

THE EUJEP, EXPECTATIONS AND REALITIES OF A “NEW-GENERATION FTA”

Implications for EU-Japan relations on sustainable trade and development

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TABLE OF CONTENT

TABLE OF CONTENT	2
ACKNOWLEDGMENTS	4
ABSTRACT	5
FRAMEWORK OF THE RESEARCH	6
INTRODUCTION	6
LITERATURE REVIEW	8
THEORETICAL FRAMEWORK	10
METHODOLOGY	15
LIMITATION OF THIS RESEARCH	16
CHAPTER 1 : THE EUJEPa AS A NORM MAKER FOR EU FTAS IN ASIA	18
1. UNDERSTANDING THE POLITICO-ECONOMIC CONTEXT OF THE IMPLEMENTATION OF THE EUJEPa	18
a) Political context	
b) Economic impacts	
c) Challenging negotiations in the drafting process	
2. ENHANCING SUSTAINABLE DEVELOPMENT - KEY PROVISIONS OF THE EUJEPa	30
a) Incorporating international frameworks	
b) Interweaving of trade provisions and SDGs	
CHAPTER 2: BUILDING THE EUJEPa: SUSTAINABILITY NOTIONS AND ITERATIVE CONSTRUCTION OF A FREE TRADE AGREEMENT	35
1. MAKING PUBLIC POLICY WITH DIFFERENT NOTIONS OF SUSTAINABILITY	35
a) Japan	
b) The European Union	
c) Collaborating together - “middle power” and middle ground of the EU and Japan	
2. SUSTAINABILITY ASSESSMENT OF THE EUJEPa	43
a) Environmental impact of the trade agreement	
b) Social impact of the trade agreement	
3. SOCIAL LEARNING AND ITERATIVE PROCESS OF THE EUJEPa	45
a) Improving discussion regarding the provisions related to the Trade and Sustainable Development chapter	
b) Strengthening dialogue within the EPA as a comprehensive framework.	
CHAPTER 3: WHAT’S NEXT? SHAPING SUSTAINABLE EU-JAPAN RELATIONS	55
1. SHAPING SUSTAINABLE TRADE RELATIONS OUTSIDE OF THE EPA	55
a) Environmental cooperation	
b) Digital cooperation	
c) Global connectivity & sustainable development	
2. STUDY CASE - GREEN ENERGY COLLABORATION BETWEEN THE EU AND JAPAN SINCE THE EUJEPa	60
a) Offshore wind	

b) Hydrogen	
3. <i>RECOMMENDATION FOR EU-JAPAN COOPERATION AROUND SUSTAINABLE DEVELOPMENT</i>	66
a) On reinforcing the role of the EUJEPA and its sustainable trade provisions	
b) On the coherence of the EU trade policy towards Japan	
CONCLUSION	71
REFERENCES	72
APPENDIX	81
Annex N°1: Concept maps, Theoretical framework	

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ABSTRACT

The European Union and Japan share a mutual motivation to collaborate on sustainable development issues: associated with limited capacities in political and security matters, cooperation on environmental and social issues allow them to transcend their reputation as "middle powers" in international forums. By strategically selecting specific topics and assertively exercising their value-oriented power in international forums, they are empowered to exert influence on the global stage. This policy approach relies on leveraging the economic statecraft of Brussels and Tokyo in areas such as finance, investment, and trade to advance environmental and social agendas. The EU-Japan Economic Partnership Agreement serves as a prominent illustration of this approach, combining economic and legal elements with comprehensive provisions on climate change, biodiversity protection, and labor rights. It establishes an interconnected framework aligned with Sustainable Development Goals and other multilateral environmental agreements and fosters collaboration between policymakers, businesses, and civil society. The agreement represents a significant milestone and paradigm shift in EU-Japan relations, paving the way for dedicated forums on climate, green technologies, investment, and more.

This thesis examines the EUJEPA's progress as a promoted "new-generation FTA" and explores the enforcement of economic and legal provisions for sustainable development. It analyzes the implications and outcomes of the agreement while offering policy recommendations for enhancing EU-Japan collaboration on sustainability. The research delves into interrelated topics across economics, politics, legal regulations, and public-private cooperation, involving businesses, governments, and civil society.

Keywords: EU-Japan relations, international economic law, free-trade agreements, environmental cooperation, climate policies, labor rights

FRAMEWORK OF THE RESEARCH

INTRODUCTION

“All in all, the agreement with Japan at the time was a golden standard, the most progressing trade agreement we had ever made”¹.

On June 22, 2022, the European Commission released a document titled "Communication on the power of trade partnerships: together for green and just economic growth"², which reaffirmed the European Union's commitment to collaborating with trading partners on sustainability matters, notably through the inclusion of Trade and Sustainable Development (TSD) chapters in their Free Trade Agreements (FTA). The drive to incorporate sustainability into bilateral agreements is not new: the initial 15-Point Action Plan in 2018, already aimed to enforce robust TSD chapters in EU FTAs³. The development of TSD chapters in EU FTAs is also part of a broader approach from the EU to demonstrate its commitment to sustainable trade: in 2021, the launch of a comprehensive review and adopting measures aligned with the "European Green Deal" (EGD) allowed for a dual approach of sustainable trade by the EU, both bi and multilateral. These measures included the implementation of tools like the carbon border adjustment mechanism (CBAM) to prevent carbon leakage, legislation on deforestation-free products, and the introduction of a circular-economy action plan that will impact trade with EU's partners. Even before the establishment of this framework, the EU Commission's approach is not novel and can be seen as part of a broader and more extensive strategy since the 2010's to strengthen sustainable trade with other nations.

On this topic, the Economic Partnership Agreement between the European Union and Japan (EUEPA) shows a perfect example of the willingness of the EU to lead and pursue ambitious sustainable trade goals. The EUEPA is currently the EU's biggest trade deal in terms of market size⁴. This free-trade agreement acts as a legally binding commercial treaty between the two entities to aim to reduce or eliminate barriers to trade and promote general economic integration. Furthermore, the EUEPA has often been referred as a “new

¹Interview with Pedro Silvia Pereira, May 25th 2023

²“Commission Unveils New Approach to Trade Agreements to Promote Green and Just Growth,” (European Commission, June 22, 2022), https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3921.

³Eline Blot, Antoine Oger, and James Harrison, “Enhancing Sustainability in EU Free Trade Agreements: The Case for a Holistic Approach,” (Institute for European Environmental Policy, April 22, 2022), <https://ieep.eu/publications/enhancing-sustainability-in-eu-free-trade-agreements-the-case-for-a-holistic-approach/>.

⁴Pedro Silvia Pereira, “Learning from the Successful Trade Agreement between the EU and Japan,” (The Parliament Magazine, February 9, 2023), <https://www.theparliamentmagazine.eu/news/article/eu-japan-economic-partnership-agreement-success>.

generation”⁵ agreement: in 2017, the Council of Europe defines this concept as “[one that] should be designed to promote environmental sustainability, human rights and the rule of democratic law, and to facilitate the mutual benefits of trade”⁶. The recently established bilateral agreements represent a new era of modern, ambitious, and comprehensive commercial treaties.

Further than that, the EUJEPA has been praised as a success story between Brussels and Tokyo⁷, seen both as a turning point in the rapprochement of EU-Japan political and trade relations, but also as an efficient way to foster trade that promotes sustainable and inclusive economic growth, generating opportunities for employment and welfare, while striving to achieve these goals without compromising environmental indicators. Unlike traditional FTAs focused solely on goods and tariff concessions, these new generation FTAs, and the EUJEPA, delve into a broader spectrum of topics, aiming to address a wide range of issues in a comprehensive manner⁸.

Since its establishment in 2019, the EUJEPA has encountered several obstacles in its implementation. The global economy and trade have been significantly affected by the COVID-19 crisis, causing a slowdown in economic activities. Additionally, the energy and manufacturing crisis resulting from the Russian attack on Ukraine has further compounded the challenges. These two factors have not only disrupted bilateral cooperation worldwide but have also weakened value chains. Furthermore, the development of sustainable trade and overall progress in trade and development have been adversely impacted by these circumstances. While the initial agreement held promise in establishing a robust and explicit legal framework for ensuring the respect of environmental and social provisions in trade relations between the two entities, it seems to have fallen short of exceeding or even meeting those expectations.

In this research, we will analyze the following question: *Four years after its implementation, is the EUJEPA holding up to its expectations as a “new-generation FTA?”* Aiming to give a comprehensive answer, this thesis will first explore the evident political

⁵Nicolas Poiriers and David Kleimann, “The EU - Japan Economic Partnership Agreement,” (Bruegel, March 9, 2023), <https://www.bruegel.org/report/eu-japan-economic-partnership-agreement>.

⁶““New generation” trade agreements and their implications for social rights, public health and sustainable development”, Resolution 2152, (Parliamentary Assembly, 2017), <http://www.assembly.coe.int/LifeRay/SOC/pdf/TextesProvisoires/2016/20161130-TradeAgreements-EN.pdf>.

⁷Ana Maria Goy Yamamoto, “EU-Japan EPA and SPA: More than a Partnership, a Necessary Turning Point for Both,” (Elcano Royal Institute, November 17, 2021),

<https://www.realinstitutoelcano.org/en/commentaries/eu-japan-epa-and-spa-more-than-a-partnership-a-necessary-turning-point-for-both/>.

⁸Weiß Wolfgang, and Cornelia Furculita, “Global Politics and EU Trade Policy”, (Berlin: Springer International Publishing, 2020).

mutual interest and necessity for collaborative efforts between the EU and Japan in addressing sustainable development issues. Using the theoretical framework of the “middle-power theory”, this research exemplifies a broader governance challenge encouraging and pertaining the potential collaboration among developed countries in sustainability, especially in regards to other cooperation topics such as security, global health, energy provision, human rights and so on.

Using a comprehensive analysis of the EUJEPA's progress as a case study, this thesis also aspires to explore how legal provisions are enforced in trade agreements to ensure sustainable development. From a regulatory approach, it offers insights into how to enhance the participation of various stakeholders in the drafting and establishment of trade agreements in order to engage society in global issues such as sustainable development.

While assessing the implications and outcomes of the EUJEPA on environmental and social aspects of trade, the thesis also seeks to leverage this opportunity to put forth policy recommendations on EU-Japan collaboration around sustainability. Although opportunities to collaborate are taken into consideration since the signing of the FTA, EU-Japan cooperation could be enhanced by a common reflection on joint objectives, closely linked to international targets such as the Sustainable Development Goals (SDG).

Therefore, this research delves into interrelated topics across three main sections, investigating the interconnections between economics, politics, legal regulations, public-private cooperation, and interactive processes that involve businesses, governments, and civil society.

LITERATURE REVIEW

There is an abundance of literature on EU trade relations with other countries, largely due to the extensive efforts made by the European Commission to make trade policy documents easily accessible and comprehensible to the general public. These official documents delve into various aspects, including the analysis of FTAs, their sustainable impact assessments (SIAs), and press releases that provide valuable insights into their broader political implications on the global stage. For this thesis, primary sources like those ones will be used especially to delve deeper into the legal provisions of the EUJEPA and their implications for sustainable trade. Nonetheless, academic literature will also provide

additional information about the rationale behind the establishment⁹ and implications of the trade agreement, highlighting its economic benefits¹⁰, and analyzing the challenges encountered by the EU and Japan in their collaborative efforts¹¹. This is especially relevant in the first part of our analysis, in order to understand how and why the EUJEPa has been seen as a success story in trade relations between Tokyo and Brussels, but has also been viewed as a "second-best option"¹². Since the treaty has been in effect since early 2019, there is still limited literature exploring its implementation and long-term impact. This research aims to bridge that gap by offering a platform for reflection on the short to medium-term implications of the treaty for environmental and social development, albeit on a modest scale.

This thesis also aims to shed light on a key aspect of the EU's sustainable trade policy: the promotion of bilateral trade while emphasizing the importance of supporting sustainable development. It takes a multidisciplinary approach, intertwining subjects such as international economic law and regulation¹³, geo-economics¹⁴, and international relations¹⁵, drawing upon the extensive literature on the utility and implications of Trade and Sustainable Development (TSD) chapters. The growing interest among scholars in this field underscores the significance of discussing the EU's trade policy in relation to sustainability. Moreover, the implications of sustainable provisions within TSD chapters of FTAs gain particular relevance in the context of other European policy around trade such as the European Green Deal, which underscores the EU's leadership in advancing sustainable trade practices. Building upon the existing literature, the primary objective of this research is to comprehend the underlying dynamics of EU FTAs, their role in promoting sustainable and environmentally-friendly global policies, and their alignment with the EU's broader trade strategy.

As stated earlier, this thesis will primarily examine the EU's efforts in fostering sustainable trade with Asia, with a specific focus on Japan. However, it is essential to consider literature authored by Asian and Japanese scholars to gain insights into the local and regional impacts of the EU's policies in the region. In the case study of the EUJEPa, this

⁹Hitoshi Suzuki, "The New Politics of Trade: EU-Japan," (*Journal of European Integration* 39, no. 7, October, 2017): pp. 875-889, <https://doi.org/10.1080/07036337.2017.1371709>.

¹⁰Gabriel Felbermayr, et al. "Quantifying the EU-Japan economic partnership agreement.", *Journal of the Japanese and International Economies*, 51, (2019): pp. 110-128.

¹¹David Kleimann, "Negotiating in the Shadow of TTIP and TPP: The EU-Japan Free Trade Agreement.", *German Marshall Fund of the United States, Asia Program, Policy Brief*, (2015): pp. 1-7.

¹²Alvstam, Claes G., and Erja Kettunen. "The EU-Japan Economic Partnership Agreement: Second Best Option or New Generation of Preferential Trade Arrangements?." *CESifo Forum*. Vol. 20, n°02, (München: ifo Institut-Leibniz-Institut für Wirtschaftsforschung an der Universität München, 2019): pp.1-8.

¹³Mattia Colli Vignarelli, "The European Commission trade policy review: The effectiveness of sustainable development chapters in EU FTAs.", *European papers: a journal on law and integration*, 6.1, (2021): pp.1-5.

¹⁴Camille Nessel, and Jan Orbie. "Sustainable development in EU-Asia trade relations." *A Geo-Economic Turn in Trade Policy?* (Palgrave Macmillan, Cham, 2022): pp. 197-221.

¹⁵Karolina Zurek, "From "Trade and sustainability" to "Trade for Sustainability" in EU external trade policy." *The European Union in a Changing World Order* (Palgrave Macmillan, Cham, 2020): pp.115-143.

research will also incorporate official documentation from the Japanese government. In terms of trade negotiations, Japan has implemented a decision-making system involving four ministries: the Ministry of Foreign Affairs (MOFA), the Ministry of Economy, Trade, and Industry (METI), the Ministry of Agriculture, Forestry, and Fisheries (MAFF), and the Ministry of Finance. This four-ministry system is seen as valuable in terms of enhancing policy credibility¹⁶. As this thesis will focus on sustainable development, documentation from the Ministry of Environment will also be taken into account.

THEORETICAL FRAMEWORK

A number of preexisting international relations and economics theories can help us understand why and how the EU and Japan should collaborate on sustainable trade issues. A concept map linking the different concepts mentioned in this chapter can be found in Appendix n°1.

Liberalism

For the purpose of this research, I will be taking the standpoint of a liberal approach to international economics and politics, which will allow me to focus on the context of interdependence between states and their subsequent trade cooperation. This research aims to examine the significance of the legal framework of EU FTAs and its role in shaping the EU's normative position in international trade. This research argues that the proliferation of sustainable FTAs can have a positive impact on the entire trading system and foster sustainable development globally. This has been made clear by the EU's communication around trade: prioritizing cooperation on key socio-environmental issues in the 21st century through FTA agreements contributes to the promotion of peaceful international relations. Consequently, this paper adopts a liberal perspective to find out why entities like the EU prioritize environmental and social policies as a means to reinforce their trade and economic power, thus exerting further influence on the broader global order.

This paper will adopt a nuanced interpretation of liberalism, specifically a "weak"¹⁷ approach, to analyze the relationship between the European Union and Japan in the context of

¹⁶Hidetaka Yoshimatsu, "The evolution, politics, and prospect of Japanese trade policy." *Routledge Handbook of Japanese Foreign Policy*. (Routledge, 2018): pp. 272

¹⁷Derek Beach, "Liberal International Relations Theory and EU Foreign Policy." *The Sage Handbook of European Foreign Policy* (2015): pp. 86-98.

sustainable development. In this context, the term "weak" implies that while acknowledging the role of institutions, interdependence, and democracy in facilitating cooperation within an anarchical international system, I would not argue that interdependence alone can fundamentally alter the nature of international politics or transform it into a state of harmonious cooperation. While mobilizing liberal theories, this research will emphasize that cooperation on environmental and social issues is not motivated by states' altruism, but rather driven by self-interest and a pragmatic "what's in it for me" approach, especially for Japan and the EU¹⁸. I will draw on the following theories to support this argument.

Middle power theory

Despite their relatively limited influence compared to major powers like China and the US, why do Japan and the EU strive to project an image of being champions of sustainable development in the international arena? What factors contribute to their perceived significance in this area? To answer these questions and to provide a theoretical framework to this work, the relevance of the "middle power theory" offers reflections around the topic of EU-Japan collaboration on sustainable development issues. A "middle power" state refers to a state that occupies a position in the international power hierarchy that is neither that of a superpower with immense influence over all other states, but still possesses significant capability to shape global events. The concept of middle power as an analytical tool for international relations and economics can be traced back to the 16th century, originating from the works of Italian philosopher Giovanni Botero¹⁹. The concept of a middle power can be interpreted in different ways, depending on the international relations conceptualizations: the first approach, embedded in realism, considers evaluating a state's military strength, capabilities, and geostrategic position to define which position it holds in the international order. The second approach is defining a state's place in the international order based on its leadership capabilities, values and legitimate concerns in international politics. As mentioned beforehand, I will study the EU and Japan trade policy through this second lens.

Usually, the behavior model categorizes states as middle powers when they exhibit a notable inclination towards multilateralism and actively participate in multilateral activities as part of their foreign policy: yet, those models can be seen as obsolete.²⁰ A better definition would be that middle powers use forums that provide stability and legitimacy to the global

¹⁸Sophie Meunier, and Kalypso Nicolaïdis. "The European Union as a conflicted trade power." *Journal of European public policy* 13.6 (2006): pp. 922.

¹⁹"Middle Power." In *Encyclopædia Britannica*. Accessed May 18, 2023. <https://www.britannica.com/topic/middle-power>.

²⁰Charalampos Efstathopoulos, "Middle powers and the behavioural model." *Global Society*, 32.1, (2018): pp.68-69

order. As we will see, this definition fits perfectly to the context of the establishment of the EUJEP. Within the existing international system, middle powers can establish leadership goals by safeguarding their interests through mutual cooperation²¹. In my research, this theory is relevant notably because it was used to describe Japan's environmental policy²², but also provides a rationale for the EU's willingness to develop and build a sustainable trade policy in the international context²³. Both Japan and the EU share a common interest in, of course, upholding multilateralism, but also in strengthening bilateral relationships with like-minded partners. They actively engage in international institution-building and collaborate on non-military issues to pursue their interests and establish themselves as standard-setters on the global stage. This theory is highly applicable to the examination of EU-Japan relations, given that both entities are recognized for their limited military capabilities and their challenges in formulating a coherent and influential security policy on the global arena. Thus, relying on economic issues and more specific topics such as environmental and social policies allows them to continue to assert themselves in the international sphere as essential actors, bringing the added value of their expertise on more specialized topics to build their international influence.

One lingering question regarding this theory could be: can we truly categorize Japan and the EU as "middle powers"? As both entities have large economic power and are recognized in international institutions such as the G7, one could argue that the EU and Japan do not fit into this category. Nevertheless, it is crucial to emphasize two significant aspects. Firstly, the EU and Japan hold vital roles as economic actors of great importance on the global stage. However, their limited military and political influence prevents them from participating on the same level as global powers like the US or China. Thus, my second point is that the EU and Japan are "relative" middle powers: amidst US-China tensions especially, they have every benefit in collaborating with each other to maintain global trade and order, and balancing the two powers according to topic of interest. For example, the EU and Japan joined forces to collaborate with the United States in tackling mutual economic and security challenges arising from China, while simultaneously maintaining engagement with Beijing on trade-related matters²⁴.

²¹Tanguy Struye de Swielande, "Middle Powers in the Indo-Pacific: Potential Pacifiers Guaranteeing Stability in the Indo-Pacific?", *Asian Politics & Policy*, 11.2, (2019): pp.190-207.

²²Isao Sakaguchi, et al. "Japan's environmental diplomacy and the future of Asia-Pacific environmental cooperation." *International Relations of the Asia-Pacific*, 21.1, (2021): pp. 121-156.

²³Erik Brattberg, "Middle power diplomacy in an age of US-China tensions." *The Washington Quarterly*, 44.1, (2021): pp. 219-238.

²⁴Erik Brattberg, "Middle power diplomacy in an age of US-China tensions.", *The Washington Quarterly*, 44.1, (2021): pp. 226.

Economic statecraft

Jumping on the topic of trade and economic influence, the term “economic statecraft” is also worth mentioning here to explain the dynamics at stake and inform our understanding of both the EU’s and Japan’s trade and foreign policies. Economic statecraft refers to the strategic use of economic tools and policies by states to achieve non-economic objectives. It involves leveraging economic resources, policies, and instruments to influence the behavior of other countries, shape international relations, and advance national interests²⁵. Drawing upon middle power theory, I argue that both Brussels and Tokyo actively employ economic tools and strengthen their economic cooperation on non-security matters with a clear objective. Their aim is to establish a comprehensive and interconnected framework of policies, strategically positioning themselves in the international order while seeking political legitimacy vis-à-vis major powers like the US and China. I argue that the recognition by the EU and Japan of their limited political and military power to exert influence on the international stage, i.e. their “middle power” position, has driven them to increasingly rely on economic statecraft. This has led to the development of situations characterized by shared economic interests, as exemplified by the EUJEPa.

In that sense, trade policy has been at the core of Brussels and Tokyo’s strategy. On the EU’s side, the Treaty of Rome structured the European commercial policy: it is used as the backbone of the EU’s normative power. The EU has relied on economics (and trade) in order to position itself in the international order, as it is often perceived as its “raison d’être”²⁶. Since the 2000s, Japan has prioritized adapting its economic statecraft in response to the rise of China and heightened US-China competition. The main focus has been to stabilize the international order and assert its position. Japan has pursued this objective through various means, including strengthening multilateral and “mega-FTA” trade agreements, providing official development assistance to Asian nations facing Chinese pressure, and strategically militarizing dual-use technologies to enhance its security capabilities²⁷.

Thus, this concept, linked to middle-power theory, illustrates the dynamics at play in establishing the EUJEPa. Both Japan and the EU have the propensity to rely on their economic policies and power to assert their place on the international stage. Hence, both entities share common objectives with regards to the potential implementation of the

²⁵David Baldwin, *Economic statecraft: New edition*. (Princeton University Press, 2020)

²⁶Sophie Meunier, and Nicolaïdis Kalypso, "The European Union as a trade power.", *International relations and the European Union*, 12, (2005): pp.247-269.

²⁷Kristi Govella, "The adaptation of Japanese economic statecraft: Trade, aid, and technology." *World Trade Review* 20.2 (2021): pp. 186-192.

EUJEPa. In an era characterized by economic nationalism and market fragmentation, Japan aspired for the agreement to serve as a catalyst for preserving the liberal trade regime. Similarly, the EU aimed to uphold its core organizational values and demonstrate the effectiveness of EU-led trade negotiations²⁸. Through this cooperation, Japan and the EU could both reinforce the scope of their economic power, as both are being considered "declining political powers"²⁹. The international context has made it somewhat obvious for the two economies to join forces.

Value-oriented diplomacy

The development of Japan's and the EU's sustainable trade strategy can also be considered a case of "value-oriented diplomacy". This term has been numerous used to describe both entities' foreign economic policy. In the case of Japanese foreign policy³⁰, this "value-oriented diplomacy" is directly embedded in the official document from the Ministry of Foreign Affairs (MOFA)³¹. Japan has embraced a value-oriented diplomacy approach as well in the environmental protection domain and recognizing the advantages of integrating it into its industrial policy³². It has strategically employed "green" economic diplomacy to foster collaborations and establish strong public-private partnerships with various nations, particularly those in Southeast Asia³³.

Similarly, the term "value-oriented diplomacy" is no less relevant to analyze the EU's foreign economic strategy, especially as well in the development of sustainable trade provisions. Since 2007 and Article 21 of the Lisbon Treaty, the EU is obliged to promote its values (democracy, rule of law, social rights, gender equality, etc.) in its external relations. In particular, point (f) states: *"[the EU shall] contribute to the development of international measures to preserve and improve the quality of the environment and the sustainable management of the world's natural resources in order to ensure sustainable development"*³⁴. The EU's environmental policy efforts have been shaped by its institutional and ideational complexities, ultimately influencing the extent and influence of its actions in this domain. As

²⁸Hidetaka Yoshimatsu, "The EU-Japan free trade agreement in evolving global trade politics.", *Asia Europe Journal*, 18.4, (2020): pp.429-443.

²⁹ On the EU: Douglas Webber, "Why Europe must be classed as a declining power.", *Social Europe*, 6, (2015).

On Japan: Severino Rodolfo, "Why Do Southeast Asians See Japan As a Declining Power?," *Japan Economic Foundation*, (December, 2010).

³⁰Hugo Dobson, "Japan's response to the changing global order: the case of a 'Gaggle of Gs'." *International Relations of the Asia-Pacific*, 12.2, (2012): pp. 229-257.

³¹"Horizons: Strategy Perspective of Diplomacy in 2040." Ministry of Foreign Affairs of Japan. <https://www.mofa.go.jp/policy/pillar/horizons.pdf>.

³²Yali Peng, "The earth summit and Japan's initiative in environmental diplomacy." *Futures*, 25.4, (1993): pp. 379-391.

³³Maaïke Okano-Heijmans, "Japan's 'green' economic diplomacy: environmental and energy technology and foreign relations.", *The Pacific Review*, 25.3, (2012): pp.339-364.

³⁴"Article 21", Consolidated version of the Treaty on European Union, (2012)

a result, the EU has achieved a significant global presence through trade in environmental and social issues³⁵.

Thus, the concept of value-oriented diplomacy is intricately tied to the EU and Japan's ambition to emerge as leaders in environmental and social policy-making, and outdoing their status of middle powers. Aligned with the notion of economic statecraft, it is apparent that the EU and Japan share a common incentive to prioritize value-oriented diplomacy in environmental and social matters through economic policies and trade³⁶.

METHODOLOGY

As a qualitative research, this thesis aims to gather empirical research methods that focus on exploring and understanding phenomena in depth through non-numerical data. It aims to gain insights into the subjective experiences, perspectives, meanings, and social contexts of individuals or groups. As a subject focusing on the perceptions and implications of sustainable development both in the EU and in Japan, this method of research allows us to have a broader scope and understanding of the dynamics at stake in the establishment of responsible and fairer free trade agreements.

For this thesis, 6 semi-open interviews were conducted: the first one with Gabriele Lo Monaco, the First Secretary of the Trade and Economic Section of the EU Delegation to Japan during the redaction of the EUJEPa. The second one with Pedro Silvia Pereira, current Vice-President of the EU Parliament and in charge of the Parliament Delegation for relations with Japan during the redaction of the EUJEPa. The third and fourth one with policy officers of the EU linked to the topic of this research. The fifth one with Stefan Le Du, current President of the Sustainable Committee of the European Business Council in Japan. At last, the sixth one with Pr. Sonia Chikh M'hamed, writer of the academic paper "The European Green Deal – Perspectives for the EU-Asia Relationship". Those different interviews with professionals and academics specialized in EU-Japan relations allowed me to grasp the depth and more complex implications of the EUJEPa and its impact on EU-Japan relations. The redaction of this thesis would not have been possible without them and their recommendations. Using a semi-structured interview approach, the participants were engaged

³⁵Anthony Zito, "The European Union as an environmental leader in a global environment." *Globalizations*, 2.3, (2005): pp. 363-375.

³⁶For more on the intrication between those different concepts, see Appendix N°1.

in interviews lasting between 30 minutes to one and a half hours. Prior to the interviews, the participants were provided with five initial questions to guide the discussion, although the conversation was not strictly limited to those questions. Since these interviews took the form of oral conversations, and if a transcription was indeed conducted and referenced in the assessment of this thesis, the interviewees, for the most part, preferred not to have their entire conversation made available for general publication. For these reasons, the interviews are not entirely transcribed in the appendix of this document. However, for academic research purposes, they are available and can be consulted at the discretion of the author.

In addition to the interviews, quantitative data was also incorporated into the research. This included a comprehensive analysis of the Sustainable Impact Assessment of the agreement and a comparison of various numerical data and estimates related to the economic and trade effects of the agreement.

LIMITATION OF THIS RESEARCH

Conducting this thesis, certain limitations need to be acknowledged.

The first one is linked to inputs: due to my limited understanding of the Japanese language, accessing and comprehending academic papers and documentation regarding Japanese trade policy was challenging. Official documents were not always translated, and while news articles offered an interesting approach to the Japanese side, their information was limited and not as rich or dense as academic publications. This limited my ability to incorporate a comprehensive analysis of Japanese perspectives into the research, potentially missing important insights and viewpoints. Thus, this paper's focus on the EU's perspective while incorporating insights from Tokyo can be attributed to the limitation of accessing Japanese documentation. However, this limitation was partly mitigated by extensively reading academic papers from translated or English-written sources authored by Japanese scholars and academics. Additionally, interviews and exchanges with Japanese professors and researchers specializing in this field provided valuable insights and perspectives from the Japanese side. These efforts helped to compensate for the initial weakness and contributed to a more comprehensive understanding of the subject matter.

The second limitation is associated with the outputs of the research and is evident in the absence of concrete and measurable outcomes, particularly given the relatively short time frame of four years since the implementation. The complex and evolving nature of the

EUJEPa, combined with the relatively recent focus on sustainability, makes it difficult to quantify and assess the concrete outcomes of the agreement. Particularly in terms of sustainable development, there is a lack of long-term assessments, as it takes time to observe and measure the impact of such provisions in trade agreements. Hence, the analysis presented in this thesis relies on preliminary assessments and reflections rather than conclusive findings. The interviews conducted served as a means to bridge the gap between the initial studies conducted from 2017 to 2019 and the current state in 2023. While these interviews serve as a qualitative tool, it is important to note that they lack concrete data on the subject matter and remain subjective in nature. Nonetheless, the insights gathered from these interviews are valuable in identifying emerging challenges for the effective long-term implementation of the agreement.

CHAPTER 1 : THE EUJEPa AS A NORM MAKER FOR EU FTAS IN ASIA

1. UNDERSTANDING THE POLITICO-ECONOMIC CONTEXT OF THE IMPLEMENTATION OF THE EUJEPa

The establishment in 2019 of an Economic Partnership Agreement (EUJEPa) between Japan and the EU has created an economic zone that accounts for 28% of the world GDP and 37% of the world trade³⁷. It is a major bilateral trade agreement between the world's 2nd and 4th largest economies. The EUJEPa has significant political and economic implications for both parties. From a political perspective, it represents a strategic alliance between two of the world's biggest trading powers uniting forces against protectionist tendencies internationally. On the economic front, the agreement is expected to increase trade flows and investments between the EU and Japan, leading to new business opportunities and potential growth for both sides.

a) Political context

The EU-Japan EPA was politically concluded in July 2017, just a day before the G20 Summit in Germany. Indeed, 2017 marks the first “agreement in principle” with Japan over the main elements of the comprehensive trade agreement³⁸: at the time, the agreement served as a collaborative statement supporting a rules-based trade system³⁹, a framework for international trade that is governed by a set of agreed-upon rules, regulations, and principles to promote transparency, predictability, and stability in international trade. Typically, the agreement was directly seen as a means of reassessing the international trade order and the importance of international trade in a geopolitical context that was shifting towards protectionism measures. This rules-based trade system in bilateral agreement also has a strong inheritance from rules typically used in international forums, such as those established by the World Trade Organization (WTO), which govern the conduct of trade relations between countries, promoting a level playing field for all countries, ensuring as well that trade disputes are resolved fairly and transparently.

³⁷Japan - Trade - European Commission." European Commission.

https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/japan_en.

³⁸Michael Frenkel, and Benedikt Walter. “The EU-Japan Economic Partnership Agreement: Relevance, Content and Policy Implications.”, *Intereconomics*, 52, no. 6, (2017): pp. 358–63.

³⁹Pedro Silva Pereira, “The EU–Japan Economic Partnership Agreement from the European Parliament’s Perspective: A Landmark Agreement beyond Trade.”, *Journal of Inter-Regional Studies: Regional and Global Perspectives*, 2, (2019): pp.16.

Thus in this context, the EUJEPA was since the beginning defined as much more than a simplistic “free-trade agreement”. The title “Economic Partnership Agreement” intended to emphasize the fact that the cooperation between the EU and Japan was beyond the scope of trade, highlighting collaboration on many levels⁴⁰, emphasizing that the path toward progress involves fostering collaboration and promoting a more inclusive and regulated form of globalization, rather than engaging in trade wars in a more conflicting geopolitical trade context. As the EUJEPA was developed following significant global treaties like the Paris Agreement (2015) and Sustainable Development Goals (2015), both Tokyo and Brussels emphasized the need to maintain and enforce high standards for social welfare, environmental protection, consumer protection, and food safety, on the path towards sustainable development between the two entities.⁴¹

The discussions and drafting of the agreement were also influenced by various international events that both advanced and hindered the negotiation process, ultimately shaping the development of the EUJEPA⁴²:

First of all, moves towards anti-multilateralism and market disintegration amplified and shifted, among other, Europe and Japanese leaders’ perception of the global order, pushing them to develop their relations as strategic partners. In this case, we can notably quote the protectionist measures led by the United States (US) and the United Kingdom (UK), that largely influenced the international trade system at the time.

Protectionist measures from the US are both highlighted by the withdrawal from the Trans-Pacific Partnership (TPP) on Japan’s side and from the suspension of negotiations on the Transatlantic Trade and Investment Partnership (TTIP) on the European Union’s side. Protectionism has been illustrated by the prioritization from Donald Trump’s government of American interests in its “America First” policy and a more protectionist approach to trade. However, this created a drive for additional trade agreements between the EU and Japan, based on their shared commitment to promoting liberal policies and mutual trust between like-minded partners⁴³.

⁴⁰Michael Frenkel, and Benedikt Walter. “The EU-Japan Economic Partnership Agreement: Relevance, Content and Policy Implications.”, *Intereconomics*, 52, no. 6, (2017): pp.358–63.

⁴¹Pedro Silva Pereira, “The EU–Japan Economic Partnership Agreement from the European Parliament’s Perspective: A Landmark Agreement beyond Trade.”, *Journal of Inter-Regional Studies: Regional and Global Perspectives*, 2, (2019): pp.16.

⁴²Hitoshi Suzuki, “The New Politics of Trade: EU-Japan.”, *Journal of European Integration* 39, no. 7 (October, 2017): pp. 875-889.

⁴³Pedro Silva Pereira, “The EU–Japan Economic Partnership Agreement from the European Parliament’s Perspective: A Landmark Agreement beyond Trade.”, *Journal of Inter-Regional Studies: Regional and Global Perspectives*, 2, (2019): pp.16.

Again, on June 24, 2016, the UK recorded a slim margin of 3.78% in favor of leaving the EU, with 51.89% voting Leave and 48.11% voting Remain, marking its departure from Brussel's economic system in the following years⁴⁴. The UK's decision to leave the EU also disrupted trade systems and raised questions about access to foreign markets for both the UK and its international partners involved in commerce with the EU. In response, expediting the process and finalizing the EUJEPa helped to ensure Japanese firms could maintain access to the EU market via the UK as an export hub. The trade agreement acted as a contingency plan for Japanese firms, enabling them to continue operating in the UK and mitigate potential losses in case they lost access to the Single Market after the UK departed from the EU.

Given the current international climate, it is clear that the EU hoped that finalizing the EPA would not only demonstrate the potential for international economic integration but also enable Brussels to take the lead in establishing global trade standards and trends in international trade⁴⁵. While bilateral trade liberalization was previously viewed as a suboptimal alternative to a multilateral approach, the conversation had shifted towards questioning whether additional trade liberalization is even practical⁴⁶. Consequently, the successful implementation of the EPA can be seen as a win for free trade in an era of increased protectionism⁴⁷.

Secondly, the current international context underscores the EU's aspirations to enhance its FTA strategy by leveraging the obstacles and hurdles encountered in prior trade agreements. This makes the EUJEPa an exceptional example in this context, and the product of a decade-long process of bettering the agreement with inputs from previous experiences. Following the constitutional imperative set by the Treaty of Lisbon, the EU embraced the promotion of sustainable development in its external trade policy. This notably explains the inclusion of TSD chapters since 2010 which has become a standard feature in the EU's comprehensive FTAs with both developed and developing countries. These TSD chapters are positioned as a fundamental element of the EU's "value based" trade policy, aiming to utilize trade as a means to foster sustainable development globally⁴⁸. In the years leading to the

⁴⁴"EU Referendum Results," *BBC News*, https://www.bbc.co.uk/news/politics/eu_referendum/results.

⁴⁵Hidetaka Yoshimatsu, "The EU-Japan free trade agreement in evolving global trade politics," *Asia Europe Journal*, 18.4, (2020): pp.429-443.

⁴⁶Claes Alvstam, and Erja Kettunen. "The EU-Japan Economic Partnership Agreement: Second Best Option or New Generation of Preferential Trade Arrangements?," *CESifo Forum*, Vol. 20, n°2, (München: ifo Institut–Leibniz-Institut für Wirtschaftsforschung an der Universität München, 2019): pp.1-8.

⁴⁷Michael Frenkel, and Benedikt Walter. "The EU-Japan Economic Partnership Agreement: Relevance, Content and Policy Implications," *Intereconomics*, 52, n° 6, (2017): pp. 358–63.

⁴⁸Gracia Marín Durán, "Sustainable Development Chapters in EU Free Trade Agreements: Emerging Compliance Issues." *Common Market Law Review*, 57.4, (2020).

negotiations towards the EUJEPa, the European Union led and built free-trade agreements with three significant trade partners: South Korea (discussions in 2010, entry into force in 2011), Singapore (discussions from 2014, entry into force in 2019) and Canada (discussions from 2014, full entry into force in 2018). Those three cases led to significant progress in FTA-building, notably in issues concerning sustainable development.

First of all, as mentioned, the redaction of extensive sustainable provisions have advanced through the implementation of the FTAs with South Korea, Singapore, and Canada, ultimately leading to the development of the EUJEPa. In the case of the EU-South Korea FTA for example, the EU had concerns about the potential for decreased labor standards⁴⁹ due to the FTA's trade liberalization, so it included a chapter on trade and labor in the agreement, to counterbalance the EU's lack of bargaining power on the topic⁵⁰. The chapter commits both parties to uphold international labor obligations and promote labor rights, including freedom of association, collective bargaining, and eliminating forced and child labor. It includes provisions for the elimination of discrimination in employment and occupation and the protection of migrant workers' rights. Furthermore, the EU-Canada FTA (CETA), established a few years later, includes as well a specific labor rights declaration that reinforces the commitment to fundamental principles and rights at work, such as the right to strike and collective bargaining. Those provisions are often used as references to reprimand countries when they do not follow the rules adopted in the agreement. In the latter part of 2019, due to inadequate advancements in bilateral consultations, the European Union initiated formal dispute proceedings against South Korea on the topic of labor rights: this significant event represented the inaugural activation of a dispute mechanism linked to provisions also mentioned in TSD chapters, showing the growing importance of such mechanisms in the EU's bilateral strategy⁵¹.

A last key aspect of the reinforcement of sustainable development provisions resides obviously in the development of environmental provisions. Labor standards go hand in hand with the development of provisions protecting the environment, often divided in three axes: fighting against climate change, diminishing pollution and repairing the loss of biodiversity.

⁴⁹cf. still ongoing dispute with the Republic of Korea over its missed ratification of four Fundamental International Labour Organization (ILO) Conventions. On that, see: Isabella Mancini, "Labour Rights Protection in EU Trade Agreements: Can Trade Agreements "Only Do so Much?", *Integrating EU Free Trade Agreements into the EU Legal Order*, (Edward Elgar Publishing 2022), <http://dx.doi.org/10.2139/ssrn.4130430>.

⁵⁰James Harrison, et al. "Governing labor standards through free trade agreements: Limits of the European Union's trade and sustainable development chapters.", *JCMS: Journal of common market studies*, 57.2, (2019): pp.260-277.

⁵¹María J. García, "Sanctioning Capacity in Trade and Sustainability Chapters in EU Trade Agreements: The EU-Korea Case.", *Politics and Governance*, 10, n° 1, (2022): pp.58-67. <https://doi.org/10.17645/pag.v10i1.4782>.

For example, the EU-South Korea⁵² and the EU-Singapore⁵³ FTA includes a separate chapter on trade and sustainable development, with commitments to effectively enforce environmental laws and regulations and promote high levels of environmental protection. In the case of Singapore, it also explicitly mentions issues concerning the protection and conservation of biodiversity and the promotion of sustainable resource management. Taking a step further, the EU-Canada Comprehensive Economic and Trade Agreement⁵⁴ includes three chapters on TSD. Since 2010 and those three agreements, the inclusion of civil society meetings has also become a customary practice in EU FTAs. Additionally, a specific two-stage process was introduced to address disputes under the TSD chapter, involving initial consultations followed by the formation of a panel of experts to facilitate resolution. However, the TSD chapters have not yet been incorporated into the scope of the state-to-state dispute settlement (SSDS) mechanism, and no sanctions are currently in place for violations of the rules⁵⁵.

Although not legally binding for TSD chapters, it is also still relevant to study the expansion of general dispute settlement in those FTA. In recent years, establishing a concrete framework to deal with investment protection has driven away from the typical investor-state dispute settlement (ISDS) system to more innovative options. In the EU-Korea and EU-Singapore FTA, the investment chapter includes provisions on investor-state dispute settlement (ISDS), allowing foreign investors to challenge measures by the host state that affect their investments. In the case of South Korea⁵⁶ a reformed ISDS mechanism was put in place, including an appeal mechanism, transparency rules, and stricter requirements for arbitrators, to better balance the dynamics of powers between investors, companies, states, and the public sphere. In the EU-Singapore⁵⁷ FTA, the investment chapter includes an ISDS mechanism with additional improvements such as a code of conduct for arbitrators and provisions to ensure that tribunal members are appointed transparently and impartially. In the

⁵²“Free trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part”, Chapter 13, (2011),

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2011:127:FULL>

⁵³“Free Trade Agreement between the European Union and the Republic of Singapore”, Chapter 12, (2019), [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22019A1114\(01\)&from=EN#page=1](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22019A1114(01)&from=EN#page=1)

⁵⁴“Comprehensive Economic and Trade Agreement between Canada, of the one part, and the European Union and its Member States, of the other part”, Chapter 22, 23 and 24, (2017),

[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22017A0114\(01\)#d1e201-23-1](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22017A0114(01)#d1e201-23-1)

⁵⁵“Trade and Sustainable Development Chapters in CETA: Think Tank: European Parliament.”, *European Parliament*, (January, 2017). [https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2017\)595894](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2017)595894).

⁵⁶“Free trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part”, Chapter 14, (2011),

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2011:127:FULL>

⁵⁷Free Trade Agreement between the European Union and the Republic of Singapore”, Chapter 14, (2019), [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22019A1114\(01\)&from=EN#page=1](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22019A1114(01)&from=EN#page=1)

case of CETA⁵⁸, there was significant public opposition to the inclusion of ISDS provisions in the agreement, leading to the implementation of a new Investment Court System (ICS) that has an appeal mechanism, transparent and publicly appointed judges, and stricter ethical rules⁵⁹. Thus overall, the EU sought to increase transparency and accountability in the appointment of arbitrators and tribunal members, leading to innovative standards and regulations such as the ICS. Understanding the progress made in the investment dispute systems is crucial for achieving more sustainable development in FTAs, as it shapes the dynamics between the various stakeholders and influences the implementation of labor and environmental provisions, although not directly legally binding such provisions. It is also a clear example of the EU's strategy to encourage dialogue with different stakeholders in the process of the FTA: this is a first step to implement similar measures when it comes to sustainable provisions.

Thus, in the FTA with South Korea, Singapore, and Canada, the EU insisted on incorporating labor and environmental standards into the agreement's text, as well as a comprehensive investor trade argument, to ensure that trade liberalization does not come at the expense of qualitative standards. By incorporating labor and environmental issues into the agreement, the EU aimed to ensure that the benefits of trade liberalization are shared more fairly among all stakeholders.

In this context, we can clearly understand the interests at stake for the EU in the implementation of a treaty with Japan. The treaty was made to assume a leadership role in global trade policies, making the EU also strengthen its trade ties to the Pacific Rim, a strategy assumed since the European Commission's communication in October 2015, "Trade for All - Towards more responsible trade and investment policy,"⁶⁰ prioritizing the finalization of trade negotiations with Japan and reinforcing the EU's influence in the Asia-Pacific region. Through an agreement like this, the EU is allowed to set its own rules and standards with a major Pacific economy, a process that becomes increasingly important in the future, because of the EU's current negotiations at the time, and still ongoing today,

⁵⁸“Comprehensive Economic and Trade Agreement between Canada, of the one part, and the European Union and its Member States, of the other part”, Chapter 22, (2017),

[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22017A0114\(01\)#d1e201-23-1](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22017A0114(01)#d1e201-23-1)

⁵⁹Marco Bronckers, and Giovanni Gruni. “Taking the Enforcement of Labour Standards in the EU’s Free Trade Agreements Seriously.”, *Common Market Law Review*, 56, n°6, (2019): pp. 1591–1622.

⁶⁰Pedro Silva Pereira, “The EU–Japan Economic Partnership Agreement from the European Parliament’s Perspective: A Landmark Agreement beyond Trade.”, *Journal of Inter-Regional Studies: Regional and Global Perspectives*, 2, (2019): pp.16.

with other Asian economics, notably Singapore, Malaysia, and Vietnam, and also with the totality of ASEAN countries⁶¹.

But the interest is not unilateral: in the case of Japan, the establishment of a treaty with the EU also allows for leadership in the region, notably in the context of Japan's interests in the continuation of a new TPP without the United States. Given the context of President Trump's trade policies, Japan sought to forge high-quality economic partnerships, culminating in the successful conclusion of the EU-Japan EPA and leading afterward to the multilateral TPP-11 agreement in 2018⁶². It also comes at a time of a reinforcement of the Japanese trade policy. Under the politics of Shinzo Abe, trade policy is indeed used as a tool to facilitate essential domestic structural reforms, specifically in the agricultural sector, as part of the 'Abenomics' third arrow⁶³. The EUJEPA is useful for Abenomics and was also seen as a leverage helpful for the Japan-United States trade dialogue, as it sets new standards and creates incentives for the return of the US to regional trade agreements. This also creates for Japan the opportunities and groundwork for high-quality free trade agreements in the Asia-Pacific region, like for the Regional Comprehensive Economic Partnership (RCEP) negotiations, which includes China.

b) Economic impacts

The EUJEPA represents also a clear economic opportunity. The EUJEPA was estimated by the Commission in 2018 to increase the GDP of both the EU and Japan by 0.8% and 1% respectively⁶⁴. Before the agreement, Japan was the EU's sixth-largest trading partner, accounting for 3.3% of their total exports in 2016. The EU mainly imported machinery and transport equipment from Japan, while their exports consisted of chemical products and intermediate goods⁶⁵. As a result of the agreement, Japanese exports to the EU were expected to increase by 23.5%, while EU exports were anticipated to grow by 34%. In the first ten months following the implementation of the agreement, EU exports to Japan already increased by 6.6% compared to the same period the year before⁶⁶, showing clear enthusiasm

⁶¹Michael Frenkel, and Benedikt Walter. "The EU-Japan Economic Partnership Agreement: Relevance, Content and Policy Implications." *Intereconomics*, 52, n°6, (2017): pp. 358–63.

⁶²Pedro Silva Pereira, "The EU–Japan Economic Partnership Agreement from the European Parliament's Perspective: A Landmark Agreement beyond Trade.", *Journal of Inter-Regional Studies: Regional and Global Perspectives*, 2, (2019): pp. 16.

⁶³*ibid*

⁶⁴Michael Frenkel, and Benedikt Walter. "The EU-Japan Economic Partnership Agreement: Relevance, Content and Policy Implications." *Intereconomics*, 52, n°6, (2017): pp. 358–63.

⁶⁵*ibid*

⁶⁶Kazuo Kodama, "Remarks by Ambassador KODAMA Kazuo at the Ceremony for the Conferral of the 'Order of the Rising Sun on Mr. Pedro Silva Pereira MEP, Vice-President of the European Parliament.", *EU Delegation to Japan*, (2020). <https://www.eu.emb-japan.go.jp/files/000565879.pdf>.

and results for its implementation. The agreement clearly resolved the issues of the underperformance of EU exports of goods and services in Japan, as those exports only account for 3% of Japanese consumption before the FTA, while EU exports made up 5% of US consumption⁶⁷.

In theory, the agreement liberalized on the day of its ratification 91% of EU exports to Japan and 99% of EU imports from Japan. Benefits from the two entities were complementary: for example on agriculture, as the reduction of agricultural tariffs was a priority for the EU, with Japan more reluctant but eager to achieve better market access for fish exports. In return, Japan permitted around 85% of agricultural and food products to enter its market without any tariff, thereby creating substantial opportunities for EU agri-food exports, including wine, beef, pork, and cheese, while processed agricultural items such as pasta, chocolates, biscuits, and tomato sauce also benefited from the removal of customs duties. Furthermore, the EPA guarantees qualitative agricultural trade between Brussels and Tokyo, notably through the reciprocal safeguarding of Geographical Indications (GIs) which includes 56 GIs of Japan, such as Kobe beef and Japanese sake, and 205 GIs from the EU⁶⁸. The largest gains for Bruxelles rely on the increase of exports in the agricultural field, accounting for a gain of 294% of EU exports in Japan. This also allows for sustainable development as the development of agricultural trade is especially linked to the high rates of SME participation in the trade in agriculture and beverages, as well as textiles and leather products. In that case, the total elimination of tariffs on chemical products, plastics, cosmetics, textiles, and clothing was a forerunner of the agreement. For manufacturing, Japan's benefits are expected in the motor vehicle sector, in minerals and glass, machinery and equipment, and chemicals⁶⁹.

The reduction of non-tariff measures (NTMs) is also a significant factor contributing to the high economic gains for both countries. NTMs refer to various government-imposed measures that act as taxes on imports and exports, such as regulations, licensing requirements, quotas, embargoes, subsidies, technical standards, labeling and packaging requirements, and administrative procedures that hinder trade between countries. Their reduction accounts for around 86% of the total gains from the agreement, with the services sector making up more than 50% of these gains. Thus, the agreement supports cross-border

⁶⁷Timothée Sautter, "Trade Sustainability Impact Assessment of the Comprehensive Trade And ..." *European Commission*, (2016): pp. 49. https://trade.ec.europa.eu/doclib/docs/2016/may/tradoc_154523.pdf.

⁶⁸Pedro Silva Pereira, "The EU–Japan Economic Partnership Agreement from the European Parliament's Perspective: A Landmark Agreement beyond Trade.", *Journal of Inter-Regional Studies: Regional and Global Perspectives*, 2, (2019): pp.16.

⁶⁹*ibid*

services, such as postal, telecommunications, and financial services, which account for 70% of Japan's GDP in 2015 and 74% of the EU, while also including regulations on the mobility of individuals for business purposes, covering intra-company employees, business travelers, and contracted service providers⁷⁰. As a result, this is one of the most ambitious agreements in terms of reduction of NTM, allowing for both countries to truly gain significant economic gains from the EPA. Furthermore, it is worth noting that the reduction of NTMs did not compromise the quality of trade. In Japan's case, it was crucial to maintain high standards in areas such as sanitary and phytosanitary measures (food and health safety) while still agreeing to regulations on food additives and pharmaceutical product manufacturing. Japan had made significant progress in this regard even before the implementation of the agreement, which was an essential contribution to the successful outcome of the negotiations⁷¹.

The EUJEPa encompasses also a reduction of tariffs and non tariffs measures on public procurement. In that case, the EU's incentives pushed for negotiations around liberalization, allowing EU companies to participate in Japan's government procurement, especially in the aforementioned context of the TTIP, granting the EU access to the procurement of 54 Japanese municipalities (around 15% of the Japanese population), notably for procurement by local hospitals and academic institutions, as well as railway services⁷². Conversely, the EU has granted Japan enhanced admission to procurement by towns and cities and has consented to a partial liberalization of procurement in the domain of overland and urban railways⁷³. In 2016, an independent report on the impact of a trade agreement between the EU and Japan showed that the economic benefits for the EU would be similar to those estimated for the TTIP while also indicating that no industry was expected to suffer significant losses⁷⁴. However, there were still challenges that needed to be addressed, such as information barriers to market access in Japan due to high entry costs like language skills and trust networks. Other specific provisions in the agreement also required attention and consideration from both sides during the drafting process.

⁷⁰Pedro Silva Pereira, "The EU–Japan Economic Partnership Agreement from the European Parliament's Perspective: A Landmark Agreement beyond Trade.", *Journal of Inter-Regional Studies: Regional and Global Perspectives*, 2, (2019): pp.20
⁷¹*ibid*, pp.18.

⁷²Michael Frenkel, and Benedikt Walter. "The EU-Japan Economic Partnership Agreement: Relevance, Content and Policy Implications." *Intereconomics*, 52, n°6, (2017): pp. 361.

⁷³Pedro Silva Pereira, "The EU–Japan Economic Partnership Agreement from the European Parliament's Perspective: A Landmark Agreement beyond Trade.", *Journal of Inter-Regional Studies: Regional and Global Perspectives*, 2, (2019): pp.18

⁷⁴Pedro Silva Pereira, "EU Japan: Do's and Don'ts for a Successful Agreement.", *Pedro Silva Pereira*, (2017).
<https://pedrosilvapereira.pt/article/eu-japan-do-s-and-don-ts-for-a-successful-agreement>.

c) Challenging negotiations in the drafting process

To fully comprehend the economic and political effects of the treaty, it is important to examine the specific issues that required prolonged negotiations and careful attention. This will provide insight into how the two economies and trading systems intersected and cooperated. Through negotiation processes and discussions, both countries showed an eagerness to establish a clear and rich framework of values and norms in the EUJEPA to effectively lead the way toward “new generation”⁷⁵ FTAs. Yet, to assess the difficulties of drafting the EUJEPA in light of the high requirements of this “new generation” FTA framework, here are three issues that should be considered and highlighted: the investor-state dispute settlement dynamics, the cross-border data flow, and sustainable development (i.e. social and environmental provisions).

Investor-state relations

After much consideration and discussion within the EU regarding the deficiencies of the private Investor-State Dispute Settlement (ISDS) mechanism, particularly with regards to, the European Commission has recommended the adoption of a publicly-operated arbitration mechanism called the Investment Court System (ICS). As mentioned, this proposal is aimed at resolving the investor-state dynamic issue and is considered an important milestone toward the development of a Multilateral Investment Court. While negotiations for an EU-Japan Investment Protection Agreement were ongoing, the European Parliament expressed its firm opposition to the outdated private ISDS system and made it clear that any future developments would be closely monitored. According to Pedro Silvia Pereira, *“When we came to the discussions with Japan, the European Parliament was very demanding in terms of ensuring, first of all, transparency because there was this climate of suspicion around FTAs, particularly from the negotiations with the United States and with Canada”*⁷⁶. However, Japan was unable to agree on an ICS system⁷⁷. In addition, the Opinion of the European Court of Justice on the EU in May 2017⁷⁸ established that investment protection is a shared responsibility of both the EU and its Member States. This implies that the EU and its Member States must collaborate to ensure consistent investment protection policies, requiring increased coordination and communication. As a result, a division arose between the EPA and

⁷⁵Fabienne Bossuyt, “The Social Dimension of the New Generation of EU Ftas with Asia and Latin America: Ambitious Continuation for the Sake of Policy Coherence.”, *European Foreign Affairs Review*, 14, n°5, (2009): pp.703–22.

⁷⁶Interview with Pedro Silvia Pereira, May 25th 2023

⁷⁷Pedro Silva Pereira, “The EU–Japan Economic Partnership Agreement from the European Parliament’s Perspective: A Landmark Agreement beyond Trade.”, *Journal of Inter-Regional Studies: Regional and Global Perspectives*, 2, (2019): pp.19

⁷⁸“OPINION 2/15 OF THE COURT”, *Curia Judisprudence* (Court of Justice of the European Union, 2017).

the investment aspect of the agreement, which needed to account for the two distinct ratification processes of the EU and its Member States. After lengthy negotiations, the EUJEPA now features a modernized and reformed investment protection system that incorporates various alterations from conventional investor-state dispute settlement (ISDS) mechanisms⁷⁹.

Cross-border data flow

Cross-border data flows involve the transfer of information between servers located in different countries. They are crucial in ensuring that people can access the necessary information and services regardless of their location, knowing that various entities, ranging from consumers to banks to large companies, rely heavily on international data transfers. Thus, implementing data protection measures, such as those related to cross-border data transfers, promotes consumer and producer confidence and is therefore beneficial to the digital economy, which relies heavily on such trust⁸⁰. At the time of the implementation of the treaty, both the EU and Japan were still discussing the right balance between the need for an easier flow of data, while still allowing strong privacy safeguards for each part⁸¹. In 2022, the launch of a Digital Partnership between the EU and Japan has served as a way to fix this identified issue and establish a partnership between the two countries involving collaboration on a wide range of topics related to digital technologies, such as 5G networks, artificial intelligence, the Internet of Things, and cloud computing, among others. The focus is on promoting an open, secure, and trusted digital environment for businesses and individuals in both regions⁸².

Sustainable development

The EPA represents a new level of complexity in trade agreements as it introduces innovative chapters and provisions that cover various topics such as climate change, corporate governance, SMEs, and sustainable agriculture. Environmental concerns posed a potential challenge during the document's drafting, particularly on the controversial subject of

⁷⁹Cornelia Furculita, "FTA Dispute Settlement Mechanisms – Alternative Fora for Trade Disputes: The Case of CETA and Eujepa.", *Global Politics and EU Trade Policy: Facing the Challenges to a Multilateral Approach*, (2020): pp.89-111.

⁸⁰"EU and Japan Start Negotiations to Include Rules on Cross-Border Data Flows in Their Economic Partnership Agreement." *European Commission. Directorate of Trade*, (October 7, 2022). https://policy.trade.ec.europa.eu/news/eu-and-japan-start-negotiations-include-rules-cross-border-data-flows-their-economic-partnership-2022-10-07_en.

⁸¹Pedro Silvia Pereira, "The EU–Japan Economic Partnership Agreement from the European Parliament's Perspective: A Landmark Agreement beyond Trade.", *Journal of Inter-Regional Studies: Regional and Global Perspectives*, 2, (2019): pp.19.

⁸²"Joint Statement EU-Japan Summit 2022 - Consilium - Europa." *European Commission* (2022) <https://www.consilium.europa.eu/en/press/press-releases/2022/05/12/joint-statement-eu-japan-summit-2022/>.

whaling. While the EU aimed to exclude it from the agreement to restrain further issues with Japan, Brussels was still an active member of the International Whaling Commission⁸³. At that time, Pedro Silva Pereira, who was in charge of the delegation for relations with Japan, recommended that a binding sustainable development chapter be established, although such a thing failed to be implemented in the end. His earlier suggestions in 2017⁸⁴ called for explicit commitments in the sustainable development chapter of the EU-Japan FTA to ratify core International Labour Organisation conventions, with Japan's ratification of the remaining conventions C105, the Abolition of Forced Labour Convention, highly appreciated. He stressed the need for the chapter to promote corporate social responsibility and acknowledge the importance of multilateral environmental agreements, as well as reaffirm both parties' full commitment to the Paris Agreement and the 2030 Agenda on Sustainable Development, especially during a time when others are reneging on their commitments⁸⁵. The following chapter will go into more details about the ambition of the TSD chapter, and how, although not legally binding, it remains one of the most ambitious TSD chapters created by the EU.

⁸³Michael Frenkel, and Benedikt Walter. "The EU-Japan Economic Partnership Agreement: Relevance, Content and Policy Implications.", *Intereconomics*, 52, n°6, (2017): pp. 359.

⁸⁴Pedro Silvia Pereira, "EU Japan: Do's and Don'ts for a Successful Agreement." *Pedro Silva Pereira*, (2017). <https://pedrosilvapereira.pt/article/eu-japan-do-s-and-don-ts-for-a-successful-agreement>.

⁸⁵Pedro Silvia Pereira, "EU Japan: Do's and Don'ts for a Successful Agreement." *Pedro Silva Pereira*, (2017). <https://pedrosilvapereira.pt/article/eu-japan-do-s-and-don-ts-for-a-successful-agreement>.

2. ENHANCING SUSTAINABLE DEVELOPMENT - KEY PROVISIONS OF THE EUJEPa

In total, the EUJEPa contains 23 chapters detailing the dismantling of existing trade barriers, the liberalization of international trade, and the anchoring of global trade principles and rules - such as environmental and social standards derived from EU legislation. The interesting link between trade and sustainable development can be assessed in particular through an in-depth analysis of Chapter 16 on trade and sustainable development.

a) Incorporating international frameworks

I want to argue that the EUJEPa should be considered one of the most all-encompassing and advanced trade agreements from the EU to a third country, especially regarding naming, framing, and enforcing meaningful environmental and social provisions. Chapter 16 covers issues such as workers' rights, the environment, and climate change. In particular, point 16.1⁸⁶ presents the extensive legal framework used in the EUJEPa to ensure sustainable development. Are notably explicitly mentioned key multilateral environmental agreements (MEA) such as:

- the Agenda 21 of the UNCED (1992)
- the ILO Declaration on Fundamental Principles and Rights at Work (1998)
- the Plan of Implementation of the World Summit on Sustainable Development (2002)
- The outcome document "The future we want" adopted by the General Assembly of the UN (2012)
- the 2030 Agenda for Sustainable Development adopted by the General Assembly of the UN (2015)

The EUJEPa is also the first to specifically mention in chapter 16.4.4⁸⁷ "[its] commitment to effectively implement the UNFCCC and the Paris Agreement, done at Paris on 12 December 2015 by the Conference of the Parties to the UNFCCC at its 21st session". By doing so, it makes special reference to the need for a meaningful application of the international legal framework governing climate protection. It reiterates the commitment of the international community to stabilize the atmospheric concentration of greenhouse gas emissions (GHG)

⁸⁶ "Agreement between the European Union and Japan for an Economic Partnership", Chapter 16.1, (2018), <https://www.mofa.go.jp/files/000382106.pdf>

⁸⁷ "Agreement between the European Union and Japan for an Economic Partnership", Chapter 16.4.4, (2018), <https://www.mofa.go.jp/files/000382106.pdf>

under 2°C and to reinforce the global defense against the menace of climate change (Art. 1 and 2 of the Paris Agreement). Thus, the particularity of the EUJEPa is its extensive regulatory framework, embodied by a diverse set of principles and rules from international environmental agreements⁸⁸. The contribution of such agreements and the explicit will to manage international environmental issues are highlighted in the provision of Articles 16.4.1 and 16.4.2⁸⁹ of the document.

b) Interweaving of trade provisions and SDGs

In the following table are a few linkages between SDGs and the EUJEPa provisions⁹⁰:

Chapter	Quote	SDG linkage	Legal framework
16.4.4	“The Parties reaffirm their commitments to effectively implement the UNFCCC and the Paris Agreement, done in Paris on 12 December 2015 by the Conference of the Parties to the UNFCCC at its 21st session”	SDG 13 (Climate Action)	Definition for the first time of a measurable target to contain the effects of the rise of temperature and thus climate change. It makes special reference to the need for a meaningful application of the international legal framework governing climate protection. It reiterates the commitment of the international community to stabilize the atmospheric concentration of greenhouse gas emissions (GHG) under 2°C and to reinforce the global defense against the menace of climate change (art. 1 and 2 of the Paris Agreement).
16.3.5	“Each Party reaffirms its commitments to effectively implement in its laws, regulations	SDG 8 (Decent work and	Reaffirmation on the part of the European Union to encourage Japan to sign the

⁸⁸Alexandros Kailis, “The Integration of Environmental Sustainable Development Goals Into International Trade Agreements: The Case of the EU-Japan Economic Partnership Agreement.”, *International Journal of Environmental Protection and Policy* 9, n°5, (2021): pp. 91-101.

⁸⁹“Agreement between the European Union and Japan for an Economic Partnership”, Chapter 16.4, (2018), <https://www.mofa.go.jp/files/000382106.pdf>

⁹⁰To avoid redundancy outside of proper quotations, all the cited EPA articles come from: “Agreement between the European Union and Japan for an Economic Partnership”, Chapter 16, (2018), <https://www.mofa.go.jp/files/000382106.pdf>

	and practices ILO Conventions ratified by Japan and the Member States of the European Union respectively.”	economic growth)	same conventions on forced labor as the Member States of the Union. Yet, the actual impact of an inclusion of an obligation from signatories to exert "continued and sustained efforts towards ratifying" (art. 16.3.3) fundamental or other ILO conventions is difficult to assess: all in all, the condition is formulated as “an encouragement to trade” ⁹¹
16.6.1	“Each Party recognises the importance and the role of trade and investment in ensuring the conservation and sustainable use of biological diversity in accordance with relevant international agreements to which it is party, notably the Convention on Biological Diversity [...] and the Convention on International Trade in Endangered Species of Wild Fauna and Flora [...]“	SDG 13 (Climate Action), SDG 14 (Life below Water), SDG 15 (Life on Land)	First dispositions to protect and preserve biodiversity and encourage the consideration of biodiversity issues into international trade, as well as assess the impact of human activities on the environment and ecosystems.
16.7.2	“[In that context, the Parties shall] encourage conservation and sustainable management of forests, and trade in timber and timber products harvested in accordance with the laws and regulations of the country of harvest. Contribute to combating illegal logging and related trade including, as appropriate, the trade with third countries.”	SDG 13 (Climate Action), SDG 15 (Life on Land)	Provide specific and well-defined examples of how to enhance and improve the objectives related to land preservation and thus ecosystems preservation.
16.8.2	[In that context, the Parties shall] adopt and implement their respective effective tools for combating illegal, unreported and unregulated (hereinafter referred to as "IUU") fishing, including	SDG 13 (Climate Action), SDG 14 (Life Below	Provide specific and well-defined examples of how to enhance and improve the objectives related to water preservation and thus ecosystems

⁹¹Giovanni Gruni, and Marco Bronckers. "Taking the enforcement of labor standards in the EU's free trade agreements seriously.", *Common Market Law Review*, 56.6, (2019).

	through legal instruments, and, where appropriate, control, monitoring and enforcement, and capacity management measures, recognising that voluntary sharing of information on IUU fishing will enhance the effectiveness of these tools in the fight against IUU fishing, and underlining the crucial role of the members of RFMOs with major fisheries markets to leverage a sustainable use of fisheries resources	Water)	preservation.
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In this case, key references to environmental sustainability objectives are closely linked to international requirements from the Sustainable Development Goals (SDGs), which highlight the will of the Parties to participate locally, regionally, and internationally in the construction of environmental policies through trade. Notably, the EUJEPA represents a real front-runner in tackling objectives related to the protection of biodiversity⁹² - i.e. SDG 14 (life below water) and SDG 15 (life on land). This is highly relevant since biodiversity protection is a new key objective in climate action - as shown in December 2022 through the organization of COP15 for biodiversity in Montreal. In the EUJEPA, both Parties reiterate their commitment to the United Nations Convention on Biological Diversity (1992) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, 1973). Sustainable use of natural resources and ecosystems, the rational management of genetic resources, and the sustainable trade of threatened species were key points of the FTA and clearly directly linked to SDGs objectives: for example, target 14.2 considered the following objective *“by 2020, sustainably manage, and protect marine and coastal ecosystems to avoid significant adverse impacts, including by strengthening their resilience and take action for their restoration, to achieve healthy and productive oceans”*⁹³. The provisions directly mentioned in the FTA, like the explicit mention of the attention to the management of whaling policies and the affirmation from the EU to reaffirm its role in the International Whaling Convention, show a clear example of the alignment with international SDGs standards, inside and outside of the TSD chapter provisions. Thus, the extensive legal

⁹²Alexandros Kailis, “The Integration of Environmental Sustainable Development Goals Into International Trade Agreements: The Case of the EU-Japan Economic Partnership Agreement.”, *International Journal of Environmental Protection and Policy*, 9, no. 5, (2021): pp. 94

⁹³United Nations, “Objectif 14: Conserve and Sustainably Use the Oceans, Seas and Marine Resources for Sustainable Development,” *United Nations Department of Economic and Social Affairs*, (2015), <https://sdgs.un.org/goals/goal14>.

framework of the EUJEPA has a clear impact on trade relations between the EU and Japan by establishing one of the most qualified trade regimes to fight against climate change and an ambitious set of rules for trading partners⁹⁴. Provisions encompass even sectors where environmental policies are traditionally ambitious: agriculture, phytosanitary, or e-commerce for example. By laying down sustainable standards, it offers a rich regulatory framework and highlights the instrumental role of an EU bilateral trade agreement in promoting sustainable development. Those standards are also maintained by other provisions such as 16.2, where it is explicitly mentioned: “*The Parties shall not encourage trade or investment by relaxing or lowering the level of protection provided by their respective environmental or labor laws and regulations*”⁹⁵. ”

⁹⁴Alexandros Kailis, “The Integration of Environmental Sustainable Development Goals Into International Trade Agreements: The Case of the EU-Japan Economic Partnership Agreement.”, *International Journal of Environmental Protection and Policy* 9, n°5, (2021): pp. 98

⁹⁵ “Agreement between the European Union and Japan for an Economic Partnership”, Chapter 16.2, (2018), <https://www.mofa.go.jp/files/000382106.pdf>.

CHAPTER 2: BUILDING THE EUJEP: SUSTAINABILITY NOTIONS AND ITERATIVE CONSTRUCTION OF A FREE TRADE AGREEMENT

Having gained an understanding of the political and economic impacts of the EU-Japan Economic Partnership Agreement (EJPA) and taking a step further by analyzing its TSD provisions and their linkages with SDGs, it is now crucial to examine the processes behind the construction of this agreement as a “new generation” one, and assessing the extent to which this was a conscious and deliberate effort on the part of the European Union and to which it was, or not, a success.

By conducting interviews with key figures from academia, public spheres, and practice in both the EU and Japan, I aimed to gain insight into the challenges faced during the creation of this agreement and how these ultimately led to the drafting of an innovative, “new generation” agreement. This process sheds light on the specific points that were a result of a conscious effort to establish a new trade policy, particularly towards third-party partners in Asia. Additionally, these interviews will serve as a basis to evaluate the impact of the EJPA, 4 years after its implementation in 2019, and determine whether it has lived up to expectations.

1. MAKING PUBLIC POLICY WITH DIFFERENT NOTIONS OF SUSTAINABILITY

In order to grasp the dynamics involved in drafting the agreement, my initial objective is to assess the divergence between Japan's and the EU's perspectives on sustainability.

a) Japan

According to Pr. Chikh M’hamed⁹⁶: *The vision [of sustainability] in Japan is based on a historical and geographical aspect. [The geographical aspect is] very much linked to the effects of natural disasters, [while] the historical dimension is embodied in the value system linked to the notion of community, of group, which makes this notion solid and valuable. When we speak of sustainability in Japan, it is a notion that is embodied and embedded in society*”. On the topic of Japanese national policies, she adds “*[While sustainability] is very present in recent political speeches, this was already the case before in Japan's national policies: when rethinking energy and water independence, while taking into account the*

⁹⁶Interview with Sonia Chikh M’hamed, May 22nd 2023

social dimension, of "climate justice", which remains a very important axis." It is true that in the 1990s, Japan was seen as a possible guiding force in regional cooperation regarding environmental policies notably through the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the United Nations Framework Convention on Climate Change (UNFCCC) as well as by providing massive amounts of environmental aid abroad⁹⁷. In those years, Japan also made substantial progress in reducing CO2 emissions per real GDP, notably by enhancing energy efficiency and conservation⁹⁸.

Yet, the low growth and slow decarbonization of energy sources following the Great East Japan Earthquake seems to have slowed Japan's pace since then. After 2011, the CO2 emission intensity rose drastically, mainly due to the shutdown of nuclear power plants and the resulting increase in thermal power generation. Until 2015, Japan's environmental policies also focused on resolving concrete issues such as urban pollution (i.e. the Air Pollution Control Act of 1968⁹⁹) or natural disaster prevention and mitigation, leading to the adoption of the Basic Act for National Resilience in 2013¹⁰⁰.

Yet, on April 22, 2021, Japan set a new greenhouse gas emission reduction target for fiscal 2030 of a 46% decline from fiscal 2013 levels. Although Japan's goal seems hardly feasible with some strongly believing it to be unrealistic,¹⁰¹ others have praised the drastic increase from the previous target of a 26% reduction as ambitious. It is clear that for now and since 2015, the main objective of Japan relies on decarbonization: notably, Japan furnaces emit four times as much CO2 per ton of steel as more modern electric arc furnaces (EAFs), technology only utilized for the production of 25% of Japanese steel compared to 43% in the EU and 77% in the US. Still nowadays, Japan's Green Growth Strategy for 2050 Carbon Neutral¹⁰², involves various social, industrial, and technological developments to create a

⁹⁷Isao Sakaguchi, Atsushi Ishii, Yasuhiro Sanada, Yasuko Kameyama, Ayako Okubo, Katsuhiko Mori, "Japan's environmental diplomacy and the future of Asia-Pacific environmental cooperation", *International Relations of the Asia-Pacific*, Volume 21, Issue 1, (January, 2021): pp.121–156, <https://doi.org/10.1093/irap/icaa020>

⁹⁸Yoshiyuki Kurachi, et al., "Challenges for Japan's Economy in the Decarbonization Process", *Bank of Japan*, (June 2022), https://www.boj.or.jp/en/research/brp/ron_2022/data/ron220609a.pdf

⁹⁹Air Pollution Control Act, Act No. 97, (June 10, 1968), <https://www.japaneselawtranslation.go.jp/en/laws/view/3561/en#:~:text=Article%20The%20purpose%20of%20factories%20and%20places%20of>

¹⁰⁰Basic Act for National Resilience Contributing to Preventing and Mitigating Disasters for Developing Resilience in the Lives of the Citizenry, Act No. 95, (December 11, 2013), <https://www.japaneselawtranslation.go.jp/en/laws/view/2354/en#:~:text=It%20is%20one%20of%20the,a%20large%2Dscale%20natural%20disaster>.

¹⁰¹Osamu Tsukimori, "Japan's New Emissions Goals a Step Forward but Not Enough to Hit 2050 Target." *The Japan Times*, (May 6, 2021). <https://www.japantimes.co.jp/news/2021/04/23/national/japan-2030-emissions-target/>.

¹⁰²"Green Growth Strategy Through Achieving Carbon Neutrality in 2050", *Cabinet Secretary of Japan*, (2021), https://www.meti.go.jp/english/policy/energy_environment/global_warming/ggs2050/index.html

virtuous cycle between the economy and the environment¹⁰³. To reach this ambitious target, the Japanese government has formulated additional climate and environmental policies and measures, including regulatory reforms, innovations, and digitalization. Japan's green growth strategy is an investment strategy that could be a tool leading international discussions and creating frameworks and standards in the field of climate change. While this strong propensity of Japan to rely on innovative processes to tackle sustainable development is often discussed, I want to add a point made clear by Pr. Chikh M'hamed: *"At first glance, these projects can be seen as very technological and digital transformation projects, but these objectives are very strong historically and geographically embedded, with a stronger social dimension than in other similar countries in Asia (Singapore, China, India). There are many public consultations on projects such as Osaka (World Expo), or Abenomic Society 5.0. The preparations around these projects also concern for example the urban transformation of smart cities, transforming cities while acknowledging historical infrastructure. Thus, geographical and historical issues are intimately linked in the construction of sustainability in Japan"*¹⁰⁴. While the technological side of Japanese public policy is often highlighted, I want to argue that the understanding of sustainability of Japan also relies on other variables, anchored in an historical and geographical specific context and social considerations essential to collaboration on sustainable development.

b) The European Union

The notion of sustainable development, which integrates environmental needs with socio-economic development, was initially incorporated into the EU's legal framework through the Amsterdam Treaty and subsequently expanded in subsequent treaties. The Lisbon Treaty specifically emphasizes the sustainable development of Europe and Earth, reflecting the EU's commitment to global challenges¹⁰⁵.

At the beginning of the 21st century, the EU's objective was to place itself as a leader in the international fora such as the 2002 World Summit on Sustainable Development (or even in the Earth Summit of 1992), not necessarily to persuade present governments to change their stance, but rather to elevate environmental and social issues to the international

¹⁰³Sonia Chikh M'hamed, "The European Green Deal - Perspectives for the EU-Asia Relationship," *Konrad-Adenauer-Stiftung*, (January 24, 2023): pp. 36-41.

¹⁰⁴Interview with Sonia Chikh M'hamed, May 22nd 2023.

¹⁰⁵Maria Kenig-Witkowska, "The Concept of Sustainable Development in the European Union Policy and Law," *Journal of Comparative Urban Law and Policy*, Vol. 1, Issue 1, Article 6, (2017).

level¹⁰⁶. Yet, the integration of a sustainability perspective into trade and development poses a major challenge for the EU. As trade remains a critical area for Brussels, it becomes the battleground where the conflict between market liberalism and sustainable development unfolds, as it becomes difficult to reconcile the EU's long-standing commitment to economic development with its newfound focus on environmental protection¹⁰⁷. Thus, for a long time, this paradox led sustainable development to be considered a “minor norm” in the EU’s strategy¹⁰⁸.

But since 2015, the EU's pursuit of sustainable development is anchored in its primary laws and supported by sustainable strategies, notably through the prioritization of the implementation of concrete measures to achieve substantial advancements in the Sustainable Development Goals (SDGs). Since then, the EU relied on a holistic approach of sustainable development, expanding both from its bilateral and multilateral strategy, through TSD provisions and through bigger-scale projects such as the Green Deal. Its understanding of sustainability led to various and diverse frameworks, from Green Growth to Circular Economy, while still tackling subjects such as decarbonization, just transition and green energy. As a holistic approach, the official narrative surrounding sustainability, as demonstrated by global initiatives such as the Green Deal, draws heavily from the realms of economics, business, and environmental science¹⁰⁹. This discourse not only holds sway within the EU but also contributes to the EU's reputation as a "green leader" and shapes the global understanding of sustainability.

c) *Collaborating together - “middle power” and middle ground of the EU and Japan*

With seemingly different sustainability concepts embedded in their public policies, how do we thus explain that the EU and Japan have reasons to collaborate on sustainable issues? According to Pr. Chikh M’hamed, the understanding of sustainability in Japan and the EU is not that different, although it presents certain challenges: *“In Europe, there is also a historical dimension of sustainability (anchored in historical agreements such as the UN Climate Change Partnership, the Kyoto Protocol, etc.). There are commonalities in the understanding of sustainability and in the consideration of sustainability. The EU is a world*

¹⁰⁶Ian Manners, "Normative power Europe: a contradiction in terms?," *JCMS: Journal of common market studies*, 40.2, (2002): pp. 248.

¹⁰⁷Anna Triandafyllidou, and Anastasios Fotiou. "Sustainability and modernity in the European Union: A frame theory approach to policy-making," *Sociological research online*, 3.1, (1998): pp.60-75.

¹⁰⁸Ian Manners, "Normative power Europe: a contradiction in terms?," *JCMS: Journal of common market studies*, 40.2, (2002): pp.292.

¹⁰⁹Eva Eckert, and Oleksandra Kovalevska. "Sustainability in the European Union: Analyzing the discourse of the European green deal," *Journal of Risk and Financial Management*, 14.2, (2021): pp.80.

leader on this issue: the biggest difference with Japan is the community aspect. [...] The strong common point is that both authors intervene beyond their territory: there are initiatives made by Japan in Africa, in Asia, and it is the same principle for the European Union. This can also be seen in the possibilities of partnerships between the European Green Deal projects and the announcement towards the low-carbon society 2050 by Japan, which are two very well defined initiatives by the public authorities. There are many possibilities of cooperation raised by the experts:

- energy, independence from fossil fuels, hydrogen
- decarbonization
- innovation
- urban planning, rethinking cities, rethinking mobility¹¹⁰”

Thus, taking into account those inputs, we can paint the following table on the nature of sustainability between Japan and the EU in 2023, taking into account a few variables that are commonly used to assess the degree of sustainable development action a country undertakes:

	The EU	Japan
<i>Objectives and key concepts</i>	Decarbonization, Circular Economy, Green Growth, Biodiversity Strategy for 2030	Decarbonization, Green Growth, Society 5.0
<i>Main tool of external sustainable action</i>	Green Deal (2019), EU Global Gateway (2021)	ODA policy (1980s and onward)
<i>Sustainable finance taxonomy</i>	Taxonomy regulation since 2020 ¹¹¹	no direct regulation applied ¹¹²
<i>Sustainability reporting regulation</i>	CSDR	no direct regulation applied, GX League transition incentives ¹¹³
<i>Ecolabels in use</i>	around 230 (including the EU Ecolabel)	around 50

¹¹⁰Interview with Sonia Chikh M'hamed, May 22nd 2023

¹¹¹“EU Taxonomy for Sustainable Activities,” *European Commission*, (2020), https://finance.ec.europa.eu/sustainable-finance/tools-and-standards/eu-taxonomy-sustainable-activities_en.

¹¹²Daniel Wiseman, “Does Japan Need a Sustainable Finance Taxonomy: Results from an Investor Survey and Stakeholder Interviews,” *PRI*, (March 8, 2023), <https://www.unpri.org/japan-policy/does-japan-need-a-sustainable-finance-taxonomy-results-from-an-investor-survey-and-stakeholder-interviews/11243.article>.

¹¹³Ilayda Tenim, “Is your company ready for METI’s GX League transition requirements?”, Codo Advisory (February 2023), <https://codo.jp/en/?p=7056>

<i>Sustainability reporting frameworks</i>	Task Force on Climate and Financial Disclosure (TCFD), Global Reporting Initiative (GRI), Taskforce on Nature-related Financial Disclosures	Task Force on Climate and Financial Disclosure (TCFD), Principles for Responsible Investment (PRI), Global Reporting Initiative (GRI) ¹¹⁴
<i>Principal networks</i>	European Sustainable Development Network (ESDN), European Circular Economy Stakeholder Platform	Japan Climate Initiative, 30by30 Alliance for Biodiversity

So what are the political incentives to collaborate for Japan and the EU? I argue that building on the theory previously mentioned that both countries are (declining) “middle power”, they both have a strong incentive to collaborate on environmental issues in order to stabilize and maintain their political stance in international fora.

On one hand, Japan had the incentive to engage actively in international institution-building or collaborative efforts in nonmilitary issues to pursue its interests, with the consensus that the nation should take international leadership in global environmental issues¹¹⁵ to gain leadership in secondary topics such as social and environmental causes (compared to security or military competition). It seemed that Japan would evolve from a “reactive” to a “proactive” state when it comes to fighting climate change, and take action as a potential regional and international leader¹¹⁶. Nonetheless, its weakened initiatives since the 2000s and its growing negative international reputation due to its passive position in the Paris Agreement led it to fall short as a suitable candidate. Two reasons can be identified as to why Japan cannot play a leading role in pushing Asia-Pacific environmental cooperation forward despite its active environmental initiatives in the 1990s¹¹⁷. First of all, the fact that the government is constrained by “regulatory capture”: the industrial actors establish the regulation of the policymakers and heavily influence the implementation of policies that suit their agenda rather than the public interest. Second, the difficult implementation of social

¹¹⁴Climate Disclosure Standards Board, “Corporate and sustainability reporting trends in Japan”, (2018) https://www.cdsb.net/sites/default/files/wbcsd_japancasestudy_online_final_2019.pdf

¹¹⁵Yasuko Kawashima, “Japan’s decision-making about climate change problems: Comparative study of decisions in 1990 and in 1997.”, *Environmental Economics and Policy Studies*, 3, (2000): pp.29-57.

¹¹⁶Isao Sakaguchi, Atsushi Ishii, Yasuhiro Sanada, Yasuko Kameyama, Ayako Okubo, Katsuhiko Mori, “Japan’s environmental diplomacy and the future of Asia-Pacific environmental cooperation”, *International Relations of the Asia-Pacific*, Volume 21, Issue 1, (2021): pp.124.

¹¹⁷Isao Sakaguchi, Atsushi Ishii, Yasuhiro Sanada, Yasuko Kameyama, Ayako Okubo, Katsuhiko Mori, “Japan’s environmental diplomacy and the future of Asia-Pacific environmental cooperation”, *International Relations of the Asia-Pacific*, Volume 21, Issue 1, (2021): pp.126–150.

learning: because of this, the internationalization of norms remains difficult, with few norm entrepreneurs or epistemic communities being able to change the status quo. The general lack of progressive engagement in environmental cooperation implies that Japan generally does not engage with “double-loop learning” because of the lack of consensual knowledge and shared understanding in relevant epistemic communities and the lack of engagement of Japanese experts within them, which ends with minor technical modification of existing policies. In this context, although with difficulties, Japan still began to engage in “middle power diplomacy”, actively seeking a more powerful international reputation. The Government of Japan realized that its country’s advantage was in environmental issues, given its experience in tackling pollution and the broad public support for international environmental cooperation

On the other hand, the EU also adopted a similar strategy: over the past two decades, it has emerged as a global leader in international environmental politics, taking on a prominent role in promoting MEAs and pushing for greener trade policies at institutions like the World Trade Organization (WTO), while the European Economic Community (EEC), the forerunner of the EU, had little involvement in international environmental policy during the 1970 and 1980¹¹⁸. In that case, the explanation for the EU’s leadership in international environmental politics can be traced back to a “regulatory politics” model¹¹⁹, adopted because of this consciousness of being a middle power, even more so when the EU was often considered as well as of declining influence and a weak political power structure. Given the high standards and regulations imposed on European firms, the EU has a competitive interest in supporting holistic agreements that pressure other countries to adopt similar regulations, i.e. the current model of the Green Deal.

Although the EU provides today an extensive framework of regulations, tools and goals for sustainable development, challenging the notion that European environmental leadership is based solely on normative principles is essential. As Japan’s, there are still conflicts between different EU objectives, such as economic competitiveness and development, and environmental sustainability. As mentioned in the case of Japan, the influence of domestic interest groups is also crucial in promoting regulatory export or internationalization. This perspective also sheds light on why there are variations in the EU and in Japan’s foreign environmental policy across different areas, with leadership on climate

¹¹⁸Daniel Kelemen, “Globalizing European Union Environmental Policy.”, *Journal of European Public Policy*, 17, n° 3, (2010): pp.1-28

¹¹⁹*ibid*, pp.4

change contrasting with a slower pace of reform in agricultural and fisheries policies for example¹²⁰.

In both cases, we have asserted that Japan and the EU don't have a natural inclination towards sustainable development policies, or towards the role of an environmental and social leader. Before the EUJEPa, through different forums such as the European Community-Japan Joint Declaration in The Hague in 1991 in or the multifaceted dialogue of the Asia-Europe Meeting (ASEM) in 1996, the EU and Japan had economic incentives to collaborate, but they still only did so in functional and normative assumptions about their relative significance and about each other¹²¹ without creating meaningful or truly strategic partnerships. Their relationship was not based on a particular type of "special" relationship. Thus, precise politico-economic context and both of their respective policies when it comes to social and environmental issues explain the clear incentive that both countries have in developing their sustainable frameworks and collaborating together. In a way, this is a method both used by Tokyo and Brussels to go beyond traditional great-power competition, already contested in a variety of fields and at multiple levels in the current political context, but to revolve around the question of which system is better suited to manage the "great transition", in a world where policy fields are becoming more and more intertwined¹²². The EU and Japan's will to stop being seen as "declining powers" in the international order fed their common economic interests in a context of rising "mega FTAs" and disillusionment over the WTO. Before the signing of the EUJEPa, this thus often led to critics around the fact that although on good terms, Japan and the EU partnership has not been matched by sufficient resources and energy to make sure that "the political reality of bilateral cooperation kept up with the political rhetoric promising such cooperation"¹²³.

2. SUSTAINABILITY ASSESSMENT OF THE EUJEPa

Results from the quantitative approach to the EUJEPa are also worth mentioning here to understand how the EUJEPa was built, and to assess its consequences on sustainable development. The Sustainability impact assessment (SIA) was a major part in ensuring a safe and developing environment for the establishment of the treaty while still quantitatively

¹²⁰Robert Falkner, "The political economy of 'normative power' Europe: EU environmental leadership in international biotechnology regulation.", *Journal of European public policy*, 14.4, (2007): pp.507-526.

¹²¹Julie Gilson, "The strategic partnership agreement between the EU and Japan: the pitfalls of path dependency?.", *Journal of European Integration*, 38.7, (2016): pp.791-806.

¹²²Sonia Chikh M'hamed, "The European Green Deal - Perspectives for the EU-Asia Relationship." *Konrad-Adenauer-Stiftung*, (January 24, 2023): pp. 36-41.

¹²³Axel Berkofsky, "EU-Japan relations from 2001 to today: achievements, failures and prospects.", *Japan Forum*, Vol. 24, n° 3, (Taylor & Francis Group, 2012), pp.286.

assessing the environmental and social impacts of the EUJEPA.

a) Environmental impact of the trade agreement

The environmental analysis of the EU-Japan FTA suggests several positive outcomes. Firstly, there is no adverse effect on greenhouse gas emissions and CO₂ emissions resulting from the agreement: the SIA suggests an increase in emissions from the EU of around 0.28% and a decrease in emissions from Japan's manufacturing and services sector of about 0.14%¹²⁴.

	<i>EU 27</i>	<i>Japan</i>
<i>Scale effect</i>	0.497%	0.295%
<i>Composition effect</i>	-0.210%	-0.437%
<i>Total effect</i>	0.283%	-0.142%

Source: SIA, 2016

Yet, the slight increase in GHG emissions is expected to be counterbalanced by the greater exchange of environmentally friendly technologies and new innovations: trade liberalization is likely to foster the advancement of green technology between the EU and Japan, thereby assisting in mitigating potential rises in waste generation and resource utilization¹²⁵. Even in the case of sensitive sectors directly linked to biodiversity, such as forestry or fisheries, the FTA brings about positive environmental benefits by improving resource-use efficiency. In the case of forestry, sourcing timber within the EU does not pose negative impacts, although the importation of high-risk timber from third countries remains a concern. Regarding fisheries, the FTA is unlikely to significantly impact trade since both economies heavily rely on imports and have limited surpluses for export¹²⁶. It is anticipated that the EU-Japan FTA will stimulate the adoption of environmental management practices by Japanese firms involved in exporting to the EU market. The SIA specifically observes that firms engaged in export activities are more susceptible to the impact of international competition and the pervasive forces of globalization, thereby making them more open to embracing innovative production technologies and goods with environmental benefits¹²⁷.

¹²⁴Timothée Sautter, "Trade Sustainability Impact Assessment of the Free Trade Agreement between the European Union and Japan," *CIRCABC*, (2016): pp.224.

¹²⁵*ibid*, pp.250

¹²⁶*ibid*, pp.228-230.

¹²⁷Timothée Sautter, "Trade Sustainability Impact Assessment of the Free Trade Agreement between the European Union and Japan," *CIRCABC*, (2016): pp.231.

b) Social impact of the trade agreement

On social issues, the SIA also refers directly to points afterward mentioned in interviews: i.e. that the FTA promotes greater compliance, implementation, and monitoring of ILO conventions. In interviews and in literature research, it appears clear that the EUJEPA has a direct effect in Japan's ratification of key conventions related to non-discrimination, forced labor, and decent work for domestic workers¹²⁸. Nonetheless, the SIA also recommends, while highlighting the importance of Domestic Advisory Group (DAG) and Joint Dialogue for Civil Society fora, the enhanced engagement of Civil Society representatives, including employer and trade union bodies, in the monitoring and implementation of labor provisions. The analysis acknowledges that the EU-Japan FTA may potentially have a detrimental impact on the gender gap in employment in Japan, particularly in sectors such as processed food, retail, wholesale, and services, where the risk of unemployment for women due to increased liberalization is high. In light of this concern, the SIA recommends the utilization of additional ILO instruments that address gender imbalance, such as C111 (Discrimination in Employment), C100 (Equal Remuneration), or C183 (Maternity Protection). These instruments can help mitigate the potential negative effects and promote gender equality within the context of the EUJEPA.

¹²⁸“European Commission Services’ Position Paper on the Trade Sustainability Impact Assessment in Support of Negotiations of a Free Trade Agreement between the European Union and Japan,” *European Commission*, (January 2017): pp. 10, https://trade.ec.europa.eu/doclib/docs/2021/july/tradoc_159744.pdf.

3. SOCIAL LEARNING AND ITERATIVE PROCESS OF THE EUJEPa

Further than a quantitative approach, how did the negotiation process between the EU and Japan lead to the formation of a “new generation” FTA? Was this process as explicitly innovative and iterative as the communication around it claims it?

a) Improving discussion regarding the provisions related to the Trade and Sustainable Development chapter

Findings state that the EUJEPa agreement appears to align with the existing trend of trade policies that incorporate sustainable principles. Rather than introducing entirely new concepts, the EUJEPa largely serves as a means to reaffirm and reinforce the commitments made by both the EU and Japan at the multilateral level, and on previous bilateral agreements. This is evident in the agreement's inclusion of multiple Multilateral Environmental Agreements (MEAs) to establish a comprehensive sustainability framework. According to Gabriele Lo Monaco, First Secretary of the European External Action's (European Delegation to Japan) Trade Section at the time of the redaction of the agreement: *“The anchor point of and the point of strength of our negotiations with bilateral partners is to say “dear trading partners, we are simply proposing to confirm what has already been agreed at the multilateral level”¹²⁹. This point has also been reinforced in a second interview with another EU official: “The goal is that international agreements are added to EPA forums and platforms to speak and discuss them, and raise the general understanding of their implications, and their implementation. In that sense, FTAs are different to multilateral environmental agreements (MEA) because they ensure this process of raising concerns around specific topics. FTA's are more structured than most MEAs. In most MEAs, you have looser targets, and little or no review of implementation mechanisms. The FTAs give opportunities to raise environmental concerns through EPA forums / platforms / committees (TSD committee) of discussions between experts, organizations and civil society.¹³⁰”*

The ex-First Secretary of the Trade Department of the EEAS to Japan insists on the lack of imposition of new criteria or legally binding commitments of the agreement, while emphasizing: *“[In case of conflict around TSD issues], the panel works on a principle of political pressure, [...] there is a “naming and shaming” process based on pointing the finger*

¹²⁹Interview with Gabriele Lo Monaco, April 3rd 2023

¹³⁰Interview with a EU official, May 23rd 2023

on topical issues.¹³¹” This is also why the resolution process is made by an independent panel. But mostly, the interviewee highlighted the fact that most political objectives, like the process of encouraging the ratification of the ILO Convention C105 (forced labor) by Japan, were being met without the need of a dispute settlement body allocated only to TSD chapters¹³². The signature of C105 is directly tied to sustainable development, as the ratification of the convention serves as one of the criteria that overseas investors take into account when determining which companies to invest in and proved itself to be essential amid a rising trend of environmental, social, and governance (ESG) investment in Japan¹³³.

Furthermore, the EU was a driving force behind the agreement: this is essential to understand what was the dynamic of the redaction of the agreement. *“From the point of view of the European Union we were in a long-term approach, we continued to negotiate on the line that we had already announced some years ago with Korea, Canada, the countries of the Andean and of the Central American regions. These agreements were part of this new generation of agreements with this component of sustainability: the agreement of Japan ended the negotiation in 2016-2017, in a phase of immediate post-Paris and therefore we have redoubled our commitment [to sustainable trade]¹³⁴.”* This historical context was also highlighted in my interview with another EU official: *“For Japan, the sustainability angle of the EUJEPa is also explained by the fact that the negotiations were finalized just after the conclusion of the Paris Agreement. What happened in Paris was so important that we needed to reflect it in the TSD chapter of our bilateral agreement. We had taken into great consideration the letter of the Paris Agreement (language, the national emissions reduction plans that were laid out in the Paris Agreement). This approach is also embedded in setting targets and objectives, but leaving the choice of path by the countries. We wanted to implement stronger language from the European point of view that would also be accepted by Japan¹³⁵.”*

A similar dynamic and first impression was given by Gabriele Lo Monaco: *“Japan was the one that had to face the “culture shock” of confronting sustainability issues in the FTA¹³⁶.”* Although Tokyo was ready to face the high exigencies of the European Union when it comes to sustainable development, also having in mind the implications of the EU-South

¹³¹Interview with Gabriele Lo Monaco, April 3rd 2023

¹³²Interview with Gabriele Lo Monaco, April 3rd 2023

¹³³Kyosuke Yamamoto. “Japan Set to Soon Ratify Convention against Forced Labor.”, *The Asahi Shimbun*, (June 4, 2021). <https://www.asahi.com/ajw/articles/14365684>.

¹³⁴Interview with Gabriele Lo Monaco, April 3rd 2023

¹³⁵Interview with a EU official, May 23rd 2023

¹³⁶Interview with Gabriele Lo Monaco, April 3rd 2023

Korea agreement, Japan expressed a certain reluctance to commit to sustainable development standards. A term that was mentioned multiple times was this idea that Japan had a strategy of “damage control and minimization”¹³⁷. This observation aligns well with Hidetaka Yoshimatsu's characterization of Japanese trade policy as being partially characterized by "defensive mercantilism" used in comparing EU-South Korea and EU-Japan extension of trade relations: for Japan, protecting domestic industries and markets from foreign intervention is essential, even when it comes to universal environmental and social standards¹³⁸.

Yet, this is not to ignore the fact that the EPA was Japan's initial aspirations, while the EU first displayed reluctance primarily due to its significant trade deficits with Japan: approximately 70% of the EU's exports to Japan were not subject to tariffs, which further influenced their cautious approach¹³⁹. Japan also participated in the building and redaction of the TSD chapter and pushed towards greater environmental objectives, favoring the iterative process: *"Japan used to favor multilateral relations: G7, G20, WTO, but if we look at the TTP (now called CPTTP), there is also an environment chapter and a labor chapter"*¹⁴⁰. Before the Japanese Diet and European Parliament ratified the EPA, Japan established an interministerial framework to ensure that sustainable development commitments, including ratification of the ILO core conventions, were implemented effectively within the agreement. This move demonstrates Japan's commitment to sustainable development aligning with international trade goals¹⁴¹.

Apart from the TSD provisions, which may seem non-legally binding and have limited consequences, what other aspects of the EUJEPA bring innovation to the agreement? During our interview, G. Lo Monaco insists on the novelty brought by article 16.15 and article 16.6.

Chapter	Quote
16.5	1. Each Party shall convene meetings of its own new or existing

¹³⁷Interview with Gabriele Lo Monaco, April 3rd 2023

¹³⁸Hidetaka Yoshimatsu, "The evolution, politics, and prospect of Japanese trade policy.", *Routledge Handbook of Japanese Foreign Policy*, (Routledge, 2018): pp. 274.

¹³⁹*ibid*, pp.270.

¹⁴⁰Interview with Gabriele Lo Monaco, April 3rd 2023

¹⁴¹Pedro Silva Pereira, "The EU–Japan Economic Partnership Agreement from the European Parliament's Perspective: A Landmark Agreement beyond Trade.", *Journal of Inter-Regional Studies: Regional and Global Perspectives*, 2, (2019): pp.19.

	<p>domestic advisory group or groups on economic, social and environmental issues related to this Chapter and consult with the group or groups in accordance with its laws, regulations and practices.</p> <p>2. Each Party is responsible for ensuring a balanced representation of independent economic, social and environmental stakeholders, including employers' and workers' organizations and environmental groups, in the advisory group or groups.</p> <p>3. The advisory group or groups of each Party may meet on its or their own initiative and express its or their opinions on the implementation of this Chapter independently of the Party and submit those opinions to that Party.</p>
16.6	<p>The Parties shall convene the Joint Dialogue with civil society organizations situated in their territories (hereinafter referred to in this Chapter as 'Joint Dialogue'), including members of their domestic advisory groups referred to in Article 16.15, to conduct a dialogue on this Chapter.</p> <p>2. The Parties shall promote in the Joint Dialogue a balanced representation of relevant stakeholders, including independent organizations which are representative of economic, environmental and social interests as well as other relevant organizations as appropriate.</p> <p>3. The Joint Dialogue shall be convened no later than one year after the date of entry into force of this Agreement. Thereafter, the Joint Dialogue shall be convened regularly, unless the Parties agree otherwise. The Parties shall agree on the operation of the Joint Dialogue before the first meeting of the Joint Dialogue. Participation in the Joint Dialogue may take place by any appropriate means of communication as agreed by the Parties.</p> <p>4. The Parties will provide the Joint Dialogue with information on the implementation of this Chapter. The views and opinions of the Joint Dialogue may be submitted to the Committee and may be made publicly available.</p>

“An element of novelty, which was probably outside the tradition of Japanese trade agreements, [...] was the creation of the civil society consultation mechanism. This was an element of novelty because proposing a mechanism of consultation with the social parties (employers and workers) allowed them to have different representatives and interests. By proposing this mechanism of monitoring and accompanying the implementation of the trade agreement with the social parties - which is the essence of the model of consultation and transparency of the formulation of European policies and its evaluation, the cycle of European policy is based on a consultation with the public - it has allowed a real exchange for the consideration of remarks brought by the social actors.[...] Through the agreement, Japan is obliged to open a public discussion and a vote by the social parties of what it does with its commitments, its domestic policy in terms of climate and labor¹⁴².” Indeed, the EUJEPa represents a new opportunity to develop a dialogic framework on topical issues

¹⁴²Interview with Gabriele Lo Monaco, April 3rd 2023

between the EU and Japan. Usually, we distinguish three institutional groups established by the EUJEPa:

- The Committee on Trade and Sustainable Development¹⁴³: the committee responsible for overseeing the implementation of the sustainable provisions of the agreement. This committee serves as a platform for dialogue and cooperation between the parties involved, typically the signatory countries or regions, and it aims to ensure that trade and sustainable development objectives are effectively addressed and promoted.
- The Japanese/EU domestic advisory group (DAGs): The DAGs' primary mission is to advise and provide feedback to governments on the implementation and impact of the EPA, with a focus on sustainability issues such as labor rights, environmental protection, and sustainable development. The total membership of the committee consists of 12 individuals, specifically 3 members from the European Economic and Social Committee (EESC) and 9 members representing various other European civil society organizations¹⁴⁴. DAGs are made up of civil society representatives, such as NGOs, trade unions, and business groups, and they serve as a formal route for their participation. DAGs have the right to meet independently and express their opinions, which they can submit to the parties. EU DAG meetings may especially be accessible to EU civil society organizations that are not official members or permanent observers of the EU DAG. This is especially relevant for specific discussions that could benefit from their additional expertise¹⁴⁵. Given the absence of a Japanese institutional counterpart to the EESC in charge of monitoring those kind of forum, the EESC also collaborates outside of the DAG with various stakeholders in Japan, including social partners, socio-economic organizations, environmental and social groups, youth organizations, Japanese universities, academic institutes, and other relevant entities¹⁴⁶. This is led conjointly to the DAG's work, and to support the implication of civil society and social parties in the EUJEPa at the professional level¹⁴⁷.

¹⁴³“Annotated agenda: 4th meeting of the committee on trade and sustainable development”, *Committee on Trade and Sustainable Development of the EUJEPa*, (March 2023)

¹⁴⁴“Rules of procedure of the EU Domestic Advisory Group created pursuant to the Trade and Sustainable Development chapter of the EU-Japan Economic Partnership Agreement (EPA)”, *EU Domestic Advisory Group*, Point 2.1 (2020), https://www.eesc.europa.eu/sites/default/files/files/final_rules_of_procedure_-_eu_dag_for_japan.pdf

¹⁴⁵*ibid*, Point 4.2.

¹⁴⁶“The EU Japan Follow-up Committee”, *European Economic and Social Committee*, (updated in 2023), <https://www.eesc.europa.eu/en/sections-other-bodies/other/eu-japan-follow-committee>

¹⁴⁷“Hearing on the Role of Civil Society in the EU-Japan FTA: European Stakeholders' Perspectives” (2014), *European Economic and Social Committee* (2014), <https://www.eu-japan.eu/sites/eu-japan.eu/files/INVITATION%20-%20EESC%20Hearing%20on%20Role%20Civil%20Society%20in%20the%20EU-Japan%20FTA%20-%2015%20Jan%202014.pdf>

- The Joint Dialogue with civil society¹⁴⁸: The Joint Dialogue main objective is to ensure that civil society's perspectives and concerns are acknowledged and factored in when developing EU-Japan policies and initiatives. The Joint Dialogue differs from the DAGs, as it is not solely concentrated on the EPA and does not provide official advice or feedback to governments. Instead, it serves as a means of interaction between civil society representatives and policymakers from both regions. Representatives from labor and business organizations, environmental groups, and other civil society organizations from the EU and Japan are invited to join and discuss issues regarding the implementation of the Trade and Sustainable Development provisions of the EU-Japan Economic Partnership Agreement with officials from the European Commission and the Government of Japan.

In this context, Gabriele Lo Monaco argues: *“Through the agreement, Japan and the EU commit to open a public discussion with the social parties of what they do with the provisions of the agreement in terms of domestic policy on climate and labor, in a sort of “socialized process” of policy evaluation and monitoring.*¹⁴⁹” In the case of Japan, this is especially relevant as the political landscape surrounding FTAs became increasingly complex, with various interest groups advocating for their specific trade policy preferences and striving to ensure that these preferences were incorporated into the final policy outcomes. In this situation, business group such as the Keidanren, for example, encouraged an early start of negotiations on an FTA with the EU, notably through a series of position papers from 2009 which called on the early start of negotiations on Japan–EU economic integration and through the organization of business-level meetings with their European counterparts to get information about the exact demands for a possible agreement on economic integration. Yet, other social pressure groups such as Japan Agriculture (JA) have diligently engaged in lobbying efforts and public campaigns aimed at opposing the liberalization of the agricultural market¹⁵⁰. However, initially, the Japanese side appears to be less comfortable with this discussion process. *“Japan finds itself socializing in an Agora in which it is obliged to discuss with Japanese and European civil society in the Joint Dialogue for Civil Society, a quadripartite dialogue, to talk about these domestic policies, which is not in the tradition of*

¹⁴⁸“Summary of the 3rd Joint Dialogue with Civil Society under Chapter 16 (Trade and Sustainable Development) of the Agreement between the European Union and Japan for an Economic Partnership”, *Joint Dialogue for Civil Society of the EUJEP*A, (January, 2022).

¹⁴⁹Interview with Gabriele Lo Monaco, April 3rd 2023

¹⁵⁰Hidetaka Yoshimatsu, "The evolution, politics, and prospect of Japanese trade policy.", *Routledge Handbook of Japanese Foreign Policy*, (Routledge, 2018): pp.271.

Japanese policy-making. [...] At the beginning, the Japanese were afraid of this public ballot, at the idea that this ballot could be done in a joint way with both sides of the actors, but they realized that there was a lot of added value in this process, that there was nothing to fear and that there was on the contrary an element of interest¹⁵¹.” Similar remarks have been made on the topic of the Domestic Advisory Group: “Domestic Advisory Group deal with and monitor European policies just as much as Japanese policies. We are doing this in a conscious way, we are used to consulting with the social parties, and it is not bad to extend the consultation with the Japanese partners. The government is not necessarily available in the same way as we are in the bilateral. [...] If we involve civil society, the exchanges are much deeper, the ballot is enriched by the perspective of social actors¹⁵².”

This significance of dialogue among civil society, businesses and public policy makers can also be tracked back all the way to the monitoring group of the International Trade Committee for Japan, established by the European Parliament to oversee and analyze the implementation of the agreement in the beginning of the discussions. Throughout the negotiation process, the group held 28 meetings, where regular discussions were conducted with the European Commission, European and Japanese business associations, as well as representatives of trade unions and civil society. The European Parliament at the time requested three major points: firstly, greater transparency and involvement of civil society in the negotiation process. Secondly, the preservation of EU standards, especially concerning the environment, labor, food safety, consumer protection, and respect for the right to regulate. Finally, the Parliament insisted that the agreement's outcome should be beneficial to both citizens and businesses¹⁵³. The content of the EPA, its relevance, and the European Parliament's priorities, particularly regarding sustainable development, were all critical aspects of the discussions leading up to the European Parliament's vote of the agreement, highlighting that the main innovation of the agreement was in the iterative nature in itself of the discussion between Tokyo and Brussels, and inside local governments as well.

Moreover, the emphasis on the active participation of civil society in both the drafting and implementation of the document is also highlighted in the dispute settlement procedures

¹⁵¹Interview with Gabriele Lo Monaco, April 3rd 2023

¹⁵²Interview with Gabriele Lo Monaco, April 3rd 2023

¹⁵³Pedro Silva Pereira, “The EU–Japan Economic Partnership Agreement from the European Parliament’s Perspective: A Landmark Agreement beyond Trade.”, *Journal of Inter-Regional Studies: Regional and Global Perspectives*, 2, (2019): pp.19.

regarding the sustainability chapters, that do not require a trade impact to be present before a dispute can be raised¹⁵⁴¹⁵⁵. This is particularly significant as it ensures that the agreement is relevant and applicable to both European and Japanese societies, reiterating once again the strong participation of civil society in making sure sustainable provisions are implemented on the ground. That finding has been confirmed and assessed by the quantitative analysis that is the SIA. While a range of environmental and social organizations representing civil society interests in the EU were approached for the comprehensive environmental analysis, the feedback received from them was minimal, suggesting that the EU-Japan FTA negotiations do not emerge as a significant concern for environmental and social stakeholders¹⁵⁶.

b) Strengthening dialogue within the EPA as a comprehensive framework.

Outside of the TSD chapter, the EUJEPa explicit calls for the creation of the following bodies¹⁵⁷:

- The Joint Committee: This high-level body oversees the implementation of all provisions of the EUJEPa, resolves disputes, establishes or dissolves specialized committees and working groups, makes recommendations, and provides public information.
- Ten specialized committees: These committees cover various areas such as trade in goods, rules of origin, customs-related matters, sanitary and phytosanitary (SPS) measures, technical barriers to trade measures, trade in services, investment liberalization, e-commerce, government procurement, intellectual property, trade and sustainable development, regulatory cooperation, and cooperation in agriculture.
- Two working groups on Wine and Motor Vehicles operating under the Committee on Trade in Goods. Additional ad-hoc working groups may be established under other committees, including SPS, TBT, regulatory cooperation, and the Joint Committee.
- Contact points to facilitate communication on specific chapters. Some, such as the SME Contact Points, have a broader mandate to consider the needs of small and medium-sized enterprises during implementation and policy discussions.

¹⁵⁴“Agreement between the European Union and Japan for an Economic Partnership”, Chapter 16.7, (2018), <https://www.mofa.go.jp/files/000382106.pdf>

¹⁵⁵Giovanni Gruni, and Marco Bronckers. "Taking the enforcement of labour standards in the EU's free trade agreements seriously.", *Common Market Law Review*, 56.6, (2019).

¹⁵⁶“European Commission Services’ Position Paper on the Trade Sustainability Impact Assessment in Support of Negotiations of a Free Trade Agreement between the European Union and Japan,” *European Commission*, (January 2017), https://trade.ec.europa.eu/doclib/docs/2021/july/tradoc_159744.pdf.

¹⁵⁷Sonali Chowdhry, André Sapir, and Alessio Terzi, “The EU–Japan Economic Partnership Agreement”, *Bruegel Special Report*, (September 2018).

All committees and working groups are required to hold annual meetings as stipulated by the EUJEPa. As sustainable development is interlinked with different bodies, it also irrigates all parts of yearly negotiations (i.e. in agriculture, in fisheries, in energy, etc.). Hence, since its implementation in 2019, the EPA has served as a forum for discussion on numerous matters between the EU and Japan, notably closely linked to sustainable development. On the topic of dialogue around sustainability, impressions for European Parliament officials are similar as the one from the European Commission as well, although more optimistic. Notably, Pedro Silvia Pereira, rapporteur of the European Parliament to Japan at the time of the negotiation process, declared in our interview: *“I believe Japan was very serious about concluding this agreement. Here in the Parliament, we need to find political compromises as we have the entire spectrum of European political parties, from the extreme left to the extreme right, which are more or less supportive or against FTAs. So finding common ground is very important to achieve a significant majority in the European Parliament. In this case, the Socialists and Democrats (S&D) Group was decisive and we were very demanding when it came to sustainable development. Japan understood that it was very important to meet European concerns, notably in terms of consumer protection, environment and labor rights. In the end, Japan was able to meet our expectations. This cooperation led to a balanced and ambitious agreement that represented a step forward on sustainable development¹⁵⁸.”* In this extract, we can see that discussions around sustainable trade were not only present on issues linked to the TSD chapter, but irrigate other parts of the agreement, enlarged to subjects such as consumer consumption, fisheries, energy or forestries.

In conclusion, results from the EUJEPa when it comes to sustainable development are thus contrasted yet quite positive. The Sustainability Impact Assessment (SIA) of the EUJEPa suggests quantitatively also positive outcomes, with no adverse effect on greenhouse gas emissions. The FTA is expected to have both quantitative and qualitative impacts: through promoting innovation, they allow for better exchange of environmentally friendly technologies, improvement of resource-use efficiency, and stimulation of environmental management practices by Japanese firms exporting to the EU market. Some weaknesses were identified at time of the redaction of the agreement (gender gap, the protection of forestry and

¹⁵⁸Interview with Pedro Silvia Pereira, May 25th 2023

fisheries industries, etc.), but the overall assessment, quantitatively and qualitatively, seems to illustrate the necessity and overall good performance of sustainable development provisions in the TSD chapter and throughout the agreement as a whole.

While the agreement does not impose new criteria or legally binding commitments, it includes a conflict mechanism built around a process of "naming and shaming," which has led to tangible outcomes such as the ratification of the ILO Convention C105 by Japan. This process has been particularly important as the EUJEPA introduced innovative elements, such as the mechanisms of consultation with civil society through domestic advisory groups and the Joint Dialogue, that highlighted the growing role of social and environmental provisions. These platforms allow for public discussions, input, and scrutiny of the agreement's implications, fostering a robust exchange between social parties, employers, trade unions, and environmental groups. The agreement's iterative nature and involvement of various interest groups reflect the complexity of trade policy preferences and ensure that a range of perspectives is considered. The iterative process does not stop at the TSD chapter, but irrigates all discussion bodies involved in the EUJEPA, in tariff barriers and non-tariffs barriers committees.

CHAPTER 3: WHAT'S NEXT? SHAPING SUSTAINABLE EU-JAPAN RELATIONS

Beyond evaluating the innovative framework of the EUJEPA, the agreement has fostered further collaboration between the two countries. In this context, EU-Japan trade relations are growing stronger. Recent political events, such as the pandemic and the invasion of Ukraine by Russia, have highlighted the need for the two economies to join forces on pressing issues. The scope of EU-Japan cooperation covers a wide range of topics closely linked to sustainable development. To delve deeper into the context of EU-Japan relations post-EUJEPA, I will examine three areas of collaboration and analyze two sectors of public policy-making, allowing us to better understand the dynamics at play in implementing the treaty. I will then conclude my argument by formulating public-policy recommendations to strengthen EU-Japan cooperation on sustainable development.

1. SHAPING SUSTAINABLE TRADE RELATIONS OUTSIDE OF THE EPA

Joint projects related to the Sustainable Development Goals (SDGs) have been a key area of collaboration between the EU and Japan, with both parties engaging in a variety of topics to exchange views on best practices. Since the implementation of the EUJEPA in 2019, there are three topics that stand out as particularly significant in showcasing this: environmental cooperation through the Green Alliance, digital cooperation through the Digital Partnership, and global connectivity through the Sustainable Connectivity and Quality Infrastructure Partnership¹⁵⁹.

a) Environmental cooperation

In May 2021, Japan and the EU installed an EU-Japan Green Alliance, aimed to accelerate the transition of both economies to climate neutrality, circularity, and resource efficiency in the coming decades¹⁶⁰. The agreement was concluded during the EU-Japan summits, which have become more and more crucial since the establishment of the free trade

¹⁵⁹Eve Päärendson, "Trade and Sustainable Development Chapter and Future Japan-Eu Cooperation," *EESC EU-Japan Follow-Up Committee*, (2020),

https://www.office.kobe-u.ac.jp/ipiep/materials/EuropeanCenterSymposium2019/1-3-2_Mr.TaroNishikawa.pdf

¹⁶⁰"The EU and Japan Commit to a New Green Alliance to Work towards Climate Neutrality," *European Commission*, (May 27, 2021),

https://climate.ec.europa.eu/news-your-voice/news/eu-and-japan-commit-new-green-alliance-work-towards-climate-neutrality-2021-05-27_en.

agreement. Under this "Green Alliance," both parties committed to enhancing their collaboration in environmental protection, biodiversity conservation, and climate change mitigation¹⁶¹. They explicitly acknowledged the influence of the framework utilized and developed within the EPA¹⁶². As a concrete example, Japan and the EU also expressed their intention to deepen cooperation within the Green Alliance, aiming to foster EU-Japan business collaboration and address issues concerning, for example, the circularity of strategic metals¹⁶³. This illustrates that the collaboration between the EU and Japan is evolving into more targeted, intricate, and meaningful areas, surpassing a superficial "strategic partnership" lacking clear goals. Furthermore, ensuring the availability of essential raw materials is crucial for Japan and the EU's strategic autonomy and industrial resilience, especially in light of the pandemic and the conflict in Ukraine. In the Japanese side, the management of these metals is closely tied to F. Kishida's vision of New Capitalism¹⁶⁴, which emphasizes the development of green technology and digitalization in Japan's economy. This cooperation could be illustrated in areas such as clean energy and mobility technologies and could operate through an appropriate legislative framework, mobilizing the basis of Public-Private Partnership (PPP), Private Finance Initiative (PFI), or common objectives of green public procurement (GPP), initiative and frameworks as well reinforced by the agreement of the EUJEPa.

b) Digital cooperation

Another key point in the EU-Japan economic relation relies as well on cooperation around digital and technological issues. The 2022 Digital Partnership has explicit links to the EUJEPa's legacy¹⁶⁵ (Section 1, point 9). This partnership notably proposes to enhance digital cooperation in order to tackle key sustainability issues and goals such as the management of green data (Section 3, point 32), ensuring sustainable connectivity for SMEs (Section 4, point 37), or enhancing energy efficiency of digital structures (Section 4, point 28). The Digital Partnership is directly linked to the establishment of the FTA, as the issue precedently mentioned of free data flow was unresolved at the time of the redaction of the agreement,

¹⁶¹"Building a Green Alliance between Japan and Europe: Opportunities and Challenges," *Institut français des relations internationales*, video, (April 15, 2023),

<https://www.ifri.org/en/debates/building-green-alliance-between-japan-and-europe-opportunities-and-challenges>.

¹⁶²"Towards a Green Alliance to protect our environment, stop climate change and achieve green growth", *EU-Japan Summit*, (May 27, 2021), <https://www.consilium.europa.eu/media/49932/eu-japan-green-alliance-may-2021.pdf>.

¹⁶³"Opportunities for Eu and Japan Industrial and Innovation Cooperation in the Circular Economy for Strategic Metals," *EU Japan Center for Industrial Cooperation*, (June 23, 2022),

<https://ja.eu-japan.eu/en/events/opportunities-eu-japan-industrial-and-innovation-cooperation-circular-economy-strategic>.

¹⁶⁴Sarah Herman, "Kishida's New Capitalism and Its Implications for EU-Japan Relations," *European Institute for Asian Studies*, (July 12, 2022), <https://eias.org/policy-briefs/kishidas-new-capitalism-and-its-implications-for-eu-japan-relations/>.

¹⁶⁵"Japan-EU Digital Partnership - Factsheet," *Shaping Europe's digital future*, (European Commission, May, 2022), <https://digital-strategy.ec.europa.eu/en/library/japan-eu-digital-partnership-factsheet>.

leading to enhanced cooperation around this topic on the years following the implementation.

Building upon Japan's National Data Strategy¹⁶⁶ (2021), Priority Policy Program for Realizing Digital Society¹⁶⁷ (2021), and the European Data Strategy¹⁶⁸ (2020), the Digital Partnership enables the establishment of an internal data market that aligns with the vision of a "5.0 Society"¹⁶⁹ and promotes "Data Free Flow with Trust"¹⁷⁰ (DFFT) to maximize the benefits of data flows. Recognizing the significance of cross-border data movement for economic growth and innovation, especially amidst the Ukraine war, this partnership serves as a forum to guide joint efforts in areas such as "Beyond 5G/6G," the production of greener technologies, safe and ethical artificial intelligence applications, and enhancing the resilience of global supply chains in the semiconductor industry.

This example is also embedded in both national strategies, allowing for strong and valuable cooperation and the exchange of best practices. On the Japanese side, the 6th Science Technology and Innovation¹⁷¹ (STI) Plan of 2011 outlines future priorities in response to Japan's social and economic challenges, with a focus on technology and innovation until 2025. Additionally, the Integrated Innovation Strategy¹⁷² (IIS), developed by the Cabinet Office in June 2022, complements the key measures defined by the STI for 2023 in the field of digitalization. The IIS introduces new elements that enhances public policies promoting research and development in areas such as forestry, oceans, environmental management and conservation, using a similar topology that the EUJEP¹⁷³. It also promotes global cooperation in the advancement of green energy technologies and explicitly name the EU-Japan Green Alliance¹⁷⁴, noting that this can be achieved through ongoing coordination with the international community. In this case, the establishment of the Digital Agency (DA) by Prime Minister F. Kishida in September 2021 provides greater authority and centralizes Japan's decision-making processes regarding digitalization. The agency serves as a focal point

¹⁶⁶“Outline of the Basic Act on the Formation of a Digital Society,” *Cabinet Secretariat of the Government of Japan*, (June 18, 2021), https://www.digital.go.jp/assets/contents/node/basic_page/field_ref_resources/0f321c23-517f-439e-9076-5804f0a24b59/20210901_en_01.pdf.

¹⁶⁷“Priority Policy Program for Realizing Digital Society,” *Digital Agency*, (2022), https://www.digital.go.jp/assets/contents/node/basic_page/field_ref_resources/0f321c23-517f-439e-9076-5804f0a24b59/20211224_en_priority_policy_program_02.pdf.

¹⁶⁸“European Data Strategy: Making the EU a Role Model for a Society Empowered by Data,” *European Commission*, (February 2020), https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/european-data-strategy_en.

¹⁶⁹“Society 5.0,” *Cabinet Office of the Government of Japan*, (2017), https://www8.cao.go.jp/cstp/society5_0/.

¹⁷⁰“Overview of Data Free Flow with Trust,” *Digital Agency*, (2023), <https://www.digital.go.jp/en/dfft-en/>.

¹⁷¹“Science, Technology, and Innovation Basic Plan,” *Cabinet Office to the Government of Japan*, (March 26, 2021), <https://www8.cao.go.jp/cstp/english/index.html>.

¹⁷²“Integrated Innovation Strategy 2022,” *Cabinet Office to the Government of Japan*, (June 3, 2022), https://www8.cao.go.jp/cstp/english/strategy_2022.pdf.

¹⁷³*ibid*, pp.26

¹⁷⁴*ibid*, pp.26

for international discussions and potential future cooperation between the EU and Japan in the digital domain. It also offers Tokyo an opportunity to draw inspiration from Brussels in terms of digital policy-making.

Thus, cooperation on digitalization and innovation, guided on both sides by the EU green policies and by the “New Capitalism” policies presented by F. Kishida in the recent years after the implementation of the EUJEPa presents an excellent opportunity to enhance sustainable development between the EU and Japan. Especially, it enables the safe and steady growth of EU SME firms in Japan¹⁷⁵. The scarcity of domestic digital talents and the demand for disruptive solutions compel Japanese companies to explore foreign alternatives that are not readily available locally. Europe's strength in hosting numerous startups and internationally recognized innovation green hubs offers promising opportunities for EU companies to bring digital talents and disruptive green innovation to Japan. This collaboration is particularly relevant in sustainability-related domains such as e-governance and smart cities¹⁷⁶. It ensures responsible economic growth that prioritizes quality and respects both human beings and the environment.

c) Global connectivity & sustainable development

To improve global connectivity, the EU and Japan have established an infrastructure agreement, signed on September 27, 2019. This agreement encompasses various sectors previously mentioned and studied such as transport, infrastructure, and digital projects, aiming to enhance connectivity between Europe and Asia. As for previous documents, it was the product of the EU-Japan Summit from April 2019. The agreement especially emphasizes cooperation in the field of energy infrastructure, particularly in the areas of renewable energy, energy efficiency, and energy storage, and aims to promote sustainable and secure energy systems. This last point remains extremely important in the current context of the invasion of Ukraine by Russia and the implications this had on energy security and scarcity all around the world. This partnership is interesting because it highlights the ambition from both the EU and Japan to strive to achieve synergies and complementarity in their cooperation on connectivity and high-quality infrastructure with partner third countries, particularly in regions such as the

¹⁷⁵Sarah Herman, “Kishida’s New Capitalism and Its Implications for EU-Japan Relations.”, *European Institute for Asian Studies*, (July 12, 2022): pp.12.

<https://eias.org/policy-briefs/kishidas-new-capitalism-and-its-implications-for-eu-japan-relations/>

¹⁷⁶Lena Broeckeaert, “Digital Transformation in Japan, Assessing Business Opportunities for EU SMEs,” *EU Center for Industrial Cooperation*, (2022): pp.19.

<https://www.eu-japan.eu/sites/default/files/publications/docs/Digital-Transformation-Japan-Assessing-opportunities-forEU-SMEs.pdf>.

Indo-Pacific¹⁷⁷.

This demonstrates that the cooperation facilitated by the EUJEPa has a wide-reaching impact throughout the region, establishing high-quality trade and investment standards for the Eurasia region. This represents a significant milestone in EU-Japan cooperation. As previously mentioned, both countries have a tendency to engage in sustainability beyond their borders. This global partnership exemplifies their shared commitment to sustainable development, fostered through dialogue and platforms such as the EUJEPa. It strengthens the convergence of interests between the EU and Japan, enabling them to collaborate more effectively on environmental and social issues and establish a shared understanding of sustainability. This understanding is subsequently extended and exported to third countries, adding significant value as a Euro-Asian concept. In essence, this marks a pivotal moment and a significant advancement in EU-Japan cooperation.

¹⁷⁷“The Partnership on Sustainable Connectivity and Quality Infrastructure between the European Union and Japan,” *European External Action Services*, (September, 2019), <https://www.eeas.europa.eu/eeas/partnership-sustainable-connectivity-and-quality-infrastructure-between-european-union-and-en>.

2. STUDY CASE - GREEN ENERGY COLLABORATION BETWEEN THE EU AND JAPAN SINCE THE EUJEPa

While examining environmental, digital, and investment cooperation, it becomes apparent that one crucial sector is consistently present in all three cases and serves as a fundamental element for achieving sustainable development in both Europe and Asia: energy policy, a cornerstone in instauring a "Just Transition" in both regions. This concept of the "Just Transition" is defined by the International Labour Organization (ILO) as the process of transitioning to a green economy in a fair and inclusive manner, ensuring decent work opportunities for all and leaving no one behind¹⁷⁸. Thus, it is essentially sustainable development, with a focus on shifting our economy towards greener means of production and consumption. In conclusion, energy policy, closely intertwined with the principles of sustainable development, plays a vital role in fostering cooperation on green energy and energy independence between the EU and Japan. It is also embedded in the framework of the EUJEPa. In Chapter 16.5, the agreement mentions: “[The Parties] shall strive to facilitate trade and investment in goods and services of particular relevance to climate change mitigation, such as those related to sustainable renewable energy and energy efficient goods and services, in a manner consistent with this Agreement¹⁷⁹”.

Thus, building upon the EUJEPa, both parties have undertaken numerous public and private initiatives and promoted the exchange of best practices¹⁸⁰. The common objective of “good regulatory practices and regulatory cooperation”¹⁸¹ also explicit call for cooperation in the area of energy security. Yet, this has become an increasing challenge in the last couple of years. Indeed, it often seems like the EU and Japan have counterproductive interests in light of the recent events of the war in Ukraine and energy issues birthed by this event. According to an interview with an official from the EU¹⁸²: “These days, the security concerns are growing importance, and energy security (energy blackmailing) boosted Europe’s climate policy: for example, there is a clear acceleration towards renewables to ensure energy security. In Japan, a different narrative prevails, because of the energy blackmailing made by Russia, there is a need to reinforce Japan’s energy security with an emphasis on nuclear and

¹⁷⁸“What Is Just Transition? And Why Is It Important?,” *UNDP Climate Promise*, (November 3, 2022), <https://climatepromise.undp.org/news-and-stories/what-just-transition-and-why-it-important>.

¹⁷⁹“Agreement between the European Union and Japan for an Economic Partnership”, Chapter 16.5, (2018), <https://www.mofa.go.jp/files/000382106.pdf>

¹⁸⁰ For one example of public-private cooperation on the subject: “Japan Green Transition Matchmaking 2023,” *EU Japan Center for Industrial Cooperation*, (March 2023), <https://www.eu-japan.eu/news/eu-japan-green-transition-matchmaking-2023>.

¹⁸¹“Agreement between the European Union and Japan for an Economic Partnership”, Chapter 18, (2018), <https://www.mofa.go.jp/files/000382106.pdf>

¹⁸²Interview with a EU official, May 23rd 2023

*securing more LNG or coal from Indonesia or Australia. The construction of this agreement needs to be comprehended in its historical context, but we are moving towards stronger TSD chapters and stronger communication around them.*¹⁸³” This point highlights that the EUJEPA still allows for normative power through cooperation on energy topics, more than through sanctions or legally binding provisions.

Thus, while the agreement only aims to foster cooperation in various areas, it still presents interesting opportunities, including in the development of green technologies like offshore wind power and renewable hydrogen. There is still room for further improvement in regulatory cooperation to advance these initiatives even more¹⁸⁴. In this section, I will use two examples of shared best practices, highlighting in both cases a comparative advantage compared to the other partner: offshore wind (best practices from the EU to Japan), and hydrogen (best practice from Japan to the EU).

a) Offshore wind

From my interview with a policy officer of the EU: *“Outside of the TSD chapter, [the EU is] also engaging in different topics such as renewable energies, especially offshore wind energy. For now, many European technologies are most efficient and cost effective, so we are trying to find solutions of our common interest. Numerous committees (ex: the one on the TSD Chapter, the regulatory cooperation committee, the TBT committee, or the services committee) work with Japan to learn from and propose improvement in regulatory environments for the new intake of offshore wind projects. Outside of this, we are using other platforms, such as the Green Alliance as well, which is part of the overall framework of engagement of Japan and Europe, and a good forum to change the sustainability agenda, in parallel to the EPA*¹⁸⁵.”

Through this short quotation, three points can be made.

First of all, as mentioned in our last chapter, the entirety of the EUJEPA allows for discussions around sustainable development, from the TSD chapter to the general regulatory trade committee. This means that the iterative process mentioned beforehand is truly embedded in all provisions of the agreement and explains its ambitious stand when it comes to the development of green energy and other sustainability topics.

¹⁸³The "essential elements clause" in the EU trade policy refers to a provision that ensures the inclusion and enforcement of fundamental principles such as human rights, labor rights, and environmental protection in trade agreements.

¹⁸⁴Pedro Silvia Pereira, “Learning from the Successful Trade Agreement between the EU and Japan,” *The Parliament Magazine*, (February 9, 2023), <https://www.theparliamentmagazine.eu/news/article/eu-japan-economic-partnership-agreement-success>.

¹⁸⁵Interview with a EU official, May 23rd 2023

Secondly, the EUJEP, the Green Alliance and concrete projects around renewable energy production are linked in a complex and interconnected policy regulation framework. This allows for a multiplication of international stakeholders involved in the promotion of offshore wind, while the EU is highly implicated in sharing best practices with Japanese partners.

Third, ongoing discussions encounter two main challenges in the development of offshore wind in Japan. Firstly, the cost of the essential technologies remains a significant hurdle, especially considering that deep water, steep coasts, and wind speeds that are alternately too low or too high make Japan's offshore wind energy more expensive than that of other regions¹⁸⁶. Secondly, the regulatory framework poses its own set of challenges especially considering the complexity of the "Act on Promoting Utilization of Sea Areas for Development of Power Generation Facilities Using Maritime Renewable Energy Resources" enforced in 2019¹⁸⁷. Indeed, this has been confirmed later on in the same interview : *"There are still a lot of questions around off-shore wind: do I go for cost efficiency and try to settle price incentives? Do I go for other objectives of localization of technologies and production and end up investing more? Japan is still quite late in the process and faces regulatory and structural challenges linked to their legal, historical, societal and geographical background.*

188 . "

A notable example illustrating these difficulties is the recent bidding process for the allocation of offshore wind "exclusive promotion zones." In the process established in the last couple of years and destined to open the offshore wind market to foreign investment, none of the companies in the process were foreign, while Mitsubishi Corporation secured the winning bid for all three areas, proposing a production price largely inferior to its opponents¹⁸⁹. This highlights Japan's major influence of corporate giants in all parts of its industry. However, there is also interest from foreign companies with established track records in Europe to collaborate with Japanese companies. Notable examples include GE, Vestas, RWE, and ENGIE. These companies have formed joint ventures or local subsidiaries in collaboration

¹⁸⁶Sven Heiligt et al., "Japan Offshore Wind: The Ideal Moment to Build a Vibrant Industry," *McKinsey & Company*, (August 12, 2020), <https://www.mckinsey.com/industries/electric-power-and-natural-gas/our-insights/japan-offshore-wind-the-ideal-moment-to-build-a-vibrant-industry>.

¹⁸⁷"Offshore Wind Power Generation' Progress since Enforcement of the New Law," *Agency for Natural Resources and Energy, METI*, (December 25, 2019), https://www.enecho.meti.go.jp/en/category/special/article/detail_152.html.

¹⁸⁸Interview with a EU official, May 23rd 2023

¹⁸⁹"Introduction of Japan's Offshore Wind Policy," *Agency for Natural Resources and Energy, METI*, (March 2023), https://www.renewable-ei.org/pdfdownload/activities/S4-2_METI_REvision2023_EN.pdf.

with Japanese companies, leading to increased momentum in both policy and industrial aspects¹⁹⁰. The EU is also encouraging those initiatives: *“On the topic of offshore wind, Japan needs to improve their regulatory framework, and we try to share with them our best practices. The European Delegation contracted three experts’ reports to this end which are available to the general public. The goal is to give targeted information around this and to help Japan, at our scale, to have more knowledge of the topic and technologies: in sum, let them know what we think is the best approach.”*¹⁹¹.

Later on, the same interviewee adds *“For many stakeholders in Japan the approach to energy transition is still in “wait and see” mode: the EU is trying to encourage some positive changes in Japan, and they are responsive and this dialogue is positive, they are willing to talk to us and understand our point of view. Actual projects and cooperation are the responsibilities of companies, but we try to create a conducive and non-discriminatory environment. On this topic, the EPA is strong tool to ensure non-discriminatory measures and to reinforce the legal framework for EU businesses to operate in Japan”*¹⁹². And indeed, since 2019, EU-Japan joint ventures and projects around building new infrastructures for offshore wind have flourished. For example, the partnership between Sif (The Netherlands) and Kajima Corporation (Japan) exemplifies their joint efforts in developing offshore wind foundations, demonstrating their shared commitment to advancing renewable energy solutions and fostering cross-border cooperation. The Dutch company will produce the 33 monopiles and transition pieces for the Akita Noshiro project, amounting to a combined weight of 25,000 tons of steel. The Akita Noshiro wind farms will also exhibit a European influence, with MHI Vestas, a Danish-Japanese joint venture, providing and servicing the 33 turbines¹⁹³.

Overall, the EU-Japan collaboration on offshore wind energy signifies the potential for a sustainable and inclusive energy transition. By addressing the challenges and fostering a supportive regulatory environment, both parties can contribute to the development of a thriving offshore wind industry, benefiting not only their own economies but also the global effort towards a greener future. Yet, issues around cost and regulatory framework also needs to be addressed in order to not lose momentum on the question: When it comes to the access of offshore wind market to EU partners, the EU civil servant mentions: *“If Japan does not*

¹⁹⁰“Attractive Markets: Environment and Energy,” *Japan External Trade Organization*, (2022), https://www.jetro.go.jp/en/invest/attractive_sectors/env_and_energy/attractive_markets.html.

¹⁹¹Interview with a EU official, May 23rd 2023

¹⁹²Interview with a EU official, May 23rd 2023

¹⁹³“Offshore Wind Foundations, Sif X Kajima Corporation,” *EU Japan Center for Industrial Cooperation*, (2021), <https://www.eu-japan.eu/publications/offshore-wind-foundations-sif-x-kajima-corporation>.

speed up their efforts when it comes to opening their market to foreign investors and companies, a risk exists that [EU companies] will start to lose interest in Japan's opportunities.¹⁹⁴.”

b) Hydrogen

Japan was the first country in the world to develop a comprehensive hydrogen strategy. Originally, this strategy aimed to address the dual challenge of decarbonizing the country while finding an alternative to nuclear energy following the Great East Japan Earthquake in 2011. As soon as 2014, Prime Minister Shinzo Abe committed Japan to become a leading "hydrogen society"¹⁹⁵, that was then institutionalized by the “Basic Hydrogen Strategy” in 2017¹⁹⁶. Yet, this society is not based on a green hydrogen policy. It relies on the abundance of hydrogen, whether it is green (produced from renewable energy), blue (produced from fossil fuel with carbon capture and storage), or even brown (produced from fossil fuels).

On this topic, Pr. Chikh M’hamed addressed: *“Japan is very advanced on the issue of hydrogen, and can be a showcase for the EU. We can work together to find a solution to the issue of green production around hydrogen, to improve both Japanese and European production. [...] We [the EU] can learn from Japan on the issue of hydrogen, of shared know-how, because [Japan] has already started to address these issues¹⁹⁷.”*

The Japanese hydrogen strategy, particularly the way Japan envisions the importation of hydrogen by maritime means out of necessity to attain carbon neutrality, presents an interesting comparative example for Europe and its own hydrogen strategy. While the two regions differ in terms of decarbonized hydrogen production potential and their perception of hydrogen's role in their economies, Europe and Japan share a crucial commonality: they are both industrialized, developed economies that will require hydrogen imports in order to achieve their climate policy and energy independence goals.¹⁹⁸ The absence of a fixed

¹⁹⁴Interview with a EU official, May 23rd 2023

¹⁹⁵Joseph Dellatte, “Les Politiques de l’hydrogène Dans Le Monde : Le Japon et Sa Société de l’hydrogène.”, *Institut Montaigne*, (March 13, 2023), <https://www.institutmontaigne.org/expressions/les-politiques-de-lhydrogene-dans-le-monde-le-japon-et-sa-societe-de-lhydrogene>.

¹⁹⁶“Basic Hydrogen Strategy,” *Ministerial Council on Renewable Energy, Hydrogen and Related Issues*, (December 26, 2017), <https://policy.asiapacificenergy.org/sites/default/files/Basic%20Hydrogen%20Strategy%20%28EN%29.pdf>.

¹⁹⁷Interview with Sonia Chikh M’hamed, May 22nd 2023

¹⁹⁸Joseph Dellatte, “Les Politiques de l’hydrogène Dans Le Monde : Le Japon et Sa Société de l’hydrogène.”, *Institut Montaigne*, March 13, 2023, <https://www.institutmontaigne.org/expressions/les-politiques-de-lhydrogene-dans-le-monde-le-japon-et-sa-societe-de-lhydrogene>.

quantitative target for domestic production of green hydrogen in Japan, with the government focusing solely on price objectives, creates an opportunity for the EU and Japan to collaborate and align their hydrogen policies with their climate strategies.¹⁹⁹

In this context, and adding the current issues of energy scarcity and international tensions around energy production, the EU and Japan naturally strengthened their collaboration in 2022 in the field of hydrogen by signing a Memorandum of Cooperation.²⁰⁰ Through this momentum, Japan²⁰¹ and the EU²⁰² demonstrate a shared interest in establishing an international green hydrogen supply chain, which offers significant benefits for both parties, while building a more resilient global energy supply chain. In these matters, Japan and the EU have committed to regular collaboration, aiming to enhance reliable and rules-based regulation of international trade of hydrogen, while promoting open markets and avoiding export restrictions.²⁰³ They will collaborate on developing standards to classify hydrogen as "green" or "blue" and work towards associated certification.²⁰⁴ This issue is of utmost importance for both importing nations.

On this topic, sharing of best practices has been also made possible through academia and research about energy resilience and production, and presented through research events specialized in EU-Japan cooperation in the hydrogen and renewable energy sector.²⁰⁵ In the corporate sector, innovative projects such as the partnership between voestalpine and Mitsubishi Heavy Industries to build a hydrogen-fueled steel production plant in Austria exemplifies their joint endeavors in hydrogen, highlighting their shared commitment to driving innovation and sustainability in the steel industry, which accounts for 7 to 9% of all direct CO₂ emissions from fossil fuels currently.²⁰⁶

¹⁹⁹“日本の水素戦略の再検討,” *Renewable Energy Institute*, (September 2022): pp.19.

https://www.renewable-ei.org/pdfdownload/activities/REI_RE_ProcurementGuidebook_EN_2022.pdf.

²⁰⁰ “Memorandum of Cooperation on Hydrogen,” *Ministry of Economy, Trade and Industry of Japan*, (December 2, 2022), <https://www.meti.go.jp/press/2022/12/20221202004/20221202004-1.pdf>.

²⁰¹ “Chair’s Summary of Hydrogen Energy Ministerial Meeting,” *New Energy and Industrial Technology Development Organization, Ministry of Economy, Trade and Industry*, (October 23, 2018), <https://www.nedo.go.jp/content/100885424.pdf>.

²⁰² “Hydrogen,” *European Commission*, (2023), https://energy.ec.europa.eu/topics/energy-systems-integration/hydrogen_en.

²⁰³ Joseph Dellatte, “Les Politiques de l’hydrogène Dans Le Monde : Le Japon et Sa Société de l’hydrogène,” *Institut Montaigne*, (March 13, 2023), <https://www.institutmontaigne.org/expressions/les-politiques-de-lhydrogene-dans-le-monde-le-japon-et-sa-societe-de-lhydrogene>.

²⁰⁴ “Japan and EU Race to Develop ‘Green Hydrogen,’” *Nikkei Asia*, (January 11, 2021),

<https://asia.nikkei.com/Spotlight/Environment/Climate-Change/Japan-and-EU-race-to-develop-green-hydrogen2>.

²⁰⁵ “EU and Japan Step Up Cooperation on Hydrogen: EU-Japan,” *EU Japan Center on Industrial Cooperation*, (March 24, 2023), <https://www.eu-japan.eu/news/eu-and-japan-step-cooperation-hydrogen>.

²⁰⁶ “Hydrogen Steel Plant: Voestalpine X Mitsubishi Heavy Industries: EU-Japan,” *EU Japan Center for Industrial Cooperation*, (2021), <https://www.eu-japan.eu/publications/hydrogen-steel-plant-voestalpine-x-mitsubishi-heavy-industries>.

3. RECOMMENDATION FOR EU-JAPAN COOPERATION AROUND SUSTAINABLE DEVELOPMENT

In order to enhance cooperation on sustainable development between the EU and Japan, it is essential to explore strategies that can further strengthen their ties. Drawing from the predominant perspective presented in this Master thesis, two avenues for reflection are proposed for the EU to improve its relationship and sustainable development policies with Japan. Firstly, there is a need to reinforce the role of the existing trade agreement to ensure its full potential is realized. This can be achieved by actively engaging in regular dialogue, monitoring the implementation of provisions related to sustainable development, and seeking opportunities for collaboration in areas such as environmental protection and climate change mitigation. Secondly, it is crucial to reinforce the overall trade policy of the EU towards Japan, with a specific emphasis on enhancing coherence among various policies related to sustainable trade with Asia. This involves aligning sectors, stakeholders, and fostering sustainable practices, best practice sharing, and the adoption of eco-friendly technologies and solutions, while ensuring openness and avoiding defensiveness among Asian partners, including Japan.

By pursuing these pathways, the EU can establish a stronger foundation for collaboration with Japan, fostering shared goals and advancing sustainable development objectives in cooperation with academia, corporate, civil society and public policy maker stakeholders.

a) On reinforcing the role of the EUJEPa and its sustainable trade provisions

Based on interviews with EU officials, it is clear that there is a prevailing sentiment that the EUJEPa has not yet been fully utilized and tapped into its potential. According to Gabriele Lo Monaco : *“The potential of the agreement has not yet been realized and the agreement has not been set up as a model for future negotiations. Today, the agreement with Japan is considered by some as a negative model, in the sense that it is viewed as a missed opportunity [...] To have embarked Japan in a dynamic of consultation, voting, more active participation of the civil society is a result in itself. But there was a lack of generated lessons that are valid today for Vietnam, tomorrow for Indonesia, the day after tomorrow for Thailand. Today, four years after the agreement, we are at a new starting point.”*²⁰⁷ For this quotation, we can extract two principal pieces of information: of course, that the EUJEPa has

²⁰⁷Interview with Gabriele Lo Monaco, April 3rd 2023

faced numerous challenges (COVID, Russian invasion of Ukraine) that led to postponement of its implementation on the ground and to exercising its full potential. Nonetheless, this statement also gives us the sentiment that the EUJEPA could be a model for future EU trade with Asia, if comprehensively implemented and utilized.

From my takeaways precedently introduced, the reinforcement of the dialogue mechanism based on the triad constituted by the Committee of Sustainable Trade, the DAG and the Joint Dialogue for Civil Society is thus essential. In particular, the European Commission should create clear guidelines regarding the formation, structure, technical assistance and roles of Domestic Advisory Groups (DAGs) in the context of the EUJEPA. It is important to enhance the practice of addressing sustainability matters with partner countries, particularly during TSD meetings. It should also be made easier for these structures to report complaints on violations of sustainability commitments. This would involve discussing the inclusion or exclusion of credible and independent civil society organizations, both as a standard procedure and in response to any complaints.²⁰⁸ Enhancing literacy around climate and social issues in all fora of the EUJEPA would also be essential to make sure sustainability issues are tackled accordingly in all areas of trade.

I also aim to advocate for another crucial initiative, which involves integrating innovative aspects from the new EU trade agreement policy into the EUJEPA. The European Commission has recently revised its approach to sustainable development, emphasizing the enforcement of legally binding labor and environmental provisions in trade agreements. It is crucial for the EUJEPA to embrace these advancements and integrate them into its framework. For example, mentions of the new EU-New Zealand FTA have been cited in numerous interviews led in the context of this Master thesis. Established in June 2022, the “new approach to trade agreements to promote green and just growth”²⁰⁹ ultimately enabling the identification of policy priorities and crucial action points, and the long-awaited utilization of trade sanctions in cases of violations of fundamental provisions related to TSD chapters. An amendment of the EUJEPA is possible if agreed between the Parties and the

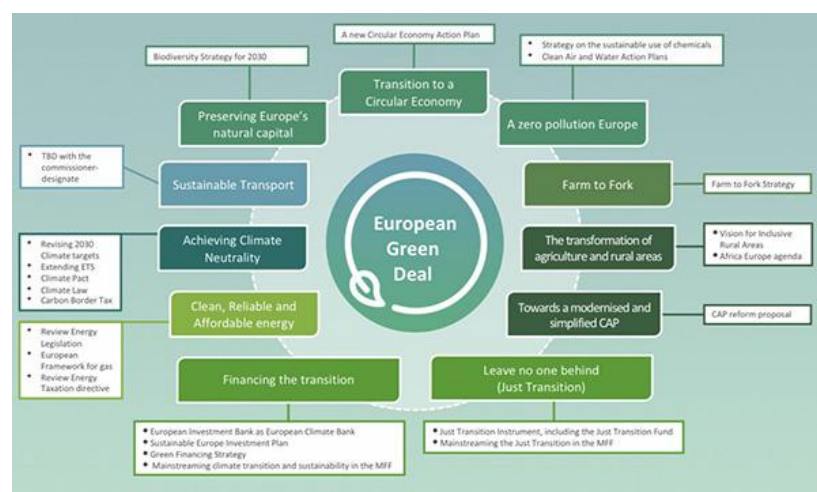
²⁰⁸“Non-Paper: Strengthening and Improving the Functioning of EU Trade,” *European Economic and Social Committee*, (October 2021), https://www.eesc.europa.eu/sites/default/files/files/non-paper_of_the_eu_dags_strengthening_domestic_advisory_groups_oct2021_002.pdf.

²⁰⁹“Commission Unveils New Approach to Trade Agreements to Promote Green and Just Growth,” *European Commission*, (June 22, 2022), https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3921.

respective governments, notably through article 23.2.²¹⁰ A valuable contribution from both the EU and Japan to reaffirm their like-mindedness and mutual commitment towards sustainable trade and development would then to let trade between Brussels and Tokyo be subject to legally binding TSD provisions. Nonetheless, this recommendation is also unlikely as the legal and procedural requirements could be lengthy: yet, additional provisions might be documented in additional protocols or exchange of letters to the original agreement.

b) On the coherence of the EU trade policy towards Japan

Finally, a crucial aspect to consider for enhancing cooperation between the EU and Japan is striking the right balance between bilateral policies and multilateral initiatives like the European Green Deal (EGD). This point was emphasized during my interview with Professor Chikh M'hamed, underscoring its significance in achieving areas of improvement within the EUJEPA. *“We need to rethink the temporality and the content of the [EUJEPA] in the framework of the Green Deal and in the Japanese strategy. This measure must not be seen as protectionism by Asian partners. Europe must also rethink the strategic framework in bilateral agreements within the framework of this treaty. [...] When we look at the free trade agreement, what is the place of this agreement in the EGD?”*²¹¹ As a reminder, the EGD represents a framework of public policy measures to be implemented in the EU and in trade with third party partners.²¹²



Source: EuObserver

²¹⁰ “Agreement between the European Union and Japan for an Economic Partnership”, Chapter 23.2, (2018), <https://www.mofa.go.jp/files/000382106.pdf>

²¹¹ Interview with Sonia Chikh M'hamed, May 22nd 2023

²¹² “Communication the European Green Deal,” *European Commission*, (December 11, 2019), <https://eur-lex.europa.eu/legal-content/EN/TXT/DOC/?uri=CELEX%3A52019DC0640>.

Especially, the question of the balance between the pursuit of FTA strategy and the introduction of the Carbon Border Adjustment Mechanism (CBAM) in the EGD raises a lot of issues for Asian partners, including Japan. The CBAM is designed to ensure a fair cost attributed to the carbon emissions linked to the production of carbon-intensive goods entering the EU, while promoting cleaner industrial practices in non-EU countries.²¹³ However, this system raises concerns among partners such as Japan, as they may view this measure as a potential obstacle to accessing European markets. While the initial phase focuses on sectors with significant CO₂ emissions, including cement, steel, aluminum, fertilizer, and electricity, the subsequent phase is intended to encompass additional sectors. To be able to import into the EU, partners will need to acquire a certificate that represents the disparity between the carbon content of the imported product and the equivalent product manufactured within the EU, serving as an adjustment measure.²¹⁴ This measure aims to be implemented within a short timeframe, commencing with the transitional period for data collection from this year until 2025, and subsequent implementation scheduled for 2026.

Given the limited number of exports from Japan to the EU in the industrial sectors targeted in the initial phase, the potential impact on Japan is relatively minimal for now. Considering the fact that Japan's climate policy should be aligned to a similar objective (2050 Carbon Neutrality) to the EU, its impact on the long term should also be limited. However, considering the potential expansion of the CBAM to include various sectors and incorporate Scope 2 and Scope 3 emissions²¹⁵ in the calculation process, effective communication between the EU and key partners like Japan is crucial. This point has also been highlighted by Pr. Chikh M'hamed: *"The EGD, and especially the CBAM, has been designed by the EU to be a "paradigm shift", not only carbon neutrality but [global] neutrality at all: working on sustainable consumption, setting up "product passports"... This can only be acceptable if there is a solid dialogue, not only between states, but at the level of industry, at the level of research, at the level of chambers of commerce, to explain CBAM within the framework of the Green Deal and to improve its understanding within the framework of the free trade agreement. Of course there is a link, but the two measures are perceived very differently."*²¹⁶

²¹³“Carbon Border Adjustment Mechanism,” *European Commission*, (2023), https://taxation-customs.ec.europa.eu/carbon-border-adjustment-mechanism_en.

²¹⁴Yasuo Tanabe, “Japan Should Lead the Global Effort to Decarbonize in View of the EU’s CBAM Proposal,” *Research Institute of Economy, Trade and Industry*, (October 21, 2021), https://www.rieti.go.jp/en/columns/a01_0665.html.

²¹⁵Scope 2 emissions refer to indirect greenhouse gas emissions generated from the consumption of purchased electricity, steam, or other energy sources by an organization. Scope 3 emissions, on the other hand, encompass all indirect emissions that occur in the value chain of an organization.

²¹⁶Interview with Sonia Chikh M'hamed, May 22nd 2023

Ensuring both strategies are understood by all trade partners should therefore be a key objective of the EU.

These recommendations are obviously linked and need to operate in a global enhanced framework of the EUJEPa and EU trade policy towards Japan. As a concluding remark, Gabriele Lo Monaco highlights: “[Japan] realized that there was a lot of added value in [the dialogue] process, that there was nothing to fear and that there was, on the contrary, an element of interest. [...] We need to have the social parties (employers and trade unions) to make the ballot of the European policies. The European policies, especially with the current Commission, with the Green Deal never ceases to evolve and to pose potential obstacles for the exports on the European market (CBAM, deforestation, taxonomy, new standards on the products, etc.). These significant economic sectors of interest for Japan align with major components of their trade balance in their trade with Europe. Japanese industries have recognized the advantage of being able to engage with and influence European initiatives through active participation.²¹⁷” Thus, the dual action of enhancing the provisions of the agreement and enhancing the understanding of the agreement in the EU general trade policy is essential.

²¹⁷Interview with Gabriele Lo Monaco, April 3rd 2023

CONCLUSION

The European Union and Japan share a mutual motivation to collaborate on sustainable development issues. By actively engaging in environmental and social policies, they are able to transcend their reputation as "middle powers" primarily associated with limited capacities in political and security matters. Both entities, through the strategic selection of specific topics and the assertive exercise of their value-oriented power in international fora, are empowered to exert their influence more effectively on the global stage. To ensure the advancement of environmental and social agendas, this policy approach heavily relies on leveraging the economic statecraft and expertise of Brussels and Tokyo in areas such as finance, investment, and trade.

The EUJEPA serves as a prominent illustration of this approach, combining economic and legal elements with comprehensive provisions on climate change, biodiversity protection, and labor rights. It establishes an interconnected framework aligned with SDG standards and deeply rooted in multilateral environmental agreements. Moreover, the EUJEPA acts as a true "new generation" FTA by encompassing these provisions across various sectors of society, including policymakers, businesses, and civil society. The expansion of tools to facilitate EU-Japan dialogue with civil society enables the agreement to remain up-to-date in addressing emerging challenges related to sustainable development.

Undoubtedly, the agreement represents a significant milestone and paradigm shift in EU-Japan relations, particularly in the context of sustainable development. It has paved the way for the establishment of dedicated forums encompassing climate issues, green technologies, digitalization, investment, green financing, and public-private partnerships. This agreement has fostered extensive collaboration between Brussels and Tokyo across a diverse range of topics, solidifying its status as a strong frontrunner in promoting sustainable development. Its implementation, four years after its drafting, coincides with a critical juncture in EU-Japan relations. As an extension of their "value-nexus" diplomacy, they are striving to assert their influence on the international stage, particularly in the face of major emerging and ever-changing players such as China and Russia. Serving as advocates of democracy, peace, and human rights across the Eurasian continent, Japan and the EU are now compelled to elevate their efforts and demonstrate their power, despite perceived weaknesses resulting from their limited military capabilities. Collaborating on environmental issues, in particular, can enable them to take the lead in spearheading a "Just Transition" and new energy technologies, charting the course towards sustainable societies.

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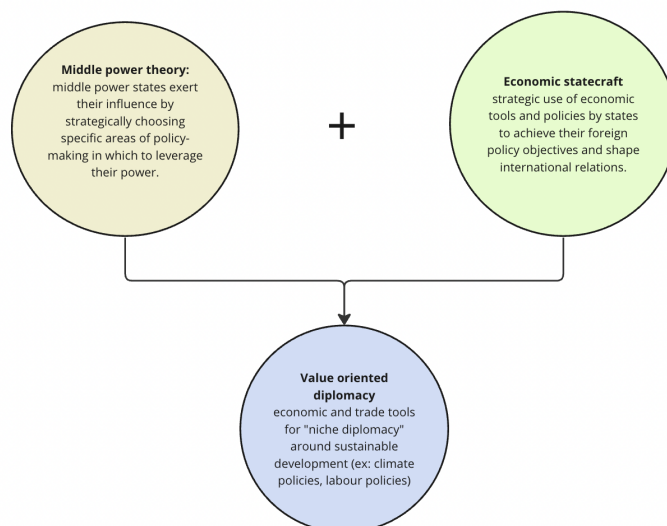
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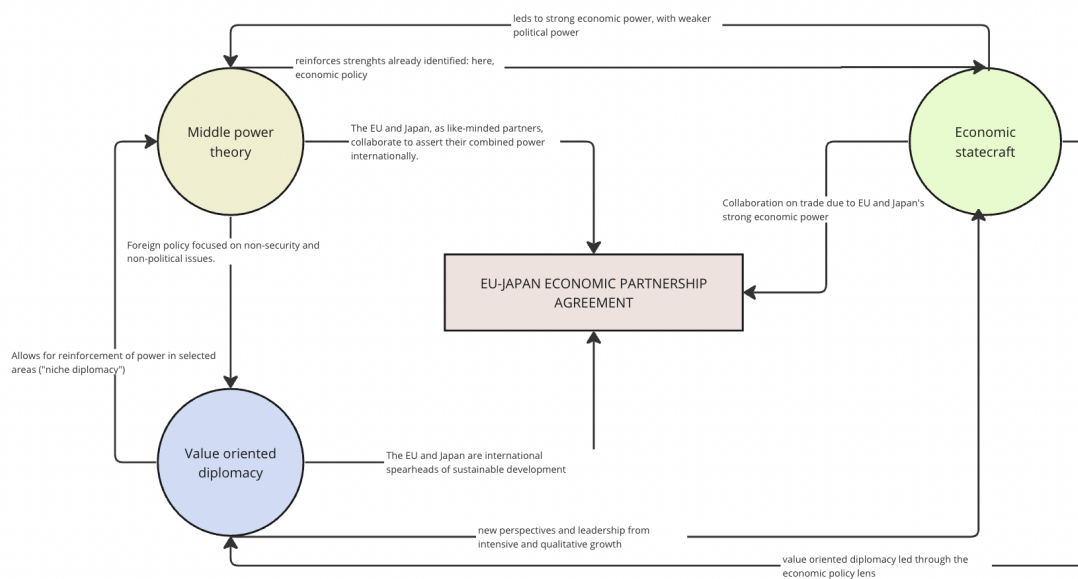
APPENDIX

Annex N°1: Concept maps, Theoretical framework

LIBERALISM THEORIES



LIBERALISM THEORIES



→ leads to / allows for

Example: "Economic statecraft leads to value-oriented diplomacy led through the economic policy lens"
 "Middle power theory allows for foreign policy focused on non-security and non-political issues"