



ASEAN Regional Forum

Regional Confidence Building and the Law of the Sea

Session 3: Obligation to Cooperate

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Main points

- Cooperation under UNCLOS
- Cooperation in overlapping maritime zones
- Cooperation in semi-enclosed sea

Cooperation under UNCLOS

- Preamble: Promote and strengthening cooperation
- Cooperation in overlapping maritime zones: 74(3) and 83(3)
- Cooperation in high sea (108 and 118)
- Cooperation in semi-enclosed sea (123)
- Cooperation on right of land-locked states (129)
- Cooperation of in the Area (138, 143, 150, 151, 160, 169)
- Cooperation on Protection and preservation of the marine environment (197, 217)
- Cooperation on MSR (242, 244)
- Cooperation on Development and Transfer of Marine Technology (267, 268, 269, 270, 273, 277, 278)

Cooperation in overlapping maritime zones

Art. 74(3) and 83(3):

Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature ...

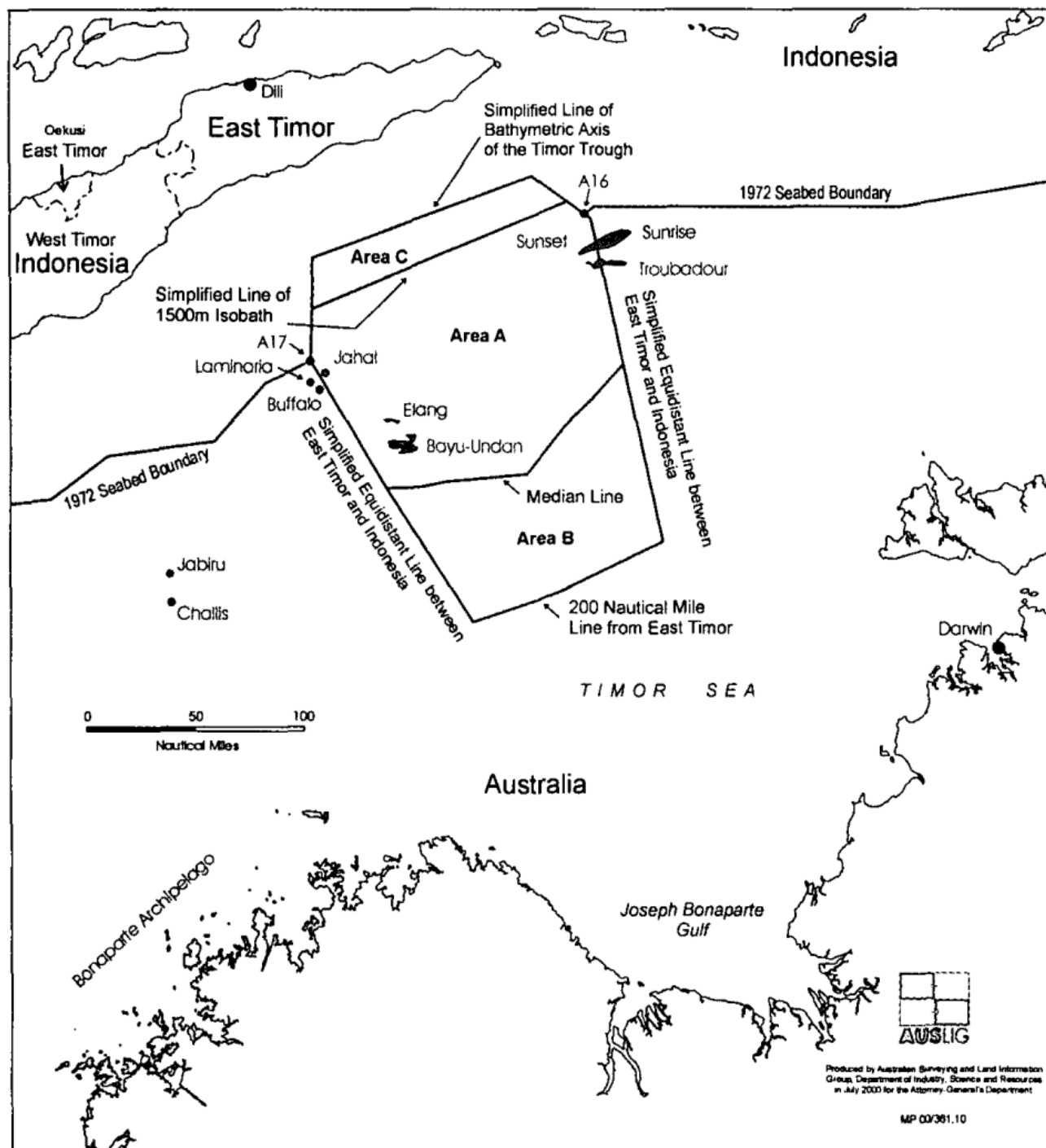
- Scope of application: overlapping EEZ and CS
- Way to conduct: Understanding, cooperation, practical in nature
- Legal consequences: Provisional arrangement → without prejudice of the final settlement

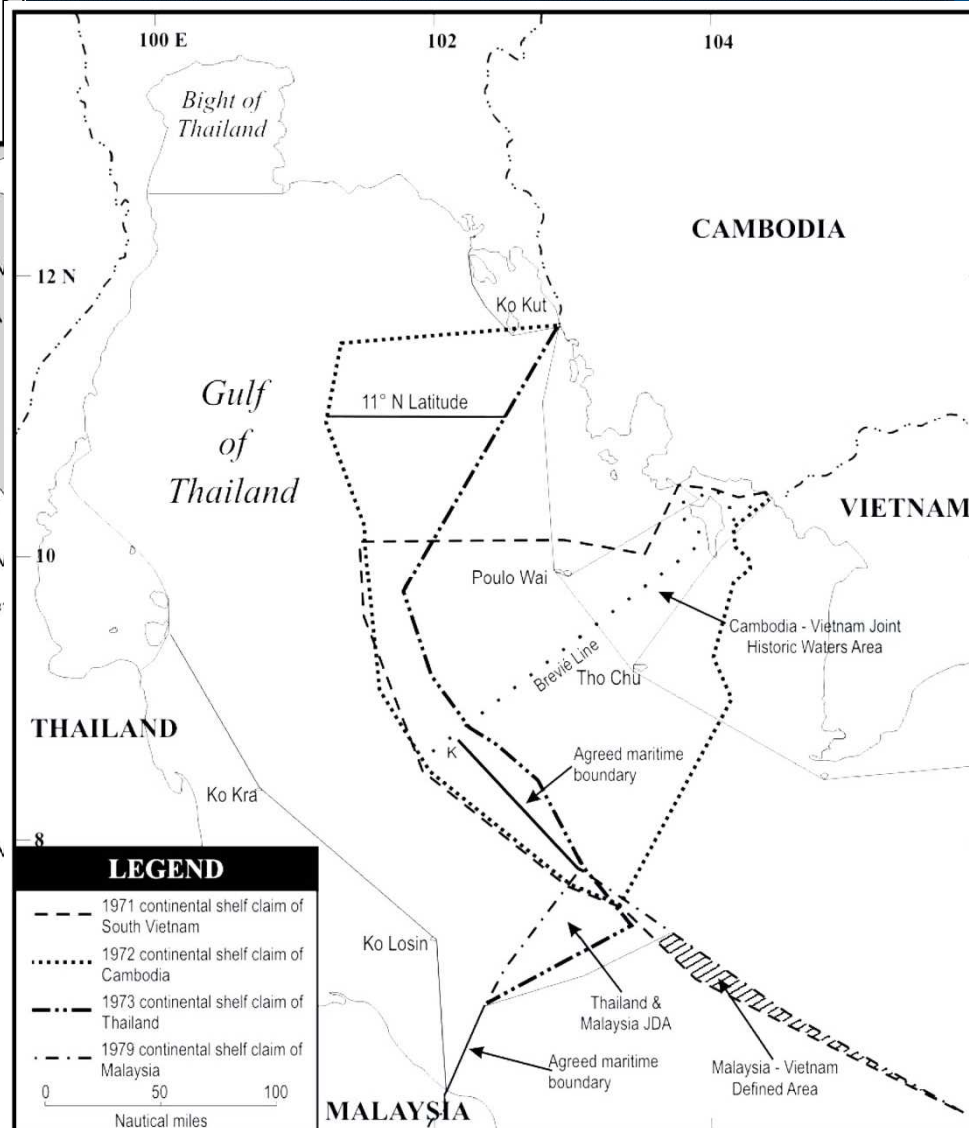
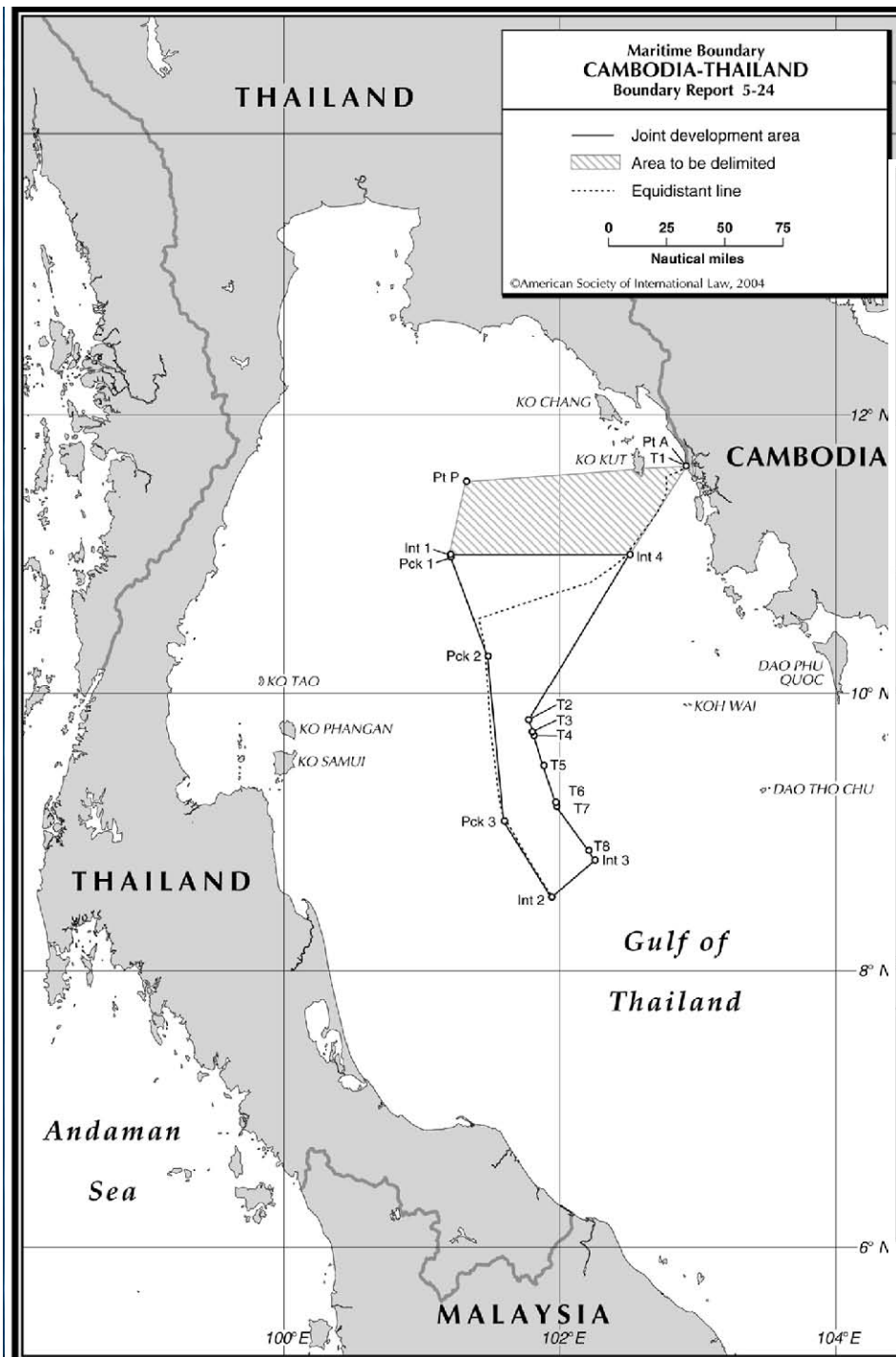
State practices

- Japan – South Korea Joint Development Agreement (1974)
- Malaysia – Thailand Memorandum of Understanding (1979)
- Australia – Indonesia Timor Gap Treaty (1989)
- Malaysia – Vietnam Memorandum of Understanding (1992)
- Cambodia – Thailand Memorandum of Understanding (2001, terminated in 2009)
- The Timor Sea Treaty between Australia and East Timor (2002)
- China – Japan Principled Consensus (2008)







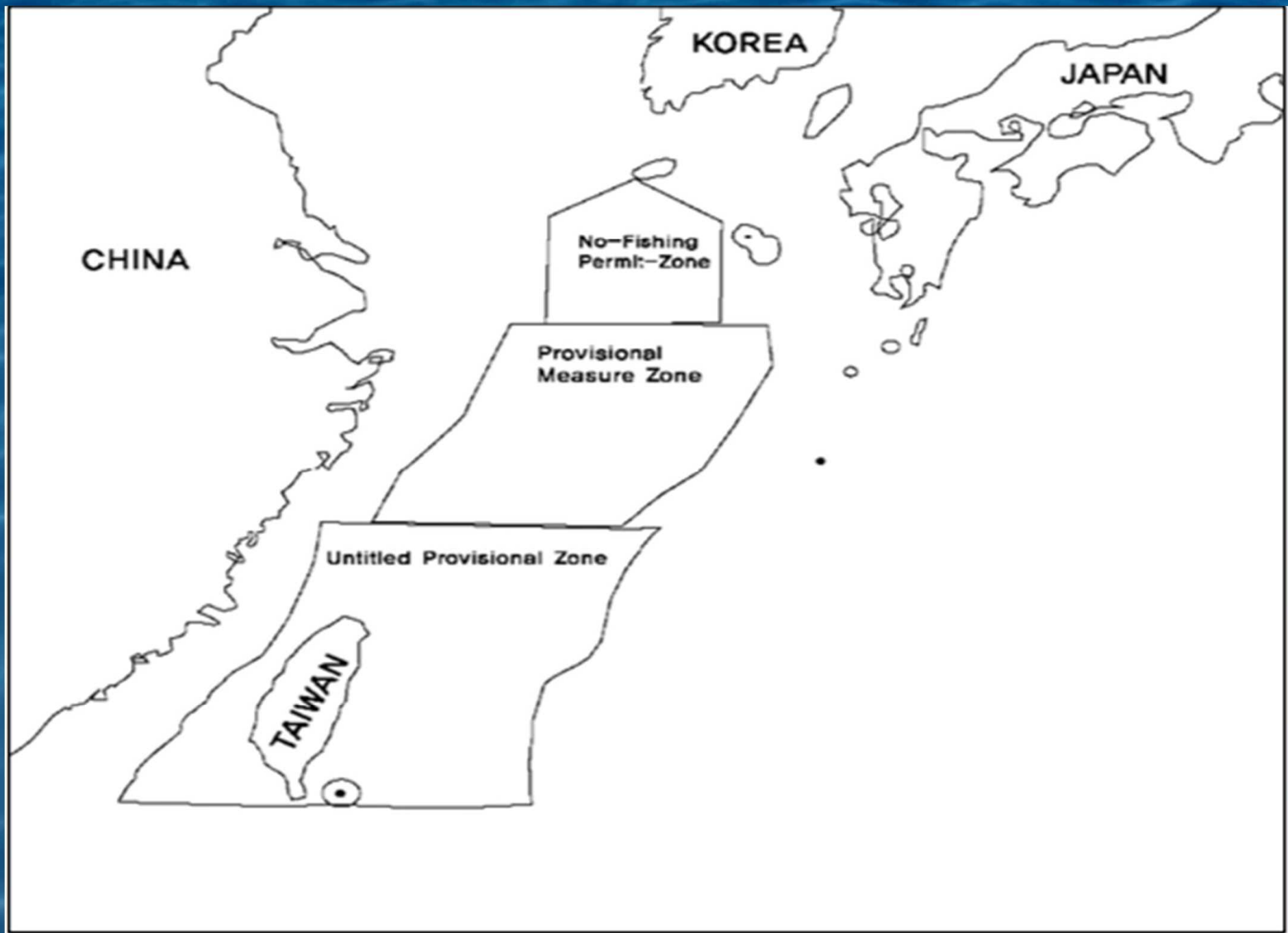


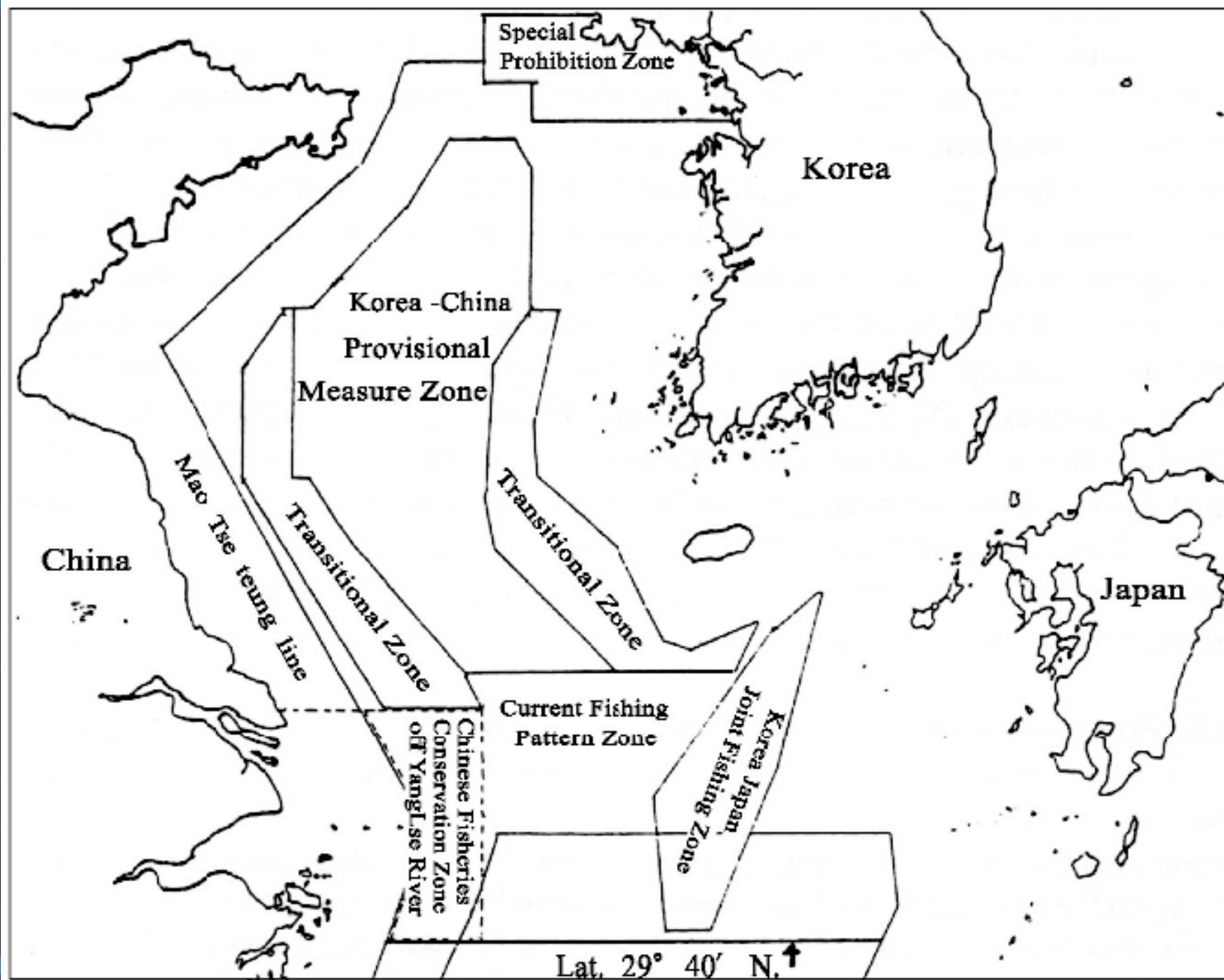
Common grounds

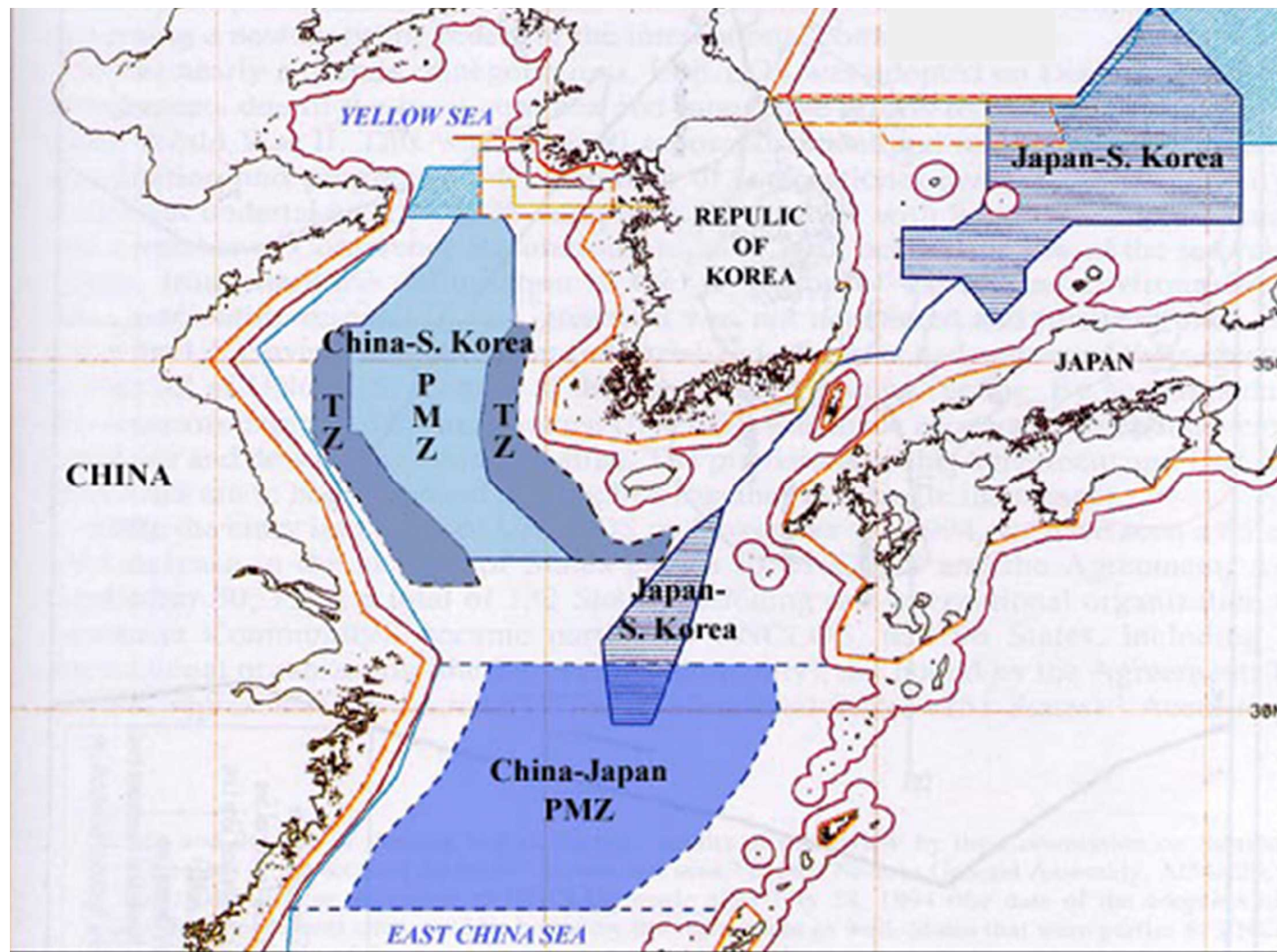
- The Joint development zone identified by continental shelf claims of states; may consist of sub-zones.
- Mechanism for joint management
- Agreements for cost and benefit sharing
- Applicable law and jurisdiction
- Agreements for dispute settlement
- None prejudice clause

State practices

- China – Japan Fisheries Agreement (1997)
- Japan – South Korea Fisheries Agreement (1998)
- China – South Korea Fisheries Agreement (2000)







Common grounds

- Joint fishing zones formed from EEZ claims and/or taking into account of traditional fishing activities
- Joint manage and conserve fishing resources
- Applicable law and jurisdiction
- None prejudice clause

Cooperation in semi-enclosed sea

Article 123: Cooperation of States bordering enclosed or semi-enclosed seas
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 organization:

(a) to coordinate the management, conservation, exploration and exploitation of the living resources of the sea;

(b) to coordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment;

(c) to coordinate their scientific research policies and undertake where appropriate joint programmes of scientific research in the area;

(d) to invite, as appropriate, other interested States or international organizations to cooperate with them in furtherance of the provisions of this article.

Cooperation in semi-enclosed sea

- Cooperation in implementing rights and obligations under the Convention regardless overlapping maritime zones
- Paras (a) to (d): only suggested areas of cooperation and include:
 - Conserving living resources
 - Protection of marine environment
 - MSR
- Who will cooperate? Littoral states, interested states and international organizations

State practices

- Projects under Series of WS on Managing Potential Conflicts in the SCS
- Joint Oceanographic and Marine Scientific Research Expedition – JOMSRE between Vietnam and Philippines (1994)
- CTI
- Strategies for Trawl Fisheries Bycatch Management (REBYC II - CTI) between Indonesia, Philippines, Papua New Guinea, Thailand and Vietnam in the Coral Triangle and the South China Sea (2010-2015)
- COBSEA
- PEMSEA

Models of cooperation

Dialogue

- Identify issues and share initiatives
- Information sharing
- Good practices and lessons learned

Capacity building

- Technical assistance and Training
- Coordination on policy development and implementation
- Joint activities (TTX, onshore and offshore)

Rule/norm development

- Development of codes, principles, norms

Operation

- INSTITUTIONAL BUILDING

Thank you for your time!