

MELAKA MEMORANDUM OF UNDERSTANDING FOR COOPERATION AMONGST THE ASEAN JUDICIARIES

The Chief Justices of the Supreme Court of Brunei Darussalam, the Supreme Court of Cambodia, the Supreme Court of the Republic of Indonesia, the People's Supreme Court of Lao, the Federal Court of Malaysia, the Supreme Court of the Union of Myanmar, the Supreme Court of the Philippines, the Supreme Court of Singapore, the Supreme Court of Thailand, and the Supreme People's Court of Vietnam, and designees from their respective highest courts (hereafter "the ASEAN Chief Justices and Senior Judiciary"), gathered at the Second ASEAN Chief Justices' Roundtable on Environment held in Melaka, Malaysia on 7-10 December 2012.

The ASEAN Chief Justices and Senior Judiciary hereby:

Recognize that Southeast Asia faces common Environmental Challenges that threaten the path to sustainable development; these Environmental Challenges require good governance to resolve; and the foundation of good governance is the rule of law;

Recall that judges, over time, have agreed up on various declarations on environmental cooperation and good governance, including:

- (a) the Johannesburg Principles on the Role of Law and Sustainable Development, agreed at the first Global Judges Symposium at Johannesburg, South Africa in August 2002;
- (b) the Bangalore Principles of Judicial Conduct, adopted by the Judicial Group on Strengthening Judicial Integrity, as revised at the Round Table Meeting of Chief Justices at The Hague, Netherlands, on 25-26 November 2002;
- (c) the Statement of Asian Judges (the "Asian Judges Statement") agreed at the Asian Judges Symposium on Environmental Decision Making, the Rule of Law, and Environmental Justice in Manila, Philippines, on 28-29 July 2010;
- (d) the Jakarta Common Vision on Environment for ASEAN Judiciaries (the "Jakarta Vision") agreed at the ASEAN Chief Justices Roundtable on Environment held in Jakarta, Indonesia, on 5-7 December 2011;
- (e) the Bhurban Declaration agreed at the South Asia Conference on Environmental Justice held in Bhurban, Pakistan, on 24-25 March 2012; and
- (f) the Rio+20 Declaration on Justice, Governance and Law for Environmental Sustainability, agreed at the World Congress on Justice, Governance and Law for Environmental Sustainability held in Rio de Janeiro, Brazil, on 17-20 June 2012.

Compelled by a common desire to establish and implement an operational framework for environmental cooperation amongst the judiciary in ASEAN countries, the ASEAN Chief Justices and Senior Judiciary, as champions and guarantors of the rule of law, set out the

framework to operationalize the principles contained in the Asian Judges Statement and the Jakarta Vision through this Memorandum of Understanding.

PART I

DEFINITIONS

For the purposes of this Memorandum of Understanding:

1. **“Environmental Laws”** means the body of international, regional, and national laws, codes, implementing rules, regulations, executive decrees, and other regulatory measures to protect and preserve the environment; or related to energy and other natural resources; air, water, noise and land quality and pollution; forests and forestry; wildlife and biodiversity; and impose penalties for environmental harm or damage. .
2. **“Environmental Challenges”** means the common environmental challenges for Southeast Asian countries set out in Part II (A) below, and includes any new global, regional, or national environmental challenges that may arise from time to time.
3. **“Environmental Legal Challenges”** means the key legal and capacity challenges identified in Part II (B) below, and includes any new common legal and capacity issues that affect the efficiency and effectiveness of environmental adjudication and enforcement in Southeast Asia.
4. **“Environmental Information”** means all legal information that relates to the preservation, protection and conservation of the environment, including (a) Environmental Challenges and Environmental Legal Challenges; (b) best practices in environmental decision-making and adjudication; (c) judicial decisions on environmental cases; (d) basic curricula on environmental law for training the legal profession, law enforcement community, and text materials used at law schools; and (e) any commentary regarding the implementation and enforcement of such laws.

PART II

COMMON ASEAN CHALLENGES

A. ENVIRONMENTAL CHALLENGES

The ASEAN Chief Justices and Senior Judiciary recognize the common environmental challenges of the Southeast Asian region and the challenges they bring to the legal system:

1. **Climate Change** – Southeast Asia is highly vulnerable to climate change, and is increasingly a significant contributor to global greenhouse gas emissions. Heat waves, droughts, floods, and tropical cyclones have been more intense and frequent, causing extensive damage to property, other assets, and human life. Climate change is expected to worsen all pre-existing environmental problems within Asian countries, with Southeast Asia being

especially vulnerable to climate change due to the concentration of its population along coastlines, dependence on agriculture for livelihood, and high poverty levels. Climate change also poses the highest risk to biodiversity in Southeast Asia. Increasing heat and water stresses, extreme weather events, and climate-associated pests and diseases have all contributed to biodiversity loss and decline in agricultural and fisheries production potential in many parts of the region.

2. **Deforestation and Illegal Logging** – Southeast Asia is one of the world’s more densely forested areas. Deforestation and illegal logging thus present a critical environmental challenge. Deforestation is driven by conversion of forests to agriculture such as rubber and palm oil and shrimp fishing; infrastructure development, particularly roads; and population growth. Illegal logging also remains a significant cause of deforestation, and massive illegal logging trade causes government and market revenue losses. There are no international mechanisms that address illegal logging, but ASEAN countries are required to protect certain timber products as endangered under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

3. **Biodiversity Loss and Illegal Wildlife Trade** –Southeast Asia is one of the most biodiverse regions in the world, with three countries considered as “megadiverse”. Wildlife trade escalates into an environmental crisis when it is overexploited, unsustainable, and illegal. The illegal trade includes exchange of endangered flora and fauna, and poaching of animal parts for decoration, as ingredients for traditional medicine, aphrodisiacs, and wild meat. Several factors drive illegal wildlife and flora trade – food, cultural medicine, religion, collections – but the primary driving factor is simply economic. The value of the global illegal wildlife trade is US\$10-20 billion per year. If biodiversity continues to be overexploited against this figure, scientists estimate that up to 42% of Southeast Asia’s animal and plant species will become extinct within this century. While all ASEAN countries are parties to the CITES, and have national laws to protect biodiversity and prevent illegal wildlife trade, increasing affluence, low penalties, and lack of enforcement have resulted in rampant illegal wildlife trade across the region.

4. **Ocean Destruction, Illegal Fishing and Marine Pollution** – Southeast Asia is endowed with the world’s richest and most diverse marine resources. Maintaining these resources is vital because they support livelihoods and maintain food security and nutrition for Southeast Asia’s coastal communities. Overfishing and illegal fishing practices adversely affect many Southeast Asian countries, posing serious threats to the sustainability of fish stocks. Harmful fishing practices, such as trawling and dynamite fishing, directly contribute to ocean habitat destruction, damaging coral reefs as nursery grounds for marine wildlife. Marine biodiversity is also threatened by the increase in coastal development, agricultural run-off, and discharge of untreated sewage into the near-shore waters, leading to a variety of marine pollutants.

5. **Development Planning and Environmental Impact Assessment** – Industrial development in the regional economy continues to come at an environmental cost to Southeast Asia, particularly due to increasing carbon and pollution emissions, high incidence of

deforestation and pollution and biodiversity loss. The failure to implement effective environmental impact assessments and engage the public in decision-making over development project choices early in the decision-making process worsens existing environmental challenges.

6. **Freshwater Pollution** – Southeast Asia is endowed with abundant freshwater resources for raw food and water supply. Despite regional abundance, there are dry spells in certain regions of countries, and raw water is limited by pollution. Because of increased industrial activity, water quality has also suffered from contamination resulting from dumping untreated waste into freshwater sources. Overextraction of freshwater resources such as groundwater leads to negative effects such as the permanent lowering of the water table, deterioration of water quality, and saline intrusion in the coastal area.

7. **Urbanization and Air Pollution** – Southeast Asia hosts developed and increasingly urbanized cities, but is also home to highly congested metropolitan areas as a result of exponential rural-to-urban movements. Rapid urbanization places stress on existing urban infrastructure and services, which in most developing countries are not adequate for current urban dwellers. A range of environmental challenges stem from the combination of urbanization and poverty: the provision of clean water and clean sanitation, air and water pollution, greenhouse gas emissions, and mass consumption leading to excessive solid waste.

B. CHALLENGES OF ASEAN JUDICIARIES

The ASEAN Chief Justices and Senior Judiciary acknowledge the common legal and institutional challenges in environmental adjudication that exist across jurisdictions:

1. **Legal and Evidentiary Challenges** – Recognizing the role of the judiciary as champion and guarantor of the rule of law, resolving environmental disputes and applying and interpreting Environmental Laws present challenges to judicial decision making. These challenges involve the following issues:

(a) **Standing rules** – Traditional standing rules require a plaintiff to have a sufficient or personal stake in the outcome of a case, traceable to the defendant, to distinguish the individual from other persons or the public at large. This traditional principle poses a challenge to judges, especially in environmental cases where the right to bring suit is not completely confined to a limited number of persons-in-interest, but has been relaxed in many jurisdictions across the world, including some in Southeast Asia.

(b) **Burden of proof and the application of the precautionary principle** – Setting a standard for the burden of proof in proving claims in environmental cases is a key challenge for judges, given the availability and complexity of evidence and uncertainty inherent in all scientific evidence. The precautionary principle states that when human activities may lead to threats of serious and irreversible damage to the environment that is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that threat. In resolving environmental cases, judges are faced with a need to apply the precautionary principle and

shift the burden of proof to establish a causal link between an alleged environmental law violation and its adverse effects.

- (c) **Damages** – The damages caused by environmental pollution are often hidden and accumulated and the effects of pollution are delayed. This poses challenges for judges in quantifying the risks and damages of environmental pollution. Also, judges are faced with complications in the assessment of environmental damages in economic terms. Awarding pecuniary damages does not ensure that the environmental injury is repaired. Other environmental situations present additional challenges to evaluating damages.
- (d) **Expert and scientific evidence** – Understanding scientific and expert evidence, and weighing and evaluating such complex evidence particularly when expert evidence conflicts, is a key challenge encountered by judges in decision-making. Long delays in trials often result from failure to grasp scientific and expert testimonies that arise more often in environmental cases.
- (e) **Sanctions and penalties** – Sanctioning environmental violations should have the effect of deterring future environmental crimes, but sanctions currently being imposed are often not significant. Additional challenges include ensuring consistency in applying sanctions, and contexts for the imposition of creative penalties for specific environmental crimes across trial and appellate courts.
- (f) **Enforcement** - Judicial authorities face non-compliance with judgments in environmental cases. Strengthening the power of the courts to hold parties in contempt should be addressed to uphold the integrity of Environmental Laws and judgments rendered under them.
- (g) **Alternative environmental dispute resolution (AEDR)** – While seen as an expeditious means of resolving cases out of court, AEDR mechanisms may not be ideal for all types of environmental disputes. In cases where they are applicable, actual implementation of the mechanisms poses further challenges.

2. **Capacity and Governance Challenges** – Southeast Asian generalist and environmental courts and judges recognize that they also face institutional challenges to ensure effective environmental adjudication and decision making. These capacity and governance challenges are the following:

- (a) **Access to environmental justice** – Access to justice is a key pillar of environmental governance in Principle 10 of the Rio Declaration. Ensuring access to justice is often conceptualized as expanding the ability of citizen access to courts, and expanding the rights of public interest litigants to bring cases to courts. This access to the formal legal system remains a challenge, especially in cases involving indigent litigants most affected by environmental damage who live in rural areas, but a range of challenges also arise in allowing them to access informal systems of environmental justice.

- (b) **Judicial capacity** - The judiciary must have the human and financial resources consistently and sufficiently available to effectively discharge its mandate. The judiciary should have sufficient numbers of judges competent in the field of environmental law (including forest, wildlife conservation, marine preservation, land law and related matters) to reasonably and effectively carry out the case-load of cases without an undue case-load burden on any individual judge. The judiciary must also have access to and the ability to manage adequate financial resources to effectively administer a system of justice that includes environmental protection and sustainable development.
- (c) **Judicial education** - The judiciary should ensure that all judges have some elementary knowledge of environmental and natural resource law and certain judges are dedicated to environmental and natural resource cases, and these judges need to have training. But not all judicial institutes are able to convey their knowledge, and even when they can, demand for such training is always large.
- (d) **Threats to integrity** – Integrity within the entire chain of environmental enforcement and within the justice system is critical to ensuring effective environmental enforcement. Economic reasons motivate the commission of many environmental crimes, which may lead parties to resort to corrupt practices to secure favorable decisions. Resistance to these threats to integrity is a key challenge for judges, because justice will be thwarted if there is corruption anywhere throughout the system.

PART III

ASEAN EXECUTIVE COOPERATION

A. The ASEAN Chief Justices and Senior Judiciary recognize the ASEAN Ministerial Meetings on the Environment and ASEAN Senior Officials Meetings on the Environment have produced many efforts at environmental cooperation on sustainable natural resource management. These include the ASEAN Agreement on Transboundary Haze Pollution, the Agreement on the Establishment of the ASEAN Centre for Biodiversity, the ASEAN Regional Action Plan on Trade in Wild Fauna and Flora and the establishment of the ASEAN Wildlife Enforcement Network, the Joint Statement of ASEAN Environment Ministers for the Eleventh Meeting of the Conference of the Parties to the Convention on Biological Diversity, and other matters in **Appendix 1**. The ASEAN Chief Justices and Senior Judiciary acknowledge that these efforts must be strengthened to fully attain an effective environmental enforcement chain.

B. The ASEAN Chief Justices and Senior Judiciary observe that the ASEAN Agreement on Nature Conservation of 1985 was agreed 27 years ago, but has still not been fully ratified.¹ They call on member countries to ratify the Agreement, and then update it as needed to address new Environmental Challenges that have arisen since it was agreed.

¹ To date only three of the six signatory member states (Indonesia, the Philippines and Thailand) have ratified the Agreement.

PART IV
ASEAN CHIEF JUSTICES AND SENIOR JUDICIARY COOPERATION

A. The ASEAN Chief Justices and Senior Judiciary recognize that the judiciary has a critical role in championing environmental protection and sustainable development, and leading the legal profession and law enforcement community towards stronger, more credible rule of law systems that have integrity and promote environmental sustainability.

B. The ASEAN Chief Justices and Senior Judiciary recognize the importance of ASEAN regional cooperation to address the common environmental and legal challenges they share.

C. The ASEAN Chief Justices and Senior Judiciary will collaborate among themselves, and as appropriate, collaborate and/or engage with others in the environmental enforcement process to significantly improve the development, implementation, enforcement, and compliance with environmental laws.

D. The ASEAN Chief Justices and Senior Judiciary agree to collaborate and institute concrete measures in the following areas:

1. **Standing Rules** - The ASEAN Chief Justices and Senior Judiciary will seek to allow the substance of an environmental matter to be litigated and not barred by procedural standing constraints. They will seek to ensure that standing rules in environmental cases are expanded to allow litigants to defend the public interest.

2. **Burden of Proof and the Precautionary Principle** - The ASEAN Chief Justices and Senior Judiciary will ensure the application of standards of burden of proof in environmental cases that do not limit application of the precautionary principle. The precautionary principle will be applied in cases where there is a lack of full scientific certainty in establishing a causal link between human activity and adverse environmental effects.

3. **Scientific and Expert Evidence** - The ASEAN Chief Justices and Senior Judiciary will consider innovative ways to appreciate and evaluate the weight of scientific and expert evidence in environmental cases, including the following:

- (a) Drafting internal guidelines on assessing the credibility of experts to assist judges in appraising their expertise;
- (b) Appointing committees of experts to study environmental cases and give recommendations to the courts;
- (c) Partnering with academic and scientific communities to tap scientists and researchers as experts in court cases;
- (d) Including scientific and technical matters in environmental adjudication for judges in their continuing professional development courses;
- (e) Appointing in-house technical experts to advise the court on scientific and technical matters; and

- (f) Compiling a register of experts from government scientific and technical institutions who could be tapped as experts in environmental cases.

4. **Penalties and Innovative Sanctions** - The ASEAN Chief Justices and Senior Judiciary will impose sanctions and penalties in accordance with their respective laws as appropriate to the scale of the environmental case or crime. The ASEAN Chief Justices and Senior Judiciary will also consider innovative sanctions for environmental cases such as (a) community service with restorative environmental conditions; (b) environmental training for the offender; (c) environmental audit to identify past, present and potential compliance with Environmental Laws; (d) restoration of or establishment of alternative habitat; or (e) community probation.

5. **Enforcement of Environmental Judgments** - The ASEAN Chief Justices and Senior Judiciary will seek to ensure that final judgments in environmental cases will be properly enforced. They will seek to ensure that the power of courts to hold parties in contempt or their implementation of existing powers will be strengthened to uphold the integrity of environmental laws, and cases decided under them.

6. **Environmental Courts and “Green” Benches** - The ASEAN Chief Justices and Senior Judiciary will strengthen specialized environmental courts, tribunals, benches, and specialization programs (such as environmental certification) where they exist, consider establishing effective environmental judicial training programs for generalist courts where they do not exist, and should, at least, address the various challenges set out in Part II, Sections A and B of this Memorandum of Understanding.

7. **Environmental Rules of Procedure** - The ASEAN Chief Justices and Senior Judiciary will implement rules of procedure for environmental cases where they already exist and consider developing them where they do not exist, which should, at least, address the various challenges set out in Part II, Sections A and B of this Memorandum of Understanding. These special procedural rules may include (a) special rules of evidence for environmental cases, (b) time limits to expedite environmental cases; (c) special remedies; (d) injunctive relief; and (e) other innovative environmental processes, such as writs of nature.

8. **Environmental Remedies and Environmental Damages** – The ASEAN Chief Justices and Senior Judiciary will apply environmental remedies in law where they exist, and consider developing them where they do not exist, which should, at least, address the various challenges set out in Part II, Sections A and B of this Memorandum of Understanding. Examples of these environmental remedies may include special civil actions for continuing *mandamus*, rolling judgments, environmental protection orders, and other ancillary writs. The ASEAN Chief Justices and Senior Judiciary will incorporate environmental principles, such as the precautionary principle and the polluter-pays-principle to make the party responsible for producing pollution responsible for paying for the damage done to the natural environment.

9. **Alternative Environmental Dispute Resolution** - The ASEAN Chief Justices and Senior Judiciary will implement special rules for alternative environmental dispute resolution

(AEDR) in environmental cases where these already exist, and consider developing them where they do not exist. AEDR rules may include:

- (a) Conferring power to environmental and generalist courts to refer environmental matters to AEDR;
- (b) Designating AEDR as an integral part of case management of civil and administrative environmental disputes;
- (c) Carrying out AEDR through a “problem-solving” approach to achieve appropriate environmental outcomes;
- (d) Making AEDR services be free of charge, especially in cases of indigent litigants; and
- (e) Ensuring that AEDR mediators or arbitrators have sufficient training and expertise in environmental disputes.

10. **Environmental Education** - The ASEAN Chief Justices and Senior Judiciary acknowledge that the judiciary plays a pivotal role in improving environmental education, not only through their judicial functions, but also through leading the entire legal profession and law enforcement community to develop the knowledge to ensure environmental protection and sustainable development.

In this regard, they will seek to ensure that Environmental Information is collected, and compiled, and to the extent possible integrated into an appropriate environmental sourcebook for the use of the legal profession and law enforcement community.

- (a) **The Judiciary** - The ASEAN Chief Justices and Senior Judiciary will ensure that timely and appropriate training on Environmental Challenges, Environmental Legal Challenges and Environmental Information is available and designed for (i) cadre or candidate judges; (ii) continuing legal education; and (iii) environmental law specialist judges and included in training programs conducted by judicial institutions where they exist.
- (b) **Law Schools** - The ASEAN Chief Justices and Senior Judiciary will encourage law schools to include Environmental Challenges, Environmental Legal Challenges and Environmental Information in their respective curricula. They will also encourage law centers to establish environmental law centers to develop sourcebooks, compilations or other database on environmental legal materials, where possible.
- (c) **Bar Councils** - The ASEAN Chief Justices and Senior Judiciary will encourage legal professional associations and bar councils to include Environmental Challenges, Environmental Legal Challenges and Environmental Information in continuing legal education.
- (d) **Environmental Law Enforcement Community** – The ASEAN Chief Justices and Senior Judiciary will encourage the police force, prosecutors, public interest litigants, environmental lawyers, and other members of civil society and the environmental enforcement chain to obtain training and develop a knowledge and base on Environmental

Challenges, Environmental Legal Challenges and Environmental Information, where applicable.

- (e) **Environmental Lawmakers** - The ASEAN Chief Justices and Senior Judiciary will seek to encourage members of the legislative branch to obtain training and develop a knowledge base on Environmental Challenges, Environmental Legal Challenges and Environmental Information to assist them in crafting integrated and comprehensive environmental legislation.
- (f) **Public and Public Interest Environmental Lawyers.** The ASEAN Chief Justices and Senior Judiciary will seek to encourage the general public, public interest lawyers, and civil society to obtain an awareness and develop a knowledge base on Environmental Challenges, Environmental Legal Challenges and literacy on Environmental Information.

11. **Environmental Enforcement** – The ASEAN Chief Justices and Senior Judiciary recognize that effective environmental enforcement requires integration of and effective cooperation among the entire environmental enforcement chain. They also recognize the need to call on the entire environmental enforcement chain to develop positive mechanisms to enhance environmental protection within their respective functions.

- (a) **The Judiciary** - The ASEAN Chief Justices and Senior Judiciary will ensure that environmental cases filed before the courts are decided in a timely and expeditious manner, and seek to ensure environmental judgments are enforced without delay. They will consistently monitor court dockets to ensure that environmental cases in their respective judiciaries are given priority in adjudication.
- (b) **Law Schools** - The ASEAN Chief Justices and Senior Judiciary will encourage law schools to strengthen their respective clinical legal aid programs to include environmental cases and serve environmental plaintiffs, where they exist, and consider establishing clinical legal aid programs that address environmental cases and serve environmental plaintiffs where they do not exist.
- (c) **Bar Councils** - The ASEAN Chief Justices and Senior Judiciary will encourage legal professional associations and bar councils to develop professional interest groups on environmental cases.
- (d) **Environmental Law Enforcement Community** – The ASEAN Chief Justices and Senior Judiciary will (a) lead their respective legal and enforcement communities in raising awareness of Environmental Challenges, Environmental Legal Challenges and Environmental Information and ensuring strict compliance with and enforcement of existing Environmental Laws ; and (b) work on the nationalization of international environmental laws, by encouraging the entire environmental enforcement chain to comply with Environmental Laws and multilateral environmental conventions, where appropriate.

- (e) **Environmental Lawmakers** - The ASEAN Chief Justices and Senior Judiciary note that it is the role of the members of the legislative branch to review existing environmental laws to ensure they are integrated and comprehensive, and legislate new environmental laws where necessary and in many ASEAN states more needs to be done in this regard.
 - (f) **Public and Public Interest Environmental Lawyers.** The ASEAN Chief Justices and Senior Judiciary will seek to encourage improvement in the level of public participation in environmental decision-making, access to justice for the settlement of environmental disputes and the defense and enforcement of environmental rights, and public access to relevant information.
12. **Resilience to Integrity Threats** – The ASEAN Chief Justices and Senior Judiciary (a) recall and affirm the Bangalore Principles of Judicial Conduct as the international norm for independence, impartiality, integrity, competence, and diligence of the judiciary; and (b) will abide by these principles, and strengthen anticorruption enforcement measures in their respective jurisdictions.
13. **Exchange of Information** - The ASEAN Chief Justices and Senior Judiciary recognize that effective cooperation depends on open, comprehensive and regular exchange of information. They agree to share Environmental Information with each other, and among legal professionals, law schools, and the general public, by making it available on the Asian Judges Network on Environment (AJNE) website.
14. **Continuing Cooperation** - The ASEAN Chief Justices and Senior Judiciary acknowledge the role of the Asian Judges Network on Environment in bringing judges across Asia together to share experience, and agree to
- (a) hold an ASEAN Chief Justices' Roundtable on Environment annually to further enhance cooperation on environment, as a sub-regional event of the Asian Judges Network on the Environment;
 - (b) hold discussions at each ASEAN Chief Justice's Roundtable on Environment to provide any necessary updates on environmental law and enforcement in their respective jurisdictions, and where appropriate, update this Memorandum of Understanding to reflect changes in Environmental Challenges and Environmental Legal Challenges , or any other factor; and
 - (c) affirm the principles in the Jakarta Vision and the cooperation provisions of this Memorandum of Understanding, as well as any subsequent declarations agreed upon in the future, unless expressly excluded, and agree to share these documents with their respective countries and disclosed in the AJNE Website.

PART V

MISCELLANEOUS PROVISIONS

A. CONTACT POINTS

Each ASEAN Judiciary has designated a contact point for the purposes of this Memorandum of Understanding, and will update such contact point if it changes. The current contact point list is attached as **Appendix 2**. The respective focal points will be responsible for:

- (a) establishing effective communication and liaison with other focal points;
- (b) facilitating the implementation of all aspects of this Memorandum of Understanding;
- (c) promoting this Memorandum of Understanding and the cooperation activities within their respective judiciaries and, as appropriate, with external partners;
- (d) convening the periodic consultations agreed to be held in accordance with this Memorandum of Understanding; and
- (e) monitoring the implementation of this Memorandum of Understanding and jointly evaluating the cooperation activities that are undertaken among the judiciaries.

B. TERM, AMENDMENT, AND TERMINATION

This Memorandum of Understanding shall take effect from the date it has been signed by the authorized representatives ASEAN Chief Justices and Senior Judiciary. It shall be effective indefinitely. This Memorandum of Understanding may be terminated by mutual agreement, following six months' prior notification in writing by one or more contact point(s) to all of the other contact points. This Memorandum of Understanding may be amended upon mutual written consent of the ASEAN Judiciaries.

C. DEALING WITH CHALLENGES

This Memorandum of Understanding has been developed and finalized in a spirit of mutual cooperation and assistance. It will be interpreted in light of its primary purpose, which is to enable the ASEAN Chief Justices and Senior Judiciary to ensure the achievement of their common aim of establishing a framework for cooperation to significantly improve the development, implementation, and enforcement of, and compliance with, environmental law. Any difference of opinion concerning this Memorandum of Understanding or any of the cooperation activities required to implement it will be resolved through amicable dialogue.

D. NATURE OF UNDERSTANDING

1. This Memorandum of Understanding is not intended to create legal relations between the ASEAN Chief Justices and Senior Judiciary, or to impose formal obligations on them.
2. No provision of this Memorandum of Understanding shall be construed so as to interfere in any way with the sovereignty and independent decision-making autonomy of the ASEAN Judiciaries with regard to their respective affairs.

This Memorandum of Understanding is signed by the duly authorized representatives of the Judiciaries in English [insert any other languages if the MoU will be translated], all texts being equally authentic. In the case of any inconsistency, the text in the English language, in which the Memorandum of Understanding was drawn up, shall prevail.

Hon. Dato Seri Paduka Haji Kifrawi bin Dato Paduka Haji Kifli

Chief Justice

For the Supreme Court of Brunei Darussalam

Date: _____

Hon. Mr. Dith Munty

President of the Supreme Court

For the Supreme Court of Cambodia

Date: _____

Hon. Dr. H. Muhammad Hatta Ali, SH.MH

Chief Justice

For the Supreme Court of the Republic of Indonesia

Date: _____

Hon. Mr. Khampan Shitthidampha

President

For the People's Supreme Court of Laos

Date: _____

Rt. Hon. Tun Arifin Zakaria

Chief Justice

For the Federal Court of Malaysia

Date: _____

Hon. H.E. Myint Aung

Justice

For Hon. U Tun Tun Oo

Chief Justice

For the Supreme Court of the Union of Myanmar

Date: _____

Hon. Maria Lourdes P.A. Sereno

Chief Justice

For the Supreme Court of the Philippines

Date: _____

Hon. Sundaresh Menon

Chief Justice

For the Supreme Court of Singapore

Date: _____

Justice Teerawat Phatranawat

Senior Justice

For Hon. Pairoj Wayuparb

Chief Justice

For the Supreme Court of Thailand

Date: _____

Hon. Dang Quang Phuong

Permanent Deputy Chief Justice

For the Supreme People's Court of Vietnam

Date: _____

Appendix 1
ASEAN Environmental Cooperation
(Updated as of November 2011)

	Priority initiative	Status update
1	Fully implement the ASEAN Cooperation Plan on Transboundary Pollution emphasizing the Regional Haze Action Plan by 2001	On track, regular working level meetings have been held, with Singapore in charge of monitoring fire and haze pollution under the Regional Haze Action Plan put in place in December 1997, as well as Immediate Action Plan Field Training Exercises undertaken in hot spots such as Kalimantan and Sumatra
2	Strengthen the ASEAN Specialized Meteorological Centre by 2001	On track, regular activities undertaken by Meteorological Centre under the ASEAN Science and Technology cooperation track, including quarterly reports on studies and research
3	Establish the ASEAN Regional Research and Training Center for Land and Forest Fire Management by 2004	Pending further action at working level
4	Strengthen the ASEAN Regional Centre for Biodiversity Conservation by 2001	Work in progress. The Centre, established since 1999, has continued to focus on networking and institutional building initiatives, including training, research and development and database management. One of the key policy deliverables is the Framework Agreement on Access to Genetic and Biological Resources, which is still in drafting process by ASEAN Senior Officials on the Environment (ASOEN)
5	Promote regional coordination for the protection of the ASEAN Heritage Parks and Reserves	On track, recent AMME saw two additional parks in Philippines and Singapore added to the list of Heritage Parks and Reserves, making it a total of 30 ASEAN parks on the conservation list
6	Develop a framework and improve regional coordination for integrated protection and management of coastal zones by 2001	Work in progress. The ASEAN Working Group on Coastal and Marine Environment is still in the process of developing a specific action plan to focus on marine life conservation, management of solid and liquid waste, ecotourism and coastal erosion
7	Strengthen institutional and legal capacities to implement Agenda 21 and other international environmental agreements by 2001	Work in progress, under the purview of the ASOEN, reporting to AMME (no updates available)
8	Harmonize the environmental databases of Member Countries by 2001	Work in progress, undertaken by ASOEN in conjunction with ASEAN Heads of Statistical Offices Meeting (AHSOM); the regular publication of the State of Environment Report every three years has also created a comprehensive compilation of environmental statistics in the region, albeit funded by external sources
9	Implement an ASEAN regional water conservation programme by 2001	Developed in 2005 with AusAID funding, the ASEAN Strategic Plan of Action on Water Resources Management features access to safe, adequate and affordable water for food security, sanitation and economic growth, as well as protection of water environment
10	Establish a regional center or network for the promotion of environmentally sound technologies by 2004	Work in progress, undertaken by ASOEN with support from Dialogue Partners such as US and Japan in feasibility studies
11	Formulate and adopt an ASEAN Protocol on access to genetic resources by 2004	Work in progress, to be undertaken by ASOEN
12	Develop a Regional Action Plan for the Protection of the Marine Environment from Land-based and Sea-based Activities by 2004	Work in progress, undertaken by the ASEAN Working Group on Coastal and Marine Environment
13	Implement the Framework to Achieve Long-Term Environmental Goals for Ambient Air and River Water Qualities for ASEAN Countries	Work in progress, undertaken by the ASEAN Working Group on Environmental Management, with a proposal for a draft framework submitted to ASOEN for discussion
14	Enhance regional efforts in addressing climatic change	Work in progress, requires cross-sectoral coordination and overseen by ASEAN Leaders' Summit on regional climate change issues
15	Enhance public information and education in awareness of and participation in environmental and sustainable development issues	Work in progress, undertaken by ASOEN

Appendix 2
List of ASEAN Judiciary Contact Points

For the Supreme Court of Brunei Darussalam:

Pengiran Hajah Rostaina Pengiran Haji Duraman
Chief Registrar
Tel: +673 222 5853
Fax: +673 2241984

For the Supreme Court of Cambodia:

Judge Sathavy KIM
Email: Sathavy.k@camnet.com.kh

For the Supreme Court of the Republic of Indonesia:

Justice Takdir Rahmadi
Email: takdir_rahmadi@yahoo.com

For the People's Supreme Court of Lao:

Hon. Mr. Khamphan Shitthidampha Sengsouliya Phouangphet
Chief of Protocol and International Cooperation Division
Supreme Court of Lao PDR
Email: sengsouliya7@yahoo.com

For the Federal Court of Malaysia:

Chief Registrar's Office
Federal Court of Malaysia
Palace of Justice, Precinct 3
62506 Putrajaya, Malaysia
Tel: 603 8880 3500/603 8880 3900

For the Supreme Court of the Union of Myanmar:

Mr. Sein Than
Supreme Court of the Union Republic of the Union of Myanmar
Fax: 95-67-430304
Tel: 95-67-430344
Email: dgscunion@mptmail.net.mm

For the Supreme Court of the Philippines:

Ms. Lida Pilapil
Office of Chief Justice Ma. Lourdes P.A. Sereno
Email: lidapilapil@yahoo.com
Tel: 02-5234179

For the Supreme Court of Singapore:

Serene LIM (Ms)
Head (HR &A)
Serene_LIM@supcourt.gov.sg
Tel: (65) 63321003 Fax: (65) 63379450
Email: Serene_LIM@supcourt.gov.sg

For the Supreme Court of Thailand:

Justice Winai Ruangsri
Senior Research Justice
The Environmental Division
The Supreme Court
Tel: (+66) 2224 6625 (direct)
Fax: (+66) 2226 6005
Email: towinai@yahoo.com

The Office of the Administrative Courts of Thailand
120 Moo 3 Chaeng Wattana Rd. Laksi, Bangkok 10210
Tel: (66)-2141-1111 Hotline: 1355

For the Supreme People's Court of Vietnam:

Hang Thu Pham (Ms)
Official, Department of International Cooperation
The Supreme People's Court of Vietnam
Email: tatc.htqt@toaan.gov.vn