

THE ROAD TO THE SWITZERLAND-JAPAN FREE TRADE AND ECONOMIC PARTNERSHIP AGREEMENT (FTEPA)

By Patrick Ziltener

202 1. Background

Despite being a landlocked country without a navy, Switzerland managed to conclude a trade and friendship treaty with Japan as early as 1864, becoming the 8th country to do so (Auslin 2004). The third bilateral Treaty of 1911 laid the ground for almost a hundred years of economic exchange between Switzerland and Japan (Deslarzes 1957), well into the 21st century.

Switzerland enjoyed high esteem in post-war Japan as a politically stable and peaceful country and became one of the most popular travel destinations for Japanese tourists.¹ Today, Japan is still the largest trading partner of Switzerland in Asia. After the treaty of 1911, economic relations between Switzerland and Japan were regulated more and more by international institutions such as the GATT/WTO (World Trade Organisation) and the OECD (Organisation for Economic Co-operation and Development). In Europe, Switzerland was one of the founder countries of the European Free Trade Association, EFTA.² In 1972, free trade in industrial goods with the European Community (EC, today European Union, EU) was established. Given the traditionally strong export-orientation of Swiss industries, the constant improvement of access to foreign markets has always been a core objective of Swiss foreign economic policy. By entering into FTAs (free trade agreements), Switzerland aims to provide its companies with a level of access to international markets that is at least equivalent to the market access conditions enjoyed by its most important foreign competitors. The former Swiss Minister of the Economy Joseph Deiss referred to FTAs as “key to maintaining diversified foreign economic relations for Switzerland” (Deiss 2006: 13). Furthermore, FTAs serve as important instruments in maintaining and strengthening Switzerland’s

¹ Takafumi Kurosawa (2004:365), renowned Japanese scholar on the Swiss economy and Swiss economic history, summarizes: “In the overall image of Switzerland, however, economics were less prominent than the country’s natural beauty and its distinctive political system. Japanese recognition of Switzerland’s economic achievements was neither deep nor systematic enough to be of real significance.” Isoyama (2006), however, downright celebrates Switzerland as a superbrand, which Japan should try to emulate. Critical or even negative analyses of Switzerland, like *Kuroi Suisu* [Dark Switzerland] by Fukuhara (2004) are rare exceptions in Japan.

² EFTA was founded 1960 by Switzerland, Great Britain, Austria, Denmark, Norway, Portugal, Sweden; later Finland, Iceland and Liechtenstein joined. 1972, Denmark and Great Britain left EFTA to join the European Community (EC, later EU), followed by Portugal (1986) and Austria, Finland and Sweden (1995).

competitiveness as a business location in Europe. Since the beginning of the 1990s, Switzerland has been building a network of free trade agreements with numerous countries outside the EU. Meanwhile, well over 80% of Switzerland's foreign trade takes place under FTAs. In January 2003, an FTA between EFTA and Singapore, the historically first transregional FTA between Europe and Asia, entered into force, followed by an EFTA-South Korea FTA in September 2006. From that moment on, not only the EU, but also Singaporean and Korean companies had a competitive advantage in the EFTA market, in contrast to their Japanese rivals, e.g. in the cars or electronic industries.³

A bilateral FTA (or, as the Japanese prefer to call these comprehensive new agreements, an economic partnership agreement, EPA) has been a topic in the economic consultations between Japan and Switzerland which were regularly held from 1995 on, but the relevant Japanese ministries have long been preoccupied with negotiating arrangements with developing countries in the Asia-Pacific region. The focus on East Asia was confirmed in the paper *Basic Policy towards further promotion of EPA* of the Council of the Ministers on the Promotion of Economic Partnership in December 2004; however, for the first time, among the "criteria for identifying countries/regions with which to negotiate the FTAs/EPAs" were more general ones such as "eliminate economic disadvantages caused by the absence of EPA/FTA" and "reinforce Japan's position in international society, including the WTO talks, through partnership and cooperation with related countries/regions". Japan had significantly widened the range of possible FTA partners, and the Swiss noticed. However, it was far from certain that Switzerland would be among the first non-regional countries to get the chance to negotiate an FTA/EPA with Japan. The remainder of this article analyzes the economic and political factors leading to success.⁴

³ The JETRO-led Study Group on an FTA between Japan and Switzerland concluded in its *Feasibility Study* (2004): "While the automobile tax is levied commonly to all automobiles, EU cars are exempt from the customs under the 'EU-Switzerland FTA'. Because of this, Japanese-made cars have a disadvantage compared with EU-made cars, and their share in the Swiss market has gradually been declining (about 30% in the 1980s; about 20% in the 1990s and after). An FTA with Switzerland is expected to help Japanese automakers regain competitiveness in Switzerland."

⁴ More detailed in P. Ziltener (ed.), *Handbuch der schweizerisch-japanischen Beziehungen / Manuel des relations nippono-suisses* (Compendium of Swiss-Japanese Relations), forthcoming.

204 2. Japanese perspectives on an FTA/EPA with Switzerland

In a study conducted in spring 2006, Chiavacci/Ziltener analyzed Japanese perspectives and positions concerning a potential FTA/EPA with Switzerland. In an evaluation of written Japanese sources and through expert interviews⁵, they found that the Japanese elites could be divided into *three groups* with differing views of an FTA with Switzerland. The *first group*, taking a rather narrow and short-term economic perspective on FTAs, was not against an FTA with Switzerland, but regarded it, at best, as of secondary importance because of the limited economic effects to be expected.⁶ This was supported by low interest by the media; full text search in the electronic archives of two leading Japanese newspapers, *Asahi Shinbun* and *Nihon Keizai Shinbun*, shows the nearly complete non-coverage of Switzerland as a potential FTA partner, up to 2006. Although leading Japanese newspapers publish nearly daily articles, analyses, comments or editorials about Japan's FTA policy, among the hundreds of articles about FTA only a handful of articles mentioned Switzerland as a potential FTA candidate. One of these, an overview of Japan's FTA policy published in February 2005, mentioned as the main advantage of an FTA with Switzerland the following: "Beyond Asia, it is contemplated to start negotiation with Switzerland. The reason is that an FTA with Switzerland, which is a partner in the WTO agricultural trade negotiations, would be an advantage in the foreign policy strategy."⁷

This leads to the *second group*, whose members are primarily concerned with the interests of the Japanese farming and fishery sectors and were supportive of an FTA with Switzerland because of its presumably small impact on Japan's primary sector. Some thought that an FTA with Switzerland should be used as a

⁵ The written sources included publications by private and public research institutes and think tanks about FTAs, articles in the Japanese mass media, records of relevant parliament and governmental commission sessions as well as reports from conferences. Additionally, 29 guided interviews were conducted with members of the economic and political elites as well as scientific community that take a leading role in the formulation of Japan's FTA policy (Chiavacci/Ziltener 2008).

⁶ Institute for International Trade and Investment (ITI), 2003 *Nihon-Suisu FTA Teiketsu Ataeru Keizai Kōka ni kan suru Kenkyū Hōkokusho* [Research Report about the Growth Effects of a Japanese-Swiss FTA]. Tokyo; Kawasaki (2006).

⁷ *Gō Suisu to mo Kōsō: FTA Kōshō Seifu ga Dakaisaku Isogu* [Consideration of Australia and Switzerland: Government Hurries for Breakthrough in FTA Negotiations], *Nihon Keizai Shinbun*, 18 February 2005.

test run for opening up Japan's agricultural markets. Masayoshi Honma (2003), agricultural economist at Tokyo University, wrote in his report about agricultural questions for the feasibility study of an FTA between JETRO (Japan External Trade Organisation) and SECO (Switzerland's State Secretary of Economic Affairs) in 2003: "[...] an agreement with Switzerland is the rare chance to realize an agreement without exceptions, such an announcement abroad would have a wide impact. Therefore, agriculture should be integrated to 100% without exceptions into an agreement." (Honma 2003: 1)

Furthermore, they saw a chance to get away from their image as permanent brake on in Japan's FTA policy and hoped to strengthen Japan's position in the agricultural WTO trade talks. As one official later noted, MAFF (Japanese Ministry of Agriculture Forestry and Fisheries) was eager to study the Swiss way of successfully and dynamically combining a pro-active free trade policy in industrial goods with reforms in the national agricultural policy in a non-confrontational manner (Sakuyama 2009).

Those forces who are mainly interested in advancing structural reform in Japan through FTAs, on the other hand, denounced an agreement with Switzerland as an example of a "low-risk, low-return" FTA⁸ just because it would presumably not serve this purpose. They criticized the Japanese government's strategy of "following the path of least resistance", ending up "with numerous watered-down FTAs that look good on paper, but will 'neither harm nor cure' for the Japanese economy".⁹ This may apply to the primary sector; in others, for example the chemical/pharmaceutical industry, an FTA might intensify already fierce competition in Japan, due to improved market access for globally leading Swiss companies like Novartis and Roche.¹⁰ In the area of banking/financial

⁸ *Interest groups holding nation on leash: Japan settles for "low-risk, low-return" FTA goals*, Japan Times, April 22, 2005: "'We're looking to Switzerland because, well, it's in Europe', a Foreign Ministry official who requested anonymity said when asked why the Alpine country was a potential partner. An agreement with Switzerland would offend no major lobby group, making it 'low-risk, low-return', he explained."

⁹ Ibid.

¹⁰ The JETRO *Feasibility Study* (2004) was well aware of that; they warned that Switzerland might demand Japan to deregulate its control on chemicals/pharmaceuticals.

206 services, where Switzerland has some leading companies as well, all Japanese actors are very cautious regarding a possible opening and deregulation. In the long-term strategic, geo-economic perspective of the *third group*, an FTA with Switzerland was regarded as of high potential as a door to the European market and an ideal case for an FTA with an advanced industrial economy and, therefore, strongly supported.¹¹ By achieving a substantial FTA with Switzerland, Japan's entire FTA policy should gain a new dynamic. A high quality FTA with Switzerland would help to transform Japan's predominantly defensive FTA policy into a proactive, long-term and strategically oriented approach. From this perspective, an FTA with Switzerland was also regarded as of importance because it would counteract the formation of regional economic trade blocs. Especially those interview partners who clearly preferred the advancement of a multilateral foreign trade policy, stressed the risks of a foreign trade policy primarily oriented towards the Asia-Pacific. Because an FTA between the EU and Japan was regarded by many as very difficult and, therefore, very unlikely to be realized in the next few years, an FTA with Switzerland as a bridge between Japan and Europe was regarded of central importance and as counterbalance to trade blocs building tendencies. Hence, an FTA with Switzerland was regarded as an important step for developing and realizing a global FTA strategy beyond the Asia-Pacific.

In retrospect, we can say that the second and third group together with the pro-active Swiss trade diplomacy have been of crucial importance for the establishment of a joint governmental study group that paved the way for negotiations. Aware of the prominent role that *Nippon Keidanren* plays in the definition of Japan's foreign economic strategy, then Swiss President and Minister of the Economy Deiss had, during his visit in October 2004, actively

¹¹ Hatakeyama (2005: 244): "The most important reason is that an FTA with Switzerland will be a strong basis for an expansion in the EU. Because Switzerland has already concluded an FTA with the EU, products of Japanese subsidiary companies in Switzerland can be exported without customs duties into the EU market. [...] In short, an FTA between Japan and Switzerland, providing direct investment in Switzerland, has the same effect from an export perspective as an FTA between Japan and the EU."

wooded its support.¹² In April 2006, Keidanren adopted a new strategy paper on Europe¹³, which – unsurprisingly – focuses on the EU Single Market and its progressive Eastern enlargement. It states that the elimination of business boundaries between Eastern and Western Europe calls for comprehensive business strategies by Japanese companies. EFTA is correctly seen as highly integrated into the Single Market, and from the fact that “Japan has maintained good relations with the EFTA members and cooperates with them in the WTO”, and that the EFTA countries “enjoy a high level of scientific and industrial technology that they use for advanced purposes”, the following conclusion is derived: “It is indispensable for Japan to pursue policy dialogues with these countries” and “EPAs with such countries could become an effective tool for fastening Japan-Europe economic ties” (ibid., p. 3, 10). Consequently, in summer 2006, Keidanren sent a high-ranking delegation to Europe which attended an EFTA meeting in Iceland and subsequently visited Norway, Poland and also Switzerland (Yonekura 2006). Its Swiss counterpart, *economiesuisse*, used the opportunity to express its interest in a coordinated campaign in favor of launching Japanese-Swiss FTA/EPA negotiations.

While Keidanren was in principle open to a negotiation process with EFTA as a whole, the Swiss were well aware that, given the specific trade structure between Japan on the one hand and Iceland and Norway on the other hand (with a high percentage of fisheries products), this was not a realistic option. On several occasions, they got the more or less informal message from the Japanese government that the only way to go forward was “bilateral Switzerland-Japan”. This was not a problem because such purely bilateral agreements do not contradict the EFTA legal framework but are foreseen as “second options”.

¹² On the occasion of the Lunch with Keidanren, October 13, 2004, he said: “I have no doubt that investments would be facilitated considerably if we had a bilateral Free Trade Agreement in place. Preliminary studies on the merits of a bilateral FTA have identified a number of issues which would seem of interest to our business sectors.”; Source: SECO.

¹³ Keidanren, *Toward a Closer and Stronger Economic Partnership between Japan and Europe – Nippon Keidanren’s Observation and Views on European Integration and the Japan-Europe Business Relations* (www.keidanren.or.jp): “[...] some EFTA countries have shown an interest in establishing EPAs with Japan, as indicated by statements such as ‘bilateral negotiations will contribute to the establishment of a tailor-made, dynamic framework’.” [quote Swiss President, Minister of Economic Affairs Joseph Deiss, in a meeting at Nippon Keidanren in October 2004]. (p. 10).

208 **3. The FTEPA negotiation process**

The negotiations were officially launched in January 2007, on the occasion of a telephone call between then PM Abe and then Swiss President Calmy-Rey. After preparatory meetings, the first round of negotiations took place in May in Tokyo. Jun Yokota, Japan's chief negotiator, reportedly said at the outset of the first meeting, that Japan is "very interested in entering this uncharted territory" of an FTA with a European country, while Luzius Wasescha, his Swiss counterpart, expressed hope that the envisioned accord would not merely serve "as a useful tool to enhance the competitiveness of our respective economies but as a building block for bringing economic relations between Europe and Asia to a new level."¹⁴ They shared a common understanding that a conclusion of the negotiations should be reached within about a year. Finally, a total of eight negotiation rounds took place – alternately in Switzerland and in Japan, over seventeen months.

Regarding trade in goods, there were no major obstacles, as both sides agreed on the goal of tariff abolition on industrial goods as completely and quickly as possible. Switzerland proposed a more comprehensive and ambitious plan in its initial offer; Japan asked for more exceptions and for longer phasings-out in several areas (e.g. leather, wood and certain chemical/pharmaceutical products). Problems stemmed from conceptually different rules of origin. In the agricultural sector, the goal was not a general liberalization of trade, but a system of balanced concessions for selected processed and basic agricultural products. Remarkably, for once in his career, and only in these negotiations, the Swiss chief negotiator found himself in a more pro-active position in agricultural negotiations than his counterpart.

Both countries, Switzerland and Japan, have restrictive policies regarding the opening of the labor market to foreigners. From the beginning of negotiations, it was clear and accepted by both sides that provisions in this area would not go much further than already existing commitments in the WTO services agreement (GATS). Especially the Japanese side asked for measures to facilitate procedures to obtain working and residency permits for Japanese in Switzer-

¹⁴ *Japan begins FTA talks with Switzerland, 1st with European country*, Kyodo, Tokyo, May 14, 2007.

land. Soon it became clear that Swiss hopes for substantial market opening in the area of financial services would not materialize. Regarding intellectual property rights (IPR), Japan and Switzerland belong to the frontrunners in the cooperation to increase IPR-protection and enforcement worldwide. While both sides agreed that a highly ambitious IPR chapter should be envisaged, as a model for future bilateral agreements, there were some differences regarding the priorities. The main goal for Switzerland was to win over the Japanese side for the inclusion of a list of geographical indications, protecting specific agricultural goods originating in Switzerland (e.g. cheeses) but also “Switzerland/Swissness” as a brand in general. For the Japanese side, this was acceptable only as an annex in a legally non-binding form. Regarding electronic commerce, both sides agreed from the beginning to negotiate an up-to-date chapter to promote and facilitate exchange in this area. The Japanese expected the inclusion of an encompassing most-favored nation (MFN) clause to guarantee that Japan would be treated in every regard as all other FTA partners of Switzerland. However, this was not possible due to the special relationship of the Alpine country with its big EU neighbor. All tax-related aspects have been excluded from the negotiations, because at the same time, talks on a revision of the existing bilateral double taxation treaty were under way.

In the seventh round of negotiations, in Tokyo, the content of the final agreement was overwhelmingly clear and consensual. However, in the agricultural area, Japanese concessions were considered as unsatisfactory by the Swiss side. This concerned not only MAFF, but also the Ministry of Finance (alcohol, tobacco). The final deal was struck in Switzerland’s capital Berne on September 24, 2008. Japan had offered additional improvements concerning the market access of specific Swiss products such as wine and cheese – concessions that were far from a general liberalization of the market, but rather a friendly exchange of country-typical gifts among G10-members¹⁵. The title of the agreement, *Agreement on Free Trade and Economic Partnership (FTEPA)*, combines the Japanese EPA-concept with the Swiss FTA-tradition. On February 19, 2009, the

¹⁵ The G10 is a loose political alliance group of net-food-importers within the WTO which is defensive regarding agricultural liberalization (Iceland, Israel, Japan, South Korea, Liechtenstein, Mauritius, Norway, Switzerland and Taiwan; before also Bulgaria).

210 Swiss Minister of the Economy Doris Leuthard and Japanese Foreign Minister Hirofumi Nakasone signed the FTEPA in Tokyo, while the financial crisis with its epicenter in the USA was on the way to bringing down the world economy. After ratification in early summer, politically uncontested in both countries, FTEPA entered into force on September 1, 2009. For Japan, this was the tenth FTA/EPA concluded, the first one beyond the Asia-Pacific region. Although the immediate economic impact would not be immense, the actors involved were satisfied. Switzerland with its outstanding FTA tradition had proven to be an interesting FTA negotiation partner for Japan. In several areas, chapters have been negotiated that would serve as benchmark for other Japanese agreements with highly developed countries. After studying extensively the efficient Swiss system, Japan had introduced a simplified system of export declaration, an old request by the private sector. On the other side, voices were heard that Japan was regarding FTA/EPAs as a “hostage of the past”, which means that the given EPA format had to be followed although the challenges in the relations with Switzerland were quite different than the ones in negotiations with developing countries. For Switzerland, this FTEPA is the economically most important FTA signed since the 1972 FTA with the EC, and the third with an East Asian country. It gives Swiss companies advantages on the huge Japanese market, compared with their EU and US competitors. Accordingly, Swiss business federations and chambers of commerce hailed the agreement as “outstanding success of the Swiss trade diplomacy”.

4. Major elements of the FTEPA

The agreement establishes a comprehensive economic partnership between Switzerland and Japan. It contains substantive provisions on trade in goods (liberalization of trade in industrial products as well as selected processed and basic agricultural products, rules of origin, custom procedures, trade facilitations and provisions relating to non-tariff barriers), trade in services, the movement of natural persons for business purposes, the establishment and protection of investments, the protection of intellectual property, the promotion and facilitation of electronic commerce, provisions in the field of competition and the promotion of a closer economic relationship.

First of all, the new agreement establishes a *free trade area for industrial goods and selected agricultural products* between Japan and Switzerland¹⁶. With the coming into force of this agreement, almost all tariffs on industrial goods have been dismantled immediately; only for a small number of industrial products, will Japanese tariffs fall after a transitional period. Regarding agricultural products, Switzerland and Japan grant each other tariff concessions on a selected range of basic and processed agricultural products.¹⁷ The provisions on trade in goods also contain rules of origin, provisions on customs procedures and trade facilitation, as well as provisions relating to technical barriers to trade (TBT) and sanitary and phytosanitary measures (SPS). Provisions regarding *trade in services* are built on the WTO-GATS (General Agreement on Trade in Services) and include a number of “GATS-plus” elements in certain areas. Annexes on financial services, telecommunication services, disciplines on domestic regulation in services, and the recognition of qualifications of service suppliers contain additional sector-specific provisions that go beyond the GATS level. Moreover, the FTEPA contains provisions on the entry and temporary stay of *natural persons* for business purposes. This chapter contains specific provisions on transparency and procedures regarding the entry and temporary stay of natural persons.¹⁸

The FTEPA facilitates the establishment of Swiss and Japanese *investments* based on the principles of national treatment and MFN and increases the protection of established investments. While the investment provisions as well as those regarding *government procurement* do not cover much new ground, compared to the existing international agreements in this area, the chapter on IPR protection is rather ambitious. The FTEPA contains, inter alia, provisions improving the protection of copyrights, trademarks, designs, patents, new plant

¹⁶ As mentioned, Japan has excluded an agreement with EFTA from the beginning. However, on the basis of the Customs Union Treaty of 1923 between Switzerland and the Principality of Liechtenstein, the provisions on trade in goods also apply to the small territory of Liechtenstein.

¹⁷ Japan grants Switzerland preferential market access in particular for Swiss cheese specialities, dried meat, chocolate, wine and cigarettes. Switzerland grants Japan preferential market access inter alia for ornamental plants (bonsai), high quality gift fruits, sake and cigarettes.

¹⁸ The provisions in this area do not foresee an opening of labor markets and cannot be compared, e.g. to the agreement of the free movement of persons in force between Switzerland and the EU. They mainly relate to service providers, similarly to the GATS provisions.

212 varieties, geographical denominations, confidential test data, and protection against unfair competition and IPR-enforcement. This FTEPA is Switzerland's first FTA to include specific provisions on trade in *electronic products and services*, including obligations regarding digital products, electronic certificates, electronic signatures and the protection of online consumers. Furthermore, the FTEPA contains provisions in the field of *competition policy* designed to prevent anti-competitive behavior from frustrating the benefits derived from the Agreement. Detailed provisions lay the ground for the cooperation between the competition authorities of both countries. As usual in FTAs, a *Joint Committee* is created to oversee the implementation and further development of the agreement, as well as several technical subcommittees. For the first time in a Swiss FTA, the FTEPA contains provisions on the "promotion of closer economic relations". With this instrument (in other Japanese FTAs under the title "improvement of business environment") specific concerns and problems faced by companies will be addressed directly involving the private sectors of both countries.

5. The factors contributing to success

A broad *convergence of interests* was crucial for the success of the negotiations between Switzerland and Japan. In the ongoing global competition for investment, both sides were clearly interested in the promotion of inward-FDI (foreign direct investment) and ready to tackle any obstacles in this regard, at the same time being bound to a restrictive national labor market policy. This explains the result of the negotiations on the chapters on investment and on movement of persons. For both export-oriented economies securing access for industrial products in all major markets is crucial; in this regard, Japan has, due to its market size, a much greater significance for Switzerland than vice versa. However, Japanese companies do have a strong interest in avoiding discriminating situations, as was the case with Singapore and South Korea having FTAs with Switzerland but not Japan. Furthermore, Keidanren had a more general and long-term interest in the negotiations with Switzerland, which is the advancement of FTA/EPAs as instruments for strengthening economic relations and cooperation with highly developed countries. That the result of the

negotiations with Switzerland has met Keidanren's expectations in this regard is clear from its recent call for opening negotiations with the EU¹⁹, in which several elements of the FTEPA are defined as benchmark: future FTA/EPAs should "include provisions that are commensurate with those agreed between developed countries, which are on a par with or exceed the provisions concerning certification of origin, electronic commerce, and other matters" contained in the Swiss-Japanese agreement.

The conclusion of the Swiss-Japanese agreement is a strong signal that FTAs between highly developed countries can and should be concluded and, therefore, worldwide liberalization of trade can progress without the abandonment of protectionist national agriculture policies. In this regard, it truly is a "G10 FTA" (as the EFTA-Korean FTA already was). Undeniably, Switzerland owed its high ranking on the list of potential FTA partners also to the fact that the Alpine country was a spokesperson for the G10 and thereby providing some most welcome shelter for Japan's defensive agricultural policy stance in the WTO talks.²⁰ Accordingly, MAFF was clearly pro-active in the process leading to the opening of negotiations with Switzerland. In the beginning rather indifferent towards an FTA with Switzerland, MOF (Japanese Ministry of Finance) experienced pressure from the strong Swiss export interests regarding wine and tobacco – for once, it was not MAFF which had the most difficult task in the final phase of negotiations. METI and related institutions such as JETRO have also been positive towards Switzerland from early on, because there a more long-term strategic, geo-economic perspective prevailed and Switzerland was seen as an interesting "test case" in many regards, similarly to the agreement with Singapore for the negotiations with other ASEAN countries. For MOFA (Japanese Ministry of Foreign Affairs), Switzerland was clearly not of high priority, but it was ready to take the lead once the political decisions had been made at top levels. Indeed,

¹⁹ Nippon Keidanren (November 17, 2009), *Call for the Start of Negotiations on Japan-EU Economic Integration Agreement—Third Proposal for Japan-EU Economic Partnership Agreement*, www.keidanren.or.jp.

²⁰ Other areas of close cooperation between Switzerland and Japan should be mentioned in this context, such as the ongoing plurilateral IPR initiative ACTA, or the mutual support for certain candidacies in international organisations, but G10/WTO was certainly the most important area in this context.

214 according to well-informed sources, the decision to advance with Switzerland was taken by Prime Minister Koizumi himself, against the advice of some people involved to postpone negotiations with Switzerland, due to other priorities.

6. Conclusion

Economic and political factors paved the road to the Japan-Switzerland FTEPA. The main motives behind the opening of negotiations with Switzerland on the Japanese side were: an FTA/EPA would end discrimination against Japanese companies in Switzerland and help to attract more inward FDI, both goals shared by all actors involved. Also, the Alpine country was considered an economic gateway to Europe, and, because of its outstanding FTA tradition and network, an interesting “test case” for FTA/EPAs with highly developed countries. A resulting FTA/EPA could serve as a model agreement in many regards. Given Japan’s and Switzerland’s alliance in the WTO context (G10), it was clear that agricultural issues would not be a stumbling block; it was rather a chance to prove that agricultural protectionism and progressive trade liberalization can go hand in hand – a domestically as well as internationally most welcome signal for some Japanese actors. Together, these motives overshadowed the fact that Switzerland is an economy of modest size and that bilateral economic relations were already smooth. Neither big trade nor growth effects were to be expected from an FTA/EPA, but also no distorting or harmful impact – an FTA/EPA with Switzerland was politically uncontested in Japan. For Switzerland’s foreign economic policy, this FTEPA is an outstanding success, based on traditionally good relations with Japan for almost 150 years. Older bilateral agreements followed the examples of other countries – this time Switzerland managed to go ahead in strengthening its ties with Japan.

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スイス・日本の自由貿易・経済協定への道

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1. 背景

海軍を保有せず陸地に囲まれた国であることにかかわらず、スイスは1864年に8番目の交渉国として日本と修好通商条約を首尾よく締結した。3番目の1911年に締結された二国間条約は、21世紀にも続く100年以上のスイス・日本間の経済交流の基礎をしっかりと築いた。

スイスは、戦後の日本からは、政治的に安定し、平和な国であると好意的に見られ、日本の旅行者からは最も魅力ある旅行目的地の一つとされてきた。今日、日本はアジアにおけるスイスの最も大きな貿易相手国の一つである。1911年の条約締結以降、スイスと日本の経済的関係はGATT、WTO、OECDといった国際機関によってより多くの規定がなされてきた。欧州では、スイスは欧州自由貿易連合(EFTA)の創設国の一つである。1972年、工業製品に関する欧州共同体(EC)による自由貿易が規定された。伝統的に輸出志向が強力なスイス企業を考慮すれば、海外市場参入への不断の向上は、常にスイスにとって対外経済政策の中心となる目的である。自由貿易協定(FTA)に加盟することによって、スイスは自国企業に海外市場参入に関して最も重要な海外の競争相手が享受するものと同等の水準を与えることを目的としている。スイス経済省のダイス大臣は、自由貿易協定に関し、「協定はスイスの多角的な海外経済関係の鍵となる」と述べた。さらに自由貿易協定は、欧州におけるスイスのビジネスの競争力の位置づけを維持し、強化する重要な手段としての役割をはたしている。1990年代初頭、スイスは欧州連合(EU)外の多数の国と自由貿易協定のネットワークを築いてきた。その間、80%を優に越えるスイスの海外貿易が自由貿易協定の下に取引された。2003年1月、欧州自由貿易連合とシンガポール間で、歴史上初めてとなる欧州・アジア間の域外自由貿易協定が発効し、2006年9月に欧州自由貿易連合・韓国間の自由貿易協定が続いた。それ以来、欧州自由貿易連合ばかりでなく、シンガポール、韓国の企業もまた、日本の競争相手に比べ、たとえば自動車やエレクトロニクスの分野において欧州市場で競争的な優位を持った。

二国間による自由貿易協定(日本が包括的な協定とし、経済協力協定と呼ぶもの)は、1995年から定期的開催されるスイスと日本の経済協議で話題となってきたが、日本の関係閣僚は、アジア・太平洋地域の途上国との協定交渉を優先させてきた。東アジア中心は、2004年12月に経済協力促進大臣諮問会議による「将来の経済協力協定促進の基本政策」というレポートで確認された。しかし、「経済協力協定・自由貿易協定の欠如が引き起こす経済的な不利をなくす」、「関係諸国・地域との提携や協力を通じ、WTO協議も含め、国際社会における日本の地位

を強化する」といったより一般的な条項が初めて適用された。日本は可能な自由貿易協定の対象国を著しく拡大し、スイスはそれを認識した。しかし、スイスが日本と自由貿易協定・経済協力協定の交渉をする初めての域外国の一つとなることには何の保証もない。本稿においては、成功のための経済と政治の要因を分析する。

2.日本のスイスとの自由貿易協定・経済協力協定の展望

2006年春に実施された研究では、チアバッキとツィルテナーはスイスとの潜在的な自由貿易協定・経済協力協定に関する日本の展望と位置を分析した。日本の文献を参照し、専門化とのインタビューを実施し、日本の上流階級はスイスとの自由貿易協定に関する異なった見方について3つのグループに分けられることがわかった。1番目のグループは、かなり狭義で短期間の自由貿易協定に関する展望を持ち、スイスとの自由貿易協定に反対することがないが、限られた経済的な影響しかないため、自由貿易協定を二義的なものとみなしている。この考え方はメディアからはほとんど関心がない。主要新聞はほとんど毎日日本の自由貿易協定政策について記事や社説を掲載しているが、スイスを潜在的な自由貿易協定の候補国とする記事はほんのわずかである。その記事のうちの1つが、2005年2月に発行された日本の自由貿易協定政策に関する概観であり、スイスとの自由貿易協定は対外戦略全体に役立つと述べている。

これが2番目のグループであり、この支持者は日本の農業と漁業の利益に主に関心がある。また、日本の一次産業に対する自由貿易協定の影響がおそらく小さいので、スイスとの自由貿易協定を支持している。スイスとの自由貿易協定は日本の農業市場開放のテストと考える者もいる。東京大学の農業経済学者の本間は、JETRO・SECO間の農業問題に関する予備調査について2003年に論考を書いている。

「スイスとの協定は、適用除外がない協定を理解できるまれな機会となり、そのような対外発表は広範な影響がある。それゆえ、農業は100%除外規定がない協定にまとめられるべきである」

さらに、2番目のグループは日本の自由貿易協定における永久的な抵抗勢力との自らのイメージを払拭する機会をうかがい、WTOでの農業協議での日本の立場を強化したいと願っていた。後に、ある官僚は、農林水産省が積極的に促す工業製品での自由貿易政策と国内農業政策での改革を対立なく結合するスイスの手法を学びたがっていると語った。

218 自由貿易協定を通じて構造改革を進めることに関心があるこれらの勢力は、一方で、自由貿易協定がその目的にはおそらく役立たないとの理由だけで、スイスとの協定を「ローリスク、ローリターン」の典型だと非難した。彼らは、「最も抵抗が少ない道を歩む」日本政府の戦略が結局は「ペーパー上はよく見えるが、相当に骨抜きされた自由貿易協定」になり、日本経済には何ら効果がないと批判した。これは一次産業には当てはまるかもしれない。他の産業、たとえば化学・薬品業界へは、ノバルティスやロシェといったスイスの世界的な主要企業に対する市場参入を向上させるために、自由貿易協定は日本での激しい競争を既に強めているであろう。スイスが同様に主要企業を擁する銀行・金融サービス業界では、日本の競争相手は今後可能性がある市場開放や規制緩和にとっても警戒的である。

3番目のグループの長期的かつ戦略的な展望においては、スイスとの自由貿易協定は欧州市場への門戸開放であり、先進的な工業経済に対する自由貿易協定への理想的な事例と考えている。スイスとの潜在的な自由貿易協定を達成することによって、日本の自由貿易協定政策全般が新たな原動力を得るべきである。高い質のスイスとの自由貿易協定は、日本の大部分が自己防衛的な自由貿易協定政策を積極的で戦略的なアプローチに変えることに役立つであろう。この展望から、スイスとの自由貿易協定は、地域経済交易圏の形成とアジア・太平洋に向けて主に考えられる対外通商政策に対抗するので、重要とみなされている。欧日間の自由貿易協定は多くの人々によってとても困難であり、またこれから数年では実現不可能と考えられているから、日本と欧州の橋渡しとしてのスイスとの自由貿易協定は、このほか重要となり、通商上の障害を取り除くものと考えられた。

回想してみると、2番目と3番目のグループは、共に積極的なスイスの通商外交を支持し、交渉への道を開く政府の合同研究グループの設立に対し特に重要な役割をはたしてきた。経団連が日本の対外経済戦略上はたしてきた顕著な役割に気づいた後、スイスの大統領とダイス経済大臣は、2004年10月の訪日中、経団連の支持を得ようとした。2006年4月、経団連は欧州に関する新たな方針を採用し、そこで、驚くまでもなく欧州単一市場とその東欧への拡大に焦点を当てた。東欧と西欧のビジネス上の境界を撤廃し、日本企業による包括的な事業戦略を求めることを記述した。欧州自由貿易連合は単一市場に高度に統合されることが確実に確認され、次の結論に達した。

「日本にとってこれらの国々と外交上の協議は書くことのできないことである」

「各国との経済協力協定は、日欧間の経済関係を強力にする効果的な手段となりうる」

その結果、2006年夏、アイスランドでの欧州自由貿易連合総会に出席した高位の代表団を欧州に派遣し、その後ノルウェー、ポーランド、スイスを訪問した。スイスでの交渉窓口となるエコノミースイスは日本・スイスの自由貿易協定・経済協力協定交渉を着手するための組織的なキャンペーンに関心があることを明示するためにこの機会を利用した。

スイス側は日本、ノルウェー、アイスランド間の独特な通商構造(重要な漁業)があり、これは現実的な選択肢でないと十分に認識していた。何度もスイスは、前進させる唯一の方法は、スイスと日本の二国間交渉とのメッセージを日本政府から受け取った。そのような単なる二国間協定は欧州自由貿易連合の枠組みに相反することがないことから、問題ではなかった。

3.自由貿易経済協力協定の交渉のプロセス

交渉は2007年1月に安倍首相とカーミレイ大統領との電話会議から公式に始められた。予備会議の後に、最初の円卓交渉が5月に東京で開かれた。日本の交渉団代表の横田は報告によると最初の会議の手始めに、日本は欧州の国と自由貿易協定を結ぶことで未踏の領域に入ることに高い関心があると述べ、スイスの交渉相手であるワゼンシャは想定される協定が各自の経済の競争力を強化する有益な手段として機能するばかりでなく、欧州とアジア間の経済関係を新たなステージへと導く強固なものとしても機能することを望むと述べた。両国は、1年以内に交渉が合意に至るよう共通の理解を共有した。結局、合計8回の円卓会議が17ヶ月の間、交互に日本とスイスで実施された。

財の取引に関しては、大きな障害はなかった。両国は可能な限り完全かつ迅速に工業製品への関税撤廃を目標とすることで合意した。スイスは初期段階でより包括的で野心的な案を提示した。日本は、より多くの除外規定といくつかの分野での(たとえば皮革、木材、化学・薬品など)より長い時限措置を求めた。問題は概念的に異なる準拠法から発生した。農業分野では、目標は全般的な取引自由化ではなく、いくつかの加工ないし原料となる農業製品に対するバランスの取れた譲歩の方針であった。両国にはまた外人への労働市場解放には厳格な政策があった。初期の交渉から、労働分野の規定は、WTOのサービスの貿易に関する一般協定(GATS)の既に現存する約款を超えないことは、両国によって明確であり、容認された。特に、日本は、スイスにて日本人が労働と滞在許可を得る手続を容易にする制度を求めた。金融サービス分野での潜在的な市場開放といったスイスの要望は実現しないことがすぐに明らかになった。知財に関しては、日本とスイスは世界的な知財保護と取締を強化するための協調では先駆者である。スイスの主要な目標は、日

220 本から地理的な指針を包含することでスイスで加工される特定の農産物(チーズなど)を保護し、スイス、スイス産といったブランドを保護することであった。日本にとっては、これは法的拘束力がない付帯条項としてのみ受け入れられるものであった。電子商取引に関しては、両国は当初からこの分野での意見交換を促進する最新の協定を交渉することで合意した。

すべての税金に関する問題は交渉から除外された。これは、同時に現行の二国間の二重課税協定の更改交渉が進んでいたからであった。

最後の交渉がスイスの首都、ベルンで2008年9月24日開催された。日本は、ワインやチーズといった特定の製品の市場参入に関して追加的な改善点を提案した。包括的な市場自由化とはほど遠いがG10においては典型的な友好的な贈り物の交換といった譲歩であった。2009年2月19日、ロイタード経済大臣と中曽根外務大臣は東京で自由貿易経済協力協定に署名した。

初夏、批准の後、2009年9月1日、協定は発効した。日本にとって、10番目の自由貿易協定・経済協力協定の締結であり、アジア・太平洋の地域を超えた初めてのものであった。即効性のある経済的な影響は大きくないが、交渉に当たった人たちは満足であった。現存する自由貿易協定の歴史を持つスイスにとっても、日本は興味深い自由貿易協定の交渉相手ということがわかった。いくつかの地域においては、新興国との日本の他の協約への指針となる協定が交渉されている。広範な効率的なスイスの制度を研究し、日本は、古くから民間部門から要望されていた、単純化された輸出申告制度を導入した。別の面では、日本は自由貿易協定・経済協力協定を「過去の人質」とみなしているとの声が聞かれる。スイスとの関係に関する努力は新興国との交渉に関する努力とはまったく異なるが、日本は所定の自由貿易協定の形式を遵守しなければならない。スイスにとってはこの自由貿易経済協力協定は、欧州連合内で1972年に締結されて以来に署名された経済的には最も重要な自由貿易協定であり、アジアの国では3番目の協定締結であった。

4.自由貿易経済協力協定の重要な要素

協定はスイスと日本における包括的な経済協力を規定した。協定は、財の取引(工業製品と選定された加工、原料農業製品、準抛法、税関手続、貿易促進、関税障壁撤廃に関する規定)、サービスの関する貿易、ビジネス目的の自然人の移動、投資保護の確立、知財保護、電子商取引の促進、より緊密な経済関係の促進と競争分野の規定などの明文の規定を含んでいる。

まず、新協定は、日本・スイス間の工業製品、選ばれた農業品の自由貿易分野を規定している。この協定を実行するため、ほとんどすべての工業製品への関税をただ

ちに撤廃した。わずかな品目においてのみ、移行期間に日本の関税が課される。農業品に関しては、スイスと日本は、原料および加工農業品の選ばれた範囲で互に関税の譲歩を認めた。財の貿易に関する規定は、準抛法、税関手続と貿易促進の規定も含まれ、同様に貿易の技術的障害、衛生と植物防疫のための措置に関しても規定されている。サービスに関する貿易については、WTOのサービスの貿易に関する一般協定で構成され、ほとんどがその協定に含まれている。金融サービス、通信、サービスに関する国内規制の規律、サービス供給業者の申請への認可などの付帯条項は、サービスの貿易に関する一般協定を超える追加的な業種固有の規定に含まれている。さらに、自由貿易経済協力協定は、ビジネス目的による自然人の入国、短期滞在についても規定している。

自由貿易経済協力協定は、スイスと日本による投資を最恵国待遇に基づくものと規定し、投資保護を強化している。自由貿易経済協力協定は、とりわけ著作権、商標、意匠、特許、内密のテストデータ、不公正競争への保護、知財の行政罰などを含んでいる。この自由貿易経済協力協定はスイスにとってエレクトロニクス製品とサービスの貿易に関して固有規定を含む初めての自由貿易協定であり、デジタル製品、電子認証、インターネット利用者の保護に関する義務を含んでいる。さらに自由貿易経済協力協定は、不正競争を防止するため競争政策分野の規定もある。詳細な規定は両国の公正取引当局間の協調に委ねられる。通常自由貿易協定のように、合同委員会、いくつかの技術的な小委員会がその履行状況と協定の向上を管理する。自由貿易経済協力協定は「より緊密な経済関係の促進」についての規定も包含する。この協定書(日本の他の自由貿易協定では「ビジネス環境の向上」とのタイトルとなっている)においては、企業が直面する固有の懸念や関心が両国の民間部門を直接巻き込み、強調される。

5.成功の秘訣

2つの貿易依存の経済圏にとり、すべての主要市場における工業製品の参入を確保することはゆるぎないことである。この点に関して、日本はその市場規模により、スイスに対してより重要性をもつ。しかし、日本企業は、シンガポールや韓国が日本ではなくスイスと自由貿易協定を締結しているように、差別的な状況を回避することに関心が高い。さらに、経団連はスイスに対し、より包括的で長期的な関心がある。スイスとの交渉の結果が経団連の期待を満たしたということは、この点において欧州との交渉の開始を最近求めたことから明らかである。そこでは、自由貿易経済協力協定のいくつかの要素が電子認証や電子商取引のような指針が定義されている。

スイス・日本間の協定の結論は、新興国間の自由貿易協定の締結が可能であり、義務であるという強い信号となり、それゆえ、世界的な貿易自由化が国内の農業政策といった保護主義の放棄なしに進められることができる。この点について、(欧州自由貿易連合と韓国の自由貿易協定が既にそうであったように)日本・スイス間の自由貿易経済協力協定もまさに「G10における自由貿易協定」なのである。結果的に農林水産省は明確にスイスとの自由貿易協定への交渉の過程で積極的であった。当初はスイスとの自由貿易協定にかなり無関心であったが、財務省はワインやタバコといったスイスの輸出の利権から圧力を受けた。なにも交渉の最終段階で最も困難な課題を受けたのは農林水産省ではなかった。経済産業省とJETROのような関連団体は、より長期的な戦略、優先すべき地域経済的な展望があったことから、初期からスイスに対し積極的であった。また、スイスは多くの点で興味深い「テストケース」であった。外務省にとっては、スイスは明らかに高順位ではなかったが、トップレベルでの政治判断がいったんあれば、外務省は先頭に立つ準備があった。

6. 結論

経済と政治の日本・スイスの自由貿易経済協力協定への道を開いた。日本側のスイスとの交渉を開始する主要な動機は、自由貿易経済協力協定がスイスでの日本企業に対する差別を終わらせること、日本への海外直接投資を引き寄せることに役立つことであった。また、アルペンにある国は、すぐれた自由貿易協定の実績と新興国との自由貿易経済協力協定の興味深いテストケースの情報網などといった理由から、欧州への玄関口と考えられた。WTO(G10)での日本とスイスの協定関係を考慮すれば、農業問題は障害でないことは明らかであり、むしろ農業保護主義と進歩的な貿易自由化は共に手を携えて進むことが可能だと証明する機会であった。スイスは大きくない規模の経済国であり、二国間の経済関係が既に円滑であるという事実にこれらの動機は影を落とした。スイスの対外経済政策にとって、自由貿易経済協力協定はほぼ150年間となる伝統的に良好な関係に基づいた、目覚ましい成功である。

パトリック・チルタナー様は1997年にはチューリッヒ大学に在学し、社会科学、歴史学と経済学を専攻。日本とスイスの自由貿易経済連携協定を交渉するスイスのチームのメンバーの一人でした。現在、チューリッヒ大学の教授である。