-actor coalition' (Söderbaum 2003: 1-2) is expected to emerge in each policy area. Along with arranging regular, routinized policy communication, this trans-border, multi-actor coalition comprises not only governmental, but also parliamentarian as well as societal actors. In this coalition formation, pro-regionalist discourses would gradually attain footholds in national political scenes, and as these discourses become pervasive, the substantive norms of each policy area would progressively be shared. To put this in simple political terms, the Draft Charter provides an opportunity for cross-border/multi-level actor networks to appear on the scene of a regionalist project, and then these networks would be enhanced to pro-regionalist discourse coalitions, in which governmental as well as non-governmental actors would share regionalist minds towards ever deeper regional collaboration. Then, the normative framework of the Draft Charter would orient these pro-regionalist discourses towards the abovementioned justice and reconciliation projects and global good governance.

In this view, what undoubtedly becomes important is the personnel capacity of the East Asian Secretariat and the selection of the Secretary-General (Article 26), as well as the moral support of the Eminent Persons Committee (Article 27). They must play the roles of catalysts that stimulate pro-regionalist discourses.

In this way, the policy review system can help enable the policy *acquis* to become resilient, by catalysing the formation of trans-border discourse coalitions between governmental, parliamentarian and societal actors. I think that this political orientation is an advantage of the institutional architecture of the Draft Charter, in comparison with other existing international fora in East Asia.

V. Concluding Remarks

Existing international fora in East Asia have already organised intergovernmental political processes. These fora have certainly provided policy agendas that may lead to the construction of an East Asian policy *acquis*. On this basis, an East Asian governance system can be established. However, it must also be pointed out that there has been a gap between East Asian countries. What can be expected to close this gap is precisely the day-to-day institutional practice of making Community and National Action plans and of carrying out the abovementioned policy review system for those plans. I think that a politics-law interface can be found precisely in this formation of discourse coalitions: the coalitions that pursue region-building orientated towards justice and reconciliation projects, as well as global good governance. The idea is that the shaping and sharing of norms become possible through the formation of this type of pro-regionalist discourse coalition, and the emergence of this type of coalition will enable the evolution of a regional legal regime that penetrates into each Member State's legal order. In my understanding, the Draft Charter can open up exactly this opportunity.

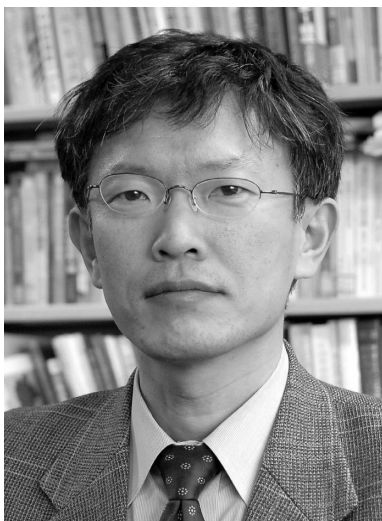
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Is Japan Ready for Economic Integration with China?

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Surge in Japanese distrust of Chinese-made products

If the amount of trade between two countries measures the degree of economic integration, China is Japan's most economically-integrated trading nation, because it is now Japan's top trading partner. During the period from January to November 2007, import and export trade between Japan and China reached 25.4 trillion yen, while trade between Japan and its former top partner, the United States, stood at 23.2 trillion yen. However, 2007 will also be remembered as the year when distrust among the Japanese public of Chinese-made products reached an unprecedented high. Suspicions arose that Chinese-made foods were contaminated by agricultural chemicals, antibiotics, bacteria, artificial ingredients, or whatever else may be harmful to the human body. In a recent survey of one hundred Japanese citizens conducted by a television program, 96 people responded that they were trying to avoid any food that was "made in China."

The sudden surge in distrust of Chinese-made foods in Japan seems strange, as there has been no particular event to trigger such distrust. The "Statistics of Imported Foods Monitoring for 2006" by the Ministry of Health, Labour and Welfare shows that Chinese-made foods rarely violate the Japanese Food Sanitation Law: 0.58% out of 91,264 items inspected. This rate is lower than the average violation rate (0.77%) of all imported food, and well below the rates of Japan's other major food importing partners, such as the European Union (0.62%), the United States (1.32%), Thailand (0.68%), and Vietnam (1.63%). It is true that the absolute number of violations by food imported from China is larger than any other country—a fact that has been publicized by the Japanese mass media, but this merely reflects the fact that the absolute number of items imported from China is larger than from any other country. Moreover, there is no reason either to doubt that imported foods are more dangerous than domestic-made foods: an inspection by the Ministry of Health, Labour and Welfare conducted in 2002 reveals that the rate of detecting agricultural chemical residues in domestic-made food (0.44%) was higher than the rate for imported foods (0.34%).

Distrust of foods imported from China might have been caused by news coverage of the cold medicine which contained poisonous chemicals made in China and claimed several hundred lives in Central America, and the pet foods which contained poisonous wheat made in China and claimed several dogs' lives in the United States. Although the responsibility of poisoning people and pets must be taken by the manufacturers who mixed poisonous materials into these items, not by the Chinese manufacturers of the poisonous materials who had no knowledge that the materials would be mixed into products that would be eaten by people or animals, these incidents have created an impression among Japanese citizens that Chinese exporters might, mistakenly or intentionally, put harmful substances into their

export goods. In addition, there were many reports on serious food hygiene problems in China, including the shocking news that a man in Beijing had made fake minced meat out of cardboard, which later turned out to have been staged.

Such news coverage, which bombarded the Japanese public throughout the summer and autumn of 2007—as if to cover up the scandals of counterfeiting the list of ingredients by several domestic food manufacturers—has created a fear of Chinese-made foods among Japanese people. Supermarkets have been annoyed by claims from consumers who believe that all merchandise with the “made in China” mark should be banned from stores in Japan. Some shops have tried to persuade their customers that they strictly check the safety of their merchandise, and have found no problem with Chinese-made foods. But other shops have simply removed Chinese-made items from their shelves. This silent boycott of Chinese-made foods by some Japanese has had a strong impact on imported foods from China: imports of fish and fish products from China from January to November 2007 dropped 20.5% compared to the same period in 2006, and imported vegetables dropped 13.0% during the same period.

How much does Japan depend on imports from China?

As Sara Bongiorni, author of *A Year Without “Made in China”* (Wiley, 2007) experienced, by trying to boycott Chinese-made products, one comes to know how deeply our daily lives are immersed in Chinese products. In the following we will examine the degree of Japan’s dependence on imports from China.

If we take a look at Japan’s reliance on imports from China in aggregate terms, the degree of dependence is not very high: in 2006, Japan imported 13.7 trillion yen worth of goods from

China, which was only 2.7% of the Japanese GDP. However, when we examine individual items, we find that Japan relies quite heavily on China for the supply of some particular items.

First, consider the following aquatic products: 92% of clams (fresh and frozen), 77% of *wakame* (a kind of seaweed popular in Japanese cuisine), 65% of blowfishes, 47% of *asari* clams, 42% of blue crabs, 29% of live eels, and 25% of salted or dried squids sold in Japan in 2006 were imported from China¹. In the case of eels, almost twice the quantity of live eels was imported in the form of prepared eels. Taking this into account, Japan relies on China for around 60% of its supply of eels². In total, China is the largest exporter of aquatic products to Japan, supplying around 22% of all of Japan’s imports of aquatic products.

Next, let us examine farm products. China was the second largest exporter of farm products to Japan after the United States, supplying 13% of all farm product imports in 2006. Farm products for which Japan heavily relies on China are as follows: 74% of peanuts (raw and roasted), 69% of garlic, 64% of *matsutake* mushrooms, 60% of ginger, 57% of buckwheat, 29% of burdocks, 26% of young soybeans, 22% of *shiitake* mushrooms, 21% of *adzuki* beans, 20% of peas, 19% of welsh onions, and 16% of onions sold in Japan were imported from China in 2006.

The abovementioned aquatic and farm products imported from China are heavily used in Japanese dishes but not so much in Chinese dishes. Items such as *wakame*, blowfishes, eels, *matsutake* mushrooms, buckwheat, and burdocks are indispensable ingredients for Japanese dishes. Thus, Japanese importers taught and guided Chinese farmers and fishers to harvest such items, which are popular in Japan. Moreover, the Japanese food processing industry established numerous factories in China to process food from Chinese crops for export to Japan, and it was such actions from

¹ The degree of dependence on imports from China is calculated by: (Volume of import from China) / (Total volume of import + domestic production – total volume of export). Data on the production, import, and export of aquatic and farm products are from the Ministry of Agriculture, Forestry and Fisheries.

² Prepared eels were at one point eliminated from some supermarket shelves during the summer and autumn of 2007. But, strangely enough, the import volume of prepared eels increased 13% during the period from January to October 2007, compared to the same period in the previous year.

the Japanese side that made China into a major food-exporting country to Japan.

Japanese importers also taught Chinese vegetable farmers to use agricultural chemicals so that their products would be accepted by Japanese consumers, who detest worm-eaten vegetables. Ironically however, the use of agricultural chemicals has now become a reason for some Japanese consumers to reject Chinese-made vegetables. The high degree of reliance on imports from China for some common ingredients in Japanese cuisine, however, suggests that if Japanese consumers reject Chinese-made aquatic and farm products altogether, with limited alternative sources of supply they will have to suffer much higher prices for these items. Therefore, the price of Japanese food, *not Chinese food*, will jump without seafood and vegetables from China.

Although Japan is an important destination for China's food exports, food makes up only 7% of China's exports to Japan. Even if the Japanese people were to boycott all Chinese-made food, it would only cause limited damage to bilateral trade and the Chinese economy. On the other hand, as 89% of China's exports to Japan in 2006 were manufactured goods, let us examine how much Japan depends on China for the supply of manufactured goods.

What Japan depends on China for the most is probably apparel and related accessories, which made up 16% of the value of all imports from China in 2006. That year, 69% of all outerwear and 82% of all innerwear sold in Japan were imported from China³. If we measure the degree of dependence on China in terms of monetary value, however, it is much smaller, because apparel imported from China is relatively cheap: the average import price of outerwear was 776 yen (6.7 US dollars) and innerwear was 207 yen (1.8 US dollars) in 2006. The import value of apparel and accessories decreased by 4.9% during the period from January to November 2007 compared to the same period the previous year, but it is unclear whether this was related to the growing

distrust of Chinese-made products.

Electric machinery is another item for which Japan depends heavily on imports from China. For some household electric appliances the degree of dependence is very high: 100% of weighing scales, 98% of portable vacuum cleaners, 95% of coffee makers, and 95% of toasters sold in Japan were imported from China in 2006. The real degree of dependence on China for these items, however, must be somewhat smaller than these figures, because data on the amount of domestic production of these items are unavailable and therefore not taken into consideration, although it is unlikely that these items are produced in a large volume in Japan. Other household electric appliances for which Japan depends heavily on China include: radio-cassette recorders (81%), DVD players (64%), hair dryers (63%), electric shavers (62%), microwave ovens (45%), personal computers (41%), telephone sets (40%), washing machines (37%), and rice cookers (32%)⁴. These items are still produced in Japan, but most of the products sold in Japan are imported from factories established in Asia, especially China, by Japanese firms.

Other merchandise for which Japan depends on China include: handbags (88%), shoes (51%), wooden bedroom furniture (38%), and vacuum-seal bottles (31%). The degree of dependence on China for stuffed dolls, clocks, and frames for eyeglasses, measured by the value of production and imports, are 67%, 38%, and 19% respectively, but if we measure by the number of items produced and imported (though figures for domestic production are unavailable), the degree of dependence on China must be much higher.

As the above list of merchandise suggests, Japan imports a great number of consumer goods, creating an impression among the Japanese public that they are surrounded by "made-in-China" items. Japan does not depend on China as heavily for the supply of intermediate goods, with the exception of farm and aquatic products which are used as intermediate inputs by the food processing

³ Data are from the Ministry of Finance and the Ministry of Economy, Trade, and Industry.

⁴ Data on domestic production are from the Ministry of Economy, Trade, and Industry and data on imports are from the Ministry of Finance.

industry. Another important exception is ferroalloy, which is an indispensable material for iron and steel production. Japan depends on imports for 74% of the supply of ferroalloy, with 38% of its ferroalloy imports coming from China. Imports from China, thus, made up 28% of Japan's ferroalloy supply in 2006⁵.

The high degree of dependence on China for a variety of consumer goods indicates that the Japanese people have directly benefited from trade with China by having an ample supply of cheap consumer goods. Economic integration with China has already immensely benefited Japanese people's lives. Even with the emergence

of Japanese distrust of Chinese products, Japan's economic integration with China further intensified in 2007: the share of trade with China rose to 17.8% during the period from January to November 2007, compared to the previous year's 17.2%. But the spread of a silent boycott of Chinese-made products in 2007 suggests that many Japanese people are still reluctant to accept economic integration with China. With such distrust of Chinese products among the public growing, it will be difficult, in the short term, to proceed with discussions on institutionalizing economic integration. Nevertheless, this is a good chance for the Japanese public to recognize how deeply their daily lives are connected to China.

⁵ Original data for this calculation are from the Japan Iron and Steel Federation and the Ministry of Finance.

Draft Charter of the East Asian Community (Excerpt)

2007.7.21

**This draft is an independent academic idea.
It does not represent any position of any govern-
ment.**

Preamble

[Heads of State or Government of Brunei Darussalam, Kingdom of Cambodia, People's Republic of China, Republic of Indonesia, Japan, Republic of Korea, Lao People's Democratic Republic, Malaysia, Union of Myanmar, Republic of the Philippines, Republic of Singapore, Kingdom of Thailand, and Socialist Republic of Vietnam, with the special representative of Chinese Taipei¹,]

[1] BUILDING on the achievements of the Association of South East Asian Nations (ASEAN), the ASEAN plus Three process, the East Asian Summit and the free trade agreements and economic partnership agreements concluded between them since the 1990s;

[2] RESPECTING the constitutional principles of the High Contracting Parties, general principles of international law, the international treaties to which all of them have subscribed, and the achievements of Asia-Pacific Economic Cooperation (APEC), the Asia Europe Meeting (ASEM) and ASEAN Regional Forum (ARF) processes;

[3] RECALLING the historical, geographical and cultural ties that the peoples of the region have shared;

[4] RENEWING our determination that never shall we be visited with the horror of war, military aggression and confrontation in East Asia as a result of the actions of governments, nor shall we ever accept any coercive formation of a transnational regime in the region;

[5] COMMITTED to resolve and settle any dispute and conflict among the countries of the region by peaceful means;

[6] DESIRING an ever lasting reconciliation and peaceful relationship among the countries and the peoples

of the region by constantly and consistently working together and deepening mutual trust and understanding;

[7] DESIRING to promote a higher standard and better quality of living, and equitable prosperity of the peoples of the region;

[8] RECOGNISING that a growing number of national policy issues are inseparably linked to larger issues that need to be addressed at appropriate regional or global levels;

[9] DETERMINED to pursue our prosperity in an open and transparent market, and to promote timely and effective responses to regional challenges and crises by constructing spontaneous and proactive cooperation among the governments and the peoples of the region;

[10] COMMITTED not only to organise the activities of the existing international arrangements in the region by common basic principles and consulting procedures, but also to foster flexible ways of cooperation among the governments and the peoples in the region for common concerns and interests;

[11] COMMITTED to promote an international order based on stronger multilateral cooperation and good global governance, which shall be guided by the principles of democracy, the rule of law, respect for human rights and fundamental freedoms, equality and solidarity among states, and respect for the principles of international law, in particular those of the Charter of the United Nations;

[12] DETERMINED to initiate a Community, among the High Contracting Parties as a first step;

HAVE DECIDED to establish an East Asian Community ...

Part One: Principles

¹ Taiwan has been a member of APEC as Chinese Taipei since 1991. The established international practice of reference is used here. Because the international status of Taiwan is a sensitive issue, it may be reasonable to conclude a separate protocol on the membership of Taiwan between the High Contracting Parties in establishing the Community. The protocol shall form an integral part of this Charter.

Article 1 (Community)

By this Charter, the High Contracting Parties establish among themselves an East Asian Community. The Community shall be open and transparent, and shall operate within its competence under this Charter, paying due respect to the sovereignty and national identities of the Member States.

Article 2 (Aims)

The Community shall aim

- to promote peace, security, stability, a higher standard and better quality of living and equitable prosperity of the peoples of the region;
- to enhance constant and consistent consultation and cooperation among the governments and the peoples in the region to ensure that the peoples and the countries live in peace, and prosper in an open and democratic environment;
- to resolve disputes in the region through peaceful means based on a set of common norms and principles that the Member States share; and
- to contribute to the wider world in building a stable and harmonious global order both by promoting peaceful and mutually benefiting relations in and beyond the region and by articulating and accumulating shared norms and principles in and beyond the region.

Article 3 (Objectives)

For the aims set out in Article 2, the activities of the Community shall include, as provided in this Charter and the annexed Protocols:

- (a) promotion of cooperation and mutual assistance for regional security and peace;
- (b) enhanced cooperation against international crimes including terrorism, sea piracy, drug and human trafficking, counterfeiting and money laundering, and against infectious diseases and natural disasters;
- (c) the establishment of mutual food aid in the event of natural and other disasters based on the spirit of solidarity;
- (d) cooperation to ensure sustained and sustainable development for the peoples of the region, alleviating poverty, thereby enabling them to increasingly benefit from globalisation;
- (e) cooperation to narrow the development gap among its Member States through bilateral, regional and international collaboration;
- (f) the realisation of an open, transparent and competitive regional market with sustainable economic development and a high level of consumer protection and working conditions;

- (g) the promotion of increased economic linkages and regional connectivity by enhancing integration and efficiency of transport and telecommunication infrastructures, facilities and services;
- (h) cooperation for the stable and efficient development and use of natural energy resources;
- (i) promotion of economic growth and financial stability in the region;
- (j) cooperation in the field of currency and monetary policy;
- (k) cooperation to preserve, protect and improve the quality of the environment by strengthening regional and global environmental agreements and capacity building;
- (l) cooperation to promote research on and education in the region and the Community, including exchange of students and people engaging in education, and to develop science and technology in the Community;
- (m) cooperation for freer movement of people;
- (n) cooperation in the field of law.

Article 4 (Fundamental Principles shared by the Member States)

1. The Member States shall mutually respect the independence, sovereignty, equality, territorial integrity and national identity of the Member States.
2. The Member States shall abstain from practicing policies and adopting measures that have serious adverse effects on the development of other Member States.
3. The Member States shall abstain from participating in any activity which constitutes a threat to the sovereignty, territorial integrity or political and economic stability of other Member States.
4. The Member States shall renounce aggression and the threat or the use of force in their relations, and shall rely exclusively on peaceful processes in the settlement of disputes and conflicts among them.
5. The Member States shall promote the objectives of the Community and observe faithfully the principles contained in this Charter, the Charter of the United Nations and other basic international treaties, conventions and agreements subscribed to by the Member States.
6. The Member States shall promote and uphold generally accepted principles of international law, including international humanitarian law.
7. The Member States shall respect, protect and promote human rights and fundamental freedoms without distinction as to, in particular, gender, race or ethnic origin, religion or belief.
8. The Member States shall reject any act of genocide,

ethnic cleansing, torture, any use of rape as an instrument of war.

9. The Member States shall reject unconstitutional and undemocratic changes of government.
10. The Member States shall fulfill and implement in good faith all obligations and agreed commitments under this Charter and shall make maximum and unflinching efforts in participating in the activities provided for in this Charter.

Article 5 (Principles of Community Operation)

1. In all the activities for the attainment of the objectives referred to in Article 3, the Community shall:
 - develop peaceful and open regional cooperation in harmony with globally shared fundamental values and universal principles;
 - respect the equality and the national identities of the Member States;
 - pay due regard to the region's diverse socio-cultural traditions and heritage;
 - coordinate Member States' policies for greater socio-economic benefit;
 - cultivate and promote innovative ways of cooperation in the region, including enhancing the participation of and interaction among national Parliamentarians, civil society organisations, academic institutions and private business enterprises and other non-governmental organisations;
 - incorporate environmental protection requirements into the definition and implementation of all measures adopted by the Community;
 - define and act for the shared interests of the future generations of the region and the corresponding responsibilities of the present generations in the region.
2. In the operation of the Community, all participants in the Community shall:
 - assist each other in full mutual respect in carrying out the Community measures and activities;
 - maintain outward-looking regional cooperation that is friendly to all and hostile to none;
 - make a commitment to the principles of democracy, the rule of law, respect for human rights and fundamental freedoms, equality and solidarity among states, and respect for the principles of international law, in particular those of the Charter of the United Nations;
 - promote regional economic potential through closer cooperation on the basis of mutual benefit;
 - actively assist other participants in times of major natural disasters or economic crises;
 - promote regional solidarity through "prosper thy neighbour" policies and enhance efforts to narrow

the development gap, paying due respect to the diversity of the region and the national identities of the Member States;

- cooperate in national, sub-regional and regional development programmes, utilising as far as possible the resources available in the region, to broaden the complementarities of the countries in the region.

Part Two: Community Policies

Article 6 (General Rule for Member States' Cooperation in the Community)

For the fulfilment of the objectives set out in Article 3, the Member States shall closely cooperate in the Community in conformity with the aims and the principles provided for in Articles 2, 4 and 5 on the basis of Common Action Plans and other measures adopted by the East Asian Council for specific policy areas, in particular those listed in Part Two of this Charter.

Article 7 (Regional Security)

Article 8 (International Crimes)

Article 9 (Public Health and Natural Disasters)

Article 10 (Food Cooperation)

Article 11 (Narrowing the Development Gap and Alleviating Poverty)

Article 12 (Market Building)

Article 13 (Monetary and Financial Cooperation)

1. The Community shall adopt appropriate measures to foster cooperation among the Member States to provide necessary mutual assistance to any Member State which has difficulties in its balance of capital payments.
2. The Community shall adopt appropriate measures to implement monetary cooperation including the progressive introduction of the Asian Currency Unit (ACU). The Member States shall act to limit any undesirable currency fluctuation arising from sudden changes in the exchange rates of their national currencies.
3. While taking into account the level of economic development of each Member State, the Member States shall make efforts to coordinate their macro-economic policies in as far as is possible.
4. The Member States shall make efforts to construct and integrate capital markets within the Community.

Article 14 (Energy Cooperation)

Article 15 (Trans-East Asian Network)

Article 16 (Statistics)

Article 17 (Environmental Cooperation)

Article 18 (Cooperation in Research, Science and Education)

Article 19 (Movement of Persons)

Article 20 (Legal Cooperation)

Article 21 (Common Concerns)

The Member States, acting unanimously in the East Asian Council, may decide to make subjects not included in Part Two of this Charter be provided for by cooperation between them under this Charter in so far as these are in accordance with the aims of the Community provided for in Article 2.

Part Three: Organisation

Chapter One: Community Institutions

Article 22 (Institutions and their functions)

1. The institutional framework comprises:

- The East Asian Council,
- The Council of Ministers,
- The East Asian Secretariat,
- The Eminent Persons Committee,
- The National Parliamentarians Committee.

2. Each institution shall act within the limits of the powers conferred on it in this Charter, and in conformity with the procedures and conditions set out in this Charter.

Article 23 (The East Asian Council)

1. The East Asian Council shall consist of the Heads of State or Government of the Member States, together with the Secretary-General who has no vote. The office of President for a term of one year shall be held alternately by an ASEAN and by a non-ASEAN Member State, each Member State within the relevant groups taking the office in alphabetical order according to its English name. The President shall chair the East Asian Council.

2. The East Asian Council shall be the principal decision-making body of the Community. ...

3. The East Asian Council shall act by consensus, unless otherwise provided for in this Charter. The decisions of the East Asian Council shall be made public.

4. The East Asian Council shall meet at least once a year in the country of the President. ...

...

Article 24 (The Council of Ministers)

1. The Council of Ministers shall consist of a representative of each Member State at ministerial level, authorised to commit the government of that Mem-

ber State. The Member State which holds the Presidency of the East Asian Council shall hold the chair of the Council of Ministers for the term of one year.

...

2. The Council of Ministers shall prepare and recommend necessary measures, including Community Action Plans, to the East Asian Council. It shall ensure the implementation of the Community measures adopted by the East Asian Council, by reviewing national reports and other recognised non-governmental organisations' reports on the Member States' implementation measures, and by identifying best practices of implementation by the Member States.

3. ...

4. The Council of Ministers may decide appropriate measures to assist certain Member States' national implementation, with the consent of the Member States concerned.

5. The Council of Ministers shall act by consensus, unless otherwise provided for in this Charter.

6. The Council of Ministers shall meet at least twice a year. ...

7. The Council of Ministers shall meet in different configurations. The Council of Foreign Ministers and the Council of Economic and Finance Ministers shall be permanent. The East Asian Council may decide to set up other Councils of Ministers if necessary.

...

Article 25 (Standing Committees)

1. Standing Committees of the High Representatives of the Member States may be set up by the decision of the Council of Ministers. The Committees shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to them by the Council.

2. A Standing Committee shall consist of a chief officer of the East Asian Secretariat, and a high representative at ambassadorial level, designated by each Member State, and these officers shall be regularly contactable. The chair of the Committee shall be the representative of the Member State which holds the Presidency of the East Asian Council. The deputy chair shall be the officer of the East Asian Secretariat.

....

Article 26 (The Secretary-General and The East Asian Secretariat)

1. The East Asian Secretariat shall be seated in [*(the location shall be decided by common accord of the High Contracting Parties)*].

2. The Secretariat shall comprise a Secretary-General and such staff as the Community may require.

3. The Secretary-General shall be appointed from among the eligible persons for the Eminent Persons Committee. The Secretary-General shall be nominated alternately by the ASEAN Member States and by the non-ASEAN Member States, by common accord of the governments of respective Member States, and appointed by the East Asian Council. The term of the Secretary-General shall be five years. The term of office shall not be renewable.
4. The Secretary-General shall act in that capacity in all meetings of the Community, and shall perform such other functions as are entrusted to him or her by the institutions of the Community. ...
5. The staff of the Secretariat shall be appointed by the Secretary-General according to regulations established by the East Asian Council. ...
6. The Secretariat shall receive every communication addressed to the Community, gather and classify information necessary for Community activities, and transmit these communications and other information to the appropriate institutions of the Community. ...
7. In the performance of their duties, the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Community. ...

Article 27 (The Eminent Persons Committee)

1. Each Member State shall appoint one member of the Eminent Persons Committee from among persons who have experienced offices as the Head of State or Government or as a cabinet minister, the president or speaker of the national Parliament, or the chief Justice or Judge of the highest Court of that Member State.
2. The Eminent Persons Committee shall meet simultaneously with the meetings of the East Asian Council at the same venue as the East Asian Council. The Eminent Persons Committee may hold extraordinary meetings whenever and wherever the Committee deems it necessary. The Eminent Persons Committee shall give its opinion on request by the East Asian Council or the Council of Ministers, or on its own initiative. The opinion of the Committee shall have no binding force. ...

Article 28 (The National Parliamentarians Committee)

1. The national Parliament of Each Member State shall appoint three members of the National Parliamentarians Committee from the members of its national Parliament.
2. The National Parliamentarians Committee shall

meet simultaneously with the meetings of the East Asian Council at the same venue as the East Asian Council. The National Parliamentarians Committee may hold extraordinary meetings whenever and wherever the Committee deems it necessary. The National Parliamentarians Committee shall give its opinion on request by the East Asian Council or Council of Ministers, and may inquire on its own initiative into any matter concerning the function of the Community. The opinion of the Committee shall have no binding force. ...

Article 29 (Registered Non-Governmental Organisations)

1. With a view to facilitating interaction among the peoples of the Member States, the Community shall encourage non-governmental organisations to participate in national implementation of Common Action Plans and in regular review of national implementation, in conformity with the aims, objectives and principles of the Community provided for in Articles 2 to 5.
2. The Secretariat shall make a list of the registered non-governmental organisations in accordance with regulations on registration. The regulations shall be drafted by the Secretariat, and sent by the Secretariat to the National Parliamentarians Committee for its opinion. The East Asian Council, after obtaining the opinion of the National Parliamentarians Committee, shall adopt the regulations.
3. The registered non-governmental organisations may send communications to the Secretariat, which shall transmit them to all the institutions of the Community.
4. The Community and the Member States may, in their activities, entrust appropriate operations to the registered non-governmental organisations. The Institutions of the Community may invite those registered to their meetings as observers without voting rights.

Chapter Two: Modes and Measures of Action

Article 30 (Community Action)

1. In order to pursue the objectives set out in Article 3 beyond the Community, the Member States shall, prior to any international conference or meeting which is held outside the Community framework and which deals with issues relating to the region, coordinate the actions of Member States, and may decide on a common strategy or a common position within the framework of the Community.
2. In order to pursue the objectives set out in Article 3

within the Community, the Community shall adopt Common Action Plans, and the Member States may conclude necessary framework agreements and international conventions.

Article 31 (Cooperation with Non-Member States and other international bodies)

1. The Community, as a hub of the various modes of cooperation in the region, shall take appropriate measures to ensure that necessary liaison is maintained with Associates, non-Community states, and international, regional or sub-regional organisations which are concerned with matters within its competence.

...

Article 32 (Common Action Plans)

1. The Community shall decide Common Action Plans for specific policy areas, including those listed in Part Two of this Charter. The first Common Action Plan shall be prepared by the Council of Ministers within one year after the entry into force of this Charter and shall be adopted by the East Asian Council.
2. A Common Action Plan may be region-wide, sub-regional or issue-specific. The first Common Action Plan applying to economic and financial concerns shall include the schedule both for the realisation of the East Asian Free Trade Zone and the progressive establishment of the Asian Currency Unit.
3. A Common Action Plan may take the form of a short-term Plan which may extend up to three years; or a mid-term Plan, which may extend from four to ten years; or a long-term Plan, which may extend for more than ten years. From time to time, and certainly at the end of its term, the Community shall re-examine each Plan, and decide subsequent Plans.

...

Article 33 (National Action Plans)

1. The Participants in a Common Action Plan shall decide National Action Plans to implement the Common Action Plan in their respective capacities. The Member States shall inform the Community of their National Action Plans without delay.
2. The Member States shall present to the Community their annual national reports on the measures taken to implement their National Action Plans. Each report shall include the relevant national legislation and international agreements concluded in pursuit of national implementation.
3. The Secretariat shall receive communications from registered non-governmental organisations concern-

- ing the implementation of the National Action Plans.
4. The Secretariat shall transmit the annual national reports and the other communications submitted according to the previous paragraph to all the institutions of the Community, together with its own opinion.
5. The Council of Ministers shall review the annual national reports, taking notice of all information that the Council has received and gathered, and issue appropriate recommendations within its competence to each relevant Member State for the effective fulfilment of its National Action Plan. The Council shall publish, in particular, the best practice of the national implementation.

Chapter Three: Conflict Management and Dispute Settlement

Article 34 (Code of Conduct in Conflict Management)

1. When a conflict has occurred between two or more Member States, every Member State shall refrain from any unilateral act which may aggravate the conflict.
2. The Member States shall not resort to threats or use of force among themselves at any time.
3. The Member States pledge to implement their international obligations in good faith for the purpose of resolving the conflict.

Article 35 (Dispute Settlement)

1. When a Member State considers that a dispute has occurred with another Member State or other Member States, the Member State shall endeavour to settle the dispute by amicable consultation between the Member States directly concerned.
2. When the Member State concludes that the dispute cannot be settled in accordance with the procedure as provided for in the previous paragraph, the Member State may use other peaceful means of dispute settlement.
3. Upon the consent of the Member States which are parties to the dispute, any institution of the Community may perform such services as requested by any of the parties to the dispute. Such services may include good offices, inquiry, mediation, conciliation, and arbitration.
4. This Charter shall not be interpreted as preventing a Member State from taking any peaceful means of dispute settlement, including those enumerated in paragraph one of Article Thirty-Three of the Charter of the United Nations, and special instruments for dispute settlement in other international agreements

to which the Member States subscribed.

5. With a view to fostering innovative regional instruments for dispute settlement, the Member States agree to study means for dispute settlement for the region, including the establishment of an East Asian Court of Justice.

Article 36 (Response to Serious Breaches of the Fundamental Principles of the Community)

1. A Member State or the Secretary-General may report to the Council of Foreign Ministers a serious and persistent breach by a Member State of the fundamental principles mentioned in Article 4.
2. The Council of Foreign Ministers, after inviting the government of the Member State in question to submit its observations, shall determine whether it should include the occurrence on the agenda of the Council. When the Council has decided to pursue the matter, it shall report the matter to the Eminent Persons Committee and the National Parliamentarians Committee for their opinions within a reasonable time limit, as well as investigate the situation by inviting the Member State in question to account fully for the situation. When the Council, after obtaining the opinions of the Eminent Persons Committee and the National Parliamentarians Committee, determines that the Member State in question has seriously and persistently breached the fundamental principles of the Community and has jeopardised the objectives of the Community, it shall report its determination to the East Asian Council and may recommend to the Member State in question appropriate measures to halt the breach. The Member state in question shall consider the recommendation in good faith and with expediency.
3. When the Council of Foreign Ministers finds it necessary to take Community measures to assist the Member State in question to halt the breach of Article 4, paragraph 10, it shall recommend to the Presidency of the East Asian Council appropriate measures. The Presidency shall convene an extraordinary East Asian Council, including the Member State in question, for the decision under this procedure, to seek an amicable solution to halt the breach. When the Member State in question holds the Presidency, the next Presidency shall substitute for the current Presidency for the purposes of this Article.
4. When the Member State in question has not halted the breach within a reasonable time limit, despite the recommendation by the Council of the Foreign Ministers, the Presidency of the East Asian Council may, in a regular meeting or an extraordinary meeting, include the breach on its agenda. The East Asian

Council shall investigate the situation by inviting the Member State in question to account fully for the situation. When the Member State in question holds the Presidency, the next Presidency shall substitute for the current Presidency for the purposes of this Article.

5. After the investigation provided for in the previous paragraph, the East Asian Council may decide to suspend certain of the rights deriving from the application of this Charter to the Member State in question, including the voting rights of the representative of the government of that Member State in the East Asian Council and the Council of Ministers.
6. The East Asian Council may vary or revoke the suspension of the rights taken under paragraph 5 in response to changes in the situation which led to its being imposed. The Council shall reconsider the suspension of the rights under this Article at least once in half a year.
7. For the purposes of this Article, the East Asian Council and the Council of Foreign Ministers shall act in unanimity, without taking into account the vote of the representative of the government of the Member State in question.

Chapter Four: Finance

Article 37 (Administrative Expenditure)

Article 38 (Operational Expenditure)

Part Four: Final Provisions

Article 39 (Membership)

Any East Asian state which accepts all the provisions of this Charter without reservation may apply to become a member of the Community. ...

Article 40 (Withdrawal)

Any Member State may decide to withdraw from the East Asian Community in accordance with its own constitutional requirements. A Member State which decides to withdraw shall notify the East Asian Council of its intention in a written letter.

Article 41 (Amendments)

Article 42 (Protocols)

Article 43 (Duration)

This Charter is concluded for an unlimited period.

Article 44 (Ratification, Deposition)

Article 45 (Authoritative Text)

Economic Perspectives on Corporate Law

Eyeing sounder legal frameworks for directorial responsibility and for mergers and acquisitions

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Corporate Directors' Duty of Loyalty

I began studying commercial law and corporate law as a research assistant at the University of Tokyo after graduating from that institution in 1996. My study centered on the duty of loyalty incumbent on members of the boards of directors at joint-stock companies. Japanese corporate law (Companies Act, section 355) requires the directors of joint-stock companies to fulfill their corporate responsibilities faithfully in accordance with pertinent legal regulations and with the provisions of their companies' articles of incorporation. The text of the Companies Act provides only a general description of the loyalty required of the directors, however, and the precise extent of that loyalty is therefore subject to interpretation.

Scholars of corporate law generally interpret the law as requiring corporate directors to favor their companies' interests if and whenever those interests

conflict with their personal interests. Applying that interpretation literally can be unreasonable, however, in some circumstances. Consider, for example, the instance of a director at a company who receives an entrepreneurial invitation from an old friend.

The friend unveils a new business concept or a new technology and invites the director to join him or her in commercializing it through a new venture. Accepting the invitation, the director resigns from his or her company and enters a partnership with the friend. So far so good, since corporate directors in Japan are free, as a rule, to quit at any time (Companies Act, section 330; Civil Code, section 651). Problems can arise, however, if the business concept or technology is something that might have been of value to the director's former company.

Japanese case law does not yet include any judgments on cases that correspond precisely to the hypothetical instance described here. But a judgment based on the conventional interpretation of Japanese law would presumably favor the company's interests over the director's. Although the director resigned before taking part in commercializing the concept or technology, he or she was still in the employ of the former company when it came to his or her attention. And Japanese law can be interpreted as requiring directors to inform their companies of any such potentially lucrative ideas or technologies. That interpretation, however, essentially deprives directors of the freedom to resign from their companies to undertake promising new ventures. And it therefore deprives society of the benefits that might otherwise accrue from the entrepreneurship of former corporate directors.

Common sense dictates that we delineate directors' duty of loyalty in a manner that does not impose an unreasonable burden on the directors. We should demand that loyalty only when and to the extent that the benefits to the directors' companies exceed the social cost. In economic terms, we should impose the duty of loyalty only as far as the margin-

al benefit exceeds or matches the marginal cost.

The evolution of my understanding of the duty of loyalty is evident in my work cited in the bibliography that accompanies this paper. A still-tentative interpretation of Japanese law is apparent in a series of papers I published from 2000 to 2003 in the University of Tokyo's *Hogaku Kyokai Zasshi* (Journal of the Jurisprudence Association). A fuller and more-confident interpretation appears in a paper by me in the 2004 compendium *Shoji e no Teigen* (Proposals for the Commercial Code). I hope to expand the latter paper soon in a work that will refine the ideas broached in the earlier papers.

The Growing Importance of Economic Methodology

Drawing on the methodology of economics to interpret the law remains uncommon in Japan, but the practice is extremely common in the United States. I served as a visiting scholar at Yale Law School for two years, starting in August 2002, and I concentrated there on studying the legal aspects of corporate restructuring and of mergers and acquisitions.

Findings of my study at Yale appear in a 2006 paper published in the U.S. publication *Emory Bankruptcy Developments Journal*. In that paper, I compare the legal treatment of claimants to collateral in corporate restructurings in the United States and Japan. The comparison is largely from the standpoint of how the different legal frameworks affect the economic efficiency of restructurings. I include an analysis of the distinctive procedure whereby companies can seek to have secured claims extinguished under Japan's Civil Rehabilitation Act.

A 2005 paper of mine published in *Minsho Ho Zasshi* (Civil and Commercial Law Review) also presents study findings from Yale. It presents a discussion of corporate defenses against hostile takeover attempts. The extent of defense permitted by Japanese law is a subject that has gained unprecedented relevance in recent years. Hostile takeover attempts, long a rarity in Japan, have captured public attention through a series of high-profile episodes. I examine, from the standpoint of economic efficiency, the justifiability of defenses adopted by the boards of directors of takeover targets.

My work in the Institute of Social Science centers on a resumption of my study of corporate directors' duty of loyalty and on the study of mergers and acquisitions law, principally in regard to takeover

defenses. A longer-term goal is to conduct empirical research on corporate law from the standpoint of economic analysis.

The United States' legal framework for mergers and acquisitions has evolved dramatically since the flurry of hostile takeovers and takeover attempts in the 1980s. Researchers there have conducted extensive statistical evaluations of the effect of the legal framework on corporate behavior and on the economic ramifications of mergers and acquisitions. In contrast, Japanese work in corporate law—and in law in general—has centered on semantic interpretations of laws and has included little in the way of empirical study. A stepped-up emphasis on empirical study will become extremely important in Japan, too, in connection with judicial interpretation and with legislation.

I am doing joint research with economists in multiple sectors of corporate law, including mergers and acquisitions. And I am studying econometrics in preparation for future work in empirical research. I am grateful for the opportunity to further my research activity through joint work and discussion with my colleagues in the Institute of Social Science.

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Questions and Answers with Visiting Professor

Hosup Kim



Professor
College of Social Science
Chung-Ang University
(Visiting *Shaken* from July 16, 2007 to October 15, 2007)

Q. How did you first come to know about *Shaken*?

A. I have known about *Shaken* for about ten years, since Professor John C. Campbell first told me about the Social Science Japan discussion group on the web. Although I was not an active participant in the discussions, through reading the web discussions I learned a lot about a variety of opinions held by international experts on particular issues.

The “Current Situation of Japanese Studies in the World” seminar, held at *Shaken* in November, 2006, gave me a chance to experience the academic atmosphere of *Shaken* first-hand. *Shaken* invited me to present a paper on the current situation of Japanese Studies in Korea. At the seminar, I met many outstanding scholars from European and Asian countries, as well as from Japan and the United States. Some of them were affiliated with *Shaken* as visiting professors, or had had a previous experience as a visiting professor there. I learned that *Shaken* has a system for accepting foreign scholars as visiting professors, and expressed my strong interest in such a position to Professor Suehiro Akira. In the spring of 2007 *Shaken* sent me an invitation to become a visiting professor from July 16 to October 15, 2008. I felt honored to be invited and carry out research on the Sino-Japanese bilateral relationship.

Q. What is the main purpose of this visit?

A. My main purpose of this trip is to study the policy-

making process of Japanese Official Development Assistance (ODA) to China, focusing on the changes in Japan’s ODA policy towards China. I am primarily examining the domestic, bilateral, and international factors which brought about the changes in Japanese ODA policy in general, and in Japanese ODA to China in particular.

Concerning the bilateral factors affecting Japanese ODA to China, there have been at least three important decisions made on the Japanese side. The first was Japan’s decision to begin offering ODA to China. In 1979, Prime Minister Ohira Masayoshi visited China and expressed his Cabinet’s intention to give Japanese ODA to China, which the Japanese government started in 1980. The second was Japan’s decision to adjust its ODA policy towards China. From 2001, the Japanese government began shifting its ODA projects from China’s coastal regions to its poor interior regions, from its infrastructure to the environment and agricultural sector, and from a multi-year to a single-year commitment format. As a part of this, Japan has also been reducing the amount of aid granted to Beijing. The third was Japan’s decision to stop giving ODA to China. In May of 2005, Minister of Foreign Affairs Machimura Nobutaka notified the Chinese of the Japanese government’s decision to cease its ODA by the time of the 2008 Beijing Olympics.

My research analyzes the domestic, bilateral, and international factors which have influenced Japanese policy makers regarding these three decisions concerning Japanese ODA to China. Japan’s ODA-centered economic cooperation has been a centerpiece of its overall relationship with China since the late 1970s, making it a highly significant feature of the bilateral relationship. My research hypothesizes that the Japanese government’s overall policy changes towards China are reflected in adjustments to its ODA policy towards China.

This analysis addresses three questions: first, how has Japan conducted its ODA policy changes towards China? Second, what were the reasons for Japan’s ODA policy changes? Third, what do these cases mean with regards to our understanding of Sino-Japanese relations? In particular, who were the main decision makers, and what were their rationales for pushing particular policy positions in each case?

Q. What are your current research interests?

A. My current research is on Japanese foreign relations in general, and in the bilateral relationship between Japan and China in particular. The research I carried out at *Shaken*, on Japanese policymaking regarding ODA to China, was a part of this.

Now I am focusing on the bilateral relationship between Japan and China, as reflected in Japan's ODA policy. I am investigating the basic structure of Japanese decision-making regarding ODA to China. For example, the 2001 decision to reduce ODA to China, which had been deliberated upon among different domestic players for some time, resulted from a mixture of domestic, bilateral, and international factors. These included the end of the Cold War, Japan's economic stagnation and the need to reduce budget deficits, China's rapid economic growth and growing military expenditures, Japan's increasing emphasis on principles and results in its ODA program, and the generational change in Japanese leaders. My research hypothesizes that understanding the main actors and the rationales of Japan's changing China ODA policy helps explain some of the structural factors of the bilateral Japanese-Chinese relationship.

My main research method involves collecting primary data from Japanese government publications, documents, and newspapers. I am also interviewing as many officials as possible who are directly involved in Japan's ODA policy-making in general, and in ODA to China policy in particular. Much discussion with Japanese specialists in the field of Sinology, ODA policy making, and Japanese foreign policy is also necessary. For secondary data, I will study monographs, journal articles, and other literature related to the topic.

Because most of the primary data regarding Japan's ODA policy towards China are located in Japan, and because its ODA to China is an important ongoing element of Japanese diplomacy, it is essential that I conduct much of my research in Japan.

One of the goals of this project is to deepen our understanding, from a Korean perspective, of the bilateral Japanese-Chinese relationship. Korean political scientists, especially international relations and Japan studies specialists, have not yet shown much academic interest in the Japanese-Chinese bilateral relationship, resulting in a lack of first-rate Korean scholarship (with a few exceptions) about the relationship between the two countries. Korean scholars and policymakers sometimes misunderstand the basic structure of the Japanese-Chinese relationship. I hope to provide knowledge about the Japanese ODA policy towards China, and increase our understanding of the basic structures of the two countries.

Knowledge about Japanese ODA to China may be useful in the future, considering the probability of Japanese-Korean collaboration in giving ODA to China, for global issues such as environmental, anti-pollution, and epidemic projects. This knowledge will also increase our understanding of Japan's ODA policy regarding North Korea. In the Pyongyang Declaration of September, 2005, Japan and North Korea agreed to a system whereby Japan would provide economic cooperation to North Korea, in lieu of paying compensation for colonization. Japanese ODA will undoubtedly be an important feature of economic cooperation with North Korea, and play a major role in rebuilding the North Korean economy. Knowledge of Japanese ODA policy will be useful for locating opportunities for cooperation between Japan and South Korea, utilizing Japanese ODA to North Korea.

Q. What do you like about *Shaken*?

A. Being a visiting professor at *Shaken* has been extremely helpful with regards to my research in at least three aspects. First, the University of Tokyo is at the center of academic networks, not only in the field of Japanese foreign relations, but also of foreign scholars of Japanese and Asian studies. For example, during my stay I shared an office with a professor from Taiwan. Through my conversations with him on a variety of topics, I naturally gained a deeper understanding of the Taiwanese perspective on the topics, including not only Japanese and US affairs but also Korean and Taiwanese affairs. Second, my research received immeasurable assistance from the supporting faculty and staff of *Shaken*. I was especially impressed by the willingness of the library staff to help locate data for my research. *Shaken's* general administrative staff also helped me in many ways, such as in finding housing (which is often a difficult problem for foreign researchers). Third, regular academic exchanges with *Shaken* professors were incredibly helpful for my research. Professor Suehiro Akira, one of my chief advisors, offered invaluable advice regarding my research on Japan's ODA to China decision-making process, and introduced me to many politicians and bureaucrats for interviews on this topic. I also want to express my special gratitude to Professors Nakagawa Junji and Tajima Toshio, for introducing me to many government bureaucrats, and supplying important data on my topic. Thanks to the generous assistance that *Shaken* offers to affiliated scholars, I am able to successfully carry out my research on the relationship between Japan's ODA policy and Sino-Japanese bilateral relations.

Qu Tao



Professor
Institute of Law
Chinese Academy of Social Sciences
(Visiting *Shaken* from December 1, 2007 to March 31, 2008)

Q. How did you come to know about *Shaken*?

A. The Chinese Academy of Social Sciences, where I work in the Institute of Law, has an academic-exchange relationship with the University of Tokyo's Institute of Social Science. So I have long been well aware of the excellent work at the Tokyo institute. My personal relationship with *Shaken* dates from 1998. In that year, the institute's Professor Tanaka Nobuyuki gave a talk at my institute, and I served as commentator and interpreter. That proved the beginning of a working relationship with Professor Tanaka that has developed steadily over the years. We have exchanged ideas about subjects of common concern, and we have met repeatedly in working and non-working contexts on the occasions of academic conferences and other gatherings in each other's nations.

A recent gathering of special note was an international symposium jointly sponsored by *Shaken* and the Chinese-Japanese Study Group on Civil Law (中日民商法研究会) on August 31 and September 1, 2007. Devoted to the subject of property rights in China, the symposium marked the 130th anniversary of the establishment of the University of Tokyo. I had the honor of working with Professor Tanaka through every stage of proposing, planning, and conducting that symposium. And I am gratified to note that it was a tremendously successful event.

Q. What are your research interests?

A. My research centers on civil property law, and my research methodology centers on empirical and comparative approaches. Chinese law and Japanese law are the chief subjects of my comparative analyses, so I have a strong interest in trends in Japanese civil law and in the history of Japan's system of civil law. I have taken a special interest of late in the following two subjects.

1. The revision of Japan's code of civil law

Legal scholars and other knowledgeable parties in Japan are calling for a sweeping revision of Japan's code of civil law. That code dates from 1898, and apart from thorough, postwar revisions of the family- and inheritance-related provisions, it is little changed from the original legislation. The property law provisions, for example, have undergone only minor changes.

Accommodating socioeconomic change in the absence of the significant revision of basic property law have been numerous special laws. That begs the question as to exactly why and what kind of fundamental change is necessary in the code of civil law. Japan has already taken the first step of rephrasing the law in language more understandable to nonexperts. Attention has now focused on the ostensible need for a revision of the law of obligations.

I am interested in the aims of any revision of Japan's law of obligations, in which provisions would be subject to change, and in how the process of revision would proceed. Addressing that interest entails a careful analysis of the basic structure of the law of obligations. It naturally includes comparisons with the corresponding legal provisions in China—similarities, differences, and areas where our two nations can learn from each other.

2. China's new property rights law

China enacted a new law of property rights on March 16, 2007, and the new law took effect on October 1. A great deal of economic reform has taken place in China since 1978. Our nation has adopted market-economy mechanisms in the name of promoting economic growth. But China retains a firmly socialist political system.

We need to devote careful thought to what property rights law can accomplish in a socialist market economy. And we need to study the issues that will arise as a result of the new law. Japan's experience in this legal realm is potentially instructive, and I look forward to studying Japan's system of property rights law from that perspective.

Q. What is the main purpose of your visit?

A. This visit is for the purpose of doing research in regard to the above subjects. I arrived on December 1, 2007, and went to work at a desk in *Shaken* on December 3. Everyone has been extremely kind and helpful. I am especially grateful for the astounding consideration shown me by Professor Komorida Akio, the head of the institute. He asked me about my research when I stopped in to pay my respects shortly after arriving. On hearing of my interest in Japan's law of obligations, he promptly introduced me to a person in the Ministry of Justice responsible for work on revising the law. Professor Tanaka, meanwhile, remains as helpful as ever in securing necessary reference materials and in providing useful guidance for my research.

Visiting Researchers at ISS

Euisuok Han

Ph. D. candidate
Department of Political Science
University of Southern California

My interest in inequalities began with my living in Los Angeles, where my school is located. When I arrived at the City of Angels, I had a chance to drive through downtown LA, where I witnessed a scene beyond my imagination; I saw lots of homeless people and their paper box houses. In my thinking, this could not be possible in such a gorgeous city, in the world's richest country. The experience sparked my interest in socio-economic inequalities and policy issues, and my curiosity regarding these issues stretched to Japan. In particular, my interest in inequalities in Japan started with an international comparison of economic indices, which revealed a different picture from my existing impression of Japan. It was surprising to learn that the level of Japan's economic equality was not comparatively high among the OECD countries.

Japan has been praised as an egalitarian society, or even as a "one-class society," given its low Gini coefficient, social equity, and common middle class consciousness. The notion of an egalitarian Japanese society, however, has faded with the increase of socio-economic inequalities since the 1990s. Specifically, reform measures under Prime Minister Koizumi are believed to intensify those inequalities. Regarding the causes of those deepening inequalities (*kakusa*), various studies have suggested plausible explanations from demographic-sociological and economic perspectives. But this research notes the fact that those studies have paid little attention to widening 'regional disparity' as a notable feature among current inequalities in Japan. Concerns over the increasing regional disparity escalated after the 2007 House of Councilors election, alarming the Liberal Democratic Party with its huge losses in rural areas.

Why has regional disparity widened in Japan? After the election, political and policy factors, such as public works or local transfers, began to be mentioned as major causes of the growing regional disparity. But there is a lack of empirical research examining what political and policy factors caused regional disparity and how those factors have impacted it. To tackle those questions, I argue that changes in pork barrel politics, policy changes with economic reform regarding local industries, and decentralization in the process of administrative reform are major causes of current regional disparity. This study intends to explore the causes and processes of widening regional disparity from a political perspective, tracing those factors in selected cases. This research may help expand our knowledge of changes and continuities of the Japanese political economy since the mid-1990s, and their impact on Japanese society and politics.

Eiko Maruko Siniawer

Assistant Professor
Department of History
Williams College

My research focuses on the history of political violence in Japan, from the last years of the Tokugawa period through the early 1960s. I am particularly interested in "violence specialists": those who made a career out of wielding physical force in the political sphere, or who received compensation for performing acts of political violence. Among the violence specialists that I study are *sōshi* (political ruffians), *yakuza* (mafiosi), and *tairiku rōnin* (continental adventurers).

I am currently completing a book manuscript on this subject, tentatively titled "The Violent Politics of Modern Japan: Ruffians, Yakuza, and Democracy, 1860-1960." The book argues that physical force in Japanese politics was not episodic, but was systemic, enduring, and intimately bound up with Japan's modern political experience. The practice of politics, I contend, was dangerous, chaotic, and far more violent than has been previously understood. Early chapters of the book demonstrate the ways in which the violence of the Meiji state's foundational moment became embedded in the modern politics that followed. And the heart of the book reconsiders the nature of Japan's democracy, suggesting that Japan of the 1870s to 1930s was, to use Daniel Ross' term, a "violent democracy" in which violence and democracy coexisted in an uneasy and complicated relationship. The idea of Japan's violent democracy also encourages rethinking about the violence of the 1930s, and the threads that connected violent democracy with what followed. Indeed, the rightists and militarists who carried out the assassinations and attempted coups d'état of the 1930s were not firing gunshots that disturbed the political calm, but were drawing on a long history and culture of political violence.

To address these themes, the book opens with an examination of two distinct types of emergent violence specialists of the Bakumatsu and early Meiji years, *shishi* ("men of spirit") and *bakuto* (gamblers), who provided an important precedent on which their various modern successors would selectively draw to inform and justify their own political violence. The Freedom and People's Rights Movement also figures prominently as a transformative moment not only for *bakuto*, but also for *sōshi* and *tairiku rōnin*. The middle chapters of the book explore the ways in which *sōshi* became institutionalized into the political parties in the first several decades of the twentieth century, as violent wings of party pressure groups, or *ingaidan*. And fascist violence is treated through a focus on the connections between *yakuza*, political parties, and nationalist groups, especially the Dai Nihon Kokusuikai (Greater Japan National Essence Association) and Dai Nihon Seigidan (Great Japan Justice Group). Finally, transwar continuities and discontinuities are highlighted in a chapter on the 1950s and early 1960s, which foregrounds the shift away from violence and toward money as the political tool of choice.

Ewa Pałasz-Rutkowska

Professor
Department of Japanese and Korean Studies, Institute of Oriental Studies
Warsaw University (Poland)

My research topic is the role of the Meiji Emperor (1852-1912) in the history of modern Japan. I am going to consider the question of whether he really took part in the many deep and effective reforms that radically changed all aspects of the Japan's politics, economy and society, or whether he was nothing more than a symbol of modernization.

During Mutsuhito's long reign, Japan progressed from a semi-feudal, agrarian state to a rapidly industrializing modern and strong power in the form of a constitutional monarchy. The real power, though, was wielded mostly by the so-called Meiji oligarchy – the newly emerged group of politicians who consisted of samurai from four domains – Satsuma, Choshu, Tosa and Hizen. Although they played a key role in the restoration of imperial power in 1868, the Meiji Emperor himself was also an important figure in the transformation process, as he became the centre of national unity, morality and identity. He owed his position to the *Satchodohi* samurai, who were well aware of the fact that the emperor represented an important part of what was constant and unchanging in the country's history. The emperor's position was an essential element of the culture, which existed as far back as anyone remembered, and, as such, could help bring the nation together. The emperor could help confirm the belief that the government's actions were necessary for the country's welfare and for preserving its national identity. According to the provisions of this new epoch, the emperor was a formally autonomous ruler, wielding both civil and military power.

However, before those prerogatives were written into the Meiji Constitution (1889), Mutsuhito's closest advisers – the samurai – began working on the emperor's new image, better suited to the modern times. They changed his everyday palace routine, his clothing, his manners of behaviour, but most of all – the scope of his responsibilities, so that they would befit the modern ruler of a centralised country. From now on, the emperor announced the most important decrees introducing new reforms, took part in the main civic and courtly ceremonies, and acted as the head shinto priest, which was a way of emphasizing his allegedly divine status, as a descendant of the Sun Goddess Amaterasu.

I am currently conducting a study on the so-called *junkō*, emperor's journeys, which were organised for strengthening his image as a new-type of sovereign among the people. He went on many journeys, but the most important of them were the ones where he explored the distant parts of Japan, known as the six great journeys (*rokudai junkō*), in 1872-1885 (to the Chūgoku region, Kyūshū and Shikoku in 1872; to the Tōhoku region and Hokkaidō in 1876; to the Hokuriku region and Tōkaidō in 1878; to central Japan in 1880; once more to the Tōhoku region and Hokkaidō in 1881, and to the San'yōdō region in 1885).

The main objective of these journeys was not only to impress the people at each place with the authority and prestige of the emperor and the new government, but also to examine the conditions in the various places, and educate the emperor himself. Mutsuhito was expected to learn the specifics of the regions, the living conditions of the residents, meet representatives of the local authorities as well as the common people, visit local offices, schools and garrisons, factories, workshops, museums and expositions. On the other hand, his activities also became a stimulus for local producers, artisans and farmers. Moreover, the emperor's journeys also affected both the education and the military sector in considerable ways, and the future of Japan as a modern state was to be based on those three pillars: industry, education, and the army, although the architects of this grand plan did not forget the importance of tradition and history for the modern country's sense of identity.

Finally, I am going to conduct research not only on his actual role in the transformation of the country, but also on his everyday life, as the most important member of the Imperial Household.

Main publications:

- 2004. *Japonia XX wieku (Japan in the 20th Century)*; co-author K. Starecka), Trio, Warszawa.
- 2005. 日露戦争が20世紀前半の日露関係にあつたインパクトについて, 防衛庁防衛研究所戦争史研究国際フォーラム報告書、東京、143-168頁.
- 2003. *Manchuria in Polish-Japanese Relations in the 1930s*, "Rocznik Orientalistyczny", T. LVI, Z. 2, Dom Wydawniczy Elipsa, pp. 129-140.
- 2001. *The Other in Intercultural Contacts. The Image of Japan in Poland in the End of the 19th and the beginning of the 20th Centuries and the Interwar Period* in: "Discussion Paper Series", F-95, Institute of Social Science, University of Tokyo, Tokyo.

Hiroaki Richard Watanabe

Ph. D. candidate
St Antony's College
University of Oxford

My research is on the politics of labour market deregulation (regulatory reform) in Italy and Japan since the 1990s. Both countries experienced significant economic and political changes in the 1990s, and labour market deregulation has been a major political issue since then. The Italian and Japanese governments have implemented deregulation to increase labour market flexibility, and have introduced measures to facilitate the use of non-regular work arrangements, such as fixed-term contracts and temporary agency work.

There is a puzzle, however. Although Italy and Japan share similarities in political, social and labour market characteristics (such as large public debts, very low fertility rates and large populations of elderly people, and the existence of dual labour markets), the governments of these countries have implemented labour market deregulation in quite different ways (with more extensive deregulation taking place in Japan than in Italy). While there are a number of protective measures for non-regular workers and rigid rules on the use of non-standard work arrangements in Italy, the opposite is often the case in Japan. I intend to solve this puzzle by examining such political factors as the institutional structure of labour policymaking, the political power of labour unions relative to employers, and the partisanship of the government. Although there may be other possible factors that have affected the extent of labour market deregulation in these countries, their explanatory power seems to be rather weak. For example, globalization has promoted labour market deregulation in both countries, but the Italian government has implemented less extensive deregulation despite experiencing a greater impact of globalization on its economy (in terms of trade and FDI). In this sense, globalization cannot explain why the Japanese government has implemented more extensive labour market deregulation than its Italian counterpart. Instead, I aim to show that, together with partisan difference, significant changes in the policymaking structures and union power since the 1990s have caused the difference in the extent of labour market deregulation in these countries.

There has been no comprehensive research on labour market deregulation in Italy and Japan based on an examination of political factors. By combining the elements of political agency (actors), policymaking structure (institutions), and ideas (partisanship of the government), my research provides a comprehensive explanation of the political factors that have caused the difference in the extent of labour market deregulation in these countries, and contributes to the literature on comparative politics of (labour market) deregulation. My research also points out some of the shortcomings in, and provides some corrections to, theories about neo-corporatism, power-resources, institutional change, and 'varieties of capitalism', among others.

ISS Contemporary Japan Group at the Institute of Social Science, University of Tokyo

The ISS Contemporary Japan Group serves as a forum for researchers on Japan to receive critical feedback on their work. Researchers visiting Tokyo are invited to contact Professor Ishida Hiroshi (ishida@iss.u-tokyo.ac.jp) for more information if they would like to make a presentation. Meetings are open to everyone.

Photos by Morita Hidetsugu (ISS).



Associate Professor, University of Wisconsin-Madison and Visiting Scholar, Institute of Social and Economic Research, Osaka University

James M. Raymo

Cohabitation and First Marriage in Japan
September 6, 2007

Abstract:

In this paper, we use nationally representative data to describe the basic characteristics of cohabiting unions in Japan, and to examine the relationship between cohabitation experience and the transition to first marriage. We demonstrate that cohabitation has increased rapidly among recent cohorts of women and that cohabiting unions in Japan tend to be relatively short-term and typically result in marriage. Simple models for the timing and nature of first marriage suggest that cohabitation is only weakly associated with marriage outcomes. Results change dramatically when we estimate models that account for self-selection into cohabitation. Controlling for unobserved characteristics associated with both selection into cohabitation and first marriage outcomes, we show that cohabitation experience itself is strongly associated with early marriage and marriage subsequent to pregnancy. We conclude with speculation about the likelihood of further increases in cohabitation and the potential implications for marriage and fertility.

**Associate Professor of Sociology,
University of Minnesota**

Jeffrey Broadbent

Reciprocity Networks and National Politics: Japan's "Butterfly State" in U.S. and German Comparison
October 17, 2007

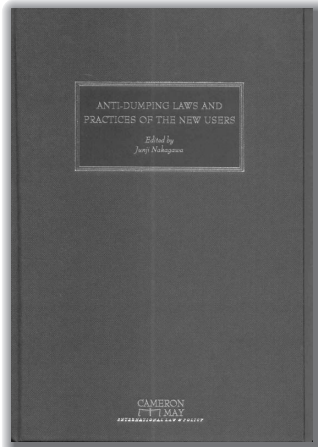


Abstract:

The comparison of national political processes has received new life from the advent of the network perspective. The network view, applied to national politics, allows us to investigate the patterns of interactions that occur among actors (mainly organizations) as they negotiate and interact to comprise the living processes of politics. The normal view in political science or political sociology has been to think of politics in terms of discrete units, such as formal institutions (electoral rules, bureaucratic regulations), rational individual actors (voters, state managers), and motivated categories (peasants, elites). In contrast, the network view places the stress on the relations among actors. The network (or more broadly, relational) view sees these relations as enduring patterns among some or many actors. These patterns in themselves have the capacity to channel activity, information, motivation, decision-making, cooperation, coalition, and outcomes. This paper focuses on one type of relationship – perceptions of long-term reciprocity with specific others – and its differing effects upon the distribution of political power in three polities: Japan, Germany, and the United States. In the mid- to late 1980s, we conducted a matched survey of labor policy networks in these three countries, including about 120 organizations (government agencies, labor and business associations and others) in each country (Knoke, et al 1996). This new analysis of the data, for the first time including the reciprocity network, reveals huge differences in the three societies: Germany had small scattered strings of reciprocity and overall low inclusion, and the US showed no reciprocity except for a dense network among labor organizations. The Japanese reciprocity network, however (including the majority of organizations), took the pattern of a butterfly: central state agencies mediating between the two otherwise mutually-isolated sectors of labor and business (each with a hierarchical, corporatist internal pattern). In the Japanese case, the reciprocity pattern correlated strongly with the transfer of vital information and the attribution of perceived influence. Our paper explores the implications of these findings for structural and cultural theories of political power and policy change.

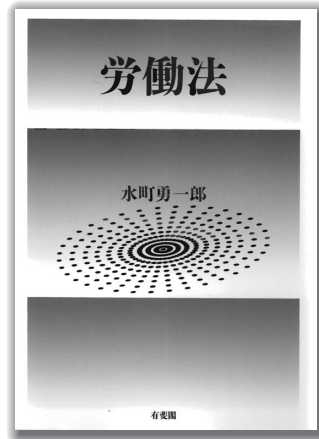
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佐藤博樹 (編著)
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~正社員と非正社員のベストミックスを目指して~』
労働新聞社 (2007年7月)

佐藤博樹・佐野嘉秀 (共編)
『Q&A ここが知りたい
派遣スタッフ活用法』
日本経済新聞出版社 (2007年9月)

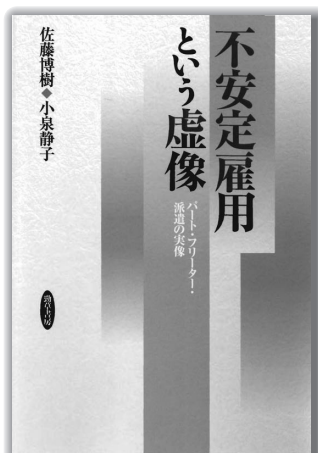
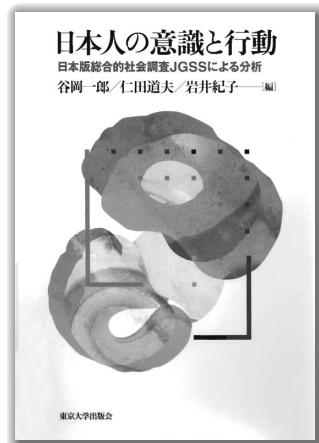


水町勇一郎
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