



**STRENGTHENING CAPACITY FOR ENVIRONMENTAL LAW IN  
THE ASIA-PACIFIC : DEVELOPING ENVIRONMENTAL LAW CHAMPIONS**

**Manila, March 22<sup>nd</sup> - 26<sup>th</sup>, 2015**

# **Case Study of Trans-boundary Haze Pollution in ASEAN Countries**

**Laode M Syarif, Ph.D**

*Hasanuddin University, Faculty of Law*

*and*

*Partnership for Governance Reform in Indonesia*



# Objective of this Case Study

To examine :

- (1) The effectiveness of *ASEAN Agreement on Transboundary Haze Pollution* in ASEAN Countries
- (2) Possible political and legal settlement to the issue of transboundary haze pollution ASEAN Countries;
- (3) Possible appropriate remedies to the victim states caused by the forest fires from their neighbour countries.

# Relevant Facts

- The use of fires for land clearing by ‘traditional farmers’ is a common practice in Asia, but they never cause trans-boundary haze pollution in the past,
- The use of fires for land clearing has become a **big regional problem** in South East Asia when the **big/industrial palm-oil plantation** started operating in early 1980’s.

# Chronology of the 'big' fires



Photo: CIFOR

- 1982-1983: 3.2 M ha
- 1991 : 500.000 ha
- 1994: 5 M ha. --->

Sources: S. Tahir Qadri, (2001), Anne Guyon & Dicky Simorangkir (2002)  
Forest Watch Indonesia-Global Forest Watch, *The State of the Forest: Indonesia*, (2000)



# The 'Summit' of Fire 1997-1998

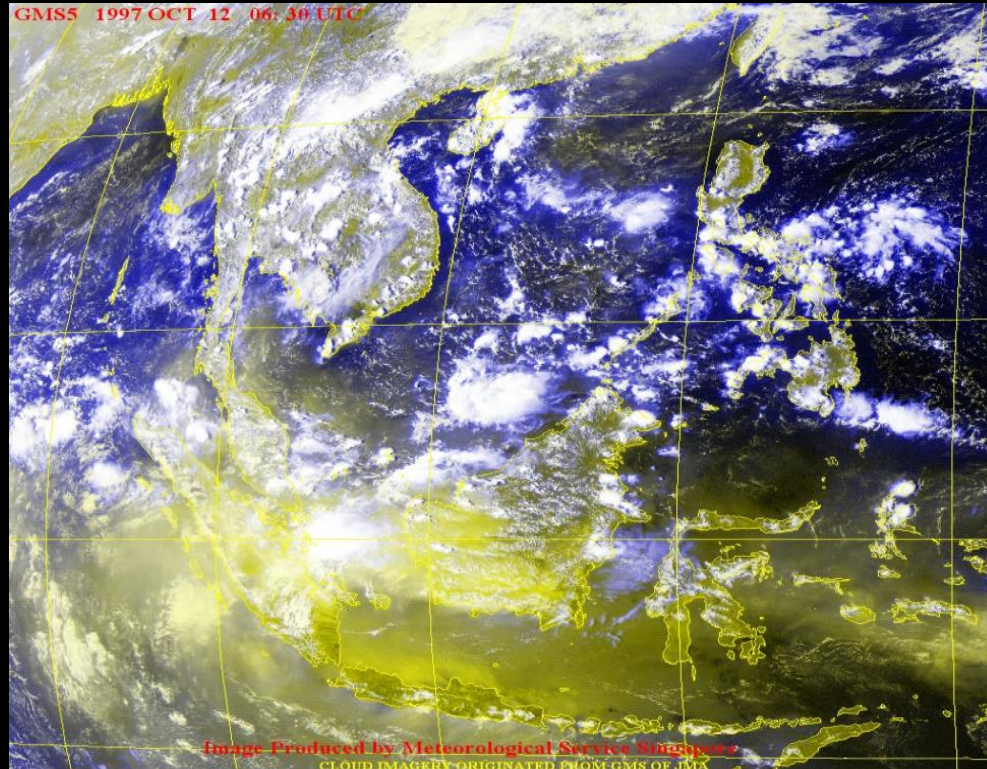


Photo: Meteorological Service of Singapore, 12 Oct 1997

11.7 million ha and affecting almost all AMS

# 2014 Fires



Four Sumatran tigers spotted on people plantation, the government offices and schools were closed due to black and toxic haze from forest fires in Riau and Sumatera.

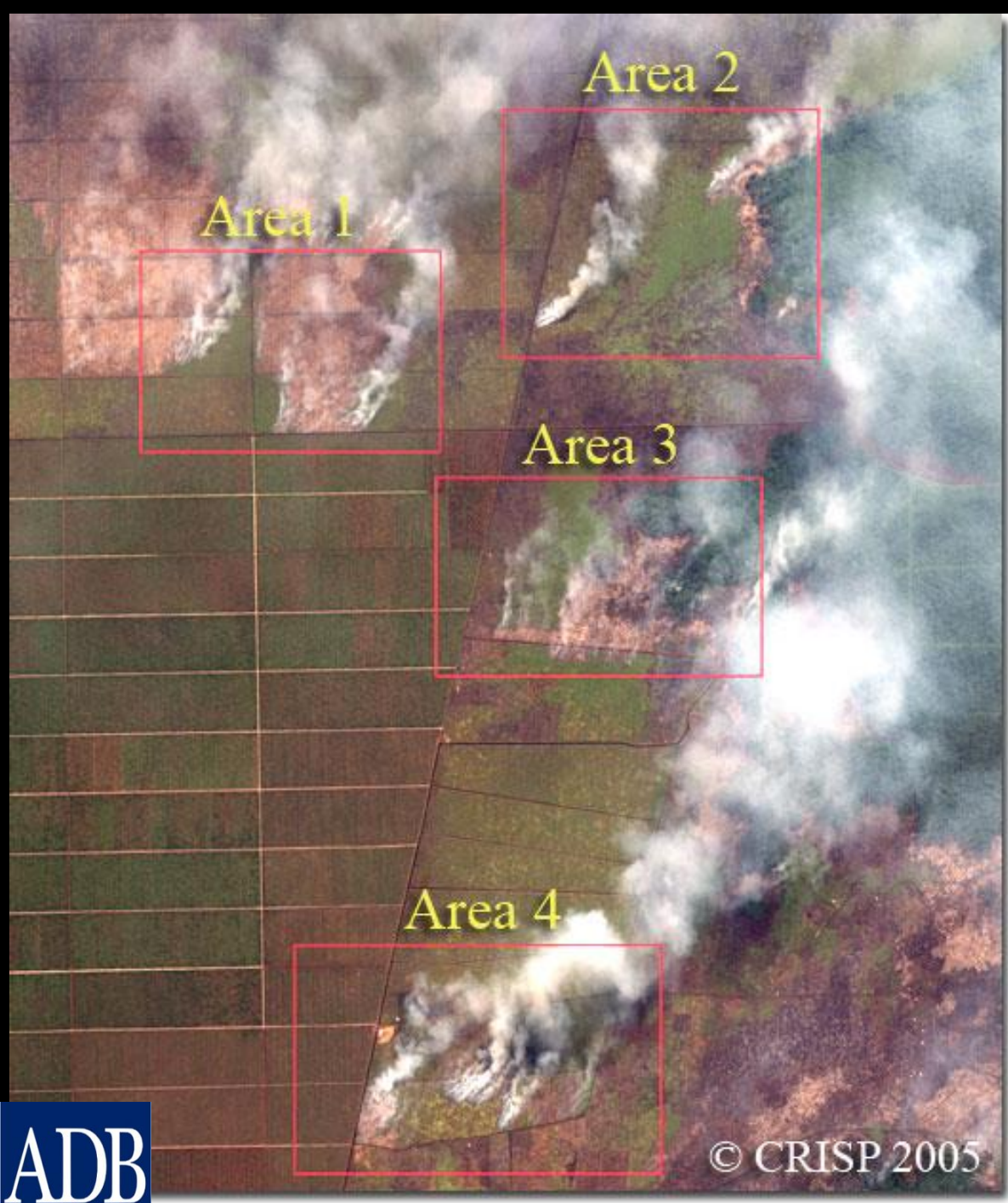
---

To CUT the story short...  
**every dry season 'April to August'**  
Indonesia **emitting a toxic haze** to its  
own territory and its neighbors,  
especially Malaysia, Singapore & Brunei  
Darussalam

---

Where the Fire come from?

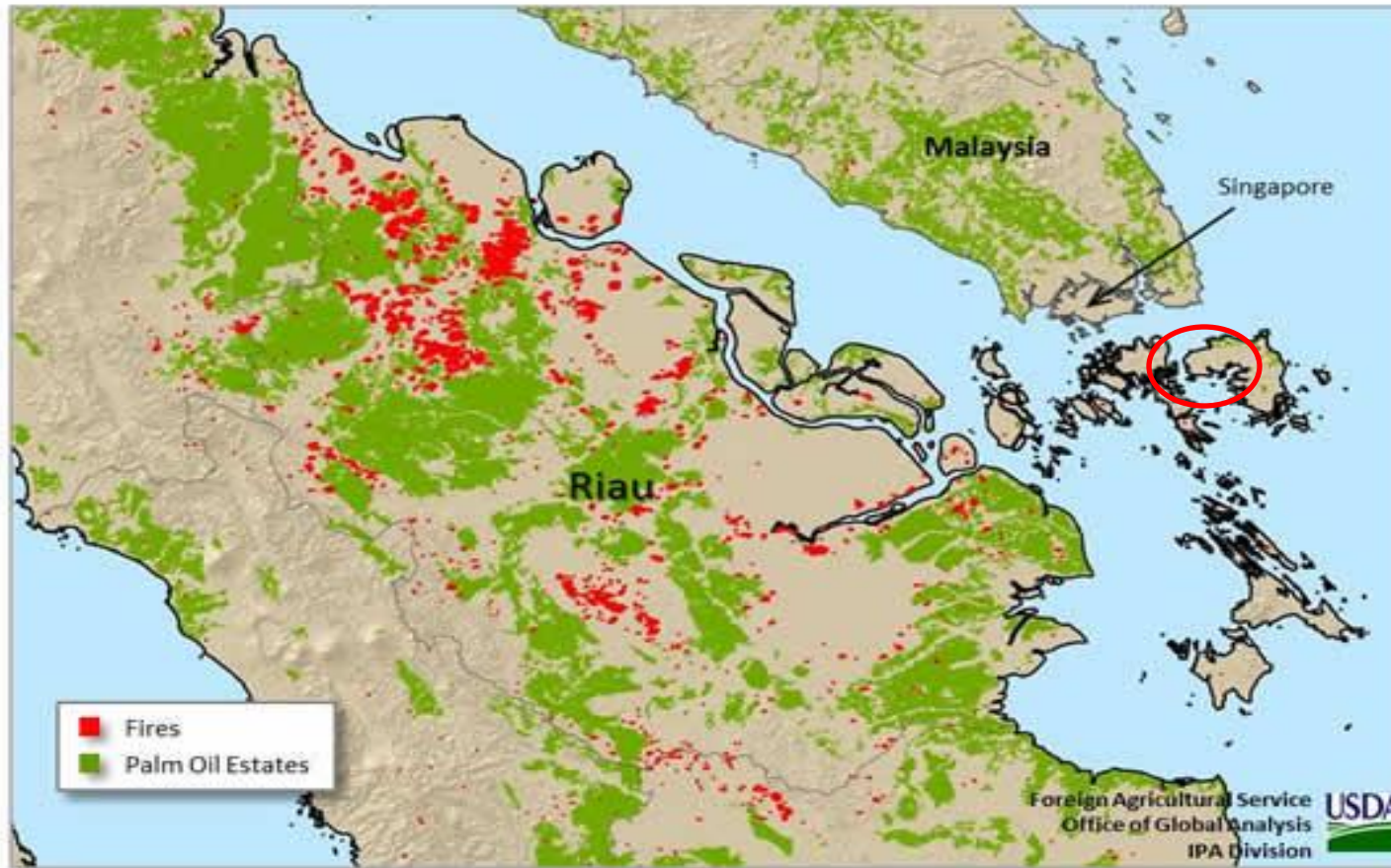




Most Fires came  
from  
Concession Areas  
of large  
Plantations  
*High Resolution  
2005 Fires  
Sumatera.  
2014 technology even  
more accurate*

# 2013-Where is the Fire come from?

SUMATRA, INDONESIA: Fire Locations June 18-25, 2013



Sources: NASA-FIRMS Daily Fire Data , 2013; Center for Remote Imaging, Sensing & Processing (CRISP) 2010

# Indonesian export to Malaysia







## Export to Singapore





# Economic Loss



*ADB and BAPPENAS (Indonesian National Development Agency) summarised that economic loss due to 1997-1998 fires was **US\$ 9,298 million (Indonesia)**, **US\$ 321 million (Malaysia)** and **US\$ 69.3 million for (Singapore)**;*

*There is **no comprehensive data about economic loss** experienced by the 4 countries from forest fires in 2000-2014.*



# A Few others Relevant Facts

# Relevant Facts

- Some Palm oil corporations operating in Indonesia are Malaysian and Singaporean or/and have headquarter in Malaysia or Singapore.
- The use of fires is prohibited by ASEAN Haze Agreement and the National Law of Indonesian, Malaysia and Singapore.
- The **Former Presidents** of Indonesia (Soeharto, Megawati and Susilo Bambang Yudhoyono) have **formally apologised** to the Head of State and the people of Malaysia, Singapore, and Brunei Darussalam for the harm they experience;
- In the last 20 years, Indonesian Government failed to effectively enforced its national law to bring the companies who burn their concessions to Justice. (It is only lately, the Indonesian Government shows some kind of seriousness to prosecute companies involved in forest fires).

# Total area of Oil Palm Plantation



- 8 Million Hectares (2013)
  - 13 Million Hectares (2020)
  - Most of them are located in Sumatera and Kalimantan (Borneo)
- (Source: Ministry of Agriculture, 2013)



# Indonesia's Palm Oil Production and Export

	2010	2011	2012	2013
Production	21.8	23.5	26.5	28.0
Export (MT)	15.6	16.5	18.1	21.0
Export (USD-Billion)	16.4	20.2	21.6	N/A

Sources: FAO, Indonesian Palm Oil Producers Association (Gapki) and Indonesian Ministry of Agriculture

# Relevant Laws

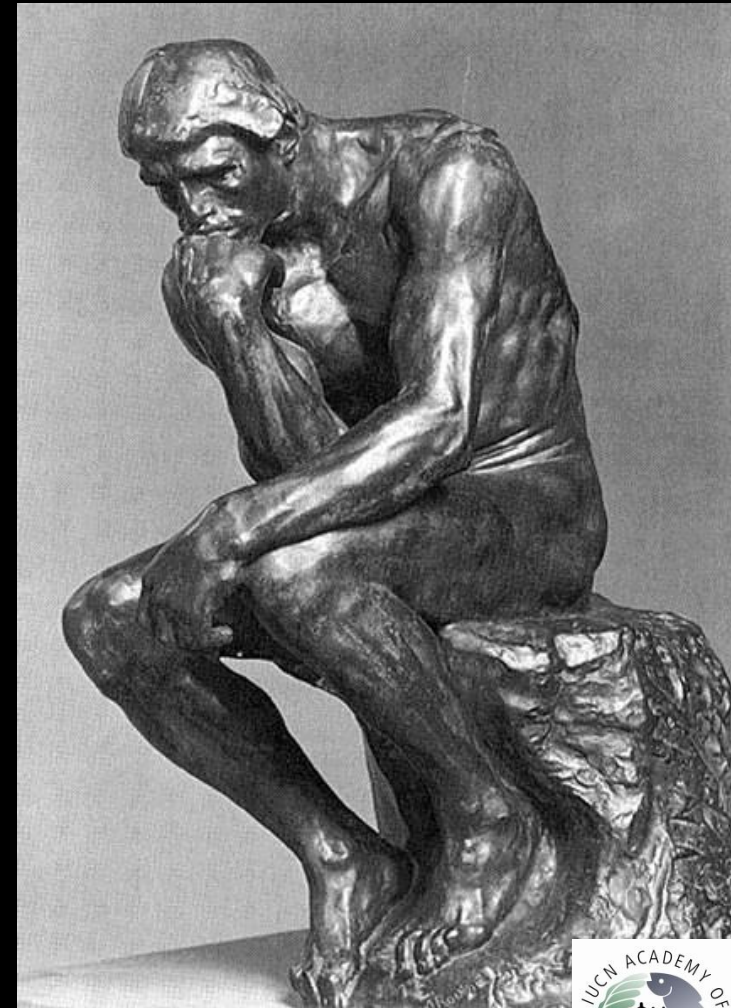
- *1985 ASEAN Agreement on the Conservation of Nature and Natural Resources*
- 2002 ASEAN Agreement on Transboundary Haze Pollution
- **Law No 32/2009 Environmental Management and Protection Act (Indonesia)**
- *Government Regulation No. 28 of 1985 on Forest Protection. (Indonesia)*
- **Law No 18/2013 on Prevention and Eradication of Forest Degradation (Indonesia)**
- Environmental Quality Act, 1974 (Malaysia)
- **Transboundary Haze Pollution Act, 2014 (Singapore)**

Note: These Laws PROHIBIT the use of Fire to open up large plantation



# Reflection

- *What kind of legal actions that can be used by the victim states to hold 'resource country' responsible?*
- *What kind of 'positive engagement/appropriate solution' that can be "accepted" by Indonesia and victim States to resolve this problem ?*
- *What are the barriers for the enforcement of forest fire cases in Indonesia?*
- *What lessons can be learnt from this case study?*





*Thank you-Terima kasih*

Email: [laode.syarif@kemitraan.or.id](mailto:laode.syarif@kemitraan.or.id) &  
[syariflaw@gmail.com](mailto:syariflaw@gmail.com)

Twitter: @LaodeMSyarif

Mobile: +62-8111-899-689