

Can ASEAN be free of transboundary haze by 2030?

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Can ASEAN be free of transboundary haze by 2030?

Cross-border cooperation must go beyond diplomacy and declarations if we are to clear the air.



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For more than three decades, South-east Asia has choked on the same recurring crisis. Eight severe haze episodes since 1994, including the current, have proven that while ASEAN's patient diplomacy may keep regional harmony intact, it does little to put out the fires.

ASEAN does not lack agreements. On paper, there is an elaborate mechanism to tackle the haze.

The centrepiece of ASEAN efforts in combating the haze is the 2002 Agreement on Transboundary Haze Pollution (AATHP), which seeks to prevent and monitor transboundary haze pollution through concerted national efforts and strong regional cooperation.

Under the ambit of AATHP, ASEAN environment ministers also developed the ASEAN Peatland Management Initiative in 2003 to guide actions to



Singapore, with its own laws, can achieve only so much without the cooperation of neighbours, says the writer. ST PHOTO: GIN TAY

sustainably manage peatlands and reduce fires and their associated haze in the region. This is supplemented by two iterations of the Peatland Management Strategy, broadly covering the period 2006 to 2030.	In 2012, its countries' leaders adopted the ASEAN Human Rights Declaration, which states, among other things, that ASEAN peoples have the right to a "safe, clean and sustainable environment".	There is also a plan to fully operationalise the Jakarta-based ASEAN Coordinating Centre for Transboundary Haze Pollution Control. The centre is intended to
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Enforcing commitments remains bloc’s Achilles heel

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be the regional command hub to prevent, monitor and respond to forest and land fires and the resulting cross-border haze. It also seeks to facilitate cross-border exchanges of firefighting technology, expertise and resources, and to manage requests and mobilisation for regional emergency assistance.

But cooperation seems to have stopped there and has not extended to the critical phase of bringing the perpetrators to justice. Without cross-border legal mechanisms to hold polluters accountable, national laws are toothless.

Singapore, which has enacted its own laws, can achieve only so

much without the cooperation of neighbours. A key piece of legislation is the Transboundary Haze Pollution Act (THPA), enacted in 2014. It asserts extraterritorial jurisdiction to prosecute entities – foreign or domestic – whose offshore burning causes hazardous smoke at home. Yet more than a decade after its enactment, there has been no prosecution.

This is not for a lack of targets. Environmental monitoring groups such as Greenpeace consistently track fire hot spots to palm, pulp and timber concessions linked directly to capital and corporate entities in Singapore and Malaysia.

It would be highly ironic should these companies culpable of haze

pollution affecting Singapore have a business presence in Singapore.

It is fair to ask whether the THPA is a paper tiger even as its limitations are recognised. The law’s successful operation is not something entirely within the control of the Singapore authorities. Instead, the strong cooperation of foreign authorities is required for any successful prosecution and enforcement.

For instance, the evidence needed to mount any prosecution is not in Singapore but abroad, where the companies and individuals are allegedly conducting such illegal activities. Supporting evidence such as maps, land ownership details and information on parties operating at the fire sites is needed.

The cooperation of the Indonesian authorities appears to be elusive, if not lacking. Investigations into alleged wrongdoing will get stuck. There are four cases pending from the 2015 haze when the Pollutant Standards Index breached hazardous levels with readings of over 300.

Even as the calls get stronger for countries to act, one has to acknowledge the diplomatic realpolitik and inevitable inertia that comes from navigating ASEAN’s doctrine of consensus and non-interference – the very principles designed to preserve regional harmony.

Full and effective implementation of ambitious regional commitments on

transboundary pollution remains ASEAN’s Achilles heel. National action by member states, especially Indonesia, falls short and points to the lack of committed and robust implementation of their legal obligations.

The haze is as much an environmental issue as a political one that speaks to domestic governance and the lack of rule of law in polluting states. No regional agreement can engender the requisite political will. ASEAN will have to redouble its efforts in ensuring member states robustly implement and enforce their treaty obligations.

ASEAN and its member states recognise the significant regional issue that transboundary

pollution is and have developed elaborate plans with the aim of being free of transboundary haze by 2030.

Until member states establish mandatory cross-border evidence sharing and demonstrate a genuine willingness to prosecute the offenders, deterrence will fail. Polluters will continue to act with impunity, taking advantage of the patent lack of harmonisation of national transboundary pollution laws and the seeming malaise that dogs regional agreements in getting translated into timely, effective national laws backed by no-nonsense enforcement.

Can ASEAN be haze-free by 2030? For now, that seems like a pipe dream amid the smoke and ashes.

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