

## 'No-liability' settlements mooted to tackle haze

**SINGAPORE** – In place of criminal proceedings, could the Singapore authorities allow companies accused of causing or contributing to transboundary haze the option to take remedial action without admitting liability?

Such action, which could involve setting up trust funds for the medical costs of people harmed by the haze or out-of-court settlements, was mooted by an academic yesterday at a seminar on domestic and international law responses to transboundary haze held at the Singapore Management University.

The power to facilitate settlement agreements could reside with the director-general of the National Environment Agency (NEA), adding to the arsenal provided for under Singapore's Transboundary Haze Pollution Act (THPA), which took effect in September 2014, said Assistant Professor Mahdev Mohan.

Asked if settlement agreements would let errant companies off the hook without any admission of liability, he said they would still be held accountable to the terms of the settlement and NEA must be satisfied with the remedial action. Settlement agreements could at least be a stop-gap measure, said Asst Prof Mahdev, given some challenges in enforcing the THPA previously noted, such as complex land ownership laws in Indonesia.

No company has yet been hauled to court for contributing to transboundary haze, although the NEA issued preventive notices to six companies in Indonesia last year.

Another way of tackling the haze highlighted yesterday was the use of investment treaties: An affected Singapore firm with investments in Indonesia, such as holiday resorts or business contracts, could potentially pursue claims against the Indonesian government for harm suffered, said Mr Mark Mangan, a partner at law firm Dechert. Firms, called "qualifying investors", could claim for lost income and other damages.

Such action through investment treaties do not require one to identify the fire-starters or pinpoint where exactly the fires are coming from. "It's enough to say the government itself is not doing enough to stop it," said Mr Mangan at the seminar organised by SMU's Centre for Cross-Border Commercial Law. **NEO CHAI CHIN**

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