

# **Regional Cooperation for the Protection of the Marine Environment**

15–16 January 2019  
Singapore

Conference Report

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Organised by



## Executive Summary

The conference investigated regional cooperative efforts by the numerous existing regional bodies and explored possible ways forward to improve the protection and management of the marine environment in the seas of Southeast Asia. One of the leading research questions addressed at the Conference was the extent to which the many ASEAN documents on the marine environment have incorporated, refer to or are de facto implementing obligations under international law to preserve and protect the marine environment.

The Conference was divided into 4 main themes:

1. The international and regional legal and institutional framework for the protection and conservation of the marine environment in Southeast Asia;
2. Governance models from other regional seas: the Mediterranean, Arctic, North Atlantic (OSPAR) and Caribbean seas and the Coral Triangle Initiative;
3. Two key substantive issues in regional seas of particular concern in Southeast Asia: ship-source pollution and pollution from land-based sources including plastic; and
4. Specific challenges and prospects in the region considering legal and political constraints, the role of science, funding sources and donors the role of NGOs.

The conference was organised to encourage an exchange of ideas. Each session began with presentations, but sufficient time was reserved for a discussion between the panellists and the participants. The summary below sets out the major points of established consensus as well some of the recurring issues that were raised in the discussions. It then highlights some of the suggestions that were made.

### Established Consensus

As an important basis for the discussion, the duty to cooperate in the protection and preservation of the marine environment, directly or through international organisations, is well established and entails a procedural due diligence obligation to consult meaningfully and in good faith.

There is also a strong international legal framework applicable to the protection and preservation of the marine environment in the seas of Southeast Asia. It includes principles of international environmental law and explicit duties on States. The framework includes both hard law and soft law. Furthermore, it was noted that many ASEAN documents refer expressly to principles of international environmental law, to international treaties<sup>1</sup> as well as to soft law instruments on the protection and preservation of the marine environment.

It was also noted that a majority of international conventions applicable to the protection of the marine environment have been adopted by the littoral States of the seas of Southeast Asia, and that at this stage the focus should be on implementation, compliance and enforcement of the international conventions.

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<sup>1</sup> Including some that have only been adopted by some member States.

Examples from other regional seas governance models show clear differences among them as well as differences with ASEAN and the seas of Southeast Asia. However, they all share an articulated vision for the marine environment and a regional policy. By contrast with ASEAN and the Coral Triangle Initiative, the four regional seas programmes that were examined have binding regional agreements for the protection of the marine environment. One of the first binding agreements adopted by all of them concerned oil pollution and contingency planning. For more details on this, see Table 1 in Annex I.

Finally, it was acknowledged that at operational level, the ASEAN working group with the widest mandate in protection of the marine environment is the ASEAN Working Group on Coastal and Marine Environment (AWGCME). However, as shown in the Diagram of Regional Bodies, many other ASEAN bodies and other regional institutions are involved in different aspects of the protection, conservation and management of the marine environment in the seas of Southeast Asia.

It was also agreed that the two substantive issues discussed, ship-source pollution and land-based pollution including the newly identified problem of plastic, are both critical and pressing.

### **Key Challenges**

From an institutional perspective, it was agreed that one of the most serious problems both in national governments and ASEAN was that most of the bodies or agencies dealing with the marine environment worked in “silos”, and that there was little consultation or coordination with other bodies with responsibilities for similar or related issues. It was generally agreed that at international, regional and national levels there is a need for better cooperation and coordination among agencies or bodies dealing with different aspects of the management, protection and conservation of the marine environment. There is also a need for better communication and coordination across pillars in the ASEAN and generally across regional bodies involved with the management, protection and conservation of the marine environment in the seas of Southeast Asia.

There was also consensus that strengthening the institutional framework requires establishing institutional memory and transferring institutional knowledge. The Diagram of Regional Bodies prepared by CIL as a working document was considered by many as welcome and useful (attached in Annex II).

The issue of how to assess the success and effectiveness of regional seas governance models was also discussed as it is critically important when considering the adoption of new measures and plans of action. The methodologies that can be used to assess models include the number of ratifications of instruments, an analysis of the level of cooperation, and an assessment of levels of protection or improvement of the status of the marine environment.

It was agreed that sustainable finance for programmes and projects to monitor, protect and conserve the marine environment is also needed. This may involve the development of financial skills and innovative financing structures to secure additional funding. It should also include changing the narrative of funding proposals to attract new sources of funding and

ensuring that the financing mechanism proposed builds in the architecture of support needed for the strengthening of regional institutional mechanisms.

Finally, it was agreed that the existence of accessible and quality regional data on components of the marine environment and on the impact of activities on the marine environment are critically important elements for all regional sea programmes.

### **Some Suggestions**

#### *Understanding ASEAN positions*

It would be useful to identify and review the main ASEAN documents (declarations, action plans, guidelines, joint-statements, etc.) adopted for the management, protection and conservation of the marine environment in order to gain an overall picture of the views adopted by ASEAN member States. This would provide a basis for ASEAN Member States' consideration of an ASEAN coordinated vision and position regarding different aspects of the protection of the marine environment. It could also assist in the development of regional priorities.

#### *Reception facilities*

For ship-source pollution, it was suggested that focus on reception facilities for MARPOL Annex I on oil and Annex V on garbage is critically important, and that the feasibility of developing regional reception facilities should be considered.

#### *Mapping international and regional work on combatting marine plastic*

For marine plastics, it was acknowledged that governments and regional institutions were currently engaged in understanding the nature of the sources of marine plastic at regional level and in identifying possible solutions. It was pointed out that parallel efforts are being undertaken by different regional bodies, and that a better understanding of 'who is working on what' would be key to avoiding duplication and ensuring better coordination.

#### *Comparing the governance model of the Mediterranean, Caribbean and Southeast Asian seas*

It would be useful to develop an analytical framework for comparing governance models. The framework would be similar to the summary table in Annex I, but more detailed.

Annex I

<b>Regional Seas</b>	<b>ASEAN</b>	<b>Mediterranean Sea</b>	<b>Arctic Ocean</b>	<b>OSPAR</b>	<b>Caribbean Seas</b>	<b>CTI</b>
<b>Regional Vision for the marine environment</b>	Very general	Yes. Specific	General	Yes. Specific	Yes. Specific	Through the focus on food security and sustainable livelihood
<b>Soft law and regional policy</b>	ASEAN Way: ASEAN Charter, soft law and issue-based policy documents	Action Plan, guidelines, etc.	Ilulissat Declaration	OSPAR Commission Recommendations and guidance documents	Action Plan	Regional Plan of Action (RPOA)
<b>Legally binding commitments</b>	No	A general convention (Barcelona Convention) and 7 issue-specific protocols	Issue-specific agreements including all or some of the littoral States	A convention (OSPAR Convention) and 5 annexes (no application to fishing and shipping and Russia is not a member)	A convention (Cartagena Convention) and 3 protocols	No
<b>Inclusion of principles of modern environmental law</b>	Referred to in policy documents	Included in binding legal commitments	In some agreements	Yes, in the Convention	<i>Not discussed during the meeting</i>	<i>Not discussed during the meeting</i>
<b>Specific issues covered in binding agreements</b>	-	<ul style="list-style-type: none"> <li>. Dumping</li> <li>. Pollution from ships and emergencies</li> <li>. land-based pollution</li> <li>. Specially Protected Areas and biodiversity</li> <li>. Offshore activities</li> <li>. Hazardous waste</li> <li>. ICZM</li> </ul>	<ul style="list-style-type: none"> <li>. Coop. on aeronautical and maritime search and rescue</li> <li>. Oil pollution preparedness and response</li> <li>. enhancing int'l arctic scientific cooperation</li> </ul>	Several – In Convention and through Decisions of the Commission, incl: <ul style="list-style-type: none"> <li>. pollution from land-based sources</li> <li>. pollution from offshore sources</li> <li>. Assessment of quality of the environment</li> <li>. MPAs</li> </ul>	<ul style="list-style-type: none"> <li>. Cooperation in combatting Oil Spills</li> <li>. Specially Protected Areas and Wildlife</li> <li>. Pollution from land-based sources</li> </ul>	-
<b>Institutional architecture</b>	Policy and operational bodies and a secretariat.	COP, Bureau, Secretariat, Mediterranean Commission on	Arctic Council –an intergovernmental forum for	OSPAR Commission and Secretariat	Intergovernmental meeting on the Action Plan and COP to the Cartagena	CTI-CFF is a multilateral partnership

	Regular institutional meetings and statements	Sustainable Development (MCSD)	cooperation and discussion		Convention, a Bureau, Budget Committee and sub-commissions, regional platforms and RACs	
<b>Decision Making Body</b>	Meeting of Ministers or Senior State Officials	COP	No DSB unless the members decide otherwise	OSPAR Commission	COP	Council of Ministers
<b>Inclusiveness [Involvement of other stakeholders than littoral States]</b>	States only except on invitation by States in a limited number of bodies	Yes in MCSD	Limited but includes permanent participants (indigenous groups) and observers to the Arctic Council	Some – <i>Not discussed during the meeting</i>	<i>Not discussed during the meeting specifically but CLME+ does include broader stakeholder community</i>	Yes – development partners, governments and international NGOs
<b>Transparency and publication of documents and decisions</b>	Limited publication of meeting outcomes and no transparency of agenda and decision making processes	Publication of documents	<i>Not discussed at the meeting</i>	<i>Not discussed during the meeting</i>	<i>Not discussed during the meeting</i>	<i>Not discussed during the meeting</i>
<b>Regional Activity Centres</b>	None devoted solely to the protection of the marine environment but activities of 3 RACs are relevant	[7]	No	No	[4] <ul style="list-style-type: none"> <li>. Oil Spills</li> <li>. Specially Protected Areas</li> <li>. Land-based pollution</li> <li>. Institute of Marine Affairs (LBS pollution)</li> </ul>	No
<b>MPA Network</b>	No	No	In progress	In progress	In progress	In progress
<b>Successes</b>	Regular meetings and engagement among ASEAN States	.Number of ratifications . Brings people together . Regional vision	<i>Not discussed at the meeting</i>	. Commission is active . Cooperation with other relevant institutions . Reporting mechanism	<i>Not discussed explicitly at the meeting</i>	. Measurable successes and/or progress in all target areas

