

THE ENVIRONMENT AND INTERNATIONAL TRADE NEGOTIATIONS

DEVELOPING COUNTRY STAKES

EDITED BY
DIANA TUSSIE

**ARCHIV
114608**



NATIONAL POLITICAL ECONOMY SERIES
GENERAL EDITOR: TIMOTHY M. SHAW

The Environment and International Trade Negotiations

Developing Country Stakes

Edited by

Diana Tussie

*Director of the Research Program on International Economic Institutions, and
Senior Research Fellow, FLACSO, Buenos Aires*



in association with

INTERNATIONAL DEVELOPMENT RESEARCH CENTRE



ARCHIV

982: 577.4

T 8



First published in Great Britain 2000 by
MACMILLAN PRESS LTD
 Houndmills, Basingstoke, Hampshire RG21 6XS and London
 Companies and representatives throughout the world

A catalogue record for this book is available from the British Library.

ISBN 0-333-76322-X hardcover



First published in the United States of America 2000 by
ST. MARTIN'S PRESS, INC.,
 Scholarly and Reference Division,
 175 Fifth Avenue, New York, N.Y. 10010

ISBN 0-312-22354-4 clothbound

Library of Congress Cataloging-in-Publication Data
 The environment and international trade negotiations : developing
 country stakes / edited by Diana Tussie.

p. cm. — (International political economy series)

Includes bibliographical references and index.

ISBN 0-312-22354-4 (cloth)

1. Developing countries—Commercial policy—Environmental aspects.

2. International trade—Environmental aspects. 3. Environmental

economics—Developing countries. 4. Sustainable development—

—Developing countries. I. Tussie, Diana. II. Series.

HF1413.E58 1999

382'.3'091724—dc21

99-17467

CIP



First published in Canada 2000 by

INTERNATIONAL DEVELOPMENT RESEARCH CENTRE

P.O. Box 8500, Ottawa, ON

Canada K1G 3H9

Canadian Cataloguing in Publication Data

The environment and international trade negotiations : developing country
 stakes

Includes bibliographical references and index.

ISBN 0-88936-886-4 (paperback)

ISBN 0-88936-887-3 (hardback)

1. International trade—Environmental aspects.

2. Environmental economics—Developing countries.

3. Sustainable development—Developing countries.

4. Developing countries—Commercial policy—Environmental aspects.

I. Tussie, Diana.

II. International Development Research Centre (Canada).

HF1413.E58 1999 382'.3'097124

C99-980177-5

Selection, editorial matter and Chapters 1 and 13 © Diana Tussie 2000

Chapters 6 and 11 © Diana Tussie and Patricia Vázquez 2000

Chapters 2-5, 7-10, 12 © Macmillan Press Ltd 2000

Paperback edition available only in Canada

All rights reserved. No reproduction, copy or transmission of this publication may be made without written permission.

No paragraph of this publication may be reproduced, copied or transmitted save with written permission or in accordance with the provisions of the Copyright, Designs and Patents Act 1988, or under the terms of any licence permitting limited copying issued by the Copyright Licensing Agency, 90 Tottenham Court Road, London W1P 9HE.

Any person who does any unauthorised act in relation to this publication may be liable to criminal prosecution and civil claims for damages.

The authors have asserted their rights to be identified as the authors of this work in accordance with the Copyright, Designs and Patents Act 1988.

This book is printed on paper suitable for recycling and made from fully managed and sustained forest sources.

10 9 8 7 6 5 4 3 2 1
 09 08 07 06 05 04 03 02 01 00

Printed and bound in Great Britain by Antony Rowe Ltd, Chippenham, Wiltshire

INTERNATIONAL POLITICAL ECONOMY SERIES

General Editor: Timothy M. Shaw, Professor of Political Science and International Development Studies, and Director of the Centre for Foreign Policy Studies, Dalhousie University, Halifax, Nova Scotia

Titles include:

Leslie Elliott Armijo (*editor*)

FINANCIAL GLOBALIZATION AND DEMOCRACY IN
EMERGING MARKETS

Matt Davies

INTERNATIONAL POLITICAL ECONOMY AND MASS
COMMUNICATION IN CHILE
National Intellectuals and Transnational Hegemony

Martin Doornbos

INSTITUTIONALIZING DEVELOPMENT POLICIES AND
RESOURCE STRATEGIES IN EASTERN AFRICA AND INDIA
Developing Winners and Losers

Fred P. Gale

THE TROPICAL TIMBER TRADE REGIME

Keith M. Henderson and O. P. Dwivedi (*editors*)

BUREAUCRACY AND THE ALTERNATIVES IN WORLD
PERSPECTIVE

Angela W. Little

LABOURING TO LEARN

Towards a Political Economy of Plantations, People and Education
in Sri Lanka

John Loxley (*editor*)

INTERDEPENDENCE, DISEQUILIBRIUM AND GROWTH
Reflections on the Political Economy of North-South Relations at the
Turn of the Century

Don D. Marshall

CARIBBEAN POLITICAL ECONOMY AT THE CROSSROADS
NAFTA and Regional Developmentalism

Susan M. McMillan

FOREIGN DIRECT INVESTMENT IN THREE REGIONS OF THE
SOUTH AT THE END OF THE TWENTIETH CENTURY

James H. Mittelman and Mustapha Pasha (*editors*)

OUT FROM UNDERDEVELOPMENT

Prospects for the Third World (Second Edition)

Lars Rudebeck, Olle Törnquist and Virgilio Rojas (*editors*)

DEMOCRATIZATION IN THE THIRD WORLD

Concrete Cases in Comparative and Theoretical Perspective

Howard Stein (*editor*)

ASIAN INDUSTRIALIZATION AND AFRICA

Studies in Policy Alternatives to Structural Adjustment

International Political Economy Series

Series Standing Order ISBN 0-333-71708-2 hardcover

Series Standing Order ISBN 0-333-71110-6 paperback

(outside North America only)

You can receive future titles in this series as they are published by placing a standing order. Please contact your bookseller or, in case of difficulty, write to us at the address below with your name and address, the title of the series and one or both of the ISBNs quoted above.

Customer Services Department, Macmillan Distribution Ltd, Houndmills, Basingstoke,
Hampshire RG21 6XS, England

To **Susan Strange**

to whom I am deeply indebted

in memory of her spirit and pioneering mind

Contents

<i>List of Tables</i>	ix
<i>Acknowledgements</i>	x
<i>List of Abbreviations</i>	xi
<i>Notes on the Contributors</i>	xiii
1 Introduction <i>Diana Tussie</i>	1
Part I Case-Studies	
2 The Case of a Renewable Natural Resource: Timber Extraction and Trade <i>Raúl Sáez</i>	13
3 Agriculture and the Environment in Developing Countries: The Challenge of Trade Liberalization <i>Graciela Gutman</i>	33
4 Environment-related Voluntary Market Upgrading Initiatives and International Trade: Eco-labelling Schemes and the ISO 14000 Series <i>Pedro da Motta Veiga</i>	53
5 International Pressure and Environmental Performance: The Experience of South African Exporters <i>Lael Bethlehem</i>	73
Part II General Issues	
6 The International Negotiation of PPMs: Possible, Appropriate, Convenient? <i>Diana Tussie and Patricia Vásquez</i>	95
7 Lessons from Trade Theory for Environmental Economics <i>Partha Sen</i>	115

Part III International Environmental Governance

8	Global Governance and the Comparative Political Advantage of Regional Cooperation <i>Helge Hveem</i>	133
9	Trade Restrictions for the Global Environment: The Case of the Montreal Protocol <i>Jonathan Krueger</i>	151
10	Lessons from the Mexican Environmental Experience: First Results from NAFTA <i>Claudia Schatan</i>	167
11	Regional Integration and Building Blocks: The Case of Mercosur <i>Diana Tussie and Patricia Vásquez</i>	187
12	Environmental Cooperation in ASEAN <i>Franck Wiebe</i>	205
13	The Environment and International Trade Negotiations: Open Loops in the Developing World <i>Diana Tussie</i>	225
	<i>Bibliography</i>	237
	<i>Index</i>	252

List of Tables

5.1	Export markets and destination, by sector, 1995	75
5.2	Direct consumer pressure, by sector and issue	78
6.1	A taxonomy of environmental standards and negotiating channels	104

12 Environmental Cooperation in ASEAN

Franck Wiebe

The Association of South East Asian Nations (ASEAN) celebrated its twenty-fifth anniversary in August 1992, just two months after the conclusion of the United Nations Conference on Environment and Development in Rio de Janeiro. Although the proximity of the dates was coincidental, the two events were not entirely unrelated. As ASEAN looked forward to the next twenty-five years, the challenges facing the regional grouping were different from those it had encountered during the previous quarter-century. Environmental issues may not have been at the top of the ASEAN agenda in 1992, but the attention given to these issues in Rio by the international community indicated that these concerns are likely to appear more prominently on the organization's agenda in the future.

While the Rio Earth Summit reflected a growing concern world-wide about protecting the environment, the process of economic liberalization appears similarly to have gained momentum in recent years. The conclusion of the Uruguay Round of the GATT negotiations, the signing of the North American Free Trade Agreement (NAFTA) and the ASEAN Free Trade Agreement (AFTA), and recent progress on trade liberalization by the Asia-Pacific Economic Cooperation (APEC) all provide evidence of the increasing dependence worldwide on trade as the source of economic growth. But even as the conditions governing trade improve around the world, international disagreements over those terms appear to be increasingly frequent. Thus, whether their concerns are about protecting the global environment or about producing a level playing field for trade, countries outside ASEAN are likely to make increasing demands on countries within the region concerning their management of natural resources.

The experience of recent years indicates that ASEAN, as an organization, will need to contend with two very different types of environmental issues: those between two or more member countries and those between ASEAN and non-ASEAN countries or institutions. Regarding the first type, member countries already recognize that many

environmental issues cross national boundaries in the region. As members' economies have expanded, the potential for each country to create adverse effects on common air and water resources also has grown. Given their geographic proximity and the negative externalities produced by rapid economic growth in the region, ASEAN members now face the relatively new challenge of resolving intra-regional environmental issues.

The second type involves the concerns expressed by non-member countries about environmental degradation within the ASEAN region. Such concerns generally are justified on two grounds. First, extra-regional countries may be concerned about environmental management within ASEAN, because they believe that certain management strategies may adversely affect environmental conditions outside the region. The connections between deforestation and global climatic changes or irreversible losses in biodiversity, for example, have been used as a rationale for external pressure to reform logging practices. Second, countries outside the region may be concerned that different environmental standards may affect trade flows. As trade barriers are lowered around the world, some countries have suggested that different environmental standards create an unfair trade advantage in favour of countries that have less stringent requirements.

As environmental issues become increasingly prominent in international discussions, both on their own merits and as part of the trade liberalization process, the manner in which ASEAN responds to these concerns likewise will increase in importance. Member countries may find that a regional grouping such as ASEAN can provide an important forum for the resolution of intra-regional environmental issues, which also can be used in extra-regional environmental negotiations. The evidence suggests that, while intra-regional environmental concerns will receive increasing attention, the likely response will continue to be one of coordinated independent action, rather than cooperative joint action. In terms of responding to concerns raised by non-ASEAN members, the evidence is mixed. While in the past ASEAN has been able to present a unified position to the outside world on some environmental issues, member states apparently prefer to avoid using ASEAN as a negotiating bloc – rather, member countries use other regional or international fora to defend their interests. This approach avoids the appearance of potentially divisive issues on the ASEAN agenda, and allows the institution to retain a non-confrontational stance vis-à-vis the rest of the world.

THE INSTITUTIONAL HISTORY OF ASEAN

The opportunities for future ASEAN cooperation on environmental issues can only be understood in the context of the organization's history. ASEAN's involvement in environmental issues in the past was framed by the paramount importance to the member countries of security considerations. While matters unrelated to regional security have received considerable attention from ASEAN over the past twenty-five years, all members have agreed that these issues should never undermine the solidarity of the institution.

Origins of the Organization

ASEAN was not the first attempt at regional cooperation in Southeast Asia. The South-East Asia Treaty Organization (SEATO) emerged from a conference in Manila in 1954 as a collective security arrangement designed to protect countries in "the general area of South-East Asia" from the communist threat; but only two countries in the region, Thailand and the Philippines, were signatories to the treaty. In 1959, Prime Minister Rahman of Malaya proposed the establishment of an Association of South-East Asia (ASA). While communist countries in the region denounced ASA as simply an offshoot of SEATO, and most other countries in the region responded with a notable lack of interest, the Philippines and Thailand joined Malaya to form ASA (Palmer, 1991). Four years later, the foreign ministers of these three countries declared the formation of "Maphilindo", but neither it nor the ASA was able to withstand the regional tensions caused by the formation of the Federation of Malaysia. As late as 1965, domestic politics in several countries, combined with strained bilateral relations among several regional neighbours, made the establishment of a regional grouping on the basis of any shared security interests, particularly those ideologically-defined, extremely problematic.

A fourth effort at regional security and cooperation was organised by South Korea in 1966, but despite enlisting participation from nine regional nations, the Asian Pacific Council (ASPAC) never garnered much enthusiasm or support (Palmer, 1991). While domestic political conditions in several countries had begun to change by this time, this collection of countries may have been too disparate and the political timing still premature. Although ASPAC survived until 1973, and SEATO was

dissolved only in 1977, neither these nor other early efforts achieved significant levels of regional cooperation.

The signing of the Bangkok Declaration in 1967 established ASEAN, originally composed of Malaysia, the Philippines, Indonesia, Singapore, and Thailand. Given the poor track-record of regional cooperation attempts in Southeast Asia, it is important to consider what has enabled ASEAN to survive and succeed where other efforts failed. The objectives of ASEAN articulated in the Bangkok Declaration were

to accelerate economic growth, social progress and cultural development in the region through joint endeavour and partnership in order to strengthen the foundation for a prosperous and equal community of Southeast Asian nations; [and] to promote regional peace and stability.

However, while these objectives were relatively forward-looking, the real motivation in the early days was a shared concern about the threat of communism, either through internal subversion or through the external threat in Indochina. Importantly, political changes in Singapore and Indonesia between 1965 and 1967 finally made it possible for these countries to participate in a regional organization that was based on containing the communist threat (Hagiwara, 1973).

Although the organization had greater aspirations for regional economic and social cooperation, security remained the binding common denominator for ASEAN for some time. Significant intra-ASEAN disputes occurred in 1968. The dispute between the Philippines and Malaysia over Sabah flared up again, leading to the severing of diplomatic relations and a suspension of all ASEAN activities for a period of eight months. Finally, in early 1969, Manila agreed to withdraw its claims on Sabah, and the normalization of relations between the Philippines and Malaysia was announced at the Third ASEAN Ministerial meeting in December. Relations between Singapore and Indonesia also deteriorated as two Indonesian marines were executed by Singapore in 1968, despite a personal appeal for clemency by President Suharto, for their participation in a downtown bombing in 1965. As ASEAN survived these early difficulties, member states came to recognize that while intra-regional differences would remain, at the very least they shared an important common interest in regional security defined by the threat of communism. Moreover, ASEAN members perceived that maintaining an institution that represented only their shared interests might generate over time increased mutual understanding, and, as a result, expand these shared interests.

Progress towards regional cooperation within ASEAN has been slow but steady since that time. The first meeting of ASEAN Heads of State did not occur until 1976, which resulted in the Declaration of ASEAN Concord and the Treaty of Amity and Cooperation in South-East Asia. A second summit followed only 18 months later. But while ASEAN made numerous pronouncements at this time, most of these accentuated the organization's continuing concern with peace and stability while making little progress towards any real form of economic cooperation (Luhulima, 1989). The war in Vietnam had ended, but the outcome hardly calmed any regional security concerns, and regional fears of the external threat deepened with the Vietnamese invasion of Kampuchea (Cambodia). Although the third summit in 1987 generated new proposals for economic cooperation, most of the member countries were not yet prepared to alter the fundamental role of ASEAN.

However, five years later, at the fourth ASEAN summit held in Singapore in 1992, member countries faced a very different international environment. Perhaps the most important political change was the resolution of the problem in Cambodia, which appeared to significantly diminish that external threat to the region. Just as security dangers waned, ASEAN leaders at the summit in Singapore faced new economic threats that called for new cooperation – principally increased European integration, the prospect of a NAFTA, and the admission of Hong Kong, China and Taiwan to APEC, which diluted the influence of ASEAN in that grouping (Antolik, 1992).

In response to this changing environment, the ASEAN states pledged to establish a free trade area (AFTA), even though only a few years earlier the words "free trade" had been explicitly excluded from appearing in any ASEAN document because such language might be understood by some as implying the dilution of the sovereign right of member states to determine domestic economic policy. Despite early pessimism, ASEAN members have repeatedly demonstrated their commitment to the process, even bringing forward the dates for reducing tariffs on intra-regional trade.

Therefore, as a result of changes in the political and economic landscape, since the early 1990s ASEAN has been reorienting its focus from shared security concerns toward shared economic interests. As long as the former were paramount, other concerns, especially those that appeared divisive, were either ignored or handled elsewhere. ASEAN was built on shared interests, and was not intended as a forum for resolving differences. Thus, while regional leaders within ASEAN often tout the organization's success as evidence of consensus decision-making, this

track record of agreement and concord has been sustained at least partly by the exclusion of issues unlikely to generate consensus. As ASEAN's agenda is broadened to include new concerns, including those related to the environment, the past practice of deferring difficult or contentious issues, or referring them to other international institutions, may make it more difficult for member countries to utilize the organization to identify creative solutions for the region in the future.

Institutional Framework for Responding to Environmental Issues

The institutional history of ASEAN demonstrates that, prior to the early 1990s, the pursuit of common environmental concerns was low on the agenda. During the 1980s, ASEP strategies became more action-oriented, but nonetheless remained largely plans for raising public awareness through education throughout the region (Phantumvanit and Lamont, 1992). Although ASEAN was paying more attention to environmental issues, the organization's approach centred on issues of concern within members' borders, rather than on issues that crossed national boundaries. The adoption of the Jakarta Resolution on Sustainable Development in 1987 established sustainability as the primary objective for all future ASEP activities, and this was reflected in ASEP III, which covered the planning period of 1988–92. This resolution again focused primarily on issues of national, rather than transnational, importance, but for the first time this ASEP included the overall objective "to promote the proper management of the ASEAN environment".

The existing organizational structure, however, was not adequately equipped to deal with transboundary issues. Thus, in 1989 ASEAN introduced an important structural change by placing supervision of the ASEP in the hands of a new group, the ASEAN Senior Officials on the Environment (ASOEN). This change not only represented the first full incorporation of environmental issues into the ASEAN structure, but also implied the involvement of more senior officials from each member country. Moreover, the change created a structure with sufficient credibility to take on transnational environmental issues. In June 1990, this body adopted the Kuala Lumpur Accord on Environment and Development, which called for efforts leading towards the harmonization of transboundary pollution prevention and abatement practices. Eighteen months later, the Singapore Declaration, issued at the conclusion of the Fourth Meeting of the ASEAN Heads of Government held in January

1992, stated that "ASEAN member countries should continue to enhance environmental cooperation, particularly in issues of transboundary pollution, natural disasters, forest fires and in addressing the anti-tropical timber campaign" (ASEAN, 1995a).

The most recent change in ASEAN structures dealing with environmental issues came in April 1994, when the ASEP was replaced with the ASEAN Plan of Action on the Environment. This was developed with technical assistance from ESCAP and financial assistance from the UNEP, and approved by ASOEN (ASEAN Update, March 1994). It set the strategic blueprint for environmental policy for the period 1994-8, and identified projects for implementation that are consistent with that framework and that will be carried out by working groups within ASEAN. These new changes undoubtedly have increased the credibility and capacity of ASEAN to respond to environmental issues. Any consideration of ASEAN's experience of cooperation on environmental issues must recognize, however, that this collaborative process on the basis of shared (as opposed to common) interests is a rather recent development. (The term "common interests" is used to connote issues that are important in each country, but that are unaffected by the policies and practices of neighbouring countries. The term "shared interests" is used to connote issues that are important in each country and which can be affected by actions of neighbouring countries.)

ASEAN IN INTERNATIONAL NEGOTIATIONS ON THE ENVIRONMENT

Negotiating Intra-Regional Environmental Issues

During the past five years, no substantial disagreements over national environmental strategies or regional environmental disputes have been aired within ASEAN. In an effort to preserve regional harmony and solidarity on security issues, member states have intentionally diverted contentious issues to other fora. As a result, negotiations within the organization typically have involved subtle differences in interpretation of policy rather than significant differences concerning the direction of policy. Two recent issues illustrate the procedures and mechanisms used by ASEAN to determine strategies that are acceptable to all member countries.

1. Transboundary Air Pollution

A common environmental problem recognized in all ASEAN countries concerns the poor air quality in and around their largest cities. Since as early as the first ASEP in 1978, ASEAN has looked for ways to help member countries improve their urban living environments. In 1992, declarations produced by meetings of the ASEAN Heads of Government and the Ministers for the Environment identified forest fires as a potential arena for co-operative efforts, but these declarations produced no new activities. In 1994, however, forest fires on the Indonesian islands of Sumatra and Kalimantan (Borneo) elevated air pollution from a common problem to a shared one. The consequence of these fires was a heavy haze that affected many cities in the region and threatened to shut down airports and schools. The haze lasted nearly six weeks and caused widespread health concerns in both Singapore and Malaysia. Air quality levels also dropped significantly in Brunei.

ASEAN's response to this problem is instructive, as it represents one of the very few examples of transborder environmental concerns where a single member country can be identified as carrying primary responsibility for problems experienced by other members. The response had three dimensions. One of the first indications of a possible ASEAN response to the fires in Indonesia came from Prime Minister Mahathir Mohammad of Malaysia. His proposal contained two components: short-run assistance from economically-advanced Western countries to put out the fires, and long-run ASEAN cooperation to pool resources to fight frequent outbreaks of forest fires in Indonesia. Dr Mahathir asserted that individual ASEAN members could not afford to fight these fires individually but, he said, "collectively we may be able to have some capacity" (*The Straits Times* (TST), 7 October 1994).

Before this suggestion could be proposed to ASEAN, however, Singapore and Malaysia conducted a Joint Meeting on the Environment. This meeting resulted in the formulation of proposals that would establish an early-warning system for monitoring haze and for exchanging information on health-related problems caused by the pollution. Although the proposals were to be passed on to the Informal ASEAN Ministerial Meeting on the Environment a few days later, the strategy developed at this joint meeting appeared to be fundamentally bilateral in nature. The meeting included discussions on the problem of transborder air pollution caused by forest fires in Indonesia, and produced an agreement among the ministers "to enhance cooperation to manage natural resources and control transboundary pollution within ASEAN, to develop regional early warning

and response system, and to improve the capacity of member countries in these areas" (ASEAN, 1995a). Interestingly, while the meeting generated this multilateral agreement to enhance cooperation, it did not establish any new regional mechanisms for responding to future problems. Rather, bilateral agreements between Indonesia–Singapore and Indonesia–Malaysia, the three countries hardest hit by the fires' effects, which established new links for cooperation on environmental issues, represented arguably the most concrete progress on regional cooperation to emerge from the ASEAN meeting.

While the bilateral negotiations represented the second part of the response, the final conclusion represented one of the most significant examples of collaborative efforts on environmental issues within ASEAN. In June 1995, a meeting of ASEAN environment ministers in Kuala Lumpur yielded a multilateral plan, motivated by the air pollution problem, to combat transboundary pollution (TST, 18 June 1995). The ASEAN Cooperation Plan on Transboundary Pollution introduced several new mechanisms to prevent future haze problems in the region, including early-warning systems for better detection and control of forest fires, restrictions on the burning of biomass from land-clearing activities during dry periods, and limitations on the generation of pollution from local sources during haze-warning periods. These mechanisms supplemented the bilateral arrangements already achieved in the preceding months. The prospects for avoiding future haze crises were improved by Indonesia's pronouncement at the meeting of environment ministers of its own commitment to combating the causes of haze through both additional educational efforts and improved enforcement of existing regulations.

The three-year process by which this shared environmental problem was identified and a cooperative strategy was developed reveals much about the manner in which ASEAN operates and the way it is evolving as an institution. Several countries not only staked out initial positions well before meeting together under the aegis of ASEAN, but actually developed independent or bilateral strategies that could be implemented rapidly. In the earliest stages, ASEAN was relegated to the status of a discussion and planning forum – direct involvement for ASEAN came only several years later, after the appropriate remedial measures had been identified and tested by individual member countries. While this process reinforces the conservative image of ASEAN (given its minimal role in developing the appropriate response to a regional issue), its eventual involvement in responding to transboundary pollution reflects the slowly expanding scope of its activities.

2. Transportation of Hazardous Waste within ASEAN Waters

A second shared environmental concern involves the transportation of hazardous waste between ASEAN countries. ASEAN has avoided becoming a major dumping ground for toxic waste produced in the West: less than 2% of hazardous waste shipped from OECD countries to Asia between 1990 and 1993 ended up in ASEAN countries. With the rapid rate of industrialization experienced recently by most ASEAN countries, however, each is likely to face local waste problems in the future. ASEAN members recognized the potential danger of firms in one ASEAN country unloading their waste in another country in the region, and this raised concern within the regional grouping.

The ASEAN response to this danger had two components. First, the disposal of hazardous wastes became an important issue for the ASEAN working group on transboundary pollution. As early as February 1994, sources within Singapore's Environment Ministry indicated that the working group would propose new guidelines for the movement of waste that would be based on the principles of the Basel Convention (TST, 7 February 1994). To date, however, this working group has not published these guidelines. While the ASEAN Cooperation Plan on Transboundary Pollution, signed in June 1995, included consideration of this issue, the cooperative activities identified were far less significant than those developed for transboundary air pollution.

In the absence of an ASEAN agreement, two countries signed their own bilateral memorandum of understanding (MOU) governing the flow of hazardous waste between them. In July 1995, *The Straits Times* reported that "Singapore and Indonesia underlined with this agreement their commitment to stamp out illegal shipments and dumping activities." Interestingly, neither the yet-to-be completed ASEAN guidelines nor the Singapore-Indonesia MOU appears to have been based on any actual environmental problem. In fact, in the case of the bilateral agreement, representatives of both countries described the problem as not serious, but said that precautionary measures had to be put in place (TST, 29 July 1995). The rest of ASEAN apparently awaits the conclusions of the Working Group.

Compared with the resolution of transboundary air pollution, the response to the transportation of hazardous wastes appears to reflect a lower level of cooperative activity. However, in reality the two cases are not entirely inconsistent. Rather, the response to hazardous wastes is perhaps better viewed as still in its early stages. No important problems have arisen, so there have been insufficient opportunities for member

countries to develop and test possible strategies (although some of the bilateral arrangements may represent attempts to do so). Moreover, because there have been no real incidents involving hazardous waste in the region, there has been little impetus from member countries to achieve a consensus on the appropriate ASEAN response. Indeed, the discussion of the subject at the Informal Meeting of Environment Ministers in June 1995 may be seen as one of the strongest examples of proactive ASEAN involvement in environmental issues.

Negotiating Environmental Issues with Non-Member States

1. Land-sourced Marine Pollution in East Asia

Although water pollution from shipping accidents receives significant media attention, pollution from land-based sources actually accounts for nearly three-quarters of all water pollution (Rose, 1994). Contaminants come from rural, urban and industrial zones, and include fertilizer run-off, untreated human waste and garbage, and industrial by-products. Land-sourced marine pollution (LSMP) not only comes from all sectors, but also is generated, in differing quantities, by every country.

Given the geographic proximity of the ASEAN member countries and their shared sea resources, the problem of LSMP seems particularly amenable to collaborative efforts under the auspices of a regional organization. In recent years, the countries have moved forward to address concerns related to LSMP – interestingly, many of these activities have been undertaken within institutional fora other than ASEAN. In mid-1993, for example, a Programme of Action to Control LSMP in East Asian Seas was approved for implementation. This program is one of several projects carried out under the East Asian Seas Action Plan, however, and represents part of the UNEP's Regional Seas Programme in Asia. The plan initially involved Indonesia, Malaysia, the Philippines, Singapore and Thailand, but was expanded to include Brunei and Australia. The program contains both national and regional elements. Both seek to accomplish three objectives: to improve pollution monitoring and control; to expand institutional capacity to address LSMP issues; and to enhance public awareness of the problem. While participating countries are expected to demonstrate their commitment through the elaboration of national action plans, the Regional Seas Programme has estimated that the regional component will cost approximately US\$5 million over five years.

A second important regional effort directed at reducing marine pollution from both land- and sea-based sources was implemented under the auspices of the United Nations Development Programme (UNDP). The Regional Programme for the Prevention and Management of Marine Pollution in the East Asian Seas was initiated in January 1994, and was formulated by a number of East Asian countries as a means of securing financial and technical assistance for the Global Environmental Facility. At the outset, the programme involved 11 countries in the region (including all 6 ASEAN members) and will cost an estimated US\$8 million over five years.

Land-sourced marine pollution is clearly a problem common to all ASEAN member states and, to the extent that the seven member states share sea resources, it is also a shared problem. As an organization, ASEAN has not been inactive, and numerous joint projects with Australia, Canada, the EEC, Japan and the United States contribute new information regarding the marine environment, the development of resource assessment methodology and pollution monitoring techniques, and the gradual reduction of marine pollution in the region (Chua, 1994). Most of the activities relating to LSMP, however, appear to be taking place either at the national level or in multilateral fora other than ASEAN.

2. ASEAN Dialogue Partners

Although membership in ASEAN is currently limited to seven countries, the organization maintains special relations with a number of non-member countries that are designated as dialogue partners. This structure allows ASEAN to engage in bilateral relationships on issues of common interest. Not all dialogue relationships involve consideration of environmental issues, but those with Japan, Australia and the United States have involved significant environmental components. In this dialogue context, moreover, ASEAN appears willing to negotiate as a bloc, something it seems far less willing to do in other institutional contexts.

Through the dialogue relationship funded by the Environmental Improvement Projects (EIP), the United States may be the most active non-ASEAN member on environmental issues within the regional grouping (ASEAN Standing Committee, 1995). Funded by the US Agency for International Development (USAID), the EIP Steering Committee includes ASOEN, members of both ASEAN and US Chambers of Commerce, and USAID representatives. The workplan for 1995 was restructured to make it consistent with the 1994 Strategic Plan of Action on the Environment and to accommodate requests for projects in each

ASEAN country (ASEAN Update, February 1995). Although USAID has been interested in using EIP funds for policy studies, ASEAN has provided direction to that research, focusing those efforts on ASEAN-wide policy issues. As a result, current plans indicate that the EIP will continue to address national pollution prevention strategies, but will also examine regional and transboundary issues defined by ASEAN.

3. Labelling of Tropical Timber in Austria

In 1992, ASEAN experienced its first real international dispute over the environment. A law passed by the Austrian Parliament in June of that year required all commercial tropical timber and products using such timber sold in that country to carry a label, at least 10 cm by 10 cm, showing the inscription "Made from Tropical Timber" or "Contains Tropical Timber" on a white surface. The so-called "eco-labelling" law went into force on 1 September 1992.

The law came on the heels of the Earth Summit in Rio, which had generated new publicity for environmental issues around the world and also renewed public support for environmental groups. The labelling law was actually a watered-down version of the legislation originally introduced in Austria with the support of these environmental organizations, but its intent was clear: to make consumers of wood products aware of the perceived connection between their purchases and the destruction of tropical rainforests. As the ASEAN region includes several important timber regions and logging companies, the new law was perceived as a threat to the economic interests of member countries. The ASEAN response represents an interesting case study in regional environmental negotiations.

Shortly after enforcement of the timber-labelling law began, Malaysia's opposition to the rule became vocal and vehement. Home to 19.4 million hectares of tropical rainforest, Malaysia has been accused repeatedly of indiscriminate logging practices (an accusation it has repeatedly denied). Regardless of its environmental impact, the timber industry clearly plays an important role in the Malaysian economy; in 1994, early estimates indicated that the value of timber exports would exceed US\$5.4 billion (TST, 9 August 1994). Malaysia's strenuous objection to the law is easily understood, given the fact that the list of affected species under the new law included at least 50 % of Malaysia's timber exports (TST, 27 October 1992). Only a month after Austria began enforcing the law, therefore, Malaysia called on ASEAN to take a common stand against the legislation. Importantly, the Malaysian Minister for International Trade

and Industry indicated that this was not just an economic issue, but also one that impinged on the sovereignty of tropical-timber producing countries, which, the Minister said, would be subjected to checks, scrutiny, and supervision by the Austrians (TST, 10 October 1992).

Only two days later, ASEAN announced its first statement on the issue. Emerging from their fourteenth meeting, the ASEAN Ministers of Agriculture and Forestry regretted that the Austrian government had undertaken such action without prior consultation with producing countries. The Malaysian Agriculture Minister made two interesting points: first, that if any labelling law were to be non-discriminatory, it would need to include temperate as well as tropical timber; and second, that the ASEAN ministers viewed the Austrian action seriously and a common stand on the matter should be maintained by the then six member countries so that similar would not be taken by any of ASEAN's other trading partners (TST, 12 October 1992).

At this same meeting, the Indonesian Agriculture Minister suggested that ASEAN find ways that would make Austria reconsider the mandatory labelling law, but suggested it might be sufficient if ASEAN simply explained its forest management policy to the Austrian government. Less than two weeks later, the ASEAN Economic Ministers raised the issue again, calling the Austrian law "discriminatory", but the group did not call for any united action at that time, beyond a note of protest that was sent to Vienna (TST, 24 October 1992).

Only two days later, however, the Malaysian Minister of Primary Industries raised the stakes by issuing a warning to Austria, saying that if the law were not rescinded, Malaysia might organize a boycott of Austrian goods in the region (TST, 27 October 1992). The Minister said that he would personally spearhead the anti-Austrian retaliatory actions by ASEAN if the situation warranted it. One week after this threat, Austria moved to reduce tensions over the timber-labelling law. The Austrian Ambassador in Kuala Lumpur was quoted as saying that his government was willing to try to find a solution to Malaysia's objection, and that he hoped the controversy would not lead to Malaysia carrying out its threat to organise a boycott. The Ambassador stated that "any law can be amended and reviewed and even annulled if found to be unsuitable", but he also indicated that this would take some time to go through the Austrian political system (TST, 1 November 1992).

Although the threat of the ASEAN boycott was neither rescinded nor acted upon, Malaysia continued to intensify pressure on Austria. Less than a week had passed since Austria's conciliatory statements when Malaysia, on

behalf of ASEAN, submitted a protest to the GATT Council in Geneva to express its anger over the law requiring tropical timber labels and to suggest that, given Austria's domestic production of temperate timber products, this law had "ulterior motives" of continuing protectionism. The protest said that the labelling, which would not be required on temperate timber products, would "force consumers to switch to this temperate timber" (TST, 6 November 1992). Malaysia did not, however, file an official complaint to the GATT Council – such an action would have led to a ruling by the body on the consistency of the Austrian law with GATT regulations.

Malaysia's failure to file such a complaint implied that it hoped the dispute could be settled through bilateral negotiations. Those hopes were fulfilled five months later, when Austria revoked the law requiring the labelling of tropical timber. At the same time, however, a new law was passed that called for the creation of a quality mark for timber and timber products from sustainable exploitation (TST, 18 March 1993). The new law stipulated that the labelling would be decided multilaterally by an advisory board consisting of representatives from Austrian ministries and from international environmental protection agencies.

This case represents an unusual example of ASEAN engaging another country in protracted "negotiations" outside the ASEAN dialogue context. These negotiations produced two important results. First, the negotiations accomplished the immediate objective of forcing Austria to rescind its initial legislation and replace it with a law that was more acceptable to the timber-exporting countries in ASEAN. Second, the negotiations made a statement that ASEAN is capable of negotiating as a bloc should any other country (or international institution) put forward proposals that run counter to the group's perceived interests.

LESSONS LEARNED

The above consideration of a selection of environmental issues that have confronted ASEAN during the past several years yields several interesting insights about the opportunities for collaboration in the future. First, the negotiation of intra-ASEAN environmental issues has tended to be characterised by low-key and long-term strategies that provide member countries with maximum flexibility to respond independently. Without a doubt, the region's governments are increasingly alarmed by the levels of pollution that rapid economic growth has generated (*Far Eastern*

Economic Review, 5 March 1992). Moreover, they have already experienced how problems in one country can affect living conditions in its ASEAN neighbours. As a result, it is likely that ASEAN's profile on environmental issues will continue to grow. The recent adoption of the ASEAN Cooperation Plan on Transboundary Pollution provides confirmation of this trend. ASEAN's involvement in intra-regional issues, however, will likely remain constrained for some time by the nature of the organization, which continues to emphasize coordinated independent action over collaborative interventions and consensus over conflict resolution. As a result, difficult issues that arise within ASEAN may be deferred, as in the case of the harmonization of environmental standards, which was envisaged in the Plan of Action on the Environment in 1994 to be complete by the year 2010.

In the future, however, member countries may pursue such issues more aggressively within the ASEAN institutional structure. As members' economies become increasingly connected through AFTA-led liberalization, issues such as the internal harmonization of standards may be brought back onto the agenda. The Mercosur bloc in South America found that economic integration introduced dynamism into the environmental agenda (Tussie and Vásquez, this volume). While member countries may prefer to avoid contentious issues, they may well find that increasing interdependence will make this strategy increasingly inappropriate in the future.

Second, when difficult or potentially divisive issues arise, ASEAN members are likely to continue the strategy of seeking solutions either through bilateral agreements or in multilateral organizations other than ASEAN. Various agencies within the United Nations appear to have been a particularly conducive setting for such environmental issues in the past, and it appears that ASEAN has now attained a level of resiliency that prevents the diplomatic backlash of raising such disputes in other fora from affecting their ability to continue friendly relations within ASEAN confines.

This tendency to use other international fora to settle differences, however, reduces the ability of ASEAN to present a common negotiating position within those same structures. For example, the emergence of APEC as an important regional institution has been seen by some as an opportunity for ASEAN to flex its collective negotiating muscles. An APEC Environment Policy Study Group is currently being established, and the connection between trade and the environment certainly will be on the agenda. Past experience suggests, however, that ASEAN will decline the opportunity to engage in such environmental discussions as a bloc –

rather, it is likely that ASEAN member countries will use such a study group as an opportunity to pursue independent, and perhaps conflicting, agendas.

Third, the record of recent discussions and negotiations concerning environmental issues indicates that it is unlikely that ASEAN will produce NAFTA-like accords in the near future, not because of differential standards among member countries, but because institutions for bilateral or multilateral enforcement simply do not exist in the region. Where political will to enforce domestic regulations is absent, ASEAN is not designed to provide added impetus for reform within these member countries; indeed, member countries preserve the solidarity of the organization by using other institutions to resolve such differences. Moreover, the country with the most stringent environmental regulations (and, hence, the one most likely to benefit from stricter enforcement elsewhere) is Singapore, but Singapore is also one of the most outspoken critics in the region of international interference in domestic policies.

Fourth, mechanisms to link environmental issues in ASEAN to foreign direct investment (FDI) are unlikely to generate enthusiasm from any member state. While speedier harmonization and stricter enforcement of national environmental regulations might improve Singapore's competitiveness for FDI relative to other ASEAN members, its strategy on such issues remains one of allowing other members to set their own pace of development and environmental improvement.

Fifth, recent experience indicates that ASEAN has the ability to play a role in global environmental negotiations, but the range of issues on which such cooperative action is possible is limited by the fact that the national interests of all member countries are not always identical. ASEAN's international influence has grown along with the size of its economies, and the members' solidarity on issues enhances the ability of ASEAN to represent them. Moreover, leaders in several ASEAN countries (most notably Singapore, Malaysia and, at times, Indonesia) have offered themselves as spokespersons for interests shared by other developing countries outside ASEAN, as well. By taking positions in this manner, ASEAN may assume additional influence in international fora.

However, such an influence is limited to some extent by the diversity of the organization and its insistence on agreement and consensus. To negotiate effectively at the international level, the issue must not be solely one of extreme importance to at least one ASEAN nation but also must not go against an important interest of any other member country. These two conditions partly explain ASEAN's ability to play only a rather limited

role in the unfolding development of APEC's trade liberalization efforts. In this context, the different positions held by ASEAN member countries on a range of non-environmental issues may make it very difficult for the organization to articulate strong negotiating positions on environmental issues. Further, as membership of ASEAN grows, adding not only new but more economically diverse countries, meeting the latter condition may be increasingly difficult.

Sixth, ASEAN may have its greatest ability to negotiate internationally when dealing with individual non-member countries. Certainly, the case of Austria's timber-labelling law demonstrated that ASEAN as a bloc can enter international negotiations from a position of strength that no single member might attain. And while this example comes from the organization's dispute with a rather small country, their success in influencing the terms of cooperation with other Dialogue Partners, which include rather large countries, suggests that the regional bloc provides some leverage in this type of bilateral negotiation. This type of influence, however, also requires unanimity among ASEAN members, and the scope of environmental issues on which all ASEAN members agree remains to be defined.

CONCLUSION

The record of ASEAN over the past three decades also represents an excellent example of the creation of an effective organization that encompasses a set of very different countries and cultures. For the first two decades, the regional bloc was defined by its shared security interests. Even though those interests remain a vital part of the organization's *raison d'être*, the vision for ASEAN has expanded in scope to include a much broader range of concerns. In this context, the consideration of environmental issues by ASEAN can be seen as a step in the process of its development. While ASEAN has begun the construction of a new understanding for regional environmental issues, these issues have served to further the process of regional regime building in the region.

ASEAN's accomplishments in terms of dealing with environmental concerns may not appear particularly extensive at this time, but this should not be a ground for pessimism about possible achievements in the future. Despite official involvement in environmental issues since 1978, serious institutional commitment by ASEAN to these issues is much more recent. The development of processes to address regional environmental concerns suggests that ASEAN is now far better prepared to tackle these issues in the future.

Collaborative efforts will continue to face difficulties. Member countries are still very different from each other, and in this context ASEAN's commitment to the process of decision by consensus will tend to generate least common denominator outcomes within the region, and will reduce the scope for united positions in negotiations with non-member countries. But the success of past efforts and the development of institutional structures within ASEAN suggest that these difficulties may gradually become less important in the future. Prospects appear to be good for increasing cooperation on environmental issues. And while progress on such cooperation has been rather slow in the past, regional economic integration may stimulate a more rapid pace in the future.