

22 August 2008

Excellency,

I have the honor to state the shared understanding of the Republic of the Philippines and Japan on the interpretation of the Japan-Philippines Economic Partnership Agreement (JPEPA) as follows:

1. The JPEPA, as stated in its Preamble, affirms and recognizes the importance of the implementation of measures by the Governments of the Parties in accordance with their respective laws and regulations, including their constitutions.
2. All the provisions stipulated in the JPEPA shall be implemented in accordance with the Constitution of the Republic of the Philippines and the Constitution of Japan.
3. Nothing in the JPEPA requires amendment of any of the existing provisions of the Constitution of the Republic of the Philippines including Article II, Section 15; Article XII, Sections 1, 2, 3, 7, 8, 10, 11, 12 and 14; Article XIV, Sections 4 and 12; and Article XVI, Section 11; which cover, inter alia,
 - (1) the protection and promotion of the right to health of the people,
 - (2) the protection of Filipino enterprises against unfair foreign competition and trade practices,
 - (3) the ownership of all lands of public domain and the exploration, development, and utilization of all waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources,
 - (4) lease and ownership of alienable public lands,
 - (5) ownership and transfer of private lands,
 - (6) limitation to Philippine citizens and corporations or associations meeting a prescribed minimum local equity requirement in certain areas of investments,
 - (7) preferential rights, privileges, and concessions granted to qualified Filipinos covering the national economy and patrimony,
 - (8) regulation of foreign investments,
 - (9) the operation of public utilities,
 - (10) promotion of the preferential use of Filipino labor, domestic materials and locally produced goods, and adoption of measures to help them being competitive,
 - (11) the practice of all professions,
 - (12) the ownership, control, and administration of educational institutions,
 - (13) state regulation of the transfer and promotion of technology,
 - (14) the ownership and management of mass media,

(15) the ownership of corporations and associations engaged in the advertising industry.

4. The present exchange serves only to confirm the interpretation of, and does not modify the rights and obligations of the Parties under, the provisions of the JPEPA.

In reference to this letter, I should like to recall the letters of 22 and 23 May 2007, which were exchanged in relation to the JPEPA, that confirmed the interpretation of the JPEPA in the area of environmental matters.

I have further the honour to confirm that the JPEPA also provides that:

Article 161

“The Parties shall undertake a general review of the Agreement and its implementation and operation in 2011 and every five years thereafter, unless otherwise agreed by both Parties.”

First sentence of paragraph 1 of Article 163

“This Agreement may be amended by agreement between the Parties.”

I would appreciate Your Excellency’s letter in reply on behalf of the Government of Japan to confirm that the above is the shared understanding of our two Governments on the interpretation of the JPEPA.

Accept, Excellency the assurances of my highest consideration.

ALBERTO G. ROMULO

His Excellency
MASAHIKO KOUMURA
Minister of Foreign Affairs
Japan

28 August 2008

Excellency,

I have the honor to refer to Your Excellency's letter dated 22 August 2008, which reads as follows:

"I have the honor to state the shared understanding of the Republic of the Philippines and Japan on the interpretation of the Japan-Philippines Economic Partnership Agreement (JPEPA) as follows:

3. The JPEPA, as stated in its Preamble, affirms and recognizes the importance of the implementation of measures by the Governments of the Parties in accordance with their respective laws and regulations, including their constitutions.
4. All the provisions stipulated in the JPEPA shall be implemented in accordance with the Constitution of the Republic of the Philippines and the Constitution of Japan.
3. Nothing in the JPEPA requires amendment of any of the existing provisions of the Constitution of the Republic of the Philippines including Article II, Section 15; Article XII, Sections 1, 2, 3, 7, 8, 10, 11, 12 and 14; Article XIV, Sections 4 and 12; and Article XVI, Section 11; which cover, inter alia,
 - (1) the protection and promotion of the right to health of the people,
 - (2) the protection of Filipino enterprises against unfair foreign competition and trade practices,
 - (3) the ownership of all lands of public domain and the exploration, development, and utilization of all waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources,
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 - (9) the operation of public utilities,
 - (10) promotion of the preferential use of Filipino labor, domestic materials and locally produced goods, and adoption of measures to help them being competitive,
 - (11) the practice of all professions,

- (12) the ownership, control, and administration of educational institutions,
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Accept, Excellency the assurances of my highest consideration.”

In reply, I have the honor to confirm that the above is the shared understanding of our two Governments on the interpretation of the JPEPA.

Accept, Excellency, the renewed assurances of my highest consideration.

Masahiko Koumura
Minister for Foreign Affairs of Japan

His Excellency Alberto G. Romulo
Secretary of Foreign Affairs
of the Republic of the Philippines