

International Sustainable and Ethical Investment Rules Project

Sustainable Development: The Emerging Paradigm in Asia

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Abstract

Ten years after Rio, sustainable development remains very much overshadowed by other bread-and-butter issues in Asia. Foreign Direct Investment as a major source of financial and technical injections continues to be sought after by governments of developing nations, negative environmental and social fallouts notwithstanding. Nonetheless a number of ground initiatives aligned with the sustainability cause, and greater environmental awareness marks the emergence of a new consciousness. This paper seeks to examine this emerging developmental paradigm and extrapolate the implications for the introduction of a pro-sustainability international investment regime.

I. Introduction*

“We are dealing with no small thing, but with how we ought to live.” – Socrates

Ten years after the Rio Declaration, sustainable development remains a term foreign to many in Asia. The relative obscurity of the term both reflects and indicates the uphill task the region faces in taking up the sustainability agenda.

Slow uptake in Asia is due in part to the vision enshrined within the Brundtland definition of sustainable development. Calling for a balance between the triple concerns for environment, economic growth and human development, the Brundtland vision represents a major shift from today’s developmental path in which economic growth is often achieved at the cost of environmental degradation – a short-sighted equation that bodes ill for future generations – and a widening gap between rich and poor. Many today now believe “the current patterns of growth...are environmentally disruptive, macro-economically counterproductive, and socially divisive with widespread unemployment and polarization between rich and poor” (Gleeson and Low 2001:32).

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In the years since Rio, however, the sustainability agenda has come under fire for being too wide and ambitious (The Economist, 2002). The success of the agenda rested upon two assumptions: first, that both leaders and the masses would be willing to make difficult adjustments to current lifestyles and habits; and second, that national governments have the ability to formulate, execute and sustain an alternative developmental path.

The slow progress made in the past ten years indicates that the general picture is otherwise. Both developed and developing nations have been reluctant to adopt substantive measures conducive towards a sustainable developmental path. Fear of economic backsliding and transitional fallouts (e.g. unemployment) are key reasons everywhere.

But among the developing nations of Asia, the lack of financial muscle, weak institutions, limited technological capacities¹ and skepticism towards the sustainability agenda further undermine the will and ability to take action. At the same time, however, worsening environmental degradation and increased awareness of its consequences, increased literacy and the impacts of globalization are slowly transforming the way the man and woman in the street view the existing state of things.

In seeking to change the situation, there has been a growing focus on the role of FDI in this equation. As a source of capital and technology transfer, FDI can be a potent facilitator of sustainable development in developing countries, especially in impoverished economies which lack the financial muscle to invest in sustainable technologies, relevant research, and capacity building, among others.

However not all FDI flows are equal. In broad terms, FDI is of benefit to a country's development when it fulfills one or more of the following functions: increases a country's export competitiveness, upgrades the skills and technological content of the export, and/or provides a good or service that would otherwise be unavailable. Conversely, FDI can have adverse effects on a country's domestic economy such as the crowding out of infant industries; it has also been identified with undesirable environmental and social fallout, such as the unsustainable extraction of natural resources and sweatshops.

In the attempts to understand the linkages between FDI, trade and development, it became increasingly clear, as UNCTAD warned, that "the developmental impacts from improved export competitiveness cannot be taken for granted...TNCs can help raise competitiveness in developing countries and economies in transition, but tapping their potential is not easy." (UNCTAD 2002:11.) It also cautioned that "the basic objectives of TNCs and governments are not the same: governments seek to spur *development* – within a *national* context. TNCs seek to enhance their *competitiveness* in an *international* context. Not all FDI is, therefore, always and automatically in the best interest of host countries...(TNCs') needs and strategies may differ from the needs and objectives of host countries." (UNCTAD, 1999:155).

The idea of a legally binding regime governing international investment was first mooted during the Uruguay Round by some developed Western nations who proposed multilateral negotiations in the World Trade Organization (WTO). As capital exporting countries, they have pushed for rules, practices and agreements that focused mainly on defining, expanding and protecting investor rights - without addressing the potential negative impacts of FDI (LalDas, undated).

With this understanding, developing nations are calling for an international investment regime that goes beyond the articulation of investor rights to articulate also investor responsibilities towards host countries and to take into account the developmental needs of impoverished populations. Such calls rightly recognize FDI as an important means to an end. With appropriate channeling and wielding, FDI can contribute significantly to the sustainable paradigm in developing Asia.

However important and necessary, FDI is only the software to a complex machine. For an investment regime to be successful, the necessary hardware including good governance, robust institutional support, grassroots and private sector support must be present. This brings the question of compliance and enforcement, and along with it, the possibility of punitive measures.

With this in mind, this paper examines the way the sustainability paradigm is emerging in Asia and what it implies for how Asian governments, NGOs and the public are likely to view the governance of international investment, including a pro-environment investment regime. Given the complex nature of the issue and the Asian region itself, the paper will focus primarily on the developing nations of Southeast Asia.

As a region whose growth has been largely fuelled by FDI, with a rich but severely damaged environmental heritage, and which has experienced vividly the instability that can be wrought by unregulated FDI, Southeast Asia presents a valuable point of reference for the creation of a pro-sustainability international investment regime. Within the region, financial, political and institutional constraints on moving forward a sustainability agenda have increased in recent years, limiting governments' abilities and political will to act. A counter-trend, however, is a blossoming of social and environmental consciousness. It is from this cauldron of influences that a sustainable development paradigm is emerging.

In the following section, the paper outlines the economic-ecological dilemmas faced by governments of developing nations, as well as their institutional and financial constraints in responding to a changing international security and economic landscape. Section III, examines the changing priorities among the people, and argues that in the absence of strong leadership from the state, citizens and local businesses are beginning to take initiatives to better their immediate environments and lives. Looking beyond Asia, Section IV highlights the contribution of international environmentalism to Asia's environmental movements. The final section examines the possibility of a pro-sustainability investment regime and argues that while such a regime will be greeted with initial apprehension and suspicions, it can find acceptability if properly crafted, and in doing so, contribute greatly to the advancement of a sustainability agenda.

II. Asian Governments: Unwilling or Unable?

Skeptics of sustainable development, in Asia and beyond, question its very paradigm: Can we really have it all? Is it truly possible to reconcile the imperatives of economic growth, social justice and environmental protection?

The United States' abrupt withdrawal from the Kyoto Protocol earlier this year - citing potential harm to the US economy - suggests not.² The US decision was greeted with widespread disapproval from both within and outside of the country. Two conclusions can be drawn from the episode: that there is a growing environmental consciousness within the international community, and that the subjugation of economic goals for sustainable development goals remains a real source of contention and concern.

With the exception of Japan, most of Asia relied heavily on FDI as a primary engine for growth in the drive to attain the status of "developed nation". The burst of economic euphoria of the 1980s and early 1990s-- when the term "Asian tigers" was born and the region's skyline was dramatically transformed-- came to an abrupt halt with the 1997 economic crisis. The brunt of the crisis was borne by Southeast Asia and demonstrated the destabilizing effects that can be wrought by ungoverned private capital flows.

Recognizing the vulnerabilities of their relatively open and free economies in a global economy, ASEAN member countries have since stepped up talks of regional financial cooperation to make themselves more resilient in an increasingly unpredictable macro-environment. Some, like Malaysia and Thailand, are also seeking to beef up domestic industries. Nonetheless, these are slow long-haul processes with as yet uncertain outcome. On the whole, FDI remains an intractable part of economic rejuvenation, a task that has taken on extra urgency with the rapid rise of China, and with its recognized links to poverty, the threat of terrorist networks.³

"Do as I say, not as I do"

Proponents of a pro-environment international investment regime correctly recognize the importance of FDI to Asia's development, and its potential to shape the region's developmental path. However, previous attempts to link trade to the region's environmental concerns had reaped little success. Indeed, international law and policy-making on the environment have often been characterized by a highly fractious North-South divide.

The countries of South East Asia have almost always been on the side of the South. Either individually or collectively under the umbrella of ASEAN, they have expressed doubt over the appropriateness of most international environmental initiatives proposed by Western countries. Similarly, the vast majority of Asian states have opposed environmental conditionalities on aid and trade, whether at the bilateral level or from multilateral agencies, such as the World Bank.

This nervousness surrounding environmentalism stems partially from the track record of many developed countries in unilaterally imposing environmental standards, which often are duplicitously designed to give preference to their domestic producers. A recent report by the World Bank lent weight to this concern when it pointed out that “the willingness of the developed west to abandon protectionist policies has not been much in evidence” (World Bank, 2001). Developing nations are thus hesitant to embrace a call for sustainable development because their experience and fear is that such a call might disguise protectionism and a donor-driven limit to their recovery and future development (Tay, 1997).

On a related front, Southeast Asian governments also resent any moves perceived to be a disguised attempt to undermine their competitiveness or sovereignty. Such resentment was evident in the run-up to the 1992 Earth Summit when Malaysia and Indonesia took a leading role to defend their rights to continue logging trees as part of their patrimony. ASEAN also fended off Austrian attempts to unilaterally declare eco-labels for tropical timber products, and US attempts to ban shrimp imports over shrimping methods that resulted in the death of endangered turtles. The Malaysian premier, Dr Mahathir Mohammed, was a leading spokesman against trade measures to increase environmental protection, often denigrating them as “neo-imperialism” and ways of trying to stem the rise of developing countries by imposing new strictures on their growth.

TNCs and Environmental Degradation: A Necessary Evil?

The degree to which Asia governments value economic growth over environmental concerns can be seen in the preferential treatment traditionally given to TNCs, despite studies highlighting cases of exploitation and unsustainable practices. One example is the role of Japanese TNCs in forest, wood pulp and other wood related products (Dauvergne, 1997). Additionally, TNCs have also been found guilty of shifting substandard industrial plants and hazardous production processes to developing nations, such as Thailand, to escape health and pollution standards in their home countries (Lee and So, 1999).

Alongside this display of tolerance is the frequently raised argument that governments cannot raise environmental benchmarks for fear of provoking TNCs and foreign capital to relocate to another with lower standards. Although empirical studies show mixed evidence of such industrial migration, it has been cited repeatedly by developing nations including Indonesia and the Philippines (Esty 1996, Revez 1993).⁴

Environmental degradation is widely accepted as a temporary inconvenience, or even a necessary sacrifice for a greater goal,⁵ a view supported theoretically by Kuznets curve of environmental quality.⁶ However, anecdotal evidence indicates that, with proper monitoring and administrative and legal capacities to enforce laws, it is possible for countries such as Singapore to reconcile economic growth and environmental protection. Even relatively poorer countries such as the Philippines can improve their environments through better legislation and governance (The Economist, July 2002).

System Breakdown

“How can we prosecute offenders if the system of prosecution is broken down and its personnel are not equipped to really do the job?”

– Indonesian Environment Minister Nabel Makarim (Straits Times, 2002)

Throughout much of Asia, efforts to introduce environment-related laws, policy plans and programmes have been slow and generally ineffective (Parnwell and Bryant, 1996; Hirsch and Warren, 1998; Dauvergne 1997). The slowness stems from a combination of political, economic, social and institutional factors, including systemic corruption, weak legal systems and the lack of institutional capacity (Noda, 2002). These factors were both highlighted and augmented in the aftermath of the 1997 financial crisis when confusion and fiscal austerity reigned.

Indeed, the economic crisis had negative impacts on Southeast Asia’s environment for three major reasons: (1) decreased funds for environmental protection and infrastructure and weakened regulatory agencies and efforts to ensure compliance; (2) a resurgence of environmental problems associated with poverty; and (3) negative environmental impacts from attempts to restart economic growth (Tay 2001). In this manner, environmental woes in Southeast Asia are also symptomatic of a breakdown in national institutional and financial structures.

Post-1997, ASEAN governments have been largely preoccupied with the immediate tasks of political house-keeping and resuscitating the economy. Economic recovery especially was key to social and political stability and the government’s own political survival, as vividly demonstrated in the popular uprisings in Indonesia and the Philippines. In post-Suharto Indonesia especially, unfamiliarity with political plurality and political insecurity have led to a situation where parties are often preoccupied with shoring up support at the expense of governance.

Complicating the picture are recent developments on the regional and international stage, namely post-911 security threats, the resurgence of Islam worldwide and a changing economic landscape due to China’s growing economic power. Together, these developments have been the subject of much debate and research, with a considerable amount of resources poured into provision-making. Under such circumstances, it is unsurprising that the sustainable development agenda has been pushed down the list of national priorities.

On a wider scale, Asia governments’ general reluctance to embrace environmental governance, however, does not mean that they are indifferent towards the signs of environmental degradation and destruction. Indeed, it would have been impossible to ignore the signs. In Southeast Asia, populations are plagued by haze resulting from Indonesia’s forest fires, while much of Northeast Asia must contend with acid rain. More recently, a report released by United Nations Environment Programme (UNEP) made waves with new findings on the devastating impacts of what has been dubbed as the Asian Brown Haze, a two mile long cloud of toxic gases and pollutants (UNEP 2002).

Media coverage of environmental disasters caused or aggravated by human activities or unsustainable practices has increased steadily over the years, often highlighting governmental inertia in correcting the underlying causes.

The depletion rates of natural resources in water, arable land, timber and oil in Asia are also high. Within the region, 40 per cent of land that can support closed tropical forests is now devoid of forest cover, while 75 per cent of the Asia and Pacific region's marine protected areas are deemed to be under high potential threat from coastal development (World Resources Institute, 1998). Pressure on the land in Asia is the most severe in the world, with over 28 percent of the region's land area in various stages of degradation (Asian Development Bank, 2001).

Serious water and air pollution due to burgeoning populations and industrialization too pose chronic health hazards. As an indicator, the fecal coliform level found in the region's rivers is three times the world average and 50 times over the level recommended by the World Health Organization (Asian Development Bank, 2001).⁷ In the case of the Asian Brown Haze, scientists from the United Nations Environment Program believe that it contributes to acid rain, and puts hundreds of thousands of people at risk of respiratory diseases (UNEP 2002).⁸ As another indicator, residents of Hong Kong reportedly spent US\$462 million on treatment of respiratory ailments, most of which were aggravated by air pollution (Reuters, 2002).

Official recognition of these environmental imperatives is slowly growing, as is the political will to do more. ASEAN nations recently signed an anti-haze treaty and the three Northeast nations of China, Japan and South Korea agreed to monitor air pollution. While much more is needed to address Asia's environmental woes, these moves are significant. The anti-haze treaty is the first legal treaty among the ASEAN nations, while the Northeast Asian agreement was made among three traditionally rival nations. Though it is premature to comment on the success of the two pacts, they indicate a fundamental shift in governmental stance with regards to environmental concerns.

Cooperation Not Coercion

"It seems to me there is a certain hypocrisy about rich countries telling poor countries to undertake radical reform. The kind of changes we have got to make in the west are much smaller than the kinds of reforms rich countries are asking poor countries to make all the time."

- Nick Stern, World Bank's chief economist (The Guardian, 2002)

Sustainable development represents an uphill task for most resource-strapped Asian governments, perhaps one so daunting that procrastination may appear preferable. It is also clear that while environmental imperatives are gaining more recognition, the economic concerns of trade and FDI remain paramount for very practical and substantial reasons.

Attempts nudging Asian governments to do more should therefore shift from a negative “sanctions-based” approach to a more positive one where trade, investment and environmental concerns are tied together under a positive mutually reinforcing framework. One previous attempt to do so has been the recognition of the principle of common but differentiated responsibilities, set out in the Rio Declaration’s Principle 7.⁹

The Rio bargain was that developing countries would recognize and work towards common environmental concerns so long as and to the extent that the developed countries made financial, technical and other forms of assistance available. Unfortunately, the Rio bargain has remained largely at the level of rhetoric, belying the early optimism it inspired. Not only did the promise of increased official development assistance (ODA) not materialize, it has decreased significantly over the years.

Nonetheless, the cooperative spirit and principles of the Rio bargain remain just as, if not more, relevant today. Its lacklustre outcome points to the need to rethink the channels and means through which North-South cooperation can take place at the higher governmental levels. It also demonstrates the need to widen the pool of players beyond governments to include a greater cross-section of society on both sides of the North-Side divide.

One positive approach that is gaining currency is the greater involvement of the business and civil society communities, particularly as a source of funding and specialized knowledge. Governments can and should perform the vital functions of facilitating and encouraging such alternative channels from North to South through appropriate financial incentives, institutional capacity building, and creating a policy framework that encourages and recognizes the value of sustainable development work.

An example is the China Council for International Cooperation for Environment and Development (CCICED). A high-level non-governmental advisory board established by China’s state council, its purpose is to strengthen cooperation between China and the international community in the field of environment and development, with a specific policy work focus. Tapping into international expertise, various Expert Working Groups (WG) composed of Chinese and foreign experts are formed around trade and environment-related issues; findings and recommendations are then channeled to the country’s top officials. CCICED is run jointly by high-level Chinese officials and international experts, and is supported financially by China, the Canadian International Development Agency (CIDA) and other international organizations. Membership is broad-based, including academics, businessmen, and representatives from multilateral agencies.

On many counts, the approach has been a successful one. In a monthly Senate Committee meeting of the Simon Fraser University - where the CCICED Secretariat Canadian Office is housed - the Senate Committee on International Activities (SCIA) found that CCICED as a project has been “able to influence China’s policy at the highest level” and that it had “exceeded expectations.”¹⁰

The CCICED experience demonstrates what is possible when political will, financial assistance and broad-based collaboration are brought together in a rational strategy. It is important to note, however, that strategies must be tailored to countries' circumstances. For example, where awareness and understanding of environmental issues is low and institutional capacity is lacking, educating officials on environmental issues and launching small-scale collaborative efforts with local communities may be a more appropriate starting point than a top-down approach that will be difficult to sustain under the given circumstances.

III. Changing Priorities

The rapid economic transformation of Asia from the 1970s to the 1990s was marked by increasing consumerism and materialism. In the past two decades, however, there has been a proliferation of environmental NGOs and a general emergence of environmental consciousness in the region (Lee and So, 1999). This is due to the worsening scale of the environmental problems, growing pool of scientific evidence on the costs of environmental degradation, and heightened media profile, all of which have increased public awareness and concern for environment-related issues.

In grappling with the region's environmental woes and searching for a viable blueprint towards a sustainable future, the issue of good governance and its accompanying institutional infrastructure has surfaced as one of great importance. In most of Asia however, the lack of will, institutional and financial capacities mean that actors outside of the government have a key role to play in shaping the nation's developmental path. Not only can environmental NGOs and their civil society partners give added impetus to better governance, they can also contribute by taking on important functions that governments cannot..

Reflecting Asia's economic and social diversity of economies, the nature of NGO concerns run the spectrum of basic livelihood issues to post-materialist concerns such as over-consumption and quality of life. In Japan, Taiwan and South Korea, for example, NGOs and the general public tend to focus more on issues such as ambient air, toxic waste and environmental conservation efforts (Eder 1996). In countries such as Thailand, and the Philippines, environmental movements often stem from poverty-related concerns and the need for environmental justice¹¹ (Lee and So, 1999; Nicro 1996; Poffenberger 1990). Often, a key issue underpinning these concerns is the need for good governance.

Pushing for Better Governance

“The main challenges to sustainable development are public participation in decision-making processes and the existence of a clean and accountable government. Law enforcement is another important issue.”

- Mr Jhamtani, a board member of Komphailindo, the National Consortium for Forest and Nature Conservation in Indonesia (Banagkok Post, 2002)

Current and unfolding developments since the advent of the economic crisis in 1997 have revitalized civil society. In the crisis, these actors have grown stronger, both generally and with particular regard to the environment. Partly, this has been because of the emphasis on the need for systems of better governance and to root out cronyism, corruption and nepotism, or “KKN” as the Indonesian reformers call it.

Corruption, cronyism and nepotism are not new to Asia. This unholy trinity has skewed decision-making processes and led to many projects that were neither rational nor viable. In many cases, big businesses have been able to monopolize and over-exploit natural resources through collusion with state agencies, to their personal gain and the misfortune of the general public. Often, the overexploitation led to severe floods, smoke haze, soil erosion, or the expropriation of indigenous lands – consequences that were borne largely by the local communities (Tay, 1999). This has been strongly evident in the case of Indonesia (Barber, 1997). It is also true of a web of legal and illegal logging that links the countries of Indo-China and Myanmar (Bryant, 1997).

Public desire for good governance has particular importance for the environment. Accountability, greater and more widespread participation in decision-making and aspects of democracy are all factors that can impact environmental protection. In fact, environmental campaigns are sometimes seen as alternative - and relatively more legitimate - modes of expression and political mobilization for the working class, political parties, as well as others traditionally found in the opposition (Eder 1996; Howard 1993). This can be observed in Indonesia, Thailand and the Philippines.¹² In this manner, the calls for political change and for greater environmental concern have been mutually reinforcing, particularly against a changing political backdrop in which a reformist or avowedly democratic government had come into power in the wake of the crisis.

Even in countries that have gone without widespread reform and political upheaval there are signs of greater civil society and NGO movements, both generally and particularly for environmental concerns. In Malaysia, the influence of NGOs such as Friends of the Earth and the Third World Network have grown considerably since the late 1970s. Both groups have been involved in several high profile cases that involved public protest or litigation in the courts against government agencies.¹³

Grassroot Movements: Creating Alternatives

In addition to demands for better governance, the trauma of the 1997 economic crisis triggered a search for alternative ways to rebuild local and national economies. In Thailand, for example, calls were made for an alternative, sustainable economic model that was premised upon native Buddhist teachings (*The Sunday Times*, 26 May 2002).

Some ecologists argue that Asians are more receptive towards sustainable development due to inherent elements of Asian cultures and religions. In the Philippines, however, it is the Roman Catholic Church – a religion of Western origin – that has great influence over social beliefs and values (Lee and So, 1999). Regardless whether the religious roots are

Asian or Western, the twinning of popular religious concepts and local cultural values with the principles of sustainable development works to indigenize a social movement of Western origin. Such indigenization forms a major source of empowerment and legitimization for local activists to challenge dominant ideologies and culprits of environmental degradation in the region (Lee and So, 1999:22).

“Sufficiency Economics”

Thailand's financial mess following its spectacular economic meltdown has led to calls for an alternative, sustainable economic model from the nation's popular monarch and its influential rank of Buddhist monks. Termed "Sufficiency Economics" by the well-loved King Bhumibol, it calls for an economic model that is built upon the three pillars of Buddhism - *dana* (giving), *sila* (morality) and *bhavana* (meditation).

Stripping away the religious exoticism, it essentially calls for a shift in priorities - away from the rampant consumption of the economic heydays, away from corruption, to moderate consumption and a more holistic economic model that supports sustainable development.

Though critics have warned that the move away from conventional economic path may hamper Thailand's growth and form an excuse to reject market economy, the sufficiency movement has been able to mobilize a wide and varied cross-section of the Thai population since its conception in 1997, from Buddhist social activists, rural monks, grassroots peoples' organizations, economists, and of course, the Royal Palace. In their hands, the message of "Sufficiency Economics" have been transplanted to various parts and sectors of the population, from a Buddhist economics unit in a university to the promotion of integrated and natural farming methods, to the setting up of community savings banks.

Adapted from *The Sunday Times*, 26 May 2002

Religion has been a particularly potent force in marshalling the uneducated rural populations of Indonesia, Thailand and the Philippines. Through religious institutions, the message of sustainable development and environmental protection are widely related to a cross-section of people in a language they can understand and assimilate (Lee and So, 1999). In addition, religious institutions often bring with them the moral authority invested by the people. It can be observed that the moral authority and organizational abilities of Asia's religious institutions are sometimes superior to that of the state, especially where the state is perceived to be corrupt and weak.

It is not within the scope of this paper to assess the appropriateness of such “homegrown” solutions or of using religion as a vehicle for sustainable development. Nonetheless, these developments constitute a vital aspect of Asia’s response to the sustainability challenge and demonstrate the ability and effectiveness with which civil groups and their partners can rally the masses to effect change.

Business Communities: Moving Towards Self-Governance

In the absence of strong leadership from central governments, there has been a gradual trend towards self-initiatives by local business to better their lives and environment. An article published by Bangkok Post gave an account of some of these efforts (Bangkok Post, 2002):

- In the Philippines, a local brewery was able to improve the air quality in its vicinity and reduce staff absentee within one year - simply by requiring all vehicles entering its plant to be “certified clean”, i.e. not emitting noxious exhaust fumes. Today, over 80 firms have adopted the same measure.
- In Bangkok, a group of eighty tanneries banded together to set up their own treatment plant to reduce the environmental hazards of toxic waste water.
- In Indonesia, some seventy small growers and traders of bananas formed a self-help group where members not only help each other in cultivating and marketing their produce, but also worked together to clean stretches of the Pesanggrahan river. They also replanted its banks to prevent soil erosion and yield extra income.

To a great extent, initiatives such as these are fuelled by a growing awareness of the links between environmental degradation, poor health, natural disasters such as floods and landslides and the resulting impacts on livelihood. This increase in public awareness can be traced to better education, outreach efforts by civil and environmental groups, increased media profile on environmental issues as well as that of good governance, and the spread of international environmentalism.

These initiatives by local small and medium sized enterprises indicate a growing trend towards responsible self-governance in Asian business. Western in origin, Corporate Governance (CG) and Corporate Social Responsibility (CSR) movements are gradually taking root in Asia. Private-sector initiatives, such as the Asian Corporate Governance Association and the Association for Sustainable and Responsible Investment in Asia (ASrIA) in the capitalist city of Hong Kong are emerging. While their numbers remain small, the trend is expected to continue growing in the coming years (Loh, 2001).

IV. *International Environmentalism*

In many ways, environmentalism in Asia has been shaped and supported by its international counterparts. The rise of international environmentalism is evidenced by the prominence NGOs such as Greenpeace, the Worldwide Fund For Nature (WWF) and Amnesty International have gained over the years. As a coalition, they have been able to broaden out the environmental agenda to address the darker sides of globalization, such

as labour and human rights, and the social responsibility of TNCs in host countries.¹⁴ Their strength, moreover, is not only in pressing at the international level against the states that they think are at fault, but in their ability to pursue transnational companies that invest in such states through consumer action and in the courts of their home countries. This was the case in the Nike sweatshop controversy and the lawsuit against Unocal in Myanmar. The extensive media coverage and bad press by various environmental and human right groups for both cases highlight the reputational risk that companies must now take into account for their operations.

The risk is not just moral, but also has legal and financial implications for corporations and the associated companies and firms that lend, ensure and service the corporation (Case, 1999; Speeding 1996). A downstream effect of this development is greater recognition of environmental concerns among banks and accountants (Elkington, 1998). In 2001, the Association of British Insurers - whose members control one quarter of the UK stock market – published new guidelines asking companies to disclose any significant risks to their short-term and long-term value stemming from social, environmental and ethical factors (Asian Business Institute, 2001).

Through means such as these, NGOs and civil society abroad have been able take on corporate giants often with some degree of success. This is especially valuable where local avenues for change are unavailable given victims' subordinate or marginalized position in society, and where poor conditions are accepted as a necessary tradeoff in order to make a living. Distant activism, however, can be a double-edged sword. Fear of consumer backlash have caused companies to pull out of undeveloped nations, often to the detriment of local workers. This was feared to be the case when Nike pulled out of Cambodia following a publicity row over a BBC's report that one of its contract factories hired underage workers. (New York Times, 2002).¹⁵

With these tools and the broader coalition between environmental and other interests, the driving forces at the international level pushing for sustainable development have been growing stronger. There are two important consequences for Southeast Asia: 1) international organizations and western governments are increasingly placing environmental and social conditions to aid and loans; 2) norms and values are filtering back to Asia and influencing leaders, business, and civil society groups in Asia.

Business Not As Usual

Heightened public awareness and concern about environmental and human rights issues in the West are generating increased calls for action by international organizations and western governments. International finance by the World Bank and other inter-governmental agencies often comes with conditions attached. These conditions go beyond economic terms to include environmental impact assessment and mitigation. Increasingly, social impacts and governance issues are also considered in loan approval. While not a new phenomenon, the governments of Southeast Asia had been largely unaffected by these conditionalities during the economic boom of the eighties and early nineties. This is no longer the case after the 1997 financial crisis.

This trend of conditioned finance is increasingly being reflected at a corporate level. Also jumping onto the politically correct bandwagons are private international finance banks, insurance companies and accounting firms realizing the need to factor in lack of proper environmental protection as possible future liabilities (French, 1998). Access to finance has become an important tool that is being wielded to affect the behaviour of developing countries and TNCs in environmental protection and sustainable development.

TNCs are increasingly being pressured by governments, multilaterals and consumers to take into account the possible fallout of their decisions and operations, at home and abroad. Reactions for this pressure have been mixed, from pro-actively taking environmental initiatives, to waging public relations campaigns, to avoiding troubled spots altogether.¹⁶ Nonetheless, a change in corporate mindset can be discerned through the growing adoption of codes of conduct, which in an increasing number of cases, is felt to be more than a matter of public relations (Wilson 2000).¹⁷

In a basic paradigm shift, some companies are reframing environmental concerns as questions of efficiency, leading to systemic efforts to reduce waste and resource use while increasing productivity (Von Weizsacker, Lovins and Lovins, 1997; Romm, 1994). Some see that environmental management methods and technology alone cannot deliver sustainability; ethical and ecological concerns must instead be incorporated into strategic management (Welford 1995; Crosbie and Knight 1995)¹⁸. This shows a striking shift in corporate mindsets, from reactive thinking that sees environmental regulations as increased costs, to proactive thinking that sees them as challenges to innovation and reasons to improve productivity.

Such a change in the West's corporate mindsets can have positive implications for Asia where environmental regulations are still commonly seen by businesses and governments as unwanted costs and use of precious resources. Not only can it deliver direct benefits for the region's environment and populations, it can also help raise a country's environmental standards by importing higher ones set by the company itself.

Changing Values

Influences from international NGOs and movements are filtering back to Asia via a variety of routes: the Internet, returning Asian nationals after a period of work or education abroad, interactions between Track-II institutions, and the spreading of international NGOs to Asia. World Wide Fund for Nature, for example, has affiliates in many Asian nations. In this manner, the values and ethics espoused by these groups, as well the tools they deploy, are introduced into Asia.

Through local affiliates, much needed research and awareness programmes are funded and carried out. Given the variety of economic, environmental, social and political conditions that exist across Asia, a "one-size-fits-all" approach towards Asia's woes is clearly inappropriate. Often conducted collaboratively with locals, their research and activities provide some of the vital missing links needed to address the region's environmental issues.

A positive example is Project Firefight Southeast Asia (PFFSEA), an international initiative of IUCN and WWF to learn more about the underlying causes of Indonesia's forest fires. Funded by the European Union and supported by the US Forest Service, the Project seeks to provide a legislative and economic basis to help policy reforms with regards to forest fires in Southeast Asia through in-depth research work. Its members include both internationals and local Indonesians and the researchers worked closely with the local and regional environmental organizations.¹⁹

V. Building Sustainable Prosperity

“From the US to the Ukraine, national governments in industrial, developing and transition economies, are under increasing economic and political pressure to reassess their responsibilities and capabilities and to share the mantle of governance with other players.”

– *“Business as Partners in Development”, a report by Prince of Wales Business Leaders Forum*

The confluence of internal evolution and external influence outlined above is propelling the gradual emergence of a three-way “partnership” for sustainable development as a future paradigm. In this tripod, the key actors - governments, foreign and local corporations and civil society – each play a vital and varied function in advancing the sustainability cause.

The environmental commitment of the three actors does not often grow in tandem and the “leading leg” of the tripod varies from country to country. For example, in China and Singapore, governments have been active leaders in formulating a broad vision for sustainable development and laying down the necessary institutional and legal infrastructure for a national development blueprint. In most of Asia, however, civil society and increasingly, the business community are looked to for answers and solutions.

Undeniably, environmental NGOs and their civil society partners are today the most active driver for sustainable development in the Asia region. Over the years, they have extended their work beyond watchdog, lobbying and advocacy to include research and grass-root projects. Their networks have also grown increasingly wider and more sophisticated, reaching a greater cross-section of the population and across national borders.

One of the most important aspects of the growth of civil society is the availability of skill and expertise in a wide range of areas – from environmental sciences, policy and trade matters, to communications and organisational skills. There is a growing recognition - both within and outside of this loose grouping - that non-governmental actors have among them valuable knowledge and means required to take up the sustainability challenge. Such recognition has not only propelled them onwards but also lends credence to overtures of collaborative efforts with governments and the private sector.

More ambiguous is the role and expectations of the private sector, especially the TNCs. Though sustainable development is gaining currency, environmentalism on the whole is still very much a poor cousin to the bread-and-butter issue of employment and economic rejuvenation. The popular uprisings against the rule of Suharto in Indonesia, Joseph Estrada in the Philippines and Chavalit Yongchaiyud in Thailand in the aftermath of the economic crisis are still fresh in Asia's memories. In this light, TNCs are still very much favoured by Asian authorities as big investors and a quick solution to unemployment, and are likely to remain an integral part of Asia's development regardless of their commitment to environmental protection.

Ambiguity notwithstanding, TNCs have been identified as an important partner in the sustainability effort because of the financial and technological resources they bring. Propelled along by the sticks wielded by consumer watchdogs, and the economic carrots of greater efficiency and the blossoming market for green products, Corporate Social Responsibility as a growing phenomenon points to greater corporate efforts in mitigating the negative impacts of FDI – at least where corporate pursuit for interests need not be compromised.

VI. International Investment Regime: Fears and Concerns

It is fair to say that the vision of sustainable development has taken root in various communities and groups across Asia. How best to tap the potential of FDI to turn this vision into reality remains a key question for stakeholders. As a positive indicator of things to come, fledging attempts to introduce environmental obligations into investment negotiations are being made. In the Singapore-US Free Trade Agreement negotiations, for example, the Clinton administration pushed for the inclusion of environmental and labour standards.

Among Asian governments, the central concern with regards to any international investment regime is likely to be the potential impact on the volume of FDI inflows. A number of contentious issues – especially the issue of compliance and its costs - that may cast shadow over the inclusion of environmental obligations, such as requiring foreign investors to uphold higher environmental standards and to transfer clean technologies, as well as restricting access to natural resources like timber.

Without compliance, the proposed regime risks being rendered meaningless. Yet it is clear that for most of developing Asia, the judicial and institutional infrastructure necessary to ensure compliance is still in its formative stage. Even if governments take on the role of corporate watchdogs, the scourge of corruption and lack of political will are likely to be obstacles. Nonetheless, these can be overcome if home countries of TNCs are willing to take on the onus of ensuring or at least encouraging compliance, for example through policies such as mandatory global, social and environmental reporting. (California Global Corporate Accountability Project, 2002).

From an industry point of view, the costs of compliance must be weighed against the overall benefits of investing in a country. At present, Asia's main draws for foreign investors are low operational costs, cheap, well-educated and plentiful labour supply, and abundant natural resources. Proximity and access to markets are another pull factor. An investment regime that curtails foreign investors' access to natural resources, or requires investors to invest in cleaner but more expensive technologies and in training local workforce in these new technologies may erode this competitive edge. In short, it may be more rational for some TNCs to move operations to a more developed nation.

Such a development would mean transitional fallout in the form of unemployment, including that of satellite industries – a scenario which both governments and the public would want to avoid amid the present downturn. This is ironic because an investment regime would have the greatest potential to make a difference in a country with a poor environmental record. Still, the reality is that efforts needed to raise environmental standards can be costly and daunting.

Related to this is the issue of local businesses and fairness. Will the same rules that govern FDI be applied to local businesses? Not doing so would constitute a form of discrimination against foreign investors, especially where these investors are seeking a share of the domestic market. At the same time, however, most local businesses are likely to lack the know-how and deep pockets to make the necessary investments to improve standards.

Already, environmental groups and representatives of developing nations have expressed skepticism and mistrust of an investment regime initiated by the West, especially following the debacle of the proposed MAI. In an article made available by Third World Network, Mr Bhagirath Lal Das, a former Ambassador and Permanent Representative of India to the GATT and former Director of International Trade Programmes in UNCTAD, pointed out that a WTO agreement on investment is a “no gain-only loss” proposition for the developing countries. He also stated that “past experience has shown that a process of negotiation started at the initiative of the major developed countries generally ends with agreements in accordance with their aims.”²⁰ In a similar vein, it has also been pointed out that many developing countries are already unable to participate fully in existing negotiations due to lack of resources and unfamiliarity.

Sustainability through the Tripod

The concerns outlined above appear to predict the premature death of support by Southeast Asian and other developing countries for an international investment regime. Nonetheless we argue that it is possible to garner the support of developing nations for a pro-sustainability approach to governing investment by fulfilling two conditions. Firstly, an international investment regime must not be perceived to undermine individual state sovereignty. Secondly, it must be able to address the negative impacts of foreign investment without obstructing economic growth.

The emphasis of a pro-sustainability investment regime should be placed on strengthening and supporting the sustainability tripod where possible. For developing Asia, this can be interpreted as setting achievable sustainable development goals without undermining governments' capacities to regulate and channel FDI for maximum developmental benefit. This would cover three components:

- 1) setting human developmental targets such as poverty alleviation and education;
- 2) mitigating and controlling the negative economic fallout of foreign investors;
- 3) promoting foreign investments that are of higher developmental value.

Judicious use of industrial policy instruments and other pro developmental policies should be endorsed during the gestation of a developing economy.

While such measures may appear contrary to the relentless move towards free trade, the economic impacts of FDI are often difficult to measure with precision and the resulting economic interaction between TNCs and host countries vary from case to case. (UNCTAD, 1999). Given the great diversity of economic and market situations prevailing in developing nations, a one-size-fits-all approach in managing this process is clearly inadequate. A more pragmatic approach would be to allow individual government leverage to steer its economy through this process.

At the same time, such a regime should seek to promote investments that are in line with, or further the sustainability cause. For example, FDI projects can be graded according to their environmental-friendliness factors, likely contributions to the upgrading of human and technological resources and "promoted" accordingly through means such as tax incentives. The rapidly growing industry of eco-tourism for one can be of particular relevance to developing nations seeking a middle-ground between economic development and environmental protection.

Importantly, the regime must also address the weaknesses in the tripod by setting requirements for transparency in the governance of both governments and corporate entities, and making provisions for capacity-building. The West can play the role of a facilitator, in the latter, for example through research funding, sharing of technological know-how and facilitating informed policy-making, such as within CCICED where informed suggestions are offered to the government for its independent perusal.

Such capacity-building measures will not only help deflect criticism of interference, but also deliver very real benefits in improving environmental governance. In addition, the regime should place the onus of ensuring compliance with environmental laws on TNCs' countries of origin. The reason for this is two-fold: the home countries of most TNCs are developed nations where environmental standards are higher, and developed nations have greater capacities to perform such monitoring functions.

Finally, it would be helpful to realize that the path of sustainable development is not completely divergent from that of economic well-being. The underlying requirements to implement a strategy for the former - good governance, institutional capacity, strong judicial system, and importantly, strategic *long-term* planning - are also conditions conducive towards a country's future well-being and prosperity.

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Endnotes

¹ The Asean State of the Environment Report 2000 cited three constraints to sustainable development in Southeast Asia: institutional limitations, inadequate manpower and technological capacities, and financial constraints.

² The only study that President Bush cited in announcing his reversal on CO2 reductions, a report by the Energy Information Administration, failed to consider the inexpensive reductions in greenhouse pollution that can be achieved through energy efficiency. implementing the protocol or regulating carbon dioxide emissions from power plants would harm the U.S. economy -- but the administration has not conducted any analysis to substantiate these pollution to levels called for in the Kyoto agreement without harming the economy.

³ Here, terrorist networks refer not only to international terrorist networks such as the infamous Al-Qaeda, but also to domestic terrorist groups such as the Abu-Sayyaf in the Philippines and Jemaah Islamiyah in Indonesia.

⁴This is despite anecdotal evidence that foreign claims. In fact, two comprehensive government studies have shown that it is possible to reduce greenhouse MNCs sometimes help raise environmental standards in host countries by importing their relatively higher standards and practices (Pangestu et al,1996).

⁵ According to the Kuznets curve of environmental quality, pollution is likely to first increase with economic growth, starting from low income levels, before decreasing with further growth. This is the experience of the OECD and East Asian NIEs.

⁶ The Kuznets curve refers to the phenomenon whereby pollution increases within an impoverished economy during initial economic growth, before decreasing upon the attainment of a higher level of income. This was the case for the OECD and the newly industrialized economies in Southeast Asia.

⁷ The fecal coliform level is used as an indicator of the health risk from human waste in assessing water quality.

⁸ Scientists are also investigating links between the Asian Brown Haze and changing rainfall patterns as well as the possibility that it is reducing the amount of sunlight reaching Earth.

⁹ The Rio Declaration's Principle 7 states that "States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command."

¹⁰ Please refer to the following link for minutes of Senate Committee on International Activities meeting, dated February 2002. <http://www.reg.sfu.ca/Senate/SenateComms/SCIA/sciaminf02.html>

¹¹ These movements often seek to address issues such as the lack of access by the poor to environmental resources or their suffering from the direct impact of pollution.

¹² In Indonesia, environmental civil society organizations and NGOs which have tended to focus on particular issues (such as opposition to dams, or making the case for environmental conservation) in their pre-crisis days (Hirsch and Warren, 1998), became linked to broader politics and calls for political reform during and in the aftermath of the crisis. This has led to a domestic challenge to the elite's monopoly over access and ownership to natural resources. Indonesian NGOs such as WALHI, the umbrella coalition for environmental NGOs, achieved considerable prominence during the crisis, as did the Indonesian chapter of the Worldwide Fund for Nature.

¹³ One example is the Asian Rare Earth case in which NGOs supported a suit brought by local villagers against a company for health and other damage that arose from the improper storage and disposal of hazardous materials. The government agency that approved the company's activities was also implicated. A more recent highlight of the growing role of NGOs in Malaysia has been their participation in the controversy surrounding the building of the Bakun Dam in East Malaysia. The dam - which would impact upon traditional and indigenous lands - was approved by government authorities without an environmental impact assessment. On this basis, the court initially ordered that work be stopped and, although this has since been circumvented, the issue remains contested between government and NGOs.

¹⁴ The 1999 WTO Ministerial meeting in Seattle was disrupted by NGOs and other protesters, including those who felt that increased trade would harm the environment. The incident was one among a growing number that demonstrate the increasing ability of NGOs and civil society actors to affect large and powerful transnational companies and even block governments.

¹⁵ See the following link for more: (<http://cbae.nmsu.edu/~dboje/nike/cambodia.html>)

¹⁶ Unocal for example argues on its website that it is not responsible for any reported abuse of villagers by the Myanmar government, and that the termination of its operations there would add to the country's poverty.

¹⁷ Examples include principles adopted by the Coalition of Environmental Responsible Economies (CERES) and the work of the Business Council for Sustainable Development. More than two-thirds of larger US corporations now have codes of business ethics, many of which include the environment.

¹⁸ The Financial Times' *FTSE4Good Indices*, for example, cover the environment, human rights, social issues and stakeholder relations, while Dow Jones has a *Sustainability Index* that rate world companies on the triple bottom line: economic criteria; environmental performance; and social trends.

¹⁹ PFFSEA has released four reports based on its research findings. For more, please go to <http://www.pffsea.com>

²⁰ See "Pitfalls in Plurilateral Path on Investment Talks", <http://www.twinside.org.sg/titlepitfalls.htm>