

THE TRIAD AS POLICYMAKERS

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The Triad as Policymakers*

by

Raymond Vernon

All signs point to the proposition that we are in the earliest stages of a prolonged era of intensive international negotiations over the environment.¹ Some of these negotiations may be inspired by UNEP; some may be negotiated within existing international organizations such as WHO and FAO; some will be regional or bilateral, such as those conducted between the United States and Mexico.

Understandably, then, the literature is rich with speculation and analysis aimed at helping to steer the parties toward agreements that will respond to their joint concerns.² Among many other issues, one can find extended discussions of two basic questions: Given the concerns of the parties, what can be negotiated? And what will prove effective if negotiated?

These studies characteristically have analyzed the past performance of various types of international regimes, looking for some hint of the connection between their structure and their performance.³ In that context, the usual questions have been asked: Should agreements be mandatory or hortatory? Should they be rules-based or results-based? Should they be global or regional? Should monitoring and enforcement be supported by a formal organization? If yes, what kind of organization? And so on.

My focus in this paper, however, is on questions of a different kind, namely, on the internal processes of the negotiating states themselves. No one doubts that the responses of participating countries in international negotiations are deeply influenced by their distinctive histories, values, and institutions. I propose in this paper to look at three key players in these upcoming negotiations, namely, the United States, the European Community, and Japan, and to explore what the connection may be between their future roles in international negotiations over the environment and their respective national histories, values, and institutions. In the end, my conclusion will be that a study of histories, values, and institutions provides considerable help in explaining the behavior of each of these countries on environmental issues--but that there is something more in the causal mix: Grass root responses, arising outside the established decisionmaking channels, appear to play a larger role in this policy field than in other areas of policy that have been subjected to study.

An extensive literature already exists that helps us to look for generalizations regarding the behavior of these three actors when they formulate policies that affect the distribution of economic costs and benefits within their respective economies. That literature demonstrates the power and persistence of national characteristics that are likely to distinguish their respective roles in future environmental negotiations. To be sure, other countries, such as Brazil, India, and China, are also likely to play a major role in the shaping of such negotiations. But for the present the dominant role of the triad justifies some careful attention to the way in which their internal processes are likely to shape their respective roles.

U.S. Patterns

Generalizations about national roles in international negotiations have to be made with caution, as there is always at least one memorable case that will not fit the posited pattern. Yet there are strong grounds for the generalization that U.S. representatives will be more prone than their counterparts in most other countries to take an activist role in the process: to place new propositions on the table; to organize blocking coalitions; and to modify or even reverse positions in the course of the negotiation. It is doubtful that the propensity of the Americans to take an activist line is due to either greater wisdom or higher energy levels. Part of the reason probably lies in a persistent need on the part of the country's negotiators to justify the country's claimed position as the leader of a western coalition. But U.S. representatives could not respond with the seeming activism that often characterizes their international negotiating style if it were not for certain characteristics of the country's internal decision-making processes. By comparison with most countries, that process usually tolerates a relatively high degree of initiative and flexibility on the part of the U.S. representatives.

The separation of powers. It may seem paradoxical that representatives of a country whose government is built on an elaborate system of checks and balances should appear to have a relatively high degree of flexibility in international negotiations. Yet, it has to be remembered that the indispensable requirement for an effective system of checks and

balances is the separation of powers of the various governmental entities involved. The separation of powers means that within limits each entity is free to act without securing the consent of the others in the system.

The flexibility of U.S. representatives in international negotiations is often enhanced by the fact that the principle of separation of powers creates walls not only between the three main branches of government but also among the departments and commissions that make up the executive branch. Agencies such as the Securities and Exchange Commission, the Federal Reserve Board, and the Environmental Protection Agency look on their powers as being determined by statute, not by the White House; though ordinarily deferential to White House views, they are likely to defend the agency's turf against any challengers. Their tolerance for the views of other agencies in the executive branch affected by the exercise of their statutory powers, therefore, is often fairly limited.⁴

The revolving door. The probability that affected agencies will be slow to consult with one another over their common problems is due to others factors as well. One factor of particular importance is the nature of the leadership of each administration. With a change in administrations, a new group of officials is brought to Washington, about 3,000 in number, recruited from the four corners of the country, trained in a variety of professions, sharing very little in background and values.⁵ Exempted from civil service standards and appointment processes, all that the appointees can be expected to have in common is political credentials that have survived a screening conducted by the party occupying the White House. Individuals in the group characteristically have had only limited contact either with one another or with the agency to which they are assigned. And few of them will have any expectation of building a career in the federal bureaucracy.⁶ These generalizations, of course, have been stronger for some administrations and for some agencies than for others. They were stronger, for instance, in the Reagan era than in the Bush administration; and stronger in the office of the U.S. Trade Representative or the Environmental Protection Agency than in the Department of Labor. By and large, however, the political appointees have tended to take a short term view, with limited sensitivity for the agency's history and little incentive to consider its future.

For all these reasons, U.S. policymakers are likely to frame their objectives and shape their tactics for selling their proposed policies without much hope or expectation of developing a genuine consensus among the agencies that have a stake in the issue. Interagency committees may exist in profusion. But the persistent tendency of the policymaker will be to defend the power to operate autonomously; and, if that option is not available, to look for a strategy, such as enlisting the president's personal support, that will allow the policymaker to finesse the process of consultation inside the executive branch.⁷

In a national decisionmaking structure in which consensus does not dominate, a major element of unpredictability is introduced in the positions that representatives are likely to take in international circles. The history and tradition of each agency will prove an uncertain predictor of its position on any new issue. A great deal will depend on the personal motivations and bureaucratic skill of the agency's top echelons. An agency head charged with a particular functional area such as the environment may not have the

motivation or skill to overcome a blocking element in the White House staff. Contrariwise, an agency head with an inside track to the White House will often be able to introduce proposals that represent abrupt departures from past policies.

The mercurial role of the executive branch of the U.S. government in environmental policies has been strikingly apparent in the Carter, Reagan, and Bush administrations. Some of the sharp reversals in policy between the Carter and the Reagan administration, such as the U.S. abandonment of its support for restrictions on the international movement of hazardous wastes, obviously represented a shift in the personal philosophy of the president; it may even have mirrored a small shift in the national consensus on such matters. But the zig-zag course of the executive branch in the latter 1980s and 1990s seemed much more a product of tactical shifts in domestic politics, coupled with shifts in the preferences and objectives of a few key policy entrepreneurs in the Reagan and Bush administrations.⁸

The role of Congress Recognizing the principle of the separation of powers and the independence of the three federal branches of government, congressional leaders will not ordinarily question the right of the executive branch to launch any proposition for international discussion, as long as Congress retains the opportunity eventually to pass on its merits. Sometimes, it is true, individual members of Congress may grouse at the executive's exercise of that discretion, fearing that the very introduction of a proposal in an international forum could tie the legislature's hands at a later stage. But at other times, members of Congress will heave a secret sigh of relief at not being required to take an early position on some contentious issue.

Moreover, the U.S. executive branch itself, when conducting an international negotiation over an economic policy, has been known at times to regard the independence of Congress as a negotiating advantage, because it allows the U.S. negotiators to threaten the representatives of other countries with the possibility of congressional displeasure and retribution if the other countries do not accept the proposals offered by the executive.⁹

But the congressional drive to retain power and independence means that the texts of law and regulation will take on special importance, becoming the centerpiece in struggles with the executive over national policies; for, where the texts of laws and regulations are inexplicit in prescribing the standards or procedures to be followed, the discretion of the executive grows at the expense of the legislature. The emphasis on standards and procedures, in turn, elevates the role of adversary proceedings and formal process, places the legal profession at the center of the controversy, and accordingly limits the powers of the bureaucracy to make complex judgments and to rely on inexplicit criteria.

Effort to cope. While the separation of powers represents a basic feature of national institutions in the United States, some of the problems it may generate in the forging of international relations have been apparent. As numerous observers have pointed out, any international negotiation conducted among democratic governments is bound to proceed at two levels simultaneously, one involving the interaction among governments, the other involving the interaction of each government with its domestic interests. In the

case of the United States, innovators usually launch their proposals without first developing a broad national consensus. As a result, there is a high risk that the innovator may not be able to retain U.S. support for the position originally advanced. Some of the interests overlooked in the first phase of the negotiating process will be eager to make their position felt in subsequent rounds; and in some instances, their late intervention may carry such weight as to require major changes in the U.S. position.¹⁰

Besides, the porousness of the U.S. decision-making structure represents an open invitation to any such neglected interest. If the opposition has not already captured a sympathetic ear in one agency, it may be able to do so in another.¹¹ And if the executive branch is unmovable, the Congress or the courts or the media may offer an alternative channel. The system, therefore, places a premium on aggressive advocacy, a characteristic especially in evidence in the formulation of environmental policies. And with such advocacy encouraged, the possibility of forcing a revision of a U.S. position in an international negotiation is relatively high. And it adds to the risk that the United States may be obliged to breach agreements after they have been adopted.

There have been times in years past when the executive branch, in an effort to clear the path for an international negotiation, has tried to bypass Congress, claiming already to have the power to enter into agreements in the name of the United States. But experience suggests that such an approach is highly vulnerable, especially in a policy area that may involve special interests and may require changes from time to time in U.S. legislation. Executive agreements not expressly authorized or approved by Congress, it is evident, run the risk of being ostentatiously disregarded on Capitol Hill. For example, Congress has been cavalier about U.S. violations of its commitments under the General Agreement on Tariffs and Trade, sometimes ignoring the existence of the violations for long periods, sometimes grudgingly making an adjustment in response.¹²

Moreover, there have been signs that the advantages that U.S. representatives derive from their autonomy in launching international negotiations are tending to decline over time. Other countries have begun to realize that the proposals of U.S. representatives may not be backed by a broad U.S. consensus and that adversaries inside the United States may eventually force major alterations on a brave U.S. initiative. That indeed has been the history of international negotiations in matters of foreign trade: by the 1970s, the reluctance of other countries to negotiate with U.S. representatives on trade matters was so palpable that some remedy had to be found.

The remedy that was fashioned for the conduct of trade negotiations, the so-called fast-track provisions, provides a precedent that could conceivably be extended to other areas. Under the fast-track provisions, the executive branch agrees to conduct its negotiations in close consultation with private interest groups and with selected congressional representatives. And in return, Congress agrees that it will vote the negotiated agreement up or down, without delay and without qualification or amendment. In practice, there are also other devices that sometimes allow the executive to engage in international negotiations with reasonable assurance that Congress will not block the resulting agreement. For instance, agencies in the executive branch commonly negotiate

Memoranda of Understanding with foreign countries under a congressional dispensation. Even when the executive has acted well within its authority, however, there still may be a risk that Congress or the courts, responding to the initiatives of special interests, will compel the U.S. government to act in disregard of existing international commitments. Meeting this challenge may appear to be equivalent to asking the oceans to stand still; but the challenge is not quite that great. For there is plenty of evidence that members of Congress themselves often are looking for some insulation against the unremitting pressures of special interests. Some of their efforts in that direction, it is true, have had unfortunate consequences for the international negotiation process. In the trade field, for example, in order to appear responsive to special interests without getting entangled in their individual cases, Congress has commonly enacted provisions that increase the ability of special interest groups to put pressure on the executive branch. These provisions typically open up new avenues of petition to executive agencies or the courts, lay down explicit standards that are supposed to guide the executive agencies and the courts toward a decision, and so on.¹³

Still, on the whole, the executive and Congress often share a desire to limit their exposure to special interest pressures in individual cases. Indeed, on issues involving environmental controls, quite unlike those in the field of trade, Congress has often been far more disposed to take positions against the special interests of industry than has the executive branch. That sentiment opens up the possibility that international agreements which include compulsory arbitration clauses may sometimes be a welcome escape for both, offering a way of depoliticizing the handling of individual cases.

The United States and Canada took a large step in that direction in the negotiation of the U.S.-Canada free trade agreement, with the formation of a bi-national court of appeal to deal with some contested issues and the extension of compulsory arbitration panels to deal with others. Such innovations could well point the way to the future structuring of other international agreements.

Japanese Patterns

By ordinary standards, Japan's economy would be described as market based, and its political processes as democratic. But these standards allow plenty of room for variety, and Japan's approach to the making and enforcement of public programs such as the protection of the environment includes a number of very distinctive features. Although scholars do not agree in all particulars on the critical factors that shape Japanese behavior, the various analyses of that behavior share a good deal of common ground.¹⁴

The decision-making structure. The "us" versus "them" syndrome, so pervasive in the formulation of the foreign policies of most countries, has been especially strong in most of the history of modern Japan. This is hardly surprising, given the fact that for hundreds of years before the opening of Japan in 1868, the country was in peril of becoming a prize for the prowling navies of the western powers.

During the century following the opening of Japan, there were numerous bitter struggles among the Japanese leadership on many issues; but they remained remarkably united in their view of the paramount domestic objectives. In 1868, it seemed obvious to the Japanese elite that their very national existence depended on their ability to absorb the war-making technology of the west. Once that objective was within reach, by about the close of the first World War, the Japanese elite set their collective mind on solving another threat to their national existence, namely, their utter dependence on imports of raw materials. Repeated efforts on the part of Japanese industry to gain direct access to sources of oil and minerals were rebuffed by strong cartels composed of the leading firms from Europe and North America.¹⁵ Struggling to overcome these vulnerabilities, Japan eventually invaded China and attacked Pearl Harbor. During this phase, there were occasional signs that the unanimity among Japan's leaders that had apparently prevailed in earlier decades was not quite as complete; but deviants were quickly brought into line by political assassinations and other forms of pressure. Finally, with Japan's defeat in the second World War, economic recovery became the consuming objective of the economy; and once again, it was hard to find any part of the leadership prepared to subordinate that objective to some other purpose.

It was not until the 1980s, therefore, that one could see any significant modifications in the "us" versus "them" approach, and any significant measure of recognition in Japan that the country had a major stake in solving some problems that lay beyond its own borders. An indication of the extent of that change was Japan's willingness in 1987 to back the U.S.-inspired proposal for an international agreement to curb the use of CFCs.¹⁶

Japan's tendency to present an unaccommodating united front to the rest of the world, however, has been due to factors that cannot be expected to change very rapidly. One such characteristic, paradoxically, has been the strength, stability, and professionalism of the Japanese bureaucracy. With lifetime commitments to their profession, bureaucrats engaged in the policy-making process characteristically have operated in a setting in which the identity of the principal players was highly predictable over extended periods of time. In such a setting, game theorists remind us, the players are encouraged to develop a reputation for team playing, albeit team playing tempered by toughness. Some of the characteristics that are typical of U.S. bureaucratic behavior, therefore, are frowned upon in Japan, including opportunistic innovation coupled with tactics that take advantage of the absence or temporary weakness of the opposition.

The stability of Japan's bureaucracy has been matched by the stability of other elite sectors of Japan's decision-making structure. A single political party, the Liberal Democratic Party, has dominated the government since the end of the second World War; and until the 1990s, the hold of that party seemed unshakable. True, the party was always strained by internal rivalries among its so-called factions, each headed by a prominent politician eager for the prime minister's office; but that rivalry has not been strong enough to threaten the party's hold on the government.

In the business world, the degree of stability of the leadership during the postwar period also has seemed remarkable, given the dimensions of the growth and change in the economy. The predictability and stability of the leadership have been bolstered by the much-advertised lifetime career patterns of Japanese business executives, by the durability of the keiretsu groups to which many leading firms belonged, and by the dominant position of Japan's peak business organizations, notably the Keidanren. With so stable an elite in control, the disposition of policymakers for long-term reputation building and team playing has been high.

Such stability, of course, could not continue indefinitely. In 1989, for instance, LDP's perennial dominance over Japanese politics was challenged for the first time when the Socialist Party gained control of the upper house of Japan's parliament. In a similar vein, the stability and predictability of the career patterns of Japan's business executives were being disturbed by a sharp increase in job-hopping and an increase in demands for leisure time.¹⁷ But these countertrends were still too weak in the 1990s to portend any gross change in the patterns of Japan's economic decision-making.

Until the 1990s, the striking absence of innovation or initiative on the part of the Japanese was apparent with regard to practically all international issues, not environmental issues alone. My explanation for this pervasive Japanese characteristic is the mirror image of my explanation for the opposite propensities of U.S. representatives. Innovative proposals usually entail a giant step into the unknown, with latent risks and uncertain benefits for some groups in the population. In a move based partly on faith even when justified by reason, innovators typically are obliged to ride roughshod over the doubts and misgivings of some groups at home likely to be affected by the proposed policy. In the U.S. system of decision-making, with consensus infeasible and artful dodging a normal part of the game, it is sometimes possible to launch an innovative proposal that embraces some general principle, despite the existence of such unassuaged misgivings. In the Japanese system, with every major interest in a position to bring the negotiation to a standstill, the possibility of obtaining agreement to take a leap into the dark by espousing a general principle is greatly reduced.

The same distinction helps to explain another characteristic of Japanese decisions: the fact that foreign pressure, gaiatsu, appears to play so important a role in determining Japanese moves, especially where the breadth of the subject matter is such as to engage the interests of a number of ministries. The use of foreign pressure, history suggests, has its limits. If a significant part of the Japanese establishment feels that such pressure has been excessive and that a genuine internal consensus does not exist, it may well take an independent course in spite of the existence of a contrary international agreement. Where gaiatsu may be effective, however, is when it provides Japanese negotiators with a way out their internal dilemma of building a reputation as both a tough bargainer and a team player. To maintain such a position, the participants must see to it that the concessions made to achieve internal agreements are hard-won and small in scope. The critical role of foreign pressure may be explained by the fact that it gives a resisting group an excuse for yielding without losing reputation as a tough bargainer.

Finally, there is one other characteristic of Japanese decision-making that seems to flow from this line of speculation. In contrast to the United States, the course of Japanese policies partakes of some of the characteristics of a supertanker under way. Once a decision is reached, it is likely to define the direction of Japanese behavior until a new occasion for change arises. The probability that some entity in the government structure will take an independent line and disregard or override an existing international agreement seems low. And any future change, like the changes of the past, will only be effected slowly and with great effort.

Environmental policies. Nevertheless, Japan's history in the adoption of national environmental policies has deviated sufficiently from its behavior in other policy fields to raise questions about its likely future role at the international level. In a country that places great store on the avoidance of confrontational tactics, it was the militant action of aberrant groups that was largely responsible for placing the environmental issue on the national agenda. The entrenched positions of the elite and their national commitment to industrial growth as the paramount objective meant that environmental concerns would have severe difficulties working their way onto the national agenda. Yet, despite those expectations, Japan by the 1970s was already pursuing an active environmental program at home.¹⁸

Because of the high living densities on Japan's main islands and the spectacular growth of its industrial facilities in the 1950s and 1960s, Japan was one of the first of the industrialized market economies to react to some of the acute effects of modern industrial pollution. By the 1960s, the Japanese were discovering widespread instances of poisoning from toxic metals and chemicals, including the notorious minimata and itai-itai epidemics, as well as the mushrooming of bronchial asthma cases in some cities of the country. But the policymaking machinery, resting securely in the hands of the bureaucracy, the Keidanren, and the dominant Liberal Democratic Party, seemed totally insulated from the local pressures of ordinary citizens. As long as these developments were confined to limited areas of the country and as long as they did not interfere with the achievement of the Japanese government's dominant objectives of rapid sustained growth, the groups that were affected seemed to have no choice but to grin and bear it.

Japanese environmental conditions as a whole were probably no worse than those of western Europe or North America; indeed, if life expectancy data are any guide, they may even have been better. But the consequences to the affected local areas in Japan were so shocking and the threat of further consequences so unremitting that local groups searched in desperation for some form of remedy. One feature of their response was thoroughly Japanese; they organized themselves in local cooperative groups that hammered away at local polluters and local government officials to develop an appropriate response. Another feature was remarkably aberrant, presumably brought on by the gravity of the situation; they instituted civil suits in the courts to establish the responsibility of the polluters and obtain compensatory damages for those affected. The

success of the plaintiffs in four celebrated cases created a landmark in Japanese environmental policy.¹⁹

By the 1970s, environmental issues in Japan were no longer the concern of local groups alone. By that time, Japan's mass media had thrown their weight in favor of environmental controls, stressing the continuation of environmental degradation, and the foot-dragging and indifference of Japan's leading polluters. There were some years of shadow-boxing in which the bureaucracy in Tokyo gave lip-service to the environmental objectives while public opinion was still being formed. But by the mid-1970s, key ministries in Tokyo, notably including the Ministry of Health and Welfare, appear to have joined the media in an alliance against the industrial sources of pollution. With that shift, a new internal balance was achieved in Japan; politicians and industrial leaders, taking note of the shift, joined in the framing of a new set of environmental policies.²⁰

Unlike the United States, however, the transformation of public opinion in Japan from indifference to commitment was not accompanied by the development of strong national organizations nor by the appearance of organized pressure groups in Tokyo. The struggle that eventually produced a shift in national policy appears to have been conducted by more ephemeral means, including local movements and the media, leading eventually to a recognition among the policymakers that the public had developed some new expectations with regard to environmental policy. With that change in expectations recognized by the bureaucracy, the LDP, and the Keidanren, the stage was set for concerted national action.

The Japanese programs of environmental control that emerged by the latter 1970s were exemplary in their stated goals and their initial achievements; **MITI**'s imposition of a ban on lead in gasoline posed a sharp contrast to the dreary trail of suits and countersuits over the same issue in the United States, where adversary proceedings and statutory schedules were a normal part of the implementation process. In added contrast to U.S. practice, monetary support for those who were injured by the new restrictions played a major role in Japanese official programs.²¹

In addition, in characteristic Japanese fashion, the paper trail created by Japanese programs contained little in the way of hard commitments or unambiguous standards; the effective guidelines, if they existed at all, were contained in the side-deals and confidential memorandum exchanged inside the bureaucracy.²² Moreover, the affected industry groups were not regarded as adversaries in the process that shaped the relevant programs; on the contrary, their consultations with the bureaucracy were frequent and extensive. Finally, exercising the broad discretion that typically resided in the Japanese bureaucracy, government officials were both flexible and supportive in their relations with the affected firms during the implementation phase, adjusting schedules and providing for special financing as required.

By the 1990s, however, the Japanese apparently had achieved enough progress in environmental issues on the home front that such issues had slipped off the front pages of Japanese media. There were substantial indications that the policies adopted by the

government were not being neglected by the bureaucracy and were being implemented with some care and efficiency. But in sharp contrast to the United States, the implementation of these programs was being shaped much more by expert opinion than by political pressure.²³ Indeed, despite Japan's domestic activism on environmental matters, there had been no accompanying development of national movements devoted to preserving the environment such as the Greens in Europe or the Sierra Club and the National Resources Defense Council in the United States.²⁴ Nor were dedicated environmentalists often included in the numerous advisory groups on which the Japanese bureaucracy drew. The crusading elements so evident in the European and U.S. environmental movements, therefore, were not to be seen in Japan's policymaking establishment; on the contrary, although the execution of existing policies appeared notably efficient by any comparative standard, the commitment of the establishment to environmental issues continued to appear largely reactive.

European Patterns

European countries enter the present era of international activity in environmental controls with a rich record, covering several decades of programs at the national level.²⁵ Perhaps in part because of the novelty of the issues, these programs have reflected a great variety of approaches. With time, national programs began to show more similarities in approach, pushed in common directions by the prodding of the European Community;²⁶ the polluter-pays principle, for instance, gradually began to secure greater currency. But major national differences persisted into the 1990s, reflecting substantial variations in public opinion over the importance of environmental concerns, along with a wide variety of legal traditions and regulatory practices.

Still, the Europeans as a group could be distinguished from the United States in a number of explicit respects, exhibiting an overall pattern in their approach to environmental controls that is much more akin to that of the Japanese than of the Americans.

Like the Japanese, the Europeans are far less confrontational than the Americans in the processes by which they formulate standards and enforce them. Even Germany, which contains a highly vocal environmental lobby and is identified with strong environmental policies, nevertheless relies heavily on informal consultation and voluntary agreements.²⁷ The contrast between European and US practice is especially evident in the processes by which scientific opinion is amassed. In the case of the United States, the evidence on which the government formally relies is accumulated largely through overt adversarial procedures, a process that usually generates a disparate set of conclusions purportedly supported by scientific authority and objectivity. By contrast, Europe's administrators garner their evidence, to the extent that it figures in their decisions, from scientific sources largely of their own choosing.²⁸ What is more, both in the process by which standards are formulated and in the means by which they are enforced, the Europeans tend to rely much more than the Americans on private consultation with

the interests most affected. And the responses of the Europeans to non-compliance, like the responses of the Japanese, turn out to be far more flexible than the heavy-handed U.S. approach, which makes use of fines and court orders.²⁹

At the same time, however, one striking similarity with regard to environmental issues has been apparent among the European countries, Japan, and the United States, namely, in the nature of the political activity that puts environmental programs on the national agenda. "The Commission," a 1990 publication of the European Community reports, "receives an increasing number of complaints about the actual situation in the Member States from non-government organizations, local authorities, Members of the European Parliament, local pressure groups and private individuals."³⁰ As in the United States and Japan, the political support that seems to provide a basis for environmental programs in Europe has not come through the traditional party structures; it has sprung up mainly through rump organizations that have cut across the parties. Indeed, in Germany, Belgium, France, Ireland, Sweden, the Netherlands, and the United Kingdom, the environmental issue has led to the creation of new "green" parties, concentrating entirely on the environmental issue. Although on the whole, its adherents have leaned toward the left, their willingness to sacrifice growth for environmental betterment has generated great antagonisms with some of the traditional left-leaning European parties.³¹

The largest unanswered question with respect to the behavior of the Europeans in international negotiations has to do with the future role of the European Community in such negotiations. Since the treaty establishing the European Community was amended in 1987, the Community has an indisputable mandate to share jurisdiction over the environmental issue in the future with its member states. But the Community's prime objectives as well as its decision-making machinery are sufficiently distinctive as to raise major questions regarding the Community's future exercise of its powers over environmental issues.

The Community's interest in the environmental issue goes back to 1972, when the environmental measures of some member states began to raise questions about maintaining open borders inside the Community. In an historic meeting in that year, the Community first articulated a concern and responsibility for environmental protection.³² Three action plans were adopted in the ten years following, giving rise to a stream of directives. With the 1987 revisions of the basic treaty, the Community's interest in environmental protection was placed much more firmly on the Community's agenda, appearing to give it status equal to that of achieving the completion of the single market. What is more, there was an express commitment that, in the search for harmonized standards, the objective would be to move to the Community-wide adoption of "a high level of protection" rather than to debase the existing levels.³³

The directives of the Community bearing on the environment have covered a variety of subjects, including water pollution, air pollution, waste disposal, the movement of hazardous waste, and other familiar issues. Particularly noteworthy has been the adoption of Community-wide standards governing the emissions from trucks and

automobiles and a recommendation to the aerosol industry for a 90 percent reduction in the use of CFCs. In addition, the Community is in process of creating a European Environment Agency, open for membership to all European countries. And it has systematically introduced environmental considerations in formulating and executing many Community programs, such as the Community's programs for the support of industrial research and development as well as its agricultural aid programs.

Moreover, the Community's official tilt in favor of strong environmental standards, according to one substantial study, has had feedback effects on the positions of its member countries. That study attributes Britain's conversion in the late 1980s from laggard to leader in a wide range of environmental issues in part to the pressures to which Prime Minister Thatcher was exposed in Community discussions.³⁴

What remains at issue are two things: the scope of the Community's authority to deal with environmental issues in the future; and the ground rules for decision-making when such issues are being considered. The Community's reach is likely to be limited by a basic principle that was enshrined in the basic treaty when it was amended in 1987, namely, the so-called principle of subsidiarity. That principle provides that any Community objective will be pursued at the lowest level of government consistent with the achievement of the objective. And it is sure to be invoked by member states reluctant to follow the lead of the most aggressive environmental supporters in the Community.

That principle aside, the Community's authority is clearest when there is agreement that some action is needed to end "distortions" in competition inside the common market, such as when a member country has imposed restrictions that have the effect of discriminating against firms in other member countries. But if a member government decides to resist such a finding, as in the case of a proposed common regulation on the use of landfills for waste disposal, Community action will require the unanimous approval of the Community's law-making body, its Council of Ministers. The requirement for unanimity is of course a far more stringent requirement than the qualified majority prescribed for the ordinary business of the Council.

Proposals are under consideration for the Council to decide all environmental issues on the basis of a qualified majority. But the future of that proposal is clouded by the basic tension that exists in the Community on most matters dealing with the environment, notably, the difference between the richer northern members of the Community, whose electorates demand relatively stringent environmental controls, and the poorer southern members, which do not always feel ready to accept very stringent measures.

The Commission's mandate to achieve a single internal market for Europe continues to represent the prime driving force behind its interest in the environment, and continues to shape its approach to larger international agreements involving other countries. In the 1980s, it seemed evident where that pressure was pushing the Commission; on the whole, Europe's participation in broad international agreements appeared to be helping in its efforts to harmonize national standards within the Community. Accordingly, the

Community could be found taking an active role in promoting agreements to curb the use of CFCs and to respond to the challenges of global warming.³⁵

One hope commonly expressed in Europe is that a strengthening of the powers of the Community's Parliament might lead the Community to assume a stronger role in international environmental affairs. Of the various institutions of the Community, the Parliament has been most strongly supportive of environmental controls, a reflection of the fact that it has included a particularly heavy contingent of representatives elected under the banner of "green" parties.³⁶ The Parliament is the only institution of the Community whose members have been directly elected to their posts; the members of other institutions of the Community, including its Commission, its Council of Ministers, and its Court of Justice, acquire their positions in the Community either through the nomination of national governments or by virtue of their election to positions in such governments. But, paradoxically, the Parliament is by all odds the weakest of these institutions, its real powers being confined largely to an advisory role on the measures under consideration in the Council of Ministers. And because a widespread conviction exists in Europe that the distribution of power among the Community's various organs is intolerable in the long run, it appears to be only a matter of time before the Community's Parliament acquires added powers at the expense of its Council of Ministers.

But any guess on the future behavior of the Parliament can in the end prove grossly in error. A parliament that is endowed with real powers is sure to attract a new wave of candidate parliamentarians. Elections for parliamentary positions will produce higher voter turnouts than the depressingly low levels of past years, as well as candidates who will more closely mirror the prevailing political balance of their respective countries. Moreover, once parliamentary members discover that their views actually matter, they are likely to temper their views to fit their new responsibilities. Such a shift would probably mean their identifying more closely with the goal that has always been paramount in the European Commission, namely, building up the strength and unity of the common market.

Another aspect of the Community's operations that could bear on its international role in the future is the means that are at its disposal for the enforcement of its decisions. Few countries can guarantee that the international agreements to which they are a party will be faithfully applied in their jurisdiction; neither the record of the United States nor that of Japan is altogether reassuring in that respect. But the Community labors under some special disabilities in this respect.

In principle, member states are obliged to incorporate into national law any directives issued by the Community and to enforce any of the Commission's regulations. In practice, national governments have commonly failed to meet their obligations, generating long delays and law suits brought by the Commission before the Court of Justice. In 1990, indeed, the Commission had nearly 400 cases outstanding, claiming non-compliance to its environmental directives on the part of member states.³⁷

One final factor that will shape the Community's approach is its past experience in attempting to harmonize the regulatory measures of its member states. The Community

has learned the hard way that drafting regulations to harmonize the different approaches of its twelve member countries to a given problem presents formidable difficulties of numerous kinds, arising from differences in national institutions, national norms, and national special interests. The Community's response, epitomized in its 1992 single market program, has been to adopt the principle of mutual recognition, that is, the principle that no government may challenge the means that another government has employed to achieve a specified goal, provided that those means measure up to the standards adopted by the Community. The Community's experience with mutual recognition, bolstered by the principle of subsidiarity, seems certain to restrain its approach to regulatory measures, restricting the kinds of international agreements with which it can concur.

All told, the European Community's record suggests that from time to time it will take a leadership position in international environmental matters. The critical question that may determine its role is whether a broad international agreement on a given problem is likely to help reduce its difficulties in moving toward a single market within the Community. During the 1980s and 1990s, the Commission was active in trying to put together a number of such broad agreements, apparently having concluded that they would be helpful in the move toward a single European market. How the Commission would react if such an agreement seemed to create new obstacles to the single market objective had yet to be tested.

Environmental Programs

The cursory view that I have offered here of the decision-making processes of the governmental establishments in the United States, Japan, and Europe suggest that strong initiatives in support of international agreements on the environment may be forthcoming from time to time. In the U.S. case, as we observed, a necessary though not a sufficient condition for such an initiative might well be the decision of a high-level policy entrepreneur that the agreement was worth pursuing in order to make a mark. In the European case, such an initiative might depend on the conclusion that the agreement would contribute to the making of a single European market.

Others who have studied the policymaking processes of the United States and other leading industrial countries see international initiatives on major environmental issues as being very slow in coming. For instance, Eugene Skolnikoff, who has devoted a professional lifetime to the study of the formation of public policy in science, concludes that substantial international action on the global warming issue will not be forthcoming until the effects of the trend are far more palpable than they are today.³⁸

Skolnikoff's plausible views might have been buttressed by another line of argument. For more than a decade, scholars have observed a decline in the public's confidence in the efficiency of the state in solving social and economic problems. That shift in public sentiment has served to arrest and even reverse the growth in the size and power of the public sector in the United States, Europe, and Japan, and it might reasonably have been expected to stop the environmental movement in its tracks.

Yet, when the domestic environmental programs of the United States, Japan, and the European Community are reviewed, they exhibit a vitality, a persistence, and a capacity for overcoming the resistance of groups with an adverse economic interest that political scientists could not easily have anticipated twenty years ago. Popular activism appears with a frequency encountered in very few other public issues, except perhaps that of abortion. In projecting national behavior on environmental issues, therefore, one apparently must give more than the usual amount of weight to the possibility that groups outside the decisionmaking structure will be able to overcome the resistance of those that see themselves bearing the costs of measures to protect the environment.

The U.S. role, as usual, is a wild card in the deck. The separation of powers in the U.S. system increases the difficulties of predicting the U.S. role. Observe, for instance, the refusal of the U.S. administration to go along with definitive international commitments aimed at slowing global warming trends, at a time when public sentiment appears strongly to favor such commitments; or the initiative of U.S. representatives in securing international agreement to reduce the use of CFCs, notwithstanding the strong misgivings from industrial sources regarding the effects of such restrictions. Predicting the U.S. role is complicated further by the independence of Congress and the courts in deciding just how to treat the country's international commitments in the face of domestic pressures.

As for Japan, there is nothing in the record to suggest that the decision makers who are normally in charge will show much enthusiasm for international agreements on environmental measures; any initiatives from that quarter are only likely to come over issues that are immediately related to the problems of living on the crowded islands of Japan. Moreover, judging from history, the Japanese cannot be expected to embrace readily either specific standards or specific measures to achieve such standards, especially measures whose enforcement that might involve adversary proceedings and adjudication. Yet one cannot be sure if a new generation of cosmopolitan Japanese will follow in the steps of earlier generations.

In the end, therefore, international activism on environmental issues may have to depend on the out-of-channels pressures that appear to have been indispensable to it in the past. The scholarly study of that phenomenon is already well under way, breeding such ponderous concepts as the "epistemic community."³⁹ In a world in which the costs of international communication are plummeting and the facilities for communication proliferating, the growing importance of transnational groups with common views regarding the environment seems inevitable; their appearance was heralded a few decades earlier by the proliferation of the single issue organizations in the political processes of various countries, such as the Sierra Club in the United States and the Greens in Germany, and followed up by the development of strong links among these national organizations. The trend has been accelerated by the growth of boundary straddling business organizations such as the multinational enterprises. Such groups figured prominently in the treaty for the control of CFCs, as scientists and consumer

groups exchanged information across borders, and as Du Pont's recognition of the CFC problem spurred ICI to a shift in its position.

The idea that boundary-straddling communities may be critical in framing the content of international agreements, however, is an uncomfortable idea in a number of different respects. For one thing, it threatens the usefulness of a well-known metaphor that political scientists have learned to apply in analyzing the international negotiating process, namely, the concept of the two-level chess game. With these boundary-straddling communities in the play, one of the two chess games moves closer to a conspiracy than to a game between adversaries.

The idea of the boundary-straddling community may prove uncomfortable in a very different sense. Long before the discovery of "epistemic communities," the monthly meetings of the world's chief central bankers at Basle were providing illustrations of the importance of such institutions; in this case, the monthly meetings evolved into an institution of some power and influence, sometimes quietly engaged in a joint effort to bring free-spending national politicians to their senses. And for many decades, the world's principal airlines--speaking in the name of their respective governments--jointly determined the prices that international travelers would have to pay for their services, justifying their decisions by a shared belief in the efficacy of the system. The influence of such groups may have served good purposes or ill; but quite obviously, their views did not always reflect the interests and priorities of the countries they purportedly represented.

In any case, boundary-straddling communities may play a critical role in the adoption of new international agreements without necessarily having as much to say in their implementation. Although the adoption of new programs for the environment may be critical, the process of making such a regime work is likely to provide the ultimate test for its usefulness. In some environmental matters, for instance, the power to act or to avoid action is likely to revert to the day-to-day decision-making apparatus of the participating governments, including administrative agencies and the courts. In such cases, enforcement is likely to depend on mundane processes and incremental measures that do not easily arouse the enthusiasm and commitment of ordinary citizens. And it is at this stage that understanding the history, institutions, and values of national decisionmaking institutions may prove indispensable.

ENDNOTES

* I have benefited enormously from perceptive reactions to earlier drafts by Nazli Choucri, Henry Lee, Marc Levy, Kalypso Nicolaidis, Susan J. Pharr, Louis T. Wells, Jr., and Philip Zelikow.

¹See Nazli Choucri, "Politics of Environmental Global Change: A Conceptual Framework," presented at XV World Congress of the International Political Science Association, Buenos Aires, July 1991.

²For an authoritative summary of such issues, see James K Sebenius, "Designing Negotiations toward a New Regime," International Security, Spring 1991, vol. 15, no. 4,

pp. 110-148. Also Richard E. Benedick, Ozone Diplomacy: New Directions in Safeguarding the Planet (Washington, DC: World Wildlife Fund, 1990); Jessica T. Matthews, ed., Preserving the Global Environment: the Challenge of Shared Leadership (New York: W.W. Norton, 1990); and Millennium, winter 1990, vol. 19, no. 3, a special issue devoted to global environmental change and international relations.

³See for instance Glen Plant, "Institutional and Legal Responses to Global Climate Change," Millennium, vol. 19, no. 3, winter 1990, pp. 413-428.

⁴James W. Fester, "Policymaking at the Top of Bureaucracy," in Francis E. Rourke, ed., Bureaucratic Power in National Policy Making (Boston: Little, Brown & Co., 1986), pp. 317, 330; Roger B. Porter, Presidential Decision Making The Economic Policy Board (Cambridge, England: Cambridge University Press, 1980), pp. 5-21.

⁵Hugh Heclo, A Government of Strangers (Washington, DC: Brookings Institution, 1977) pp. 84-112.

⁶Randall B. Ripley and Grace A. Franklin, Con res. the Bureaucracy. and Public Policy (Homewood, Ill.: Dorsey Press, 1980), pp. 39, 45; "Trading Places," Washington Post, Dec. 14, 1990, p. A 25.

⁷Stephen D. Cohen, The Making of United States International Economic Policy, 3rd ed. (New York: Praeger, 1988), pp. 39-41; Raymond Vernon, Debora L. Spar, and Glenn Tobin, Iron Triangles and Revolving Doors: Case Studies in U.S. Foreign Economic Policymaking (New York: Praeger, 1991) p.16.

⁸The literature on this period is overwhelming in quantity and range. For a succinct summary of the international positions of the United States as they related to domestic politics, see Robert L. Paarlberg, "Ecodiplomacy. U.S. Environmental Policy Goes Abroad," in Kenneth Oye, Robert J. Lieber, and Donald Rothschild, Eagle in a New World (New York: Harper-Collins, 1992) pp. 209-231. See also Richard A. Harris and Sidney M. Milkis, The Politics of Regulatory Change (New York: Oxford University Press, 1989) pp. 225-272.

⁹See for instance: Thomas C. Schelling, The Strategy of Conflict (Cambridge, MA : Harvard University Press, 1960), pp. 27-28; Robert Putnam, "The Logic of Two Level Games," International Organization 43 (1988), pp. 439-440; and H. Richard Friman, "Rocks, Hard Places, and the New Protectionism: Textile Trade Policy Choices in the United States and Japan," International Organization, no. 42, August 1988, pp. 708-709.

¹⁰See for instance James K Sebenius, Negotiating the Law of the Sea (Cambridge, MA: Harvard University Press, 1984) pp. 71-109; and "Faltering: GATT and Services," The Economist, July 14, 1990, p.70.

¹¹For a striking illustration, see Benedick, Ozone Diplomacy, pp. 58-67.

¹²I. M. Destler, American Trade Politics: System under Stress. (Washington, D.C.: Institute for International Economics, 1986), pp. 83-86.

¹³See G. John Ikenberry, "Manufacturing Consensus: The Institutionalization of American Private Interests in the Tokyo Trade Round." Comparative Politics 21:3 (April 1989) pp. 295-301; and I.M. Destler, American Trade Politics: System Under Stress, pp. 19-22.

¹⁴The literature is extensive. See for instance: T.J. Pempel, "Japanese Foreign Economic Policy. The Domestic Bases for International Behavior," in Peter J. Katzenstein (ed.), Between Power and Plenty, Foreign Economic Policies of Advanced Industrial States (Madison: University of Wisconsin Press, 1978), pp. 139-190; Kent E. Calder, "Japanese Foreign Economic Policy Formation: Explaining the Reactive State," World Politics, vol. 40, no. 4 (July 1988) pp. 517-541; Daniel I. Okimoto, "Political Inclusivity. The Domestic Structure of Trade," in Takashi Inoguchi and Daniel Okimoto (eds.) The Political Economy of Japan, vol. 2 (Stanford, CA: Stanford University Press, 1988) pp. 345-378; and in the same volume, Donald C. Hellman, "Japanese Politics and Foreign Policy," pp. 345-378.

¹⁵See "And Japan's Quest for Autonomy," Chapter 3 in Irvine H. Anderson, The Standard-Vacuum Oil Company and the United States East Asian Policy. 1933-1941 (Princeton, NJ: Princeton University Press, 1975), pp. 71-103.

¹⁶Benedick, Ozone Diplomacy, p. 75.

¹⁷See for instance, Fuchino Koichi, "Wage Earners' Changing Attitudes," Japan Echo, vol. xv (1988), pp. 17-23; and "Japan's Employers Come to Terms with Young Job Hoppers," Financial Times, September 24, 1991, p. 10.

¹⁸Detailed descriptions appear in Shigeto Tsuru and Helmut Weidner (eds.), Environmental Policy in Japan (Berlin: Ed Sigma Bohn, 1989; Julian Gresser, Koichiro Fujikura, and Akio Morishima, Environmental Law in Japan (Cambridge, MA: MIT Press, 1981); and Donald R. Kelley, Kenneth R. Stunkel, and Richard R. Wescott, The Economic Superpowers and the Environment: The United States, the Soviet Union, and Japan (San Francisco: W.H. Freeman and Co., 1976). Especially useful is Susan J. Pharr and Joseph L. Badaracco, Jr., "Coping with Crisis: Environmental Regulation," in Thomas K. McCraw, ed., America versus Japan (Boston: Harvard Business School Press, 1986) pp. 229-260.

¹⁹See Margaret A. McKean, Environmental Protest and Citizen Politics in Japan (Berkeley, CA: University of California Press, 1981); and Norie Hudshle and Michael Reich, Island of Dreams: Environmental Crisis in Japan (Cambridge, MA: Schenkman Books, 1987) pp. 14-23.

²⁰This interpretation draws heavily on Susan J. Pharr and Joseph L. Badaracco, Jr., "Coping with Crisis: Environmental Regulation."

²¹For a detailed account of Japan's propensity to reduce conflict by payments to aggrieved parties, see Kent E. Calder, Crisis and Compensation: Public Policy and Political Stability in Japan 1949-1986, (Princeton: Princeton University Press, 1988).

²²See Edward B. Keehn, "Managing Interests in the Japanese Bureaucracy. Informality and Discretion," Asian Survey, vol. XXX, no. II, November 1990, pp. 1021-1037.

²³Shinichi Nakamura and Atsushi Toyonaga, "Making Environmental Policy in the United States and Japan: The Case of Global Warming", USJP Occasional Paper 91-08, Program on U.S.-Japan Relations, Harvard University, 1991.

²⁴For a comparison of U.S. and Japanese environmental movements, see Margaret A. McKean, Environmental Protest, pp. 254-260.

²⁵Marc Levy generously gave me access to some early drafts of his uncompleted doctoral thesis on environmental policies in Europe, which proved invaluable in bringing me up to date on some critical facts. He bears no responsibility, however, for my interpretation of these facts.

²⁶See Marc Levy, "The Greening of the United Kingdom: An Assessment of Competing Explanations," unpublished paper delivered at the 1991 annual meeting of the American Political Science Association, August 29-September 1, 1991, Washington, D.C.

²⁷Carol Deck, "Negotiation and Compromise in German Environmental Politics: Government, Industry, and Public," in Gale A. Mattox and A. Bradley Shingleton, Germany at the Crossroads: Foreign and Domestic Policy Issues (Boulder, CO: Westview Press, 1992) pp. 149-161.

²⁸Compare Sheila Jasanoff, "American Exceptionalism and the Political Acknowledgment of Risk," Daedalus, Fall 1990, p. 76.

²⁹See, for instance, Arnold J. Heidenheimer, Hugh Hecl, and Carolyn Teich Adams, Comparative Public Policy, 3rd ed., (New York: St. Martin's Press, 1990).

³⁰Environmental Policy in the European Community, 4th edition, European Community, 1990, p. 31.

³¹In a highly prescient article published in 1979, Suzanne Berger explores these trends in Europe; see "Politics and Antipolitics in Western Europe in the Seventies," Daedalus, vol. 108, no. 1, Winter 1979, pp. 2750. In her 1979 article, Berger associates the trend with a general disillusionment with economic criteria as a basis for policy, thus offering an explanation of the survival and growth of environmental regulation.

³²For a review, see J. Fairclough, "The Community's Environmental Policy," in Richard Macrory (ed.), Britain, Europe and the Environment (London: Imperial College, 1983) pp. 19-34; David P. Hackett and Elizabeth E. Lewis, "European Economic Community Environmental Requirements," in Practising Law Institute, The European Economic Community's Product Liability Rules and Environmental Policy, Course Handbook No. 388, New York, 1990; European Documentation, Environmental Policy in the European Community, fourth edition, Brussels, 1990.

³³Article 100A of the Rome Treaty.

³⁴Levy, "The Greening of the United Kingdom," pp. 20-28.

³⁵See Nigel Haugh, "The European Community and International Environmental Policy," International Environmental Affairs, summer 1991, vol. 3, no. 3, pp. 163-180.

³⁶See Peter Ludlow, ed., The Annual Review of European Community Affairs 1990 (London: Brassey's, 1991) pp. xxx-xxxiii.

³⁷"The Dirty Dozen," The Economist, July 20, 1991, p. 52.

³⁸Eugene B. Skolnikoff, "The Policy Gridlock on Global Warming," in Foreign Policy, no. 79, summer 1990, pp. 77-93.

³⁹For reasons that escape me, some scholars confine the concept of the epistemic community to organizations that challenge the "habit-driven behavior" of the existing decisionmaking apparatus; see Ernst B. Haas, When Knowledge is Power, (Berkeley, CA: University of California Press, 1990), pp. 40-49. But these boundary-straddling communities may just as well be devoted to the preservation of existing habit driven behavior, justifying their position on the basis of their common beliefs.