

ESIL Law of the Sea Interest Group
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**MARINE ENVIRONMENTAL
PROTECTION, REGIONAL
COOPERATION AND UNIVERSALITY:
THE PARTICULAR VIEW FROM
SOUTHEAST ASIA**

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OUTLINE OF PRESENTATION



- Legal framework and move away from universality?
- Regional cooperation mechanisms
- The view from Southeast Asia: Focus on South China Sea
- Future prospects

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PART 1

LEGAL FRAMEWORK AND MOVE AWAY FROM UNIVERSALITY?

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LEGAL FRAMEWORK

- Preference for universality in environmental protection
- Oceans as shared resources
- Transboundary nature of pollution

But

- “Functional manageability” not always possible at global level (Saunders)
 - Regional solutions for regional problems
 - Problems in adopting new universal environmental treaties
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LEGAL FRAMEWORK

- Environmental standards in UNCLOS
 - Framework with reference to more specific obligations
 - Specific treaties
 - Cooperation obligations
- Regional implementation of universal norms

PART 2 REGIONAL COOPERATION MECHANISMS

REGIONAL COOPERATION MECHANISMS

- Most progressive environmental standards appear regionally
- Fisheries: RFMOs
- Area-based management: eg OSPAR
- RSPs: eg Mediterranean (Barcelona Convention)
 - Binding treaty plus action plan

PART 3 THE VIEW FROM SOUTHEAST ASIA: FOCUS ON SOUTH CHINA SEA



- South China Sea
- Gulf of Thailand
- Gulf of Tonkin
- Straits of Malacca and Singapore
- Celebes Sea
- Sulu Sea
- Arafura Sea
- Eastern Andaman Sea
- Timor Sea
- [Torres Strait]

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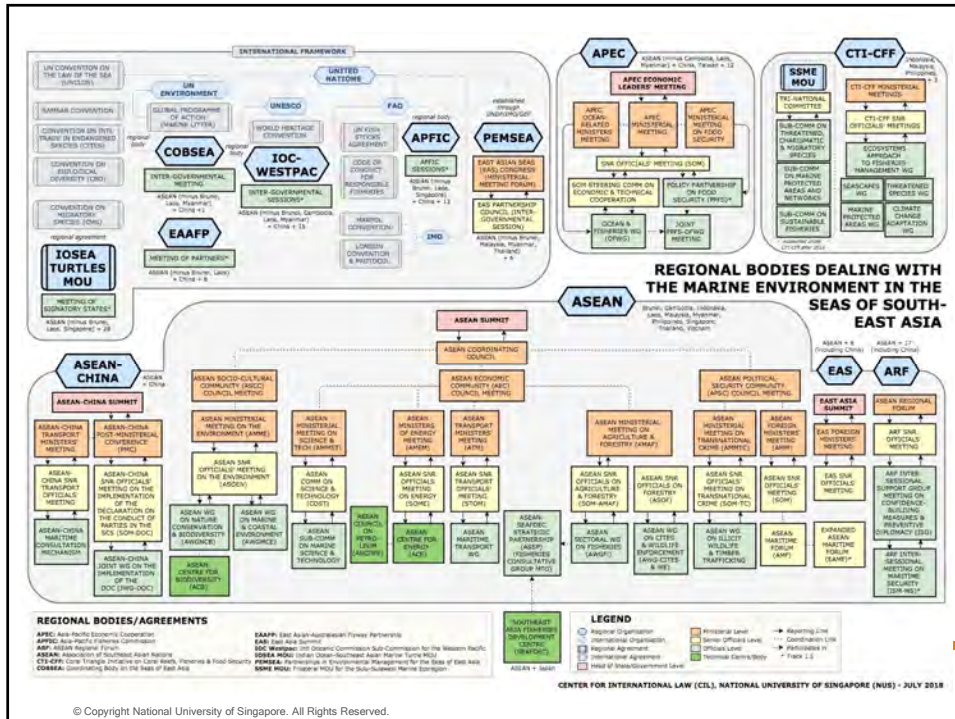


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THE VIEW FROM SOUTHEAST ASIA

- Focus on South China Sea
- Universalism – all SCS coastal states are UNCLOS states parties (except Cambodia/Gulf of Thailand)
- How to define the region?
 - Legally: Art. 122 UNCLOS
 - South China Sea as a semi enclosed sea – cooperation obligation in Art. 123
 - Taiwan?
- Politically... more difficult

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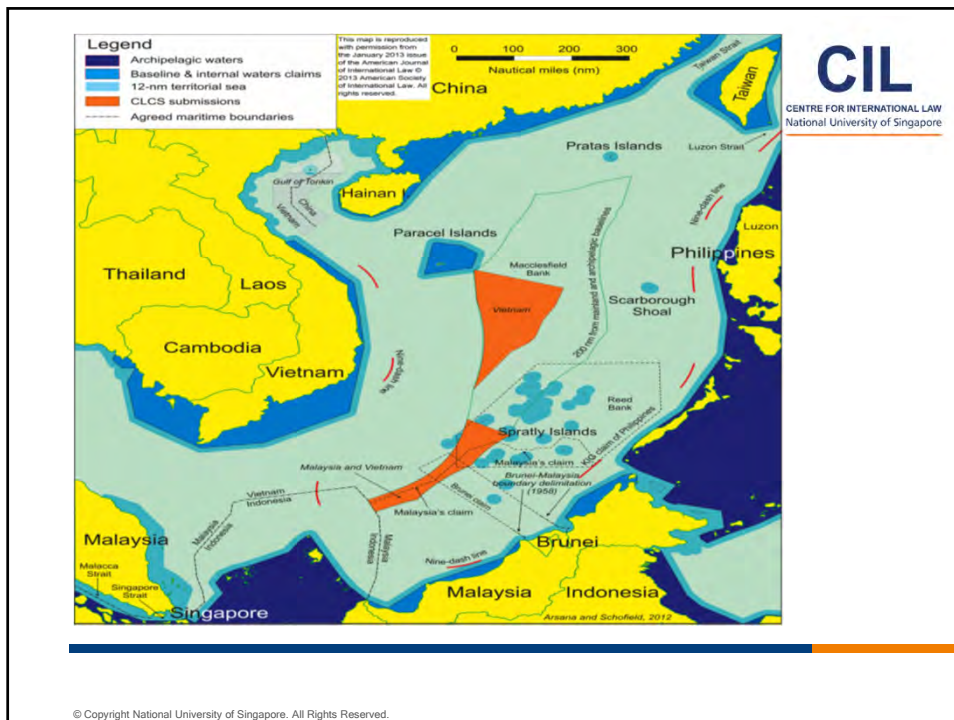
THE VIEW FROM SOUTHEAST ASIA

Plethora of bodies engaged

- COBSEA (Coordinating Body on the Seas of East Asia)
 - No legally binding agreement
- PEMSEA (Partnerships in Environmental Management for the Seas of East Asia)
 - No legally binding agreement
 - Non-members include Malaysia and Thailand
- Association of Southeast Asian Nations – ASEAN – Myanmar, Thailand, Laos, Vietnam, Cambodia, Malaysia, Singapore, Indonesia, Brunei and Philippines
- ASEAN+China

THE VIEW FROM SOUTHEAST ASIA

- Limited resources and differing stages of development
- Maritime and sovereignty disputes
- Political will, development and the ASEAN way



THE VIEW FROM SOUTHEAST ASIA

- Marine litter crisis point and pollution from land-based sources
- Seabed activities subject to national jurisdiction
- Issue based solutions?

PART 4 FUTURE PROSPECTS

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FUTURE PROSPECTS

- MEPSEAS
- Declaration for a Decade of Coastal and Marine Environmental Protection in the South China Sea (2017-2027) ASEAN+China
- Southeast Asian Fisheries Development Center, ASEAN common fisheries policy
- Political will generation

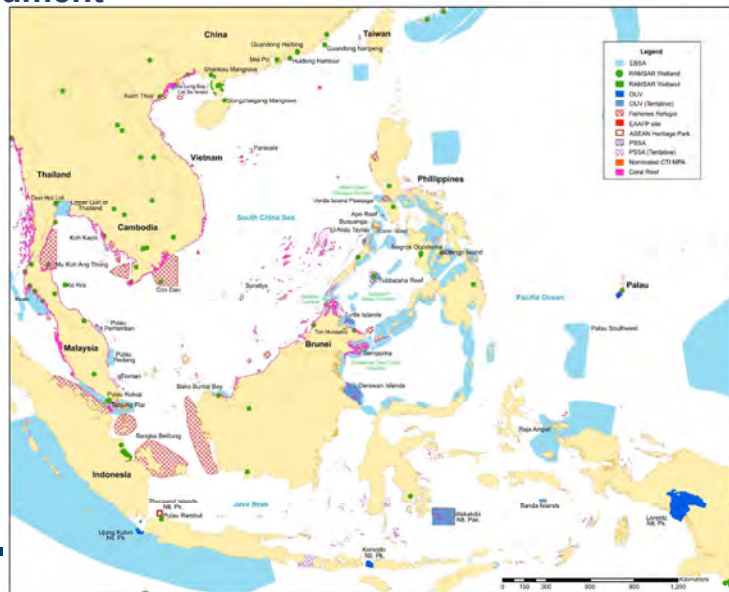
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FUTURE PROSPECTS

- New body
 - Strengthening existing bodies
 - Coordinating mechanism
 - Issue driven solutions
- Regional implementation of universal standards as overarching objective with significant focus on regional solutions for regional problems

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Sensitive Marine Areas Identified Under a Legal Instrument



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THANK YOU

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