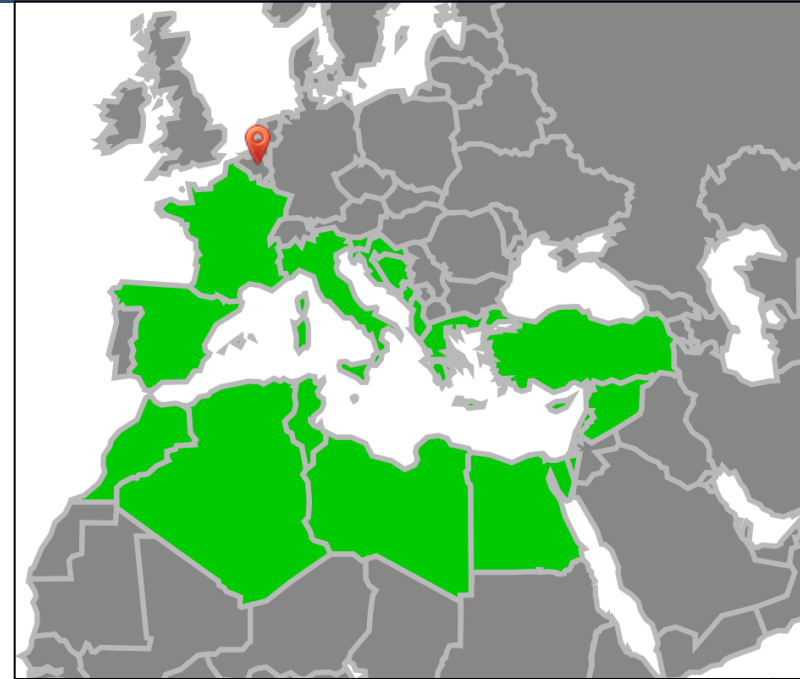
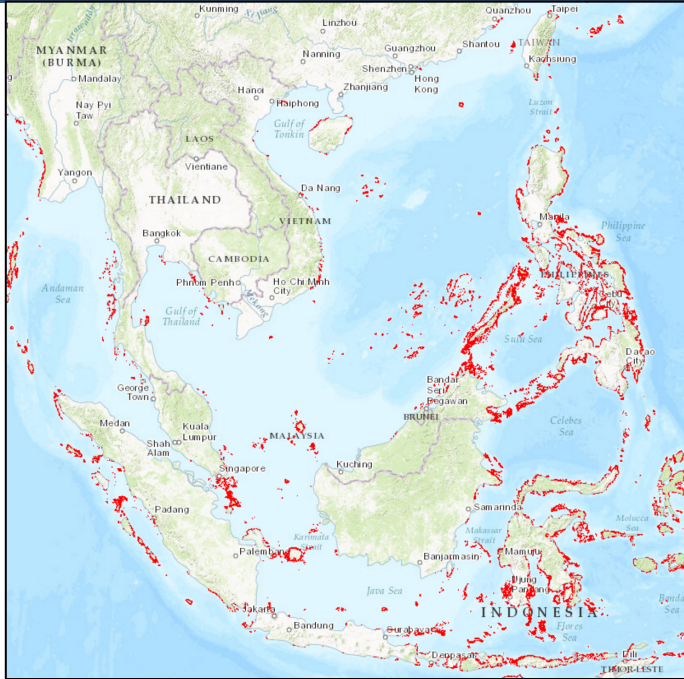


Developing Cooperative Mechanisms for the Management of the Marine Environment in the SCS



9th ARF-IMS-MS

Marine Environment and Sustainable Development

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Outline

- 1. Obligation to consult and cooperate**
- 2. Other enclosed and semi-enclosed seas in the world – Example of the Mediterranean Sea**
- 3. Existing institutions and responsibilities in SEA**
- 4. Interesting facts from the Mediterranean Experience**

1. Obligation to consult and cooperate

As provided in the UN Convention on the Law of the Sea

- States bordering enclosed or semi-enclosed seas have an obligation to cooperate with each other to manage, conserve, explore and exploit living resources and to protect the marine env. [UNCLOS Art 123]
- States have a duty to cooperate (on global and regional basis) or to set rules, standards, practices and procedures for the protection and preservation of the marine environment, taking into account ‘characteristic regional features’ [UNCLOS Art 197]
- States have an obligation to consult other States when activities under their jurisdiction or under their control can have a transboundary impact on the resources of other States [UNCLOS Art 194, 199 and 206]
- States have a specific obligation to cooperate regionally to manage fisheries, dumping, seabed activities, land-based pollution, etc. [UNCLOS Art 65, 210, 208, 207]

1. Obligation to consult and cooperate

As judged by international courts and tribunals

- **Also MOX Plant (ITLOS, 2001)**

“Considering that the duty to cooperate is a fundamental principle in the prevention of pollution of the marine environment under Part XII of the Convention and general international law and that rights arise therefore which the Tribunal may consider appropriate to preserve

... prudence and caution require that Ireland and the UK cooperate in exchanging information concerning risks or effects of the operations of the MOX Plant and in devising ways to deal with them.”

- **Land Reclamation case (ITLOS, 2003)**

“Considering that it cannot be excluded that, in the particular circumstances of this case, the land reclamation works may have adverse effects on the marine environment;

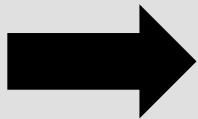
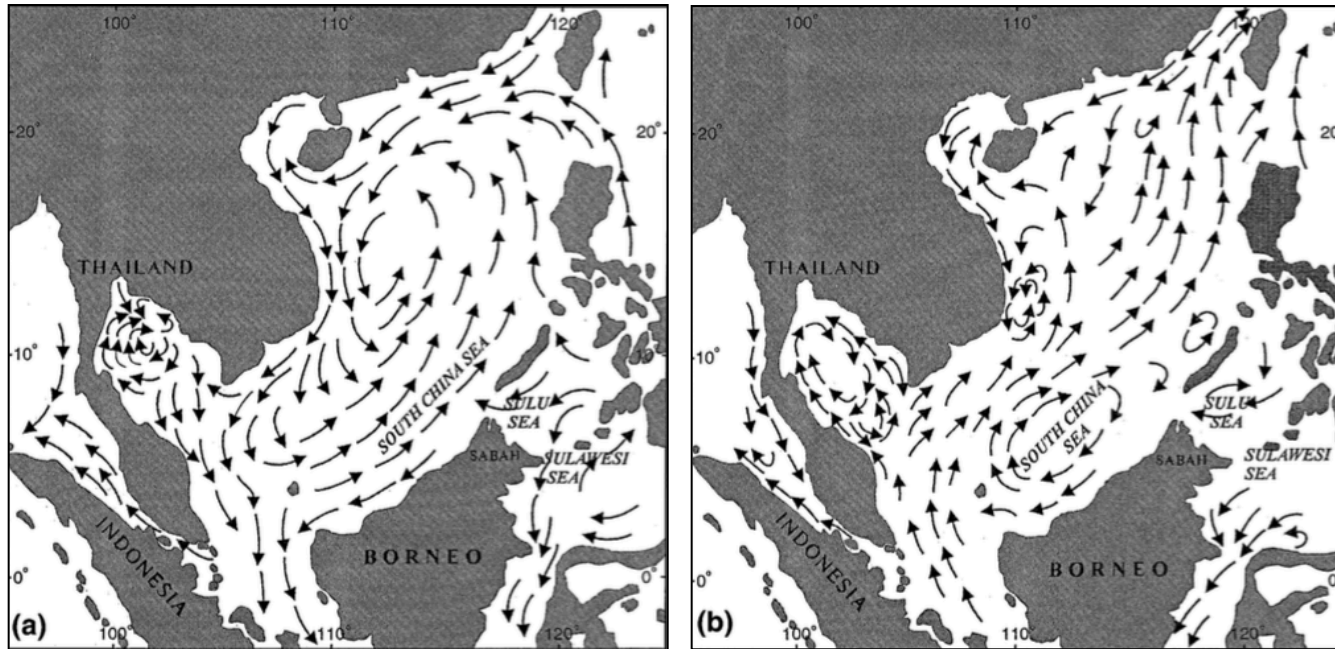
Considering that, in the view of the Tribunal, the record of this case shows there was insufficient cooperation between the parties up to the submission of the Statement of Claim ”

- **Same principle has been reiterated in Philippines vs. China (Annex VII Arbitration, 2016)**

1. Obligation to consult and cooperate

Most SCS activities have potential transboundary impacts

Extreme connectivity between all ecosystems in the South China Sea due to ocean circulations (sea surface and deeper currents mostly from tides and wind)



All fish stocks (including mollusks) are shared resources, all pollutions are shared (be them land-based, offshore, from ships, etc)

2. Other enclosed and semi-enclosed seas in the world



West to East: North-East Pacific South-East Pacific Wider Caribbean Upper South-West Atlantic West & Central Africa
Mediterranean Black Sea Eastern Africa Red Sea & Gulf of Aden ROPME Sea Area South Asian Seas East Asian Seas
North-West Pacific South Pacific Partner programmes: Arctic North-East Atlantic Baltic Sea Caspian Sea Antarctic

2. Other enclosed and semi-enclosed seas in the world

- **143+ countries participate in 18 Regional Seas Programmes**
- **6 are directly administered by UNEP: Caribbean Region, East Asian Seas, Eastern Africa Region, Mediterranean Region, North-West Pacific Region and Western Africa Region**
- **12 are independently administered : Black Sea, North-East Pacific Region, Red Sea and Gulf of Aden, ROPME Sea Area, South Asian Seas, South-East Pacific Region and Pacific Region, Arctic, Antarctic, Baltic Sea, Caspian Sea, Northeast Atlantic**
- **10 regional seas have a framework conventions; many also have protocol to regulate specific activities as well as governing bodies to oversee and coordinate**
- **Only three have remained at the stage of action plans and State recommendations:**
 - **Northwest Pacific (North Asia),**
 - **the East Asian Seas; and,**
 - **the South Asian Seas**

2. Other enclosed and semi-enclosed seas in the world

The Example of the Mediterranean Sea



2. Other enclosed and semi-enclosed seas in the world

The Example of the Mediterranean Sea

- **Enclosed-Sea of a comparable size with 21 bordering States that speak 10+ different languages, have different cultures, history of conflicts, and at different stages of economic development**
- **Comparable coastal population: 150-200 millions**
- **Intensive fishing and reliance on fisheries, shipping, human migrations, illegal trafficking, maritime tourism and coastal developments**
- **Most activities under the jurisdiction and control of bordering States (except shipping)**
- **Mostly no maritime boundaries beyond territorial seas until 1994; subsequent proclamations often not implemented (30+ undetermined boundaries)**

2. Other enclosed and semi-enclosed seas in the world

The Example of the Mediterranean Sea

- 1975 Mediterranean Action developed eventually into the 1976, to be superseded by the 1995 Barcelona Convention for the Protection of the Marine Environment and the Coastal region of the Mediterranean (21 State Parties + EU) *[Not yet entered into force]*
- 7 protocols on
 - 1976/1995 Dumping
 - 1976/2002 Prevention and emergency
 - 1982/1996 Land-Based Pollution
 - 1982/1995 Specially Protected Areas (and biodiversity)
 - 1994 Offshore Activities
 - 1996 Hazardous Wastes
 - 2008 Integrated Coastal Zone Management *[NEIF]*
- Institutional framework designed to support work of governing bodies: COPs, rotating Bureau, Commission on Sustainable Dev., Compliance Com., specialized task forces/coordinators to implement different protocols
- Ongoing coordination efforts

3. Existing Institutions

Summary Representation

Track 1



■ ■ ■ Track 1.5



Track 2

Regional

- ASEAN → MF and DOC WG
ARF [Pol. & Sec. Dir.]
→ WGCME [Soc. & Cult. Dir.]
- APEC
- Agreements and MoUs for defined areas/specific activities (incl. fisheries)
- 2009 Manila Declaration on Strengthening the implementation of ICM

- ARF / Inters. Meeting on Maritime Security
- Expanded AMF
- SCS Workshop
- SEAFDEC →
- CTI on coral reefs, fisheries and food securities
- Sulu-Sulawesi Action Plan
- PEMSEA and The 2015 Sustainable Development Strategy for the Seas of East Asia (SDS-SEA)

- ASEAN Centre for Biological Diversity

- SEAFDEC statistics and reports

Int'l

- COP to UNCLOS, CBD, CMS, Ramsar Conv., etc.

- ↑
- UNDP
- IMO →
- UNEP → COBSEA
- UNESCO-IOC → IOC-WESTPAC

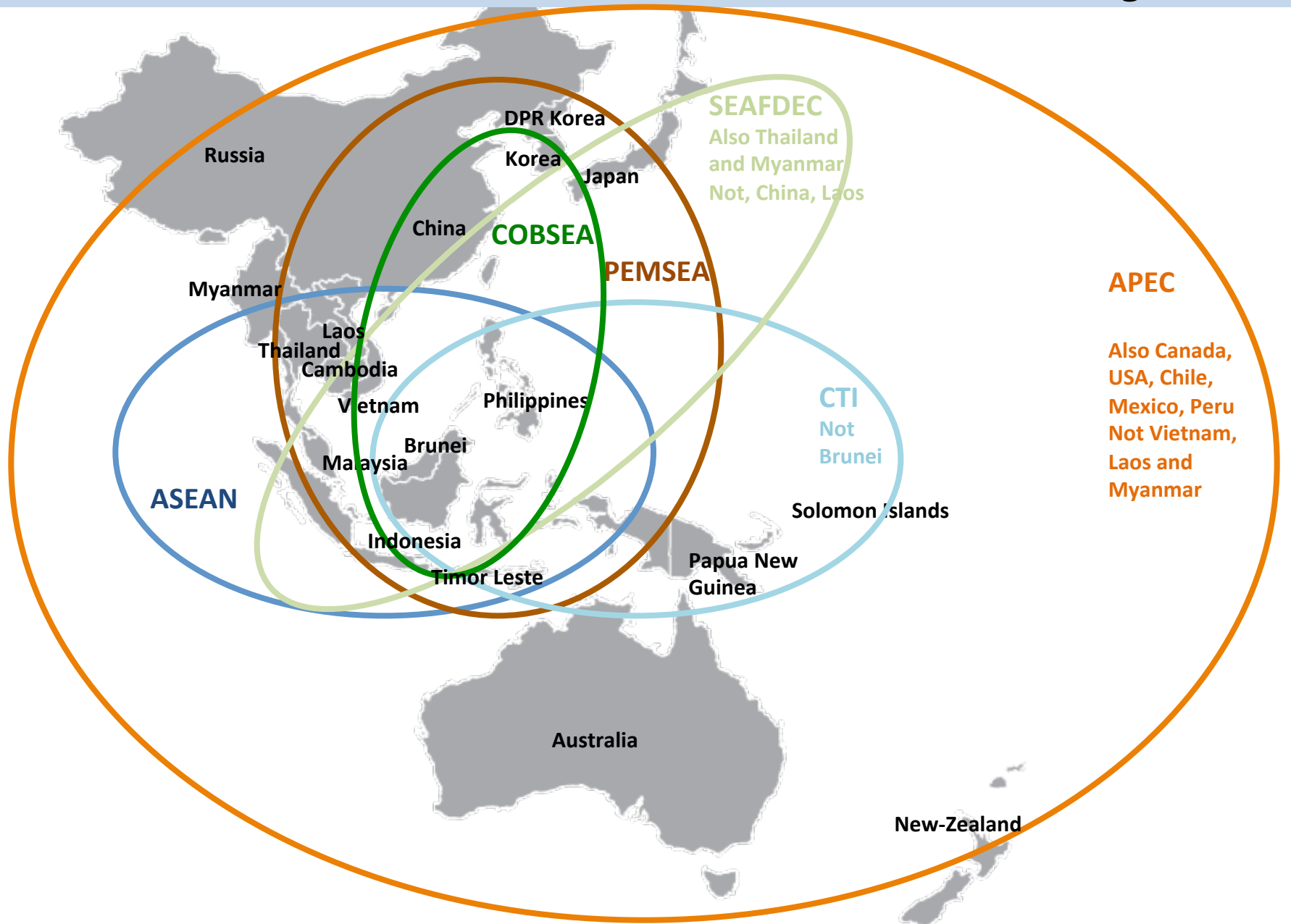
- Multiple IOs/NGOs/ Academia/ Government/Industry workshops and conferences and reports

- Global Initiative for SEA

- GIWA for the SCS (Global International Water Assessment)

3. Existing Institutions

Members and Organizations



4. Interesting Facts from the Mediterranean Experience

- **Track 1 agreement, bi-annual meetings and Inter-sessional progress is provided by a Bureau of 6 elected representatives of Member States**
- **Only the Littoral States involved**
- **EU is also a party to ensure consistency**
- **UNEP provides secretariat services**
- **Framework Convention implemented with protocols dealing with different issues**
- **Joint effort with IMO and FAO for shipping and fishing matters (as well as other relevant COPs to Multilateral Environmental Treaties, e.g. CMS)**
- **Institutionalized regional web-based platform with relevant data on maritime uses, marine sensitive environments incl. migratory species, etc.**



Thank you!

Questions?

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Source: Census of Marine Life:
http://www.comlmaps.org/extra/ngs/Ocean_Life_Diversity_Distribution-300dpi.pdf

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