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Working Paper No. 1 - August 2017

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## **ENVIRONMENTAL RIGHTS AND THE “PERILS” OF INTERGOVERNMENTALISM: A CRITICAL ASSESSMENT OF ASEAN COOPERATIONS ON ENVIRONMENT (1977-2017)\***

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### **ABSTRACT**

*This paper aims to explain as to whether Association of Southeast Asian Nations (ASEAN), the largest regional organisation in Southeast Asia, has been able to accommodate the idea of "environmental rights". Whilst research on ASEAN environmental cooperations has previously investigated the extent to which ASEAN could effectively establish environmental governance and institutional framework in regional level, none has attempted to relate the cooperation with a broader question on environmental rights. We attempt to investigate the linkages between international cooperation and environmental rights. In so doing, we study 49 policy documents related to ASEAN cooperations on environment and the extent to which these diplomatic negotiations accommodate "environmental rights". We argue that intergovernmental mechanism that is embedded in the historical construction of ASEAN environmental cooperations since 1977 has not yet incorporated "environmental rights" in the regional cooperation and governance . This limitation occurs due to ASEAN's strong reliance to the idea of "environmental sovereignty" that lies on ASEAN's intergovernmental mechanisms that continues after the enactment of ASEAN Agreement on Transboundary Hazards Pollution in 2002. Consequently, any cooperations to resolve environmental problems has been brought back to state authority and undermining a broader regional initiative. We furthermore suggest that establishing a deliberative form of regional governance in environmental sector, which acknowledges the multiplicity of stakeholders, multi-level structure of governance, and rights-based institutional framework in environmental issues, could offer solution to remedy this problem.*

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**Keywords:** ASEAN Cooperations on Environment, Environmental Rights, Environmental Sovereignty, Deliberative Global Governance

## 1. Introduction

IN 1997, a ‘regional’ disaster hit Southeast Asia: the transboundary haze. Started with unresolved forest fires in Indonesia, which produced a regional-scale smoky haze, the Indonesian authority reacted by declaring a state of emergency and coordinate a national-level actions to resolve the problem, but was unable to prevent the haze from spreading to neighboring countries. This has also prompted the Association of Southeast Asian Nations (ASEAN), the ‘umbrella’ organisation for regional cooperation in Southeast Asia, to establish a more complex cooperation to deal with environmental issues.<sup>1</sup> Even though the cooperation has been set up since the 1970s, the transboundary haze problem has made clear that ASEAN needs a deeper plan of action to resolve the environmental issues. ASEAN has since signed an ASEAN Agreement on Transboundary Haze Pollution (2002), produce an various statements and declarations, establish an greement on Transboundary Haze Pollution (AATHP) and its Conference of Parties, set up a center to conserve biodiversity (since 2004), and arrange some policy frameworks to manage the peatland (since 2014).

This development has also raised questions as to whether ASEAN’s approach to environmental issues corresponds to the broader idea of “environmental rights”. At the global level, the concept has been theoretically developed since the 1970s and was acknowledged in international sphere at the 1972 Stockholm Conference on the Human Environment (Shelton 1991) and recent attempts have since been made to incorporate the question of environmental protection with the human rights standard, albeit with some limitations (Shelton and Anton 2011). Yet, the discussion of environmental rights has not fully developed in the ASEAN legal, institutional, and policy frameworks.<sup>2</sup> Although ASEAN member states have incorporated international legal frameworks on Human Rights and the environment (albeit generally) in their national legislations, it is unclear whether

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<sup>1</sup> In this paper, we use the term ‘cooperation’ and ‘governance’ as two different terms. By cooperation, we refer to the practice of interstate relations to talk about mutual interest through diplomatic engagement. This term shall be differentiated with ‘governance’ as the extended form of cooperation, in which state has agreed to establish institution to formally legalise the cooperation and set up rules and procedures. The actors in the practice of ‘governance’ are also more complex. More specifically, in various parts of this paper, we shall refer ‘cooperation’ specifically to regional environmental management prior to 1997 (the first haze crisis in the region), whilst ‘governance’ will be referred to the regional environmental management after 1997. For a helpful discussion on the distinction between ‘cooperation’ and of ‘governance’ in world politics see Young (1989, 1994).

<sup>2</sup> There are several terms such as “Environmental Rights” and “Human Rights to Environment” which appears in some parts article. As will be defined in the subsequent sections, these are three different concepts. Human Rights to Environment refers to a specific legal framework that guarantee the right of citizens to enjoy safe and healthy environment, which has been incorporated into international human rights standard. Taking a broader scope, Environmental Rights incorporate the Human Rights Approach to broader social and physical aspect of clean and healthy environment, in which both humans and non-human beings should be treated equally in the complex “earth system”, even though if it has not yet incorporated into international law. For further discussion see Stone (1972) and Shelton (1991).

ASEAN has also developed such approach on its framework of environmental cooperation.

We seek to fill this gap by investigating if and why the construction of ASEAN cooperations on environment, which was initially established already in 1977 and continues in the wake of political and economic integration since 1998, conflicts with environmental rights. Furthermore, we identify some alternative approaches to incorporate the idea of environmental rights in the future framework of ASEAN cooperations on environment. In so doing, we collect 49 policy documents on ASEAN cooperations on environment, identify the core ideas that underpin the frameworks of cooperations and governance (or what we shall call “metagovernance”) before and after the 1997 regional haze crisis, and furthermore assess the extent to which the framework accommodate environmental rights. Moreover, we offer some possible policy prospects to remedy the problems.

Based on this review, we argue that the existing policy frameworks, both prior and after 1997, has not fully accommodated environmental rights. Whilst the idea of “Human Rights on the Environment” has slightly appeared in ASEAN, the persistence of “environmental sovereignty” in ASEAN environmental cooperation/governance prevent the institutionalisation of Environmental Rights. This argument will be set forth in four sections. The first section establish a theoretical framework to incorporate Environmental Rights and ASEAN Environmental Governance through the idea of global democracy. The second section move to identify the structure and evolution of ASEAN environmental cooperation, which will be traced since the 1970s. The third section assess the current state of ASEAN cooperations on environment based on the framework of deliberative global governance and providing a critique to the dominating “environmental sovereignty” in the current ASEAN environmental governance. The final section conclude and propose some policy implications to remedy these gaps in the future ASEAN environmental governance.

## **2. Environmental Rights, Global Democracy, and Regional Governance: A Framework for Analysis**

### ***2.1. Defining “Environmental Rights”: Contending Perspectives***

There are at least three dominating approaches on the conceptual development of “Environmental Rights”. The first approach, drawing heavily upon international legal frameworks on Human Rights and the Environment, understand ‘environmental rights’ in terms of ‘Human Rights to Healthy Environment’ and related Human Rights framework that has been internationally established in international legal system. Since the 1972 Stockholm Conference, the idea to reconcile Human Rights and environment-related issues has emerged in the legal and academic discourse on International and Constitutional Law. Shelton (1991) argues that Human Rights and Environmental Protection are in fact

complementary, in which the practice of environmental protection needs to consider a Human Rights based approach and Human Rights enforcement needs to incorporate environmental protection in its implementation. From a legal perspective, Lee (2000) traces the legal origins of the Rights to Healthy Environment to the existing domestic and international law, in order to theorise the legal foundation of environmental protection in international level. This approach, to sum up, understands 'environmental rights' as an adaptation of international human rights standards, in responding the challenge of environmental deterioration.

The second approach acknowledges one significant flaw of the previous approach, namely the anthropocentric tendency. Eckersley (1999) paid some attention to legal approach that attempts to 'represent the nature' in global/national politics through an anthropocentric way, which in turn 'silenced' the nature at the expense of individual interests. Stone (1972) questions the anthropocentric conception of environmental law by locating the idea of environmental protection not only as the incorporation of the needs for environmental protection in the existing legal foundation, but move forward to acknowledge the rights of 'non-Human' to co-exist with the Human as an equal legal subject. From different theoretical perspective, Latour (2013) argues that the legal and scientific understanding of environmental deterioration has seduced the human being into a single standard. To resolve the problem, one to acknowledge the complex networked relationship between human and the surrounding environment, which implies the acknowledgement of multiple mode of existence in human society (Latour 2013). The emergence of 'New Materialist' in International Relations theory also acknowledge some limitations of the legal and scientific approach for attempting to 'fix the unfixable' and for drawing heavily upon the Anthropocentric approach resolving environmental deterioration (Dalby 2014, Burket et al 2016, Hamilton 2016a; 2016b).

The third approach considers a 'middle ground' for the environmental rights by proposing the incorporation of environmental issues in the broader practice of 'earth system governance'. Drawing upon the works of Frank Biermann and his colleagues at the 'Earth System Governance', this approach acknowledges the devastating environmental deterioration over the 20<sup>th</sup> century but still consider the political and legal solution to resolve the problem, this approach understand environment as a part of a complex 'earth system' that needs to be governed sustainably by the human being (Biermann 2007, Biermann and Gupta 2011, Biermann et al 2014). They begin with the epoch of anthropocene, which identifies changes in geological and atmospherical environment in the last 1-2 century due to population boom, technological advancement, or wars and other political changes in world politics (Crutzen and Stoermer 2000). However, rather than simply dependent upon the narrow international legal system or abandoning the legal-scientific approach due to its weaknesses, this approach attempts to resolve the problem by creating 'earth system management'. Governing and managing earth system does require a proper acknowledgement of multiple actors in world

politics, as well as the complex inter-actor relationship in world politics (Young 2003; Biermann 2014).<sup>3</sup>

Each approach of course offers provide significant merit in understanding environmental rights, which we would not object. However, it is equally important to acknowledge the strength and limitations of each approach in understanding environmental rights. The first approach proposes a strong legal basis to argue for the rights to healthy environment. However, as Weston and Bollier (2013) has rightfully notes, these legal-juridical form of human rights to environment, however robust in their particularised application, are essentially limited in their legal recognition and jurisdictional reach due to their reliance on “soft law”. Another critique also render this approach for narrowly ‘seducing’ environmental protection into a single standard whilst denying the environmental destruction led by human (Latour 2010, Hamilton 2016b, Burke et al 2016). The second approach attempts to provide a useful critique on how the international law might be resolved by understanding the broader historical and genealogical origins of the environmental destruction and how Humans are attempting to solve the problem, but gives no political and legal solution to deal with the future environmental problems. Another attempt by Stone (1972) to acknowledge legal standing for non-Human Agency in the environmental protection has been useful in providing a constitutional basis for environmental protection, but its application is only limited to particular country in which civil society are strong and vibrant. The third approach, whilst offering a more politically viable solution to advocate environmental protection, has also been limited by the ‘weak’ nature of global governance institutions and the dominance of political power that neglect the environmental sustainability.

## **2.2. Environmental Rights and “Deliberative Global Governance”: Understanding ASEAN Environmental Governance**

To remedy some limitations of the abovementioned approaches, we envisage a new theoretical framework to incorporate environmental rights in the global governance institution, which will be specifically discussed in the case of ASEAN. Following Stone (1972), we define ‘environmental rights’ in two aspects: *First*, a legal mechanism that acknowledges the rights to environment; and *Second*, the physical and socio-physical aspect of the environment that necessitates the acknowledgement of the nature as legal subject. Having acknowledged some limitations on the international legal system on environmental law (Shelton 1991, Boyd 2012), Environmental rights encompasses both ‘Human Rights to Healthy Environment’, which has been legally incorporated in international human right s standard, as well as broader aspects of ‘Rights to Environment’ as argued by Stone. Therefore, our understanding on Environmental Rights considers not only the legal aspect of “Human Rights” and “Environmental Protection” from a constitutional perspective (Boyd 2012) but also the environmental sustainability that requires a

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<sup>3</sup> Whilst agreeing with Professor Oran Young’s arguments on crafting an effective ‘environmental governance’, we also propose that global environmental governance should also ‘democratic’ in the sense that it also embraces participation and acknowledging environmental rights.

sociological and physical inquiry over the future of the earth. This necessitates a new approach of incorporating environmental protection in existing global governance institution.

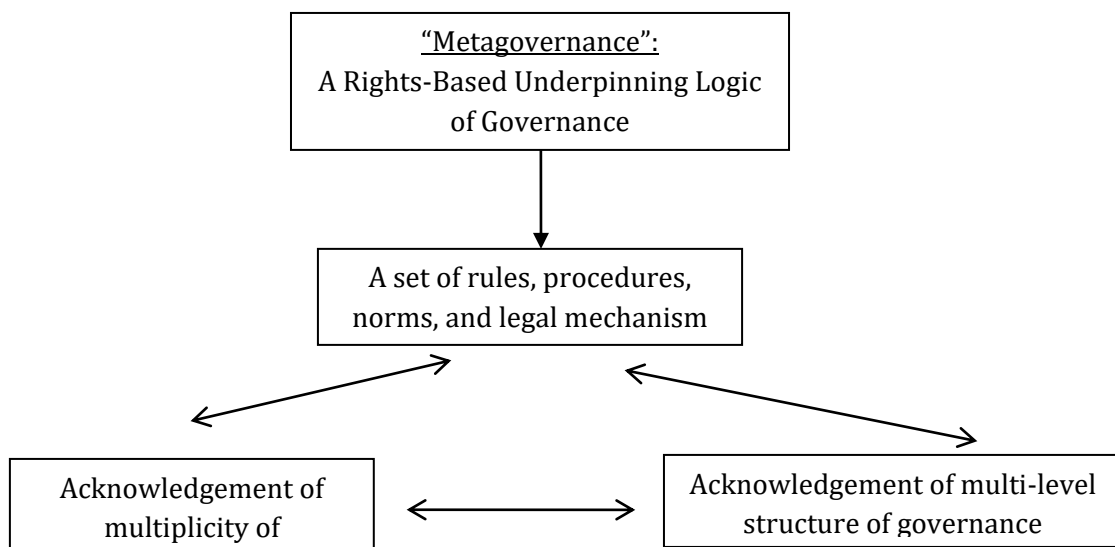
In what follows we offer a more specific methodological framework by drawing upon the general idea of “global democracy” and ‘multi-level governance’ (Dryzek 2000, Dryzek and Stevenson 2014; Flinders and Bache 2004). We shall begin by conceptualising “global democracy”. Whilst most of literatures on democracy seem to focus on the practice of democracy in domestic level, a number of literatures attempt to bring this idea to global governance institution. Cohen and Sabel (2004) argues that the practice of democracy emerges in what they called as “global administrative space”, in which global rule-making bodies or institutions emerged in global politics alongside transnational movement and organisations that operates outside the state. In this new landscape of ‘global governance’, whilst states remain an essential players, there are also an increasing demands from ‘non-state actors’ to participate (Nanz and Steffek 2004). Therefore, democracy is necessary for global governance. Whilst the democratic practice is not necessarily similar to that of national level, Dryzek (2000) argues that democratic practice in global governance could be ‘deliberative’, in which the communicative action of increasingly plural actors in emerging extended space of global governance shape the practice of global democracy. Taking the case of global climate governance as a case study, Dryzek and Stevenson (2011) expands this argument further to analyse how communicative practice help to incorporate sustainability and democracy to the global climate governance institutions such as UNFCCC. The “earth system governance” approach also acknowledges the importance of communicative basis of global governance, which would enable the presence of legitimacy, allocation, and access in the increasingly complex earth system governance (Biermann 2007, Biermann and Gupta 2011).

Drawing upon these concepts, we identify three aspects of ‘deliberative global governance’, namely (1) a strong institutional foundation of global governance, (2) the ‘communicability’ of governance to address multiple interests in global governance, and (3) an acknowledgement of multi-level character of global governance. A strong institutional foundation means that a global governance institution should possess an adequate set of rules, procedurs, and legal mechanism that bind the practice of governance. By “communicability”, we refer to an acknowledgement of multiple actors in global politics, ranging upon the state-non state to human-non-human actors. It is important for global environmental governance to be able to acknowledge and “communicate” to these actors by various means, either directly or indirectly (Dryzek and Stevenson 2011, Dryzek 2000). The communicability of global governance thus enable the accountability and lgitimacy mechanism of the institution (Biermann and Gupta 2011). By multi-level character, we refer to the acknowledgement of multiple levels in which political authority are established in world politics, ranging from global governance, regional governance, national-level governance until sub-national level of governance. It does require further acknowledgement of



multiple constitutional and legal basis of environmental governance in each level (Flinders and Bache 2004, Hooghe and Marks 2001).

In addition, we add another criteria on deliberative global governance, namely a rights-based ‘meta-governance’, in which Environmental rights is normatively pinpointed as the institutional framework that underpin the global governance structure to work in a coherent manner (Jessop 1998, 2004). As a particular ‘meta-governance’, environmental rights underpins the normative assumption of a set of rules, procedures, and legal mechanism that bind the institutional structure of the governance and help establish the communicative practice in the institution (Jessop 2004; Biermann and Gupta 2011). In order to incorporate environmental rights to global governance through democratic-deliberative practices, it is essential to invigorate ‘environmental rights’ as a philosophical-normative foundation in a particular global governance institution. We call this framework as ‘deliberative global (environmental) governance’.



**Figure 1.** The Framework of Deliberative Global Governance

We argue that deliberative global governance fits with ASEAN environmental governance because ASEAN already has a ‘communicative’ diplomatic culture based on shared norms, which is renowned as “ASEAN Way” (Haacke 2003). In addition, ASEAN also underwent an emerging participations from non-state actors, which attempts to fill the institutional spaces in responding regional integration processes (Gerard 2014). Therefore, ASEAN has some potentials to institutionalise democratic-deliberative practices in its regional integration processes.<sup>4</sup> In addition, the framework of “deliberative global governance” could provide a plausible approach to incorporate “environmental rights” in the regional governance through two distinct ways. *First*, this framework offers resolve the limits of jurisdictional and legal instrument of international environmental law by incorporating environmental rights into regional governance, rather than merely establishing international legal framework or declarations. Therefore, environmental rights is considered embedded in the operational instrument and policy framework in regional, national, and subnational level. *Second*, by putting environmental rights as policy and institutional framework of regional governance, this framework comprehends environmental rights further as a “practice”, in the sense that environmental rights is also socially embedded in the everyday interactions between actors in ASEAN (Higgott and Erman 2010; Bueger and Gadinger 2014).<sup>5</sup>

### **3. From “Cooperations” to “Governance”: The Persistence of Environmental Sovereignty in ASEAN**

Having established the theoretical framework, it is important to understand the existing construction of ASEAN cooperations on environment. Our main argument here is that the ASEAN cooperations on environment since 1977 is heavily shaped by the idea of ‘environmental sovereignty’ as the basis of intergovernmental mechanism in crafting ASEAN environmental cooperations and (in the subsequent

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<sup>4</sup> Even though many scholars have argued that ‘democracy’ is not compatible with Asian regionalism because of what they perceived as “Asian value” rooted in Asian developmentalist regimes in the 1970s, we shall refute this claim. We conceptualise “democracy” not in terms of Western values that is incepted in the Asian context, but as a process of “deliberation” that has been practiced by ASEAN member states, either through “diplomatic culture” or non-state actors’ participations in the region. Therefore, democracy is not perceived as a normative ideas that should be incorporated by ASEAN member states, but as a practice of deliberation that has been embedded in ASEAN’s institutional practices since its establishment, albeit with some limitations (that we shall assess in this article). For further discussions on democracy as deliberative practices in global governance, see Dryzek (2000), Higgott and Erman (2010), Dryzek and Stevenson (2014). We would like to thank Andreas Inghammar and Radu Mares for raising this concern.

<sup>5</sup> Bueger and Gadinger (2014) define “practice” as combinations of (1) forms of bodily and mental activities, (2) artefacts or ‘things’ and their use, and (3) a background, implicit or tacit knowledge which organizes the practice and gives meaning to it. From the “practice” theoretical perspective, environmental rights is embodied on the interactions between actors in an existing social and political institution (such as ASEAN) that produces a contested form of knowledge and ideas. We follow Bueger and Gadinger to argue that incorporating environmental rights also require a combination between knowledge production, strong institution based on a specific knowledge, as well as intersubjective relations between “stakeholders” in the region.

phase) governance. We define “environmental sovereignty” as the centrality of state authority in underpinning cooperation regimes and mechanism of governance (Condon 2006). To substantiate the claim, we divide ASEAN cooperations on environment in two phases: (1) pre-1997 era, which witnesses the dominance of interstate cooperation as well as the discourse of environmental sovereignty as the “meta-governance” and (2) post-1997 era, which witnesses the combination between environmental sovereignty and technocratic-scientific instruments in a new form of “regional governance”.

### ***3.1. The First Phase of ASEAN Cooperations on Environment (1977-1997): Crafting Environmental Sovereignty***

We begin by presenting the ASEAN cooperations on environment since the signing of ASEAN Treaty of Amity and Cooperation (1976) and its formalisation one year later (1977). The seed of environmental cooperation has been established through the 1st ASEAN Ministerial Meeting on Environment (AMME) in Manila (1981), which established the Manila Declaration on ASEAN Environment (1981). This is the first documented cooperation on environment in ASEAN, having been preceded by three preparatory meetings in Jakarta (1978), Penang (1979), Manila (1980) and Singapore (1981). The Meeting established ASEAN Environment Program (ASEP) to ensure the protection of the ASEAN environment and its sustainability for regional institution and its member states development. The Declaration was renewed in Bangkok (1984), which continues the progress of established project on the subject of environmental protection and supportive governmental action. Since then, ASEAN Cooperations on Environment was crafted through diplomatic arrangements. ASEAN established cooperations on Heritage Parks and Reserves (1984) and Conservation of Nature and Natural Resources (1985), which was followed by the signing of Jakarta Declaration on Sustainable Development (1987) and several other Declarations on environment until the 1990s.

Since 1981, ASEAN cooperations on environment has been institutionally operated through ASEAN Ministerial Meeting on Environment (AMME), a regular forums attended by Environmental Ministers from each ASEAN Member states. This institutional backdrop posits the state as the major actor in crafting the cooperation, accompanied by a limited number of inter-governmental organisation or other global governance institutions (Elliott 2012, Uhlin 2016). Consequently, the construction of ASEAN cooperations on environment was very state-heavy and represents state’s interests. For example, the Manila Declaration outlined six aspects of environmental cooperation that has been agreed by all ASEAN member states, including (1) environmental management including environmental impact Assessment; (2) Nature Conservation and Terrestrial Ecosystems; (3) Marine Environment; (4) Industry and Environment; (5) Environmental Education and Training; and (6) Environmental information (Manila Declaration 1981). It did not mention some critical environmental issues that was linked to development or extractive industries, which will be harmful to state-led development programs.

The emergence of “sustainable development” at the Rio Declaration on Environment and Development (1992) has also provided a significant impact in the ASEAN cooperations on environment. ASEAN embraced the idea of “sustainable development” for the first time in 1987, when ASEAN environmental ministers has agreed to “adopt the principle of sustainable development” as a part of ASEAN cooperations in the future (Jakarta Resolution 1987). Three years later, ASEAN substantiate the principle in a specific guidelines on “environment and development”, which was considered as the most “pro-development” stance, given the emphasis on natural resource management besides the environmental protection (Kuala Lumpur Accord 1990, Cotton 1999). This stance was, however, gradually changed after 1992, which witnessed the rise of ‘sustainable development’ and the devastating haze crisis in the region.

The construction of ASEAN environmental cooperation between 1981-1997 clearly shows the dominance of “environmental sovereignty”, in which state representative (diplomats) plays key role in crafting cooperation and ratify it in national level (Condon 2006). This is inevitable since ASEAN has adopted non-interference as its main principle in crafting regional cooperation, which locate the state as the main actor (ASEAN Treaty of Amity and Cooperation 1976). In ASEAN, environmental sovereignty operates through the strong role of ASEAN Ministerial Meeting on Environment, who define the environmental problems that should be addressed regionally. It posits ASEAN cooperations on Environment merely as ‘diplomatic forum’, although there were several agreements that addresses environmental issues in the region.

### ***3.2. The Second Phase of ASEAN Cooperations on Environment (1997-2017): Combining Environmental Sovereignty with Technocratic-Scientific Measurement***

The 1997 forest fires, which was followed by disastrous haze crisis in the region, marks a shift in ASEAN cooperations on environment. ASEAN member states have since agreed to craft a more complex form of cooperation and gradually develop a form of regional environmental governance. After a series of negotiation, ASEAN member states established an Agreement on Transboundary Haze Pollution (2002), which served as a more rigid framework of cooperations in tackling regional haze problem. This agreement has been followed by a set of institutional and policy framework that strengthen the implementation of this agreement, particularly (1) a set of institutional and scientific bodies in ASEAN Secretariato; and (2) the Conference of Parties that accompanies the Agreement. In addition to Transboundary Haze Pollution, the post-1997 environmental cooperation in ASEAN also established framework to tackle climate change, as well as further institutionalisation of ‘sustainable development’ which has been set out as development goals by the United Nations in 2015.

The institutionalisation of ASEAN Cooperations of Environment has been further set forth after the ASEAN Agreement on Transboundary Haze Pollution. The ASEAN Ministerial Meeting on Environment (AMME) has been accompanied by the

Senior Official Meeting on Environment (SOME), which was based at the ASEAN Secretariat. Further institutionalisation was accorded following the signing of AATHP. For example, the Agreement has established several key measurements to anticipate haze in the region, including Monitoring and assessment, Prevention, Preparedness, National and joint emergency response, Procedures for deployment of people, materials and equipment across borders, and technical cooperation & scientific research (AATHP 2002). The agreement has also established ASEAN Coordinating Centre for Transboundary Haze Pollution Control at the ASEAN Secretariat to handle the regional haze crisis, as well as an ASEAN Specialised Meteorological Centre in Singapore. These institutions are overseen by a Conference of Parties, which consists of Environment-related ministers of ASEAN member states. The CoP hold meeting annually to discuss the progress of AATHP implementation. In the prevention level, the Agreement also established some key guidelines regarding peatland management system in the region.

However, the construction of ASEAN cooperations on environment after 1997 has also failed to escape from the trap of “environmental sovereignty”. For example, the ratification of AATHP has been varied in all ASEAN Member states due to state’s domestic politics. Whilst countries like Brunei Darussalam, Malaysia, and Singapore ratified the Agreement in 2003, it takes a decade for Indonesia to process the ratification. The progress of AATHP Implementation were therefore halted in some key parts in Indonesia and the Philippines (who ratify the Agreement in 2010). Environmental sovereignty also persists in the institutional structure of ASEAN environmental governance. Whilst the ASEAN Secretariat and the accompanying technocratic bodies that deal with haze issues are gaining prominence after the signing of AATHP, the direction of these technocratic bodies are still dependent upon the Conference of Parties (CoP), which consists of state ministerial representative that negotiate in a regular basis. It is also worth noting that the AATHP itself has also been guided by a basic principle that maintains state sovereignty to exercise their rightst to land and development, although accompanied by a principle of “responsibility not to cause damage and harm” (AATHP 2002:3; Elliott 2012). Consequently, state sovereignty remains at the core of the Agreement whilst partially giving authority to scientists and ASEAN technocratic body to deal with haze through scientific measurement.

These developments have showed that ASEAN cooperations on environment has been put forward by combining “environmental sovereignty”, which has been set forth earlier, with a specific technocratic and scientific mechanism in ASEAN secretariat and related bodies that set the basis of a new regional environmental governance. The AATHP, for example, has recommended the establishment of scientific framework to combat the haze, which was followed by the establishment of ASEAN Peatland Management System (2002). Furthermore, the framework of cooperation has also been further developed by the ASEAN Senior Officer on Enviromnent at the ASEAN Secretariat, who meet annually to craft the cooperation in the ASEAN Ministerial Meeting on Environment. The wider role of ASEAN Secretariat marks the “paradigm shift” of ASEAN cooperations on environment but

not necessarily transform the idea of “environmental sovereignty” that has been established in ASEAN.

#### **4. Where is Environmental Rights in ASEAN? A Critical Assessment**

The persistence of “environmental sovereignty” in ASEAN has raised further questions as to whether the existing frameworks ASEAN cooperations on environment, and its evolving form of environmental governance after the haze crisis in 1997. Where is environmental rights? This section will move further to locate the position of environmental rights in the evolving forms of cooperation. To do so, we assess four aspects of ASEAN environmental governance, namely (1) metagovernance; (2) institutional, policy, and legal mechanism; (3) actors involved; and (4) structure and level of governance.

**4.1. Metagovernance.** We begin with the aspect of metagovernance, which relates to the underpinning logic and normative foundation that shapes the environmental cooperations and governance (Jessop 1998, 2004). From the previous section, it could be concluded that that both pre-1997 and post-1997 frameworks of ASEAN cooperations on environment has crafted, and sustained, environmental sovereignty, in which the state define the direction and the content of cooperation. This is particularly evident in three key documents on ASEAN environmental cooperation prior to 1997 (Manila Declaration 1981, Bangkok Declaration 1984, Jakarta Resolution 1987, and Jakarta Declaration 1997), which makes no explicit mention on ‘Human Rights’ or ‘Rights to Environment’, and instead prefer to embrace ‘sustainable development’. The exception is the ASEAN Agreement on the Conservation of Nature and Natural Resources (1985), which “requires contracting parties to circulate information on the significance of conservation measures and their relationship with sustainable development objectives” (Shelton 1991). What is at stake in this Agreement is that this agreement makes no explicit mention on the practice of mining and extractive industries, as well as its relationship with the rights to healthy environment. Thus, whilst providing an obligation for the contracting parties in natural resources industries to provide information, this Agreement does not specifically mention the rights to healthy environment that is central in our understanding of Environmental Rights.

This pattern occurs in other documents. The objective of Manila Declaration (1981) focuses on “the sustainability of its natural resources so that it can sustain continued development”, which explicitly refers the environmental cooperation to state-led development and natural resource extractive industries. The ASEAN Agreement on Transboundary Haze Pollution (2002) acknowledge the terms “rights” as a basic principle, but referring it to “the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies” (AATHP 2002). Consistent with the previous statements, other post-1997 documents, such as ASEAN Declaration on Sustainable Development (2007) or Bangkok Resolution on Environmental Cooperation (2015) have evidently made

no mention, at all rates, to the notion 'rights'. It could be concluded that the discussion on rights in ASEAN cooperations on environment has been marginalised at the expense of 'sustainable development' or environmental conservation'.

**4.2. Institutional Design and Policy Frameworks.** The negligence of rights in the construction of ASEAN environmental governance, particularly after 1997, has a significant impact in the institutionalisation of Human Rights on Environment in ASEAN. To date, ASEAN makes only a little progress to incorporate international legal standards on the Human Rights on the Environment, such as the Stockholm Declaration on the Human Environment (1972), the Rio Declaration on Environment and Development (1992), the Aarhus Convention on Access To Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998), or the Declaration on the Rights to Indigenous People (2007). Some documents have partially referred to the Rio Declaration (1992) on the rights to development but does not fully accommodate some Human Rights aspects on environment and development. Furthermore, whilst ASEAN has formally established some declarations, resolutions, and even Agreements that encompass several international legal frameworks on the environment and development, the idea of environmental rights have been diminished at the expense of sustainable development or natural conservation, rendering "environmental rights" to state sovereignty in managing their development. The persistence of "environmental sovereignty" as the metagovernance in ASEAN, as previously discussed, halted further incorporation of environmental rights in ASEAN.

The limits of ASEAN Human Rights System, which has been developed since 2007, has also contributed to the lack of progress in incorporating Human Rights to Environment in the regional level. The establishment of ASEAN Community in 2003, which consists of political security, economic, and social cultural sector as the main pillar of the regional integration, has provided some opportunities to establish a more developed Human Rights system in the region. It was started with the establishment of ASEAN Intergovernmental Commission on Human Rights (AICHR), which was initiated in 2007 and was formally established in 2009. The Commission has been able to draft an ASEAN Human Rights Declaration (AHRD), which was signed in 2013. However, even though ASEAN has set up a set of regional Human Rights institution, its function was not effective enough to enforce Human Rights standard in the region (Tan 2013, Ginbar 2010). Even the ASEAN Human Rights Declaration (2012) was rendered as controversial because it endorses particularism in approaching Human Rights (Nandyatama, Prabandari and Umar 2014). At the Terms of Reference (ToR) that guides the legal basis of AICHR, there is only a limited role of the Commission to socialise Human Rights across the region. There are, however, no specific role to investigate, report, or even enforce Human Rights rule in ASEAN member states (Terms of Reference 2009).

The lack of enforcement and compliance has therefore been considered as major obstacle in ASEAN Human Rights system, along with the absence of monitoring bodies and a coordinated Human Rights institution across the region.<sup>6</sup> Jirajindakul (2016) furthermore argues that the lack of strong institutional and legal mechanism in environment-related issue has made ASEAN unable to resolve some problems resulted from growing trade and economic cooperation in the region, such as pirate fishing, logging industries, and the rights of indigenous people. Consequently, when it comes to Human Rights on the Environment, ASEAN has not yet providing a specific legal, institutional, and policy mechanism. In contrast, ASEAN tends to bring back state sovereignty in dealing with environmental issues rather than functioning Human Rights standards. This leads to the absence of coherent policy mechanisms in regional and national level.

**4.3. Participation.** The lack of Rights-based institutional, policy, and legal mechanism in ASEAN environmental cooperation has also affected two other factors in establishing deliberative global governance, namely the participation of nonstate actors and the acknowledgement of multi-level structure of ASEAN environmental governance, particularly after the 1997 haze crisis. The persistence of environmental sovereignty has resulted in the dominance of state as the key player in crafting ASEAN environmental governance. Prior to 1997, it is state representative who define the area of environmental cooperation through ASEAN Ministerial Meeting on Environment. The post-1997 structure of cooperation witnessed growing involvement of several technocratic and scientific institution in transforming the cooperation in a more complex form of governance, particularly related to haze. This transformation, whilst giving some spaces to a limited 'stakeholder' (particularly, scientists and bureaucrats within ASEAN secretariat), does not open wider participations from non-state actors in the policymaking processes.

As Aviel (2000) has rightfully noted, the idea of Human Rights on the Environment was endorsed by civil society organisations from 'outside' ASEAN, particularly through ASEAN People's Assembly/ASEAN Civil Society Conference. Therefore, there is a high demand of participation in the emerging ASEAN regional governance (Gerard 2014). However, it does not mean that ASEAN is also embracing participation in its regional mechanism. The absence of "indigenous" people in the regional legal-institutional frameworks reflects the lack of participation of non-state actors in the ASEAN cooperations on environment. Whilst ASEAN Human Rights Declaration has acknowledged the protections and freedoms of indigenous rights (Article 4), it does not mention their role and participation, thus rendering this to national legislatures. Therefore, as similarly happened to wider civil society organisations, the role of indigenous groups who live alongside the environment (such as *Orang Asli* of Malaysia or various ethnic groups in Indonesia and Thailand) has also yet to be acknowledged in ASEAN

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<sup>6</sup> We thank Professor Andreas Inghammar for suggesting this point.



(Tessier 2015). This absence thus made further issues of economic exploitation over the natural resources and indigenous community being neglected in ASEAN.<sup>7</sup>

**4.4. Structure of Governance.** Finally, it is also important to consider how the state of ASEAN Cooperations on Environment address the multi-level structure of governance in regional. The construction of ASEAN environmental cooperation prior to 1997 has arguably built upon one-level governance, in which interstate relations shape the regional cooperation with no underlying authority in regional level. In this period, interstate relations dominates the framework of environmental cooperation in ASEAN. After 1997, ASEAN established technocratic and scientific institutions, which transfer some of authority to the ASEAN Secretariat (as well as related scientific bodies) in crafting a new form of environmental governance. From this viewpoint, ASEAN cooperations on environment has acknowledged two structure of governance after the 1997 haze crisis, namely ‘regional’ and ‘national’. It is an advanced position from the pre-1997 cooperation that relies upon interstate cooperation with limited role of regional institutions.

However, whilst the cooperation has been gradually transformed, it still overlooks another level in ASEAN regional governance, namely the subnational authority in a decentralised –or even devolved and federalised— form of governance (Lele forthcoming; Tan 2005). It is important, for example, to acknowledge the federal system in Malaysia or decentralisation in Indonesia to understand the distribution of power and authority from national to subnational authority. In the environmental context, decentralisation plays important part because the authority to grant extractive licence and execute environmental policies were given to subnational government (Federal or Province). The construction of ASEAN environmental governance as discussed in previous section tends to overlook this layer and at the same time overemphasising the national government as the overarching authority in ASEAN regional governance. It resulted in the non-compliance of subnational authorities in handling, for example, transboundary haze pollution and peatland management (Varkkey 2015).

The negligence of subnational level of governance affect the construction of environmental rights. Since ‘environmental rights’ also deal with issues related to environmental justice and political power (Osofsky 2005), the implementation also requires the acknowledgement of subnational level of governance. The negligence of subnational authority in ASEAN environmental governance could result in the uneven understanding of environmental rights by political authority, which will makes the idea of environmental rights to be understood only at a certain amount of policymakers. Addressing the issue of non-compliance by subnational government is therefore vital in exacerbating ASEAN regional environmental governance.

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<sup>7</sup> As Kingsbury (1998) pointed out, the acknowledgement of “indigenous people” has also been lacking in broader international law, not only in ASEAN. We thank Cahyo Seftyono for suggesting this point.

## **5. Concluding Remarks: Democratising ASEAN Environmental Governance?**

This paper has proposed a specific framework of “deliberative global governance”, which has been offered as an alternative approach to incorporate environmental rights in the existing ASEAN environmental governance. We conclude that ASEAN Cooperations on Environment that relies upon intergovernmental mechanism as the main approach to deal with regional environmental issues has put aside environmental rights in four senses: (1) the cooperations were based on ‘environmental sovereignty’ and neglecting environmental rights; (2) it lacks sufficient institutional, policy, and legal mechanism to enforce environmental rights and its aspects (3) it is not participatory in the process; and (4) it does not adequately acknowledge multi-level structure of governance in ASEAN context, which is vulnerable with non-compliance by subnational authority. We argue that it is necessary to evaluate the existing attempts reconstruct ASEAN environmental governance in the future, which necessitates further elaboration on how ASEAN might embraces environmental rights. In so doing, we suggest that endorsing a framework of “deliberative global governance” in ASEAN could remedy these problems, which includes the following strategies.

**5.1. Putting Environmental Rights at the Centre of ASEAN Debates and Policymaking Processes.** It requires the politics of ‘knowledge production’ to mainstream the idea of Human Rights and the environment in ASEAN. Having said that, the role of epistemic communities (including think-tank organisations and research institutons) in developing specific ideational is essential.<sup>8</sup> Ideas matter, and it needs to be incorporated deeper within ASEAN’s institutional structure. In so doing, it is equally important for any epistemic communitie to develop what Backstrand (2003) called as ‘civic science’, in which scientists could engage with other actors to endorse environmental rights deeper in ASEAN’s ‘meta-governance’. It requires a production of knowledge related to Environmental Rights, which could be further developed by scientists, academics, or policymakers.

**5.2. Establishing Comprehensive Institutional, Policy, and Legal Mechanism based on the idea of Environmental Rights.** In order to bring the idea into policy changes, one needs to articulate it into a set of institutional practice.. Those who aims to endorse environmental rights in ASEAN needs to formulate a strategy of ‘discursive engagement’ with policymakers in national and regional level by translating the complex idea of environmental rights into a set of operational mechanism.<sup>9</sup> Moreover, it is equally important to formulate a guiding principles

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<sup>8</sup> By ‘epistemic communities’ we refer to Peter Haas’ definition as “a network of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain or issue-area” (Haas 1992). However, we do not understand ‘professionals’ merely in terms of academics or think tank organisations, but also encompasses other professions who do activities related to ‘knowledge production’.

<sup>9</sup> Dryzek and Stevenson (2014) defines ‘discursive engagement’ as an inter-subjective interactions that involves not only ‘actors’, but also ‘ideas’ and ‘discourse –how a specific actor brings the ideas into practice. Discursive engagement in terms of environmental governance means that a particular ‘scientific approach’ should not be the only measurement of environmental governance; we should also

on environmental rights as an operational ‘handbook’ and ‘guiding principles in order to incorporate environmental rights deeper in institutional, policy, and legal mechanism in ASEAN.

**5.3. Engaging Multiple Stakeholders in Environmental Governance and Institutionalising Participation in Environmental Governance.** The persistence of ‘environmental sovereignty’ in ASEAN could be responded by better engagement with multiple ‘stakeholders’. In ASEAN context, multi-stakeholders engagement could be conducted through (1) endorsing participations from those who are affected by environmental problems, either directly or indirectly, and (2) advocating for more spaces and interactions in regional level for non-state actors. Besides that, wider participations from indigenous people to at least get their voices heard in ASEAN forums should be endorsed. It requires constructive engagement between state and non-state actors in ASEAN.

**5.4. Integrating Policy Framework to Subnational Policy Process.** Given the multi-level structure of ASEAN regional governance (Lele forthcoming), engagement with policymakers in subnational level is undoubtedly necessary. ASEAN needs to acknowledge the multiple political structure in the region by constructively engaging with subnational government, along with multiple stakeholders. Therefore, environmental rights could be brought to the deeper level of society. It is therefore necessary to consider how local government ‘comply’ with ASEAN regional policy framework in reframing ASEAN environmental governance in the future.

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acknowledge various approaches and dimension of knowledge. It means that engagement between scientists, governments and various entities in society is necessary in the future environmental governance.

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**APPENDIX. THE STRUCTURE AND EVOLUTIONS OF ASEAN COOPERATIONS ON ENVIRONMENT (1981-2017)<sup>10</sup>**

**1. Declaration, Accords, and Statement**

<b>No</b>	<b>Document</b>	<b>Year</b>	<b>Summary</b>
1.	Manila Declaration on the ASEAN Environment	1981	Establishing ASEAN Environment Program (ASEP) to ensure the protection of the ASEAN environment and its sustainability for regional institution and its member states development.
2.	Bangkok Declaration on the ASEAN Environment	1984	Establishing ASEAN Environment Program (ASEP) II to continue the progress of established project on the subject of environmental protection and supportive governmental action.
3.	ASEAN Declaration on Heritage Parks and Reserves	1984	Establishing cooperation on a regional conservation and management action; regional complementary mechanism; and supportive national effort on implementation of conservation measure.
4	Jakarta Resolution on Sustainable Development	1987	ASEAN member states shall adopt the principle of sustainable development to guide integration in the regional common effort, including: common seas, land-resources and land-based pollution, tropical rain-forces, air quality, and urban and rural pollution.
5.	The Kuala Lumpur Accord on Environmental and Development Issued by The ASEAN Minister for the Environment at The Fourth ASEAN Minister for the Environment Meeting	1990	Initiating efforts towards concrete steps to environmental and natural resources management; sustainable economic development; and also formulating a common ASEAN position on environment and development.
6.	Resolution on Environment and Development	1992	Strengthening regional cooperation on environmental management and protection, and sustainable development, in order to take a leading role toward global environment and development issue (UNCED).
7.	Resolution on Environment and Development	1994	Implementing environmental and economic sustainable development cooperation on the regional Agenda 21, in line with the outcome of UN

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			conference on environment and development.
8.	Jakarta Declaration on Environment and Development	1997	Endorsing project of environmental and sustainable development cooperation in ASEAN: ASEAN Environment Year 2000, ASEAN Environment Award, and ASEAN Regional Center for Biodiversity Conservation; to take ecological impact on the national, regional, and global economic growth into account.
9.	ASEAN Declaration on Heritage Parks	2003	Enhancing established cooperation on ASEAN Heritage Parks 1984 with the recent ASEAN member states (Cambodia, Lao PDR, Myanmar, and Viet Nam) and promoting concrete international support and partnership with World Heritage sites.
10.	Yangon Resolution on Sustainable Development	2003	Actively contributing in Vientiane Action Plan, environmental degradation and land and forest fires and transboundary pollution related issue, and ASEAN Marine Water Quality
11.	Cebu Resolution on Sustainable Development	2006	Continuing in assisting affected ASEAN member states within the framework of the ASEAN Agreement on Transboundary Haze Pollution, and encouraging the remaining member states to cooperate.
12.	Singapore Declaration on Climate Change, Energy, and the Environment	2007	Addressing common challenge on the climate change within the participating countries (ASEAN member states, China, India, Japan, Korea, and New Zealand).
13.	ASEAN Declaration on the 13 <sup>th</sup> session of the Conference of the Parties to the UNFCCC and the 3 <sup>rd</sup> session of the CMP to the Kyoto Protocol	2007	Enhancing the cooperation among ASEAN member states to support global action (UNFCCC and Kyoto Protocol) towards climate change, in order to achieve regional and national sustainable development and sustained economic growth.
14.	ASEAN Declaration on Environmental Sustainability	2007	Maintaining ASEAN's environmental protection and management, and conservation of natural resources and responding the climate change.
15.	Singapore Declaration on Climate Change, Energy, and the Environment	2007	Continuing support for implementation of UNCCD and the Convention on Biological Diversity (CBD) at regional and global level, in regards to appreciate EAS
16.	Ministerial Statement of the Inaugural EAS	2008	Cooperation in the area of environmentally sustainable cities, including:

	Environment Minister Meeting Ha Noi		promoting and facilitating member states to adopt technology and urban plannin.,
17.	Singapore Resolution on Environmental Sustainability and Climate Change	2008	Enhancing regional cooperation and collaboration with international community to combat transboundary haze pollution through preventive, monitoring and mitigation effort to tackle forest fires, and address other transboundary environmental pollution.
18.	ASEAN Joint Statement on Climate Change to the 15 <sup>th</sup> Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change and the 5 <sup>th</sup> Session of the Conference of Parties Serving as the Meeting of Parties to the Kyoto Protocol	2009	Supporting efforts to enhance effective implementation of REDD+ mechanism in developing country, as well as supporting the livelihood of local communities in a sustainable manner.
19.	ASEAN Leaders' Statement on Joint Response to Climate Change Ha Noi	2010	Establishing ASEAN Working Group on Climate Change (AWGCC) with the purpose of exchanging views among ASEAN member state on international climate change negotiation under the UNFCCC.
20.	Statement on ASEAN Plus Three Youth Action on Environment	2010	Commitments to 140 ASEAN+3 Youth Environmental activities, including: exchanging, sharing, and brainstorming their concern towards environmentalism and sustainable development in the region.
21.	ASEAN Leaders' Statement on Climate Change to the 17 <sup>th</sup> Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) and the 7 <sup>th</sup> Session of the Conference of the Parties Serving as the Meeting of Parties to the Kyoto Protocol	2011	Continuing the exchanging views among ASEAN member states on international climate negotiation under the UNFCCC towards COP 17 and CMP 7 in South Africa, and other international conferences and meeting through AWGCC.
22.	Bangkok Resolution on ASEAN Environmental Cooperation	2012	Eliminating transboundary haze pollution in the ASEAN region with regional and international cooperation under ASEAN Agreement on Transboundary Haze Pollution (AATHP) to ensure zero burning techniques land clearing in the national level.
23.	Joint Statement of ASEAN Environment Minister	2012	Engaging cities and local authorities in national biodiversity conservation

	for the Eleventh Meeting of the Conference of the Parties to the Convention on Biological Diversity		strategies to incorporate their inputs in national reporting framework for reiterating ASEAN's support in the objectives of CBD: conservation, sustainable use, and access and benefit manner.
24.	New Delhi ASEAN-India Ministerial Statement on Biodiversity	2012	Exchanging views within ASEAN-India Minister and senior officials responsible for environment on biodiversity and conservation, to enhance awareness among all stakeholders.
25.	ASEAN Joint Statement on Climate Change	2014	Elaborating 2015 agreement COP21 for the post- 2020 period.
26	Statement by the ASEAN Environment Minister for the Twelfth Meeting of the Conference of the Parties to the Convention on Biological	2014	-
27.	ASEAN Joint Statement on Climate Change to the 21 <sup>st</sup> Session of the Conference of the Parties to the United Nation Framework Convention on Climate Change (COP21)	2015	Enhancing sustainable development efforts throughout the ASEAN region during the pre-2020 ambition, in particular through the ratification of the Kyoto Protocol and the outcome of Bali Action Plan.
28.	Declaration on ASEAN Post-2015 Environmental Sustainability and Climate Change Agenda	2015	Attaining the Sustainable Development Goals (SDGs) with the implementation of the ASEAN Summit and the ASEAN ministerial meeting on Environment to ensure coherence, transparency, continuity, and effectiveness of the representation within ASEAN member states.
29.	ASEAN Joint Statement on Climate Change to the 22 <sup>nd</sup> Conference of the Parties (COP-22) to the United Nations Framework Convention on Climate Change (UNFCCC)	2016	Calling upon all parties to the UNFFCC, developed country, and developing country to support the fulfillment of the existing mitigation and financial support commitment, and work together in a good faith.
30.	ASEAN Joint to the Thirteenth of the Conference of Parties to the Convention on Biological Diversity (CBD COP 13)	2016	Accelerating efforts on the Strategic Plan for Biodiversity 2011-2020 and SDG's agenda implementation to achieve the Aichi Biodiversity Target by 2020.

## 2. Agreement

No	Document	Year	Summary
1	Agreement on the Conservation of Nature and	1985	ASEAN member states shall develop and coordinate national conservation

	Natural Resources		strategies within the regional framework on conservation strategies, to preserve regional nature and natural resources.
2	ASEAN Agreement on Transboundary Haze Pollution	2002	Following severe land and forest fires in 1997-1998, ASEAN Member States (AMS) signed the ASEAN Agreement on Transboundary Haze Pollution (AATHP) on 10 June 2002 in Kuala Lumpur, Malaysia, to prevent, monitor, and mitigate land and forest fires to control transboundary haze pollution through concerted national efforts, regional and international cooperation.
3	ASEAN Agreement on the Establishment of the ASEAN Centre for Biodiversity	2005	This Agreement is for the establishment and initial operation of the ASEAN Centre for Biodiversity (ACB) arising from the ASEAN Regional Centre for Biodiversity Conservation. The ACB is an intergovernmental regional center of excellence that facilitates regional and global cooperation on the conservation and sustainable use of biodiversity.

### **3. Haze-Related Policy & Institutional Framework**

<b>No</b>	<b>Document</b>	<b>Year</b>	<b>Summary</b>
1	ASEAN Specialised Meteorological Centre (ASMC)		Through its website and communication with ASEAN Member States and the ASEAN Secretariat as the Interim ASEAN Coordinating Centre for Transboundary Haze Pollution, ASMC provides monthly weather and haze outlook, satellite images, hotspot information, air quality information, and fire danger rating.. ( <a href="http://asmc.asean.org/home/">http://asmc.asean.org/home/</a> )
2	Standard Operating Procedure for Monitoring, Assessment and Joint Emergency Response		These Standard Operating Procedure highlighted the two main bodies National Monitoring Centres (NMC) that will do the monitoring measures and the ASEAN Coordinating Center for Transboundary Haze Pollution (ACC) that will issue weather forecasts and haze outlook on monthly basis..
3	Fire Danger Rating System (FDRS) for Southeast Asia		A system that monitors forest/vegetation fires risk and supplies information that assists in fire management and produce the outputs that

			can be used to predict fire behaviour and as a guide to policy-makers in developing actions to protect life, property and the environment.
4	Alert Levels and Trigger Points		ASEAN agreed on common four alert levels: (i) Prevention and Preparedness; (ii) First Alert; (iii) Second Alert; and (iv) Third Alert, trigger points, and the corresponding actions to monitor and respond the fire and haze situation in the region Each alert level will be activated based on the agreed respective trigger points, and corresponding actions are to be taken by ASEAN Member States.
5	Panel of Experts		The Panel of Experts have developed the operational procedures for the activation of the experts, deployment procedures, execution (or the conduct of the rapid assessment itself), demobilisation, and reporting procedures. The Panel of Experts convenes at least once every year to do hands-on activities, such as refresher courses on conducting rapid assessment, field trips and table-top/simulation exercises on the procedures for the Panel of Experts.
6	Roadmap On ASEAN Cooperation Towards Transboundary Haze Pollution Control With Means Of Implementation.	2016	The Roadmap serves as a strategic framework for the implementation of collaborative actions to control transboundary haze pollution in the ASEAN region. It consists of four (4) main components, i.e. the vision, the overall goal with indicators, key strategies with measures of progress, and actions.
7	ASEAN Peatland Management Strategy (APMS)	2003	With the big concern on maintenance of peatland since its uniqueness of the soil structure and its character that easily burned, the ASEAN Peatland Management Strategy (APMS) under APMI covering the period 2006-2020 has been developed to guide the countries to sustainably manage peatlands and reduce fires and associated haze within the framework of the ASEAN Agreement on Transboundary Haze Pollution.

#### 4. Haze-Related Publication

y	Document	Year	Summary
1	Fire, Smoke and Haze – The ASEAN Response	2001	The book is intended as a reference source and general guide for fire and

	Strategy		haze management in the ASEAN region by bringing together the current knowledge about land and forest fires, examines the causes and impacts with particular reference to Southeast Asia, and suggests national, regional and global action to deal with the challenge.
2	Guidelines for the Implementation of the ASEAN Policy on Zero Burning	2003	This publication provides techniques, guidelines and also highlight the benefits, prerequisites as well as constraints in implementing zero burning practices, among others, based on commercial scale experience of plantation companies in Malaysia and Indonesia as ASEAN has adopted the zero-burning policy in 1999.
3	Guidelines for the Implementation of Controlled Burning Practices	2004	As ASEAN recognize the difficulties of smallholders, farmers and shifting cultivators in implementing zero burning practice these guidelines provide recommendations on the implementation of controlled burning and other related practices, to promote sustainable forest management and environment-friendly land management and agricultural practices.
4	ASEAN Peatland Management Initiative (APMI)	2005	The ASEAN Peatland Management Initiative (APMI) was adopted by ASEAN in 2003 to promote sustainable management of peatlands in the ASEAN region through collective actions and enhanced cooperation as well as to reduce risk of fire and associated regional haze and contribute to global environmental management.
5	The ASEAN Peatland Management Strategy (APMS)	2007	The objectives of the APMS are to enhance awareness and capacity on peatlands, address transboundary haze pollution and environmental degradation, promote sustainable management of peatlands, and to promote regional cooperation.
6	ASEAN Peatland Management Strategy 2006-2020, Updated September 2013	2006, Updated 2013	The APMS has been prepared due to the pressing need recognised by both local and international communities for wise use and sustainable management of peatlands as well as the emerging threat of peatland fire and its associated haze to the economy and health of the region, and its possibility of contributing to global climate change.
7	ASEAN Guidelines on Peatland Fire	2015	This guidelines provide prevention, preparedness, response, recovery of



	Management		forest fire.
8	ASEAN Agreement on Transboundary Haze Pollution – Reprint 2016 ( <a href="http://haze.asean.org/wp-content/uploads/2016/11/AATHP-reprint.pdf">http://haze.asean.org/wp-content/uploads/2016/11/AATHP-reprint.pdf</a> )	2016	The objective of this Agreement is to prevent and monitor transboundary haze pollution as a result of land and/or forest fires which should be mitigated, through concerted national efforts and intensified regional and international co-operation. This should be pursued in the overall context of sustainable development and in accordance with the provisions of this Agreement.
9	ASEAN Programme on Sustainable Management of Peatland Ecosystems 2014-2020	2016	ASEAN Member States adopted the ASEAN Peatland Management Strategy 2006-2020 (APMS) and updated it in 2013 to provide guidance for collaborative action and key targets.