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**Regional Consultation on Ocean Law and
Policy for ASEAN Blue Economy: Protection
of the marine environment and sustainable
use of marine resources**

26-27 June 2023

Four Points by Sheraton, Singapore

**WORKSHOP OUTCOME AND
RECOMMENDATIONS**

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Introduction

The Regional Consultation Workshop on Ocean and Policy for ASEAN Blue Economy (ASEAN-CME) brought together a representative group of Southeast Asia-based experts from 11 universities (in Indonesia, Philippines, Singapore, Thailand, and Vietnam), regional intergovernmental law and policy bodies (including ASEAN, COBSEA, PEMSEA and SEAFDEC) and three regional research centres or programmes (Asian Research Institute for Environmental Law (ARIEL), Diplomatic Academy of Vietnam (DAV) and GIZ Indonesia). Details of the meetings, including agenda, participants and presentations are available for download on CIL ASEAN-CME project website.¹

The purpose of this Regional Consultation was to: (i) consult scholars and representatives of intergovernmental organisations from the region on their views on actions needed to protect the marine environment whilst implementing the new ASEAN Blue Economy policy; and (ii) explore whether strong legal and recommendations could flow from this group and guide further regional efforts on this path.

By way of background on the ASEAN-CME Project, it builds on the 2021 Declaration by ASEAN Leaders on a Blue Economy established with ocean sustainability and a rule-based ocean governance at its core; a core which itself relies on the legal framework set out by the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and related bodies and instruments, for all activities in the oceans and seas. It seeks to: (i) provide tools for the implementation of this Declaration, (ii) develop the literacy of global and regional law and policy development on the protection of the marine environment that is applicable in ASEAN, (iii) enhance the visibility of the work of ASEAN institutions on the marine environment; and (iv) more generally develop the scholarly discussion on the legal status and role of ASEAN law and policy developments and their place in international legal discourses.

Structure of the regional consultation

The consultation was structured in three parts. First, it took stock of the complexity of the current regional institutional landscape on the protection of the marine environment. Two regional pioneers in regional efforts for the protection of the marine environment who took an active part in the

¹ <https://sites.google.com/view/cil-asean-cme-project?usp=sharing>

development of this landscape, Prof Chou Loke Ming and Prof Chua Thia-Eng, shared their recollections, back from the 70s. These included the evolution of the respective roles of COBSEA and ASEAN as well as the context of the development of PEMSEA.

Second, researchers from the ASEAN CME Project presented the rationale of the project, its methodology and the findings, and invited comments and suggestions. These were grouped into four topic areas:

- (1) **ASEAN approach to the marine environment**, including the shift to the Blue Economy and ASEAN cooperation with other fora and avenues for cross-sectoral coordination;
- (2) **CME issues with clear international institutional lead**: fisheries, aquaculture, maritime transport, and marine scientific research;
- (3) **CME issues with industry-dominated governance**: seabed mining, ocean energy, carbon capture and storage, submarine cables, and coastal and marine tourism; and,
- (4) **CME issues with fragmented international institutional lead**: conservation of biodiversity; land-based pollution and marine plastic debris; climate change, blue carbon and geoengineering; and, transboundary pollution and preventative cross-sectoral mechanisms.

Third, all participants were divided into five multidisciplinary and multinational groups for discussions on five broad topic areas, with the mandate of making recommendations to build on existing strengths and fill gaps towards the protection of the marine environment and sustainable use of its resources. The topics were:

- (1) Adoption and implementation of international law;
- (2) Coordination mechanisms within the ASEAN and with other regional or international competent international bodies;
- (3) Transparency, accessibility and engagement;
- (4) Agenda-setting and priorities within ASEAN mechanisms; and,
- (5) Marine environmental data and monitoring to inform policy-making.

The participants were also provided with the following tools and materials for their comments and feedback:

- Maps of international and regional institutions, legal and policy instruments applicable to the protection of the marine environment;²
- A database of ASEAN documents relevant to all topic areas considered;³ and,
- A table of adoption by ASEAN+3 states of international instruments applicable to the protection of the marine environment.⁴

Outcome

Lessons from history and participants' feedback

Prof Chou and Prof Chua spoke about the respective roles of different regional institutions and initiatives they have hosted since the 80s (including ASEAN, COBSEA and PEMSEA) and their complementarity. They emphasised how their work over time reflected the most pressing issues that

² <https://sites.google.com/view/cil-asean-cme-project/institutional-organigrams-other-resources>

³ <https://sites.google.com/view/cil-asean-cme-project/database-of-asean-cme-instruments>

⁴ https://drive.google.com/file/d/1Lcl3-5pHw5Eln_tjOOL7q-sIAify5Jgo/view?usp=sharing

the region was facing in particular fisheries and oil spills. They also highlighted the importance of good coordination as, in the absence of coordination '2+2=3,' whereas with good coordination '2+2=5', whilst acknowledging the difficulties and multi-level-coordination needed.

In the discussions that followed each presentation, some useful points were raised in the context of the guiding question on the extent to which ASEAN instruments would be implementing international law, thereby potentially by-passing the need for binding legal instruments:

- Is the question relating to implementation from the international level to the regional level or also to the national level? Is national level implementation following regional developments or directly implementing international developments which would then be reflected at the regional level?
- Some bodies, because of particular economic or political issues, can have more effect than others (e.g. WCPFC is seen as having more impact than FAO);
- Consider using case studies to illustrate implementation and work-flow all the way to the local level;
- ASEAN is focused on programmes and initiatives, i.e. action rather than international so recommendations should be specific.

Other comments were also reflected in the group discussions and included below. Participants gave some useful notes on elements that needed adding or being better reflected in the organigrams.

Group discussions

Recommendations have been collated, summed up and grouped under each broad topic, resulting in 21 recommended areas for action. (Table 1 below)

Table 1 - Areas for Action identified by the ASEAN-CME regional workshop consultation

Adoption and implementation of international law

Support regional implementation of treaties that are already widely adopted regionally
 Gaps in treaties' adoption
 Revisit terms of the 1985 Agreement in the context of the Blue Economy
 Evaluate the use of Action Plan

Coordination mechanisms

Path to an ASEAN Ocean Policy and better coordination of the management of ocean-related issues and opportunities
 Ocean-driven cross-pillar coordination
 Role of ASEAN Activity Centres - An ASEAN Ocean Activity Centre?
 Improving coordination between treaty implementation and regional CME mechanisms at the level of ASEAN
 Prospects for sub-regional cooperation of some ASEAN member states with other states

Transparency, accessibility and engagement

Marine policy community of practice (Including marine law)
 Creating a regional model for increased inclusiveness and civil society involvement in policy decision-making process
 Role and influence of funding sources
 Development of an ASEAN marine society

Agenda-setting and priorities within ASEAN mechanisms

Influence agenda shaping to focus on ocean issues
 Understanding the internal workings of ASEAN
 Make open mechanisms of consultation to AWGNCB and AWGCME more visible

Marine environmental data and monitoring to inform policy-making

WG on data access and prioritisation
 Assessment of environmental status
 Promote more research and overcome the lack of impetus
 Host scientific symposiums to address specific policy questions
 Interactive map of bodies

Further elaboration of each recommended action is accessible here:

https://docs.google.com/spreadsheets/d/1CE_MT3EffsISiYrRbP3OLjDAtSVKgKW2MbErZPm1qDM/edit?usp=sharing