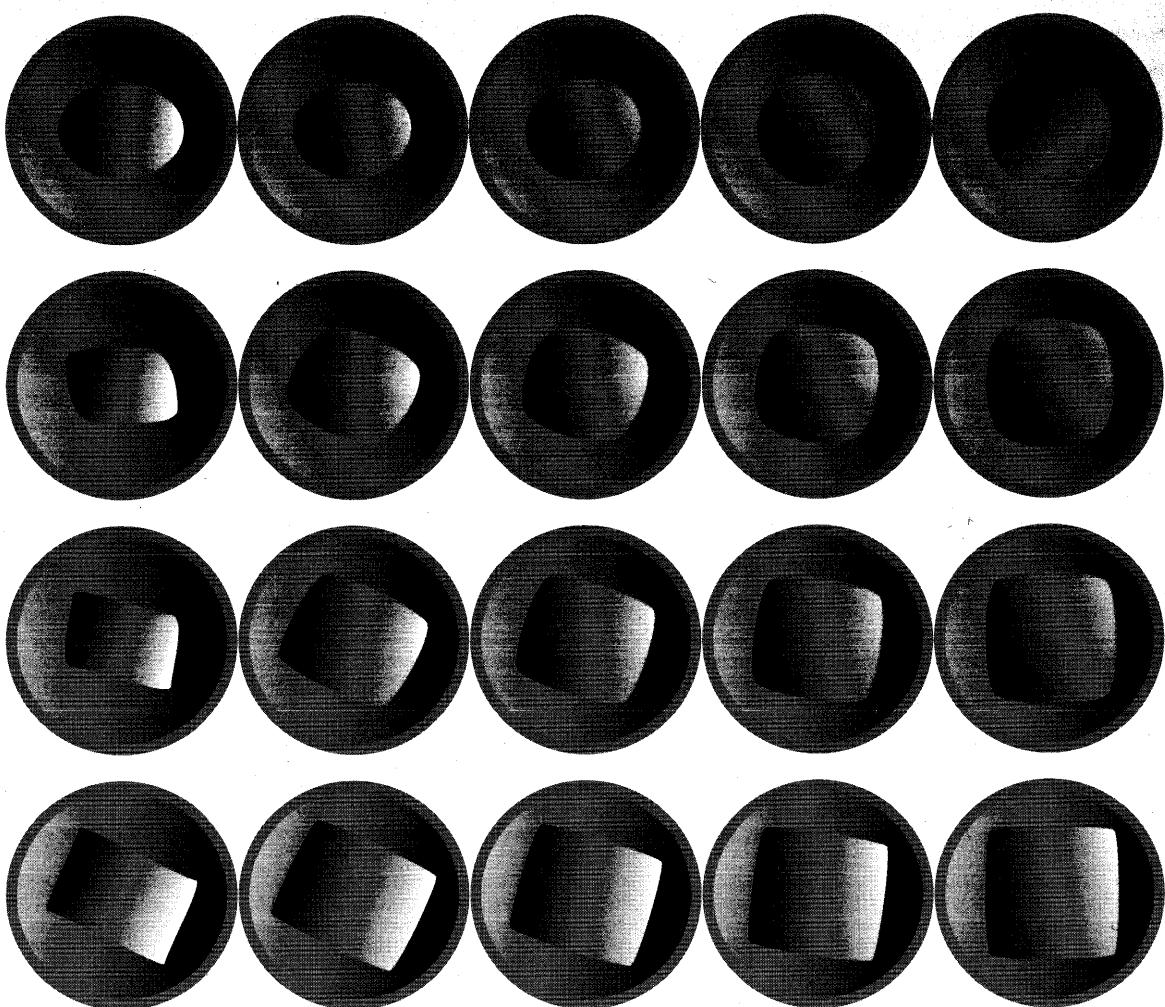


# **Environmental Law and Policy in Asia: Issues of Enforcement**

**Edited by**  
**Yoshihiro Nomura**  
**Naoyuki Sakumoto**



**Institute of Developing Economies**

# **Environmental Law and Policy in Asia:**

## **Issues of Enforcement**

**Development and the Environment Series No. 4**

# **Environmental Law and Policy in Asia: Issues of Enforcement**

*Papers and Proceedings of the Conference on  
Environmental Law and Administration  
with Special Reference to the Enforcement of  
Environmental Law in Asian Countries  
held on November 12-13, 1996 in Tokyo*

Edited by  
Yoshihiro Nomura  
Naoyuki Sakumoto

**Institute of Developing Economies**

Tokyo, Japan  
March 1997

Published by :  
Institute of Developing Economies  
42 Ichigaya-Hommura-cho  
Shinjuku-ku, Tokyo 162, Japan

© 1997 Institute of Developing Economies

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of the publisher.

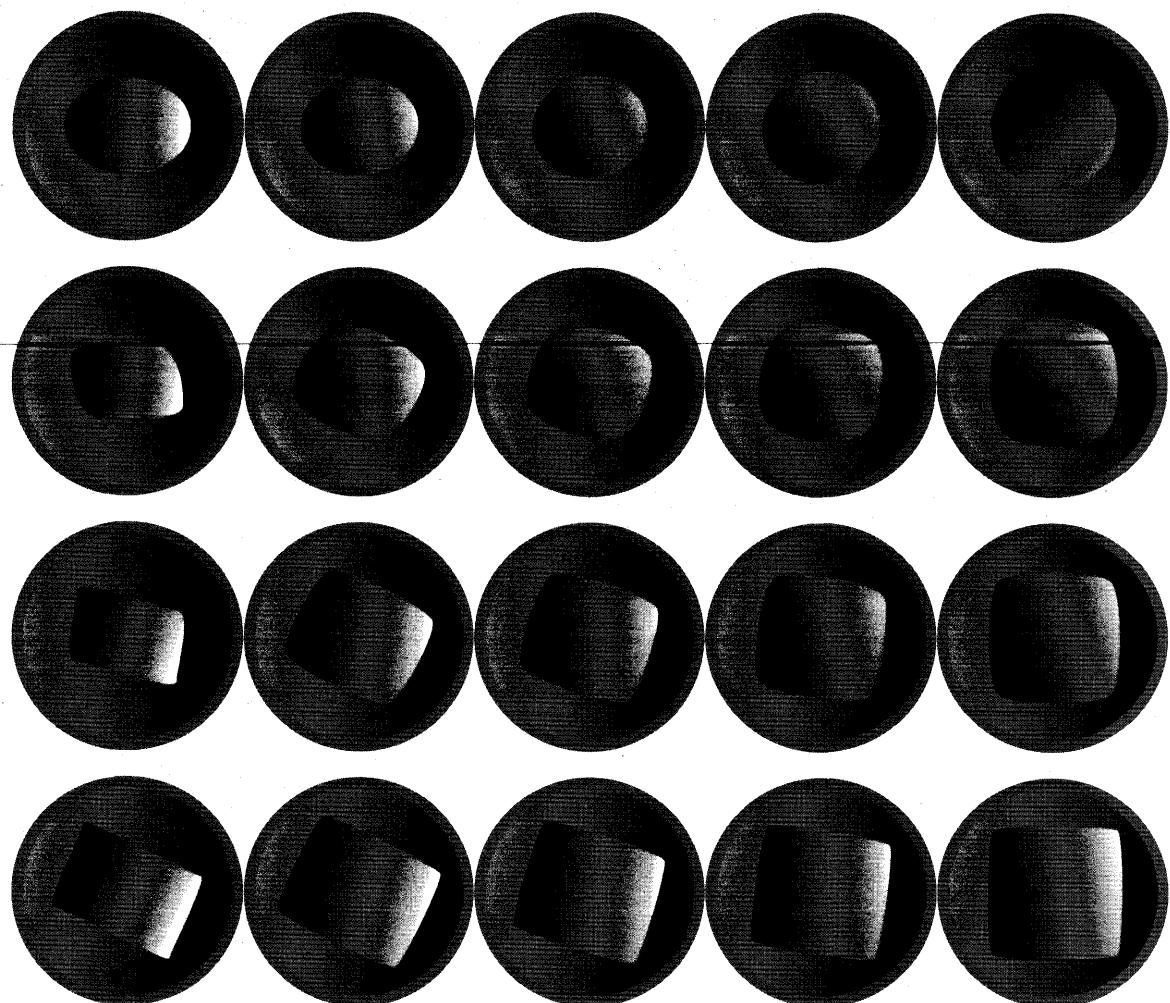
ISBN 4-258-24054-0 C3033

The opinion expressed in this publication are the responsibility of the authors and not of the publisher.

Produced by Lingua Guild, Inc.  
Printed in Tokyo

# **Environmental Law and Policy in Asia: Issues of Enforcement**

*Papers and Proceedings of the Conference on  
Environmental Law and Administration  
with Special Reference to the Enforcement of  
Environmental Law in Asian Countries  
held on November 12-13, 1996 in Tokyo*



**IDE Development and the Environment Series No. 4**

ISBN 4-258-24054-0 C3033

# Contents

## PREFACE

v

## INTRODUCTION

### 1 An Overview: The Development of Environmental Problems and the Enforcement of Environmental Law in Asian Countries

*Yoshihiro Nomura and Naoyuki Sakumoto*

1. The Development of Environmental Problems and Environmental Law in Asian Countries.....	1
2. The Enforcement of Environmental Law and Problems.....	3
3. New Measures for Environmental Conservation.....	4
4. Direct and Indirect Control .....	5
5. The Integration of Environmental Law and Policy .....	6
6. The Reports of the Workshop .....	7
7. Air Pollution Related Lawsuits in Japan.....	8

## PART I ENFORCEMENT OF ENVIRONMENTAL LAW IN ASIAN COUNTRIES

### 2 Environmental Law Enforcement in the Philippines

*Amado S. Tolentino*

Introduction .....	12
Constraints in the Enforcement of Environmental Law .....	13
1. Institutional Constraints .....	13
2. Statutory Constraints .....	17
3. Political and Socio-Economic Constraints.....	18
4. Cultural Constraints.....	21
Conclusion .....	22

### 3 Enforcement of the Environmental Law in Thailand: A Case Study of Pollution at the Lamphun Industrial Estate

*Sunee Mallikamarl*

Introduction .....	26
1. History and Nature of the Problem .....	28

2. Method for Settlement of Dispute.....	33
3. The Outcome of Dispute Settlement.....	34
Conclusion .....	37
<b>4 Roles of the Enforcing Organizations under the Enhancement and Conservation of the National Environmental Quality Act B.E. 2535 (A.D. 1992)</b>	
<i>Komaet Thongpinyochai</i>	
Introduction .....	39
1. Organizations Charged with Enforcement .....	41
2. The Relevant Enforcement: The Correlation and the Interaction.....	47
Conclusion .....	48
<b>5 Environmental Law and Its Enforcement in Malaysia: Focus on Environmental Impact Assessment (EIA) Process</b>	
<i>Lizuryaty Azrina Abdullah</i>	
1. Introduction .....	50
2. The State of the Malaysian Environment .....	54
3. Environmental Impact Assessment (EIA) in Malaysia.....	57
4. Issues Relating to the EIA Process in Malaysia.....	60
5. Enhancements to the EIA .....	62
6. Conclusion .....	65
<b>6 The Enforcement of Environmental Law in Singapore</b>	
<i>Lye Lin Heng</i>	
1. Introduction .....	69
2. Overview of Pollution Laws .....	76
3. Nature Conservation Laws .....	78
4. The Enforcement of Environmental Law .....	79
5. Conclusion .....	84
<b>7 Environmental Management and Environmental Law Enforcement in Indonesia</b>	
<i>Koesnadi Hardjasoemantri</i>	
1. Introduction .....	86
2. Environmental Management.....	89
3. Participation in the Environmental Management.....	94
4. Environmental Law Enforcement.....	98
5. Conclusion .....	105

## **8 Controlling Industrial Pollution: From Theory to Implementation**

*Benoit Laplante, David Wheeler and Shakeb Afsah*

1. Introduction .....	109
2. From Theory to Legislation .....	110
3. From Legislation to Implementation .....	112
4. Concluding Discussion .....	119

## **PART II REGIONAL AND GLOBAL ENVIRONMENTAL ISSUES AND THE DEVELOPMENT OF ENVIRONMENTAL LAW AND POLICY**

### **9 Responding to Oil Spills in the Waters of Southeast Asia**

*Chia Lin Sien*

Introduction .....	124
1. Pattern of Movement of Oil Shipments.....	126
2. Spill Incidents in Southeast Asian Waters.....	131
3. International Conventions .....	132
4. Port State Control in the Asia-Pacific Region .....	134
5. Discussion .....	134
6. Looking Ahead.....	136

### **10 The Development of International Law Regarding the Transboundary Movement of Hazardous Wastes**

*Hidenori Inoue*

Introduction .....	142
The Liability for Transboundary Pollution, and International Law .....	143
1. General Principles of International Law.....	143
2. Lawsuits Concerning Transboundary Pollution .....	145
3. Soft Law.....	147
4. International Funds.....	147
5. Arbitration Systems .....	147
6. Protocols on Liability and Compensation .....	148
Conclusion .....	148

### **11 The Enforcement of CITES**

*Masayuki Kobayashi*

Introduction .....	150
1. Background .....	150
2. Overview of CITES.....	151

3. Enforcement Problems.....	152
4. Domestic Implementation Requirements .....	153
Conclusion .....	155

## **12 New International Trends in the Area of Cultural Heritage**

*Yoshihiro Nomura*

Introduction .....	157
1. The Concept of Cultural Heritage .....	158
2. On the Convention Concerning the Protection of the World Cultural and Natural Heritage .....	158
3. Stolen or Illegally Exported Movable Cultural Objects and International Protection.....	163

## **13 Development of Environmental Law and Policy in Asia Concerning Environmental Impact Assessment**

*Nobuo Kumamoto*

1. Basic Legal Background of Asian Law .....	172
2. Economic Growth and Environmental Problems .....	173
3. The Changing Character of Environmental Problems Today.....	174
4. The Development of Asian Environmental Law .....	175
5. The Transfer of Environmental Impact Assessments to Asian Nations .....	177
6. Conclusion .....	183

## **14 The ASEAN Agreement on the Conservation of Nature and Natural Resources and the ASEAN Strategic Plan of Action**

*Naoyuki Sakumoto*

Introduction .....	185
1. The ASEAN Agreement on the Conservation of Nature and Natural Resources .....	187
2. The ASEAN Strategic Plan of Action on the Environment .....	191
3. From Hard to Soft Law .....	194
Conclusion .....	195

**PART III NEWLY EMERGING ENVIRONMENTAL PROTECTION MEASURES AND  
THE IMPLICATIONS TO ASIAN COUNTRIES**

**15 Voluntary Efforts and Internationalization in  
Environmental Management**

*Hideki Kobayashi*

Introduction .....	199
1. Declarations by Industry Sector/Voluntary Action Plans.....	200
2. International Standardization of Environmental Management .....	203
3. Recent Environmental Regulations and Voluntary Measures .....	208
Conclusion .....	210

**16 Environmental Labeling: International Standardization  
and Trade Issues**

*Shigeyuki Hashizume*

Introduction .....	212
1. International Standardization of Environmental Labeling.....	212
2. Environmental Labels .....	216
3. Environmental Labels and Trade Issues .....	221
Conclusion .....	223

**17 From Domestic Environmental Rights to Global Environmental Rights**

*Shoichi Ogano*

1. Proposal: From Domestic Environmental Rights to Global Environmental Rights .....	225
2. Some Hints from Japanese Law .....	226
3. The Challenge .....	230
Summary .....	231

**18 Implications for Asian Countries of the United States' Information  
Disclosure System on Hazardous Chemical Substances:  
The Effects of the Community-Right-to-Know Act**

*Akemi Ori*

Preface.....	232
Introduction .....	233
1. Background and Purpose of EPCRA.....	233
2. A Description of EPCRA.....	234
3. Impacts of EPCRA.....	239
Conclusion .....	242

## **19 Kawasaki City's Basic Environmental Ordinance and Environmental Review System**

*Fukashi Utsunomiya*

Introduction .....	243
The Basic Environmental Ordinance.....	244
1. An Overview of the Basic Environmental Ordinance .....	247
2. Significance and Features of the Basic Environmental Ordinance .....	248
3. Environmental Review System .....	249
Conclusion .....	251

## **20 Japan's New Law on Recycling Containers and Packages**

*Watari Kusumoto*

Introduction .....	252
1. Our Country's Recycling Efforts.....	252
2. The Current State of Waste Management and Measures in Japan.....	257
3. Background and Necessity for a New Law for Containers and Packages ...	262
4. Outline of the New Law .....	263
5. The Role of Government and Businesses in Creating a Recycling Society .....	269

## **21 Groundwater Contamination and Responses in Hadano City, Kanagawa Prefecture**

*Singo Tsuda*

Introduction .....	272
1. Topography of Hadano City .....	274
2. Original Impetus for Ground Water Contamination Countermeasures .....	274
3. General City-wide Survey .....	275
4. Survey to Establish the Cases of Ground Water Contamination .....	276
5. Spot Surveys of Surface Contamination.....	277
6. The City Surveys .....	277
7. Survey Method .....	279
8. Decontamination Method.....	279
 THE SCHEDULE OF THE WORKSHOP.....	282
 LIST OF PARTICIPANTS AND CONTRIBUTORS .....	284