

## STATE LIABILITY ON THE SOUTHEAST ASIA HAZE INCIDENTS

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### *Abstract*

The purpose of this study is to carefully study the occurring haze incidents that had happened for decades in Southeast Asia yet no real resolution regarding the consequences of the State that causing the haze resulting from slash and burn method in clearing the forest. Indonesia is the country where the haze formed must held liable for its negligence to control the burning causing other countries to suffer the impacts in form of haze pollution. The Researcher interested to study about the term of state liability regarding this incident as ASEAN has its own treaty called the ASEAN Agreement on Transboundary Haze Pollution. This research adapted the normative law study by using the method of clinical law research. Secondary data sources used in this study and the data mining is done with literature study (library research). After all the data collected, the data is then processed and analyzed. To classify aspects of data studied the Researcher used the qualitative analysis. Furthermore, the conclusion of the research associated is drawn and described descriptively. This research showed the history of haze in Southeast Asia and how it formed as the resulted of uncontrolled slash and burn by the private companies located in Indonesia causing the haze that transported to other countries which in this case describe as transboundary. The final result of this research showed that Indonesia cannot be held liable as not one sanctions or fees mentioned in the agreement and imputability theory caused Indonesia could not held liable as it was the private companies act that caused the haze incidents throughout Southeast Asia.

**Keywords:** *State Liability, ASEAN, Haze Pollution*

### **A. Introduction**

Haze happens when smoke, dust, and other kind of dry particles obscure the clarity of the sky which usually regarded as atmospheric phenomena. This phenomenon is the product of slash-and-burn<sup>2</sup>. Most haze events in the Southeast Asian region have resulted from smoke from fires that occurred on peatlands<sup>3</sup> in

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<sup>2</sup> Slash-and-burn agriculture, or fire-fallow cultivation, is a farming method that involves the cutting and burning of plants in a forest or woodland to create a field called a swidden.

<sup>3</sup> A peatland is a type of wetland that is underlain by peat in various stages of decay which is saturated with water. Peat can work as fuel when dried that makes this soil easily burn especially during dry season in which haze incidents happen.

Sumatra and the Kalimantan region of Borneo Island. Uncontrolled burning caused the forest and land fires that came from Indonesia believed to be the main cause of this event.<sup>4</sup> In this case, the dominant factor that causes forest and land fires in Indonesia is the human factor.<sup>5</sup> The open burning method used by residents and corporations for land conversion is an example of how human factors contribute greatly to the forest and land fires that cause haze pollution. When residents or companies convert land by burn, they have no effective method of how to cope with fire only hopes that the fire can be extinguished by the rain.<sup>6</sup> As a result, when the rains have not fallen due to seasonal changes, the fire has become enlarged and becomes uncontrollable and causes forest and land fires and causes haze pollution.<sup>7</sup>

The background of the necessity of state liability in international law is that no country can enjoy its rights without respecting the rights of other countries. If there any violation of the rights of another country, the violator country must fix it.<sup>8</sup> In other words the country has to account for it.<sup>9</sup> As for this research Indonesia as the country that violates the rights of another country such as rights for living in healthy environment must responsible for the haze incidents that happens in Southeast Asia.<sup>10</sup>

The regional head should also be aware of the importance of coordinating with the central government in regard to the haze incidents, while continuing to conduct an introspection of some exploitative policies that might aggravate haze incidents in Kalimantan in particular. Regional heads need to remember that the main essence of regional autonomy is to mobilize local networks to empower their own areas, not to deceive people and damage the environment.

As a country that cause the haze incidents Indonesia responsible for the impacts of this incidents throughout Southeast Asia, especially for Singapore and Malaysia who suffered the most because of this incidents, and finally Indonesia had ratified the agreement regarding the issue. One of the risks in taking legal action relating to ratification ASEAN Agreement on Transboundary Haze Pollution is that Indonesia much likely to be asked for its liability for the impact on neighboring countries. Indeed, regardless of the non-legal context this can be avoided at a time

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<sup>4</sup> David B. Jerger, "Indonesia's Role in Realizing the Goals of ASEAN's Agreement of Transboundary Haze Pollution", *Journal Sustainable Development Law & Policy*, Vol. 14, No. 1, (Washington: Digital Commons @ American University Washington College of Law, 2014), p. 35.

<sup>5</sup> Gema BNPB (Indonesia's National Disaster Management Agency), Vol. 6, No. 3, "*Indonesia Darurat Asap*", (December 2015), p. 7. The Ministry of Environment and Forestry mentions that 99% of forest and land fires are caused by human activities.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> Huala Adolf, *Aspek-Aspek Negara dalam Hukum Internasional edisi revisi*, (Bandung: PT. RajaGrafindo Persada, 2002), p. 199.

<sup>9</sup> Hingorani, *Modern International Law 2nd.ed.*, 1984, p. 241.

<sup>10</sup> Daniel Heilman, "After Indonesia's Ratification: The ASEAN Agreement on Transboundary Haze Pollution and Its Effectiveness As a Regional Environmental Governance Tool", *Journal of Current Southeast Asian Affairs*, Vol. 3, (Hamburg: German Institute of Global and Area Studies, Institute of Asian Studies and Hamburg University Press, 2015), p. 96.

when the Government of Indonesia takes a ratification step to the ASEAN Agreement on Transboundary Haze Pollution.

ASEAN as the organization embodied it aims to solve the Southeast Asia haze incidents in the ASEAN Agreement on Transboundary Haze Pollution (further will refer as AATHP) as one form of international agreement in the field of environment and that makes this an international treaty which is one of the source of international law.<sup>11</sup> As a country that cause the haze incidents Indonesia responsible for the impacts of this incidents throughout Southeast Asia, especially for Singapore and Malaysia who suffered the most because of this incidents, and finally Indonesia had ratified the agreement regarding the issue.

Based on the above explanation, there are several considerations that form the basis of the statement of the problems in this proposal, including as follows:

- a. Whether the ASEAN Agreement on Transboundary Haze Pollution could be the basis of the legal act against the country that causes the incidents?
- b. How are the legal consequences regarding the country offender that cause the incidents based on the ASEAN Agreement on Transboundary Haze Pollution?

## B. Research Method

Research is a scientific activity related to analysis and construction, which is done methodologically, systematically, and consistently.<sup>12</sup> Legal research is a scientific activity, based on certain methods, systems, and thoughts, by analyzing them, and then also held a deep examination of the legal facts, to then seek a solution to the problems that arise in the symptoms concerned.<sup>13</sup> The type of research that the researcher uses in this research is the normative legal research. Researcher uses the normative legal research to analyze the data because the normative legal research has interpretation, which is defined as the process of changing from something that unknown to be known and understand.<sup>14</sup>

Secondary data is data obtained from literature study. Secondary data used in this research consist of: Firstly, The ASEAN Agreement on Transboundary Haze Pollution; The 1969 Vienna Convention; Draft Articles on Responsibility of States for Internationally Wrongful Acts, International Law Commission, 2001; Rio Declaration on Environment and Development 1992 (Earth Summit); United Nations Conference on the Human Environment, Stockholm 1972. Secondly, secondary legal materials consisting of books; journals; papers; and articles on the internet. Thirdly, tertiary legal materials ie Indonesian dictionary; English dictionary; and legal dictionary.

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<sup>11</sup> J.G Starke, Introduction to International Law: Tenth Edition, translation by Bambang Irianan Djajaatmadja, (Jakarta: Sinar Grafika, 2012), p. 51.

<sup>12</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: UI Press, 1986), p. 42.

<sup>13</sup> *Ibid*, p. 43.

<sup>14</sup> C.F.G Sunaryati Hartono, *Penelitian Hukum di Indonesia pada Akhir Abad ke-20, cet.1, Op.cit*, p. 142.

In this study, the data collection technique used by the researcher is normative legal research, which the researcher relies mostly in the use of library research method. Clinical Law Research are used for this research is to discover what are the juristically for a case in-concreto by collecting positive law in-abstracto. This type of reseach uses the legal norms as major premise, and the facts of the case are used as a minor premise.

### C. Research Findings and Discussions

#### 1. The ASEAN Agreement on Transboundary Haze Pollution cannot be the Basis of Legal Act Against the Country that Cause the Haze Incidents

To mitigate the impacts of the transboundary haze Pollution, ASEAN country members recognize that there is a need to strengthen policy national and strategies to prevent and reduce forest and land fires resulting in the creation of haze. The years of haze happened seemed to not meet any significance improvement regarding the solution to minimizing the problem such as reducing the amount of forest and land fires as this two reasons are the main cause of the haze occurrence.

The Association of Southeast Asian Nations, or ASEAN, was established on 8 August 1967 in Bangkok, Thailand, with the signing of the ASEAN Declaration (Bangkok Declaration) by the Founding Fathers of ASEAN, namely Indonesia, Malaysia, Philippines, Singapore and Thailand. Brunei Darussalam then joined on 7 January 1984, Vietnam on 28 July 1995, Lao PDR and Myanmar on 23 July 1997, and Cambodia on 30 April 1999, making up what is today the ten Member States of ASEAN. ASEAN as the community tried its best to contemplate the idea and better strategies to really tackle the problem once and for all as this ongoing haze had happened for decades and the country in Southeast Asia feels the needs of actual action about the ongoing haze and gathering all sorts of researches and strategies to reduce the haze occurrence. Forest and land fires in Indonesia occur almost every year and often resulting in transboundary haze that harms neighboring countries closest to the ASEAN environment such as Singapore, Malaysia and Brunei Darussalam. This idea resulted with the creation of the ASEAN Agreement on Transboundary Haze Pollution (AATHP) on June 10, 2002.

One of the main factors contributing the continuous haze resulting from forest and land fires in Southeast Asia is the palm oil plantations.<sup>15</sup> Indonesia has indeed succeeded in becoming the world's palm oil producer, reaching 24 million tons in 2012.<sup>16</sup> However, on the other hand, Indonesia is now also

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<sup>15</sup> Douglas Sheil, et.al., *The Impacts and Opportunities of Oil Palm in Southeast Asia*, (Bogor: Center for International Forestry Research 2009), p. 11.

<sup>16</sup> Kompas, "Kabut Asap, Ironi Kejayaan Sawit Indonesia", <http://sains.kompas.com/read/2013/06/21/1518308/Kabut.Asap.Ironi.Kejayaan.Sawit.Indonesia>, retrieved on 29 November 2017.

blamed for the haze that spread to neighboring countries, which is caused by palm oil business practices that sacrifice the environment.<sup>17</sup>

Palm oil business attracts many people, but sadly this facts not helped by the ‘environment friendly method’ to transform the forest and land to plantations by burning that widely regarded as the cheapest and quickest method.<sup>18</sup> In addition to the dense forests and there are many heavy timber, entrepreneurs feel the cost of environmentally friendly that should be done will spend a lot of cost, especially with the type of soil that is peat soil they prefer to do mass burning which of course more cost-effective.<sup>19</sup> Nevertheless, oil palm expansion is still considered to be a major driver of deforestation in Indonesia.<sup>20</sup> This is because it can be easier to obtain a land clearing permit than a logging permit, and some investors use oil palm as a means to gain access to timber.<sup>21</sup>

According to Article 4 Articles on The Responsibility of States for Internationally Wrongful Acts 2001 that actions can be delegated to the state are:

- “1. *The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central Government or of a territorial unit of the State.*
2. *An organ includes any person or entity which has that status in accordance with the internal law of the State.*”

Forest fires in Indonesia are not accompanied by presence the participation of institutions or state officials which act within Indonesian national law. Causes of forest fire usually done by individuals or parties which in this case palm oil plantations companies which seek for high benefit so that it tries to cut the cost of production by doing slash-and burn method for land clearing technique. Individuals suspect had been caught by Indonesia’s police for it acts that caused forest fires.<sup>22</sup>

Back to the AATHP, under the agreement of the States signing this agreement, generally has a primary goal, such as to prevent and monitor the pollution that must be mitigated through national and joint approvals intensify cooperation both regional and international scope. According to Article 7 and 9 AATHP requires each State to take action. Actions and steps which aims to control the source of fire, identify fire, making monitoring systems, appraisals,

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<sup>17</sup> *Ibid.*

<sup>18</sup> Douglas Sheil, *Loc.Cit.*

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

<sup>22</sup> BBC Indonesia, “*Siapa yang harus bertanggung jawab atas kabut asap di Sumatra?*”, [http://www.bbc.com/indonesia/forum/2013/06/130628\\_forum\\_kabutasap](http://www.bbc.com/indonesia/forum/2013/06/130628_forum_kabutasap), retrieved on 3 January 2018.

and early warning systems, information exchange and technology, and provide mutual assistance. This signs the idea that ASEAN had tried to gather the knowledge and collecting the measure that can help to tackle the haze issues.

Other than that, according to Article 4 paragraph 1 AATHP, every country has an obligation to work together to prevent haze pollution by controlling fires, establishing an early warning system, information and technology exchange as well provision of assistance if necessary. From what has been described in the international agreement, it can be seen that international treaties are always aimed at putting binding obligations against participating countries. In general, international agreements will soon be binding for the participating countries when it has been through the process of ratification.

ASEAN in carrying out its policies adheres to the fundamental principles set forth in the Treaty of Amity and Cooperation in Southeast Asia 1976. The principles are as follows:

1. *Mutual respect for the independence, sovereignty, equality, territorial integrity, and national identity of all nations;*
2. *The right of every State to lead its national existence free from external interference, subversion or coercion;*
3. *Non-interference in the internal affairs of one another;*
4. *Settlement of differences or disputes by peaceful manner;*
5. *Renunciation of the threat or use of force; and*
6. *Effective cooperation among themselves.*”

Based on these principles above it can be concluded that ASEAN strongly put forward the principle of non-interference and highly respects the sovereignty of each ASEAN countries member. These principles came to be known as ASEAN way known for its characteristic which encourages countries in Southeast Asia to find ways to work together optimally through dialogue and consultation.

Other statement indicates the “ASEAN Way” that explain the approaches are a set of formalized procedural norms, including, among other things, the search for consensus; the sanctity of sovereign rights; the principles of sensitivity and politeness; non-confrontational approaches to negotiations; behind-the-scenes discussions; and an emphasis on informal and non-legalistic procedures.<sup>23</sup> ASEAN way prefers the approach of negotiating regarding the conflicts so that no dominating parties will abuse their powers as it became like norm and order in Southeast Asia.

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<sup>23</sup> David Martin Jones and Smith Michael L. R., “*Making Process, Not Progress: ASEAN and the Evolving East Asian Regional Order*” *International Security* 32, 2007, p. 148

To the question, whether ASEAN or any countries that feel the negative impacts on the occurring and continuous haze pollution can sue Indonesia based on AATHP alone or make it as the basis of legal acts, the Researcher believes that this agreement alone cannot be the basis. This statement strengthen by AATHP articles itself that many of them stated that the haze pollution is join problem to all the countries that had ratified the agreement as they consider it to be join problem. The 'join problem' statement also encourage other countries to help Indonesia such as providing resource, funds, or some kind of researches by the experts, tackle, and orchestrating the way to diminished it damages with the main goal to tackle and mitigate the impacts of haze pollution as the Indonesia is the main source of the pollution and at the end of the day haze problems will no longer be ASEAN's biggest issue and no longer occurring problem and the haze can finally be prevented in the future.

## **2. Legal consequences regarding the country offender that cause the incidents based on the ASEAN Agreement on Transboundary Haze Pollution**

By signing a treaty, a country means agreeing to enter into an agreement. For this purpose the AATHP signing by Indonesia indicates that Indonesia has agreed to bind to the ratification agreement through ratification, and (accession) or accept (acceptance) of an agreement. As provided in the AATHP section 14 paragraph (1) and (2), approval (acceptance), or approval under the conditions applicable to ratification.

In multilateral agreements such as this AATHP indicates that Indonesia is subject to the rules of the treaty, with other words of this article governing when a ratification requires consent to be binding. The authority to accept or reject the ratification is inherent in the sovereignty of the state.

Seeing from the substance of AATHP itself, there were nothing mention that the blaming country should repair the damaged or pay the penalties as a form of restitution. Therefore, through the ratification of the agreement, Indonesia can no longer be prosecuted because it has become the joint responsibility of ASEAN countries, despite the haze pollution itself came from and occur in Indonesia.

The private companies that using the slash-and burn land clearing method lied under jurisdiction of Indonesia, that is why the Researcher believed that the act to bring justice for the irresponsible parties must be done by Indonesia.

Palm oil plantations widely regarded as the major factor that cause haze pollution, this fact strengthen by the statement from Indonesia's Minister of Environment and Forestry, Siti Nurbaya. A total of 123 companies scattered in Sumatra and Kalimantan indicated to be the cause of the burning of

thousands of hectares of forest and land in the region.<sup>24</sup> Although not specified clearly, but the Ministry of Environment and Forestry has ensured that hundreds of companies are causing dangerous haze from Sumatra, Kalimantan which later reached Singapore, Malaysia and Brunei Darussalam.

Indonesia had ongoing investigation to get the responsible parties as the haze resulting from their irresponsible act carries toxins and diseases sourced from embers of forest fires, it cannot be denied that almost 99% of the hotspots in Sumatra and Kalimantan peatlands are not properly referred to as forest fires, but something that is done intentionally. Therefore, the private companies that responsible for its action that causing the haze pollution must be prosecute under Indonesia law since the companies are from Indonesia so that it has better place to implement its own law. The administration sanction considered as first step to prosecute the irresponsible companies, it consist of three kinds, namely the forced termination of activities, suspending business permits and to revoke the business licenses.<sup>25</sup>

As this study adapted the Imputability Theory that the points are the country could only be blame by its actions if it involved the acts of its organs on its official agenda. Several statements had been made by the Researcher that it is the private companies act or individual that caused the haze. Therefore, from the AATHP substances there were no mention suggesting that the country that responsible for the haze could held liable. Also ASEAN Way forced other countries that suffered the impacts of haze could not interfere and ask for Indonesia responsibility for the action of private companies in their country. Although, it cannot set aside that Indonesia had already took several measures to ensure that the companies that implement their business in a certain way that it cause forest and land fires resulting the haze incidents throughout Southeast Asia get justice for their irresponsibility.

The government of Indonesia took several actions to bring justice by suing the responsible party, the administrative sanctions will be implemented this consist of three kinds, namely the forced termination of activities, suspending business permits, to revocation of business licenses, even further by putting them in blacklist so that they cannot do the same business in the future. Although it cannot be denied that the weakness of system along with the minimal preventing action and no well manage supervision had been created or run by Indonesia government considered the root cause of the forest and land fires that eventually lead to the occurrence of haze pollution.

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<sup>24</sup> Jerome Wirawan, "Tujuh perusahaan ditetapkan tersangka pembakaran hutan", *BBC Indonesia*, 16 September 2015, [http://www.bbc.com/indonesia/berita\\_indonesia/2015/09/150916\\_indonesia\\_tersangka\\_asap](http://www.bbc.com/indonesia/berita_indonesia/2015/09/150916_indonesia_tersangka_asap), retrieved on 2 January 2018.

<sup>25</sup> BBC, "Sanksi Perusahaan Pembakar Hutan", [http://www.bbc.com/indonesia/berita\\_indonesia/2015/09/150916\\_indonesia\\_tersangka\\_asap](http://www.bbc.com/indonesia/berita_indonesia/2015/09/150916_indonesia_tersangka_asap), retrieved on 18 December 2017.



However, the private companies that cause the haze especially their owner or CEO could get real sanctions because they are the one that making the decision and responsible to the company.

But as this study gone, the Researcher believed that AATHP caused Indonesia could not be blame or held liable for the incidents as it stated in the article that all countries participants also responsible for the haze and must seek the way to overcome the problem. So that in conclusion, no legal consequences can get to Indonesia's way through the AATHP alone as what mentioned before, no specific sanctions, how much the restitution cost or what penalty will impose to the offender stated in the article.

This company acts intentionally as what the Researcher had stated above, so that this act can also considered as criminal act since it is involving the livelihood of the people. So that, Indonesia law, not only administrative but also criminal law could impose to the responsible companies. Indonesia insists on implementing its own law through regional approach as the involvement of Singapore and Malaysia considered as the breach of ASEAN principle of non-interference, so that if Singapore and Malaysia insists on suing and prosecuted the irresponsible companies, they should do it by asking Indonesia itself to implement the regional approach. Since no sanctions or penalties mentioned in AATHP to sue the country that cause the haze incidents, so by suing the companies that cause the haze pollution at least can work as justice that will get them the legal consequences to the negative impacts that comes with their behavior. Singapore, Malaysia, and Indonesia participated in Rio Declaration (Earth Summit).<sup>26</sup> The article 26 of the declaration stated "*States shall resolve all their environmental disputes peacefully and by appropriate means in accordance with the Charter of the United Nations*" this means the haze issue could bring dispute among the countries affected and this issue must resolve peacefully.

Several measures had been taken by Indonesia's current President, Mr Joko Widodo. He stated that Indonesia's government along with the Chief of Police (*Kepala Polisi Republik Indonesia/Kapolri*) and Commander of the Army (*Panglima Tentara Nasional Indonesia/TNI*) will implement some kind of reward and punishment, governor or the head of the province that failed to stop the forest fires occurred in their area will be fired and replaced, in vice versa the one who manage to overcome the fires even putting some acts to prevent them in the future will be promoted as their rewards.<sup>27</sup> The acts could

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<sup>26</sup> The Post Sustainability Institute, "List of the Nations Who Attended and Agreed to the 1992 Rio Declaration on Environment and Development (Agenda 21)", <https://www.postsustainabilityinstitute.org/which-nations-signed-agenda-21.html>, retrieved on 12 January 2018.

<sup>27</sup> Boy Nashruddin, "*Presiden Ancam Pecat Pejabat Daerah Jika Kebakaran Hutan Masih Terjadi*", *Tempo*, 16 January 2016, <http://portalsatu.com/read/news/presiden-ancam-pecat-pejabat-daerah-jika-kebakaran-hutan-masih-terjadi-5114>, retrieved on 22 January 2018.

definitely work as it created some kind of threat and strong impacts to the governor hoping it will really minimize the future haze. All the preventive measures taken by Indonesia's government also with some threat in criminal law by putting the responsible party in jail seemed to be worked as it already been 2 years since the last haze and even Malaysia prime minister Najib Razak thanked Indonesia because of the clean air from this past two years.<sup>28</sup> This showed seriousness of Indonesia in tackling the haze issue, this also means Indonesia's national law worked and implemented nicely since no party or private companies did slash-and-burn land clearing method anymore resulting with clean air and no haze.

#### D. Conclusions

1. The ASEAN Agreement on Transboundary Haze Pollution demonstrates that its strength is limited to legal instruments without explaining the exact sanctions against the perpetrators of forest and land fires which resulted in haze pollution, the existence of the ASEAN way which encourages countries in Southeast Asia to look for ways to cooperate maximally through dialogue and consultation also the non-interference principle made AATHP cannot be used as the legal basis to sue the violator because it purposes to cooperate the ASEAN member countries to work together preventing the future haze and does not specifically stated the real sanction to the violator state, simply because it aims to build the cooperation, joint-force, and the foundation of ASEAN member countries in working together to tackle the haze incidents and as it considered as Indonesia's domestic problem, other countries member cannot interfere with Indonesia's own business as it considered to the violation of sovereignty and non-interference principle. It also provides evidence that the AATHP is merely an instrument that is also soft where no sanctions or large penalties arise due to errors caused by the offender. But, we cannot denied the fact that ASEAN Way helped to bring peace and keep the dispute away so that the countries that suffered with the haze could work together, gathering the help from other countries that has more advance technology such as USA, Russia, and Australia to tackle the issue. ASEAN Way kept the bad blood away from country members so that they can talk the issue via diplomatic route which is more effective as ASEAN aimed to promote regional peace as stated on its aims and purposes.
2. The ratification of AATHP brings its light to show Indonesia's seriousness of its efforts in working with other countries in Southeast Asia in tackling haze pollution. Ratification which means the state agrees to adopt international legal instruments to national law make the contents of AATHP applicable to

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<sup>28</sup> Antara, "PM Malaysia Apresiasi Langkah Indonesia Atasi Kabut Asap", <https://tirto.id/pm-malaysia-apresiasi-langkah-indonesia-atasi-kabut-asap-cAtE>, retrieved on 20 January 2018.

all the people of Indonesia. By Indonesia ratified AATHP as well, other countries cannot sue Indonesia as the country which is the main cause of haze incidents, Indonesia can no longer be prosecuted because it has become the joint responsibility of ASEAN countries, despite Indonesia is the main 'actor' of the Southeast Asia haze pollution. Other than that the imputability theory made Indonesia could not be blame as this theory considered that it must be the organs and country's official to be the one who did wrong so that the country could held liable. Private companies that located in Indonesia happened to be the one who caused haze incidents through their land clearing methods causing the forest and land fires. So that in order to bring justice to the violator and the actor behind the haze, Singapore and Malaysia should ask Indonesia to implement its own national law as the private companies lies under Indonesia's jurisdiction.

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