

BANGKOK DECLARATION AND AWARENESS OF ASEAN MEMBER COUNTRIES: THE REGIONAL LAW OF CLEANING OUR OCEANS

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ABSTRACT---This paper aims to build awareness for ASEAN member countries in combating marine debris, and the challenges of the Bangkok Declaration so that it can become a regional law for countries in the ASEAN region. In this study, the authors used the qualitative research method. The approach used is observation and interpretation. This paper provides information on the latest trend in research. The results showed that the Bangkok Declaration on Combating Marine Debris in the ASEAN Region and ASEAN Framework of Action on Marine Debris is a form of awareness of ASEAN member countries in combating marine debris. Not only that, every country leader has agreed to take a national strategic policy in implementing these two regional documents in order to be effective and have value in improving the marine environment. Both of these instruments have become regional laws that are soft law because they have created general legal norms that will be used by the international community as key principles in the future to resolve international environmental issues, moreover, both of these declarations are in accordance with the Principles of Due Diligence and Harm Prevention and the Principles of Transboundary Co-operation in Cases of Environmental Risk within the framework of international environmental law, so the challenge is ASEAN member countries' compliance with the regional legal agreement.

KEYWORDS: ASEAN; Bangkok Declaration; Regional Law

I. INTRODUCTION

There is one of the important moments that occurred in 2019 related to global environmental issues which recently became a hot topic among world leaders, namely marine debris. This was also a concern for ten heads of state at the 34th Summit of the Association of Southeast Asia Nations (ASEAN) in Bangkok in June 2019. At the plenary session of the Summit, the Bangkok Declaration on Combating Marine Debris in ASEAN Region was successfully adopted. The Bangkok Declaration is a follow-up and is a complement to the existing ASEAN Framework of Action on Marine Debris. The heads of ASEAN countries agreed to strengthen action at the national level as well as through collaborative actions between ASEAN member countries and partners to prevent and reduce marine waste significantly, especially from land-based activities, including environmentally friendly management in the ASEAN region.

The risk of trash in the sea is not only felt by fishermen who are fishing but also impacts on marine life. Even Gall(2015)and Harrison (2011) questioned whether this kind of thing who entered the International Union for the Conservation of Nature red list category or not and suspected as an agent against coral reef disease. Therefore, state leaders should be able to encourage more integrated land-to-sea approaches to prevent and reduce marine waste, and strengthen national laws and regulations and enhance regional and international cooperation including policy dialogue and relevant information exchange.

Efforts to handle the problem of plastic waste must be carried out jointly because the main sea cleanliness outside the territorial sea (12 miles) coastal state or archipelago state is the responsibility of all countries (Kadarudin, 2018), especially for ASEAN countries that have a sea area of more than 12 miles. Promotion of innovative solutions to increase the value of plastics and increase resource efficiency by prioritizing approaches such as circular economics and 3R (reducing, reusing, recycling), and capacity building and exchange of best practices among ASEAN member countries need to be sought immediately, because, in addition to worsening ASEAN sea conditions due to waste, ASEAN can be an example for regional organizations in combating marine waste so that there are regional legal mechanisms to clean our oceans.

The surprising thing is that Indonesia is declared the second largest contributor of plastic waste to the world's oceans, after China, with an estimated 0.48-1.29 million metric tons every year (Jambeck et al., 2015). This is

certainly embarrassing information for Indonesia in the presence of other ASEAN member countries, so it is necessary to strengthen the capacity of research and the application of scientific knowledge to combat marine waste, in particular, to support science-based policies and decision-making, it is also an important point agreed in the Bangkok Declaration on Combating Marine Debris in ASEAN Region. Based on the explanation, the problem that will be discussed in this paper is how to build awareness for ASEAN member countries in combating marine debris? and how is the challenge of the Bangkok Declaration so that it can become a regional law for countries in the ASEAN region?

Halden (2010), Cole (2011), Farrell and Nelson (2013) in their research revealed that the problem of sea pollution by plastic waste is no longer a thing that can be ruled out. The threat of waste in the marine environment is important because it has a risk of human impact. According to Fleming (2014) that it is caused by the interaction between the sea and humans. Cozar (2014) and Leite (2014) mention that the waste that enters the ocean comes from human activities. While Lyons et al. (2019) reports that due to the many forms of plastics, they can be found on the seabeds, in the water column, on the water surface or along the coastlines. The non-biodegradable nature of plastics means that the pollution problem brought about by marine plastics will persist in the environment leading to various repercussions. The region of Southeast Asia is one of the main contributors to the amount of marine plastics that are found in the environment globally.

II. METHODOLOGY

In this study, the authors used the qualitative research method, which (in general) generates words rather than numbers as data for analysis (Patton & Cochran, 2007). The approach used is observation and interpretation, which makes these phenomena observable (Lin, 2017; Roth, 2015). This paper provides information on the latest trend in research (Keng, 2017).

III. RESULTS

ASEAN in Combating Marine Debris and the Awareness of Countries

ASEAN as a regional organization has the responsibility in maintaining marine hygiene, especially in the Southeast Asian Region. In a 2010 estimate, six ASEAN member states are listed in the top 20 countries that mismanages their waste, resulting in plastic leakage into the oceans (Jambeck et al., 2015), namely Indonesia, the Philippines, Viet Nam, Thailand, Malaysia, and Bangladesh. Therefore, it is necessary for ASEAN efforts to increase the awareness of its member countries to carry out national actions to clean up rubbish at sea, especially those in territorial sea areas, contiguous zones, and exclusive economic zones of the country.

As microplastics are difficult to biodegrade and once they enter the marine environment, they are impossible to remove, that is the main reason why they contribute to the accumulation and concentration of microplastics in the world's oceans (Wang et al., 2018). Together with China, Indonesia, the Philippines, Thailand, and Viet Nam were responsible for more than half of the plastics entering the oceans (Lyons et al., 2019). This fact is one of the reasons behind the initiation of the Bangkok Declaration on Combating Marine Debris in the ASEAN Region at the 34th ASEAN Summit in Bangkok in June 2019.

Awareness of ASEAN member countries, especially Indonesia on global environmental issues related to waste in the sea has been answered by the Bangkok Declaration, in addition to agreeing to accelerate advocacy and actions to increase public awareness and participation, and improve education, with the aim to change behaviour towards prevention and reduction of marine waste, ASEAN member countries are also willing to promote inter-sectoral coordination between ASEAN sectoral bodies to effectively address the multidimensional and wide-ranging negative impacts and sources of marine waste pollution. Indonesia also continues to bring the environment at the global level not only at the ASEAN level but has also come to discussions at a number of international forums held by the United Nations (UN), and Indonesia has made it an instrument of its foreign policy.

Environmental diplomacy has become an increasingly central foreign policy instrument in Indonesian diplomacy. The Ministry of Foreign Affairs continues to oversee the discussion of various environmental issues that are in direct contact with Indonesia, including by actively coordinating Indonesia's participation in the United Nations Environmental Assembly (UNEA), which is the highest decision-making mechanism in the environmental field at the global level. The UNEA meeting is held every two years to agree on a variety of global environmental policy priorities, as well as being a reference for the development of international environmental law. UNEA-4 was held on 11-15 March 2019 in Nairobi, Kenya involving 4,700 delegates from 198 countries and dozens of observers from NGOs, UN agencies and other groups.

ASEAN member countries must realize that marine debris is not something that can be underestimated. All countries respect and emphasize environmental protection and support Thailand to include an environmental

protection agenda and combat marine debris, which is in line with the global agenda, which in the end, after the holding of the 34th ASEAN Summit in Bangkok in 2019 resulted in the Bangkok Declaration on Combating Marine Debris in the ASEAN Region. This declaration was praised by environmentalists as a good first step for the Southeast Asian region, although there are doubts about its implementation because ASEAN has a non-interference rule which means that the policymaking needed for implementation is fully in the hands of each member country. But it still needs to be pursued, because, without the initiative (the Bangkok Declaration), it will be difficult for countries to have an awareness of the importance of ocean cleanliness.

Marine plastic has many negative impacts on coastal countries (Truong& Ping, 2019). Limiting the scope of the Bangkok Declaration and the ASEAN Framework of Action on Marine Debris for waste at sea means only seeing the problem of plastics on the end, after plastic pollution has been created, such as the problem of poor recycling systems, management, and waste disposal. All ASEAN member countries should focus on upstream issues by drastically reducing plastic production so that it can impact on the reduction of pollution due to plastic waste. In the author's note, there are some deficiencies that might be missed during the 34th ASEAN Summit in Bangkok in 2019. Neither the Bangkok Declaration nor the ASEAN Framework of Action on Marine Debris accompanying it specifically mentions a ban on the use of disposable or imported plastics. foreign waste, as requested by environmental groups.

Not only at the national level, but many countries have also held bilateral, multilateral meetings at regional and inter-regional levels so that issues can be handled properly (Thamrin et al., 2017). Bangkok Declaration on Combating Marine Debris in the ASEAN Region and ASEAN Framework of Action on Marine Debris is a form of awareness of ASEAN member countries in combating marine debris. Not only that, every country leader must adopt a national strategic policy in implementing these two regional documents to be effective and have value in improving the marine environment in the future.

Bangkok Declaration as Regional Law in Southeast Asia

Cooperation between countries is now unavoidable. Complex forms of life are very vulnerable to disputes. To avoid disputes from happening, the international community must always rely on norms or rules. These rules are not only made to avoid disputes but also to discipline, regulate and maintain relations between countries (Kadarudin et al., 2019). Noting the common aspiration of the ASEAN Member States to implement the United Nations 2030 Agenda for Sustainable Development, in particular, to achieve Sustainable Development Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development, and its target 14.1 which seeks, by 2025, to “prevent and significantly reduce marine pollution of all kinds, in particular from land-based activities, including marine debris and nutrient pollution”.

The ASEAN Framework of Action on Marine Debris was developed to act on the recommendations from the ASEAN Conference on Reducing Marine Debris in ASEAN Region in Phuket in November 2017, taking into account the East Asia Summit (EAS) Conference on Combating Marine Plastic Debris in Bali in September 2017. The Framework of Action on Marine Debris was welcomed by the Ministers and representatives responsible for natural resources, environment and marine affairs from all ASEAN Member States at the Special ASEAN Ministerial Meeting on Marine Debris on 5 March 2019 in Bangkok, Thailand.

Similar to many environmental problems, marine plastic pollution is transboundary and therefore the governance solutions are complex (Vince& Hardesty, 2017). ASEAN has historically been struggling with the challenges facing the region because ASEAN only works by consensus and is reluctant to get involved in any issues that are considered internal problems of member countries, this is based on the prohibition of intervention as set out in the UN Charter. To reduce plastic pollution effectively, both on land and at sea, ASEAN countries must act more fundamentally than this Framework for Action and realize their own domestic policies that ensure that less disposable plastic will be produced. This can be done through disposable plastic prohibition regulations and laws that will facilitate the redesign of product packaging and shipping systems.

International law requires each country to take the steps necessary to control and deal with sources of serious global pollution or sources of transboundary destruction that are within their jurisdiction. The Bangkok Declaration and the ASEAN Framework of Action on Marine Debris are related to the Principles of Transboundary Co-operation in Cases of Environmental Risk in international environmental law. This principle explains that each country must collaborate with other countries in dealing with pollution across national borders. This is in line with the recognition that there are times when these countries have “shared natural resources”, which must be utilized together. Thus, the 34th ASEAN Summit in Bangkok in 2019 is a form of implementation of the principle.

Another principle in the framework of international environmental law is the Principle of Due Diligence and Harm Prevention. This principle determines that every good government should promote the legal and administrative provisions that govern public and private actions and protect other countries and the global

environment. The advantage of this standard is its flexibility and the state are not the only explanation for damage prevention. This principle will be applied by considering all aspects of a government, both in terms of whether or not effective regional surveillance, available natural resources, and silat activities are carried out, so that ASEAN member countries need to implement the Bangkok Declaration and the ASEAN Framework of Action on Marine Debris in its national legal framework.

A major challenge is to ensure the wide-scale implementation of a range of land-based measures to prevent and reduce marine debris that will be able to match the projected increase in plastic production. Debris is known to threaten sensitive marine and coastal habitats, harm hundreds of species of marine fauna, to interfere with navigation (Jahn&Kier, 2012). Considering the urgency of the issue, the Bangkok Declaration and the ASEAN Framework of Action on Marine Debris must become a regional law for ASEAN member countries so that they can be implemented and harmonized into their national laws.

The Bangkok Declaration and the ASEAN Framework of Action on Marine Debris have created general legal norms that will be used by the international community as key principles in the future to resolve international environmental issues, moreover, both of these declarations are in accordance with the Due Diligence and Harm Prevention Principles and Transboundary Co-operation in Cases of Environmental Risk Principles within the framework of international environmental law. All countries can follow up by making a National Action Plan in dealing with waste that pollutes the sea area using the basis of the Bangkok Declaration and the ASEAN Framework as regional law. Although in the international treaty law literature it is categorized that the Bangkok Declaration and the ASEAN Framework are only soft law, in the future the two regional instruments are still very likely to be upgraded to hard law so that they are binding on ASEAN member countries by ratifying.

IV. CONCLUSION

ASEAN member countries must realize that marine debris is not something that can be underestimated. Bangkok Declaration on Combating Marine Debris in the ASEAN Region and ASEAN Framework of Action on Marine Debris is a form of awareness of ASEAN member countries in combating marine debris. Not only that, every country leader has agreed to take a national strategic policy in implementing these two regional documents in order to be effective and have value in improving the marine environment. Both of these instruments have become regional laws that are soft law because they have created general legal norms that will be used by the international community as key principles in the future to resolve international environmental issues, moreover, both of these declarations are in accordance with the Principles of Due Diligence and Harm Prevention and the Principles of Transboundary Co-operation in Cases of Environmental Risk within the framework of international environmental law.

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