

REGIONAL INSTITUTIONS AND THE PROTECTION OF THE MARINE ENVIRONMENT IN SOUTHEAST ASIA

Session 4.5 Legal and Institutional Mechanisms to Manage the Marine Environment in the Seas of Southeast Asia: *Status and Way Forward*

Track 4: Governance and Partnership

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This comparison of regional institutions is part of an on-going study of regional cooperation mechanisms for the protection of the marine environment in Southeast Asia. It will be updated as the work progresses.

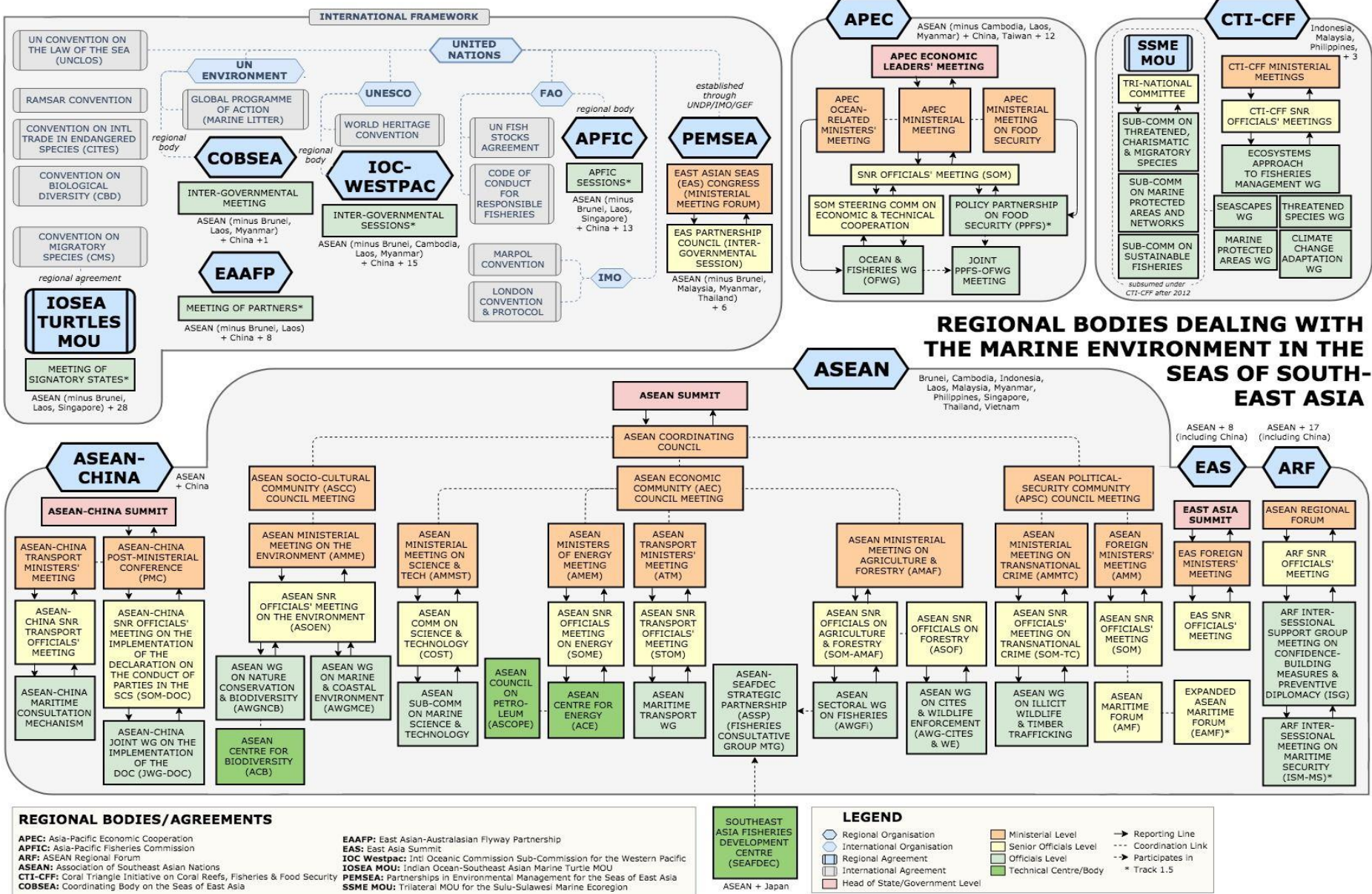
OUTLINE

1. Introduction
2. Overall Presentation of the Regional Bodies Dealing with Marine Environment in Southeast Asia
3. Comparison of Membership
4. Comparison of Focal Points
5. Comparison of Scopes
6. Comparison of Legal Mandates
7. Comparison of Institutional Mandates
8. Comparison of Intention to Pursue Cooperation towards Implementation of International Law
9. Conclusion

INTRODUCTION

This presentation aims to investigate:

1. What are the regional institutions dealing with marine environmental protection in Southeast Asia? Are there links among them?
2. What are the specific subject matters that these institutions focus on? Is there any overlap?
3. Whether and to what extent these regional institutions can implement legal framework on marine environmental protection?



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COMPARISON OF MEMBERSHIP

	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam	China
ASEAN*	V	V	V	V	V	V	V	V	V	V	-
ASEAN-China	V	V	V	V	V	V	V	V	V	V	V
APEC	V	-	V	-	V	-	V	V	V	V	V
COBSEA	-	V	V	-	V	-	V	V	V	V	V
PEMSEA	-	V	V	V	-	-	V	V	-	V	V
IOSEA Turtles MOU	-	V	V	-	V	V	V	-	V	V	-
IOC-WESTPAC	-	-	V	-	V	-	V	V	V	V	V
APFIC	-	V	V	-	V	V	V	-	V	V	V
EAAFP	-	V	V	-	V	V	V	V	V	V	V

*Timor-Leste is also a State of Southeast Asia, but not a coastal State in the South China Sea or in the Sulu-Sulawesi Sea. As of November 2018, it is an observer but not a member of the ASEAN,.

COMPARISON OF DE FACTO & DESIGNATED FOCAL POINTS (1/2)

	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam	China
ASEAN	MOFA and relevant ministry/government agency										
ASEAN-China	MOFA and relevant ministry/government agency										
APEC	MOFA and Ministry of Trade (TBC)										
COBSEA	-	ME	MEF	-	MNRE	-	DENR	MEWR	MNRE	MNRE	MEP
PEMSEA	-	ME	MEF	MNRE	-	-	DENR	MEWR	-	MNRE	State Oceanic Adm.
IOSEA Turtles MOU	-	MAFF	MEF	-	DoF	MLFRD	DENR	-	Phuket Mar. Bio. Ctr.	DoF	-
IOC-WESTPAC	-	-	IIS	-	MOSTI	-	Mar. Sci. Inst.	MCCY	DMCR	Inst. of Ocean. VAST	State Oceanic Adm.
APFIC	-	CFDD	MMAF	-	DoF	MLFRD	BFAR	-	DoF	MoF	MoF
EAAFP	ME or equivalent ministry/government agency (TBC)										

COMPARISON OF DE FACTO & DESIGNATED FOCAL POINTS (2/2)

List of abbreviations

Abbreviation	Full Name	Abbreviation	Full Name
BFAR	Bureau of Fisheries & Aquatic Resources	ME	Ministry of Environment
CFDD	Community Fisheries Development	MEF	Ministry of Environment & Forestry
DENR	Department of Environment & Natural Resources	MEP	Ministry of Environmental Protection
DMCR	Department of Marine & Coastal Resources	MEWR	Ministry of Environment & Water Resources
DoF	Department of Fisheries	MLFRD	Ministry of Livestock, Fisheries & Rural Development
IIS	Indonesia Institute of Science	MMAF	Ministry of Marine Affairs & Fisheries
Inst. of Ocean., VAST	Institute of Oceanography, Vietnam Academy of Science & Technology	MNR	Ministry of Natural Resources
MAFF	Ministry of Agriculture, Forestry & Fishery	MNRE	Ministry of Natural Resources & Environment
Mar. Sci. Inst.	Marine Science Institute	MoF	Ministry of Fisheries
MCCY	Ministry of Culture, Community & Youth	MOSTI	Ministry of Science, Technology & Innovation
		Phuket Mar. Bio. Ctr.	Phuket Marine Biological Center

COMPARISON OF LEGAL MANDATES

	Hard Law Negotiation	Soft Law		Research/Report
		Substantive	Policy Design	
ASEAN	v	v	v	v
ASEAN-China	?	v	v	-
APEC	-	-	v	v
COBSEA	-	-	v	v
PEMSEA	?	-	v	v
IOSEA Turtles MOU	?	v	v	v
IOC-WESTPAC	-	-	v	v
APFIC	-	v	v	v
EAAFP	-	v	v	v

LEGEND

- Substantive : e.g. declarations, guidelines
- Policy Design : e.g. action plan
- Research/Report : e.g. data sharing platform, capacity building, research report

COMPARISON OF INSTITUTIONAL MANDATES

	Linked to International Institution						
	U.N. Environment	UNDP	UNESCO	IMO	CMS	FAO	Pure Regional
ASEAN							v
ASEAN-China							v
APEC							v
COBSEA	v						
PEMSEA		v*		v*			v
IOSEA Turtles MOU					v		
ASEAN Turtles MOU							v
IOC-WESTPAC			v				
APFIC						v	
EAAFP							v

*Until 26 November 2009, the date of the Agreement Recognizing the International Legal Personality of PEMSEA

COMPARISON OF INTENTION TO PURSUE COOPERATION TOWARDS IMPLEMENTATION OF INTERNATIONAL LAW

	Application of Global Instrument														
	UNCLOS	CBD	U.N. Fish Stocks Agr.	UNFCCC	Ramsar	CITES	CMS	CLC	OPRC	MARPOL	UNGA SDG 14	CITES	CoC for Responsible Fisheries	Port State Measures Agr.	IPOA-IUU
ASEAN	v	v	v			v			v		v	v	v	v	v
ASEAN-China	v	v									v		?	?	?
APEC															
COBSEA											v				
PEMSEA				v				v		v	v				
IOSEA Turtles MOU						v	v								
IOC-WESTPAC															
APFIC			v										v	v	v
EAAFP		v			v		v								

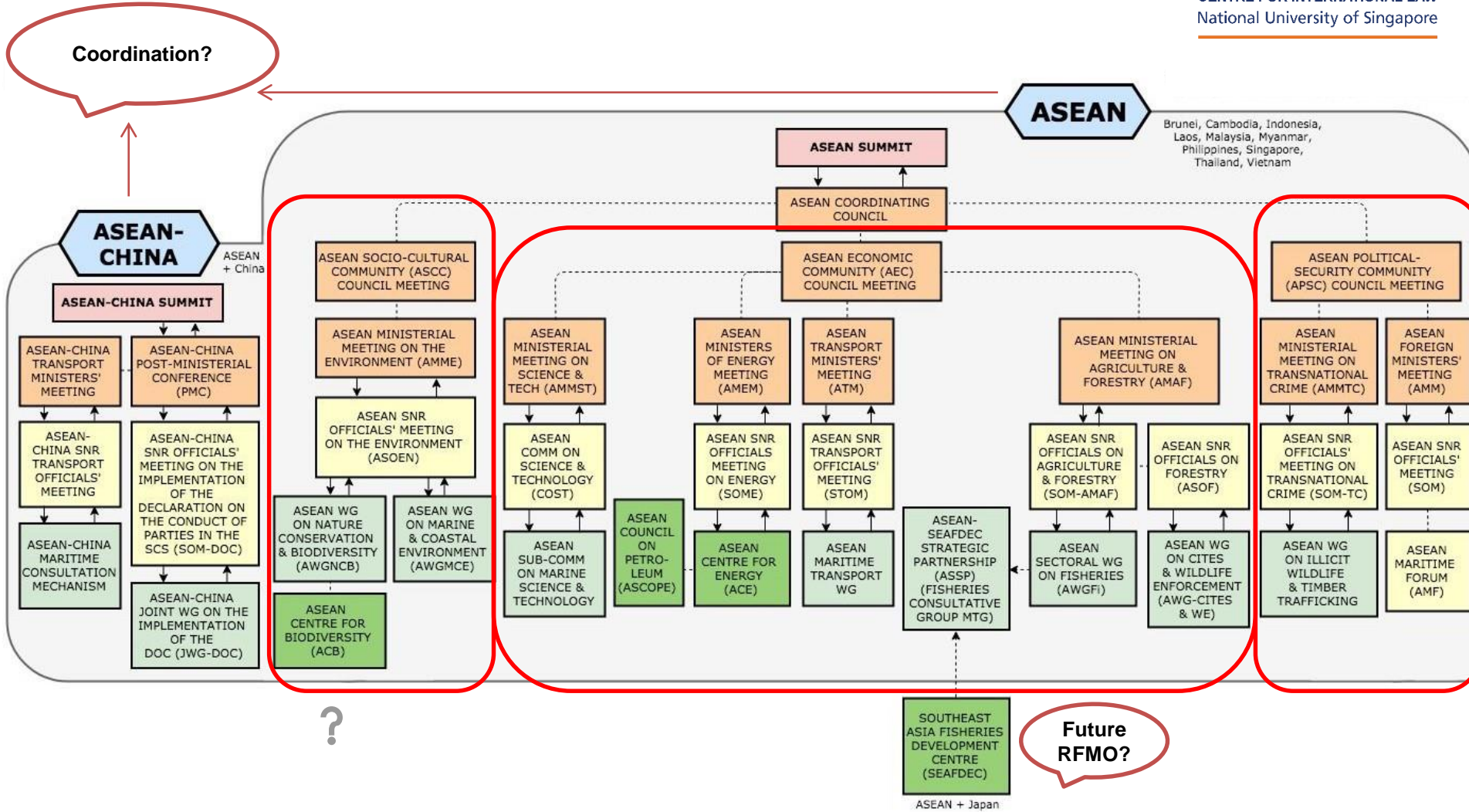
COMPARISON OF SCOPES

	Land-based pollution (i.e. plastic)	Ship-source pollution (incl. oil spill)	Other sea-based pollution	Sustainable Development	Protection of fragile ecosystems & threatened habitats & species (incl. marine turtles, migratory water birds)	Marine scientific research	Fisheries (incl. IUU Fishing)	Climate change adaptation
ASEAN	●	●	●	●	●	?	●	●
ASEAN-China	●	●	●	?		?	●	●
APEC				●				
COBSEA	●	●						
PEMSEA		●		●				
IOSEA Turtles MOU					●			
IOC-WESTPAC						●		
APFIC							●	
EAAFP					●			

LEGEND

- – Included in the scope
- – Partly included in the scope

ASEAN & ASEAN+



CONCLUSION

1. The South China Sea (SCS) and the Gulf of Thailand (GOT) can be considered as one semi-enclosed sea pursuant to Article 122-123 UNCLOS. The littoral states shall cooperate “**directly or through an appropriate regional organisation**” with respect to the protection and preservation of the marine environment. Even though China is not a part of ASEAN, ASEAN member states have established some regional fora to involve China in marine environmental protection in Southeast Asia.
2. ASEAN member states are a party to most marine environment treaties, but not all. A common regional understanding of binding environmental treaties may be agreed through regional bodies. States may also adopt provisions of treaties that they are not a party to and in consistent with the binding international law under UNCLOS. For instance, implementing Convention on the Conservation of Migratory Species of Wild Animals (CMS) through IOSEA Turtles MOU and EAAFP.

REFLECTIONS

1. Can we strengthen existing regional institutions?
2. Do we need more regional institutions to protect marine environment in Southeast Asia?
3. What are the possible coordination mechanisms among the existing regional institutions/fora?

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THANK YOU

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