

Regional Environmental Governance: Examining the Association of Southeast Asian Nations (ASEAN) Model

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SUMMARY

Regional systems of environmental management are an essential component of global environmental governance, complementing governance efforts at the national and global levels. This chapter analyzes the role and functions of the Association of Southeast Asian Nations (ASEAN) in the environmental domain as one model for regional governance.

ASEAN's tradition emphasizes non-interference in its members' domestic affairs, seeks consensus and cooperation, and aims to facilitate national implementation of regional agreements. Two main areas have served as a focal point for regional environmental cooperation within ASEAN: management of shared natural resources (biodiversity) and pollution control (air pollution from forest fires).

The ASEAN experience in environmental management illustrates the strengths and limitations of environmental governance at the regional level, with important lessons for the global level. The organization's emphasis on cooperation favors regional policy and soft law formulations. However, the general lack of concrete instruments for translating ASEAN commitments into national level action has hindered implementation of effective programs. ASEAN's limitations could be reduced if the organization were understood as an essential, but not exclusive, part of an environmental governance system, working and cooperating with international organizations to solve problems and implement solutions.

REGIONAL ENVIRONMENTAL GOVERNANCE

Global sustainable development requires actions to be taken in each country in accordance with national capacities. The key to success in addressing transboundary harms is a structure that connects international policymaking with national implementation. National action can be encouraged through strengthened global networks, improved data and information systems, and new financing arrangements, but work at the national level remains critical.

The regional level represents a critical middle ground between the global and national scales (Dua and Esty, 1997). Contiguous states may collaborate to sustain shared ecosystems and solve common problems. Indeed, many transboundary issues appear first at the regional level, affecting several neighboring countries. Pollution of a shared river basin or loss of habitat across the migration range of a species, for example, are as relevant at the regional as at the national level. No country can cope effectively with shared environmental problems on its own. Regional systems of environmental management are thus essential to securing agreements for, and implementation of, specific action programs (Kimball, 1999).

Regional integration of national activities for sustainable development can be advanced through measures such as harmonization of standards, joint development of environmental management systems, and collaborative capacity building projects. None of this will happen, however, without an effective institutional framework to facilitate it.

THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS

The Association of Southeast Asian Nations (ASEAN) was founded in 1967 to encourage stable relations among Indonesia, Malaysia, Singapore, the Philippines, and Thailand, and to resist the destabilizing influences of the war in Vietnam. To promote stability, ASEAN fostered economic, social, and cultural cooperation in the spirit of equality and partnership. The Association subsequently expanded its mem-

bership to include Brunei Darussalam, Cambodia, Laos, Myanmar (Burma), and Vietnam.¹

During the first phase of cooperation, the national ASEAN Secretariats carried out projects without a formal treaty system. Subsequently, ASEAN has developed increasingly sophisticated measures for policy coordination. The Association seeks to meet its goal of closer cohesion and economic integration by building a recognized ASEAN community. In 1997, the ASEAN heads of state and government gathered in Kuala Lumpur to mark the Association's 30th anniversary. The outcome document of that meeting, *ASEAN Vision 2020*, attests to the achievements of the past thirty years and elaborates a vision for the future of the region:

That vision is of ASEAN as a concert of Southeast Asian Nations, outward looking, living in peace, stability, and prosperity, bonded together in partnership in dynamic development and in a community of caring societies. (ASEAN, 1997)

The Hanoi Plan of Action, 1999 – 2004, was formulated pursuant to ASEAN Vision 2020 and covered some fifteen areas relating to the environment.



¹ Brunei Darussalam joined in 1984, Vietnam in 1995, Laos and Myanmar in 1997, and Cambodia in 1999.

The “ASEAN Way”

Regional cooperation to build stable relations in Southeast Asia has become known as the “ASEAN Way,” a collaborative approach emphasizing three fundamental standards:

- Non-interference or non-intervention in other member states’ domestic affairs, as underscored in the United Nations Charter, Article 2(7);
- Consensus building and cooperative programs rather than legally binding treaties (but in an exceptional situation, a binding agreement may be possible);
- Preference for national implementation of programs rather than reliance on a strong region-wide bureaucracy.

The emphasis on consensus is also reflected in ASEAN methods for dispute resolution. In the Pacific region, due to the influence of the British Commonwealth, most disagreements are settled with formal judicial methods (Cameron and Ramsay, 1996). Disagreements between the nations of ASEAN, on the other hand, are generally settled through conciliation and consultation, which is seen as a way to minimize tensions and avoid unnecessary conflicts (Narine, 1999).

ASEAN Organizational Framework for Managing Environmental Matters

There is no core ASEAN bureaucracy. The small Secretariat, based in Jakarta, has a limited facilitation role. Activities are undertaken by each ASEAN member state at the national level. ASEAN embraces the tenet of common but differentiated responsibilities. Members agree on common measures, decide how to implement them, and contribute according to their capabilities, acknowledging that ASEAN member states have achieved different levels of development and therefore have different capacities for action.

When ASEAN was established in 1967, environmental management was not expressly recognized as a concern (Koh, 1996). ASEAN integrated the environment into its complex system of regional consultations on economic, social, technical, and scientific development following the Stockholm Conference on the Human Environment in 1972.

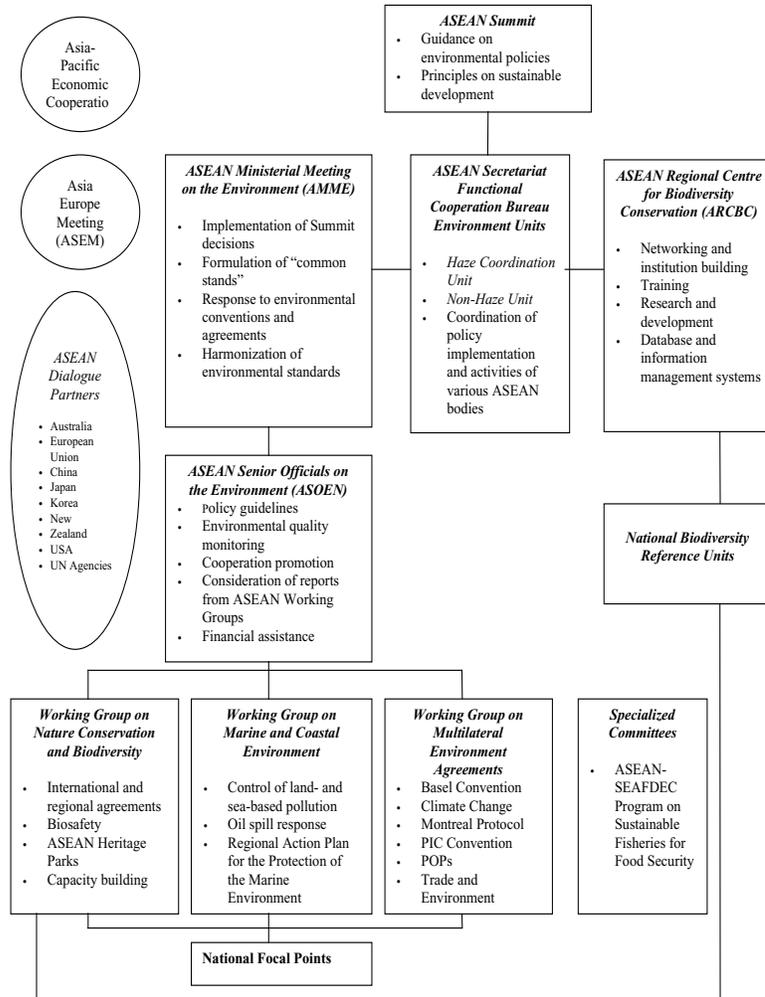
ASEAN's Senior Officials on the Environment carry out a series of activities in the environmental domain:

- Preparing for ASEAN's regional participation in international environmental governance deliberations;
- Establishing guidelines pertaining to pollution, biodiversity, climate change, forests, and related environmental matters;
- Working toward harmonization of environmental standards for ambient air and river quality.

In each country, National Focal Points are responsible for carrying out ASEAN initiatives. Member states are increasingly willing to assume greater responsibilities to increase ASEAN's environmental effectiveness, as demonstrated by the Philippines' decision to host ASEAN's Regional Centre for Biodiversity Conservation and Malaysia's agreement to manage the Marine Turtle Conservation Program. The current framework for ASEAN environmental management and cooperation is reflected in its institutional architecture (see Figure 1). This structure facilitates cooperation among ASEAN member states and enhances the Association's ability to cooperate with other countries.

A Summit of the ASEAN heads of state and government, ASEAN's highest decisionmaking body, is held every three years. These high-level panels pave the way for intermediate, ministerial-level meetings, and provide proposals for decisions to be adopted by consensus at the ministerial level. Ministerial meetings by sector – including agriculture and forestry, economics, energy, environment, finance, labor, regional haze, rural development and poverty alleviation, science and technology, and social welfare – are convened in tandem with the Summit. Every three years, well before the meeting of the heads of state and government, ASEAN holds a Ministerial Meeting on the Environment.

Figure 1 ASEAN's Organizational Framework



APPROACHES TO SOLVING ENVIRONMENTAL PROBLEMS

The “ASEAN Way” faces new challenges as it knits together programs across the ten Southeast Asian states, yet the very fact that the ASEAN Way is regarded as a defined approach, distinct from the more formalistic parliamentary decisionmaking systems of Europe and North America, is evidence for the proposition that ASEAN bears close study by those interested in strengthening regional and global environmental governance.

ASEAN’s approach to environmental governance and its institutional responsibilities and achievements can be illustrated by its efforts to manage biodiversity conservation and to address transboundary air pollution from forest fires.

Biodiversity Conservation: Addressing Global Priorities Using Regional Management

Southeast Asia is a “mega-rich” region in terms of biological diversity. These resources require careful conservation management. Unsustainable logging and conversion of forests into agricultural land have had adverse impacts on biodiversity across the region. Biodiversity conservation has thus become an issue of significant interest to ASEAN member states (Koh, 2002). Recognizing the need to share information and to shape a common approach to biodiversity, member states initiated a Working Group of ASEAN Senior Officials on the Environment and an ASEAN Regional Centre for Biodiversity Conservation. The four core functions of the Centre illustrate the problem solving approach that ASEAN has adopted regarding environmental concerns:

- *Networking and Institution Building*
Strong national institutions are critical for the implementation of regional policies. To this end, a network of national biodiversity reference units has been established, connecting scientific knowledge and promoting information exchange. The network is also charged with the task of developing and implementing an exchange program for academics and researchers from ASEAN institutions, as well as designing policies for biodiversity conservation.
- *Data and Information Management*
Sound data on natural resources and environmental trends are critical for the effective design of policies and their implementa-

tion. The Biodiversity Centre creates, shares, and maintains electronic data repositories regarding biodiversity and has the capacity to link its records to other international databases.

- *Research and Development*
The accumulation of scientific knowledge and understanding is seen as critical in the environmental domain where many uncertainties persist. The Biodiversity Centre has taken on the role of coordinating regional efforts in determining research priorities, organizing conferences to finalize the regional research agenda, and providing funds for applied biodiversity research activities.
- *Education and Training*
The sustained build up of capacity for the execution of common policies and decisions is an important governance function. The Biodiversity Centre assists institutions in formulating their training needs, and designs and carries out training and education programs.

Across the region, in cooperation with the European Union, the ASEAN Regional Centre for Biodiversity Conservation is creating management systems for biological conservation as a foundation for sustaining the region's natural resources. The Centre serves as the main focal point for networking and institutional linkage among ASEAN member countries, and with other regional organizations, to enhance the region's capacity to promote biodiversity conservation.² The process also prepares the ASEAN members to participate in the Conference of Parties to the Convention on Biological Diversity.

Transboundary Air Pollution: Addressing National Issues with Regional Impacts

Air pollution from burning biomass in Southeast Asia has become a recurrent environmental challenge that causes serious adverse economic and health impacts (Tan, 1996). The use of fire to transform forest areas into agricultural land has uncontrollable consequences during the dry periods that the region experiences as a result of El Niño climate oscillations. This problem is particularly serious in Indonesia, where the practice of forestland burning is largely prohibited by statute, but where enforcement is hindered by lack of community education, inadequate administrative capacity, and corruption. Once fires spread out in dry weather, the capacity to extinguish them

² For more information on these programs, see <http://www.arcbc.org.ph>

is limited and the smoke becomes a transnational pall, known as “haze.” As a result, ambient air quality standards are breached and breathing the air in certain cities throughout the region becomes a health hazard (Tay, 1998).

In 1995, ASEAN adopted the Cooperation Plan on Transboundary Pollution, which included measures for addressing transboundary atmospheric pollution, transboundary ship-borne pollution, and transboundary movement of hazardous wastes. The Cooperation Plan demonstrated a region-wide level of commitment and spirit of cooperation on environmental issues that had not been seen before.

Unlike biodiversity, however, haze is a sub-regional issue, involving the original ASEAN member states. Thus, rather than employing the typical ASEAN-wide working group structure, a Haze Technical Task Force was developed. The Cooperation Plan has been largely ineffective, unfortunately, because it lacks an operational agenda. In the absence of targeted mitigation activities, the region suffered a major bout of transboundary air pollution in 1997. Progress has been too slow to effectively avert the recurrence of the haze (Robinson, 2001; Tan, 1999; Tay, 1998, 1999), reflecting the preference of the states of ASEAN for cooperative and consensual discussions, or soft law, over the adoption of international agreements, or hard law.³

The recent landmark ASEAN Agreement on Transboundary Haze Pollution, however, signed on 10 June 2002 in Kuala Lumpur, demonstrates that in a crisis situation, ASEAN members can rally together to reach consensus on a hard law instrument. The Agreement seeks to:

- Prevent land and forest fires through better management policies;
- Establish operational mechanisms to monitor land and forest fires;
- Strengthen regional land and forest fire-fighting capability and other mitigating measures.

Under the Agreement, parties oblige themselves to:

- Develop information systems, including monitoring, assessment, and early warning to prevent and monitor transboundary haze pollution;

³ This reluctance is also evident in the 1985 ASEAN Agreement on the Conservation of Nature and Natural Resources, negotiated with the cooperation of the International Union for the Conservation of Nature and Natural Resources (IUCN), which remains to be ratified by enough states to enter into force.

- Provide necessary information regarding haze pollution originating within their borders;
- Take legislative, administrative, and other relevant measures to implement the Agreement.

An ASEAN Coordinating Centre for Transboundary Haze Pollution Control was also established to facilitate cooperation among the parties. Similar to the ASEAN Regional Centre for Biodiversity Conservation, its functions comprise data and information collection and analysis, networking, and capacity building. The Centre for Transboundary Haze Pollution Control is mandated with information clearinghouse functions regarding environmental threats, scientific capacities, technological options, and financing possibilities. It does not possess enforcement power. Whether the policies promoted by the Centre will be fully implemented at the national level remains to be seen, however, since there are no enforcement mechanisms and agencies at the ASEAN level.

EVALUATION OF ASEAN'S CONTRIBUTION TO ENVIRONMENTAL GOVERNANCE

What can we learn from the ASEAN record of regional environmental governance? First, ASEAN draws on a strong sense of regional identity to bring together diverse cultures and political traditions to promote cooperation and to shape common policies. Second, it does so by respecting each country's internal procedures, and building capacity within each nation to meet agreed program objectives. Third, ASEAN's emphasis on consensus and capacity building is ill equipped to deal with urgent events, as demonstrated by the lack of adequate response to regional fires and haze. This inadequacy has led some ASEAN commentators to call for a stronger emphasis on the implementation of policy and the initiation of necessary reforms (Tay, Estanislao, and Soesastro, 2001).

When ASEAN's environmental policies are considered in light of the region's environmental needs, several key strengths become apparent:

- *Adaptation capacity.* In many instances, ASEAN has demonstrated an ability to adapt to new circumstances. ASEAN overcame the reunification of Vietnam in 1975, Vietnam's invasion of Cambodia

in 1979, and the end of the Cold War in the early 1990s, when the organization was expected to disband (Funston, 1999);

- *Effective regional policy formulation.* ASEAN has been remarkably successful in shaping a common regional environmental policy framework (see box on ASEAN Sustainability Framework).⁴ By respecting each country's internal procedures, ASEAN has facilitated cooperation;
- *Stable relationships among members.* The non-interventionist approach has contributed to building relatively stable relations among member states. The community building process has facilitated social and political interaction, rather than interference, and has reduced intra-ASEAN tensions (Snitwongse, 1995);
- *Sound foundation for implementation.* ASEAN's consensus building process has created a sound foundation for implementation. For instance, the Working Group on Nature Conservation and Biodiversity has drafted an ASEAN framework agreement on access to genetic resources, which may be effective in shaping a common approach among the administrations and parliaments of the ASEAN States, or may form the basis for a new regional hard law instrument. It also is likely to minimize – in advance – possible regional trade disputes on the subject.

Despite the proliferation of policies on sustainable development, declarations, resolutions, plans of action, and programs, the implementation of agreements within ASEAN is usually rather slow. Some of the key limitations and barriers to effectiveness include:

- *Non-intervention.* The “ASEAN Way” follows too blindly the principle of non-intervention, undermining the possibility of adopting practical measures to cope with regional problems. Diplomats, political leaders, and scholars have urged ASEAN to re-examine the meaning of its non-interventionist norm (Tay, Estanislao, Soesastra, 2001);
- *Inadequate support.* Lack of expertise, information and data, funding, and organizational support within ASEAN have often led to suboptimal results;

⁴ This common policy framework is the product of ASEAN Action Plans between 1978 and 1992, culminating in a Strategic Plan, 1994-98 (Koh, K.L. 1996), which was implemented to establish a region-wide process for implementation of *Agenda 21*.

ASEAN SUSTAINABILITY FRAMEWORK

ASEAN's policies, in soft law instruments, set forth a common regional policy framework for sustainable development with the following policy guidelines (Koh, 1996):

- **Environment Management.** Endorse and employ environmental impact assessments, optimal land use plans, and town and country planning or zoning plans;
- **Nature Conservation.** Develop new practicable approaches for preserving forest wildlife and ecosystems; monitor the quality of environment and natural resources to enable compilation of ASEAN state of the environment reports;
- **Marine Conservation.** Develop practicable methods for management of pollution discharges;
- **Industry.** Ensure reasonable control of waste discharges at the early stages of project formulation; recycle waste; develop suitable systems for control of toxic and hazardous waste;
- **Education and Training.** Enhance public awareness; introduce environmental subjects in schools and universities; provide technical training in environmental information systems; encourage wider involvement in environmental management; promote cooperation among governments, NGOs, universities, and business communities within ASEAN;
- **Environmental Legislation.** Develop appropriate legislation to support proper management in the development of the environment;
- **Information Systems.** Establish monitoring programs for surveillance of sensitive environmental resources; promote use of remote sensing to establish databases; develop comprehensive environmental information systems to facilitate decisionmaking;
- **Enhanced ASEAN Joint Action.** Facilitate closer cooperation of the ASEAN member states to act in unison in incorporating environmental concerns into economic policies to provide better foundation for natural resource management;
- **International Cooperation.** Establish cooperation with developed and developing countries and international agencies for transfer of technology; share experiences in the management of the environment.

- *Inadequate information.* The absence of a monitoring and surveillance mechanism limits the ability of ASEAN to gather information on environmental trends and risks and to respond effectively;
- *Lack of a dispute resolution mechanism.* Because the ASEAN Way emphasizes decisionmaking through consensus building, it lacks an effective dispute settlement process. Thus, ASEAN often opts for conflict avoidance rather than conflict resolution (Narine, 1999: 360).

Learning from Success and Failure

In the ten years since the UN Conference on Environment and Development, ASEAN has done much to both integrate all Southeast Asian nations into one region, and to regard the region as a shared ecosystem. The political cooperation and economic negotiations toward more liberalized trade relations will be facilitated by the establishment of a sound, common environmental policy framework.

The “ASEAN Way,” with its non-interventionist approach, has promoted building stable relations, agreeing upon general policy, and fostering capacity building measures. However, arresting environmental degradation patterns also requires affirmative action – which by definition must be interventionist, albeit in agreed ways, based on scientific knowledge.

A number of measures would enable significant improvement in that direction:

- The Association could create a regional “cooperation team” to be deployed throughout the region to prevent or contain environmental catastrophes, using appropriate information and scientific knowledge. Such a system is already in place for marine oil spills and could be replicated for terrestrial environmental problems. ASEAN could draw on its rich history of cooperation to create such teams. This would enhance respect for sovereignty, not undermine it, as the inability to avert an environmental disaster is a greater loss of sovereign authority than cooperation to control the harm.

- ASEAN might agree to establish eco-labeling schemes for palm oil and timber products in order to address the capital investment that is a cause of the forest fires in Indonesia and deforestation throughout the region. This scheme would enable consumers to make informed market decisions and would help deter the illegal process of setting fires to clear land.
- ASEAN could mete out sanctions against palm oil companies that are responsible for the fires, rather than pursuing a conciliatory approach of negotiating behind closed doors, "saving face" for their neighbors.

ASEAN has adopted a reactive rather than a proactive approach to environmental protection. Since there has been intermittent warfare throughout the region for fifty years, reluctance to intervene in member states' affairs is understandable. Nonetheless, ASEAN member states should differentiate illegitimate or hostile meddling in each other's affairs from the promotion of effective policies and environmental justice across the region.

In the case of Indonesian forest fires, for instance, neither those states whose nationals invest in the Indonesian palm oil plantations or timber operations that instigate forest burning, nor Indonesia, whose resources are being damaged, should tolerate the injury to other ASEAN states from the haze. The prevalent regional attitude of deference towards the domestic affairs of one's neighbors can thus lead to violations of Principle 21 of the Stockholm Declaration, which stresses that states have "the sovereign right to exploit their own resources pursuant to their own environmental policies *and* the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction." As Singapore Ambassador Tommy Koh has observed, "ASEAN's corporate culture prevented Indonesia's neighbors from engaging her in a free and candid exchange of views."⁵ Others in the region have arrived at similar conclusions.⁶

⁵ Quoted in *The Straits Times*, 10 July 1998, at page 48.

⁶ For instance, at the ASEAN Foreign Ministers Meeting of the member countries held in Manila in 1998, Thailand urged ASEAN to adopt the principle of "flexible engagement." The Thai foreign Minister Surin Pitsuwan stated: "Perhaps it is time that ASEAN's cherished principle of non-intervention is modified to allow ASEAN to play a constructive role in preventing or resolving domestic issues with regional implications." This proposal was only supported by the Philippines.

An analysis of the ASEAN Way in light of the organization's successes and failures reveals that ASEAN is better equipped to deal with issues where members' interests converge than problems where members have opposing interests. Indeed, ASEAN's consensus-based approach works well when all countries in the region share similar goals, but when states' interests diverge, this same approach leads countries to evade issues and avoid negotiations.

ASEAN has been shown to be effective in dealing with the management of common natural resources such as biodiversity. In the case of the Indonesian haze, however, pollution from one country is causing damages in neighboring areas, and the implementation of costly measures in Indonesia may be required to preserve the environment elsewhere in the region. Finding an effective solution to this issue may necessitate more serious measures and could accelerate the evolution of ASEAN from a regional body capable of arriving at an environmental policy consensus to one capable of implementing that consensus.

PROSPECTS FOR COOPERATION: THE REGIONAL-GLOBAL INTERFACE

Regional environmental governance structures are a part of an environmental governance architecture spanning the local and the global levels (Esty, 1999). Initiatives at the regional level complement, rather than substitute for, the policies and efforts of international institutions. To this end, global mechanisms need to facilitate regional environmental initiatives. Three major forms of cooperation between ASEAN, or other regional organizations, and international environmental governance institutions could be especially valuable: information systems, international best practices, and dispute settlement.

Information Systems

Global-level governance structures could serve as an important source of data and information, allowing for more effective regional policy formulation. A repository of data on environmental indicators from surveillance systems across regions would allow for the identification

of risks, trends, causes, and possible responses. A Global Environmental Information Clearinghouse, as outlined by Esty and Ivanova in this volume, could serve in this capacity and fill in the data gap that hampers effective environmental policy at the regional and national levels. Moreover, a global mechanism for information gathering and dissemination would promote a two-way flow of information. National and regional agencies and non-governmental organizations could access a wide range of relevant data, allowing for better problem identification, prioritization, and resource deployment. At the same time, regional organizations could serve an intermediary repository function for local level information collection efforts and encourage broader engagement in the policy process by a larger segment of the general public (see Karlsson, this volume).

International Best Practices

Information sharing on implementation strategies, technologies, and policies may be another area of potentially essential cooperation between the global and regional levels. Best practices in problem solving on a range of issues could provide a useful tool for regions facing similar challenges. One area in which ASEAN could share its experience, for example, is in the efforts to resolve conflicts between trade and environmental interests, which “increasingly appear as flash points that divide nations, creating tensions that could cause some countries to renege on commitments to an open market” (Dua and Esty, 1997). ASEAN’s shrimp exports were embargoed by the United States in 1996 on the grounds that shrimp trawlers in those countries did not use the turtle-excluding device, a tool that significantly reduces the number of deaths of sea turtles in shrimp harvesting.⁷ The embargo prompted a concerted effort at protection, conservation, replenishment, and recovery of sea turtles and of their habitats, based on the best available scientific evidence, taking into account the environmental, socio-economic, and cultural characteristics of individual ASEAN members.⁸ Information on best practices and policies con-

⁷ Malaysia and others challenged the U.S. trade restrictions under the dispute settlement procedures of the World Trade Organization. In October 2002, however, the WTO Appellate Body ruled in favor of the United States, confirming that the ban of shrimp represented a valid environmental concern compatible with WTO laws (USTR, 2001).

⁸ Under the agreement, each ASEAN country is to nominate specialists to form a Technical Experts Working Group, the purpose of which is to prepare a Marine Trade Conservation Programme and Work Plan for endorsement by the ASEAN Fisheries Working Group and approval by ASEAN agriculture and fisheries ministers.

cerning the effective management of trade and environment interests could form one of many areas of collaboration among regions, facilitated by a global information clearinghouse.

Dispute Settlement

International organizations could also assist regional bodies and member states in resolving disputes. As exemplified by ASEAN, when conciliation is not possible and interference with the national policies of a member state is not a viable option, resolving disputes becomes a significant challenge. However, countries may be willing to accept arbitration from an external court or organization that is trusted as impartial by all parties involved in the dispute. Resorting to such a venue would not conflict with the principle of non-intervention in domestic affairs, and might enable countries to reach agreement on a set of difficult issues. One example of a situation in which ASEAN members have referred to an international body is the dispute between Malaysia and Indonesia over the islands of Sipidan and Litigan, which was referred to the World Court (Narine, 1999: 377). Similar international arrangements could also be used for environmental matters.

CONCLUSION

Regional environmental governance through ASEAN offers valuable lessons for intra-regional cooperation. Notwithstanding the evident need within ASEAN countries to devote greater attention to implementation of shared policies, ASEAN has been successful in shaping a common regional environmental policy framework and establishing a basis for capacity building throughout the region. ASEAN's consensus building process may have created a sound foundation for future implementation of common policies. But the weaknesses of this process are evident too – especially where views, values, and interests diverge. Over the longer term, the flexibility of the “ASEAN Way” may, in fact, help ASEAN to build a stronger basis for regional action and effective policymaking. As emphasized by Ambassador Tommy T.B. Koh, chair of the UN Conference on Environment and Development in Rio:

The dream of a united Europe has been shared by Europeans for more than 300 years. That dream is still not completely realized. Viewed in this light, the progress that has been achieved by ASEAN in the last seven years has been quite remarkable. Although ASEAN was formed primarily for the purpose of promoting economic and cultural cooperation among the member nations, the two outstanding achievements of ASEAN to date have been the forging of a sense of community among the five member nations and what I will call confidence-building. (Koh, 1998)

Regional environmental governance represents an indispensable link between, and complement to, national and global initiatives. As illustrated by the ASEAN case, to be more effective, regional systems for environmental governance need to supplement cooperative policy formulation with effective mechanisms to facilitate implementation of policies at both the sub-regional and national levels.

REFERENCES

- ASEAN. 1997. *ASEAN Vision 2020*. Kuala Lumpur, Malaysia: Association of Southeast Asian Nations.
- Cameron, James, and Ross Ramsay. 1996. "Transnational Environmental Law Disputes." *Asia Pacific Journal of Environmental Law* 1 (1).
- Dua, Andre, and Daniel C. Esty. 1997. *Sustaining the Asian Pacific Miracle: Economic Integration and Environmental Protection*. Washington, D.C.: Institute for International Economics.
- Esty, Daniel C. 1999. "Toward Optimal Environmental Governance." *New York University Law Review* 74 (6): 1495-1574.
- Funston, John. 1999. "Challenges Facing ASEAN in a More Complex Age." *Contemporary Southeast Asia* 21 (2): 205-219.
- Kimball, Lee A. 1999. "International Environmental Governance: A Regional Emphasis on Structured Linkages Among Conventions and Intergovernmental Organizations." *Transnational Law Exchange* 2 (1): 6-10.
- Koh, Kheng Lian. 1996. *Selected ASEAN Documents on the Environment July 1996* (1).
- _____. 2002. "Ecosystem Management Approach to Biodiversity Conservation: The Role of ASEAN." In *Capacity Building for Environmental Law in Asian and Pacific Regions*, edited by K. L. Koh. Manila: Asian Development Bank.
- Koh, Tommy Thong Bee. 1998. *The Quest for World Order: Perspectives of a Pragmatic Idealist*. Singapore: Institute for Policy Studies, Times Academic Press.
- Narine, Shaun. 1999. "ASEAN Into the Twenty-First Century: Problems and Prospects." *The Pacific Review* 12 (3): 357-380.
- Robinson, Nicholas A. 2001. "Forest Fires as a Common International Concern: Precedents for the Progressive Development of International Environmental Law." *Pace Environmental Law Review* 18 (2): 459-504.
- Snitwongse, Kusuma. 1995. "ASEAN's Security Cooperation: Searching for a Regional Order." *The Pacific Review* 8 (3): 518-530.

- Tan, Allan K. J. 1999. "Forest Fires of Indonesia: State Responsibility and International Liability." *International and Comparative Law Quarterly* 48: 826-855.
- Tan, Gerald. 1996. *ASEAN Economic Development and Co-operation*. Singapore: Times Academic Press.
- Tay, Simon S. C. 1998. "The South-East Asian Forest Fires and Sustainable Development: What Should Be Done?" *Asia Pacific Journal of Environmental Law* 3: 205.
- _____. 1999. "The Southeast Asian Fires and Sustainable Development: What Should Be Done About Haze?" *Indonesian Quarterly* xxvi (2): 99-117.
- Tay, Simon S. C., Jesus P. Estanislao, and Hadi Soesastro. 2001. *Reinventing ASEAN*. Singapore: ISEAS, Seng Lee Press.
- USTR. 2001. *U.S. Wins WTO Case on Sea Turtle Conservation: Ruling Reaffirms WTO Recognition of Environmental Concerns*. Washington, D.C.: USTR Press Releases, United States Trade Representative.

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