

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



CENTRE FOR INTERNATIONAL LAW
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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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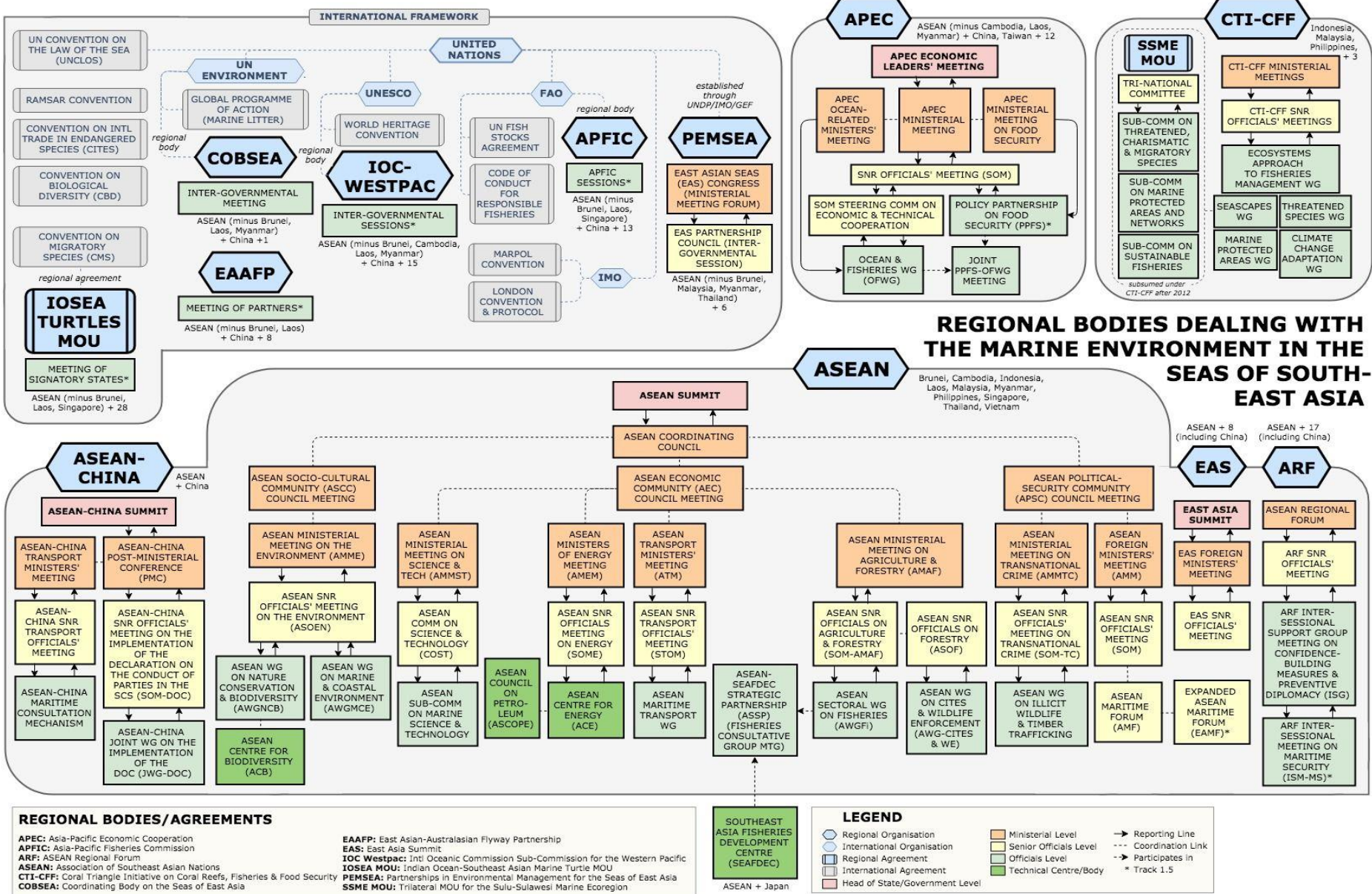
OUTLINE

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?



Source: Vanessa Lam and Youna Lyons - CENTER FOR INTERNATIONAL LAW (CIL), NATIONAL UNIVERSITY OF SINGAPORE (NUS) - JULY 2018

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	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

COMPARISON OF DE FACTO & DESIGNATED FOCAL POINTS

	BRN	KHM	IDN	LAO	MYS	MMR	PHL	SGP	THA	VNM	CHN
ASEAN	MOFA and relevant ministries or government agencies										
ASEAN-China	MOFA and relevant ministries or government agencies										
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	-	M. Agri., Forest. & Fish.	MEF	-	DoF	MLFRD	DENR	-	Phuket Mar. Bio. Ctr.	DoF	-
IOC-WESTPAC	-	-	LIPI (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 LEGAL MANDATES*

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

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

COMPARISON OF INTENTION TO PURSUE COOPERATION TOWARDS IMPLEMENTATION OF INTERNATIONAL LAW

	Application of Global Instrument														
	UNCLOS	U.N. CBD	U.N. Fish Stocks	UNFCCC	Ramsar	CITES	CMS	CLC	OPRC	MARPOL	SDG 14	CITES	CoC for Responsible Fisheries	Port State Measures	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					●			

ASEAN & ASEAN+

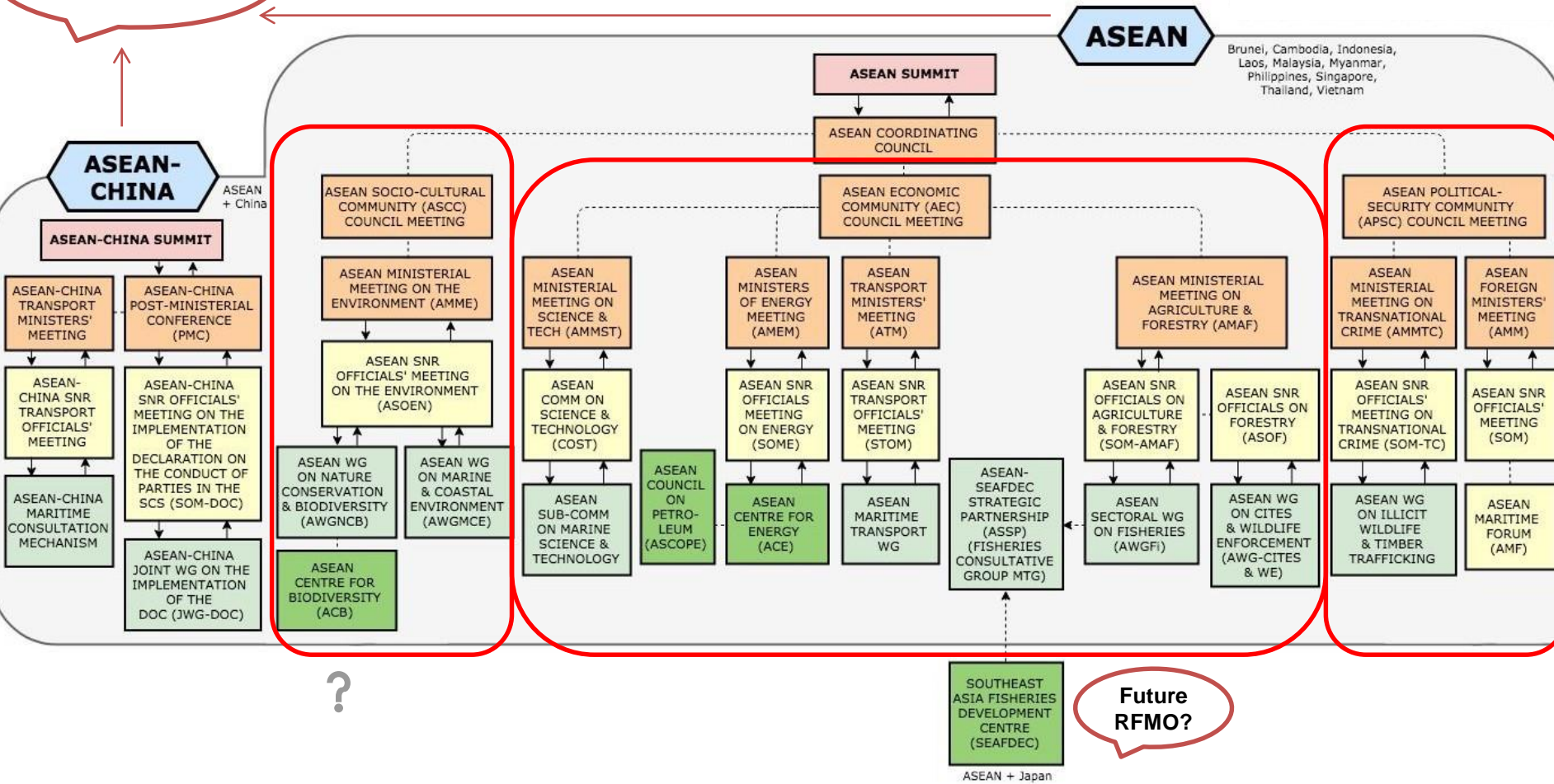
Coordination?

ASEAN

Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam

ASEAN-CHINA

ASEAN + China



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 organization”** 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.
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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