

Balancing Trade Growth and Environmental Protection in ASEAN: Case studies from the Mekong subregion

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1. The environment and trade in the Mekong region

The Mekong River is the world's twelfth-largest river and Southeast Asia's longest waterway. It originates in Tibet and flows through the Chinese province of Yunnan before continuing southwards, touching the territories of six countries and ending in the South China Sea. The Greater Mekong Subregion (GMS) is composed of Thailand, Lao PDR, Cambodia, Myanmar, Vietnam, and two Chinese provinces: the Guaxi Zhuang Autonomous Region and Yunnan Province.ⁱ The GMS covers some 2.3 million square kilometres and contains a population of about 245 million people. The subregion has been characterized by centrally planned market systems, but is moving into a process of transition towards closer integration with external markets and increasing trade orientation as a development strategy.

In general terms, all of the GMS economies have been carrying out structural changes from substantially agricultural to modern industrial economies (with Cambodia, Lao PDR and Myanmar still being largely reliant on agriculture and raw materials, though). As a result, trade flows both within the region and extraregional trading partners have significantly increased since 1992.ⁱⁱ This success has been attributed to several factors. The first is its outward oriented strategies characterized by unilateral reforms to liberalize trade, the rehabilitation of infrastructure and institutions, and greater market access in the region and other developed country markets. Secondly, intra-GMS exports have

grown annually by an average of 19 percent in the period of 1994–2006. However, as a share of total trade, intraregional trade still accounts for only 24 percent due to limited complementarities.ⁱⁱⁱ

At the same time, illegal trade is still a matter of fact. Most crucially, the biodiversity within the GMS continues to be threatened by rampant and unchecked wildlife and timber trade. The region is home to some of the richest and most biologically diverse habitats in the world. Its forests range from evergreen and semi-evergreen, to mixed deciduous, deciduous dipterocarp,^{iv} panoramic grasslands, swamp forests and mangroves.^v Four of the six deciduous dipterocarp species in the world are found in this subregion.^{vi} Approximately 20,000 plant species, 1,200 bird species, 800 reptile and amphibian species, and 430 mammal species also inhabit the region, and more are being discovered. For the period 1997–2007 alone at least 1,068 new species were discovered, i.e. two new species per week on average every year for the ten-year period.^{vii}

Achieving a balance between trade and investment liberalization and environmental protection is one of the key challenges facing the states of the GMS. All Mekong states have embarked on far reaching trade liberalization programs, driven by—or as a requirement of—World Trade Organization (WTO) membership, membership of the Association of Southeast Asian Nations (ASEAN) Free Trade Area or other international factors, as well as unilateral liberalization, e.g. in Cambodia, where tariffs were reduced significantly even before WTO accession and being mandated by ASEAN. However, traditionally environmental concerns have not been a primary policy

focus of the subregion's governments. As a UN Development Program study puts it:

The common challenge facing the GMS ... is to balance the three dimensions—economic, environmental and social—of sustainable development. The GMS countries cannot afford the 'grow now, clean up later' approach experienced in the more advanced economies in the region and elsewhere in the world.^{viii}

2. Environmental challenges

An important focus cooperation in the GMS has been hydropower and the setting up of regional power grids to support regional power trade. The sustainable utilization of water and natural resources in the Mekong basin is directly and inevitably linked to human survival in the region. Energy security—and trade in energy—is mainly related to the promising, but not uncontroversial, issue of hydroelectric power. The development of hydropower has resulted in the three—ADB and private sector co-funded—Lao PDR-based power plants: the Theun Hinboun Hydropower Project, which started commercial operation in March 1998; the Nam Leuk Hydropower Development, which was completed in May 2000; and the Nam Theun 2 Hydroelectric Project, which began supplying energy to Thailand in mid-March 2010.^{ix} A number of other hydropower dams are being planned or are under construction in various GMS countries. In several cases, these projects are carried out with intraregional investment, for instance Chinese foreign direct investment (FDI) in Cambodia and Vietnamese FDI in Lao PDR.

Another focal point is the development of logistic transportation in the region, particularly the introduction of nine GMS economic corridors, which has prioritized as the most important program in the region in to facilitate and enhance regional trade and investment. With the financial support of the ADB and some Northeast Asian countries, particularly Japan and China, several items of physical infrastructure have already been put in place to establish these economic corridors.

However, the development of transportation infrastructures has contributed to environmental impacts, including soil erosion, and direct impacts on wildlife through increased pressure from illegal trade, overexploitation of forest resources through unsustainable logging, etc.^x

Among the most pressing concerns is climate change. Temperature and other climatic variables are expected to change significantly, causing changes in rainfall patterns, and daytime and night time temperatures. A study by Eastham *et al.* predicts a basin wide temperature increase of 0.79°C and an increase in flooding in all parts of the basin by 2030, with the greatest impact in downstream catchments on the main stream of the Mekong River.^{xi}

While it is true that the quantity of environmental policies and regulations in the GMS—as almost everywhere in the world—has increased due to the pressure and lobbying of both international and domestic stakeholders, 'environmental ministries or equivalent agencies in the region are often ill-equipped either to enforce existing regulations or to design, implement, monitor, inspect and enforce new effective environmental polices'.^{xii} Furthermore, the protection of the environment is regarded as a niche area and assigned to often powerless ministries of the environment that usually find themselves in the lower ranks of the government hierarchy. Few countries effectively mobilize other line ministries to this challenging task.

3. Policy initiatives to protect the environment and their effectiveness

The political rhetoric is clear and straightforward:

In the GMS, which holds some of the most important natural forests and biodiversity in the world, protecting the subregion's wealth of natural resources is a major challenge in the face of efforts of GMS countries to achieve faster economic growth.^{xiii}

It is correct to say that environmental issues have received some attention from GMS leaders, who have agreed in summit meetings to improve cooperation in addressing environmental challenges common to the region.

For example, at a special meeting of the GMS ministers of the environment in Shanghai in May 2005, the GMS Core Environment Program (CEP) was launched to ensure stronger coordination in conserving natural systems and maintaining the quality of the environment. Under the CEP, a Biodiversity Conservation Corridors Initiative (BCI) is being implemented to protect high value terrestrial biodiversity and protected areas by establishing sustainable

management practices and restoring habitat connectivity in these areas. Measures for reducing poverty among communities living in or near the economic corridors, defining appropriate land use and restoring connectivity of ecosystems will be undertaken in six BCI pilot sites.^{xiv}

3.1 Timber and wildlife trade

Particular attention has been given to forest conservation. Today the most common forest conservation mechanism within the GMS is the establishment of protected areas. Through its Global 200 project, the World Wildlife Fund for Nature (WWF) identified approximately 200 ecoregions that are outstanding examples of biodiversity, six of which are found in the GMS.^{xv} Within these ecoregions, pockets of protected areas were established covering 5–33 percent of the total area of each ecoregion.

However, despite the existence of these five designated ecoregions, almost all of them are being threatened in varying degrees by logging and the hunt for wildlife. For example, in the Cardamom Mountains rainforests, illegal logging even in protected areas is causing widespread degradation of the ecoregion. Excessive capture of wild animals throughout Cambodia and Thailand to meet the regional and international demand is also threatening the region's biodiversity. The rampant and largely unchecked trade in timber and wildlife is fuelled in large part by accelerating demand within the region and globally. Over the past two to three decades, affluence in the subregion as a result of market liberalization, particularly in China, Thailand and Vietnam, grew. This growing affluence, coupled with competing demand from Japan, the United States and Europe, placed great stress on the biodiversity of the GMS as large commercial interests take advantage of the huge demand and the local populace continue to rely it for their livelihood.^{xvi}

Yet in spite of the existing legislative efforts to stop deforestation, the initiatives of NGOs to document the problem, the warnings of forestry experts, and the discussions among senior officials in a number of countries, nothing is currently under way that seems likely to halt the destruction of the remaining tropical natural forests of Southeast Asia. International organizations have been set up to support sustainable forestry, particularly, the International Tropical Timber Organization, which is supposed to develop and monitor good practices in

sustainable forestry. However, it seems that this organization, based in Japan, has had little impact apart from its monitoring function.^{xvii}

The situation with regard to illegal wildlife trade is equally daunting. Smuggling ranges from live animals and plants to supply the pet and horticulture trades to wildlife meats for 'luxury' foods for the wealthy and traditional Asian medicine, to wildlife derivatives such as ivory, pelts and bones to make clothing and medicines. Rich in biodiversity, both the Mekong subregion and Southeast Asia as a whole are a source, transit and destination region for the illegal wildlife trade that is devastating the region's biodiversity. Populations of many Southeast Asian wildlife species, including tigers, Asian elephants, pangolins, and freshwater turtles and tortoises, are declining sharply due to their high commercial value in the illegal wildlife trade. The pangolin is the most heavily traded mammal, while big cats and their body parts are still regularly found in trade.^{xviii}

While coordinated intergovernmental action against illegal wildlife trade is absent from the official cooperation agenda in the Mekong subregion, it is addressed in the broader context of ASEAN. A core initiative has been the ASEAN Regional Action Plan on Trade in Wild Fauna and Flora 2005–2010, which addresses common issues of enhanced law enforcement networking, interagency cooperation, strengthened national legislation and increasing the availability of scientific information to guide wildlife trade management by CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) authorities. All GMS states are signatories to CITES, which regulates the international trade of endangered species through the listing of such species in three Appendices, classified according to whether they should not be sold commercially or sold in limited quantities, based on findings by scientific authority that export will not be detrimental to the survival of the species. The plan also prioritizes engagement with civil society to raise awareness of issues of legality and sustainability with industry groups, traders and local communities involved in wildlife trade.^{xix} In December 2005 the *ASEAN Wildlife Enforcement Network (ASEAN-WEN)* was launched as the task force of the Regional Action Plan.^{xx}

3.2 Climate change

All GMS states have ratified the United Nations Framework Convention on Climate Change and the

Kyoto Protocol. Because of the underlying climate-related risks confronted by the GMS countries, each country has moved towards the integration of climate change into their respective national policy frameworks.

In November 2007, based on its understanding of the region's vulnerability to climate change, ASEAN made a commitment to specifically address climate change and identified appropriate mitigation and adaptation measures through the Singapore Declaration on Climate Change. Economic approaches chosen for this goal are financial support and cooperation for capacity building; the deployment of clean technology in the region through various means, such as investment, technical and financial assistance, and technology transfer; and the development and expansion of policy and measures, including innovative instruments and financing mechanisms for environmental management, to promote sustainable patterns of consumption and production among others. These commitments have yet to find their way into trading arrangements in the Mekong region.

According to the Mekong River Commission (MRC),^{xxi} much needs to be done if the Mekong countries are to adapt to the challenges presented by climate change. The MRC and ASEAN are currently in discussion on a possible cooperative agreement that will be discussed during the First Mekong River Commission Summit 2010. The MRC recognizes that the ASEAN and other regional arrangements have facilitated increased levels of environmental cooperation, and as this happens, there is an increasing demand from other stakeholders to have their voices heard in the management of natural resources, particularly on actions related to climate change.^{xxii}

4. The limits of intraregional cooperation on environmental sustainability

One of the most crucial issues of intraregional cooperation on trade and investment that potentially undermines the environmental sustainability of the region is the absence of any legally binding and enforceable commitment to the environment.

In the tradition of the 'ASEAN Way' of consensus-based and non-binding decision making, all existing regional

agreements in the GMS and within ASEAN are embedded in soft law and hardly enforceable—partly due to the lack of a sanctions mechanism. The majority of ASEAN states struggle in the field of effective administration, which affects the enforcement of national laws and the fulfilment of international obligations alike. Whereas Singapore is the only state in the region that has enforcement capacity comparable to (or even better than) the average Western developed country, Cambodia, for example at the other end of the spectrum, suffers from deeply rooted dysfunctions in the country's administrative and judicial structures. Although the current process of strengthening ASEAN (based on the ASEAN Charter and the implementation of the Southeast Asian Community) might be helpful in respect to a more effective environmental policy in the region, success in the fight against illegal logging, forest fires, overfishing, etc. depends to a great extent on an overall improvement in the administrative, legal structures and capacities of the countries in the region.^{xxiii}

While the Roadmap for an ASEAN Community 2009–2015^{xxiv} is very detailed in outlining the significance of environmental issues (in part D) and lists dozens of action points, the document lacks explicit strategies on reconciling trade and environment. The Roadmap's 'mission statement' on the environment at least hints at this link:

ASEAN shall work towards achieving sustainable development as well as promoting clean and green environment by protecting the natural resource base for economic and social development including the sustainable management and conservation of soil, water, mineral, energy, biodiversity, forest, coastal and marine resources as well as the improvement in water and air quality for the ASEAN region. ASEAN will actively participate in global efforts towards addressing global environmental challenges, including climate change and the ozone layer protection, as well as developing and adapting environmentally sound technology for development needs and environmental sustainability.

However, the organization seeks to pursue this purpose 'without impinging on competitiveness, or social and economic development based on the principle of equity, flexibility, effectiveness and common but differentiated responsibility'.^{xxv}

While strongly promoting the idea of a ‘Green ASEAN’, the *Fourth ASEAN state of the environment report 2009* confirms that a truly balanced approach to the three dimensions of sustainable development—economic, social and environmental—is not yet in reach within ASEAN:

The greening of the ASEAN economy requires ASEAN to increasingly pursue market based approaches. The potential for trade in environmental goods and services are huge, and is certainly sustainable in the longer term, compared to the conventional exploitative use of ecosystem resources. However, as developing nations, with about 185 million people in ASEAN still earning less than US\$2 a day, *economic growth and social development shall remain a priority.*^{xxvi}

Nonetheless, the report is the most detailed and comprehensive ASEAN document to date that addresses environmental challenges. The growing emphasis on the environment is not least the result of increasing lobbying on the part of civil society groups, who have recently proposed to establishment of a fourth pillar of cooperation and foundation of the Southeast Asian Community, the ASEAN Environmental Pillar.^{xxvii} At the core of this initiative is the proposed framework for an ASEAN–Civil Society Dialogue on the Environment, which asks government officials to ‘prepare a blueprint that commits the member states to place international best practices on environmental sustainability at the center of decision-making’.^{xxviii} Transnational civil society lobbying has emerged as new pro-environment push factor, but, at the moment, ASEAN policymakers view this with scepticism, if not outright concern.

Despite the commitments made by ASEAN, an examination of its interventions reveals that such commitments have yet to be transformed into actions that enable capacities for resilience.

5. Recommendations

5.1 Wildlife and timber trade

One of the challenges remains the fact that the determination of whether wildlife and timber trade is legal or illegal depends on existing national legislation,

regulations, and policies that control and regulate such trade. As international concern for the conservation of the biodiversity in the GMS grew, the various GMS states instituted measures through legislation or policy setting aimed at conserving such biodiversity, of which the control or regulation of wildlife and timber trade is a necessary component. Further improvements to legislation and enforcement could be made as follows:

- GMS countries should negotiate a new protocol to the Cross-Border Transport Agreement recognizing the need to incorporate the control and regulation of wildlife and timber trade into the system. The parties could agree in the protocol or a separate agreement to coordinate conservation laws and policies across the subregion. This means that existing systems should be reexamined in the context of how these shall be applied across the subregion. Best practices should be identified and evaluated on their usefulness if applied across the GMS.
- For this purpose, GMS countries should aim to:
 - coordinate conservation activities across ecoregions and increase research and capacity building to gather data on the status of particular ecoregions;
 - coordinate subregional enforcement through ASEAN-WEN and ensure close cooperation among customs authorities;
 - create a single database of all laws related to forest and biodiversity conservation, penal laws on illegal trade of wildlife and timber, and descriptions of prohibited species; and
 - establish harmonized marking rules and standards for legally traded timber and wildlife and establish a system whereby customs authorities have immediate access to the records of conservation authorities.

5.2 Climate change

National actions of countries in the Mekong region, such as Vietnam, Thailand and Cambodia, have provided for trade-related mechanisms aimed at addressing climate change challenges, e.g. accessing support through the Clean Development Mechanism provided by the Kyoto

Protocol, establishing market mechanisms to promote the use of alternative energy sources, and energy management for the export of electricity. But data is unclear as to whether such national actions can be attributed to any ASEAN intervention.

Overall, the stakeholders of the Mekong River have asserted their rights and have made known their aspiration of having their voices heard specifically on matters related to natural resource management and climate change. This has been taken into account by the MRC and has been factored into the plans for the first Mekong River Summit in 2010. To facilitate synergy and coherence, a cooperative agreement on climate change interventions may need to be forged among the MRC, ASEAN and the GMS. A multilateral cooperative agreement on climate change among these institutions might pave the way for better cohesion, synergy and integration of climate change concerns in trading and environmental interventions.

Given these findings, the following recommendations can be made:

- Existing and proposed trading mechanisms and resulting projects and programs should be subjected to climate risk assessment. Trading arrangements, be they in the form of market access, emissions trading, sectoral approaches or the setting of standards, should consider the vulnerability and exposure of people in the Mekong region to climate hazards and to hazards that may result from mitigation and adaptation projects. This recommendation presents an actionable option if ASEAN is truly committed to being a people centered organization. However, it appears that environmental and climate change concerns are only token commitments, since they are not embodied in the organization's formal and binding free trade agreements. Many of the commitments appear as statements in ministerial meeting speeches and minutes of meetings, but have few or no concrete manifestations.
- However, given that many of the comprehensive agreements on economic cooperation/partnership entered into by ASEAN provide room for discussions on specific areas of economic cooperation in the subcommittees created under comprehensive agreements, there is room for intervention.
- It cannot be denied that ASEAN is cognizant of its critical role in addressing climate change challenges. A way forward for the ASEAN Secretariat is the mainstreaming of climate change in the ASEAN Institutional Framework for Economic Cooperation. This will require a rethinking of the interface between the Economic and Socio-Cultural Communities' way of working under the Roadmap for an ASEAN Community 2009–2015.
- The integration on climate strategies in trade-related measures under specific agreements can serve as an instrument for mitigation and adaptation. Trade approaches for mitigation can include, for example, the establishment of an ASEAN unified greenhouse gas inventory system that can be included in the product-specific rules of trade agreements. This will, it is hoped, put a curb on environmental dumping.
- Trade driven technologies must ensure that adaptive capacities are enhanced through the process of technology transfer and avoid any tendency to foster dependency.
- The principles of and actions on adaptation and mitigation should be embodied in formal and binding trading arrangements.
- As climate change is a complex issue, any innovation may require thinking outside the box. Challenging regional integration as a means to address climate change concerns, alternative models of integration and economic polygons may be needed by areas like the Mekong Region. Hence, apart from regional integration models like ASEAN, it is recommended that subregional arrangements (i.e. Brunei Darussalam–Indonesia–Malaysia–Philippines ASEAN East Growth Area, GMS, Sijori Growth Triangle), transregional/interregional cooperation (i.e. ASEAN–EU Free Trade Agreement, ASEAN+3, ASEAN–Australia–New Zealand Free Trade Agreement), and solidarity-based arrangements can be explored to strengthen cooperation on climate change.
- The menu for trade-related measures in adaptation is limited. Given the challenges faced

by vulnerable people such as those in the Mekong region, the innovation, flexibility and dynamism suggested by *The Stern review*^{xxix} will be needed in policy trade reform to address adaptation needs. Development projects entered into under trade agreements must ensure that interventions do not further increase the exposure and vulnerability of people and livelihoods to climate hazards. Technology inputs must ensure that adaptive capacities are enhanced rather than developing dependency on those with whom they trade. Trade liberalization as an approach to economic growth must ensure that the opening of markets does not sacrifice the livelihoods of the most vulnerable sectors. And as alternative options for industries are introduced as natural resources are challenged by climate change, e.g. mining as an alternative to agricultural production, these interventions should be critically examined in the context of a more sustainable framework and with due consideration for the loss of natural capital.

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Endnotes

- i In terms of geographical coverage, this paper focuses on mainland Southeast Asia and treats the Mekong region as a subset of the ASEAN region. This means that while China's role as a member of the GMS is not neglected, it is not a main focus. The terms GMS and Mekong subregion are used interchangeably.
- ii ADB, 2007.

- iii See, for instance, Chandra, 2009.
- iv The *Dipterocarpaceae* are a large family of tropical hardwood trees that are long lived and can grow to exceptional sizes. Of the estimated 680 species, only six are deciduous (trees that lose their leaves seasonally).
- v Thompson, n.d.: 3.
- vi These are *Shorea siamensi*, *S. Obtuse*, *Dipterocarpus obtusifolius* and *D. Tuberculatus* (Encyclopedia of Earth, n.d.).
- vii Thompson, n.d.: 2.
- viii UNDP, 2007.
- ix Nam Theun 2, n.d.
- x See Syviengxay Oraboune's report in TKN's ASEAN Series on Trade and the Environment for a more detailed analysis.
- xi Eastham *et al.*, 2008.
- xii Zhang, 2008: 11.
- xiii ADB, 2007.
- xiv *Ibid.*
- xv WWF divided the entire planet into 867 terrestrial ecoregions.
- xvi World Bank, 2005.
- xvii Lang & Chan, 2006: 28; Forest Trends & DFID, 2010.
- xviii Wildlife Alliance, Washington, DC, <<http://wildlifealliance.org/threats/illegal-wildlife-trade.html>>.
- xix <<http://www.aseansec.org/17753.pdf>>.
- xx <<http://www.aseansec.org/17933.htm>>.
- xxi MRC, 2009.
- xxii MRC, 2010.
- xxiii Menzel, 2007.
- xxiv ASEAN, 2009a.
- xxv ASEAN, 2009a: 80.
- xxvi ASEAN, 2009b: 2, emphasis added; see also p. 152.
- xxvii <<http://www.aseansec.org/21083.pdf>>.
- xxviii 2nd ASEAN Peoples' Forum & 5th ASEAN Civil Society Conference, 2009: 1.
- xxix Stern, 2007.

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