



Developing Environmental Law Champions

Strengthening the Capacity For Environmental and Climate Change Laws in Asia and the Pacific



Biodiversity Law in SE Asia – an Overview

Day 5, Session IX

Panel discussion – Regulation of Forests and Biodiversity

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Outline of the presentation

- Constitutional provisions
- Biodiversity laws
 - Biosafety
 - Access to genetic resources and benefit-sharing (ABS)
- Laws governing ecosystems and species
- Framework environmental laws
- Review of protected areas laws under the Biodiversity Conservation and Management of Protected Areas in ASEAN Project (BCAMP)



Association of South East Asian Nations (ASEAN) Member States

- Brunei Darussalam
- Cambodia
- Indonesia
- Lao PDR
- Malaysia
- Myanmar
- Philippines
- Singapore
- Thailand
- Vietnam



Constitutional provisions

- Lao PDR (2015)
 - All citizens and organizations must protect biodiversity
- Thailand (2017)
 - Individuals and communities have the right to manage and use biodiversity
 - Citizens have a duty to protect biodiversity
 - The State must conserve biodiversity and minimize negative impacts on it
- Vietnam (2013)
 - The State must adopt policies to conserve biodiversity
 - Organizations and individuals that deplete biodiversity shall be severely punished and must pay compensation



Constitutional provisions

- Natural resources and/or environment
 - Brunei (2006)
 - Use of NR in the context of a state of emergency
 - Cambodia (2008)
 - The State protects forests and the environment
 - Indonesia (2002)
 - NR are under State jurisdiction and use must be equitable
 - Lao PDR (2015)
 - NR and forests are national heritage
 - Malaysia (2010)
 - National development plan is for development, improvement, and conservation of NR



Constitutional provisions

- Natural resources and/or environment
 - Myanmar (2008)
 - Environment and NR are on the Union legislative list
 - Philippines (1987)
 - Autonomous regions have legislative authority for NR
 - Thailand (2017)
 - NR and environment mentioned together with biodiversity
 - Vietnam (2013)
 - The State must adopt policies to conserve nature
 - Organizations and individuals that cause pollution and exhaustion of NR shall be severely punished and must pay compensation



Biodiversity laws/regulations

- Myanmar, Conservation of Biodiversity and Protected Areas Law 2018
 - Does not regulate biosafety or ABS
- Vietnam, Biodiversity Law 2008
 - Regulates both biosafety and ABS
- Cambodia, Biodiversity Conservation Corridors Sub-decree 2017
 - Does not regulate biosafety or ABS



Biodiversity laws/regulations - biosafety

- Cambodia
 - Biosafety Law 2008
- Indonesia
 - Biosafety Regulations 2005
- Lao PDR
 - Biotechnology Safety Law 2014
- Malaysia
 - Biosafety Act 2007
- Philippines
 - Multiple guidelines
- Singapore
 - Multiple guidelines
- Thailand
 - Multiple notifications
- Vietnam
 - Multiple decrees, decisions, and circulars



Biodiversity laws/regulations

ABS

- Lao PDR
 - Biotechnology Safety Law 2014
- Malaysia
 - Access to Biological Resources and Benefit Sharing Act 2017
- Philippines
 - EO 1995, DAO 1996, AO 2000
- Singapore
 - ABS regulated through research permits
- Vietnam
 - Decree 2017



Biodiversity - ecosystems

Ecosystems

Forest

- all ASEAN States, except Singapore which has a Parks and Trees Act

Aquatic

- all ASEAN States, regulated by fishery laws

Wetlands

- Cambodia, Biodiversity Corridors Sub-decree, Protected Areas Law 2008
- Lao PDR, Protected Area Decree 2015
- Myanmar, Conservation of Biodiversity and Protected Areas Law
- Philippines, National Integrated Protected Areas System Act 2017
- Thailand, Marine and Coastal Resources Management Promotion Act 2015
- Vietnam, Law on Environmental Protection 2014



Biodiversity - species

Wildlife laws and regulations

- Brunei, Wildlife Act 1984
- Lao PDR, Law on Wildlife 2007
- Malaysia, Wildlife Conservation Act 2010/2014
- Philippines, Wildlife and Habitats Act 2001
- Singapore, Wild Animals and Birds Act 2000
- Thailand, Wildlife Preservation and Protection Act 2019

Other laws

- Cambodia, Law on Forestry 2003, Protected Areas Law 2008
- Indonesia, Conservation of Living Resources and their Ecosystems Act 1990
- Myanmar, Conservation of Biodiversity and Protected Areas Act 2018
- Vietnam, Biodiversity Law 2008, Law on Forestry 2017



Biodiversity in environment laws/regulations

- 9 of 10 ASEAN Member States (AMS) have general environment laws
 - Philippines does not have an umbrella environment law - individual laws and regulations on clean air and water, solid waste management, hazardous materials, and decrees on EIA
- 1 AMS environment law has multiple enabling provisions on biodiversity conservation
 - Vietnam, Law on Environmental Protection 2014
- 1 AMS environment law has provisions on protecting ecosystems
 - Thailand, National Environmental Quality Act 1992/2018
- 4 AMS environment laws have general provisions on NR or forests
 - Cambodia, Law on Environmental Protection and Natural Resource Management 1996
 - Lao PDR, Environmental Protection Law 2012
 - Myanmar, Environmental Conservation Law 2012/2018
- 4 AMS environment laws are pollution-focused with no provisions on biodiversity or NR



Biodiversity in ASEAN

ASEAN Centre for Biodiversity (ACB)

- <https://aseanbiodiversity.org/>
- Established 2005, based in Philippines
- One of 10 ASEAN specialized centres

ASEAN Heritage Parks (AHP)

- First declared in 1984
- 49 AHPs: Brunei Darussalam - 1; Cambodia - 2; Indonesia - 7; Lao PDR - 1; Malaysia - 3; Myanmar - 8; Philippines - 9; Singapore - 2; Thailand - 6; Viet Nam - 10

Biodiversity Conservation and Management of Protected Areas in ASEAN Project (BCAMP)

- EU-funded
- Mainstreaming biodiversity
- AHPs



BCAMP reviews of protected area laws

Protected area (PA) law/decree

- all AMS except Brunei and Vietnam

IUCN Guidelines for Protected Areas Legislation

- Constitution
- National policy/NBSAP
- Laws, decrees, decisions
 - Definitions
 - Objectives
 - Principles
 - Institutional arrangements
 - System planning
- Laws, decrees, decisions
 - Establishment of protected areas
 - Site management
 - Regulated activities
 - Compliance and enforcement
 - Offences and penalties
 - Financing



BCAMP reviews of protected area laws

Aichi Target 11

Globally and in ASEAN, partially met in terms of % of coverage

Target elements remaining to be met:

- Areas of particular importance for biodiversity and ecosystem services
- Effectively and equitably managed
- Well-connected
- Ecologically representative



BCAMP reviews of protected area laws

- Areas of particular importance for biodiversity and ecosystem services
 - Ecologically representative
 - Well-connected

National PA system

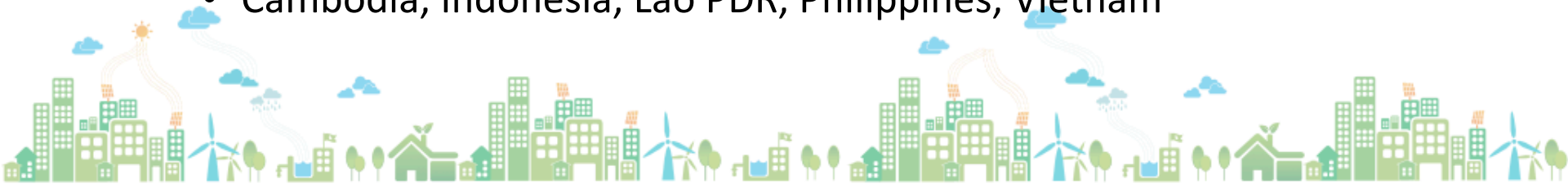
- Cambodia and Philippines – explicit
- Lao PDR and Singapore - implicit

Payments for ecosystem services

- Indonesia, Lao PDR, Myanmar, Philippines, Vietnam

Corridors/connectivity

- Cambodia, Indonesia, Lao PDR, Philippines, Vietnam



BCAMP reviews of protected area laws

Effectively and equitably managed

Site planning

- Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Thailand, Vietnam

PAs integrated into land use plans

- Cambodia (implicit), Indonesia, Philippines, Thailand (partial), Vietnam

Public participation in site planning

- Cambodia, Lao PDR, Thailand

Public participation in establishing PAs

- Brunei (objection only), Cambodia, Myanmar, Philippines, Thailand, Vietnam



BCAMP reviews of protected area laws

Effectively and equitably managed

Public participation in changing/de-gazetting PAs

- Cambodia and Thailand

Co-management

- Cambodia, Lao PDR, Myanmar (implicit), Philippines (implicit), Vietnam (MPAs only)

Community PAs/ICCAs

- Cambodia (possible under the Land Law), Myanmar, Philippines, Thailand, Vietnam

Benefit-sharing

- Myanmar, Philippines, Thailand, Vietnam



BCAMP reviews of protected area laws

Effectively and equitably managed
Financing

Fund

- Brunei, Cambodia, Lao PDR, Malaysia, Philippines

Donations

- Brunei (cash only), Cambodia, Indonesia, Lao PDR, Malaysia, Philippines, Singapore, Vietnam

PAs enabled to retain income

- Cambodia (site-specific), Indonesia (possible but not explicit), Myanmar (re-allocated), Philippines, Thailand, Vietnam

Polluter pays

- All ASEAN States except Brunei



BCAMP reviews of protected area laws

Effectively and equitably managed

Incentives for compliance

- Brunei, Malaysia, Myanmar – protection for informants
- Rewards for performance – Lao PDR

Administrative enforcement powers

- All AMS

Police powers

- Brunei, Cambodia, Lao PDR, Malaysia, Philippines, Singapore, Thailand



BCAMP reviews of protected area laws

Summary

- All AMS had regulated either the ecosystems or species components of biodiversity, or both, prior to the CBD
- All AMS have amended existing laws and/or adopted new laws since the CBD came into force
- 5 AMS have regulated both biosafety and ABS
 - Lao PDR, Malaysia, Philippines, Singapore, Vietnam
- 3 AMS have regulated only biosafety
 - Cambodia, Indonesia, Thailand
- AMS have partially regulated issues central to achieving Aichi Target 11



Thank you

