APCEL News

Highlights: 1 January – 30 June 2012

Executive Committee	Advisory Committee
Director Emeritus Professor KOH Kheng-Lian **Deputy Director** Assoc. Professor LYE Lin Heng **Committee Members** Professor Alan TAN Khee Jin Assoc. Professor Robert. C BECKMAN Assoc. Professor Michael EWING-CHOW Assoc. Professor Burton ONG Tze En Assoc. Professor Victor RAMRAJ Assoc. Professor LIM Lei Theng Asst. Professor Jean HO **Associate Members** Ms BHULLAR Lovleen Dr Joseph CHUN Ms Jolene LIN Asst Professor GUNAWANSA Asanga Mr Lakshmikanth Rao PENNA Mr TAN Kai Liang **Ex-officio** Professor Simon Chesterman Dean, Faculty of Law National University of Singapore	**Co-Chairs** Professor Tommy TB KOH Ambassador-at-Large, Singapore Chairman, Institute of Policy Studies Special Adviser of the Institute of Policy Studies; and Chairman of the Centre for International Law, National University of Singapore Dr Parvez HASSAN, Pakistan Former Chairman, IUCN-CEL **Members** Professor Domenico AMIRANTE, Italy Emeritus Professor Ben BOER, Australia Dr Wolfgang E BURHENNE, Germany Mr Edwin TF KHEW, Singapore Dr Bindu N LOHANI, Asian Development Bank Professor Nicholas A ROBINSON, USA Mr TAN Gee Paw, Singapore Ambassador Amado S TOLENTINO, Philippines

I. APCEL's Activities and those of its Members

1. Seminar on "Strengthening ASEAN Wildlife Enforcement Network (ASEAN-WEN) through Public-Private Partnerships in Legal Cooperation", 30 May 2012, Faculty of Law, NUS. Jointly organized by APCEL/ ASEAN-WEN (ASEAN Wildlife Enforcement Network)/ USAID-funded ARREST Program (Asia's Regional Response to Endangered Species Trafficking) & FREELAND Foundation and Centre for International Law, NUS)

Moderator – KL Koh

There were 27 participants representing 15 organizations including representatives from ACRES, Conservation International, INTERPOL, National Parks Board (Singapore), Nature Society (Singapore), TRAFFIC, US Fish and Wildlife, US-AID, US Department of Justice and World Wildlife Fund. See photos below:

In the run- up to the above Seminar, APCEL held four meetings with the following organizations:

(i) First Meeting: 27 ASEAN-WEN/FREELAND Foundation February 2012, Faculty of Law, NUS

(ii) Second Meeting: APCEL/ASEAN-WEN/FREELAND Foundation /ACRES (Animal Concerns Research and Education Society), 3 May 2012, Faculty of Law, NUS

(iii) Third Meeting; APCEL/ASEAN-WEN/FREELAND Foundation /Centre for International Law, 4 May 2012, Faculty of Law, NUS

(iv) Fourth Meeting; APCEL/ASEAN-WEN/FREELAND Foundation, 28 May 2012, Faculty of Law, NUS

2. **APCEL/CIL (Centre for International Law) Seminar on Coordinating the Protected Area Regime: The European Network Natura 2000 between European and National Law by Prof Domenico Amirante, 29 May 2012, Faculty of Law, NUS**

   Chairperson – LH Lye

3. **ASEAN Integration Through Law(ITL): Centre for International Law Project (Director – RC Beckman); Directors of ASEAN ITL Research Project: Joseph Weiler, Michael Ewing- Chow and Tan Hsien-Li**

   Integration Through Law: The ASEAN Way in a Comparative Context

   APCEL Team: KL Koh, LH Lye and NA Robinson

4. **APCEL/NCCS (National Climate Change Secretariat of the Prime Minister's Office)Workshop on REDD+ and Legal Regimes of Mangroves, Peatlands and Other Wetlands: ASEAN and the World, 15 – 16 November 2012, Faculty of Law**

   The Workshop is at an advanced stage of preparation.

5. **Book Review: *Crucial Issues on Climate Change and the Kyoto Protocol: Asia and the World in Climate Change, edited by Kheng-Lian Koh, Lin-Heng Lye and Jolene Lin* in Climate Law 3 (2012) 100-102, IOS Press**

See *Appendix,* attached.

II. APCEL Members' Activities

1. Koh Kheng Lian

Appointments

- Elected Regional Governor, International Council of Environmental Law.
- Appointed Advisory Member, Transnational Environmental Journal.
- Appointed member, Editorial Board, *Governance and Sustainability Issue Brief Series,* Center for Governance and Sustainability (www.umb.edu/cgs) at UMass Boston.

Conferences, Workshops, etc

- Invited to participate at the meeting organized by Syriah Kula University, Badah Aceh, 7 June 2012, Faculty of Law, NUS.
- Presented paper on "The Role of ASEAN Identity in the Environmental Context: ASEAN Declaration on Cultural Heritage, 2000; Declaration on ASEAN Heritage Parks, 2003; Declaration on ASEAN Unity in Cultural Diversity: Towards Strengthening ASEAN Community, 2011: Towards an Integrated ASEAN Community –Unity in Diversity?" paper presented at the 9th Asian Law Institute Conference - Law: An Asian Identity? 31 May – 1 June 2012, Singapore.
- Invited to attend the 7th ASEAN-WEN Meeting, jointly organized by Agri-food & Veterinary Authority of Singapore, 29-30 May 2012, Singapore.

- Jointly organised seminar with Centre for International Law, NUS, "Coordinating the Protected Area Regime: The European Network Natura 2000 between European and National Law" by Prof Domenico, 29 May 2012.

- Presented paper, "Role of APCEL" at the seminar "Strengthening ASEAN Wildlife Enforcement Network (ASEAN-WEN) through Public-Private Partnerships in Legal Cooperation by APCEL, Centre for International Law and ASEAN-WEN", 30 May 2012, Faculty of Law, NUS, see above.

- Participated at the National Parks Board, Singapore, "Roundtable on Access and Benefit Sharing (ABS) in the Nagoya Protocol", 28 May 2012, NParks office.

- Invited to participate at the "Workshop on Globalizing Asia: Health Law, Governance, and Policy – Issues, Approaches, and Gaps!" and presented two papers: (1) **"**Public Health & Emerging Zoonotic Disease: Knowledge Gaps and Uncertainties in Asia – ASEAN's Role in Tackling Avian Flu" and (2) "Water and Health: Challenges in ASEAN and Singapore's Experience", 16-18 April 2012, Bangkok. See photo below:

- Presented paper: "A Challenge for ASEAN Cooperation: Linking Biodiversity and Climate Change - Focus on Food Security" at the seminar on"International Cooperation in the Field of Environmental Laws in the Mekong Region and Southeast Asia, 8-10 March 2012, Siem Reap, Cambodia (jointly organised by the Rule of Law Programme Asia, Konrad Adenauer Stiftung and the Institute of State and Law, Vietnam). See photos below:

- Presented a number of topics on ASEAN at seminar on "International Cooperation in the Field of Environmental Laws in the Mekong Region and Southeast Asia" 24-25 February 2012, Ho Chi Minh City, Vietnam (jointly organized by the Rule of Law Programme Asia, Konrad Adenauer Stiftung and the Institute of State and Law, Vietnam) . See photos, below:

- Attended and participated in a number of environmental workshops/seminars.

Publications

- Chapter 9, "The Discourse of Environmental Security in the ASEAN Context" in *Environmental Discourses in Public and International Law*, pp 218-237 (Cambridge University Press, 2012).

- "Transboundary and Global Environmental Issues: The Role of ASEAN in Transnational Environmental Law", Volume 1(1) *Transnational Environmental Law*, 1, pp 1-16 (Cambridge University Press, 2012)..

- Endorsement for the publication *Poverty Alleviation and Environmental Law* edited by Yves le Bouthillier, Miriam Alfie Cohen, Jose Juan Marquez Gonzalez, Albert and Susan Smith.

2. Lye Lin Heng

Conferences, Workshops, etc

- 20 June 2012 – presented a paper entitled "Reflections on Agenda 21 and the Green Economy at Rio + 20 - How Singapore can do better" at the event organised by CSR Asia on Accor's Planet 21 - Placing Sustainability at the Core of Business Strategy, Ibis Hotel, Singapore.

- 30 May 2012 – participated and presented at the seminar on "Strengthening ASEAN Wildlife Enforcement Network (ASEAN-WEN) through Public-Private Partnerships in Legal Cooperation by APCEL, Centre for International Law and ASEAN-WEN".

- 29 May 2012 - chaired the seminar "Coordinating the Protected Area Regime: The European Network Natura 2000 between European and National Law " by Prof Domenico Amirante, jointly organised by APCEL and the Centre for International Law, NUS.

- 28 May 2012 - invited to participate at the NParks Roundtable on Access and Benefit Sharing (ABS) in the Nagoya Protocol, NParks office.

- 27 May 2012 – invited to participate at the public symposium on Ecosystem Services and Biodiversity Conservation, jointed organized by BirdLife International and Nature Society of Singapore, 27 May 2012, Singapore Botanic Gardens.

- 23-25 May 2012 – presented paper at the workshop on Policies for Environmentally Sustainable Development: Asia's Perspective organised by the Institute of Water Policy, Lee Kuan Yew School of Public Policy, held at the Bukit Timah Campus (to be published by the LKYSPP)

- 24 to 26 April 2012 - Promoted the M. Sc. (Environmental Management) [MEM] Programme in Sri Lanka.

- 29 to 31 March 2012 - Promoted the M. Sc (Environmental Management) programme in Taiwan

- 25 Feb 2012 – Participant, Yale Environmental Law Conference "New Directions in Environmental Law: [Re]Claiming Accountability; jointly organised by Yale Law School and Yale School of Forestry & Env Studies.

- 18 Feb to 3 March 2012 – Visiting Associate Professor at Yale School of Forestry & Env. Studies to co-teach a course on Comparative Environmental Law with Prof N A Robinson.

III. APCEL's Associate Members

1. Jolene Lin

Appointment

- Transnational Environmental Law, Editorial Board

Conferences, Workshops, etc

- Invited to lecture in the *Environmental Impact Assessment in Hong Kong*, 27 and 28 February 2012, Department of Justice, HKSAR.

Publications:

- "Governing Biofuels: A Principal-Agent Analysis of the European Union Biofuels Certification Regime and the Clean Development Mechanism" (2012) Volume 24(1) *Journal of Environmental Law* pp. 43-73.

- "Climate Change and the Courts" (2012) Volume 32(1) *Legal Studies*, pp. 35-57.

- Review of *Human Rights and Climate Change*, Stephen Humphreys (ed.) (Cambridge University Press, 2010) (2012) Volume 3(1) *Journal of Human Rights and the Environment*, pp. 159-162.

- "Looking Beyond the International: Key Themes and Approaches of Transnational Environmental Law "(2012) Volume 1(1) *Transnational Environmental Law*, 1 , pp 23-29 (with Joanne Scott).

IV. Visitors

- Mr U Thein Lwin, Secretary, The Natural Resources and Environmental Conservation Committee, Pyithu Hluttaw.

- Mr Brian Gonzales, USAID-ARREST Program Lead Liaison Officer of ASEAN-WEN.

- Mr John Webb, Department of Justice Consultant and former Assistant Chief of Environmental Crimes, US Justice Department.

- Mr Steven Galster, Chief of Party of the USAID-ARREST Program/FREELAND Foundation.

- Mr Louis Ng, ACRES, Singapore.

- Mr Manop Lauprasert, Senior Officer, ASEAN-WEN.
- Mr Chrisgel Ryan Ang Cruz, Assistant Senior Officer. ASEAN-WEN.
- Ms Tina Kitunen, Intern, ASEAN-WEN.

16 August 2012

Appendix

Crucial Issues in Climate Change and the Kyoto Protocol: Asia and the World

Edited by Kheng-Lian Koh, Lin-Heng Lye and Jolene Lin

Singapore: World Scientific, 2010, 576 pp. (incl. index),
£83.00, ISBN 978-981-4277-52-5.

In tandem with the growing recognition and acceptance of climate change in the international community, the law in this field has developed immensely over the past decade. There is now a vast literature dedicated to the analysis of the legal challenges associated with climate change and to the scrutiny of the governing international regime. The present offering however, is unique in its approach, focusing on such issues from a geographical perspective. In a departure from the norm, this volume tackles some of the key challenges relating to climate change strategies in Asian nations, both developed and developing. It is commonly recognized that developing countries are most vulnerable to climate change and that areas of Asia have already witnessed some of the most severe climate impacts, with attendant economic effects in southern regions. Nonetheless, there is a paucity of literature devoted to these issues. *Crucial Issues in Climate Change and the Kyoto Protocol: Asia and the World*, aims to fill this "lacuna" (p. vii) with its in-depth analysis of climate change in the eastern continent.

Of course, a regional study on Asia far exceeds a mere analysis from a developing-country perspective. Recognizing the socio-economic diversity of the region, this work offers an interesting overview of the key challenges facing both Asia's developing nations and its thriving economies of Japan and Singapore. The comparison paints a vivid picture of the various aspects of climate change mitigation and adaptation strategies at a national level and highlights the disparity between the approaches and requirements in developed and developing countries.

The volume is logically organized into parts, which the editors call themes: *Setting the Stage*; *Clean Development Mechanism*; *Emissions Trading in the European Union and Asia*; and *Effective Implementation of the Kyoto Protocol in Asia*. The first three parts could be described as a comprehensive treatment of some of the key issues under the Kyoto Protocol with an Asian "twist", and all sixteen chapters making up the book are laced with valuable, practical, national examples. The true extent of the Asian focus is fully apparent, however, under the final theme, with chapters on specific jurisdictions and on the social, economic, and legal challenges of addressing climate change in their current and proposed national management strategies. This is a particularly effective means of engaging with such a broad topic.

As the first theme's name suggests, *Setting the Stage* provides an essential interdisciplinary overview, focusing on the science of climate change and progress on the international stage. Much of the information conveyed in these initial chapters could be considered general background material, and therefore offers little in addition to the extensive literature currently available. To a reader tackling this topic for the first time, however, the detailed contributions by Nicholas Robinson and Jeff Obbard, in particular, will prove thought-provoking and insightful.

One of the main shortcomings of the text is the period in which it was written. This is particularly apparent in the first theme, which critiques the rather slow pace of legal development on the international stage. Being a compilation of conference papers from 2007, there are obvious gaps in the time line of progress to date. Advice on how states should prepare for the Bali COP (p. 21) was largely irrelevant at the time of publication.

With an overwhelming 81 per cent of CDM projects registered in Asia and the Pacific at the time of writing, the focus of Part 2 of the book (the CDM theme) is essential. Each of its four chapters offer valuable insights into national legislation governing CDM projects in the region and provide useful case studies on specific CDM ventures, with a particularly fruitful chapter dedicated to China's CDM activity. As a consequence of the book being compiled as a collection of essays, there is some repetition of fundamental points. This shortcoming is felt particularly in the coverage of the CDM.

Streck and Lin's critical analysis of the CDM process ('Making Markets Work – A Review of CDM Performance and the Need for Reform') is particularly worthwhile. This chapter comprehensively covers the practical aspects of CDM functioning, analyses the CDM's performance, and pinpoints key areas for reform. Focusing on strengthening the rule of law within the Kyoto Protocol's system of regulation, the authors critique its transparency, independence, and certainty, charting a path to reform in a post-2012 regime. A particularly interesting aspect of the chapter is the discussion of private-entity rights. A thought-provoking comparative study aptly highlights the challenges posed in the interaction of international public bodies and private parties.

Beatty and Williams' exemplary offering ('Trends in Carbon Trading: Practical Lessons') provides a practical guide to carbon trading. The chapter encompasses the key regulatory issues in both compliance and voluntary markets and provides an analysis of the legal status of carbon credits in a number of countries in Asia. However, because of the wealth of subsequent experience with the EU ETS, the chapter has been rendered somewhat out of date.

The fourth and final theme (*Effective Implementation of the Kyoto Protocol in Asia*) addresses the manner in which international law has trickled down into national law and policy. It provides the reader with detailed knowledge of national strategies in Japan and Singapore, as well as a chilling account of the importance of action on the threat to human security in the Himalayas. Significant emphasis is placed on investment in developing countries by way of the Kyoto Protocol's flexible mechanisms as well as via national energy strategies. Gunawansa's analysis ('The Kyoto Protocol and Beyond: A South Asian Perspective') highlights the fact that a lack of investor confidence has a negative impact on effective Protocol implementation in Asia, because of the political, financial, and institutional risk coupled with the strict regulation of foreign investment in several countries. The concerns raised are particularly interesting because of recent trends in reform of investment-promotion laws in the region and the relaxation of restrictions on foreign investment and ownership.

As a result of the significant post-Bali developments, parts of the volume—like its coverage of the regime governing forestry mitigation strategies—are only of historical interest. While Streck's concluding chapter ('Protecting Forests to Mitigate Global Climate Change') is successful in highlighting Asia's vital role in forestry strategies, it now does little more than provide a useful backdrop to current developments. Significant progress has been made since Copenhagen on REDD. Particularly important is the increasing focus on the role Asia will play in REDD, with a number of pilot projects already in place throughout the region. Indonesia is a key player in this global strategy and is home to the world's first REDD-specific national legislation.

Asia is the world's most populous region and home to one of the leading global carbon emitters. It also contains some of the world's most extensive carbon sinks and is host to thousands of small islands which will be most susceptible to the disastrous natural consequences of climate change. A study dedicated to Asia is therefore a vital addition to current literature on the international climate regime. Overall, the editors have successfully navigated some of the most pressing issues in the current international regime with valuable insights into the national mitigation and adaptation strategies in this diverse region. Despite the inevitable weaknesses arising from a lack of currency, *Crucial Issues in Climate Change and the Kyoto Protocol: Asia and the World* is an excellent book which maintains a delicate balance between critical analysis and practical lessons and will prove to be useful to legal practitioners and academics alike.

Nikki Christie
Global Environmental and Climate Change Law LLM
School of Law, University of Edinburgh