

## **Governing Trans-boundary Pollution in Northeast Asia**

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## **1. The Issue**

Despite regional characteristics including geographical proximity, cultural and historical homogeneity, societal interaction, and economic interdependence that may facilitate a high level of regional integration, attempts to institutionalize regional cooperation have not been effective in Northeast Asia because of a strong emphasis on sovereignty and mutual distrust among countries in the region. As such, the institutional development of current environmental cooperative efforts including financial arrangements, joint project implementation, and the establishment of a secretariat is a remarkable development in Northeast Asian regionalism.

Environmental cooperation in the region as conducted through non-binding agreements. While the agreements entail reciprocal promises or actions for implementation on the part of the individual parties, none of them contains formal clauses that describe the parties' commitments as binding obligations or legal sanctions for non-compliance. Consequently, the interpretation and implementation of the agreements are largely up to the governments of the member countries and their practices are not subject to formal scrutiny under the agreements.

Environmental cooperation in Northeast Asia shows contrasting feature to the European experience, which represents a highly legalized cooperation established through a series of legally binding protocols.<sup>1</sup>Hence, the Northeast Asian case offers an example of minimal legalization and arguably exemplifies a trend against legalization in regional environmental cooperation. It seems that the countries in the region accept non-binding cooperation as a means to achieve their policy goals of safeguarding sovereign environmental decision making while at the same time coping with regional environmental problems. The countries emphasize actual projects based on environmental cooperation. In fact, the non-binding nature of current environmental framework gives the member countries flexibility in determining the limits and scope of cooperation.

Pursuing non-binding cooperation positively effects regional peace and stability since it avoids imposing any constraints on state sovereignty accompanying the conclusion of legally binding international agreements. Given the emphasis on the sovereignty of regional countries, any effort to create a legally binding cooperative framework would invite strong negative political reactions. Although non-binding, the cooperative efforts for environmental protection in turn reduce uncertainties through information exchange, expand complex interdependence, enhance reciprocity, and promote the habits of dialogues over regional issues between countries in the region.

## **2. Environmental Cooperation in Northeast Asia: Progress to Date**

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<sup>1</sup>To address acid rain, European countries concluded CLRTAP in 1979 and a series of Protocols. And for pollution in the Mediterranean Sea, the Barcelona Convention was concluded in 1975, followed by the Protocols on Marine Dumping and Emergency Oil Pollution (1975), the Protocol Concerning Mediterranean Specially Protected Areas, and the Athens Protocol on Land Based Pollution Source (1980). The Baltic Sea and the North Sea have been protected by the Oslo Convention (1972), the Paris Convention (1974), and the Helsinki Conventions (1980 and 1990). The Oslo and Paris Conventions were replaced by the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention) in 1992.

Northeast Asia consists of an eco-community defined by geographical proximity and seasonal weather patterns that make domestic pollution within one state easily transferable to neighboring states thereby causing trans-boundary environmental problems. Acid rain, marine pollution, and yellow sand and dust storms are all trans-boundary pollution issues in Northeast Asia that are critical topics in regional environmental negotiations. More recent topics including climate change and marine resource depletion are also considered to be best tackled through regional policy coordination. Various cooperation channels have developed since early 1990s in order to deal with regional trans-boundary pollution.

## **NEASPEC**

As the first intergovernmental meeting, the Northeast Asia Sub-regional Programme of Environmental Cooperation (NEASPEC) launched in 1993 by the Korean Ministry of Foreign Affairs and the United Nations Economic and Social Commission of Asia and Pacific (UNESCAP) in collaboration with UNDP, UNEP, and ADB. China, Japan, Korea, Mongolia, and Russia participated while North Korea did not join. The NEASPEC's governing body, the Senior Officials on Environmental Cooperation in Northeast Asia (SOMECNEA), convenes the annual meeting and makes all policy decisions concerning substantive and financial matters related to the Program. Countries identified five priority areas for cooperation, and UNESCAP acts as the secretariat to the NEASPEC.

The NEASPEC has made considerable progress during the past decade concluding the Framework adopted in 1996, the Vision Statement for Environmental Cooperation in North East Asia, and the Core Fund based on voluntary contributions of the member countries concluded in 2000.<sup>2</sup>The NEASPEC has conducted projects for the emission reductions from improve coal-fired power plants in the region with targets and a timeframe.<sup>3</sup> Training centers and technical assistance project have been development with ADB financial support.

## **NOWPAP**

The North-West Pacific Action Plan (NOWPAP) launched in 1994 under the auspices of the UNEP's Regional Seas Programme, for the preservation of the two regional seas, the Yellow Sea and the East Sea (Sea of Japan). China, Japan, Korea, and Russia are the participants. Information management, a survey of national environmental legislation and policies, a regional pollution monitoring program, and cooperation in marine pollution emergency preparedness and response were identified as priority areas for cooperation.

NOWPAP has made significant institutional development. The NOWPAP Trust Fund was formed in 1997 to finance cooperative projects, and the Joint Regional Coordination Unit (RCU, the secretariat) was established in 2004. Four Regional Activity Centers (RACs) were established, one in each member country, in order to share the responsibility of monitoring and assessing

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<sup>2</sup> For the Core Fund, Korea made a US \$200,000 contribution, and Japan and China contributed US \$170,000 and US \$50,000, respectively. As of the time of this writing, Russia and Mongolia have not pledged to make contributions.

<sup>3</sup> UNESCAP, "Improving efficiency of particulate abatement systems of CFPPs in NEA," available at <http://www.unece.org/ie/capact/ppp/pdfs/escap.pdf> (accessed 27 October 2005).

marine pollution in the region.<sup>4</sup>The most important institutional development in NOWPAP was the signing of the Memorandum of Understanding (MOU) on Regional Cooperation on Preparedness and Response to Oil Spills in the Marine Environment of the Northwest Pacific Region and the related Regional Oil Spill Contingency Plan (RCP) for the NOWPAP, which was presented at the ninth Intergovernmental Meeting in 2004. The MOU and the RCP stipulate that NOWPAP member countries may request assistance from other members in case of marine incidents and that the requested members should use their best efforts to render assistance.

NOWPAP has been seeking to collaborate with other marine preservation programs in East Asia including PEMSEA and the UNDP/GEF/Yellow Sea Large Marine Ecosystem Project.

## **TEMM**

The annual Tripartite Environmental Ministers Meeting (TEMM) among Korea, China, and Japan was established in 1999 to further promote environmental cooperation in Northeast Asia. Identified priority areas were strengthening community awareness and exchanging information, preventing air pollution and protecting the marine ecosystem, and promoting cooperation on environmental industries, technology, and research. The TEMM has been expected to be similar to Europe's Ministerial Conference for the Baltic and North Sea Preservation, which brought about a dramatic increase in regional environmental activity in that area. As a high-profile and widely publicized event that generated great public expectation, the Ministerial Conference in Europe brought the environmental issues previously relegated to the back burner at regional forums to the forefront. Operating at the highest level of the region's cooperative framework, the TEMM receives reports from the other cooperative channels and, through the announcement of a Joint Communiqué at annual meetings, attempts to provide guidelines for comprehensive environmental cooperation.

In sum, environmental cooperation at the multilateral level in Northeast Asia has been well established in these standing forums for environmental negotiations. The issue of concluding a convention, let alone a protocol, has never been brought to the negotiation table. The regional countries have adopted "frameworks," "guidelines," "conclusions," "joint communiqués," and "memorandum of understanding" which serve as useful instruments for implementing cooperation. The agreements virtually reflect a high degree of political commitment on the part of governments although they do not delineate the obligations or duties of member countries regarding monitoring, reporting emission data, and implementing reviews that would be critical to the legally binding environmental cooperation. Neither binding technologies nor effluent standards are adopted. This non-binding feature of environmental cooperation in Northeast Asia is probably due to the rejection of key member countries of the legalization of this cooperation<sup>5</sup>.

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<sup>4</sup> The four RACs are the Special Monitoring and Coastal Environment Assessment Regional Activity Center (CEA/RAC, Japan), the Data and Information Network Regional Activity Center (DIN/RAC, China), the Marine Environmental Emergency Preparedness and Response Regional Activity Center (MER/RAC, Korea), and the Pollution Monitoring Regional Activity Center (POM/RAC, Vladivostok, Russia).

### **3. Effects of Environmental Cooperation in Northeast Asia**

#### **Environmental protection:**

Environmental cooperation is viewed a workable regime to address regional trans-boundary pollution. The NEASEPC projects of the pollution reduction in coal-fired power plants in China and Mongolia are expected to have positive effects in reducing air pollution. Dust storm monitoring towers are now installed in Gobi, Loess plateau, and Inner Mongolia, and the measurement networks, which are widely dispersed throughout East Asia, are now generating valuable data to lend an accurate prediction of *hwangsa*. In addition, after activating the NOWPAP regional Oil Spill Contingency Plan, the NOWPAP member countries joined hands in fighting oil spills including the Taean incident, the worst oil spill incident in Korean history transpired in December 2007. A recent survey conducted by the Korea Environment Institute of government officials and experts from regional countries shows that 87 percent of the respondents agreed that environmental cooperation has made progress in the past 10 years and that cooperation has affected their domestic environmental policymaking processes. Still, only 47 percent of respondents agreed that environmental cooperation contributes to actual improvements in environmental quality in the region.

#### **Implications of Environmental Cooperation for Regional Politics:**

The institutional development of environmental cooperation has provided several mechanisms by which current cooperation may promote a genuine development for collective actions in Northeast Asia, and the collective action further provides a foundation for broader forms of peaceful regional cooperation in other issue areas. Environmental cooperation in Northeast Asia could, albeit limited, reduce uncertainty, deepen and broaden ties of interdependence, promote reciprocity, and lengthen the show of the future. Joint research and exchanges of information and experts have reduced uncertainty by enhancing the understanding of the primary causes of trans-boundary pollution and policy interests of the member countries, and suggested which measures may effectively address the issues. Such joint activities and sharing of research methods and technologies have expanded interdependence in environmental governance among countries. Environmental cooperation has also created new opportunities for expanding the existing economic interdependence in the region since it links environmental technologies with markets.

Current environmental cooperation also creates ample opportunities for more diffused forms of reciprocity in regional politics. Due to insufficient experience with policy coordination at the regional level, the relationships between Northeast Asian countries have been based on a strict policy of reciprocity or “give and take” analogous to a classical barter transaction. Such narrow reciprocal bargaining is in fact fragile as it has been frequently disrupted in tune with any abrupt changes in regional politics, which in turn results in unexpected diplomatic friction. Through various environmental cooperative channels over multiple environmental issue areas, states

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<sup>5</sup>About this argument, see, Esook Yoon, “Environmental Cooperation in Northeast Asia,” *Pacific Focus*, vol. XXII, no. 2, Fall 2007.

become involved in complex interdependencies in regional ecology taken as a whole although individual states may become enmeshed in stark polluter-victim relationships and/or one-way dependencies in a specific environmental issue area.

The political implications of environmental cooperation in Northeast Asia also include institutionalized habits of dialogue among the member countries, which thus develops a shared sense of regionalism. While the Northeast Asian region has been the focus of many studies of traditional security relations and rapid economic success, the region lacks many of the economic, social, and political institutions that have made Europe and North America increasingly independent and contributed to the formation of a positive sense of regionalism. In this context, the institutional development of environmental cooperation casts a long shadow that will facilitate future regional cooperation in the other issue areas.

#### **4. Conclusion**

Environmental cooperation in Northeast Asia has been driven by the governments since UNCED in 1992. The regional countries adopted non-binding cooperation as the central instrument to achieve their shared policy goals to develop a collective mechanism for coping with trans-boundary pollution while safeguarding their sovereign environmental decision-making and economic interests. Environmental cooperation has made significant progress in institutionalizing cooperation, although it is a new arrival to Northeast Asian politics, which has heretofore experienced an historical absence of institutionalized intergovernmental cooperation. The non-binding nature of cooperation allows the regional powers to gain greater flexibility and to achieve swift consensus in negotiations as ratification of the agreements is not required.<sup>6</sup> Non-binding cooperation also keeps environmental negotiations out of the political spotlight thereby encouraging ongoing dialogue regardless of political developments in the region. The best evidence for this is that meetings have been held as scheduled even when overall diplomatic relationships between the members have soured over issues such as the security dilemma, Japan's wartime guilt, and trade friction.

Current environmental cooperation in the region has not realized its full potential as a regional instrument for economic and political negotiation; however, it may eventually have positive spillover effects on other issue areas in regional politics in the long-run. Thus, recent institutional developments in environmental policy cooperation in Northeast Asia are a noteworthy case of how non-binding cooperation may promote a shared sense of regionalism among states whose relationships are otherwise defined by concerns over maintaining state sovereignty, mutual distrust, and other significant rivalries.

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<sup>6</sup> For discussions about effectiveness of formal/informal, binding/non-binding international agreements, see Charles Lipson, "Why are some international agreements informal?" *International Organization*, Vol. 45, No. 4 (1991), pp. 495-538; Kenneth Abbott and Duncan Snidal, "Hard and Soft Law in International Governance," *International Organization*, Vol. 54, No. 3 (2000), pp. 37-72.