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# Regional Fisheries Management Organisations (RFMOs)

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## Presentation Outlines

- I. Legal Framework of the UNCLOS on Marine Living Resources (MLR)
- II. Regime of the UNCLOS on Cooperation for Transboundary Stocks
- III. RFMOs and Fishery-related Organizations in the AEASN Region
- IV. Prevailing Issues and the Way Ahead for Fisheries Management and Cooperation

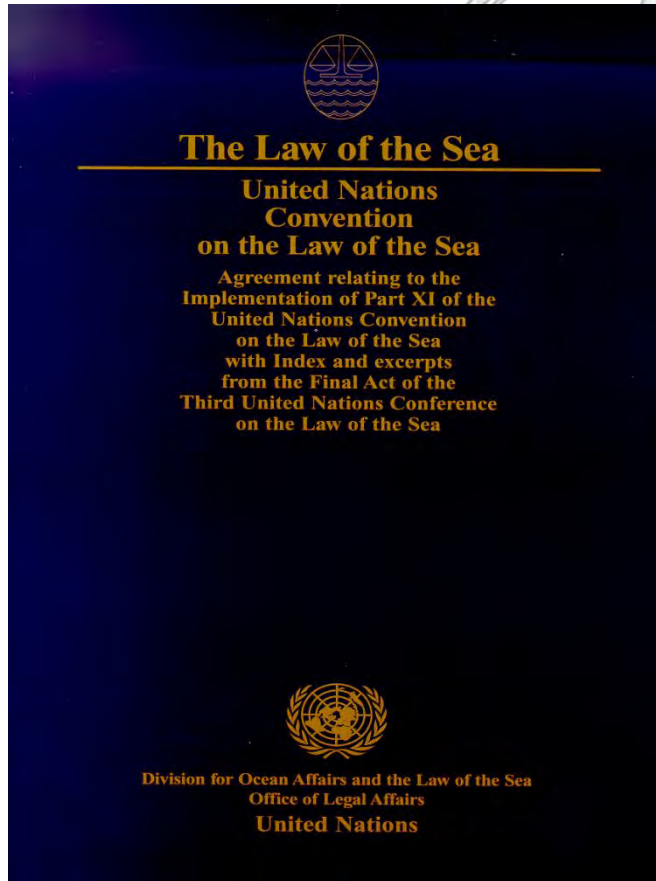


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# United Nations Convention on the Law of the Sea (UNCLOS)



**A Constitution for the  
Oceans**

**A common framework  
for states to conserve  
and manage the marine  
living resources.**



# I. UNCLOS Regime on MLR

- Resources under states' sovereignty:
  - Absolute prescriptive and enforcement power.
  - Limited only by int'l obligations, customary int'l law, and treaty obligations.
- Resources under states' sovereign rights:
  - Exploring, exploiting, conserving and managing the natural resources (living or non-living) of the seabed, subsoil and superjacent waters.” (Art. 56(1)(a).
  - Part V Exclusive Economic Zone (EEZ)
    - Obligations on conservation and utilization
    - Regimes on various specific species
- Freedom of Fishing on the high seas (Art. 87(1)(e))
  - Part VII: did not devote much attention to it
- EEZs: 36% of ocean space, 90% of world fish catch



## I. UNCLOS Regime on MLR in EEZ

- ⊙ Part V regulates only fisheries resources
  - Art. 61: Conservation obligation including determination of the total allowable catch (TAC)
  - Art 62: Utilisation obligation: Promotion of "Optimum Utilization", and Allocation of surplus to foreigners
  - Art. 63 (1): Transboundary stocks (Shared)
  - Art. 63 (2): Straddling stocks (EEZ and High Seas)
  - Art. 64: Highly migratory species
  - Art. 65: Marine mammals
  - Art. 66: Anadromous stocks (eg salmon)
  - Art. 67: Catadromous stocks (eg eels)
  - Art. 68: Sedentary species (not included in EEZ sovereign rights)



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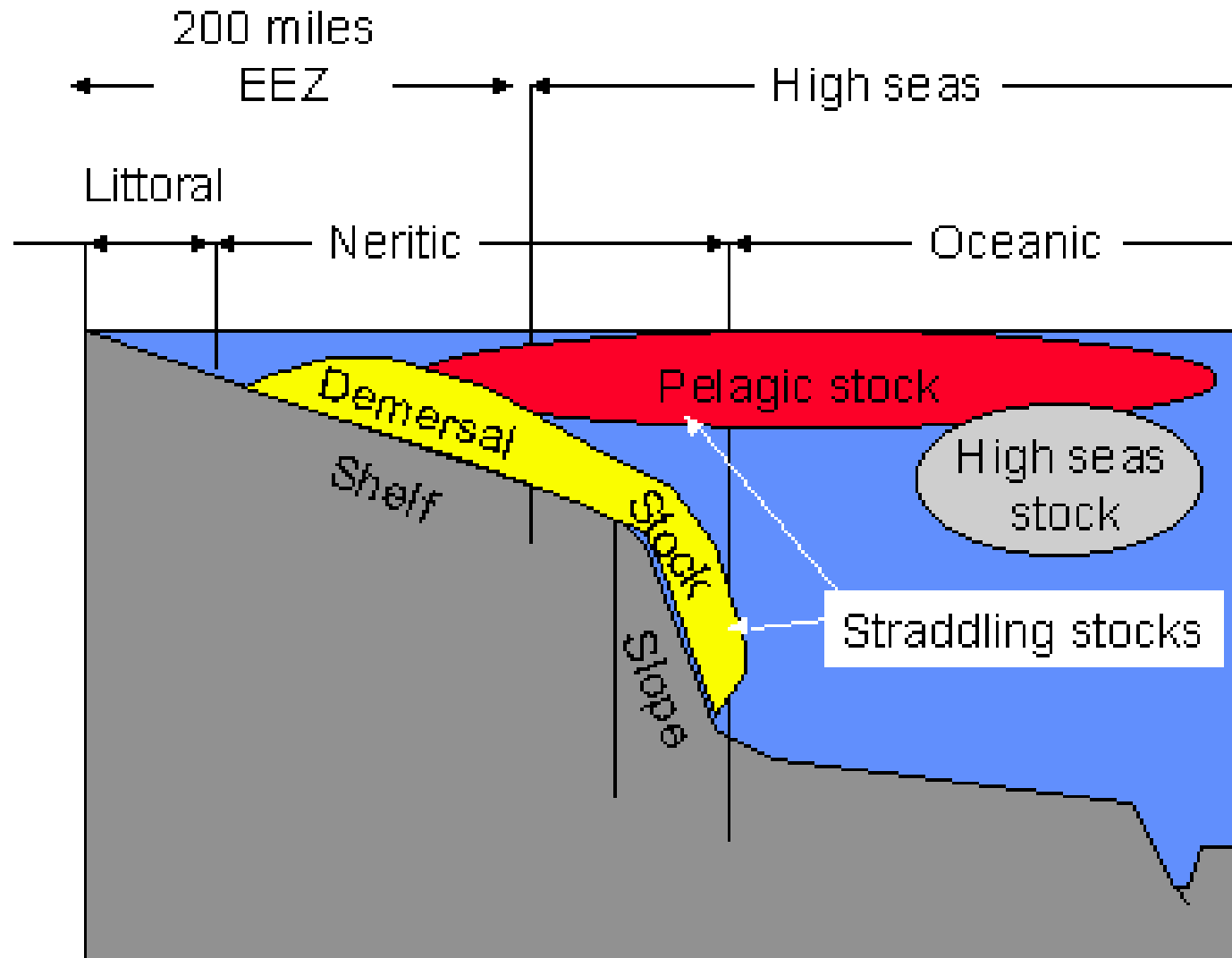


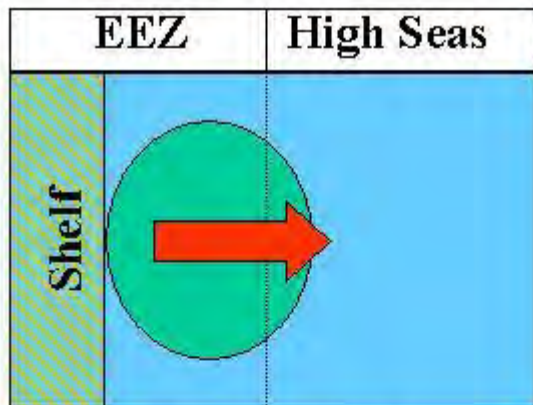
## I. UNCLOS Regime on MLR in EEZ

- ④ The most significant modification of the Law of the Sea since Grotius' freedom of the sea;
- ④ Transfer of property rights from international commons to State property regimes;
- ④ Careful balance of the interests of coastal States and distant water fishing nations;
- ④ Power of coastal State to enforce fisheries laws and regulations.

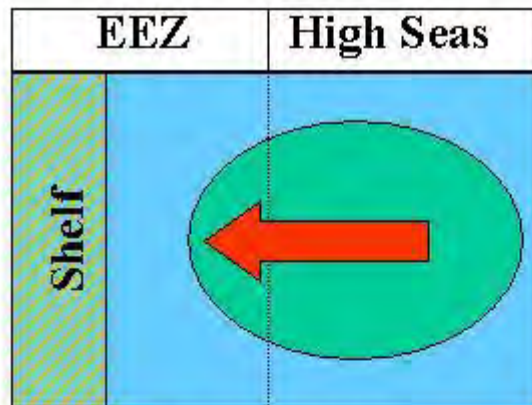


# Fishery terminology

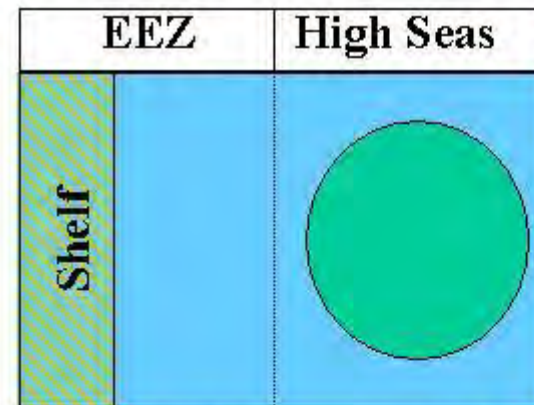




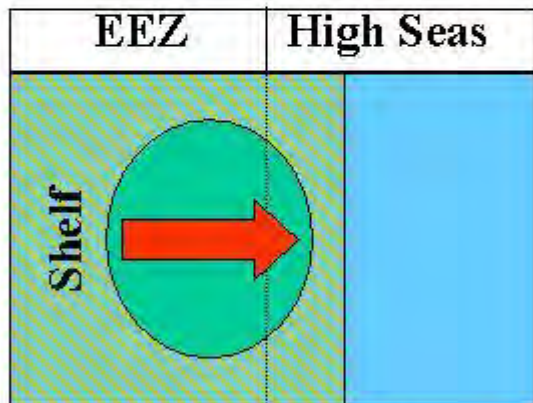
Pelagic stock  
“straddling out”



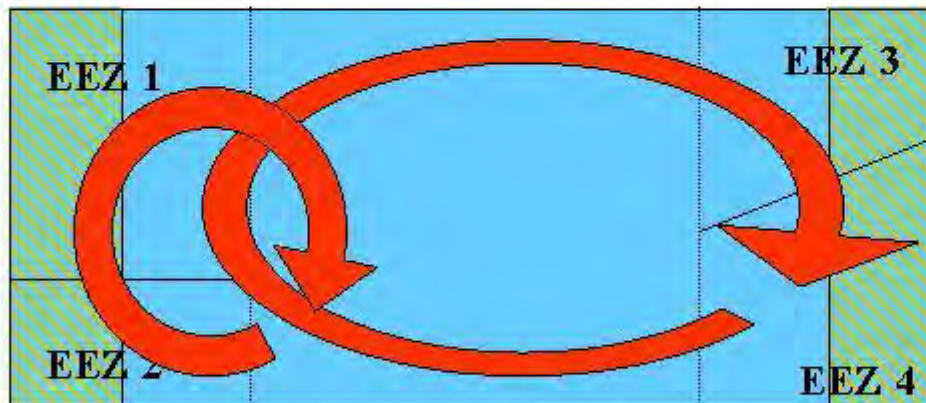
Pelagic stock  
“straddling in”



Purely high seas stock



Demersal stock  
“straddling out”



Highly migratory stocks

## Types of high seas stocks





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## II. UNCLOS Regime on Cooperation for Transboundary Stocks

- Shared Stocks (Stocks between EEZs of two or more coastal States (Art 63(1)).
- Requirements:
  - Coastal state to cooperate directly or through appropriate sub-regional or regional organizations to adopt measures necessary to coordinate and ensure the conservation and development of such stocks



## II. UNCLOS Regime on Cooperation for Transboundary Stocks

- Straddling Stocks (Stocks between EEZs and adjacent high seas (Art 63(2))).
- Requirements:
  - Coastal States and States fishing for the resources on the high seas are to cooperate
    - either through appropriate sub-regional or regional organizations to adopt measures to ensure the conservation of the stocks in the adjacent high seas area





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## II. UNCLOS Regime on Cooperation for Transboundary Stocks

- ④ Highly Migratory Species (Art. 64)
  - tunas and tuna-like species: migrate long distance
- ④ List in Annex 1-
- ④ Requirement for cooperation: states along the migratory routes





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## II. UNCLOS Regime on Cooperation for Transboundary Stocks

- Marine Mammals (Art. 65)
- Allow more strict regulation by coastal States in the EEZ
- Role and competence of an international organization.
- Whale sanctuaries:
  - Legal in the EEZ?
  - On the high seas?





## II. UNCLOS Regime on Cooperation for Transboundary Stocks

- **Anadromous Stocks (Salmon)(Art. 66):**
  - Spend most of their biological cycle in the high seas, but return to fresh water to spawn, doing an upwards movement
    - States of origin-have primary interest and responsibility for management
    - Fishing only in waters land-ward of the outer limit of EEZ
- **Catadromous Stocks (Eel)(Art. 67):**
  - Spawn in the oceans and migrate towards fresh waters for adult life, return to open oceans to spawn and die
    - Coastal State in whose waters species spend greater part of their life cycle -primary responsibility for for management
    - Harvesting only in waters land-wards of outer limit of EEZ
    - Such State to ensure 'the ingress and egress of migrating fish'
      - Implications of Dams
      - Agreement where migrate through EEZs of two or more States



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## II. UNCLOS Regime on Int'l Cooperation

### Article 123

States bordering an enclosed or semi-enclosed sea should cooperate with each other in the exercise of their rights and in the performance of their duties under this Convention. To this end they shall endeavour, directly or through an appropriate regional organisation:

- living resources of the sea;
- protection and preservation of the marine environment;
- scientific research policies and undertake where appropriate joint programmes of scientific research in the area;
- to invite, as appropriate, other interested states or international organizations to co-operate



UNCLOS's provisions are complemented by:

- **FAO Compliance Agreement (adopted in 1993, put in effect on 24 April 2002)**
  - Flag State jurisdiction
  - Cooperation for the Free Flow of Information
- **UN Fish Stocks Agreement (Adopted 4 August 1995, put in effect on 11 Dec. 2001)**
  - Cooperation for conservation and enforcement
  - A State party which is a member of a RFMO or RFMA can board and inspect ships of parties that are non-members of the RFMO
- **Soft laws and Plan of Actions, such as:**
  - FAO Code of Conduct for Responsible Fisheries (1995)
  - Plan of Action on overcapacity, seabirds, sharks, and IUU fishing
  - With reference to fisheries cooperation



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### III. Regional Fisheries Management Organisations (RFMOs)

- ④ Mainly intergovernmental organizations or arrangements with the authority to establish conservation and management measures on the covered areas.
- ④ Play a critical role in the global system of fisheries governance.
- ④ The primary way to achieve cooperation between and among fishing nations for the conservation and effective management of international fisheries.





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## Performance of RFMOs

- Based on a balancing of interests among member states.
- Allows the same management regimes integrated throughout the covered area;
- avoid cultural and ideological conflicts;
- improve the chances of achieving a successful outcome to the negotiations between governments of different levels of economic development.
- Species specific: Many of the world's most valuable fish stocks are regulated by RFMOs, and among which a large number of those stocks are subject to illegal, unregulated and unreported (IUU) fishing.



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# Performance of RFMOs

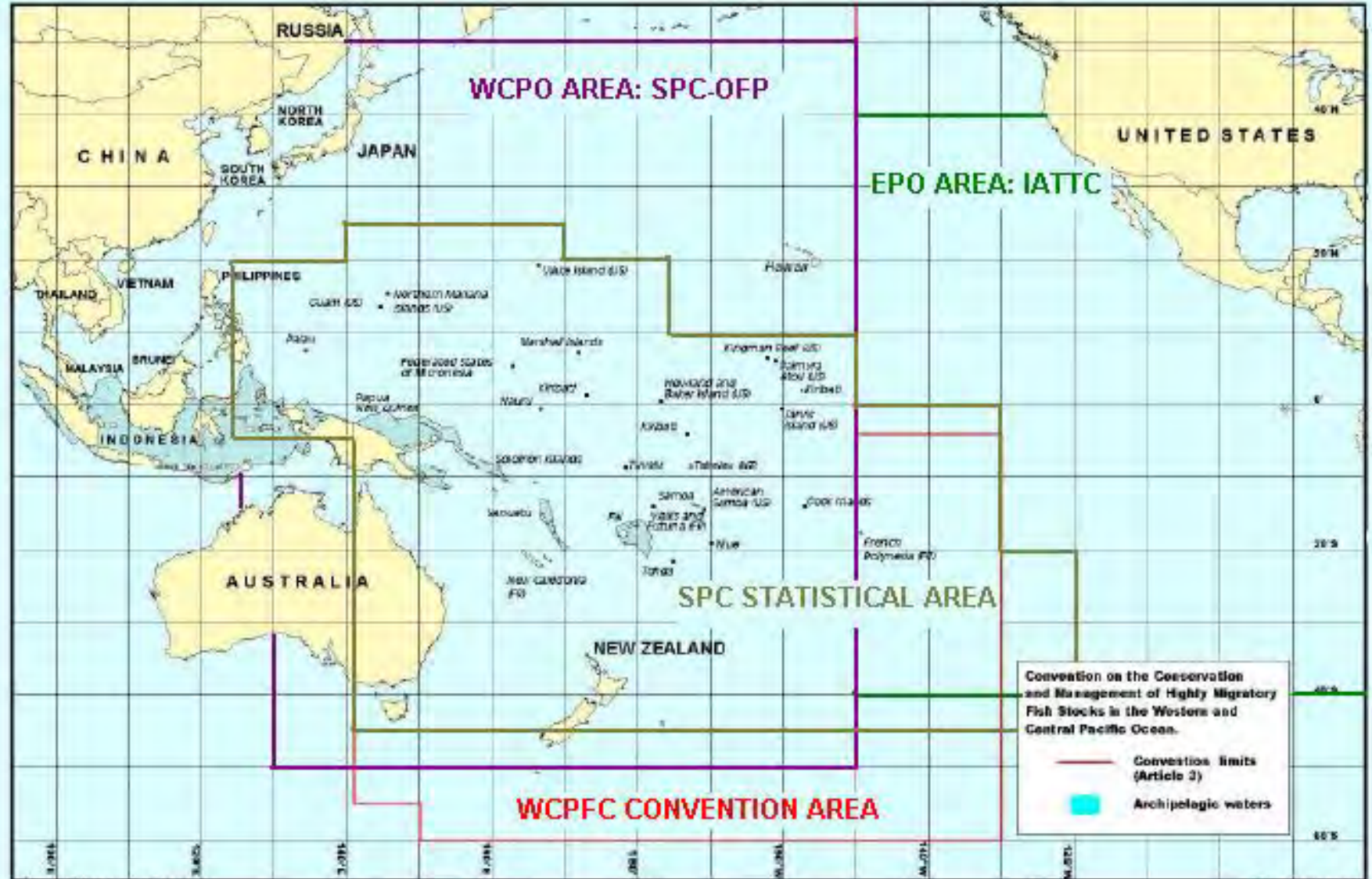
- Scientific role: research oriented
- Advisory role: providing information
- Regulating role: conservation and management
  - Quota Allocation
  - Compliance and Enforcement
  - Decision-Making
  - Dispute Settlement





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### III. Fishery-related Organisation of the ASEAN Region

- ④ Asia-Pacific Fishery Commission (APFIC)
- ④ Environmental Working Group of the ASEAN
- ④ Southeast Asian Fishery Development Center (SEAFDEC)
- ④ UNEP Regional Seas Programme: Coordinating Body on the Seas of East Asia (COBSEA)
- ④ APEC Ocean and Fisheries Working Group
- ④ Partnerships in Environmental Management for the Seas of East Asia (PEMSEA)
- ④ International Center for Living Aquatic Resources Management (ICLARM)

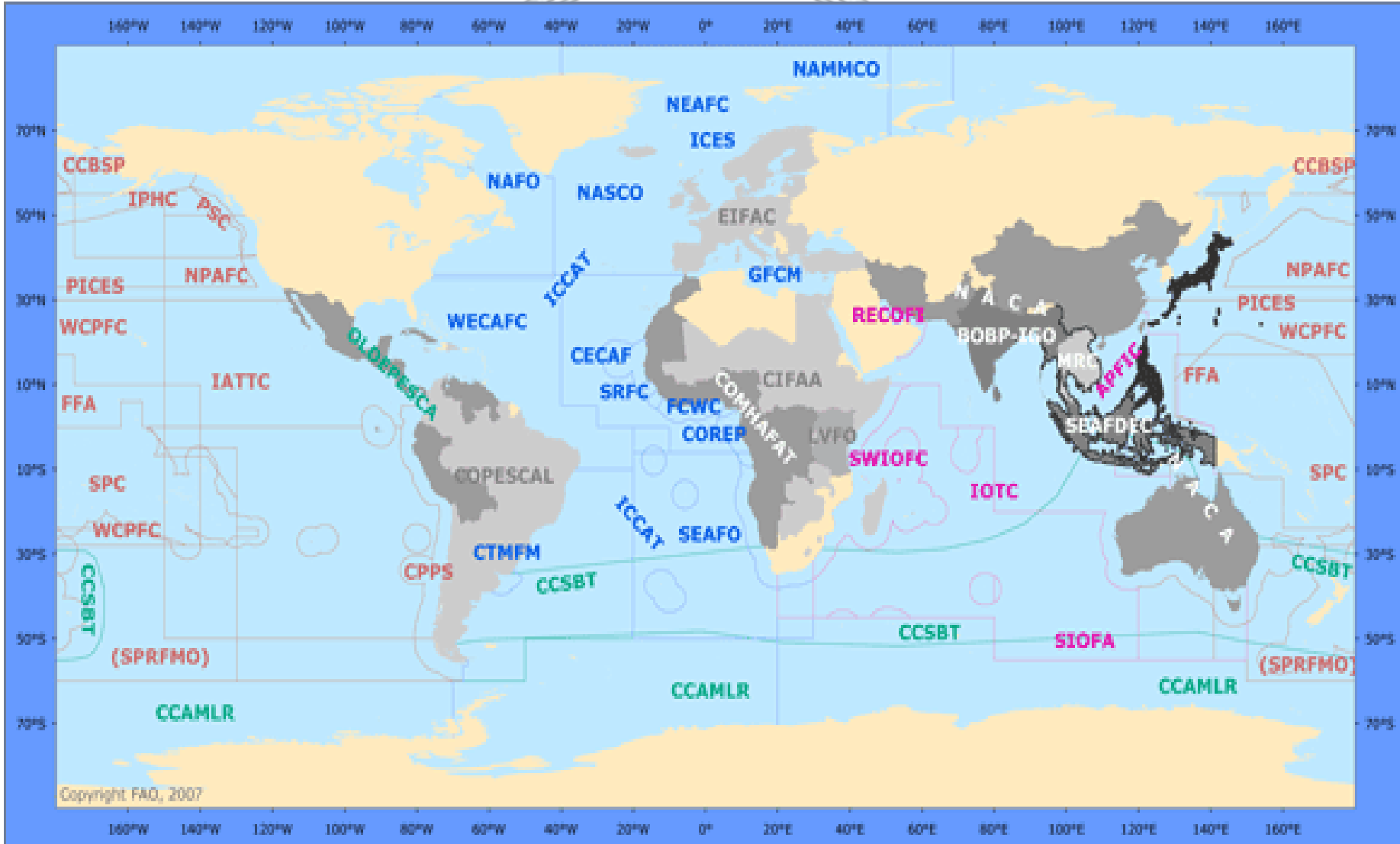


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# Location of RFMOs





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# Indo-Pacific Fisheries Council (IPFC)

- In 1948, Asia-Pacific Fishery Commission
- In 1976, "Indo-Pacific Fisheries Council" to "Indo-Pacific Fishery Commission"
- In 1993, changed to "Asia-Pacific Fishery Commission (APFIC)"





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## Indo-Pacific Fisheries Council (IPFC)

- The APFIC is an FAO regional fishery body that acts as consultative forum working in partnership with other regional organizations and arrangements and members.
- It provides advice, coordinates activities and acts as an information broker to increase knowledge of fisheries and aquaculture in the Asia Pacific region, to underpin decision making.





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## ASEAN and its Subordinating Groups

- ④ All of the member States of ASEAN are Parties to the UNCLOS, except Cambodia.
- ④ Environmental Working Groups of the ASEAN
  1. Nature Conservation (Malaysia)
  2. Environmental management (Philippines)
  3. Seas and Marine Environment (Brunei)
  4. Environmental Economics (Indonesia)
  5. Transboundary Pollution (Singapore)
  6. Environmental Information (Thailand)







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## The Southeast Asia Fisheries Development Center (SEAFDEC)

- SEAFDEC is an autonomous intergovernmental body established as a regional treaty organization in 1967 to promote fisheries development in Southeast Asia.
- SEAFDEC aims specifically to develop the fishery potentials in the region **through training, research and information services to improve the food supply** by rational utilization and development of the fisheries resources.





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## The International Center for Living Aquatic Resources Management (ICLARM)

- ICLARM is a Rockefeller-initiated scientific center, created as an international, non-governmental, non-profit fisheries research center with its headquarters in the Philippines and established in 1977.
- Its goal is to **carry out research and stimulate discussion and the flow of information on fisheries and other living aquatic resources** relevant to meet the nutritive, economic, and social needs in economically developing countries.





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## The International Center for Living Aquatic Resources Management (ICLARM)

- ICLARM became **WorldFish Center** in 1992 and a **research center** of the Consultative Group on International Agricultural Research (CGIAR).
- The CGIAR is an **informal association** of more than 60 public and private sector members.





## IV. Prevailing Issues and the Way Ahead for Fisheries Management and Cooperation

- ⑥ The fisheries regime is the most unsettled part of the UNCLOS
- ⑥ Artificial jurisdictional boundaries: zonal approach
- ⑥ Undergoing rapid changes
  - Most political
  - New Conventions and non-binding instruments to clarify regime
  - Most international litigation
- ⑥ Re-flagging of vessels
- ⑥ Increased capacity of vessels
- ⑥ Increased fisheries conflicts
- ⑥ Increased marginal high seas fishing
- ⑥ Increased Illegal Fishing
- ⑥ Design and use of economically efficient fishing technology



## IV. Prevailing Issues and the Way Ahead for Fisheries Management and Cooperation

- ④ Compatibility of management measures
  - Between EEZs
  - Between EEZs and high seas
  - Regional and international cooperation
- ④ Capacity to manage: Rights without Responsibilities
  - Ineffectiveness of management measures
  - Excessive fleet size
  - Overexploitation of resources
  - Inadequate monitoring and enforcement
- ④ Enforcement
  - Failure to regulate nationals
  - Flag of Convenience (FoC or Reflagging)
- ④ Failure to define scope of cooperation
  - Lack of sufficient cooperation



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## IV. Prevailing Issues and the Way Ahead for Fisheries Management and Cooperation

### RFMOs:

- largely reliant on voluntary compliance by member states;
- ineffectual as member states could rarely agree on a formula that would limit their individual shares;
- vulnerable to the intervention of 'free-rider' or non-members who could enter and participate in the fishery without restraint.



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## The Way Forward

- Need for fresh thinking on implementation strategies
  - Integrate a more systematic approach
  - Collaboration and linkages between and among
    - Instruments
    - Sectors-National and International
  - Capacity building
    - Especially for developing countries
  - Adoption of ecosystem-based management approach in decision-making process
  - Undertake frequent performance reviews of RFMOs based on transparent criteria and methodology.



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## South China Sea (SCS) Fisheries Commission

- A South China Sea Fisheries Commission can be formed subordinate to the ASEAN to provide a institutional framework overseeing the conservation and management of fisheries resources in the SCS.
  - ASEAN plays a critical role in creating the building blocks of collaboration among SCS countries.
  - Its members have an established relationship with countries such as China and Japan, which have similar interests to those of other states.





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## The South China Sea Fisheries Commission (SCSFC)

- Consisting of three Committees:
  - Policy Committee: the decision-making arm;
  - Scientific Committee: to provide advice and recommendations to the Commission regarding scientific research and findings; and
  - Administrative Committee: to be the focal point for the SCS states in collecting data and relevant information on fisheries matters.
- The first two committees can be pooled from the experts of different countries and existing organizations such as APFIC, SEAFDEC, ICLARM, APEC, and ADB.
- Mandates of the Commission
  - to ensure the implementation of the UNCLOS.
  - to ascertain fulfillment of the objectives of bilateral or multilateral agreements among member states.
  - to guide the management of that straddle stocks and highly migratory species.
  - to provide concrete guidelines relevant to the conservation and management measures of UNCLOS.



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**Thank you!**

