



THE EAST ASIAN SEAS CONGRESS

25 Years of Partnerships for
Healthy Oceans, People and Economies
Moving as One with the Global Ocean Agenda

27-30 November 2018 • Iloilo Convention Center, Philippines



TRACK 4: GOVERNANCE AND PARTNERSHIPS

SESSION 4.5

Legal and Institutional Mechanisms to
Manage the Marine Environment in
the Seas of Southeast Asia: Status and
Way Forward

CONVENER:

CIL

CENTRE FOR INTERNATIONAL LAW
National University of Singapore

Centre for International
Law, National University
of Singapore



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Partnership Hub Track 4: Governance and Partnerships

4.5. Legal and Institutional Mechanisms to Manage the Marine Environment in the Seas of Southeast Asia: Status and Way Forward

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Proceedings Summary

Convener

Centre for International Law, National University of Singapore

Partnership Hub Chair:

Youna LYONS, Senior Research Fellow, Centre for International Law (CIL), National University of Singapore (NUS)

1. SYNOPSIS

1.1 It is often said that Southeast Asia has one of the weakest regional mechanism for the protection of the marine environment. One reason cited is the lack of a binding agreement for the protection of the marine environment in the region and the so-called ASEAN way preferred by the littoral States.

1.2 This session aimed to investigate and discuss the extent to which regional institutions can and may foster a common understanding of applicable international law and facilitate implementation.

2. FOCUS

2.1 Topic 1 - Principles and rules of international marine law applicable to the seas of Southeast Asia – *Presentation by Amber Rose Maggio, Research Fellow with CIL, NUS*

Principles and rules of international marine law applicable in the region including global instruments, which have developed regional institutions. Applicable treaties include, in addition of the United Nations Convention on the Law of the Sea, the 1971 Ramsar Convention, the 1979 Convention on Migratory Species, the 1992 Convention on Biological Diversity. Regional mechanisms and institutions developed under the purview of international treaties and organisations include the Memorandum of Understanding on the Conservation and Management of Marine Turtles and their habitats of the Indian Ocean and Southeast Asia as well as regional guidelines for responsible fisheries endorsed by the Asia-Pacific Fishery Commission, a regional body of the FAO. [Table of treaties available <https://cil.nus.edu.sg/wp-content/uploads/2019/03/Treaties-ME-SoutheastAsia-Updated-4Mar2019.pdf>]

2.2 Topic 2 - Regional Institutions and the protection of the marine environment in Southeast Asia – *Presentation by Dita Lliansa, Research Assistant with CIL, NUS*

These institutions include ASEAN bodies and ASEAN+ bodies but also other regional bodies that are connected to the ASEAN such as SEAFDEC as well as regional institutions, organisations and bodies that are independent from the ASEAN such as PEMSEA, COBSEA, the CTI-CFF and regional bodies established under international bodies. [Table of regional bodies available <https://cil.nus.edu.sg/wp-content/uploads/2019/03/Marine-Environment-Regional-Bodies-v.6.pdf>].

2.3 Topic 3 - Application of international marine law to the seas of Southeast Asia: The example of sensitive marine areas - *Presentation by Youna Lyons, Senior Research Fellow with CIL, NUS*

There are 45 coastal and marine sites identified as sensitive areas in the region under international law. These include Ramsar sites under the Ramsar Convention, critical habitats and ecological networks for migratory species listed under the 1979 Convention on Migratory Species, Ecologically and Biologically Significant Areas under the 1992 Convention on Biological Diversity, Particularly Sensitive Sea Areas under the IMO, etc. The following two examples of sensitive marine areas were emphasised: IOSEA Marine Turtle Memorandum of Understanding and Fisheries Refugia developed under the auspices of SEAFDEC. [Map of sensitive areas adopted in Southeast Asia under international law available https://cil.nus.edu.sg/wp-content/uploads/2018/11/SEA_Map_Sensitive_Areas_Under_Intl_Law.pdf].

2.4 The presentations were followed by perspectives from two commentators: *Raphael Lotilla, former Director of PEMSEA and Somboon Siriraksophon, SEAFEC Project Director*

3. SESSION HIGHLIGHTS

3.1 The speakers brought together the overarching international legal framework, comparisons of regional cooperative mechanisms and specific examples of application of the international legal framework by regional bodies.

3.2 The commentators first emphasised the preeminence of international law and the law sea specifically, and the relevance of other environmental treaties in its interpretation, including the list of threatened and endangered species attached to the Conventions on Migratory Species and Illegal Trade of Endangered Species. Second, it was emphasised that the time may be ripe for a regional organization in charge of the protection of the marine environmental as a whole in Southeast Asia, although the difficult determination of the geographic scope was recognised, as well as the importance of ASEAN for any cooperation in this region.

3.3 In the discussion with participants, several other points were made, including:

- the possibility of including Southeast Asia in the scope of the Western and Central Pacific Fisheries Commission
- the nascent efforts for a development of a new form of governance for oceans starting at the UN level and into regional seas programmes
- that studies show that the development of 'super-bodies' does not work and it is more effective to strengthen coordination by tightening links between bodies
- the challenging condition for regional coordination to be successful is to ensure sustainable financing, no overlap between existing bodies and that any additional body would complement the work of existing ones.

4 COMMON UNDERSTANDING AND RECOMMENDED ACTIONS

4.1 The following recommendations were put forward during the session:

- i. There is a complex network of regional intergovernmental bodies tasked with the protection of the marine environment in Southeast and they all contribute to the implementation of the numerous international treaties adopted by States in the region;
- ii. Further work is needed to ensure greater consistency and coordination across the bodies, including a comparison of the substantive aspects focused on by each;

iii. Work of existing regional institutions can be leveraged to advance SDG14 targets, especially target 14(c) towards progress of indicator 14(c)(1) in Southeast Asia.

4.2 The full proceedings, slides of the presenters and supporting maps and tables provided during the session are available on CIL website <https://cil.nus.edu.sg/activities/27-november-2018-cil-panel-on-the-legal-and-institutional-marine-environmental-governance-in-southeast-asia/>
