CUỘC HỘP NHÓM THÁM PHÁN CHUYỂN TRÁCH VỀ MÔI TRƯỜNG CHUẨN BỊ CHO HỘI NGHI BÀN TRỌN CHÁNH ÁN CÁC QUỐC GIA ASEAN VỀ MÔI TRƯỜNG LẦN THỨ 4

MEETING OF THE WORKING GROUP FOR THE FOURTH ASEAN CHIEF JUSTICE’S ROUNDTABLE ON ENVIRONMENT

Hà Nội, 15-16 tháng 9 năm 2014
<table>
<thead>
<tr>
<th>CONTENTS</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I.  Introduction</td>
<td>1</td>
</tr>
<tr>
<td>II. Concept Note</td>
<td>2</td>
</tr>
<tr>
<td>III. Agenda</td>
<td>3</td>
</tr>
<tr>
<td>IV. List of participants</td>
<td>4</td>
</tr>
<tr>
<td>V. Proposals for the Draft Hanoi Action Plan</td>
<td>5</td>
</tr>
<tr>
<td>VI. Proposed Agenda for the Fourth Roundtable</td>
<td>6</td>
</tr>
</tbody>
</table>
I. INTRODUCTION

On 15 and 16 September 2014, the Asian Development Bank (ADB), in partnership with the Supreme People’s Court of Viet Nam, convened the first meeting of the ASEAN Judicial Working Group on Environment in Hanoi, Viet Nam. Senior justices representing eight ASEAN countries met to (i) discuss their proposed contributions to the ASEAN Chief Justices’ Roundtable on Environment with a view towards accelerating the implementation of A Common Vision on Environment for ASEAN Judiciaries (or the “Jakarta Common Vision”), (ii) consider the contribution of ASEAN judiciaries to the Asian Judges Network on Environment, and (iii) prepare the agenda for the upcoming Fourth ASEAN Chief Justices’ Roundtable on Environment scheduled in December 2014.

During the meeting, the group (i) agreed that the Jakarta Common Vision had been consistently affirmed as a relevant guiding vision, at least until 2020; (ii) called for an Action Plan to implement the Jakarta Common Vision, which Action Plan is required by the Jakarta Common Vision but has not yet been prepared; (iii) requested consolidation of the proposals made during the meeting, and the integration of these proposals to facilitate the development of the Hanoi Action Plan to Implement the Jakarta Common Vision (the “Hanoi Action Plan”). The group further agreed that the respective ASEAN judiciaries should initiate the implementation of the Hanoi Action Plan in advance of the Fourth Roundtable, review the results of the implementation of the Jakarta Common Vision and the Hanoi Action Plan, and formally launch the Hanoi Action Plan at the said roundtable.
II. CONCEPT NOTE
Meeting for Senior Judicial Working Group of the
ASEAN Chief Justices’ Roundtable on Environment
Concept Note:
15-16 September 2014
Hanoi, Viet Nam

Overview

The ASEAN Chief Justices’ Roundtable on Environment operates at the subregional level, together
with the Asian Judges Network on Environment (AJNE) operating at the pan-Asia regional level. The Third
ASEAN Chief Justices’ Roundtable on Environment was held in Bangkok, Thailand in November 2013. During that meeting, participants affirmed the Jakarta Common Vision and made a
series of recommendations (Attachment 1) supporting further strengthening ASEAN judiciaries to
decide environmental cases at the national level, and further recommending cooperation amongst
ASEAN Judiciaries at the regional level.

Participants recommended that these proposals be presented to the ASEAN Chief Justices for
consideration. One of these proposals was to formulate a Working Group to further cooperation such
that implementation of the Jakarta Common Vision, and its recommendations and proposals would
occur in between the annual Roundtable, and hence to maximize productivity of the Roundtable and
further cooperation. Moreover, justices from ASEAN judiciaries participated in the Second Asian
Judges Symposium on Environment in Manila, Philippines in December 2013. Participants made a
series of similar recommendations and proposals (Attachment 2).

Objectives

This ASEAN Judiciaries Working Group Meeting seeks to:

• contribute to the ASEAN Chief Justices Roundtable on Environment, by further developing
the recommendations made to Chief Justices in prior roundtable meetings, with a view
towards moving towards implementation of such recommendations;

• consider the contribution of ASEAN judiciaries to the AJNE, by considering and providing
feedback on the recommendations made; and

• prepare for the ASEAN Chief Justices’ Roundtable on Environment, by sharing the issues
that each Court considers most important for its agenda, taking into account prior
roundtables, meetings, and symposia.

Background

AJNE is a network for judicial cooperation to champion the environmental rule of law and promote
environmental justice. The AJNE fosters this cooperation at the regional, subregional, and national
levels to build capacity in environmental decision-making and share developments in environmental
law. The AJNE facilitates professional peer to peer communication among the judiciary face to face
and electronically to: (i) follow up on national commitments; (ii) pursue definite actions; and (iii)
strengthen the capacity of the judiciary and the entire legal profession on environmental law and its
enforcement.
AJNE ensures that the network maintains judicial cooperation with a series of regularly held judicial conferences at both the regional and subregional levels. At the regional level, the AJNE operates through the Asian Judges Symposium on Environment. ADB, the Supreme Court of the Philippines, UNEP, and other partners hosted symposia held at the ADB Headquarters, Manila, Philippines in: (i) July 2010; and (ii) December 2013. At the subregional level, the AJNE operates through the ASEAN Chief Justices’ Roundtables and the South Asia Judicial Roundtables on the Environment. Notably, ADB and its partner judiciaries in Southeast Asia hosted the ASEAN Chief Justices’ Roundtables on the Environment in: (i) Jakarta, Indonesia (2011); (ii) Melaka, Malaysia (2012); and (iii) Bangkok, Thailand (2013). The next ASEAN Chief Justices’ Roundtable on the Environment will be held in Hanoi, Viet Nam in November 2014. ADB and its partner judiciaries in South Asia hosted the South Asia Judicial Roundtables on the Environment in: (i) Bhurban, Pakistan (2012); (ii) Thimpu, Bhutan (2013); and (iii) Colombo, Sri Lanka (2014).

On the national level, ADB has supported environmental initiatives of the judiciaries. Participating judiciaries have established specialized environmental courts and green benches, implemented environmental judicial certification programs, issued environmental rules of procedure, and made other commitments to improve the adjudication of environmental disputes. These accomplishments have generated interest from other branches of government to work towards the effective enforcement of an integrated, environmental legal and regulatory framework in their respective countries.

Participants
The Chief Justice of each ASEAN judiciary has assigned one or more representatives.

Approach
The Working Group Meeting will further the discussions on the AJNE’s recommendations to move forward with the network, particularly from the Third ASEAN Chief Justices’ Roundtable on Environment and the Second Asian Judges Symposium on Environment.

Output
ADB will consolidate and edit the papers submitted for the roundtable to form part of the record in the anticipated publication of the roundtable proceedings. The roundtable organizers will request the participants to provide papers and presentations well in advance of the conference in order to make these materials available as: (i) references for the anticipated publication of the roundtable proceedings; and (ii) resources to be uploaded on the AJNE website at www.asianjudges.org.

Contacts
Mr. Ha Tuan Hiep
Legal Officer
Supreme People’s Court of Viet Nam
Tel: +84 4 62741181
email: hatuanhiep@gmail.com
Logistics

Ma. Celeste Grace Saniel-Gois, Associate Legal Operations Officer, OGC, ADB: mcgsanielgois@adb.org

Kristine Melanie Rada, Legal Operations Assistant, OGC, ADB: kmrada@adb.org

Ma. Imelda Alcala, Law, Justice, and Development Operations Analyst, OGC, ADB: mialcala.consultant@adb.org

cc. Dr. Kala Mulqueeny, Principal Counsel, Office of the General Counsel (OGC), ADB: kmulqueeny@adb.org
Attachment 1

FOURTH ASEAN CHIEF JUSTICES’ ROUNDTABLE ON ENVIRONMENT
RECOMMENDATIONS FROM THE THIRD ROUNDTABLE

I. PROPOSALS SUBMITTED TO THE ASEAN CHIEF JUSTICES

1. **Forming National Environmental Committees or National Working Groups on Environment.** Each ASEAN judiciary shall create an environmental committee within their respective jurisdictions (i) to work on the projects proposed at each ASEAN Chief Justices’ Roundtable on Environment; and (ii) to serve as focal points for regional coordination. These focal points can be the same persons who will attend each succeeding roundtable to guaranty continuity in the roundtable discussions.

2. **Forming the ASEAN Judiciaries Working Group on Environment.** The chairperson of each National Working Group or the persons appointed by the ASEAN chief justices shall comprise the ASEAN Judiciaries Working Group on Environment.

3. **Prioritizing the Attendance of ASEAN Chief Justices at the Annual Roundtable.** To ensure that ASEAN chief justices attend the annual Chief Justices’ Roundtable on Environment, the ASEAN Judiciaries Working Group on Environment shall ensure that priority issues are set out in the roundtable agenda.

4. **Holding Interim Virtual and Face-to-Face Meetings.** The participants suggested holding virtual meetings in between the roundtables. If possible, they would also like to have one face-to-face meeting with the support of ADB.

5. **Submitting Progress Reports on the Implementation of the Jakarta Common Vision.** Each ASEAN judiciary must have a report card or a benchmark of their accomplishments in dealing with environmental challenges in the form of a checklist of the Jakarta Common Vision’s goals against which its progress can be assessed. The participants must discuss these results at the start of each roundtable. The participants also considered submitting interim reports to the ASEAN Judiciaries Working Group.

6. **Conducting Environmental Twinning Programs.** The ASEAN judiciaries can request training from the judiciaries that have established expertise in particular areas (such as ADR). These judiciaries must also exchange current environmental legislation so that they can consider and adopt useful or exemplary provisions.

II. OTHER PROPOSALS MADE BY INDIVIDUAL JUSTICES

**Specifically for the ASEAN Chief Justices’ Roundtable on Environment**

1. **Harmonizing the Rules of Procedure for Environmental Cases.** The ASEAN judiciaries can have harmonized rules of procedure for environmental cases and a set of model rules that those without special rules can adopt. These model rules can also help international environmental law practitioners understand the rules applicable in other countries.

2. **Preparing a Record of Proceedings.** There must always be a record of the proceedings on which the roundtable participants can comment and agree to avoid repeatedly discussing the matters they already agreed on.
3. **Including Mediators in Judicial Conferences.** ADB and the host judiciary must invite mediators to attend conferences among the ASEAN justices in view of how people use mediation as a means of settling their environmental disputes.

4. **Rotating the Head of the Roundtables every 3 Years.** The ASEAN judiciaries can rotate the head of the annual ASEAN Chief Justices’ Roundtable on Environment every three years with the next head bearing the responsibility of hosting the next meeting.

5. **Sharing Notes on Organizing the Roundtable.** The organizing committee of the current host judiciary of the roundtable must share its experiences in convening the roundtable with the next host judiciary.

**For the Asian Judges Network on Environment (AJNE)**

1. **Improving the Content of the AJNE Website.** The network can use the website for the following purposes: (i) to share information amongst the justices and strengthen their capacity to appreciate scientific evidence; and (ii) to list scientists and technical experts who can render opinions in environmental cases and even train judges. The members must appoint focal persons to administer the website so that the ASEAN judiciaries can immediately upload their decisions and other information.
Attachment 2

Proposals from the Second Asian Judges Symposium on Environment

A. Asian Judges Network on Environment

1. **Steering Committee.** This proposal includes the creation of a steering committee or an advisory board to give advice on the formulation of resources, training, and other modes of capacity-building for the network members. The steering committee would have representatives to serve as a focal point for the participating judiciaries. The recommendation to create national working groups on the environment from the ASEAN Chief Justices’ Roundtable held in Bangkok, Thailand aligns with this proposal for the creation of a steering committee.

2. **Committee Representatives.** This proposal includes the chief justice or head of the judiciary to appoint or designate a judge or representative to serve as a member on the steering committee. The proposal also includes that the representatives should have the following tasks: (i) to design the agenda for the next conference; (ii) to take responsibility for the judiciary’s contributions to the AJNE website; (iii) to ensure the timely submission of these contributions; (iv) to report back to the judiciaries on the committee discussions; and (v) to ensure that the AJNE’s development of a curriculum and other resources is appropriate to the context and culture of the jurisdiction concerned.

3. **Permanent Administrator.** This proposal includes the designation of a permanent administrator in ADB to coordinate and facilitate any submissions related to the judiciaries’ commitments. The proposal further includes that the administrator should have the following tasks: (i) to serve as the AJNE’s moderator; (ii) to ensure the network’s security and that the network facilitates interaction among its members; (iii) to monitor and send reminders regarding member input; (iv) to call a particular member’s attention to any unanswered queries addressed to him; and (v) to adopt a filtering process for the content published on the website (to ensure consistency in terms used, and if necessary, provide clarifications for the terms specific to a particular jurisdiction).

4. **Vision Statement.** This proposal includes that the members agree on a vision statement to outline the network’s functions, achievements, and objectives to collectively work towards enhancing environmental justice. The proposal further includes that participating judiciaries enter into a Memorandum of Understanding to take ownership of the AJNE by ensuring that the judiciaries regularly respond and contribute resources to the network.

B. Website

1. **Contents.** This proposal includes that the website have the following sources of law: (i) international laws; (ii) domestic laws; and (iii) landmark decisions on the environment. The website should include best practices and judicial innovations to resolve common concerns. The website should also have statistics, data, and other developments on the environment. In addition, the website should include various links to: (i) existing environmental databases such as the ECOLEX; (ii) judiciaries with a high level of transparency and which already provide a multitude of resources and other material online; and (iii) judicial academies.

2. **Tools.** This proposal includes that the website have a search engine with the capacity to generate a list of statutory and case laws after an initial topic search. The search engine should facilitate these searches according to: (i) issues; (ii) subject; (iii) technical or scientific information; and (iv) legal precedents. The search engine should avoid the practical difficulties of online research, such as having to access other websites that require a subscription. In addition, the website should include other tools to facilitate the storage and retrieval of information among its members.
3. **Green Judicial Forum.** This proposal suggests that the website include a discussion or interactive forum for participating judiciaries to represent a community practice network. The forum should allow members to post and respond to queries. The forum should also adopt measures to ensure security by setting stringent, ground rules for the actual operation of the community of practice, including: (i) prohibiting criticisms of individuals; (ii) excluding specific, pending cases in discussions; (iii) limiting questions to hypothetical queries; and (iii) avoiding the use of litigants’ names to ensure that the facts of a particular case remain confidential.

4. **Website Support.** This proposal reflects concerns on supporting the website, considering that maintaining the site requires a host, support, and long-term funding. The proposal points to the need for expert assistance to ensure that the website serves as a platform to share and exchange information.

C. **Other Resources**

1. **Benchbook.** This proposal includes the publication of a benchbook containing international and national laws and landmark jurisprudence organized according to region, sector, and issues. The proposal reflects the preference that a hard copy publication of the benchbook be made available due to limited internet access in some areas. The proposal suggests that ADB provide a soft copy of the benchbook to the various judiciaries for printing and local distribution.

2. **Translations.** This proposal recognizes the need for judiciaries to have access to translations for two types of materials: (i) resources for the judiciaries as a recipient of these materials; and (ii) resources from the judiciaries themselves.

3. **Registry of Experts.** This proposal includes the creation of a registry of experts, which is not equivalent to a registry of expert witnesses. The proposal recognizes the need for judges to stay clear of any suggestion of bias and avoid making any particular recommendation on an expert at the risk of excluding others. The proposal suggests that assistance for the selection of experts can come from the national academy of sciences of each country, such as the Commonwealth Scientific and Industrial Research Organization (CSIRO) in Australia. The proposal recognizes that the board of the academy can appoint the expert or provide a list of experts willing to give helpful advice.

D. **Training**

1. **Participants.** This proposal includes training for judges at all court levels, particularly because first level courts exercise jurisdiction over criminal actions and hear many other environmental cases at the first instance. The proposal suggests extending training to regulators, prosecutors, lawyers, and enforcement officials.

2. **Content of Training.** This proposal includes additional training to cover perspectives from resource persons in green economics, such as ecologists and accountants, to explain the ramifications of natural capital.

3. **Mode of Training.** This proposal includes training that can be undertaken through the following: (i) judicial academies; (ii) visiting professors; and (iii) predesigned educational tools such as videos and documentaries. The proposal recognizes that twinning systems facilitate the bilateral exchange of training between a judiciary with more expertise in environmental law and another judiciary.

4. **Agenda for Next Symposium.** This proposal directs interest in including the following issues for the agenda of the succeeding symposium: (i) whether there is a need to create an international tribunal to hear and decided cases on climate change; (ii) whether to consider crimes committed in the high seas as crimes against the law of nations; and (iii) how to assess damages on the environment.
IV. AGENDA
Program of Meeting of the Working Group for the
Fourth ASEAN Chief Justice’s Roundtable on Environment
15-16 September 2014
at Meliã Hotel, Hanoi, Viet Nam
--------------------------------------

Monday, 15 September 2014

8:00–8:30 PM  Registration

8:30–9:10 AM  Welcome Remarks
  • Hon. Truong Hoa Binh, Chief Justice, Supreme People’s Court of Viet Nam
  • Dr. Kala Mulqueeny, Principal Counsel, Asian Development Bank

9:10–9:30 AM  Introduction of Participants

9:30–9:45 AM  Overview and Updates from the Secretariat since the Third Chief Justices’ Roundtable on Environment (or the “Third Roundtable”)

9:45–10:15 AM ASEAN Judiciaries Reporting on Progress on the Common Vision on Environment for ASEAN Judiciaries (or the “Jakarta Common Vision”) Since the Third Roundtable

10:15–10:45 AM Coffee Break

10:45–12:30 PM Topic 1: Cooperation amongst ASEAN Judiciaries: Discussion on Proposals Raised During the Third Roundtable
  Facilitated Discussion (See Attachment A for Proposals)
  The Working Group participants will provide perspectives on each proposal made during the Third Roundtable and shared with Chief Justices that can advance the realization of the Jakarta Common Vision and discuss the ways to implement these proposals as appropriate.

  To encourage free flow and exchange of ideas, the facilitator will invite the participants with prior experience in implementing some of these proposals to share their progress, challenges and lessons learned.

  The facilitator will also invite participants to make new proposals on how the ASEAN judiciaries can better address environmental challenges through sub-regional cooperation.

12:30–1:45 PM Lunch

1:45–3:15 PM  Topic 1: Cooperation amongst ASEAN Judiciaries: Discussion on Proposals Raised During the Third Roundtable (continued)

3:15–3:45 PM  Coffee Break
3:45–5:00 PM  
**Topic 2: Cooperation amongst Asian Judiciaries: Discussion on Proposals made on the Asian Judges Network on Environment (AJNE) during the Second Symposium**

Facilitated Discussion (See Attachment B for Proposals)
The Working Group participants will provide perspectives on each proposal made during the Second Asian Judges Symposium, and meeting of the AJNE. The participants will also discuss their desired contribution to and benefits from the Asian Judges’ Network on Environment based on the Proposals made.

**Tuesday, 16 September 2014**

9:00–10:15 AM  
**Topic 2: The Fourth ASEAN Chief Justice Roundtable: Proposals for Agenda and Coverage**

Facilitated discussion co-designing the agenda and coverage of the Fourth ASEAN Chief Justices Roundtable on Environment.

*The ASEAN judicial delegations will confirm their needs and expectations for the ASEAN Chief Justices Roundtable on Environment and its Working Group, and the Asian Judges Network on Environment, and consequently, the coverage of the Fourth Roundtable. Specifically, the participants will consider the following:*

- What are the next steps for the Fourth Roundtable?
- What do ASEAN judiciaries want from AJNE?
- What outcomes do the ASEAN judiciaries need from the annual roundtable?
- How can AJNE, the Roundtable and interim working group meetings advance the capacity of judges to decide environmental cases?

10:15–10:45 AM  
**Coffee Break**

10:45–12:00PM  
**Topic 2: The Fourth ASEAN Chief Justice Roundtable: Proposals for Agenda and Coverage (continued)**

The facilitator will ask the participants about the issues and topics their judiciary would like to see covered during the Fourth Roundtable and the judicial environmental updates that their judiciary is willing to present upon and cover in the Fourth Roundtable. The respective judicial participants will come prepared to offer the perspective of their judiciary.

*The ASEAN judicial delegations will identify their needs and expectations for the Fourth Roundtable, keeping in mind the Third Roundtable proposal to develop an agenda to attract, interest and secure the attendance of ASEAN chief justices at the annual ASEAN Chief Justices’ Roundtable on Environment.*

12:00–1:15 PM  
**Lunch**

1:15–3:00 PM  
**Topic 3: Cooperation amongst ASEAN Judiciaries: Other Business**

Participants will be invited to share any other proposals or business that has not previously been discussed, if any.

3:00–3:15 PM  
**Wrap Up (10 minutes)**

Representatives of the Supreme People’s Court of Viet Nam and the Asian Development Bank will give brief remarks.
V. LIST OF PARTICIPANTS
## First ASEAN Judicial Working Group on Environment Meeting

### List of Delegates

<table>
<thead>
<tr>
<th>Organization</th>
<th>Delegate</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asian Development Bank</td>
<td>Dr. Kala Mulqueeny</td>
<td>Principal Counsel</td>
</tr>
<tr>
<td>Supreme Court of Cambodia</td>
<td>Ms. Kim Sathavy</td>
<td>Justice</td>
</tr>
<tr>
<td>Supreme Court of Indonesia</td>
<td>Mr. Takdir Rahmadi</td>
<td>Justice</td>
</tr>
<tr>
<td>People’s Supreme Court of Lao PDR</td>
<td>Mr. Somsack Taybounlack</td>
<td>Vice President, Middle Regional Court of Lao PDR</td>
</tr>
<tr>
<td>Federal Court of Malaysia</td>
<td>Mr. Tan Sri Richard Malanjum</td>
<td>Chief Judge of Sabah and Sarawak</td>
</tr>
<tr>
<td>Federal Court of Malaysia</td>
<td>Ms. Nurul Husna binti Awang</td>
<td>Deputy Registrar, Policy, Training and Strategic Planning Division of the Chief Registrar’s Office</td>
</tr>
<tr>
<td>Supreme Court of the Union, Myanmar</td>
<td>Ms. Aye Aye Hlaing</td>
<td>Deputy Director, Research Department</td>
</tr>
<tr>
<td>Supreme Court of the Philippines</td>
<td>Mr. Oscar Badelles</td>
<td>Chief Associate Justice</td>
</tr>
<tr>
<td>Supreme Court of Thailand</td>
<td>Mr. Winai Ruangsri</td>
<td>Research Justice</td>
</tr>
<tr>
<td>Supreme Court of Thailand</td>
<td>Ms. Suntariya Muanpawong</td>
<td>Research Judge, Environmental Division</td>
</tr>
<tr>
<td>Supreme People’s Court of Viet Nam</td>
<td>Mr. Bui Ngoc Hoa</td>
<td>Deputy Chief Justice</td>
</tr>
<tr>
<td>Supreme People’s Court of Viet Nam</td>
<td>Mr. Dang Xuan Dao</td>
<td>Chief Judge of Economic Court</td>
</tr>
<tr>
<td>Supreme People’s Court of Viet Nam</td>
<td>Ms. Hoang Thi Kim Oanh</td>
<td>Deputy Chief Judge of Criminal Court</td>
</tr>
<tr>
<td>Supreme People’s Court of Viet Nam</td>
<td>Mr. Ngo Cuong</td>
<td>Director of International Cooperation Department</td>
</tr>
<tr>
<td>Supreme People’s Court of Viet Nam</td>
<td>Mr. Nguyen Van Cuong</td>
<td>Deputy Chief Judge of Administrative Court</td>
</tr>
<tr>
<td>Supreme People’s Court of Viet Nam</td>
<td>Mr. Ngo Anh Dung</td>
<td>Deputy Chief Judge of Civil Court</td>
</tr>
<tr>
<td>Supreme People’s Court of Viet Nam</td>
<td>Mr. Dam Van Dao</td>
<td>Deputy Chief Judge of Administrate Court</td>
</tr>
<tr>
<td>Supreme People’s Court of Viet Nam</td>
<td>Mr. Nguyen Tu Duy</td>
<td>Deputy Head of Training Division, Judge Training School</td>
</tr>
<tr>
<td>Asian Development Bank</td>
<td>Ms. Celeste Grace A. Saniel-Gois</td>
<td>Associate Legal Operations Officer</td>
</tr>
<tr>
<td>Asian Development Bank</td>
<td>Ms. Francesse Joy J. Cordon</td>
<td>Legal Research Associate (Consultant)</td>
</tr>
<tr>
<td>Asian Development Bank</td>
<td>Ms. Briony Eales</td>
<td>Environmental Law Specialist (Consultant)</td>
</tr>
</tbody>
</table>
VI. PROPOSALS FOR THE DRAFT HANOI ACTION PLAN
During the first meeting of the ASEAN Judicial Working Group on Environment (the group), the group: (i) agreed that the Jakarta Common Vision had been consistently affirmed as relevant as a guiding vision, at least until 2020; (ii) called for an Action Plan to implement the Jakarta Common Vision, which Action Plan is required by the Jakarta Common Vision but has not yet been prepared; (iii) requested consolidation of the proposals made during the first ASEAN Judicial Working Group on Environment meeting, and also that the proposals should be integrated in order to facilitate development of the Hanoi Action Plan to Implement the Jakarta Common Vision (the Hanoi Action Plan).

Set out below is the group’s agreed response to the proposals contained in Attachment 1 and Attachment 2 to the Concept Note. The group agreed as follows on those proposals and requested ADB to integrate those agreements with the proposals contained in Attachments 1 and 2 to the Concept Note in order to produce the Hanoi Action Plan. The group agreed that the respective ASEAN judiciaries should initiate implementation of the Hanoi Action Plan in advance of the Fourth ASEAN Chief Justices’ Roundtable on Environment, and review results on implementation of the Jakarta Common Vision and the Hanoi Action Plan at the Fourth ASEAN Chief Justices’ Roundtable on Environment to be conducted in November or December 2014. The group also agreed that the Hanoi Action Plan should formally be launched at the Fourth ASEAN Chief Justices’ Roundtable on Environment.

A. Collective Proposals Raised by the Third Roundtable Participants

1. National Judicial Working Groups on Environment. The group agreed on the importance of establishing National Judicial Working Groups on Environment within their respective jurisdictions and further raised the following proposals on how to create and manage these working groups.

   a. National Judicial Working Groups on environment should (i) be established prior to the Fourth Roundtable and (ii) take account of national differences.

   b. Provincial committees for islands/provinces under the National Judicial Working Groups may be established in large ASEAN countries to establish real national working networks of judges.

   c. A chair of the National Judicial Working Group should be appointed.

   d. Each chair of an ASEAN country’s National Judicial Working Group will usually be the focal point in the ASEAN Judicial Working Group on Environment.

   e. The National Judicial Working Group will work to implement the Jakarta Common Vision as its primary purpose which will form the content of its work program.

   f. National Judicial Working Groups should list the national environmental expertise of (i) judges and (ii) scientific and expert witnesses.

   g. National Judicial Working Groups should list and collect (i) landmark environmental cases and (ii) national environmental legislation, and share each with AJNE for inclusion on the website.

   h. National Judicial Working Groups should identify legal issues arising for the judiciary from cross-border and transnational environmental challenges.
i. National Judicial Working Groups should identify issues arising for the judiciary working on national environmental challenges (executive/judge conflict).

j. ADB will support National Judicial Working Groups by conducting national judicial and/or enforcement needs assessments when agreed with the national judiciary to determine the environmental institutional needs of national judiciaries.

2. **The ASEAN Judicial Working Group on Environment.** The group agreed that this meeting is the first of the ASEAN Judicial Working Group on Environment and suggested that this working group be created and managed as follows:

a. The chair of each National Judicial Working Groups on Environment be designated as representative National Advisor to the ASEAN Judicial Working Group on Environment.

b. If there is no National Judicial Working Group in a given ASEAN judiciary, the respective chief justice should appoint a National Advisor to the Working Group.

c. The ASEAN Judicial Working Group on Environment will work to implement the Jakarta Common Vision as its primary purpose, which will form the content of its work program.

d. Each ASEAN judiciary shall seek to send two representatives to ASEAN Judicial Working Group on Environment meetings, one with institutional knowledge (i.e., who has background of or participated in the pan-Asia Asian Judges Symposium and the ASEAN Chief Justices’ Roundtable on Environment) to ensure continuity and one who has not been to meetings previously.

e. Each representative will (i) commit in advance to brief and share knowledge with colleagues upon their return and (ii) submit a report to their chief justice.

f. The ASEAN Judicial Working Group on Environment will meet in person once in 2014, and starting in 2015, the ASEAN Judicial Working Group expects to meet twice, the first meeting before the annual ASEAN Chief Justices’ Roundtable on Environment to enhance cooperation and propose an agenda for the Fifth Roundtable and the second meeting the day before the annual Roundtable.

g. The ASEAN Judicial Working Group will form an email list and communicate by email and set interim conference call meetings as the need arises, to be facilitated with ADB’s assistance.

h. The ASEAN Judicial Working Group on Environment is currently comprised of the focal points listed in Attachment 3.

3. **Prioritizing the Attendance of ASEAN Chief Justices at the Annual Roundtable.** To encourage ASEAN chief justices to attend the annual ASEAN Chief Justices’ Roundtable on Environment, participants of the ASEAN Judiciaries Working Group will (i) identify issues that might be of interest to their respective chief justice for the agenda; (ii) advise the group of block out dates of attendance of their chief justice in November; and (iii) brief their chief justice on the outcomes of the ASEAN Judiciaries Working Group Meeting, and provide the rationale for attendance to convince their chief justices of the need to attend the annual Roundtable while they brief the chief justices.

4. **Holding Interim Virtual and Face-to-Face Meetings.** Refer to item no. A/2/g.

5. **Submitting Progress Reports on the Implementation of the Jakarta Common Vision.** The group agreed that each Judiciary would report on progress against the Jakarta Common Vision at each ASEAN Judicial Working Group on Environment meeting, and each ASEAN Chief Justices Roundtable on Environment.
6. **Environmental Twinning Programs.** The group agreed that ASEAN judiciaries would consider environmental twinning programs.

B. **Proposals Made by Individual Justices**

1. **Harmonizing the Rules of Procedure for Environmental Cases.** The group agreed that sample frameworks and content for environmental rules of procedure should be derived from judiciaries with existing rules (Indonesia, the Philippines, and Thailand), so as to illustrate content for judiciaries considering such rules. However, judiciaries agree that harmonizing rules of procedure for environmental cases was not possible or desirable.

2. **Preparing a Record of Proceedings.** The group noted that proceedings had been prepared for the three prior Roundtables and this should be continued.

3. **Including Mediators in Judicial Conferences.** The group agreed to include mediators where relevant to the topics under discussion.

4. **Rotating the Head of the Roundtables every 3 years.** The group rejected the proposal and agreed to maintain the status quo: rotating the Roundtable chair annually.

5. **Sharing Notes on Organizing the Roundtable.** The group agreed with the desirability of continuity between roundtables and that the current host judiciary chairs should share experiences with the next host judiciary.

6. **Improving the Content of the AJNE Website.** The group agreed for each ASEAN judiciary to share environmental laws and significant environmental jurisprudence on the AJNE Website, and for National Judicial Working Groups on Environment to coordinate this.
Set out below are the proposals contained in Attachment 2 to the Conference Concept Note and the consensus that was reached in relation to each of those proposals.

A. Asian Judges Network on Environment

1. **Steering Committee/Advisory Board.** The Group agreed (i) to create National Judicial Working Groups—discussed in the context of the ASEAN Judicial Working Groups; and (ii) that ASEAN would provide two representatives to the Steering Committee—a representative each from the host-country chair of the Roundtable in a given year, and the prior year’s host-country chair. The rationale for representation was to avoid duplication of work by the AJNE Steering Committee and the ASEAN Working Group and ensure efficiency of their work.

2. **Committee Representatives.** The group agreed that committee representatives would be responsible for: (i) contributing to the design of the agenda for the next Symposium; (ii) the judiciary’s contributions to the AJNE website; (iii) ensuring timely submission of contributions; (iv) reporting back to the ASEAN Judiciaries Working Group on Environment focal points the committee discussions; and (v) ensuring that the AJNE’s development of a curriculum and other resources is appropriate to the context and culture of the jurisdiction concerned.

3. **Permanent Administrator.** ADB agreed to continue to perform the function of administrator for the next two years.

4. **Vision Statement.** The Group agreed to propose that the AJNE vision statement should be the same as the Jakarta Common Vision, taking into account that the South Asian Bhurban Declaration very closely corresponds to the Jakarta Common Vision and that the environmental and legal issues of the Asian region tend to be common issues.

B. Website

1. **Contents, Tools, and Website Support.** The Group acknowledged that not all judges within ASEAN have access to the internet. Additionally, even where judges have access to the internet, limited English language skills may limit the use of the internet for many judges in some jurisdictions, and translations of documents may be needed in order to make full use of them.

2. **Green Judicial Forum.** The Group gave mixed views. While some noted the potential for online exchange, several noted that language barriers between and among judges in ASEAN countries, and limited internet access limited the potential value of this forum.

C. Other Resources

1. **Benchbook.** The group agreed that national benchbooks for use in court should be based on national laws and procedures, and determined based on a needs assessment. However, a reference book of international materials (as described in Attachment 1 item no. A/1/g and A/1/h), would be beneficial.

2. **Translations.** The working group affirmed the important need for translations, and appropriate documents in a form, manner and language that could be locally understood.
3. **Registry of Experts.** Refer to Attachment 1 item no. A/1/f above as discussed in the context of the National Judicial Working Groups.

D. **Training**

1. **Participants, Content and Mode of Training.** The Group affirmed the general proposal regarding training and further affirmed that training would be determined in conjunction with the national needs assessments that ADB will conduct.

2. **Agenda for Next Symposium**
VII. PROPOSED AGENDA FOR THE FORTH ROUNDTABLE
TOPICS PROPOSED FOR THE AGENDA FOR THE FOURTH ASEAN CHIEF JUSTICES’ ROUNDTABLE ON ENVIRONMENT
AS AGREED AT THE FIRST ASEAN JUDICIAL WORKING GROUP MEETING

Set out below are the proposals from each ASEAN country representative/focal point to the First ASEAN Judicial Working Group on Environment meeting for inclusion in the Fourth ASEAN Chief Justices’ Roundtable on Environment Agenda.

A. Cambodia. Justice Kim Sathavy suggested:
   1. inviting representatives from other national agencies and communities to contribute to environmental preservation and all the causes that the ASEAN judiciaries are concerned with;
   2. discussing ways of preventing people from committing environmental crimes and offenses; and
   3. coordinating with the heads of the legislative and executive branches of government to discuss how to deal with environmental problems.

B. Indonesia. Justice Takdir Rahmadi supported the topics proposed by the other representatives and added the following:
   1. cases relating to deforestation as a result of burning or illegal logging; and
   2. strategic litigation against public participation in relation to the environment.

C. Lao People’s Democratic Republic. Judge Somsack Taybounlack would present on how to deal with challenges in biodiversity and illegal wildlife cases. He would also like to hear more information about the participation of law enforcement agencies in environmental law enforcement (examples of cases from other ASEAN courts on the implementation of environmental laws).

D. Malaysia. Chief Judge Malanjum suggested discussing:
   1. endangered species, the illegal wildlife trade, laws to protect endangered species, and law enforcement;
   2. environmental protection ensuring the balance between justice and economic development; and
   3. indigenous people’s rights and environmental protection.

E. Union of Myanmar. Justice Aye Aye Hlaing would be interested in the following:
   1. presenting on the judicial commitment and implementation on environmental issues in Myanmar;
   2. learning from the experiences of other countries on environmental law and enforcements; and
   3. capacity building for judges in other countries.

F. Philippines. Justice Oscar V. Badelles supported Indonesia’s suggestion to have environmental twinning programs between ASEAN nations and will communicate with ADB which topics they would like to discuss.

G. Thailand. Justice Winai Ruangsri expressed interest in presenting on public land encroachment, criminal and civil action against public land encroachment, and deforestation.
H. **Viet Nam.** Deputy Chief Justice Bui Ngoc Hoa suggested discussing:
1. environmental challenges as an introduction session;
2. environmental cases covering the right to litigation and gather evidence and assess damages, the application of *ad hoc* methods, environmental mediation, and enforcement of decisions rendered in these cases; and
3. cooperation among the ASEAN courts, specifically (i) how to enhance cooperation among the ASEAN judiciaries with respect to specialized environmental training; (ii) the preparation of a benchbook containing environmental cases, specifically guidelines on adjudicating environmental cases.