
ASIA-PACIFIC REGIONAL MEETING

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1 INTRODUCTION

Nearly sixty participants met in two separate sessions (A and B) the third day of the Conference and as a whole on the final day of the conference to discuss driving forces for environmental compliance and enforcement, barriers to effective compliance and enforcement programs, the status and accomplishments of programs in the region, common challenges, regional cooperation and networking needs, and next steps. Many in the group also met once in the evening to organize an informal network among the participants. The first day participants from South Asia joined in the discussions of Session A, but because of the established environmental networks existing for South Asia, they met separately on Friday to discuss follow up and networking. A separate write up has been prepared on the South Asia community.

The Regional meeting resulted in a priority listing of critical environmental problems and issues in each country and current status of legal, financial, and technical aspects for the region. This is a very good basis for follow up action on implementation and capacity building.

2 GOALS

Workshop discussions focused on:

- Shared Problems and Challenges
- Institution-building needs
- Opportunities for institutional support and exchange (Review of existing mechanisms)
- Proposals for regional networking: agenda for action
- Desired linkage to international capacity building efforts
- Targets of Opportunity

3 DISCUSSION SUMMARY

3.1 Driving Forces

Participants had an opportunity to express what they believed is driving environmental compliance and enforcement in their countries and in the region as a whole. In order of most frequently cited to least frequently cited forces they are:

- Public awareness and high public expectations (South Korea, Malaysia, New Zealand, Thailand, Hong Kong, Bhutan), also mass media and publicity (Malaysia, Philippines) along with increased awareness of industry to sustainability (PRC), social traditions and values, both moral and religious (Bhutan)
- Environmental laws and state plans (Malaysia, Mongolia, Thailand, PRC); international obligations (Australia, Malaysia, Japan) as well as non-legal environmental initiatives (e.g. Clean Rivers" project in Indonesia)

- NGO's: domestic influence and public pressure (Thailand, Japan, Philippines, Malaysia, Hong Kong) as well as international NGO influence on and scrutiny of world and regional banks and other project donors (World Bank) in turn influencing countries (Mongolia)
- Environmental Problems (Australia, Thailand) and need to protect resource base (PRC, Thailand, Cambodia, Malaysia); population and economic growth (Malaysia, Australia, Philippines--energy production) and globalization (Japan)
- Education: compulsory environmental education at the primary (Bhutan), secondary and legal education (Taiwan)
- Economic incentives, e.g Pollution prevention (Japan); privatization (Malaysia)
- Evidence of political will (Malaysia) and fear of government intervention (Hong Kong)

3.2 Barriers to Environmental Compliance and Enforcement

Participants brain stormed what they felt were the greatest impediments to the success of environmental compliance and enforcement. They came up with the following list:

- lack of interagency coordination on compliance enforcement matters
- inability of governments to pay competitive salaries leading to difficulties in attracting and retaining qualified staff
- rapid societal change
- poor understanding on the part of the regulated community
- corruption
- outdated laws that emphasize punitive actions and allow little flexibility
- small threat of enforcement and low costs of violations

The group then used the UNEP institution building workshop materials to explore organizational design issues since those were most prevalent. Regulatory and enforcement program designs are outlined in section 3.3 below, but a common issue which transcended all country programs was fragmentation. In many countries, Inter-Ministerial councils and other organizational responses to fragmented authorities have been constituted, but these generally focus on policy issues; there are few if any examples where such bodies or systems dealt with ongoing implementation issues related to permit issuance, compliance monitoring and enforcement.

3.3 Regulatory Program Status Overview

The region contains programs in different stages of development with many highly developed programs and those that are first being organized. There are varied approaches as well from which participants can continue to learn from each other. The majority of countries in the region have environmental compliance and enforcement programs in place with adequate laws, regulations, and requirements, permit systems, inspection programs, training, self-monitoring, third party audits, citizen complaints, a full variety of enforcement response mechanisms, written response escalation policies. Those that do not yet have these program elements are in the process of creating them. Hence a tremendous amount of progress has been made within the last five years. Yet, some problems remain with implementation. In brief:

3.3.1 Australia:

Decentralized programs, with authorities mostly at state level. Difficult to summarize neatly, but complete with respect to requirements (laws, regulations, and permits), compliance monitoring, and enforcement. Degree of sophistication varies greatly among state programs.

3.3.2 New Zealand:

Similar to Australia, with authorities decentralized among 16 regional councils. Sophisticated cost-recovery system based on unit costs per activity. Complete with respect to requirements (laws, regulations, and permits), compliance monitoring, and enforcement.

3.3.3 Cambodia:

Created Ministry of Environment in 1993. Formulating framework law now. Existing authority/programs focused on resource use/allocation. No existing environmental compliance or enforcement.

3.3.4 PRC:

Comprehensive, constitutionally based laws, but implementation difficult. Spending 0.7% of GDP on environment, but estimate of need is 1.5%. Permits are experimental for water in selected regions, a corps of trained inspectors, enforcement authorities on paper but lack of systematic follow up to violators.

3.3.5 Japan:

1993 comprehensive law. Complete with respect to requirements (laws, regulations, and permits), compliance monitoring, and enforcement. Programs are characterized by partnerships of citizens, government, industry and academia.

3.3.6 Thailand:

Enforcement program at facility level handled by Industrial Works Department in the Ministry of Industry. Overall ambient environmental protection program handled by Pollution Control Department. Overall, program is complete with respect to requirements (laws, regulations, and permits), compliance monitoring, and enforcement. Authority is spread among many agencies (20 laws).

3.3.7 Philippines:

Comprehensive, but outdated laws (i.e. no discharge limits). Environmental quality agency (Environmental Management Bureau) within overall resource management agency (Department of Environment and Natural Resources). Some gaps in enforcement tools. Environmental impact assessment is a major driver of requirements and action.

3.3.8 Vietnam:

Recent law, not much experience with implementation yet.

3.3.9 Malaysia:

Comprehensive laws, regulations, permits. Program largely administered at state level. Strong enforcement authorities and elaborate permit systems. 1974 legislation resulted in 17 main regulations now there are a total of 36 environmentally related laws posing issues of how to

best coordinate their implementation. Most statutes are by sector so it is challenging to coordinate across sectors and among three levels of government. A new act is being discussed with increased penalties.

3.3.10 Hong Kong:

Comprehensive laws, regulations, and permit system in response to extremely high population density. Strong compliance monitoring and enforcement response with 600 inspectors.

3.3.11 Taiwan:

Comprehensive laws, regulations, and permit system at county and city levels. Gaps in compliance monitoring and enforcement tools.

3.3.12 South Korea:

Comprehensive laws, regulations, and permit system. Strong compliance monitoring and criminal enforcement authorities.

3.3.13 Bhutan:

No specific environmental laws, but there is a Draft National Environmental Policy Act and environmental strategy. At present, National Environmental Commission applies Land Act and policies. Public awareness comes from religious underpinnings. They now have about 20 staff members headed by the Deputy Minister instituting their environmental program.

3.3.14 Mongolia:

New 1995 law, with regulations being developed.

3.3.15 World Bank:

Current focus is on environmental impact assessment, but would like to help with enforcement capacity building.

3.3.16 Bangladesh:

Currently working master plans and strategies under recently passed law. Country focused on economic growth with little interest in environmental compliance or enforcement.

3.3.17 Nepal:

New Ministry of Environment with authorities that overlap with those at local level. Military charged with enforcement.

3.3.18 India:

Overall, program is complete with respect to requirements (laws, regulations, and permits), compliance monitoring, and enforcement. Authorities split between national and state levels.

3.4 Compliance Monitoring (see Figure 1)

Figure 1. COMPLIANCE MONITORING (session B)

Country	Inspectors	Training programs	Source Self-Monitoring	Third party Audits	Citizen Complaints	Special Roles for Inspectors
Australia	X	State level	X	X	X	X
Cambodia	X			X	X	urge and advise
Hong Kong	X	X	X	X	X	advise
Indonesia	Sectoral	Sectoral	X	new law	X	
Japan	X	Local	X	Some	X	
Malaysia	X	X	X	X	X	on-site enforcement
Mongolia	X	X	X			
New Zealand	X	On the job	X	X	X	able to issue abatement notice
Philippines	X	X	Major sources	X	X	advise, closure order
PRC	X	X	Major sources		X	Radioactive
South Korea	X	X	X		X	Police only
Thailand	X	X	X	X	X	
Vietnam	X		X	X	X	

3.4.1 Inspectors

Most countries within the region have dedicated environmental Inspectors within environmental agency in all countries except Indonesia, Nepal and Bangladesh where inspectors are part of other ministries (for example, Ministry of Industry).

3.4.2 Training

Training of inspectors is very strong in Australia (State level) and strong in the PRC, Japan, India (training institute), Philippines, Malaysia, Thailand, and Hong Kong. Only on-the-job training available in New Zealand and none available in Cambodia, Nepal, or Vietnam. Bhutan administers an initial examination but no further training. Thailand certifies laboratories.

3.4.3 Source Self Monitoring

Source self monitoring in all countries except Cambodia, where it appears only in draft law to date, and Bhutan. Especially focused on large industries in Japan, India, Philippines (continuous air emissions monitoring required for large sources), and Hong Kong. Sources are required to monitor in the Philippines, but the information is not used at present.

3.4.4 Third Party Audits

Exist in all countries except Cambodia, PRC, Japan, India, South Korea, Nepal, Mongolia, and India. Thailand delegates auditing function to private sector to stretch limited budgets of government agencies. Third party audits are specified in permits in Thailand and Hong Kong. Malaysia intends to begin using third party audits, and hopes to certify auditors.

3.4.5 Citizen Complaints

All countries have some mechanism to accommodate citizen complaints except Bhutan and Mongolia. New Zealand, India, and Malaysia maintain 24-hour hot-lines, and Thailand also maintains a hot-line with 48-hour responses. More than half of the work effort in the Philippines originates with citizen complaints. In Malaysia, citizen complaints sets priorities. There is no system to respond to complaints in Indonesia. Thailand encourages use of media to raise attention to a particular enforcement need and one newspaper has a phone hotline for pollution complaints. The Pollution Control Department has a complaint unit, exemplary of the kind of unit existing in many countries which in turn refers complaints to relevant agencies. Hong Kong reported getting and responding to over 12,000 citizen complaints a year. Just to get a feeling for the extent to which complaints were driving inspection budgets, when asked the relative importance of citizen complaints to directing country inspection resources, Hong Kong indicated that 70% of noise, 30% of air, and 10% of water inspections were in response to complaints as compare to 10% in Japan, 20% in Korea, 100% in Australia –at the national level, 30% in Malaysia, 100% of serious complaints in Indonesia (with no systematic process for receiving and responding to complaints generally), and less than 10% in Thailand.

3.4.6 Special Roles of Inspectors

Most countries that have inspectors provide them other duties such as provision of technical guidance, issuance of abatement or closure orders, spot audits, water quality planning, and various prosecution roles. Malaysia allows for on-site enforcement, and New Zealand allows inspectors to issue abatement notices in the field.

3.4.7 Financing

Of additional interest is the fact that in Thailand, permit and annual fees for the cost of inspection go to the general revenues as do permit fees in the Philippines.

Figure 2. ENFORCEMENT RESPONSE AUTHORITIES AND POLICIES

Country	Informal/Citizen Enforcement	Administrative	Civil/Judicial	Criminal Fines/Imprisonment	Enforcement Response Policies	Penalties
Hong Kong	seldom; try to discourage discretion	written warnings	seldom used; judicial review available	finer common; can imprison up to 2 years, but not used	Yes, through guiding principles	10% of maximum for 1st offense. Maximum 20k \$US
Thailand	dialogues; informal requests	revoke license; fine revenues accrue to issuing agency	strict liability with compensation	court decides fine and/or prison	Pyramid, but unpublished -- flexibility to jump	Used as last step
Malaysia	dialogues; informal requests; only directly affected parties	can impose bond for clean-up up to \$100K	government and aggrieved party	court decides fine up to \$25K per violation and/or prison; imprisonment not used to date.	Yes, but not in writing	Yes up to \$25K per violation. Also can restrict offenders' export/import
Bangladesh	Visits of Minister and other officials	Yes, variety of responses	Yes	\$2,000 or 5 yrs in prison for owner	Yes	Determined by Courts
Nepal	especially used for solid waste	Yes, cancel license	rarely	finer common, prison rare	Yes - done by Department of Industry	Up to \$2,000 per violation
India	citizens can take court action	no fines/penalties		6 mo - 6 yrs; fines only through court	Yes	Yes - imposed by court
Vietnam		Close facilities				Up to \$10K per violation
Japan	Use mass media reports; shame is best approach	public exposure	part of culture is to avoid courts	try to avoid fines	Yes	usually does not work; up to 3 million yen for illegal dumping.
PRC	Yes, but does not happen much	most common	common; compensation	sometimes for most serious cases; court authority	All specified in law	Yes, up to 100k \$US
Cambodia	No	No	compensation for damages in proposed legislation	No	In proposed law only	No
New Zealand	Yes; citizen only	Yes	Judicial only	Yes-to mitigate effects; Up to 2 years in jail.	Yes	\$4 K/day up to \$200K - judge decides
Australia	Yes, citizen suits; not widely used	Yes	Civil more than criminal	Try to avoid criminal since must go to court; Yes to jail	Yes, but not published	Up to \$1 M to owners and directors; 500k corporate, 100k private

3.5 Enforcement Response authorities and policies (See figure 2)

Within the region, countries utilize a range of approaches, some legal, some involving creative use of public and private pressure, to respond to violations and gain compliance. (See chart) For example administrative enforcement is relied upon by Hong Kong almost exclusively including the use of fines and possible jail terms. Thailand uses administrative remedies such as license revocation and fines with revenues accruing to the issuing agency. Mass media and public shame is used to effect in Japan. In Bangladesh they use visits by the Minister and other officials. Australia has an enforcement pyramid with self-correction at the base, various administrative actions next, criminal penalties next and suspension of licenses at the apex.

3.6 What works?

Participants came up with the following list of what seemed to work and not work from their experiences:

- 1) Permits tied to goals: must be specific, implementable, defensible, measurable, enforceable
- 2) Reducing penalties for self-disclosure and correction of violations
- 3) Negotiating pollution prevention or audits into enforcement settlements
- 4) Shame, publicity
- 5) Frequent inspections/visits
- 6) Voluntary compliance; assistance to small-scale companies
- 7) Financial incentives: as examples, tax holiday for pollution control equipment imports, tax credit for pollution
- 8) Targeting:
 - Based on sectors
 - Based on local conditions: as example, air inspections in dry season, water inspections during wet season
 - Reducing permit requirements for active pollution prevention
- 9) Awards for companies that adopt ISO 14000
- 10) Maintain accountability
- 11) Requiring enhanced performance or cleanup in return for economic advantages
- 12) Nonregulatory approaches to affect "guest" companies:
 - Information sharing
 - Publicity in companies' home country
 - Requiring home country standards
 - International "sanctions"
 - Report to home country parent company

Figure 3. ROUGH CUT AT COMMON ENVIRONMENTAL CHALLENGES

Country	Pollution sources	Affected medium (air, water, land)	Other
Thailand	Tanneries Textiles Automobiles Construction	Water Water Air Air	Hazardous waste disposal
New Zealand	Timber Petrochemical	Urban storm water	Sediment "Orphan sites"
Malaysia	Metal finishing Food & beverage Quarries Rubber Pig waste Distillation/ fermentation Non-industrial sources- e.g. motor vehicles	Water Air, Water	
Indonesia	Textiles Tapioca Pulp & paper Mining (construction materials)		Hazardous waste
Japan	Mobile sources	Air	
South Korea	Small-scale operations	Water	
Bhutan	Wastewater plants Deforestation	Water Endangered species	
PRC	Sewage Industrial growth	Water Air	
Philippines	Small industry Solid waste Mobile sources	Water (65% nonpoint source) Air	Hazardous waste (no capacity)

3.7 Common Environmental Challenges and Priorities: Targets of opportunity

To assess whether the countries within the region faced some common environmental challenges each participant in Session B was asked to contribute their perceptions of what the biggest challenges were. It became apparent from the discussions, that 1) there were groups of industrial and human development activities that were common challenges within the region, 2) some countries had successfully addressed environmental problems from industrial sectors that other nations within the region were just beginning to address, and 3) that more work could be done to identify common problems which could benefit from shared information on control, prevention, compliance status information, inspection techniques and compliance strategies.

3.8 Opportunities for Networking:

The Region already has in place, a variety of mechanisms to meet cooperation and networking needs. Yet, additional needs were identified as follows:

- 1) More complete baseline information on:
 - Expertise of individuals within the region
 - Environmental Laws
 - Environmental Policy
 - Technical Solutions to environmental problems accessible resources by persons in libraries, CIEL's database and other means.

Many members of the Asia/Pacific group met one evening to discuss forming a network concerned with environmental law in the region. The group discussed whether the focus would be on environmental law and policy but decided that the need was to move beyond this narrow focus to include issues of implementation, enforcement and practical solutions as well.

- 2) Electronic Bulletin Board and/or other communication methods (i.e. newsletter)
- 3) Universal access to E-mail and the Internet (only half the participants are hooked up currently)
- 4) Training across a wide variety of subjects:
 - Environmental Management for small enterprises
 - Sectoral information
 - Customs Officials
 - Inspectors to implement Laws
 - Technology and equipment
 - Rule development
 - Permit writing
 - Enforcement responses
 - Legislative drafting
 - Implementation of international conventions (in particular, networks to exchange country information on responses to these conventions)
 - Judiciary personnel on criminal enforcement
 - Criminal Enforcement (police, public officials, judges)

The participants also discussed the need for training in the regulated community, especially when a new control regime is introduced. Hazardous waste control was cited as but one example.

Participants favored modularized training with one group common to all countries and others specific to each country.

- 5) Personnel Exchanges -- especially on-site trips to observe/learn how one country solved a problem

- 6) Follow-On Regional Meetings to keep momentum going including an Asia-Pacific Conference on Environmental Law, possibly in Singapore.
- 7) Transboundary cooperation
 - Bi-lateral agreements for disposal of PCBs
 - Sharing lists of shipping companies
 - Sludge dumping in Malaysia and Singapore and potential exchange of enforcement information

Participants discussed the potential for a joint submission to GEF (administered jointly by the World Bank, UNDP, UNEP) which considers Transboundary/Maritime issues one of its four top priorities) for a grant on coordination.

3.9 Training Resources Available

There are many training resources already available through the following channels:

- UNDP, UNEP
- World Bank, regional banks
- Country training institutes such as National Civil Service Institute in Malaysia or
- Bilateral assistance e.g. U.S. EPA enforcement training, Japan International Cooperation Agency
- Local Universities (e.g. Chiang Mai University or Asian Institute of Technology in Thailand)
- Partnerships with NGO's and industry
- US Asia Environmental Partnership

A "virtual regional training network" was discussed to combine training expertise of all countries so that overlap is avoided.

4 CONCLUSIONS/ NEXT STEPS

- 1) Establishment of a network among participants within the region focusing on environmental law and policy to share baseline information and needs
- 2) Cataloguing existing training opportunities with an eye toward making them more widely available in the region and sharing them efficiently
- 3) Explore GEF grant funding of regional project in maritime/transboundary protection
- 4) Training the trainers on criminal enforcement, who can then train country police, public officials and judges within the context of their own country
- 5) Implement the network to build capacity in a wide variety of areas, including, for example, capacity building for compliance with international conventions
- 6) Explore opportunities for follow up meetings of this group to further develop and implement regional linkages
- 7) Explore how to best link up with other regional networks

The regional meeting resulted in assignment to six individuals to prepare position papers to be distributed to all participants by July 1996. The conference sponsors are requested to provide electronic listing of participants so that this step can be accomplished.

List of Participants for Asia and Pacific Regional Meeting

Mr. Damcho Dorji	Royal Government of Bhutan	Bhutan
Mr. Ugyen Tenzin	Royal Government of Bhutan	Bhutan
Mr. Sam Chamroeun	Ministry of Environment	Cambodia
Mr. Mak Sophy	Ministry of Environment	Cambodia
Mr. John Boxall	Environmental Protection Department	Hong Kong
Mr. Patrick Lei	Environmental Protection Department	Hong Kong
Mr. Tse Chen Wan	Environmental Protection Department	Hong Kong
Mr. Hamrat Hamid	Environmental Impact Management Agency	Indonesia
Mr. Mas Achmad Santosa	Indonesian Center for Environmental Law	Indonesia
Mr. Reiji Hitsumoto	Environment Bureau - City of Kitakyushu	Japan
Mr. Choei Konda	Environment Agency	Japan
Mr. Jalaluddin Ismail	Department of Environment	Malaysia
Mr. James Dawos Mamit	Natural Resources and Environment Board Sarawak	Malaysia
Dr. Aziz Abdul Rasol	Department of Environment	Malaysia
Mr. Mohamad Sayuti Sepeai	Department of Environment State of Sabah / Lubuan	Malaysia
Mr. H. Badam	Ministry of Nature and the Environment	Mongolia
Dr. J. Tsogtbaatar	Ministry of Nature and the Environment	Mongolia
Mr. Donald Carter	Resource Council, Hamilton Office	New Zealand
Mr. Chris Hatton	Auckland Regional Council	New Zealand
Mr. Hu Baolin	National Environmental Protection Agency	Peoples Republic of China
Mr. Suli Wang	National Environmental Protection Agency	Peoples Republic of China
Dr. Wang Xi	Center for Asian Legal Studies	Peoples Republic of China
Ms. Zhao Ying	East Asian Legal Studies Program	Peoples Republic of China
Ms. Abigail Modino	Senate Committee, Environment & Natural Resources	Philippines
Mr. Antonio A. Oposa Jr.	Philippine Ecological Network (PEN)	Philippines
Ms. Rachel A. Vasquez	Environment Management Bureau	Philippines
Dr. Yeong-Ren Chen	Environmental Protection Administration	Taiwan
Dr. Gwo Dong Roam	Environmental Protection Administration	Taiwan

Mrs. Kasemsri Homchean	Industrial Estate Authority of Thailand	Thailand
Ms. Suwamarin Jugsujinda	Thailand Environmental Institute (TEI)	Thailand
Mr. Chamnan Junruang	Chiang Mai Governor's Office	Thailand
Dr. Seni Karnchanawong	Faculty of Engineering	Thailand
Dr. Pakit Kiravanich	Pollution Control Department	Thailand
Ms. Sunee Mallikamarl	Chulalongkom University	Thailand
Minister Yingpan	Manasikarn	Thailand
Mr. Virah Mavichak	Department of Industrial Works	Thailand
Dr. Nonglak Pancharuniti	Thailand Environment Institute (TEI)	Thailand
Mr. Virach Payackapan	The Royal Thai Police	Thailand
Ms. Santivipa Phanichkul	Thailand Environment Institute (TEI)	Thailand
Sub Lt. Preecha Phetwong	First Regional Harbour Master Office	Thailand
Dr. Tippawan Prapamontol	Chaing Mai University	Thailand
Mr. K. Sukondhasingha	The Federation of Thai Industries	Thailand
Mr. Pornchai Taranatham	Pollution Control Department	Thailand
Dr. Saksit Tridech	Office of Environmental Policy and Planning	Thailand
Mr. Suvidh Voravisuthikul	Department of Land Transport	Thailand
Dr. Amnat Wongbandit	Thammasat University	Thailand
Mr. Panithan Yamvinij	National Economic & Social Development Board	Thailand
Mr. Le Van Kieu	Ministry of Science, Technology & the Environment	Vietnam
Mr. Phung Van Vui	Ministry of Science, Technology & the Environment	Vietnam
Ms. Jean Aden	Asia Technical Department	World Bank